Thailand
Thailand

<table>
<thead>
<tr>
<th>Formal Name</th>
<th>The Kingdom of Thailand</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capital City</td>
<td>Bangkok</td>
</tr>
<tr>
<td>Declared ...</td>
<td>The 2007 Constitution of Thailand, Buddhist Era 2550, does not declare a state religion, but indicates that the state shall patronize and protect Buddhism and other religions, promote good understanding and harmony among followers of all religions, and encourage the application of religious principles to develop virtue and quality of life.</td>
</tr>
<tr>
<td>Form of Government</td>
<td>Parliamentary model with a constitutional monarchy. Currently, however, Thailand is under a military rule.</td>
</tr>
<tr>
<td>Regulation of Religion</td>
<td>The regulation of Buddhism and other religions, through the Department of Religious Affairs and the National Buddhism Office, is a constitutional duty of the national government.</td>
</tr>
<tr>
<td>Total Population</td>
<td>65,981,660 (as of 2010)</td>
</tr>
<tr>
<td>Religious Demography</td>
<td>Buddhist (official), 93.6%; Muslim, 4.9%; Christian, 1.2%; Other, 0.2%; None, 0.1%. (2010 est.)</td>
</tr>
</tbody>
</table>

Changing Religious Demography:¹

<table>
<thead>
<tr>
<th>Year</th>
<th>Buddhism¹</th>
<th>Islam</th>
<th>Christianity</th>
<th>Others³</th>
<th>Unknown</th>
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<tbody>
<tr>
<td>1960</td>
<td>93.6</td>
<td>3.9</td>
<td>0.6</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>1970</td>
<td>95.3</td>
<td>3.9</td>
<td>0.6</td>
<td>0.1</td>
<td>0.1</td>
</tr>
<tr>
<td>1980</td>
<td>95.0</td>
<td>3.8</td>
<td>0.5</td>
<td>0.1</td>
<td>0.5</td>
</tr>
<tr>
<td>1990</td>
<td>95.1</td>
<td>4.1</td>
<td>0.5</td>
<td>0.2</td>
<td>0.1</td>
</tr>
<tr>
<td>2000</td>
<td>93.8</td>
<td>4.6</td>
<td>0.8</td>
<td>0.2</td>
<td>0.4</td>
</tr>
<tr>
<td>2010</td>
<td>93.6</td>
<td>4.9</td>
<td>1.2</td>
<td>0.2</td>
<td>0.1</td>
</tr>
</tbody>
</table>

¹ The National Statistical Office

² In 1960, a definition of Buddhism did not include Confucians, which are included in subsequent censuses except in 2000.

³ Including Hinduism and Atheism.
INTRODUCTION

Thailand has long been open to all religions and sects. In the Ayutthaya period, Muslims and Christians were granted residencies and allowed to manifest their beliefs as long as they did not pose any threat to the Kingdom.4 Some members of these religious minorities were appointed to high-ranking positions in the Siamese court.5 Hindu Brahmin priests also performed royal ceremonies alongside Buddhist monks. The Siamese kings were obliged to patronize all religions within their kingdom. This duty was transferred to the government after the revolution in 1932.

Thailand has historically proclaimed itself a secular state. Despite heavy pressure from several extremist Buddhist groups, the Constitution Drafting Committee of both the 1997 and the 2007 Constitutions refused to declare Buddhism the state religion.6 However, Thailand is built on the triadic ideology of Chat, Sat-sa-na, and Pra-ma-ha-ka-sat—or the Nation, the Religion, and the King—so the Thai government has always deeply involved itself in the administration of religions7; it has never been neutral or tried to distance itself from religion. The state has a constitutional obligation to patronize, promote, and protect Buddhism and other religions as well as encourage followers of all religions to live in harmony and apply their religious principles to develop virtue and quality of life.8 The state does not only passively allow the practice of all religions, it actively urges followers to practise their religions in ways that promote the above-mentioned goals.

It is the duty of the Ministry of Culture's Department of Religious Affairs to facilitate the activities of all religions and promote understanding among the different religions.9 The Department helps organize, accommodate, or subsidize various religious activities, but it does so only if the religion is officially recognized. So far, there are five recognized religions: Buddhism, Christianity, Islam, Hinduism, and Sikhism. Other religions may apply for official recognition.

Certain requirements must be satisfied for a religion to be officially recognized.10 First, the theology of the religion must be distinguishable from that of other recognized religions. Second, the religion must have more than 5,000 followers, according to the national census. Third, its activities and teachings must not be contrary to the Thai Constitution and laws. Fourth, the religion must have no hidden political agenda. Once the religion is recognized, the Department of Religious Affairs shall provide help, including the extension of visas for its officials, tax exemption, access to state subsidies, and settlement of any disputes.11 In turn, the Department must be notified of changes to the religion’s organization and the religion has to promote the good morals of the nation.12 The profession of belief in unrecognized religions, however, is neither outlawed nor discouraged.

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5 Ibid, 454.
8 Article 79, Thai Constitution, B.E. 2550 (2007) (Thailand)
10 Article 4, The Department of Religion Affairs regulation, B.E. 2512, (Thailand)
12 Article 7, The Department of Religion Affairs regulation, B.E. 2512, (Thailand)
It should be noted that the state does not guarantee equal treatment to all formally recognized religions. The Sat-sa-na, or the triadic ideology of the modern Thai state, should not be read as referring to all religions, as it implicitly refers to Buddhism. Thus, Buddhism usually receives preferential treatment and special attention from the state. Other religions might draw the state’s particular attention for other reasons.

There are two sects of Buddhism in Thailand: Theravada and Mahayana. The mainstream sect, Theravada, is stricter in its interpretation of the teachings of the Buddha. It highlights the importance of monks and of attaining enlightenment for oneself. Mahayana believes that every individual can reach Nirvana without becoming a monk, and that enlightenment is attained by helping others and not just one’s self.

Theravada Buddhism in Thailand has always incorporated Hinduism and animism into its practices. It is the de facto national religion due to its long history and popularity. As a result, Buddhism enjoys a number of privileges, but its status means it does not have the flexibility that other religions may have in the administration and interpretation of their teachings.

Buddhism in Thailand is highly and strictly organized. The state delegates the duty of regulating Buddhism to the Sangha Council, which was established by the Buddhism Brotherhood Act B.E. 2505, and is the supreme body overseeing Buddhist monks of all sects. The Sangha Council is presided over by Sangha Raja, the Patriarch, who is appointed by the King. The Sangha body is divided by geographical districts, each of which is under a Chao-Ka-Na or senior abbot, who oversees the monks in his district. Although it is run by Buddhist monks, the Council was established by statute and functions as a government agency. Monks must follow the Council’s rule and guidelines.

One important power that the Sangha Council has is that of granting recognition to the various sects and creeds of Buddhism in Thailand. Although many extreme creeds are tolerated, the Santi-Asoka creed has been denounced. Santi-Asoka claimed to offer a stricter and purer version of Buddhist teaching compared to that provided by the Sangha Council. The leader, Bodhiraksa, declared himself a saint, a claim that was denounced as arrogant by the Sangha community. The sect had also accused the Council of corruption, self-indulgence, and laxity. By comparison, another extreme fundamentalist and materialistic sect, Dhammagaya, survived persecution because it pledged allegiance to the Sangha Council. Santi-Asoka’s Bodhiraksa was defrocked and forbidden from wearing a conventional yellow robe. Members of Santi-Asoka were expelled from the

16 Section 15 and 20, The Buddhism Brotherhood Act. B.E. 2505 (Thailand)
17 Ibid, section 7.
18 Ibid, section 20b.
19 Ibid, section 15/3.
20 Supra note 13, 447.
23 Supra note 13, 446.

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official Buddhist community. However, no further sanctions have been imposed upon the leader of the Santi-Asoka creed, which still recruits a significant number of followers.24

In addition to the Department of Religious Affairs, the Sangha Council works closely with the National Buddhism Office of the Prime Minister's Office, which exerts indirect but very effective control over the Council. The National Buddhism Office acts as the secretariat office of the Sangha Council, facilitating communication between the government and the Sangha Council, funding projects to promote Buddhism, and approving the Buddhist teaching curriculum for all temples and educational institutions.25

Although Buddhist monks receive numerous benefits from the state, their political rights are severely limited. The Constitution denies monks the right to vote, which is the basic requirement for other political activities such as initiating a bill, petitioning for impeachment, or voting in a referendum.26 Nonetheless, in reality, there are several monks who successfully utilize their revered status to mobilise the masses and advocate for political campaigns despite stirring controversy regarding the role of Buddhism in the public sphere.27

Islam is currently the second largest religion in Thailand, and four per cent of Thais are Muslims living in various parts of the country. However, there are many different groups of Muslims and different sects of Islam, each with its own unique ethnic and historical background. There are Chinese, Cambodian, Indian, and Malay followers of Islam.28 The diversity of Islamic sects has limited the state's success in regulating Islam.29

History and politics have pushed the state to try to regulate Islam. The expansion of the modern Thai state has led to clashes with Muslim communities in the southern region.30 Military mutinies, social unrest, and separatist movements are common. In response, the state has tried to centralize the control of Islam in Thailand. The Islamic Administration Act B.E. 2540 named the Central Islamic Council of Thailand, which is presided over by Chula-raj-montri, the supreme body overseeing Islam in Thailand.31

The Central Islamic Council of Thailand has the power to interpret the Koran, issue fatwas, regulate the administration of mosques, announce the date of Ramadan, organize the hajj to Mecca, and certify halal food manufacturers.32 The Council controls an Islamic Council in each province, which has a Muslim population and at least three mosques.33

Christianity arrived in Thailand in 1511.34 Historically, this has been associated with the Western attempt to conquer or colonize Siam; thus, the Christian movement had been viewed with distrust by the authority.35 At the beginning of the Second World War, seven Catholics were killed on the suspicion that they were French spies. Later, they received martyr status. Christianity, both

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24 Supra note 22; Peter A. Jackson, supra note 7, 95-100.
25 Supra note 15, 1.
26 Article 100, Thai Constitution B.E. 2550 (2007). Article 142 (4), Article 163, Article 271 para 3,
28 Supra note 15, 2 and Michel Gilquin, The Muslims of Thailand, (Silkworm Books, 2005), 33-34.
Catholicism and Protestantism, also contributed greatly to the development of this country. Christian missionaries brought with them Western knowledge and technology to Siam.\(^{36}\) They founded several private schools and hospitals across the country.\(^{37}\) They are heavily engaged in pro bono activities. Despite these contributions, Christianity has remained the minority as the third largest group in Thailand.

