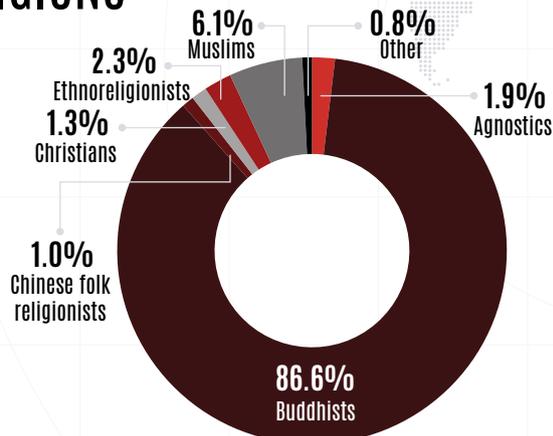




THAILAND

RELIGIONS



LEGAL FRAMEWORK ON FREEDOM OF RELIGION AND ACTUAL APPLICATION

Political power in Thailand has been in the hands of the military junta led by General Prayuth Chan-O-Cha since May 2014, which drafted a new constitution, the twentieth in a century, approved by referendum on 7th August 2016.¹

On 13th October of that year, King Bhumibol (Rama IX) passed away after 70 years of reign. His successor, Maha Vajiralongkorn, was crowned king on 4th May 2019, taking the name Rama X. In the meantime, the new constitution was promulgated on 6th April 2017, including several amendments allowing the new king to boost his powers.²

Although the document is clearly aimed at ensuring continued military dominance, the document still offers important guarantees for freedom of religion while granting Buddhism a special status.

In a country where Theravada Buddhism profoundly structures social life, Section 7 of the constitution makes it clear that the king can only be a Buddhist;³ while religious freedom is clearly defined in Section 31: “A person shall enjoy

full liberty to profess a religion, and shall enjoy the liberty to exercise or practise a form of worship in accordance with his or her religious principles, provided that it shall not be contrary to the duties of all Thai people: neither shall it endanger the safety of the state, nor shall it be contrary to public order or good morals.”

During the drafting process of the new constitution, debate focused again on the place of Buddhism and whether a constitutional clause should make it “the national religion of the country”. Already in 1997, 2007, and 2014, during the elaboration of previous constitutions, there had been talk of promoting Buddhism,⁴ but this time anxiety arose among religious minorities, particularly about Section 67 of the new text,⁵ which declares that the state should “support and protect Buddhism and other religions.” The original constitutional draft stipulated that the state “shall establish measures and mechanisms to prevent the desecration of Buddhism in any form and encourage the participation of all Buddhists in the application of such measures and mechanisms”.⁶ In the adopted text it is no longer a question of defending Buddhism against all “desecration,” or preventing Buddhism from being “undermined,” but rather of giving the state the positive mission of supporting and protecting Buddhism, “which is the religion observed by the majority of Thai people for a long period of

time.” In particular, the state must “support education and [the] dissemination of [the] dharmic principles of Theravada Buddhism”.⁷

Even in this diluted version, Section 67 still raised concerns among religious minorities because it does not refer to the importance of “religious harmony” as previous constitutions did. This has been a major issue among members of Thailand’s Muslim minority. Not surprisingly, in the referendum of 7th August 2016, the three southern provinces with a Muslim majority (Yala, Pattani and Narathiwat) largely voted against the new constitution.⁸

For decades, an ethno-nationalist insurgency against the central state has been going on in these provinces whose population is 80 percent Muslim and culturally Malay. Indeed, a major issue directly affecting religious freedom in Thailand is the situation in this part of Thailand where the central government is pitted against the local majority, which has demanded recognition of their distinctive characteristics. The conflict, which restarted in 2001, has worsened since 2004, claiming about 7,000 lives, both Buddhist and Muslim.⁹

The question is whether Bangkok will fully accept the existence and respect the rights, including the right to religious freedom, of a community that does not want to be assimilated into the dominant Thai and Buddhist culture. This minority claims the right to speak another language, a Malay dialect, practise another religion, Islam, and be rooted in a different, Malay, culture.

