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Keeping Monks in Their Place?

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Abstract
This essay explores the extent to which Thailand's secular legal system reinforces the imagined divide, common in Thai Buddhist conceptions of society, between a "worldly" sphere and the "religious" sphere of the *sangha* (order of monks). It asks: How far does secular Thai law exclude clergy from the "unmonkly" domains of politics and commerce? It shows that there is a striking discrepancy between the systematic way in which secular Thai law has kept monks from formally participating in "politics" and the rather more permissive way in which it has facilitated participation by the monkhood in the sphere of "commerce." The essay concludes with some reflections on this finding and the questions it raises.

Keywords: Buddhism and law, monkhood, political participation, religious economy, Thailand

1. INTRODUCTION

When discussing the relationship between religion and politics in Thailand, a distinction is often made between *anachak*, or the worldly sphere, and *satsanachak*, or the "religious" sphere of the Buddhist monkhood.[1] Much of mainstream Thai Buddhist thought centres on this dichotomy, and assigns to social actors—from kings to commoners, and from supreme patriarchs to laypersons—the duty to act in such ways that the boundaries that separate these two spheres are reinforced. It follows that state-made law can play an important role in producing and reproducing the line of difference between *anachak* and *satsanachak*, and this article describes and analyses some of the more striking ways in which Thai secular law serves that function—or fails to do so. It focuses in particular on one task perceived as central to this endeavour, namely to ensure that the country's Buddhist monks and novices are "kept in their place"—confined to the religious sphere and prevented from trespassing into the worldly sphere, dominated as it is by greed and immorality.

For the purposes of this article, it is useful to further subdivide the worldly sphere into a domain of politics and a domain of commerce. "Politics" is here understood as concerned with the acquisition of power within formal political institutions, and "commerce" with the acquisition and accumulation of material wealth. Buddhist doctrine and the *vinaya* (the regulatory framework for

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1. Reynolds (1972).

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the sangha) are widely interpreted, by monks and laypeople alike, as proscribing Thai monks from engaging in political and commercial activities. It is for this reason that Buddhist monks who "stray" into the political and commercial arenas are often seen as threatening to undermine the sangha's claim to an elevated social status worthy of popular reverence. Given that the Thai state has positioned itself as the foremost patron and protector of Thai institutional Buddhism, the precise nature of the relationship between secular law and the state's moral purpose, defined in Buddhist terms, becomes an interesting question. To what extent and in what ways does secular law reinforce the imagined boundary between *anachak* and *satsanachak*? Or, in more concrete terms: How does secular law prevent Buddhist clergy from engaging in "inappropriately" political and commercial activities?

This essay will seek to address that question in two steps. I begin by surveying the ways in which Thai secular law raises obstacles to Buddhist monks entering the domain of politics. I then survey the field of law relating to commerce with the same purpose in mind.[2] The evidence I present is not limited to laws that are or once were on the books. It also includes recent legislative initiatives that have yet to even reach the legislature. The debates surrounding these proposals reveal where currently existing state law is thought (by some) to fall short with regards to the regulation of the Buddhist monastic community. A comparison of these two areas of Thai state law reveals that Buddhist monks face formidable legal barriers excluding them from the political sphere but not from the commercial sphere. Most notably, Thai constitutions, election laws, and political party laws have systematically excluded Buddhist monks from formal political participation. Monks cannot vote, stand for election, serve in elected offices, or be founders or members of political parties. In contrast, Thai commercial law has made few exceptions for Buddhist monks, thus providing a secular legal framework that more readily enables them to enter into the commercial sphere. I conclude with some reflections on this striking discrepancy and the questions it raises.

2. LAW, POLITICS, AND THE MONKHOOD

In Thailand, the widely perceived desirability of preventing Buddhist clergy from entering the political arena has been reflected in a succession of laws that regulate formal political participation by defining who can and who cannot participate in elections, whether as voters or candidates. It has also been reflected in judicial rulings and political sensibilities that seek to create an appearance of separation between two entities that by all accounts are so closely intertwined as to be virtually inseparable: the state bureaucracy and the Sangha.[3]

One very noteworthy aspect of the relationship between religion and politics in Thailand is that Thai law makes a "Buddhist exception" to the principle of universal suffrage.[4] This means that Buddhist monks (as well as female ascetics, such as *mae chi*) are barred from voting in elections to political office.[5] The historical origin of this ban is to be found in a Siamese law on local government administration (first enacted in 1897), that in 1914 was amended to ensure that only *kharawat* (laypersons) were eligible to vote in elections for the position of village

2. These surveys cover important areas of the law, but not necessarily all relevant law.

3. I use "Sangha" (upper case) to refer to the ecclesiastic hierarchy, and "sangha" (lower case) to refer to the wider monastic community.