Due to their small size and contribution, the state prefers to leave them alone. There is no agency overseeing administration of Christianity. Thailand currently recognizes five organizations: Church of Christ in Thailand,\(^ {38}\) the Evangelical Fellowship of Thailand,\(^ {39}\) the Thailand Baptist Convention,\(^ {40}\) the Catholic Bishops’ Conference of Thailand,\(^ {41}\) and the Seventh-day Adventist of Thailand.\(^ {42}\) There are also other Christian bodies operating in Thailand without official recognition.\(^ {43}\) Over a thousand Christian missionaries are allowed to disseminate their belief in the country.\(^ {44}\)

Although Christianity is currently welcomed, some Buddhists might still perceive it as a threat. In 2004, a Christian organization ran an advertisement of a book “Palung-heang-chee-vit” (The Power for Living). The campaign was so successful that a Buddhist group immediately asked the government to investigate and suspend the distribution of the book.\(^ {45}\)

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36  *Ibid*, 42.
43  For example, The Church of Jesus Christ of Latter-day Saints, <http://lds.or.th/> accessed 1 November 2014.
PART ONE: LEGISLATIVE AND POLICY FRAMEWORK

A. International Obligations

One important treaty that Thailand has ratified is the International Covenant on Civil and Political Rights, which protects the right to freedom of thought, conscience, and religion, the right to choose and manifest one’s religion or belief through worship, observance, practice, and teaching, as well as freedom from coercion.\(^46\) Furthermore, Thailand is also party to the International Convention on the Elimination of All Forms of Racial Discrimination, under which it is obligated to prohibit and eliminate racial discrimination in all its forms and to guarantee the right to freedom of thought, conscience and religion for everyone, regardless of race, colour, or national or ethnic origin.\(^47\) Thailand is also obliged to protect the rights of women and children as a party to the Convention on the Elimination of All Forms of Discrimination against Women\(^48\) and the Convention on the Rights of the Child (CRC).\(^49\)

Except for the CRC, Thailand made reservations when it ratified these treaties. None of the reservations were made on religious grounds, and none of the reservations were regarding provisions relating to religious freedom.\(^50\)

As Thailand is a dualist state, a statute is required before obligations under international law can be applied to domestic laws. However, there is no specific statute to implement these international obligations. Instead, freedom of religion is guaranteed in the Constitution and other legislation, including the Civil and Commercial Code.

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B. Domestic Laws and Policies

1. Freedom to adopt, change or renounce a religion or belief; and freedom from coercion

After the coup d'état on 22 May 2014, the 2007 Constitution was abolished. However, article 4 of the 2014 Interim Charter confirms that rights, liberties, equality, and human dignity, according to international obligation and Thailand’s democratic convention, shall be protected in the Interim Charter. As a result, all guarantees of rights and liberties, including freedom of religion, in the 2007 Constitution remain mostly unchanged. The only possible cause for concern is that article 44 of the Interim Charter vests in the National Council of Peace and Order (NCPO), who seized power in May, the overriding power to give an order or act for the public’s interest. Thus, the NCPO can constitutionally limit freedom of religion at will without any restrictions.

Thailand’s Constitutions have always protected freedom of religion, which appeared in the first Thai Constitution in 1932 and has been protected in all subsequent democratic Constitutions. Section 37 of the 2007 Constitution guarantees a person’s right to enjoy not only the full liberty to profess a religion, but also the liberty to profess according to one’s religious sect and creed. This freedom includes the freedom to not profess any religion as well. Atheism is not criminalized in Thailand. The only person who is not permitted this freedom is the King, who has to be a Buddhist, according to Section 9 of the Constitution. The King is, however, also required by the Constitution to be the patron of all religions.

Article 79 of the Constitution requires the state to patronize and protect Buddhism and other religions, promote good understanding and harmony among followers of all religions, and encourage the application of religious principles to develop virtue and quality of life. Article 79 is not legally binding because it is only a policy guideline. The language in the Constitution is so broad and open to interpretation that the government may decide whether and how to implement the policy. The policy is not judicially enforceable but failure to honour such a duty might lead to political sanctions. In practice, however, the state encourages or discourages certain beliefs through various forms of subsidies offered by the Department of Religious Affairs.

2. Right to manifest one’s religion or belief

a. Freedom to worship

Article 37 of the 2007 Constitution also protects the right to manifest one’s belief. The state can intervene in the manifestation of religion only if such manifestation is contrary to the duty of citizens or to public order and morals. Article 29 of the 2007 Constitution states that any intervention or restriction of the right to manifest one’s belief shall be carried out via a statute that is general in application and that does not materially affect the important substance of such a right. The right to manifest one’s belief is also indirectly protected by Section 66, which recognizes the right of an individual and a community to conserve or restore...
the custom or good culture of the community and nation.60

In general, there is no systematic discrimination against the manifestation of any particular religion. However, the state does subtly obstruct as well as promote certain religions. For example, every morning in every public school in Thailand, all students, regardless of religious affiliation, must attend a flag salutation and Buddhist morning prayer before classes begin. Another round of Buddhist prayer is required on Friday afternoons, and students in boarding schools must pray before going to bed.61 The Buddhist prayer is prepared by the Ministry of Education.62 Students of other religions are recommended to remain silent throughout prayer.

However, if non-Buddhist students constitute the majority of a student body, the school may provide a forum for their prayer too.63 For example, one public school that accepts mostly Muslim students has Islamic prayers according to the Koran in the morning while Buddhist students pray at noon together.64 Students at a Catholic convent school pray according to their religion in the morning.65 As the Catholic school is a private one, students are not required to perform Buddhist prayers, unlike their counterparts in public schools.

The requirement of morning Buddhist prayers discriminates against the manifestation of other religions, and also against Buddhists as every Buddhist student is forced to pray, regardless of whether or not the student is willing to do so. Moreover, the prayer must strictly adhere to the verses from the Buddhist Theravada sect, as dictated by the Ministry of Education.

Many government agencies also often include a visit to a Buddhist temple or making merit, which includes activities like praying, donating money and goods, receiving blessings, as part of their annual seminar. Although no constitutional challenge of such practices has been raised, it has sometimes led to criminal convictions. The National Counter-Corruption Commission indicted the then-Auditor General, Jaruwan Menthaka, for misusing the public budget. The Auditor General’s Office had organized a seminar outside of Bangkok, but went to make merit at a nearby Buddhist temple instead.

b. Places of worship

In order to build a Wat or Buddhist temple, a person has to obtain permission from the National Buddhism Office.66 Building, transferring, or demolishing a mosque must also be approved by the Ministry of Culture.67 There is no similar requirement for a Christian church.

After the building of a Wat, the premises are no longer within the scope of legal execution, which means the Wat and its premises cannot be sold to settle the debt of the holding entity.68 Transfer of estate ownership must be executed by statute.69 Such protection is absent for Islamic and Christian places of worship.

c. Religious symbols

Some religions, such as Sikhism and Islam, require a dress code. The administration of Marshall Pibun Songkram stirred up controversy when it forced southern Thai-Muslims to assimilate by forbidding them from dressing according to Islamic principles, which includes the wearing of the hijab.

60 Ibid, article 66.
61 Section 4, The Ministry of Education on Student Prayer, B.E. 2503 (Thailand)
62 Ibid, section 5.
63 Ibid, section 8.
64 Sawatdee, Chatuporn, Online interview, 28 April 2014.
65 Waithanomsat, Phatthraphon, Online interview, 4 April 2014.
66 Section 3, The Ministry of Education Ministerial Regulation number 1, B.E. 2507 (Thailand)
67 Section 12, The Islamic Administration Act, B.E. 2540 (1997) (Thailand)
68 Ibid, section 35.
69 Ibid, section 34.
for women. 70 The requirement by Marshall Pibun’s administration was part of a nationalistic scheme to build civic identity in 1940s. It caused deep resentment among the southerners. There are, however, signs of improvement as the state has become more accommodating over the years.

Student uniforms are one of the main concerns when it comes to religious symbols, as uniforms are required in all public and most private schools from elementary school to university. The uniform for male students is usually a white, short-sleeved shirt and shorts in dark colours, such as black, navy blue, or khaki. A female student also wears a skirt in the same dark colours. The required length of the skirt falls between the knees and heels. However, the Ministry of Education allows students to dress according to their religious dress code. 71 Thus a female Muslim student may wear a long-sleeved shirt and cover her head with a white scarf. Most universities also allow female Muslim students to wear long-sleeve shirts and cover their heads with scarves. 72

The Civil Service Commission permits female civil servants to dress according to their religious beliefs. A cap is replaced by a veil of the same colour as the shirt and the length of the skirt may reach the heels. 73

Another example of an exemption from the rules allows priests and individuals to ride motorcycles without wearing helmets because of their religious restrictions. 74 A male Sikh who wears a turban can be exempted from wearing a helmet.

d. Observance of holidays and days of rest

There are sixteen public holidays in each calendar year, according to a cabinet resolution. 75 These public holidays mark historical and traditional events: New Year’s, Chakri Dynasty Day, Song Kran (Thai New Year festival), Coronation Day, the King’s and the Queen’s birthdays, King Rama V Memorial Day, and Constitution Day. Three Buddhist holidays have also been declared public holidays: Visakha Bucha, Magha Bucha, and Asalha Bucha, which are the Lord Buddha’s birthday, Sangha day, and Dharma day, respectively. Only in the southern provinces, where a significant portion of the residents are Muslim, does the Cabinet allow Hari Raya (Eid al-Fitr) and Hari Raya Hajji (Eid al-Adha) to be declared public holidays. 76

Before the reign of King Rama IV, most royal and state ceremonies were a combination of Hinduism and Animism. Buddhism was later adopted by King Rama IV, who had spent 15 years as a monk prior to his accession to the throne. Since then, Buddhist monks and Hindu Brahmins have jointly conducted the royal and state ceremonies. For example, the Royal Ploughing Ceremony begins with Buddhist prayers after which a Brahmin priest predicts that year’s harvest. 77 Thrice a year, the King or a representative of the King performs a ceremony to change the cloak of the Emerald Buddha statue in the Emerald Buddha Temple. The temple is located within the premises of the Grand Palace and the statue is the national symbol.