Bangkok’s security-focused response has shown its limits. A force of 60,000 soldiers and police agents has not been sufficient to control a population of about two million people, nor stop violent militants. After the murders of Thai teachers and Buddhist monks, government forces retaliated justifying the use of violence in the name of a state of emergency in the three provinces.¹⁰ With each episode of violence in the south of the country, petitions circulate around the kingdom, signed by lay people roused by the sermons of extremist Buddhist monks warning of the “future eradication” of Buddhism in the south.¹¹

In 2016, the concerns about Section 67 expressed by Thai Muslims and other minorities were heard, and on 22nd August 2016 the ruling junta quickly issued a decree to “complete” this section so as to “prevent acts that threaten Buddhism and other religions” (a committee was set up to do this) reiterating the traditional call for “religious harmony.” Thai Muslims reacted with some scepticism, while acknowledging that the decree was a gesture of good will

on the part of the military regime to put things right.¹²

Controversy concerning the 2017 constitution notwithstanding, respect for religious freedom in Thailand is, by and large, real and robust. Through the Religious Affairs Department of the Ministry of Culture, the government recognises five religious groups – Buddhists, Muslims, Hindus, Sikhs and Christians – and the religious organisations connected to these five groups can obtain certain government benefits such as tax exemptions, expedited visa applications and state subsidies. The state allocates US\$ 160 million each year to the country’s temples in four areas (building upkeep, religious education, promotion of religious activities, and salaries of Buddhist temples’ superiors). The largest share of these grants (US\$ 148 million) goes to Buddhism through the National Buddhism Bureau, a body that is separate from the Religious Affairs Department.

Belonging to a religious group that is not registered with the authorities does not seem to be an obstacle to getting benefits. Many Christian organisations use Thailand as a base for their operations in South-East Asia since it is relatively easy to obtain a tourist visa to enter the country and carry out missionary activities without complaints from the authorities.

On 29th December 2016, the National Legislative Assembly, a 250-member parliament wholly appointed by the junta, unanimously passed an amendment to the 1962 Monastic Law, which governs the appointment of the Supreme Patriarch of Thai Buddhism.¹³ The amendment stripped the Sangha Supreme Council (the governing body of the monastic community) of the power to appoint the patriarch. The law’s new article stipulated that “the king appoints the supreme patriarch, and this choice is then countersigned by the prime minister”.¹⁴ In practice, the king chooses the new supreme patriarch from a list of names provided by the prime minister. The measure was designed to ensure that the highest post in Thai Buddhism did not go to a specific individual on the basis of the old method of appointment. The high-ranking monk in question, 91-year-old Somdet Chuang, was seen by the military and their conservative allies as too close to the Wat Phra Dhammakaya, a financially and politically influential temple which advocates a heterodox and materialistic version of Buddhism. On 7th February 2017, another monk, 90-year-old Somdet Phra Maha Munivong, was appointed by the king as the head of Thai Buddhism.¹⁵

The Wat Phra Dhammakaya Temple's former superior, Abbot Dhammachayo, was suspected of financial malpractice and money laundering. In order to arrest him, the junta mobilised some 4,000 police agents and hundreds of soldiers for three weeks, from mid-February to 10th March 2017, to go through the immense Buddhist temple complex, which covers 320 hectares north of Bangkok. The junta stripped the main temple officials of their clerical functions.¹⁶ To this day, Dhammachayo has never been found, and his disappearance remains a mystery. The military regime would like to place Dhammakaya Temple under their own control because the ruling generals are convinced that it has close ties with the political clan of former Prime Minister Thaksin Shinawatra.

INCIDENTS AND DEVELOPMENTS

In January 2020, government peace negotiators and representatives of the National Revolutionary Front (Barisan Revolusi Nasional, BRN), an Islamic separatist movement, met in the hope of finding a peaceful solution to the ongoing conflict in the southern border provinces. In the meeting, both the BRN and Thai officials discussed their shared goal of resolving the conflict through the peace process by strengthening their commitment to terms of reference that they had framed before.¹⁷

According to the NGO Deep South Watch,¹⁸ a total of 29 violent incidents occurred in the month of August 2020 alone with 10 deaths and eight wounded. From 2004 to 2020, 7,162 people died and 13,348 were injured since the insurgency started in the south. Despite the initial peace talks in January, no ceasefire or negotiated solution is currently in sight.