4. This paragraph draws heavily on Larsson (2015); Larsson (2016).

5. On *mae chi*, see Lindberg-Falk (2007).

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headman. This precedent was followed when elections for national representative offices were introduced following the end of the absolute monarchy. Thus, Siam's first Parliamentary Election Act, promulgated in December 1932, stipulated that persons who on the day of the election had the status of *phiksu samanen nakphrot rue nakbuat* (monk, novice, hermit, or clergyperson) would be ineligible to vote. This provision was incorporated into the Thai Constitution of 1949, and it has retained that elevated position since then, in spite of the fact that the Thai political system has evinced an extraordinarily high constitutional churn rate.[6]

Similar restrictions apply to local elections as well. The act on elections to *sapha tambon* (district councils), first enacted in 1939, and since amended a number of times, makes it clear that monks, novices, etc. are ineligible from voting and standing for election.

Given that Buddhist clergy (and *mae chi*) are barred from voting, it is perhaps not surprising that they are similarly barred from standing for election to political offices, or that they are banned from forming and even joining political parties. The Political Parties Act of 1955 made clear that only eligible voters may form political parties (thus excluding clergy), but was silent on the question of clergy becoming members of political parties. Subsequent versions of the law (in 1968, 1974, 1981, 1998, and 2007) removed such ambiguity by clearly stipulating that Buddhist clergy and *mae chi* can neither form nor join political parties.

Thus, once opportunities for widespread popular political participation were introduced into the Thai political system, secular Thai law, which regulates such participation, has reflected an abiding concern with ensuring that Buddhist renunciants, both male and female, are formally barred from participating in the regularized competition for political power. In this way, Thai secular law has reinforced the social boundary separating *anachak* (where politics is played) from *satsanachak* (where it is not).

Because they reflect strong norms in Thai society, laws excluding Buddhist monks and *mae chi* from the political sphere are mostly self-enforcing, and Thai authorities only rarely have to take action in this regard. But it has happened that the norm has been challenged. In recent elections, for example, *mae chi* have shown up at polling stations, where election officials have denied them the right to vote, since they regard them as belonging to the category *nakbuat* (clergypersons).[7] The courts have also weighed in. In 1989, the Supreme Court of Thailand ruled that Mr Samran Rodyaem, who a few years earlier had been elected to the district council in Tha Reua District, Ayutthaya Province, had indeed forfeited his position as councillor the moment he entered the monkhood, even though his ordination was only temporary.[8]

The law does not, of course, exclude monks from every form of political participation. As is well known, Buddhist monks frequently sacralize state ceremonies, speak out on political issues, bless politicians on the campaign trail, join mass demonstrations, and so forth. While some of these activities may go against the expressed wishes of the Sangha hierarchy, they do not in and of themselves contravene any secular laws.

The concern with ensuring a separation between *anachak* and *satsanachak* also manifests in a concern with policing the boundary separating the secular bureaucracy—which is vested

6. The Constitution abrogated by the military junta that seized power in May 2014, was, at the very least, the country's seventeenth. By a more generous count, Thailand had had 28 constitutions already by the year 2000. See Suwannathat-Pian (2003), p. 30.

7. Poonyarat (2002); *Thai Rath* (2011); *Matichon* (2013).

8. *Kham phiphaksa sandika thi* 4570/2532 (Supreme Court Ruling 4570/1989). Available from <http://www.deka2007.supremecourt.or.th>