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72 Section 7(1), *Chulalongkorn University Regulation on Student Uniforms*, B.E. 2553 (2010) (Thailand)
Section 8, *Kasetsart University Regulation on Student Uniforms*, B.E. 2553 (2010) (Thailand)
73 See *The Office of Prime Minister Regulation number 94*, B.E. 2553 (2010) (Thailand)
75 *The Cabinet Resolution on Public Holidays for the year B.E. 2557* (2014) (Thai.).
76 Pattani, Yala, Narathiwat, and Satun were granted these public holidays by the Cabinet resolution of B.E. 2517 (1974) while Songkla was granted these public holidays in 2013. See the *Office of Prime Minister’s Regulation on Public Holiday*, B.E. 2517. The Cabinet’s Resolution 13 August 2013.
77 Jayabhorn, Chatchabhon. Online interview, 10 April 2014.
It should be noted that while they will never be made public holidays, the festivals of other religions are recognized and sometimes facilitated by the state. Ramadan for Muslims, Navaratri for Hindus, and the Vegetarian festivals for Taoists are all encouraged although some are intended to promote tourism rather than religious freedom. State facilitation includes road closures and royal and state subsidies.

Male civil service employees have long been permitted to take leave from work to enter into monkhood.78 The length of the leave is at the discretion of the employee's supervisor. There is no official limit on the number of days allowed. Only recently have female employees received the equivalent of this privilege. A female worker is allowed to take leave to practise Dhamma for one to three months as long as she practises at a location approved by the National Buddhism Office.79

A Muslim civil service employee of either gender may take leave to go on the Hajj.80

The Labour Protection Act does not require employers in the private sector to provide their employees with such religious leave, but if employers would like to, they must not discriminate between the genders.81 However, the Act does not prohibit discrimination based on religion. Thus, an employer may legally allow Buddhist employees to take religious leave but not Muslim employees.

e. Appointing clergy

Buddhist monks must be ordained, according to the Sangha Council regulations. The Council certifies senior monks who can perform ordinations.82 The Council or the regional leader can terminate the monkhood of any monk accused of violating the Buddhist discipline.83 Because the Sangha Council receives an agency status, violation of its orders results in imprisonment of no more than one year.84

An imam need not be registered as he is not regarded as a priest. But if he wishes to be appointed to a mosque administration committee, he must acquire qualifications in accordance with the Islamic Organization Act and be approved by the Central Islamic Council.85 One of the qualifications required is competency in reading and teaching the Koran.86

By law, a Christian priest does not need to register, but a missionary from abroad who would like to teach Christianity is required to register with the Department of Religious Affairs. Registration helps the state monitor the activities of the missionary and also results in a more favourable visa status. Many foreign missionaries do not comply, however, and the Department of Religious Affairs does not strictly monitor or enforce the requirement.87

f. Teaching and disseminating materials (including missionary activity)

There is no law regulating the teaching and disseminating of religious materials, or the conducting of religious activities. The state runs

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78 Section 29 and 30, Office of Prime Minister’s Regulation on Civil Servant Leaves, B.E. 2555 (2012) (Thailand)
79 Section 1&2, National Buddhism Office’s Guideline on Female Employees Taking Leave to Profess Dhamma, B.E. 2550 (2007) (Thailand)
80 Section 29 and 30, Office of Prime Minister’s Regulation on Civil Servant Leaves, B.E. 2555 (2012) (Thailand)
81 Article 15, Labor Protection Act, B.E. 2543 (2000) (Thailand)
84 Ibid, section 42 and 43.
85 Section 30, The Islamic Administration Act, B.E. 2540 (1997) (Thailand)
86 Ibid, section 30 (2) (3) (4).
87 Supra note 15, 7.
two public universities dedicated to Buddhist education: Mahamakut Buddhist University and Mahachulalongkorn Buddhist University. They offer Buddhist and other types of modern education to monks and persons of all religions.

There is also an Islamic College of Thailand, which offers high school education to students of all religions. The course includes the study of Islam and the Arabic language in addition to regular subjects.

**g. The right of parents to ensure the religious and moral education of their children**

Parents are free to educate their children on religions and morals. However, at school, every student must take a religious studies course, which was designed by the Ministry of Education. Concerns regarding compulsory religious study are discussed in the following chapter on freedom from intolerance and discrimination.

**h. Registration**

As previously mentioned, there are currently five officially recognized religions, according to the Department of Religious Affairs. This means that only these five religions receive favourable treatment in terms of funding, promotion, and tax exemption. Other unrecognized religions remain free to manifest their beliefs.

**i. Communicate with individuals and communities on religious matters at the national and international level**

Thailand has no laws or policies prohibiting individuals and organizations from communicating on religious matters within and outside the country.

**j. Establish and maintain charitable and humanitarian institutions**

The Hajj pilgrimage for Muslims is regulated by the Ministry of Culture, which receives recommendations from the Central Islamic Council of Thailand. Any operators wanting to transport Thai pilgrims to Saudi Arabia must obtain a license from the Hajj Committee of Thailand, which consists of representatives from the Ministry of Culture, the Ministry of Public Health, the security forces, and the Central Islamic Council. Failure to obtain this license will result in imprisonment or a fine.

**k. Conscientious Objection**

Conscription is provided for in Article 73 of the Constitution of 2007. It is further regulated by the Military Service Act B.E. 2497 (1954). Every Thai male is required to enlist in the military reserve force at the age of 18, and may be recruited on a demand basis for two years of military service from 21 to 30 years of age. Buddhist monks who pass the state Dhamma exam are exempted. Priests of other religions are exempted too if they are permitted by the provincial governor. However, the number of non-Buddhist priests who could be exempted is limited to no more than three priests per one mosque and no more than four priests per one Christian church. With regard to conscientious objection on religious grounds for conscripts, a source notes that “[t]here is no known legal

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90 Section 5 and 6, The Hajj Promotion Act, B.E. 2524 (1981) (Thailand)
91 Ibid, section 15, 16, 17 and 18.
92 Article 73 states that “Every person shall have a duty to serve in armed forces…”
94 Section 14(1), The Military Service Act, B.E. 2497 (1954) (Thailand)
95 Ibid, section 14(2).
96 Ministerial Regulation Number 7 B.E. 2497 (1954) (Thailand)
provision for conscientious objection.” There are also no known provisions relating to conscientious objection of professional soldiers and the rules for terminating a service contract prematurely are not known.

3. Freedom from intolerance and discrimination

Religious discrimination is not a major concern in Thailand. There is no systematic discrimination against one particular religion. The state provides basic protection to all religions and sects, but Buddhism always receives special attention.

The equality clause in Section 30 of the 2007 Constitution forbids discrimination on the basis of religious beliefs, unless such discrimination eliminates unfair treatment or promotes a more equal exercise of rights. In other words, affirmative action is allowed by the supreme law of the land. Government officers are able to enjoy their rights and liberties as much as other citizens, unless they are prohibited by law because of politics, efficiency, discipline, or ethics. Thus, persons of all religions are welcome to work for the government. Many non-Buddhists have been appointed to high-ranking positions, such as that of Army Commander and President of a university.

a. Contempt of Religions

The Penal Code provides every religion with protection from harm to their objects of worship, places, and priests. A person who causes damage to a religious building or place of worship shall be imprisoned from one to seven years or fined from 2,000 to 14,000 THB, or both. If a person disrupts a lawful gathering, worship, or ritual of any religion, he shall be imprisoned for no more than one year or fined no more than 2,000 THB, or both. A person who dresses or displays a symbol in attempts to deceive the public into believing that he is a priest or a monk of any religion shall face up to one year of imprisonment or a fine of up to 2,000 THB, or both.

However, the Penal Code provides protection only to objects, places, and priests. There is no protection for the spiritual leader of any religion, except Buddhism: slander, contempt of, or a threat to the Supreme Patriarch or Sangha Raja results in up to one year imprisonment or up to 20,000 THB fine, or both. A person who causes disgrace to or disunity within the Sangha, or formally recognized Buddhism bodies, shall face the same punishment as a person who is found to be in contempt of the Supreme Patriarch. Prosecution based on these charges is uncommon. Most convictions are of cases of defrocked monks, who insist on wearing the saffron robe, thereby deceiving the unsuspecting public into believing they are legitimate monks.