In April 2020, the BRN announced a unilateral ceasefire to combat the spread of COVID-19. In a statement, it said that it would take "measures to cease all activities for the purpose of providing humanitarian access bearing in mind that the principal enemy of the human race right now is COVID-19."¹⁹ The military did not reciprocate the ceasefire pledge because it views violence in the south as a law and order issue in need of greater policing, not a civil conflict rooted in legitimate grievances. As a result, violent clashes between the military and the BRN have continued, though monthly casualties have dropped in recent months. The tit-for-tat violence between the insurgents and the Thai government has affected people in all southern communities as insurgents tend to target Thai Buddhists, while Thai

security forces conduct raids and inflict brutal treatment (including torture) on suspected militants in counter-insurgency operations.²⁰

One particular issue that has affected the right to religious freedom of minority religious groups is the fate of persecuted communities who have sought refuge in Thailand. These communities include Christians from Pakistan and members of Falun Gong from China.

Taking advantage of relatively easy access to Thailand, thousands of Pakistani Christians have claimed refugee status in the country. However, the Thai government is not a signatory to the 1951 Convention Relating to the Status of Refugees, hence it has no formal process for refugees seeking asylum. Instead the authorities have gone after asylum seekers, and placed them in detention centres. There are credible allegations that the rights of detainees are not fully respected in these facilities. Those held are only given four hours a week outside their cells, which can be crammed with up to 100 people.²¹

As a rule, authorities do not recognise Pakistani Christians as refugees who have fled discrimination and persecution in their homeland deserving of legal protection. In general, local law enforcement officials regard these and other asylum seekers as illegal immigrants.²² In July 2019 for example, Thai authorities arrested 51 Pakistani Christian asylum seekers in Bangkok. The incident raised fears among Pakistani Christians in the city that the Thai government was planning further immigration crackdowns on people staying illegally in the country, including asylum seekers with no proper refugee status. Pakistani Christians, along with the members of other persecuted minorities from other countries, are routinely arrested and detained in prison-like conditions. To avoid detention centres, Pakistani Christian asylum seekers spend their time hiding from authorities in small, low-rent apartments. They say they will not or cannot return to Pakistan because of the persecution they would face as a result of their religious beliefs.²³ In another incident in December 2019, Thai immigration authorities detained some 36 asylum seekers in an early morning raid on Bangkok apartments.²⁴

Vietnamese refugees also fear deportation. Many of them are Catholic who fled to Thailand because of religious repression in their own country. In November 2018, more than 180 Montagnard refugees from Vietnam were detained, many of whom were Christians. While some have been able to obtain refugee status, several of them are still being held.²⁵ Some of the refugees took the risk of

deportation in order to see Pope Francis during his visit to Thailand on the 20th-23rd November 2019.²⁶

The case of an 18-year-old Saudi woman named Rahaf Mohammed Al-Qunun generated worldwide media attention. Thai authorities detained Al-Qunun at Bangkok airport in January 2019 while she was on her way from Kuwait to Australia. Her intention was to claim asylum in Australia in order to escape her family who had threatened to kill her for leaving Islam. Al-Qunun appealed for help on social media platforms, gaining international attention. Canada later granted her asylum. As a result of the international attention and outcry this incident generated, the Thai government promised to address the issue of indefinite detention and deportation of asylum seekers. Immigration police chief Surachate Hakparn announced a review of the country's detention policy, noting no one would be deported "involuntarily."²⁷