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with political authority—and the Sangha hierarchy. This became particularly relevant following the establishment in 1997 of a system of administrative courts that would settle disputes between different state agencies or between organs of the state and citizens. Should the new court's jurisdiction encompass also the Sangha? This question has been addressed in a number of recent lawsuits. In 2002, the Supreme Administrative Court ruled on two cases where an ex-monk in Sisaket claimed the abbot of his temple and the district head of the Sangha had incorrectly ordered him by to leave the monkhood and to stop all religious involvement with laypersons. The Supreme Administrative Court argued that it did not have jurisdiction in this case, as the dispute did not arise because of decisions taken by "state officials," but rather by the Sangha hierarchy in accordance with the Sangha Act.[9] Two years later, the Supreme Administrative Court's interpretation was challenged by a supporter of the Buddhist reform movement Santi Asoke, who claimed that the 1989 order by the Sangha Supreme Council (SSC) which defrocked Pothirak, the group's charismatic leader, was invalid. The appellant insisted that the dispute *did* fall within the Administrative Court's jurisdiction, because, he asserted, the SSC is a state organization. In support of this claim, he argued that the SSC chairman is under the prime minister's authority; that the SSC had been constituted through political and legal processes; that the government funds the SSC; and, finally, that the power and authority exercised by the SSC are derived from the 1962 Sangha Act. The Supreme Administrative Court disagreed. In its decision, the court did not, however, refute or even address the argument that the SSC is a state organization. It merely noted that the Sangha Act assigns the role of governing the monastic community to the SSC—and it insisted that this means that the court does not have jurisdiction over disputes within the Sangha.[10] Thus, while individuals dissatisfied with administrative actions by the Sangha hierarchy have sought to "judicialize" their disputes, the Thai judiciary has systematically refused such invitations.[11] In doing so, it has produced and reproduced the fundamental conceptual divide within the Thai polity between *anachak* and *satsanachak*. Thus, whereas state bureaucrats can be held accountable for administrative acts through appeals to the Administrative Court system, ecclesiastic bureaucrats cannot.

Similar concerns about keeping clear lines of separation between the secular bureaucracy and the Sangha have surfaced during debates concerning a recent legislative initiative. Over the past decade or so, there has been a concerted effort to enact a law for the "patronage and protection of Buddhism."[12] A flurry of efforts in this direction has produced a number of different drafts of the law, authored by different groups and containing correspondingly divergent substantive provisions. In 2007, there were at least four different versions of the

9. Supreme Administrative Court Orders 1/2545 and 4/2545. Available, respectively, at <http://court.admincourt.go.th/ordered/Attach/45_pdf/s45-0001-o01.pdf> and <http://court.admincourt.go.th/ordered/Attach/45_pdf/s45-0004-o01.pdf> (last accessed 6 October 2015). Santi Asoke is a new religious movement that has challenged the authority of the Sangha. It has also sought active participation in the political sphere, not least through a political party which experienced electoral success in the 1980s and 1990s, but which is now defunct. See, for instance, Satha-anand (1990), pp. 402–5; McCargo (1997); Heikkilä-Horn (2010).

10. Supreme Administrative Court Order 567/2547, online <http://court.admincourt.go.th/ordered/Attach/47_pdf/s47-0569-o01.pdf> (last accessed 6 October 2015).

11. On judicialization versus bureaucratization of religion, see Sezgin & Künkler (2014).

12. This is part of a Buddhist-nationalist counter-reaction against the general secularization of the Thai state and in particular against reforms of the religious bureaucracy that were introduced in the late 1990s, as well as to the perceived threats that rival religions pose to Buddhism. See Satha-anand (2003); Hongladarom & Hongladarom (2011); Kulabkaew (2013).

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draft, produced, respectively, by the National Office of Buddhism (NOB); members of the national legislature; the religion and culture committee of the House of Representatives; and a subcommittee in the Senate.[13] This is not the place to dissect all these different proposals. I should like to highlight only that one of these versions got far enough through the legislative process that it received scrutiny by the Council of State, which advises the executive branch of government on legal matters. The proposed law would create a Committee for the Patronage and Protection of Buddhism with extensive executive functions (e.g. to appoint and remove NOB officials). Senior monks would, furthermore, serve on this committee, alongside representatives of secular state power. To this the Council of State objected. Having monks serve as members of the committee was, it noted, "perhaps not appropriate" given that the committee's remit went beyond "ecclesiastical affairs" (*kit khong song*). Furthermore, membership of a state committee with executive functions would expose clergy to the risk of being taken to court on account of the committee's decisions, as provided for in secular law (e.g. for unfair dismissal).[14] Thus, it would no longer be possible to shield the Sangha hierarchs from the jurisdiction of the administrative courts.