Contempt or perceived contempt of Buddhism, especially of the image of the Buddha, is not tolerated in Thailand. The Ministry of Culture warns foreign visitors to learn about Thai culture and to be respectful of images and statues of the Buddha. Visitors should not climb on the statue of the Buddha, nor should they pose inappropriately in photos with statues of the Buddha. Visitors are also requested not to buy the image of the Buddha for purposes other than for worship. The image of

98 Ibid.
100 Ibid, article 31.
101 General Sonthi Boonyaratanaklin and Prof. Dr. Somkit Lertpaitoon respectively.
102 Section 206, the Penal Code, B.E. 2499 (1956) (Thailand)
103 Ibid, section 207.
104 Ibid, section 208.
105 Section 44B, the Buddhist Brotherhood Act, B.E. 2505 (1962) (Thailand)
106 Section 44C, the Buddhist Brotherhood Act, B.E. 2505 (1962) (Thailand)
107 See Supreme Court Judgement No. 4499/2539, 1798/2542.
Keeping the Faith: A Study of Freedom of Thought, Conscience, and Religion in ASEAN

Thailand

the Buddha should not be displayed on commercial products, such as sweets, drinks, and especially alcoholic drinks, shoes, or swimming suits.\(^{108}\) Although not entirely prohibited, permission from the Department of Fine Arts is required should one wish to export or import a Buddha statue.\(^{109}\) If the Buddha statue is considered an antique, an importer or exporter must clarify the purpose of his action in order to obtain a permit or risk imprisonment of up to seven years or a fine of no more than 700,000 THB.\(^{110}\)

Such intolerance can exceed acceptable boundaries. The Ministry of Culture will immediately condemn any allegedly inappropriate use of the Buddha image, even if it occurs outside of Thailand.\(^{111}\) The interpretation of what constitutes inappropriate use is very broad, and ranges from using the image in a bar to printing it on t-shirts to exhibiting it in an art exhibition.\(^{112}\)

Intolerance can also be observed in the use of censorship laws to limit the interpretation of religious matters. The Ministry of Culture once told the director of the movie, *Syndrome and a Century*, to delete scenes that the Ministry claimed would create negative perceptions of Buddhism. The scenes show a monk playing a guitar and a monk playing with an RC aircraft. The movie had won the Best Editor award at the Hong Kong International Film Festival and the Lotus du Meilleur Film-Prix award at the 9th Deauville Asian Film Festival in France. The director refused to cut the scenes and was denied a permit for a local release.\(^{113}\)

b. Religious Study

The most obvious form of religious discrimination is perpetuated through the state-mandated school curriculum, which all schools have to comply with. In the latest curriculum, religion is part of the Social, Religion, and Culture study cluster of requirements. The objective of this cluster is to promote harmonious, peaceful living in Thai and global societies, good citizenship, faith in religious teaching, the value of natural resources and the environment, and Thai patriotism.\(^{114}\) Students must be able to satisfy two criteria. First, they have to correctly understand the history, importance, and teachings of popular religions in Thailand, in particular Buddhism, to be able to promote harmonious living in society. Second, they must profess to be a good follower of and promote Buddhism, or a religion of their choice.\(^{115}\)

The curriculum prescribes detailed standards and guidelines for teaching Buddhism. The course starts with the fundamentals at the elementary level before becoming more advanced. Regardless of their personal beliefs, students are expected to learn Buddhist teachings, to appreciate the role of Buddhism in promoting better understanding between neighbouring nations, and in creating civilization in and bringing peace to the world community.\(^{116}\) Students must also be able to pray, and to meditate at levels that range from that of beginners to intermediate.\(^{117}\)

\(^{109}\) The Custom Department, *Regulation on Travel to and from the Kingdom of Thailand*, <http://internet1.customs.go.th/ext/Traveller/TravellerInfo.jsp#1> accessed 31 October 2014.
\(^{112}\) For example, see <http://talk.mthai.com/topic/18758> and <http://www.thairath.co.th/content/edu/321867> accessed 18 June 2014.
\(^{115}\) Ibid.
\(^{116}\) Ibid, 155-164.
\(^{117}\) Ibid, 165-166.
Thus, although the subject is titled Religious Studies, it is a *de facto* course in Buddhism. The subject aims more to indoctrinate students, both Buddhists and non-Buddhists, with Buddhist teachings than to examine the many religions present in Thai society in a neutral manner.

Nonetheless, for those who wish to study Islam, the Ministry of Education has collaborated with Islamic experts and prepared the Islamic Education Core Curriculum B.E. 2551. It is an addition to the existing Basic Education Core Curriculum for schools that decide to provide Islamic education. It teaches the Koran, the history of Islam, and Arabic or Bahasa.

The Ministry of Education also officially incorporates a dhamma course into its operations. It runs the project, “Rong Rien Nai Faan” or Dream School. Principally, it acts as a lab, experimenting with new methods of teaching to improve the quality of Thai education. The Ministry requires teachers and students of the Dream School to attend a dhamma course for five days. Recently, the Ministry made a controversial decision to sign a memorandum of understanding appointing the Dhammagaya sect to instruct the dhamma course. The sect is well-known for its deep connection to politicians and its extreme wealth. It has been accused of radically interpreting Buddhist teaching and of violations of law. The decision led to protests by Buddhist advocates and intellectuals. The signing of the memorandum was postponed but Dhammagaya is still teaching these courses.

It is also common practice for government agencies to offer dhamma courses. A course includes adhering to *sila* or precepts that require refraining from certain behaviours, such as having a meal after noon, killing, stealing, and swearing, meditation in many forms, and praying. The course is usually held in a Wat or dhamma center.

One branch of government that is heavily involved in this activity is the judiciary. Incoming judges in the Court of Justice are required to attend a course, regardless of their personal religion or belief. The course is believed to strengthen new recruits’ moral standards and improve their behaviour. Such courses are also incorporated into a training program for mid-career and advanced-career judges. In addition to the dhamma course, the Court of Justice sometimes arranges pilgrimages to India and Nepal to visit the places where the Buddha was born, attained enlightenment, gave the first sermon, and departed, as well as to ordain their personnel into monkhood.

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118 Ibid.


120 The Office of Basic Education Commission, หนึ่งทศวรรษ โรงเรียนในฝัน (A Decade of Dream School), 7 September 2013, p 7-8 (2013).

121 See the Office of Basic Education Commission, การพัฒนาคุณธรรมนำาวิชาการโครงการสัมมนาเชิงปฏิบัติธรรมโรงเรียนในฝัน (Virtues before Knowledge: Dhamma Practice Seminar for the Dream School Project), 15 July 2013.


125 Judicial Training Institute, Operational Plan on Training and Developing Judicial Personnel for the Fiscal Year 2014, p 7.

126 Ibid.

4. Right of vulnerable groups to freedom of religion and belief

a. Women

There is concern over the discrimination against female Buddhist monks and nuns. Women are great supporters of Buddhism, but their right to enjoy all that their religion has to offer is surprisingly limited. They can make donations and attend Buddhist rituals, but because of their gender, they are not allowed to be ordained as monks, an honour that is regarded as the highest form of merit in Buddhism.

Traditionally, the Buddha allowed men to enter monkhood as Bikkhu (male monk) and women as Bhikkhuni (female monk). However, in Thailand, there has never been a female monk—until recently. A woman can become a nun, wear an all-white robe, shave her head, and accept the ten *sila* (precepts). A nun, however, has a much lower social status than a male monk and is not regarded as a priest, and is hence offered less protection and privilege under the law. Nuns do not receive tax exemption and free public transport privileges as male monks do. Female government officials cannot take leave to be ordained as a nun. Unlike male priests, nuns are not protected by criminal law from contempt.

In 1959, a Thai lady, Bhikkuni Vorami Kabilsingh, decided to become a female monk. She was ordained by a group of female monks in Sri Lanka before returning to Thailand. The Sangha Council, which was and remains all-male, refused to acknowledge her ordination. Since then, there have been more women entering into monkhood including Bhikkuni Vorami Kabilsingh’s daughter, Chatsumarn Kabilsingh. None of them are recognized by the Council despite a recommendation from the Senate Committee on Female Affairs. The Council refuses to recognize the legitimacy of the body of female monks in Sri Lanka because the line of succession from the age of the Buddha was allegedly lost. Since the ordination of a female monk requires the presence of both male and female monks, a broken line of succession means the possibility of officially recognised female monkhood has become extinct. The Council claims that the group has no legitimacy to ordain a woman. Thus, the Council avoided rejecting the idea of female monks *per se*. It based its rejection on technicality issue.

Without acceptance from the Sangha Council, female monks cannot attend formal ceremonies nor receive aid from the government. However, there have been no attempts to prosecute them, and they are still allowed to practice within their group.

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130 Ibid., 53-54.


132 Ibid.

133 Ibid.

134 Supra note 129, 55.

135 Ibid, 56.


137 See Thairath Online. หลวงแม่ธัมมนันทายันธิกษ์บวชภิกษุณีได้58. (Female Monks Insists They Can Ordain Female Monks by 2015)’ Thairath Online (26 Nov 2014): <http://www.thairath.co.th/content/385123> accessed 15 May 2014.
b. Children

Children are free to choose or change their religions. There are no laws or policies limiting their religious freedom. In the southernmost part of Thailand, however, the lack of religious teachers and proper curriculum (details of which are discussed in the section on Islamic Schools) makes it difficult for children to fully enjoy religious freedom.

c. Migrant workers

Thai society is very diverse and waves of immigration have seen various ethnic groups joining the society. Most migrant workers in Thailand now are from Myanmar, Cambodia, and Laos. Most of them are Buddhists. The mainstream sect of Buddhism in Thailand has never been of the purest form because it was combined with local beliefs regarding spirits and supra-natural beings as well as beliefs from other sects and even other religions. Thus migrant workers assimilate into the community without much difficulty. Migrant workers are free to practise in accordance to their beliefs at a Wat or other places of worship.

d. Persons deprived of their liberty

The Correction Department conforms to the Standard Minimum Rules for the Treatment of Prisoners: regular religious services, pastoral visits, and other practices as far as practicable. Buddhist inmates must pray every night, using the verse provided by the Correction Department. Inmates who follow other religions have separate regulations for their prayers. Each prison has to provide the services of one Buddhist chaplain and allow regular visits by a Christian priest and a Muslim imam.

e. Refugees

The recent controversy regarding the Rohingya is over the Navy’s abusive treatment of these refugees, but not over their religious freedom. Further details are given in the section below.

f. Southern Thai-Muslim Minority

Muslims reside in every part of the country and suffer several forms of discrimination, but the Muslim community in southern Thailand deserves particular attention as a vulnerable group. The southern Thai-Muslim community retains a strong Malay identity, which distinguishes them from other citizens of the country. They speak Yavee, a language that is more similar to Standard Malay (Bahasa Malaysia) than to Thai. The region also has a history of forced assimilation and resistance. The community is suspicious of the policies of the Thai government as they perceive them as attempts to abolish their traditional Islamic customs. The outcome of these differences is on-going violence, which shall be discussed in the following chapter. The government has tried to address these concerns in the following ways:

(i) Sharia Law

The Civil and Commercial Code governs marriage, family, and wills and succession proceedings, except in the four southern provinces of Pattani, Narathiwats, Yala, and Satun where these proceedings are governed by Sharia law—a result of one of the earliest attempts at compromise with the southern


141 Chartrapee Kanthason. Online interview, 2 April 2014.

142 Ibid.
Thai-Muslim community. In a dispute in which both parties are Muslim, the 2489 B.E. Act allows Sharia law to be applied instead of the Civil and Commercial Code. A Datoh Yuttitham (qadi), or certified Muslim cleric, sits in a trial together with judges in the Court of First Instance. His role is that of an expert who adjudicates disputes over the interpretation of Sharia law. The Datoh or qadi is appointed by the Judicial Commission of the Court of Justice.