In 2020, Thailand celebrated the 142nd anniversary of the Edict of Religious Tolerance. To mark the occasion, United States Ambassador to Thailand, Michael George DeSombre, hosted a round table on 30th September 2020, with

approximately 15 leaders from various fields. According to Ambassador DeSombre, the Edict, first announced by King Chulalongkorn in 1878, declared "that whoever wishes to embrace any religion, after seeing that it is true and proper, can do so without any restriction, and that the responsibility rests on the individual." The Ambassador added that "[t]his powerful idea has been included in every subsequent constitution of Thailand."²⁸

PROSPECTS FOR FREEDOM OF RELIGION

The military regime and the recent protests calling for systematic political reform have not affected religious freedom in Thailand, which is likely to remain robust for the foreseeable future. However, the situation in southern Thailand remains volatile and the crisis is unresolved; religion-related violence and religiously motivated Islamist terrorism targeting non-Muslims, particularly majority Buddhists, can be expected to continue.

- 1 Jonathan Head, "Thai referendum: Military-written constitution approved," BBC News, 7th August 2016, <http://www.bbc.com/news/world-asia-36972396> (accessed 26th October 2020).
- 2 "Thailand's constitution: New era, new uncertainties," BBC News, 7th April 2017, <http://www.bbc.com/news/world-asia-39499485> (accessed 26th October 2020).
- 3 Thailand 2017, Constitute Project, https://www.constituteproject.org/constitution/Thailand_2017?lang=en (accessed 16th February 2021).
- 4 "Le bouddhisme, religion nationale en Thaïlande : nouvel échec pour un éternel serpent de mer," Églises d'Asie, 8th February 2016, <http://eglasiemepasie.org/asi-du-sud-est/thaillande/2016-02-08-le-bouddhisme-religion-nationale-en-thaillande-nouvel-echec-pour-un-eternel-serpent-de-mer> (accessed 26th October 2020).
- 5 Thailand's Constitution of 2017, op. cit.
- 6 Mong Palatino, "Thailand's new constitution: a threat to religious freedom?" The Diplomat, 2nd September 2016, <https://thediplomat.com/2016/09/thailands-new-constitution-a-threat-to-religious-freedom/> (accessed 26th October 2020).
- 7 Ibid.
- 8 Khemthong Tonsakulrungruang, "Religion after the referendum," New Mandala, 15th September 2016, <https://www.newmandala.org/religion-after-the-referendum/> (accessed 16th February 2021).
- 9 Matthew Wheeler, "Behind the insurgent attack in Southern Thailand," Crisis Group, 8th November 2019, <https://www.crisisgroup.org/asia/south-east-asia/thailand/behind-insurgent-attack-southern-thailand> (accessed 16th February 2021).
- 10 "Thailand: Insurgents bomb government agency in South," Human Rights Watch, 17th March 2020, <https://www.hrw.org/news/2020/03/17/thailand-insurgents-bomb-government-agency-south> (accessed 26th October 2020).
- 11 Max Constant, "Thai Muslims uneasy about rise in Buddhist nationalism," Anadolu Agency, 3rd September 2016, <https://www.aa.com.tr/en/asia-pacific/thai-muslims-uneasy-about-rise-in-buddhist-nationalism/640116> (accessed 26th October 2020).
- 12 "La junte au pouvoir tente de corriger la perception négative de la clause religieuse inscrite dans la nouvelle Constitution," Églises d'Asie, 7th October 2016, <http://eglasiemepasie.org/asi-du-sud-est/thaillande/2016-10-07-la-junte-au-pouvoir-tente-de-corriger-la-perception-negative-de-la-clause-religieuse-inscrite-dans-la-nouvelle-constitution> (accessed 26th October 2020).
- 13 "La junte amende la loi monastique pour écarter Somdet Chuang de la direction de l'Église bouddhique," Églises d'Asie, 2nd January 2017, <http://eglasiemepasie.org/asi-du-sud-est/thaillande/2017-01-02-la-junte-amende-la-loi-monastique-pour-ecarter-somdet-chuang-de-la-direction-de-l2019Église-bouddhique> (accessed 26th October 2020).