In the wake of the 2014 military coup, there was a renewed effort to enact a law for the "patronage and protection of Buddhism," and the ruling junta and the SSC (with one objection) gave their approval in principle to a new draft.[15] Like earlier versions, the junta-backed draft set out to create a new bureaucratic structure to oversee the state's role as promoter and protector of Buddhism. At the top of the hierarchy would be a Committee for the Patronage and Protection of Buddhism, to be chaired by the prime minister, and including three representatives of the SSC (all of whom are senior monks), the rectors of the country's two Buddhist universities (who are also senior monks), the permanent secretaries of seven different ministries, the Attorney General, the national chief of police, and the director-general of the Department of Public Relations. In addition, the committee would be comprised of four experts with knowledge of Buddhism, appointed by the prime minister, and four representatives of Buddhist organizations. This national committee would be replicated at the provincial level, with every province having a Provincial Committee for the Patronage and Protection of Buddhism, to be chaired by the provincial governor and in other respects closely mirroring the make-up of the national committee. These committees, whether national or provincial, would mix representatives of both the secular and the religious arms of the Buddhist bureaucracy. However, the committees would have no independent executive authority. Their responsibility would be merely to formulate policy proposals and guidelines for the patronage and protection of Buddhism. The junta-backed version of the law thus avoided vesting senior Buddhist clergy with secular political power by turning the national and provincial committees into non-executive bodies. This goes some way towards maintaining the appearance that clergy are not directly engaged in "politics."

What this discussion reveals is that Thai secular law reflects an abiding concern with keeping monks "in their place" which in this case means outside areas of activity that are conceived of as "political" in a formal sense. Such concerns are reflected in the ways in

13. Mahathera Samakhom (2007).

14. Kritsadika (Council of State), Letter to Cabinet Secretary, 19 November 2007. Available from the Legislative Institutional Repository of Thailand at <http://dl.parliament.go.th>.

15. Areerat (2015). SSC objected to the draft's provisions for criminal punishment of monks who break vinaya rules and other transgressions (Mahathera Samakhom 2014).

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which laws regulating popular political participation have been written and the ways in which laws regulating the state bureaucracy have been interpreted.

3. LAW, COMMERCE, AND THE MONKHOOD

While Thai secular law systematically circumscribes the ability of members of the sangha from directly exercising and gaining secular political power, the same cannot be said with regard to monastic accumulation of (private) wealth and the exercise of economic power.

Most notably, the Civil and Commercial Code (CCC) has defined temples (*wat-wa-aram*) as juristic persons that can own different categories of property. According to the 1962 Sangha Act, the overall responsibility for the management of temple assets rests with the abbot. Temple lands, one of the most important types of financial assets, are divided into three different kinds: land on which a temple is located (*thi wat*); land outside temple compounds that is owned by temples (*thi thoranisong*); and land over which temples enjoy usufruct rights (*thi kalapana*). While the landed assets of temples are thus recognized as having a special status, separate from "ordinary" land, land is of course a commodity with considerable commercial value, and persons in authority may exploit this for private gain. While abbots are not "supposed" to handle money and finance personally (according to the vinaya), and could rely on the aid of laypersons for this, they very often take direct charge of temple finances, with very little accountability and transparency.[16]

In the same way as Thai constitutions and electoral laws define who is or is not allowed to participate in political processes, the CCC also defines who is to be regarded as competent with regard to entering commercial contracts. Both sets of law exclude children and youth as well as the mentally impaired from full formal participation in political and commercial affairs. The CCC also puts limits on the ability of married women to independently enter into commercial transactions without the formal approval of their husband. Unlike laws regulating political participation, however, the CCC does not impose any restrictions on Buddhist clergy from entering the world of commerce. When the CCC was expanded to include a section on inheritance in 1935, it stipulated that property that a Buddhist monk (*phiksu*) has accumulated while wearing the yellow robe on his death becomes the property of the temple in which he resides, *except* if he has already transferred or willed it to someone else (Section 1623). Thus, when the head of the Thai Sangha, Prince-Patriarch Jinavarasirivadhana, passed away two years later, he left "a will containing bequests to his disciples and family members."[17] Rather than constraining the ability of Buddhist clergy to enter into the worldly sphere, then, the CCC arguably facilitates commercial engagement by Buddhist monks, even though this might be regarded as contrary to the spirit of the vinaya, which precludes private wealth accumulation by monks (as the rules ban them from accepting or using money, and exchanging property).

