

## Abstract

Rape regulation in Criminal Code's of Thailand articles 276 and 277 was amended in B.E. 2500. Due to a demand to eliminate double standard of treatment base on gender and to comply with Constitution of Thailand which promotes gender equality. Rape and Indecency regulation has been revised by changing word definition of "Rape" which leads to changing of element of the offence. This thesis was researched and studied on legal morality and element of Rape Offence under Criminal Code section 276 and section 277 compare with Indecency Offence under Criminal Code section 278 and section 279 to know what the law really protects and to clearly distinguish between Rape and Indecency. Furthermore, it includes comparison of Thai law and The Sexual Offence Act 2003 of England concern with Rape and Indecency principle.

The thesis was extracted from laws, judgments and textbook from both Thai and foreign, also opinions from lawyers and scholars, books, newspapers, journals, articles, conference documents and from internet contents.

It was ignited from the study that there is similarity of legal interest between Rape Offence and Indecency Offence to which both offences are crime against victim's physical without her or his consent; despite, a distinction is the damage which the damage from Rape Offence is larger than Indecency Offence; hence, Rape Victim does have more legal protection than Indecency Victim. Likewise, legal interest of Sexual Offence according to The Sexual Offence Act 2003 of England is to protect individual from sexual assault without consent; Notwithstanding, Thai Rape regulation considers on harmed organs whereas The Sexual Offence Act 2003 of England gives precedence to actual penetration of genitalia.

Considering new Rape Offence element, every person in any gender can be a rape offender; on the other hand, the victim could be female, male or transsexual, moreover, spouse could also be a victim of rape by their spouse. Regarding to new definition "Sexual intercourse means committing for doer's sexual desire by using doer's sexual organ for committing against other person's sexual organ, anus or mouth of

another person, or using any other things for committing against other person's sexual organ or anus", it does not have to be just natural intercourse between man and woman; if a doer using his/her sexual organ or any other things committing against other person organ enacted in section 276, for doer's sexual desire, and without consent from other person, it is a Rape.

The revision of Rape Offence has conveyed some Indecency Offence to Rape Offence. Today, Indecency is just an inappropriate sexual conduct to victim's organ other than sexual organ, anus or oral cavity.

In my view, the claim that revising criminal code to generate gender equality is not benefit to women, instead, it easier makes women become an offender without committed any crime which is an unfavorable to female, the weaker gender; furthermore, it should define precise definition of "Sexual Intercourse" since open wording will definitely cause problem and hardship to legal interpretation.