The qadi has a role not only in the Court of First Instance, but also in the Juvenile and Family courts, which belong to a specialized branch of the Court of First Instance that has jurisdiction over certain family issues. To allow more southern Muslims to avail themselves of Sharia law, the Judicial Commission of the Court of Justice appointed a qadi to each of the Juvenile and Family Courts in all four of the southern provinces in October 2012.

(ii) Islamic School

The Universal Periodic Review of Thailand’s human rights situation found that the religious education of children in the southern provinces needs to be improved. Parents in the south are suspicious of the national curriculum provided by the Thai government. They accuse mainstream public schools of trying to divert their children to a non-Islamic way of life by teaching them the Thai language and Buddhism. These parents choose to send their children to Islamic schools, which teach the Koran and the Arabic language. In doing so, however, they flout the Ministry of Education’s requirement that children have 12 years of compulsory education. The Islamic schools are said to often fail to equip students with skills necessary for the job market, such as basic competency in Thai and English.

The Thai authorities are worried that these schools might become training grounds for insurgents, and have forcibly closed some Islamic schools. The state tries to regulate Islamic schools, requiring that they compromise by offering the conventional curriculum and certifying the schools which are willing to do so.

Currently, there are four types of Islamic schools. The traditional pondok school has no planned curriculum. Students of all ages live within the residential compound belonging to an Imam, or teacher, and can leave whenever they want to. A pondok school teaches the Koran and Arabic. The second type of school is an Islamic private school that is registered with the government and which may offer non-Koranic curriculum. Graduates from these two types of school may pursue higher education if they take and pass the state comparability examination.

The third type of school is the most formalized: a private school that incorporates Islamic studies into the national curriculum. As a result, it is certified and subsidized by the state. Classes are taught in Thai. Students can automatically further their education upon graduation.

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143 Prasobsook Boonyadech, คำาอธิบายประมวลกฎหมายแพ่งและพาณิชย์ครอบครัว (Family Law), (Bangkok: Winyuchon, 2004), 20-21.
144 Section 3, Application of Islamic Law in Pattani, Narathiwat, Yala, and Satun Act, B.E. 2489 (1946) (Thailand)
146 Section 6 and 52, The Court of Justice Personnel Administration Act, B.E. 2543 (2000) (Thailand)
147 The Minutes of the Meeting of Court of Justice Commission 20/2555, 2012.
149 The Contested Corner of Asia: Subnational Conflict and International Development Assistance, the Case of Thailand, Adam Burke & Pauline Tweedie & Ora-on Poocharoen, (The Asia Foundation, 2013), 21.
150 Ibid.
151 Ibid. 22
152 Supra note 15, 4.
153 Ibid.
154 Ibid.
155 Ibid, 3.
The last type of school is a tadika school, or a day school, which offers Islamic classes for young children from Grades One to Six. It provides after-school courses, which are often held in a mosque. Permitting Islamic schools and utilising Sharia law are demonstrations of how the Thai government has tried to facilitate the religious beliefs of the southern Muslim community. However, there are many other religious issues to be resolved, one of which is whether to allow Friday to be a holiday as it is the day when all Muslims are expected to pray at the mosque, and thus not considered a business day. The southern Muslims demand that Friday be a holiday, which departs from the norm in the rest of the country where Saturday and Sunday are holidays.

C. Redress Mechanisms and Interpretation of Policies

There is no agency directly in charge of redressing violations of freedom of religion. The National Buddhism Office and the Department of Religious Affairs facilitate but provide no means of redress. Nonetheless, there are several constitutional mechanisms that redress the violations of the basic rights and liberties that are protected by the Constitution. These mechanisms provide remedies only for violations by public agencies. Apart from the Court of Justice, there is no agency in charge of redressing violations by private parties.

Although most of these constitutional mechanisms have been in operation since 1997, it appears that there has never been any complaint regarding the violation of the freedom of religion. Nonetheless, the executive government has contributed to interpretation or application of policy in the past. The Council of State, the legal advisor of the Cabinet, had stated in an Opinion that, in cases where a patient is still conscious and the illness is not life threatening, a doctor has to respect the wishes of a patient who is a member of Jehovah's Witnesses Church to reject blood transfusion, which is contrary to his/her religious belief. However, if that illness is life threatening and the patient is unconscious, the doctor has the duty to save his/her life, including transusing blood, or face criminal charges for manslaughter.

1. Judiciary

a. The Constitutional Court

The Constitutional Court was established by the 1997 Constitution. Its main duty is to review the constitutionality of legislative acts so the object for review must be a draft bill or a statute. There are four channels via which to petition the court to review the constitutionality of a legislative act.

First, the initial court shall submit a petition to the Constitutional Court if a party or the court itself questions the constitutionality of the statute that applies to the case during a trial. The case shall continue but the verdict will be withheld, pending the decision of the Constitutional Court.

Second, a person may petition the Constitutional Court directly, should he believe that his right or liberty was violated by any provisions of a statute. However, a person must have exhausted all other remedies before being able to directly petition the Court, so this channel, which was introduced in the 2007 Constitution, is not as convenient as it seems.

Third, a person may submit a complaint to the Office of the Ombudsman. If it agrees that the complaint concerns the constitutionality of the law, it shall refer the case to the Constitutional Court.

The fourth channel is to submit a petition to the National Human Rights Commission. If the

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156 Ibid, 4.
159 Ibid, article 212.
160 Ibid, article 245(1).
Commission agrees that there was a violation of the human rights guaranteed by the Constitution, it may refer the case to the Constitutional Court.161

b. The Administrative Court

The Administrative Court was established by the 1997 Constitution. There are nine Courts of First Instance and one Supreme Administrative Court. The Administrative Court reviews the constitutionality and legality of an administrative act. It can review the constitutionality and legality of an agency’s adjudication, rules, and physical actions.162 It may review an agency’s omission of duties as well.163 The court may remand or order the agency to act or pay damages to a claimant.164 An individual might file a lawsuit himself or ask the Office of the Ombudsman or the National Human Rights Commission to act on his behalf.165

2. Independent Bodies

These independent agencies are established by the Constitution, and their appointments to office and budgets are not under the executive control.166 Such independence is expected to result in greater neutrality in these agencies’ operations.167

a. The Office of the Ombudsman

The Office of the Ombudsman hears complaints regarding agency operations. It need not wait for a complaint from a person before launching an investigation if it believes that a matter is detrimental to public interest.168 Once a year, the Office of the Ombudsman publishes its annual report in which it makes recommendations to the Cabinet and the National Assembly.169 The Ombudsman’s jurisdiction is more general and broader than the judiciary’s. It also plays a more active role as it can initiate an investigation without being accused of partiality. However, it has limited power as it cannot sanction an agency that chooses not to comply. The Ombudsman can only act as a facilitator, signalling concern from the people to the agency. Using the name-and-shame technique, it can notify the National Assembly and the Cabinet to take further action. Or it may refer a case to the Constitutional Court or the Administrative Court if it believes the complaint falls within their jurisdictions.

b. The National Human Rights Commission

The National Human Rights Commission is an independent agency consisting of seven experts in human rights protection. The experts are academics and activists who have been granted the power to investigate violations or omissions of human rights, or non-compliance with international obligations that Thailand is party to.170 Similar to the Office of the Ombudsman, the National Human Rights Commission has broad jurisdiction but limited power. It may make a recommendation to the National Assembly, petition the Constitutional Court or Administrative Court, or petition the Court of Justice on behalf of the injured party.171

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161 Ibid, article 257(2).
162 Section 9 (1), Administrative Court Procedure Act, B.E. 2542 (1999) (Thailand)
163 Ibid, section 9 (2).
164 Ibid, section 72.
165 Section 42, Administrative Court Procedure Act, B.E. 2542 (1999) (Thailand) and Article 245 (2) and 257 (3), Thai Constitution, B.E. 2550 (2007) (Thailand)
166 Borwornsak Uwanno, คำาอธิบายกฎหมายรัฐธรรมนูญ (Constitutional Law) (Bangkok: Thai barrister, 2013) 42-44.
167 Ibid.
168 Article 244 (1) and 244 para 2, Thai Constitution, B.E. 2550 (2007) (Thailand)
169 Ibid, article 244 (4).
170 Ibid, article 256.
171 Ibid, article 257.
PART TWO: TRENDS IN RELIGIOUS FREEDOM

A. Significant Changes in the Law

There have been no significant changes to the statutes. However, the coup d'état on 22 May 2014 brought an end to the Constitution, and hence the legal guarantee of the freedom of religion. In 2006, after the 1997 Constitution was abolished, the interim Constitution was implemented quickly to guarantee that the rights and liberties of the people, according to democratic principles and international obligations, would be protected. The 2014 Interim Charter followed the norm by providing the same protection of the freedom in article 4.

B. Significant Changes in State Enforcement

State enforcement of laws and policies on religions remain unchanged.

C. Significant Changes in Religious Claims (by Non-State Actors)

Recently, Buddhist activists have become more involved in shaping the state’s public policies. In 2005, a network of Buddhists led by General Chamlong Srimueng, a well-known member of the Santi-Asoka sect, pressured the Stock Exchange of Thailand not to list Thai Beverage PCL on the stock market. The company is one of the biggest producers of alcoholic drinks in Thailand. By going public, Chamlong argued, the company would be incentivized to promote drinking in order to boost profit for its shareholders. Refraining from drinking alcohol is one of the most basic sila or precepts for Buddhists. After a year-long protest by the group, the company decided to list on the Singapore Exchange instead.

Not satisfied with the existing preferential treatment of Buddhism and Buddhists, extreme Buddhists proposed a bill in 2014 to establish a Buddhist Bank and a bill on Buddhism Protection, reflecting their intolerance and lack of understanding of other religions.

The Buddhist Bank was proposed as a state enterprise that provides special loans to temples and Buddhist organizations for religious purposes. All its executives must be Buddhists. It is to have representatives from the Sangha Council and the National Buddhism Office. The Ministry of Finance opposed the plan, pointing out that the project was not economically feasible. Many senior abbots and followers have vowed to fight on until the bill is passed.