The right of monks to write wills and to transfer property acquired while in the yellow robe was first included in the CCC in 1935, but the practice appears to have been introduced some three decades earlier, in the first years of the twentieth century. The French legal scholar Robert Lingat writes that, when Thai lawmakers introduced the right to testament property, it was not

16. For a recent report on the financial management practices of Thai temples, see Chansom (2012).
17. Lingat (1937), p. 474.

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limited to laypersons, and members of the monkhood thus became able to will their property to laypersons. According to Lingat, this provided a new means by which to privatize property, including pious donations, which otherwise, by default, would have become the property of the "church" (i.e. the Sangha). Lingat observes that the Siamese clergy did not protest this secular legal innovation that ran counter to established Buddhist doctrine and tradition; on the contrary, they appeared to be satisfied with it.[18] Given Lingat's silence on the matter, it seems likely that pious lay Buddhists also accepted the new rules without opposition.

While the right for monks to transfer and will property they acquire while wearing the yellow robes may not have been much of a political issue when first introduced, it has certainly become one today. Critics argue that this "loophole" in Thailand's commercial law facilitates a pattern of monastic behaviour that is inappropriately orientated towards the accumulation of wealth. Wat Phra Dhammakaya, a controversial new religious movement (or sect), is something of a pioneer of this new type of Buddhism.[19] A slew of recent scandals has revealed how members of the monkhood amass huge private fortunes, not least through participation in *phuttha phanit* (Buddha commerce). A prominent case in point is the "jet-setting" monk known as Neen Kham, who had accumulated a considerable fortune by soliciting donations for various religious projects. In response to the scandal, which included allegations of a number of other activities unbecoming of a monk, the Anti-Money Laundering Office seized assets belonging to Neen Kham and his associates.[20]

The moral panic triggered by such revelations about financially misbehaving monks has prompted calls for reforms to ensure that the boundary separating a commercialized *anachak* from a non-commercial *satsanachak* is more clearly defined and better policed. Reacting to the apparent inability of the Buddhist establishment to stem the startling growth of *phuttha phanit* in modern Thai society, the search is on for ways of mobilizing secular state power against religious practices and teachings that are perceived to be undesirable because of their commercial orientation. Following the most recent military coup, a number of such initiatives have been taken, thus illuminating how the Thai political system is seeking to formulate legislative remedies to Buddhism's perceived crisis. Here I will discuss two of these.

First, a recent report by a "Committee for Reform of Guidelines and Measures for the Protection of Buddhist Affairs" (on which no monks served) outlined some of the ways in which Thai secular law might be employed in the service of this religious purpose.[21] The report identified loopholes in the CCC and weaknesses in the management of the financial affairs of temples as areas needing urgent reform. Subsequently to the release of the report—which proved highly unpopular among segments of the sangha, who accused members of the committee of being religious and political extremists[22]—the committee has proceeded to

18. *Ibid.*, p. 473.

19. Scott (2009).

20. *Thai PBS English News* (2013).

21. This committee was set up under the aegis of the National Reform Council, which in turn had been appointed by the military junta that seized power following the coup d'état in 2014. The committee was chaired by Paiboon Nititawan, a lawyer and former senator, who has championed the revival of a female monkhood (*bhikkhuni*). It also included the chairman of the National Reform Council, General Ekachai Sriwilat, former senator Chirmsak Pinthong, and Buddhist scholar Tavivat Puntarigvivat, among others.

22. Prasertponkrung & Osathanon (2015). One of the main issues of contention was that the proposals for institutional reforms would have significantly increased supervision of the monkhood by laypersons. For instance, abbots would be chosen by local communities rather than being appointed by the Sangha in a top-down fashion, as is current practice.