- 14 "La junte amende la loi monastique pour écarter Somdet Chuang de la direction de l'Église bouddhique," Églises d'Asie, 2nd January 2017, <http://eglasiemepasie.org/asi-du-sud-est/thaillande/2017-01-02-la-junte-amende-la-loi-monastique-pour-ecarter-somdet-chuang-de-la-direction-de-l2019Église-bouddhique> (accessed 26th October 2020).
- 15 "La nomination du nouveau chef de l'Église bouddhique thaïlandaise met un terme à une longue polémique," Églises d'Asie, 17th February 2017, <http://eglasiemepasie.org/asi-du-sud-est/thaillande/2017-02-17-la-nomination-du-nouveau-chef-de-l2019Église-bouddhique-thaillandaise-met-un-terme-a-une-longue-polemique> (accessed 26th October 2020).
- 16 "La junte peine à neutraliser le mouvement bouddhique Dhammakaya," Églises d'Asie, 27th March 2017, <http://eglasiemepasie.org/asi-du-sud-est/thaillande/2017-03-27-la-junte-peine-a-neutraliser-le-mouvement-bouddhique-dhammakaya> (accessed 26th October 2020).
- 17 Noah Lee, Muzliza Mustafa, Pimuk Rakkanam and Mariyam Ahmad, "Thai peace negotiator meets with BRN rebel delegates in Malaysia," Benar News, 21st January 2020, <https://www.benarnews.org/english/news/malaysian/peace-talks-01212020154917.html> (accessed 26th October 2020).
- 18 Deep South Watch, <https://www.deepsouthwatch.org/english> (accessed 26th October 2020).
- 19 "Declaration of BRN's response to COVID-19," Geneva Call, 3rd April 2020, <https://www.genevacall.org/wp-content/uploads/2020/05/BRN-Statement-Ceasefire.jpg> (accessed 26th October 2020).
- 20 Caleb Quinley, "In Thailand's deep south conflict, a glimpse of hope, but no momentum to sustain a COVID-19 ceasefire," The New Humanitarian, 3rd August 2020, <https://www.thenewhumanitarian.org/news/2020/08/03/Thailand-deep-south-conflict-coronavirus-ceasefire> (accessed 26th October 2020).
- 21 "Bangkok detention center violating human rights of detainees," International Christian Concern (ICC), 26th September 2018, <https://www.persecution.org/2018/09/26/bangkok-detention-center-violating-human-rights-detainees/> (accessed 26th October 2020).
- 22 "Thai police round up dozens of Christian Pakistani refugees," UCANews, 20th December 2019, <https://www.ucanews.com/news/thai-police-round-up-dozens-of-christian-pakistani-refugees/86862> (accessed 26th October 2020).
- 23 "Thai police seize 51 Pakistani Christian asylum seekers," UCANews, 9th July 2019, <https://www.ucanews.com/news/thai-police-seize-51-pakistani-christian-asylum-seekers/85590> (accessed 26th October 2020).
- 24 Ibid.
- 25 "181 Christian refugees still detained by Thailand authorities," International Christian Concern (ICC), 6th November 2018, <https://www.icanews.com/news/181-christian-refugees-still-detained-by-thailand-authorities/>

www.persecution.org/2018/11/06/181-christian-refugees-still-detained-thailand-authorities/ (accessed 26th October 2020).

26 “Vietnamese Catholic Refugees in Bangkok Risk Deportation to See Pope Francis,” International Christian Concern (ICC), 13th December 2019, <https://www.persecution.org/2019/12/13/vietnamese-catholic-refugees-bangkok-risk-deportation-see-pope-francis/> (accessed 16th February 2021).

27 “Thailand aims to reform tough refugee policy after saudi asylum case,” International Christian Concern (ICC), 21st January 2019, <https://www.persecution.org/2019/01/21/thailand-aims-reform-tough-refugee-policy-saudi-asylum-case/> (accessed 26th October 2020).

28 Michael George DeSombre, “Celebrating a shared history of religious freedom,” Nation Thailand, 30th September 2020, https://www.nationthailand.com/opinion/30395338?utm_source=homepage&utm_medium=internal_referral (accessed 28th October 2020).