The Buddhism Protection Bill’s two goals are to promote and protect Buddhism. The bill proposes setting up a fund to provide financial aid to all Buddhist activities. The bill also proposes imposing stricter criminal sanctions on any attempts to

175 In 2002, the government established the Islamic Bank as a state-owned enterprise to assist Thai-Muslims whose financial transactions must be in accordance with Islamic principles. The existence of the Islamic Bank might have worried some groups of Buddhists. See the Islamic Bank of Thailand Act B.E. 2545 (2002) (Thailand).
176 The Sangha Council Resolution, No 12/2554, 29 April 2011 (Thailand).
defame the religion, monks, nuns, or novices. The bill is pending consideration in Parliament.

Amid the latest political crisis, the main People’s Democratic Reform Committee branch has also emphasized the need to find a person of good moral standing to run the country. Its rhetoric reflects the growing demand among mainstream Buddhists for governance to consider religious factors. One branch of PDRC, led by the radical and outspoken monk, Abbott Buddha Isara (The Independent Buddha), went so far as to propose a bill to establish a Moral Council. While it is proposed that the council have six representatives from each major religion in Thailand, its goals are focused on promoting Buddhism by imposing further education, indoctrination, and training on students and government officials. The bill proposes that a person who fails a moral standard test be demoted or reprimanded.

D. Significant Events of State Persecution of Religious Groups

There was a report of the Thai police arresting Falun Gong members for trespassing and causing nuisance while distributing leaflets in 2011. The Ministry of Interior has refused to register Falun Gong as an association, but it is still legally allowed to practice in Thailand. Falun Gong tried to challenge the Ministry of Interior’s refusal but the case is still pending in the Supreme Administrative Court.

E. Significant Events of Non-State Persecution of Religious Groups

There is no report of significant persecution of religious groups by non-state actors. Most of the casualties arising from religious conflict are reported in the following section.

F. Significant Events of Inter-Religious Conflict

Southern Thailand has been known for violently resisting the Thai government since the modernization of the Siam nation-state during the reign of King Rama V. The Siamese government considered the resistance by the southern Thai communities mutiny, but locals regarded their actions as fighting against an invader. Violence subsided in the 1990s due to political compromises, but re-emerged in 2001 when a marine base was raided and guns stolen. The authorities chose to ignore the incident until a full-scale attack broke out in 2004. In the early morning of 4 January 2004, a group of insurgents broke into an army base in Narathiwat, killed four soldiers and escaped with more than 400 assault rifles. Since then, lives of servicemen and civilians have been lost to roadside bombing, target killing, arson, and other forms of violence.
of violence. The three provinces of Pattani, Yala, Narathiwat and four districts in Songkla province have been declared a “red zone” under martial law and, later, an emergency decree.\(^{188}\)

Counting the number of casualties sparked by insurgents’ attacks is not easy as the motives behind many suspected incidents are inconclusive. Some attacks might actually have arisen from personal conflicts. The official death toll from 4 January 2004 to 3 January 2014 was given as 5,352 while the number of injuries was given as 9,965.\(^{189}\) The Isara News Agency, an independent news agency, reported 3,705 deaths and 9,076 injuries over the same period.\(^{190}\)

The period of 2005 to 2007 saw the greatest violence with approximately more than 2,000 incidents per year. The number dropped to 1,370 in 2008 and remained stable until 2012 when it rose again. The number of improvised explosive device (IED) attacks corresponded with the trend of overall incidents, which reached their peak between 2006 and 2007. The number went up slightly in 2013. The number of “red villages,” which were regarded by security forces as being under heavy insurgent influence, dropped from 319 in 2004 to 136 in 2014.\(^{191}\)

From 2004 to 2012, the Deep South Watch reported that 2,996 local Muslims and 1,951 local Buddhists were killed.\(^{192}\) According to an official report from the Internal Security Operational Command (ISOC), up until 31 December 2013, there were 2,431 Buddhist deaths in comparison to 3,461 Muslims deaths, excluding security personnel.\(^{193}\) There were 6,694 injured Buddhists compared to 3,761 injured Muslims.\(^{194}\) Most of them had been attacked by Muslim insurgents.

A caveat should be added that the motivation for the southern conflict is unclear as no individuals or organizations have claimed responsibility for the violence. Many people agree that although jihadist language is used, it is as much a conflict between Malay and Thai identities as it is a conflict between Buddhism and Islam.\(^{195}\) It has been suggested that one way to resolve the conflict is for the government to acknowledge the religious and cultural differences in the Deep South.\(^{196}\)

Freedom of religion was not limited on purpose, but happened as part of the collateral damage. Religious leaders were murdered. Some of these murders were attributed to government attempts at terrorizing locals, but other murders occurred because the victims had tried to promote peace and reconciliation. For example, Ustaz Jacob Raimane was killed during Ramadan in 2013. His murder was seen as an attempt to disrupt the on-going talks between the BRN-C leaders and the Government, as he was the Imam of the prestigious Pattani

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\(^{193}\) ‘ก{}อ{}ร{}ั{}ม{}รม{}น{}ก{}า{}ร{}ร{}ั{}ะ{}’ (ISOC Tolls: More than 5,000 Deaths and Ten Thousands Injured).

\(^{194}\) Ibid.


\(^{196}\) Supra note 32, 89-94.
Central Mosque, and had long been an advocate of the peaceful path of Islam.\textsuperscript{197} The security forces also sometimes raid or even shut down pondok and tadika schools because such schools are seen as training grounds for insurgents.\textsuperscript{198} Due to ignorance or a lack of proper understanding, the way raids are conducted sometimes violate Islamic customs, for example, by not taking shoes off before entering a mosque or bringing a dog into a mosque.\textsuperscript{199} Religious teachers, or ustaz, were apprehended during raids.\textsuperscript{200}

Buddhist attacks on Islam have come to be symbolised by the Krue Sae incident. On 28 April 2004, armed Muslims carried out a series of organized attacks at several security checkpoints. Some of the attackers later escaped into the Krue Sae Mosque, an ancient mosque sacred to the southern Muslims. After a few hours of laying siege to the mosque, the security forces decided to storm the mosque, killing 32 people; it has been claimed that some of those killed were innocent people trapped inside the mosque during the Friday prayer.\textsuperscript{201} Rockets and small arms were used during the raid of the Krue Sae mosque, which the southern Muslims regard as a grave show of contempt. The insurgency has since used the Krue Sae incident in its propaganda to encourage upset Muslim brethren to fight against the Siamese government for the sufferings inflicted during the incident.\textsuperscript{202}

Since the start of a new round of violence in 2004, southern Buddhists have sometimes been targeted because of their religion. Buddhists are the minority in the Deep South at only 20\% of the population.\textsuperscript{203} Monks and temples are seen as symbols of the Siamese invasion so insurgents sometimes deliberately murder monks in a gruesome manner, such as by decapitation. Insurgents attack monks and Buddhists while they make merit or collect alms.\textsuperscript{204} As a result, many temples have been deserted because monks felt insecure or the Buddhists living nearby no longer visited the temples to make merit.\textsuperscript{205} As of 16 January 2014, 16 monks have been killed in the conflict.\textsuperscript{206} The government has set up a special taskforce to guard monks while they beg for food and collect alms in the morning, but even the taskforce has been subjected to shootings and bombings.\textsuperscript{207} While the death toll for Buddhists is lower than that for Muslims, Buddhists constitute only 20\% of the whole population in southern Thailand so the percentage of Buddhist casualties is relatively high.

One scenario that highlights the nature of this conflict is what happens when Buddhist soldiers marry local Muslim girls. Even if the grooms convert to Islam, most of them end up murdered by insurgents.\textsuperscript{208}


\textsuperscript{199} Supra note 32, 30.

\textsuperscript{200} Supra note 192, 32.

\textsuperscript{201} \textit{Ibid}, and supra note 29, 108-109 and 135-142.

\textsuperscript{202} Supra note 29, 109-110.
G. Significant Events of Terrorism and/or Terrorist Threats

The use of Jihadist language, Improvised Explosive Device attacks, and cruel killings might suggest that the southern insurgency is linked to terrorism networks in other countries. This insurgency, however, is widely regarded as a home-grown product that stemmed from a long period of local resentment against the Thai government. There is no evidence that the insurgency movement receives aid from foreign terrorists although it may have been inspired by foreign movements and their ideology.

H. Significant Cross-Border Incidents

a. Southern Conflict

The violence in the south of Thailand has never crossed over into Malaysia, but because many southern Muslims hold dual citizenship and have relatives living in Malaysia, they flee across the border. Most Muslim refugees from the southern Thai provinces reside in the northern Malaysian states. Although the Malaysian government does not approve of such movements, Malaysians sympathise with their Muslim brothers from the other side of the border.

Many well-known leaders of the former Thai separatist movement are residing in Malaysia. This has put the Malaysian government in an awkward position. Once, the Thai government requested that the Malaysian government deport 131 southern Thai-Muslims who had fled to Malaysia, but the Malaysian government rejected the request because the Thai government could not guarantee their safety. Angered by the Malaysian response, the Thai public has accused Malaysia of secretly supporting the insurgency. Sometimes, Malaysian flags are displayed at sites of attacks, worsening the ties between the two countries.

There is no evidence that Malaysia is supporting the separatist movement in the Deep South. The Malaysian government has tried to restore peace and stability in the region. It recently tried to broker a talk between the leader of the BRN-C, Hassan Taib, and the representative of the Thai government. The outcome does not look promising due to several factors, but Malaysia remains committed to the task.

b. Rohingya Exodus

Since 2012, the violent, inter-religious conflict in Myanmar has resulted in a mass exodus of Rohingya people from the Rakhine state. Most of them hope to reach Malaysia or Australia, but thousands land on Thai shores instead.

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210 Supra note 198, 46.