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draft laws that it believed would go some way to ensuring "proper" behaviour by Buddhist clergy. One of these would amend the CCC so that it no longer recognized the right of monks to will and transfer property acquired while in the monkhood. It would do so by simply deleting sections 1622, 1623, and 1624 of the CCC. Another law drafted by the committee would turn temples, which are recognized as juristic persons, into foundations (*munithi*). Foundations are at least in theory members of a particularly well-regulated category of juristic person. Transforming temples into tax-exempt foundations would take effective financial power out of the hands of individual abbots, placing it in the hands of properly constituted management committees, who would be required to submit their accounts to the Revenue Department annually in order to keep their tax-exempt status, thus greatly increasing financial transparency and accountability.[23]

Second, the draft law for the "patronage and protection of Buddhism," which, as noted in the previous section, was given a tentative stamp of approval by the military junta not only contained proposals for the creation of a new series of committees. It also sought to criminalize a wide range of transgressions, by monks, of the vinaya and of SSC regulations and directives. These included (but were not limited to) a number of "deviant" behaviours that relate, directly or indirectly, to the commercialization of Buddhism and monastic engagement in moneymaking pursuits: deviation from the Tripitaka (specifically aimed at the teachings of Wat Phra Dhammakaya); inappropriate commerce involving Buddhist symbols, amulets, etc.; and gambling. Poor management of the sangha would also become a criminal offence. Thus, monks in positions of authority would risk punishment if they were lax in their governance of the monkhood, such that their acts of commission or omission "cause damage to Buddhism" (*koet khwam siahai kae phraphutthasatsana*). That would open up the possibility of senior Sangha hierarchs being charged with a criminal offence, should they allow financial improprieties to occur on their watch.

If this version of the law had been enacted, breaking the vinaya would become a criminal offence—and Thailand essentially a religious state.[24] After scrutiny by the Council of State, however, the entire section on criminalization of transgressions of monastic law and regulations was removed from the draft, probably for the purpose of jurisprudential neatness. As the Council of State had noted in a comment on an earlier but similar draft, criminal punishments should be defined in the Penal Code. Thus, if there now were a need to protect Buddhism in new ways, then it would be the Penal Code that needed to be updated accordingly.[25] This argument does seem somewhat incongruous, however, as the 1962 Sangha Act already defines some criminal offences and their associated punishments.[26]

One additional aspect of the initial junta version of the draft law is also of relevance to the issue of keeping monks out of the commercial sphere. The draft sought to establish a Fund for the patronage and protection of Buddhism. The Fund would be run by a management committee chaired by a deputy prime minister, representatives of a number of relevant ministries and departments, and a number of independent experts. Clergy would *not* serve

23. Author's interview with Tavivat Puntarigvivat, Bangkok, 4 September 2015.

24. The religious offences under the draft law would not apply to Buddhist monks and novices only. Some would also apply to laypersons who, for instance, assist monks in unlawful acts.

25. See Kritsadika (Council of State), Letter to Cabinet Secretary, 19 November 2007.

26. Indeed, the Sangha Act was amended in 1992 to criminalize (1) defamation of the Supreme Patriarch and (2) causing disgrace to or disunity among the monkhood. See Streckfuss (2010), p. 290.

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directly on the management committee, but the SSC would nominate three monks to serve as "advisors."[27] This arrangement appears designed to shield clergy from being accused of having entered the spheres of "politics" and "commerce."

One striking aspect of the many recent proposals for reform of the sangha's financial management practices is that they echo the rhetoric about "good governance" that became popular in the wake of the Asian financial crisis, which began in Thailand on 2 June 1997. In the quest for improved accounting and financial reporting standards, these proposals essentially recycle the "good governance" rhetoric and apply them to a new domain: *satsanachak*. While the concept of good governance had been localized in Buddhist terms and translated as *thammaphiban*,[28] the principles of best practices of good governance have not (yet) been applied to the Buddhist monkhood itself. The proposed reforms would change that. Whether this most archaic of Thai social institutions will allow itself to be subjected to such administrative and financial rationalization and modernization remains to be seen.

4. CONCLUSION

From the discussion above, it seems clear that secular law in Thailand does not, on the whole, reflect the same kind of concern with keeping monks "in their place" when it comes to commerce as it does with regard to politics. This prompts two main questions.