212 Ibid.

213 Ibid.

214 Supra note 198, 44.

215 Supra note 211.


217 Supra note 211.


220 From October 2012 to February 2013, the Thai government recorded 5,899 Rohingyas but the real number might be much higher. See Amy Sawitta Lefevre. ‘After Myanmar violence, almost 6,000 Rohingyas arrive in Thailand.’ Reuters, (7 February 2013) <http://www.reuters.com/article/2013/02/07/us-thailand-rohingya-idUSBRE91609W20130207> accessed 15 May 2014.
There is little Thailand can do for these immigrants. Myanmar does not want them back and if Thailand pressures Myanmar to stop the on-going persecution, it could hurt Thailand’s investments in Myanmar. Neither Malaysia nor Australia will welcome the Rohingya. Most Rohingya in Thailand are thus left stranded in four refugee camps in Songkhla, Ranong, Prachuab Kirikan in the south and Nong Khai in the northeast, and may end up falling victim to the international human trafficking network.

I. Governmental Response

1. Legislative

Three prominent legislative solutions have been enacted in attempts to address the problem of Islamic insurgency in southern Thailand. The first was the passing of emergency laws, reflecting a hard-line approach. The second was to recreate a special administrative body. The third and last solution is to grant the southern provinces more autonomy, which reflects a more compromising approach compared to the first solution.

a. Emergency Laws

The Cabinet had initially declared martial law throughout the Deep South in 2004, granting great power to the army. Later, the Cabinet passed the Emergency Decree B.E. 2548 in place of martial law. The Emergency Decree was later ratified by the Parliament and received statutory status. Unlike martial law, the Decree allows a civilian agency to be in charge of the situation—not the army. An agent can issue a curfew that would seriously restrict the rights and liberties of the citizens in the areas where the Emergency Decree is in effect. A curfew may include a ban on travelling, a ban on communication, or an evacuation of the area.

The most troubling clause of the Decree is one that allows the agent to arrest a suspect and detain him for a period of no more than seven days. The arrest can be extended by the court but shall not exceed 30 days. After 30 days, normal criminal procedural law will apply. Under the Decree, the standard of proof required to obtain a writ of arrest is more lenient. An agent is also exempted from civil and criminal liability if he acts in good faith. However, the injured party is able to file for damages from the acting agency.

After the coup d’etat in 2006, the National Assembly passed another special law, the Internal Security Act B.E. 2551 (2008), which is deemed to be less draconian than the Emergency Decree. All three laws are now applied to different parts of the Deep South region, depending on the seriousness of threat perceived in the area.

These special legislations allow the abuse of power, as there is insufficient accountability. The laws were much criticized for leading to the violation of human rights and worsening public trust in agencies, but they are still in effect in most areas of the Deep South.


b. The Southern Border Provinces Administration Centre

The Southern Border Provinces Administration Centre (SBPAC) was established in 1981 as a special body to oversee the Deep South region. It consisted of representatives from the army, the police, and local politicians, but was later disbanded by the then-Prime Minister Thaksin Shinawatra, who no longer perceived southern unrest as a threat. The disbanding of the SBPAC was one of several mistakes that led to a new round of violence.231

The SBPAC was later re-established by the Southern Border Province Administration Act B.E. 2553. This time around, it received a higher status—that of an independent agency operating under the Prime Minister. The SBPAC is the main administrative body dealing with violence in the southern provinces.232 It invites local leaders, religious leaders, academics, and civil servants to participate on the advisory board committees.233

c. Southern Autonomy

While the government regards secession of the Deep South from Thailand as unacceptable, it appears open to granting some level of autonomy to the Deep South. Currently, Thailand is divided into 76 provinces and 2 autonomous areas. The two areas are Bangkok and the Pattaya district located in Chonburi province. The governors of all 76 provinces are appointed by the central administration. The governor of the Bangkok Metropolitan Authority is elected by the residents of Bangkok. An autonomous south would allow locals to choose their own governor. Granting autonomy means that the Thai government is ready and willing to address any differences as long as it does not threaten the security of the nation. More autonomy might help improve its ties with the local community as local religious practices will be formally recognized and supported. Potential proposals include declaring Malay as the region’s official language together with Thai, declaring Friday a holiday so local Muslims could attend Friday prayer, and legalizing the local Islamic schools and curriculum.234

The Constitution states that Thailand is one inseparable kingdom.235 Fears of secession have blocked the proposal of Parliamentary bills granting autonomy to any region other than Bangkok.236

d. Budget

In general, the government budget for addressing the violence in the southern provinces has increased over the years. In 2004, the first year that violence broke out, the annual budget was 13,450 million THB. The budget peaked at 27,547 million THB in 2009. It dropped to 16,507 million THB in 2010, but then climbed again. For 2014, the budget is 25,921 million THB, the second highest amount in a decade.237 This tends to indicate that the situation in the southern provinces will continue to be the same or worsen. Previous attempts to pacify the area have failed and there is no end in sight to the on-going crisis.

2. Prosecutions of perpetrators

Violence in the southern provinces has resulted in 131,960 criminal cases, 9,362 of which are security cases. A security case is one in which a person is charged under emergency law. Of all the security cases, only 685 were decided. More than half of the cases (421 cases) were dismissed. The outcome of the other cases included death sentences in 264 cases, life imprisonment in 73 cases, and imprisonment of less than 50 years in 145 cases.238 One explanation

231 Ibid, 9.
234 Supra note 32, at 68, 83, and 91.
236 Supra note 30, 62-63.
237 Ibid.
238 Supra note 190.
for the low conviction rate is the pressure security forces face to hasten investigations.239

J. Developments in Advancing Religious Freedom, Dialogue, and Conflict Mediation

The Yingluck administration’s decision to publicly and officially start a dialogue with the BRN-C leadership in Malaysia was a breakthrough because dialogues were confidential for many years.240 Previous governments had been reluctant to acknowledge the existence of these dialogues because of concerns that political opponents might utilize the knowledge of such talks to attack the government’s credibility.241 Making the dialogues public has sent a strong signal that the government is serious about solving the problem.242 It implies that the government recognizes and understands that the insurgents are not just criminals, but separatists fighting for self-determination.

Since 28 February 2013, Thai government representatives have been meeting with Hassan Taib, the representative of BRN-C, which claims to be the commander and the political wing of the insurgents, in Kuala Lumpur, Malaysia.243 The Malaysian government has acted as a mediator.244 Three meetings have been held since the first one.

The first dialogue turned sour when both sides could not deliver what the other party had asked for. The number of attacks increased after news of the first round of dialogues was released. To test BRN-C’s claims of leadership, the Thai government requested that the insurgents stop attacking civilians, or soft targets, during Ramadan. The insurgents failed to do so. At the same time, the Thai government could not comply with the requests of BRN-C, which included the release of all prisoners and suspects in detention for security cases.245 Hassan Taib expressed his wish that the Thai government discuss requests from BRN-C in Parliament.246 As the government was then occupied with street protests in Bangkok, BRN-C’s request was not considered.

Most importantly, both parties struggle with their own internal difficulties. BRN-C cannot prove its

239 Supra note 29, 90.
241 See supra note 228, 21.
242 See supra note 240, 5.
243 ‘เลขาสมชไทยลงนามเจรจาสันติภาพกับโจรใต้แล้ว’ (National Security Council Signed Peace Agreement with Southern Separatists). Dailynews, (28 February 2013). <http://www.dailynews.co.th/Content/politics/132726/%E0%B9%80%E0%B8%A5%E0%B8%82%E0%B8%B2+%E0%B8%AA%E0%B8%A1%E0%B8%8A.%E0%B9%84%E0%B8%97%E0%B8%A2+%E0%B8%A5%E0%B8%87%E0%B8%99%E0%B8%B2%E0%B8%A1%E0%B9%80%E0%B8%88%E0%B8%AA%E0%B8%B1%E0%B8%99%E0%B8%95%E0%B8%B4%E0%B8%A0%E0%B8%B2%E0%B8%9F%E0%B8%81%E0%B8%B1%E0%B8%98%92%E0%B8%88%E0%B8%A3%E0%B9%83%E0%B8%95%E0%B8%89%E0%B9%81%E0%B8%A5%E0%B9%89%E0%B8%A7> accessed 15 May 2014.

245 ‘ทางสองแพร่งBRN ปฏิเสธข้อเสนอ 5 เหตุผลรัฐไม่กล้ารับ 5 ข้อเรียกร้อง’ (A Crossroad: BRN’s Change of Talk Strategy and Five Reasons Why Thailand Cannot Accept Five Proposals). Isra news, (3 October 2013). <http://www.isranews.org/south-news/scoop/item/24181-%E0%B8%97%E0%B8%B5%E0%B8%A1%E0%B8%82%E0%B9%88%E0%B8%B2%E0%B8%A7%E0%B8%AD%E0%B8%B4%E0%B8%A8%E0%B8%A3%E0%B8%B2_24181.html
claim to be the representative of all the insurgents. The insurgency is actually made up of a loose network of juwae or warriors. Each cell operates without knowing the chain of command and each cell is autonomous enough to decide its own actions. An increase in the number of attacks after the first dialogue was regarded as a signal from local fighters that they disapprove of the dialogue and do not regard BRN-C as representing their interests. The success of future negotiations will depend on the Thai government's ability and willingness to include more insurgent groups in the forum.

Not every member of BRN-C wants to engage in dialogue. Some extremists in the group will not accept anything except the full independence of the Pattani state. Recently, Hassan Taib was dismissed by his peers who accused him of being too compromising. So far, he has not been replaced.

From November 2013 to May 2014, the Thai government suffered a political crisis. The Supreme Administrative Court ruled that the government had unlawfully transferred Tawin Pliansri, the former Secretary of the National Security Council, from his position, and that the government must reinstate him. This halted the operations of the National Security Council, which is the main agency responding to the violence in the southern provinces.

On 22 May 2014, General Prayuth Chan-Ocha staged a coup d'etat and ousted the civilian government. The army has long been known for its hard-line stance, such as prohibiting any discussion on autonomy so the future of the negotiation remains uncertain. The latest development confirmed such fear. While the peace dialogue under Malaysian brokerage has been inactive for months, ISOC resolved to establish the new ranger regiment in the south and distributed 2,700 assault rifles to village volunteers. The rifles were meant for self-defence only. Locals and rights groups have said that more rifles and rangers in the area would only aggravate the conflict.

247 See supra note 240, 5-6, and Murray Hunter, ‘Finding a Solution in Thailand’s Deep South,’ New Mandala, (21 July 2013). accessed 15 May 2014 and ‘The mysterious “disappearance” of Hassan Taib,’ Isra news, (4 August 2013). http://www.isranews.org/south-news/scoop/item/22784-%E0%B9%80%E0%B8%A1%E0%B8%B5%E0%B8%A2%E0%B8%87%E0%B8%88%E0%B8%B2%E0%B8%81%E0%B9%81%E0%B8%99%E0%B8%8A%E0%B8%A3%E0%B8%A7%E0%B8%88%E0%B8%A1-5-%E0%B9%80%E0%B8%AB%E0%B8%95%E0%B8%8B%E0%B8%9C%E0%B8%A5%E0%B9%83%E0%B8%95%E0%B9%89%E0%B8%88%E0%B8%B9%E0%B8%8A%E0%B8%A7%E0%B8%8B%E0%B8%99%E0%B8%8A%E0%B8%87%E0%B8%88%E0%B8%A3%E0%B9%88%E0%B8%A7%E0%B8%99%E0%B8%8A%E0%B8%87%E0%B8%88%E0%B8%A3%E0%B9%83%E0%B8%99.html accessed 15 May 2014

248 See supra note 2455.

249 Patani was the old name of the ancient Islamic kingdom while Pattani is the modern Thai name for the province.

K. Analysing the Trends

Although the insurgency has several times proven itself capable of attacking larger targets, such as the business town of Sa-Dao,256 the town of Hat Yai, and Hat Yai International Airport, 257 it has limited most of its operations to the Deep South.

In addition to drive-by shootings and targeted killings, the insurgency has shown that it can carry out large-scale coordinated attacks and can target hotels and department stores in downtown Songkla if they want to.258 The latest incidents show an escalation of violence. The insurgents had planned to detonate bombs at several convenience stores in both Pattani and Narathiwats. They were able to hit a navy ship in the dock with grenades, causing slight physical damage but great embarrassment.259

Another worrying attack was the explosion in a car park at Khok Pho hospital, which indicated that the insurgents might become more reckless as they were attacking soft targets.260 In light of Thailand’s current political crisis, there appears to be no end to the violent conflict in the Deep South in the foreseeable future.

PART THREE: CONTRIBUTING FACTORS AND SURROUNDING CIRCUMSTANCE

A. Negative Contributing Factors

a. Historical and Cultural Background

The Deep South was once an ancient Patani sultanate. Patani was the center of Islamic learning and culture in the Malay Peninsula until it was annexed to Siam sometime between 1785 and 1902.261 Many residents in the Deep South are thus proud to identify themselves as Malay Muslims—not Thais—who speak Malay Bahasa. The insurgents incorporate the history of the Patani sultanate in their propaganda to pressure the locals into resisting the presence of Thai authorities in the form of educational bodies or security forces. Such propaganda creates distrust and increases the unwillingness of the locals to cooperate with governmental authorities.

Differences in cultural and historical backgrounds have led to an identity crisis for the locals of the Deep South. They feel like they are being threatened by the outside world. News of a Muslim girl having a relationship with a Thai soldier can easily spark anger and resentment.262 Security forces who are oblivious to the local customs and religious nuances sometimes enter places of worship during service or bring dogs with them, insensitive actions that delegitimize the Thai government in the eyes of the locals.
b. Poverty

Economic growth in the Deep South is significantly lower than that of other areas in the country.\textsuperscript{263} Even before violence broke out in 2004, the economic growth of the Deep South was just 1.8% compared to 3.44% in the other southern provinces and 5.16% for the rest of the country.\textsuperscript{264} One cause of poverty in the Deep South may be its reliance on agriculture.\textsuperscript{265} Locals are not qualified for jobs requiring higher skills as they did not attend Thai schools that adhere to the national curriculum. Students in the Deep South have an average of 8.3 years of education compared to 9.5 years elsewhere.\textsuperscript{266} Only two per cent of the population in the Deep South attain college-level education.\textsuperscript{267} The lack of necessary education exposes the youth to higher unemployment rates and the resulting dissatisfaction among young unemployed men may lead them to join the insurgent movement.\textsuperscript{268}

c. Law and Enforcement

The problems with law and enforcement include draconian laws, rogue law enforcement forces, lack of accountability, and delays in the delivery of justice.

Martial Law, the Emergency Decree, and the Internal Security Act, all of which are still in use in the area, have been criticized for facilitating the violation of human rights. These laws vest in the security forces greater power to detain a person for a longer-than-usual period. The security forces keep the detention location secret and do not allow visits from relatives or attorneys. Security force personnel are exempt from legal liability, and have been accused of torture and other human rights abuses.\textsuperscript{269}

The security forces are comprised of the military, the rangers, and the police. Rangers are paramilitary personnel recruited from among the local men and women. They are not as rigorously trained as the professional military and are ill-disciplined. Their drinking, sexual harassment, and inappropriate behaviour have led to conflicts with the locals.\textsuperscript{270} The use of a paramilitary force can hurt the legitimacy of the Thai authorities in the long term. The locals also dislike the law enforcement units for their abusive behaviour.\textsuperscript{271} The police or the army have been suspected of being responsible for forced disappearances, which have been confirmed in some cases.\textsuperscript{272}

Two incidents that demonstrate the lack of accountability for the actions of the security forces are the Krue Sae incident, in which security forces stormed the holy ancient mosque, and the Tak Bai incident, in which negligence during transportation resulted in 79 suspects suffocating to death and leaving many others crippled for life.\textsuperscript{273} Despite efforts to investigate these incidents, no commanders have ever been convicted. The then-Prime Minister Surayuth Chulanonda later made a


\textsuperscript{270} Supra note 228, 13-14.

\textsuperscript{271} Supra note 29, 115 and supra note 30, 17-19.


\textsuperscript{273} See supra note 187, 22-25 and 27-29.
public apology and compensations were paid to the victims or their families.\textsuperscript{274} But these attempts came too late. The two incidents are imprinted deeply in the memories of locals and are regularly mentioned by the insurgency.\textsuperscript{275}

The justice system has been inefficient at delivering much-needed justice. Although the court has dismissed many cases because of insufficient evidence for conviction, suspects were still subject to abuses in the process, including inhumane interrogations, wrongful accusations of scapegoats, or a low standard of proof required for security forces to make arrests.\textsuperscript{276}

d. National Politics

Since 2005, Thailand has been through many national political crises. Months of Yellow-shirt demonstrations culminated in a military coup d'état and the formation of a Red-shirt movement in 2006. Another Yellow-shirt demonstration happened in 2008 followed by Red-shirt uprisings in the summers of 2009 and 2010. From November 2013 to May 2014, the People's Democratic Reform Committee campaigned to shut down Bangkok and reform the country, which ended with a coup d'état and the establishment of military rule.

All of the above events drew the public’s attention from the Deep South where violence has been normalized. Political stability is needed to solve a complicated conflict, but the government is distracted by protests. Most administrations are short-lived, which means that Thai governments are unable to propose a long-term policy for the problem. Moreover, the violence in the Deep South is highly politicized. When political parties bring up the Deep South in their electoral campaign, it is to attack the government for negotiating with the southern separatists and endangering the sovereignty of the nation.\textsuperscript{277} Such accusations are especially serious when the government is already suffering a crisis of legitimacy.

On 22 May 2014, General Prayuth Chan-Ocha declared a coup d'état, bringing an end to the Yingluck administration and the protest. However, there has been no clear direction regarding the solving of the southern conflict.

B. Positive Contributing Factors

Despite the above setbacks, the dialogue with insurgents might still continue. The locals are supportive of the attempt and Malaysia, the mediator, appears intent on persuading both parties to return to the table.\textsuperscript{278}


275 Supra note 29, 15.

276 Ibid, 90, 92, and 95.


PART FOUR: CONCLUSION

Thailand has adopted several international and regional documents that guarantee and promote religious freedom for everyone equally. Freedom of religion includes the freedom to be an atheist without any negative consequences as well as the freedom to manifest one’s belief. However, the manifestation of beliefs can be restricted on legitimate grounds by national laws. Such protections of religious freedom are contained in the Constitution, the Penal Code, and other laws and policies. The judiciary and independent agencies provide redress mechanisms should one decide that his freedom has been infringed upon. However, there has never been a case filed in court.

Despite the worrying trend of growing Buddhist extremism, the Constitution tries to maintain the principle of secularism, but this has been compromised by the special status bestowed on Buddhism due to its history and popularity, making it the de facto state religion. Such preferential treatment might be seen as enabling intolerance of other religions. The state is also obliged to actively accommodate the ability of other religions to exercise freedom. Islam is another religion that has received special attention from the state, which has tried to regulate as well as facilitate the practices of Thailand's second-largest religion.

The biggest area of concern in terms of religious discrimination is in the field of education, which is compulsory for twelve years for all citizens. The state shows clear preference for Buddhism by requiring morning Buddhist prayers and teaching Buddhism in the national curriculum. Such regulations not only discriminate against other religions, but also have a coercive effect on Buddhist students who might belong to Buddhist sects other than Theravada or who do not wish to practise Buddhism. The state decides on the content of Buddhist teachings for students. However, a curriculum is also provided for Islamic studies.

There is no religious persecution by the state itself. The most worrisome persecution occurs in the context of the worsening of violence in the Deep South, which has been on-going since 2001 with no apparent end in the near future. In the south, ethnicity, culture, and religion are deeply intertwined so the problem is more complicated than just that of a religious conflict between Buddhists and Muslims, which is how many perceive it. The conflict may not directly affect the religious freedom of the Muslims of the southern provinces, but most Muslims have suffered from it due to collateral damage. Buddhists in the southern provinces have suffered even greater harm to their freedom of religion as they are more often targeted by the insurgents for their belief. Although geographically limited, the conflict is serious. The impact of the unrest goes beyond the borders of Thailand.

In addition to more freedom of religion, solutions might have to include economic development, the improvement of southern-style education, governmental recognition of cultural differences between the southern provinces and other regions, and more accountable law enforcement and justice systems. Additionally, political instability at the national level and internal rifts within the insurgent group currently hinder any attempt to solve the conflict.
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