First, *why* is it that Thai secular law has taken a more permissive approach to the mixing of monks and "commerce" than to monks and "politics"? This is not a question that can be answered here, but a few initial observations are in order. In a historical and regional perspective, it is really no puzzle at all as to why monks are not allowed to participate in formal politics in Thailand. When electoral politics was introduced in neighbouring and similarly Theravada Buddhist societies—post-independence Burma, Laos, and Cambodia—monks were also disenfranchised. Thus, Siam conforms to what would at the time have been conventional political wisdom throughout much of Theravada Buddhist Southeast Asia.[29] So the real question is what might have motivated Thai lawmakers to formulate laws pertaining to wealth and commerce without making much of a distinction between monks and laypersons. I find it particularly curious that commercial law allows Thai monks to transfer and will property acquired while in the monkhood.[30] This is puzzling not only because it would seem to run counter to both Buddhist doctrine and the institutional interests of the Thai Sangha. It is puzzling also in light of comparison: in colonial Burma, neither monks nor laypersons could distribute their property through the use of testaments; nor can they do so in contemporary Myanmar. Future research into the historical and political origins of such striking differences—within and between Buddhist societies—in how secular law regulates the monkhood in relation to politics and commerce may thus have much to gain from adopting an explicitly comparative approach. Was there ever a similar level of regional

27. However, it is not entirely unheard of for monks to serve as regular members of committees overseeing government agencies. For instance, the well-known "NGO-monk" Phra Phaisan Visalo served on the Thai Health Promotion Foundation's board of governance.

28. Orlandini (2003)

29. See Larsson (2015); Larsson (2016).

30. I am *not* claiming that such behaviour represents the norm within the Thai monkhood. I am merely pointing out that secular law does little or nothing to prevent it.

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"Buddhist consensus" on how the state should regulate temple finances, sangha assets, and the (private?) property of monks, as emerged around the inappropriateness of allowing monks to participate in politics like ordinary citizens?

Second, is the status quo in Thailand, with its striking inconsistency, sustainable? There are two different ways in which secular Thai law governing monastic behaviour relating to the two dimensions of *anachak* could possibly become more consistent. One is for monks to be given as ready access to the political sphere as they are to the commercial sphere. This is a model pioneered by Sri Lanka, where there are few legal barriers that prevent monks from entering the spheres of politics and commerce.[31] The other way is for access to the commercial sphere to become as restricted as it is for the political sphere. There is considerable public debate in Thailand that concerns which of these options would be most beneficial for society.

On the one hand, segments of the Thai middle classes express high levels of anxiety over the commodification and commercialization of religion—processes which, according to the late Thai anthropologist Pattana Kitiarsa, have turned Thai Buddhism into a "prosperity religion."[32] The perceived inability of Buddhist doctrine and the vinaya to prevent the introduction of capitalist logics of accumulation into Buddhist institutions (such as temples) and their embrace by prominent religious personalities has prompted a search for "solutions" in secular law. Such impulses find political expression in the recent efforts, launched by the ruling military junta, to reform Thai Buddhism. The proposals that have been put forward by the junta-appointed reformers of religion would, if enacted and enforced, provide the state and the ecclesiastic hierarchy with an expanded range of secular legal instruments by which to ensure that members of the monastic community do not stray into the commercial sphere.

On the other hand, some Thai intellectuals are proposing that the state should get out of the business of defining the "proper" place of Buddhist monks, or at least reduce its involvement in that regard to a significant degree. Thus, it has been argued that Thai clergy should be given the right to vote[33] and even that there is no valid reason for Thai secular law to treat monks separately from ordinary citizens in any way.[34] Such liberal sentiments tend to spring from concern with the state of Thai democracy as much as with the state of Thai Buddhism. But it is not necessarily only persons of identifiably "secular" persuasions who suggest that separating "church" and state might be beneficial for Thai society. The prominent scholar-monk Phra Phaisan Visalo, for example, has argued that Buddhism in Thailand is experiencing a crisis in large part because of an overly rigid concern with keeping the worldly sphere and the monkhood separate, and because of the sangha's excessive dependence upon the state.[35]

The legal provisions and the debates surrounding them that have been the focus of this essay may seem somewhat frivolous, directly affecting as they do but a small minority of the Thai population,[36] and taking place at a time when the country has been suffering from destructive political turmoil and seen a return to repressive military rule. But, even in this

31. In Sri Lanka, Buddhist monks may vote, establish political parties, stand as candidates in elections for political office, and become members of parliament.

32. Kitiarsa (2007).

33. Panich (2015), pp. 85–90, 128–33. See also Larsson (2016).

34. Phasuthanchat (2010).

35. Visalo (2003), pp. 90–5, 264–8.

36. There are fewer than 350,000 monks and novices in Thailand today, in a total population of more than 67 million.

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troubled political context, there are, arguably, few matters more serious than how to define the role of the Thai state in relation to Buddhism, and thus the moral purpose of the law.

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