

# *Blood Curse and Belonging in Thailand: Law, Buddhism, and Legal Consciousness*

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## **Abstract**

This article takes up Talal Asad’s suggestion that studies of law and religion should reject the modern/non-modern binary and instead consider the “fragmented cultures” and “hybrid selves” associated with constantly changing social circumstances. The article begins with a seemingly bizarre incident that occurred during Thai street protests in March 2010. Tens of thousands of rural demonstrators splashed their own blood on Bangkok’s public buildings to curse the ruling government and its legal and political institutions. An explanation of the demonstrators’ controversial actions is found in their reaction against efforts of the central Thai ruling elite over the past century to modernize Thai law, rationalize its religious administration, and eliminate rival systems in outlying regions. These efforts, in turn, are placed in the context of a centuries-old tradition of law, kingship, and religious purification through which Thai rulers centralized their power and demonstrated their legitimacy. The street protests in 2010 represented a failed attempt by rural workers simultaneously to claim their place in the Thai nation and to challenge its hegemony, to assert their rights under modern law, and to invoke pre-modern legal norms and identities.

**Keywords:** Buddhism, Thailand, law, religion, blood curse, modernism, red shirts

We should look, therefore, at *the politics* of national progress—including the politics of secularism—that flow from the multifaceted concept of modernity exemplified by “the West”.... But should we not also inquire about the politics of the contrary view? What politics are promoted by the notion that the world is *not* divided into modern and nonmodern, into West and non-West? What practical options are opened up or closed by the notion that the world has *no* significant binary features, that it is, on the contrary, divided into overlapping, fragmented cultures, hybrid selves, continuously dissolving and emerging social states?<sup>1</sup>

## 1. INTRODUCTION: THE BLOOD-CURSE RITUAL

In March 2010, tens of thousands of protesters filled the streets of Bangkok. Most of them wore red shirts to signify their loyalty to the ousted prime minister, populist billionaire Thaksin Shinawatra. The protesters carried signs demanding the restoration of free elections

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1. Asad (2003), p. 15.

and what they considered true democracy rather than control by the military and the traditional ruling elites. They were mostly country people, farmers, and labourers who had travelled to Bangkok from Thailand's two most populous regions—the north and the north-east. These were not the first mass rallies to choke Bangkok's streets, and they would not be the last. But this time things would end very badly. There would be a military crackdown. There would be shootings, explosions, and the mysterious torching of a large upscale shopping plaza. Nearly 100 people would die. The consequences still reverberate through today's confusing and uncertain political environment.

Before the crackdown, however, the so-called “red shirts” gathered in the heart of Bangkok were still feisty and exuberant. They were determined to remind urban residents of their overwhelming electoral strength, and they wanted to protest what they considered their legal disenfranchisement. They chose an extraordinary way to do it—although it left most observers stunned and appalled. The red shirts performed a blood-curse ritual to denounce and disempower what they considered an illegitimate Thai government.

Following instructions from their leaders, approximately 70,000 supporters lined up to have small amounts of their blood extracted by a team of volunteer doctors and nurses. The blood, about 300 litres altogether, was combined in makeshift containers. Then the demonstrators marched, led by a statue of the Buddha and a Brahmin officiant in white robes. They ceremonially splashed blood on the four gates of the government house where the prime minister had his office, at his private residence, and at other official sites in Bangkok and elsewhere.<sup>2</sup> The curse was directed at the government itself, at those who had ousted Thaksin from power, at the army, and at the Constitutional Court for disbanding the red shirts' political party on the grounds of electoral fraud and for barring their leaders from politics for five years. Also, the demonstrators were cursing the election of Prime Minister Abhisit Vejjajiva, the young Eton- and Oxford-educated leader of the Democrat Party, whom they believed would not have prevailed in a fair head-to-head contest with Thaksin. They were cursing the Supreme Court for the recent decision to strip Thaksin's family of \$1.4 billion obtained by corruption. In short, the blood curse was aimed at the entire Bangkok establishment for time and again acting in ways they interpreted as disempowerment of the rural masses.

What was the meaning of this ritual? What did it signify for the clash between the followers of Thaksin and their opponents? Did the blood curse have anything to do with the law? Debates about politics, law, and constitutionalism in Thailand are extremely complex and often the issues apparent on the surface have little to do with powerful submerged factors or with matters concerning the monarchy that cannot be openly discussed. Nonetheless, this article is meant to argue for the proposition that the blood curse was indeed an expression of legal consciousness and that law and religion—broadly understood—can illuminate at least some aspects of Thailand's current crisis.

This may be a surprising claim. In all the public discussions of Thai law and constitutionalism, religion is seldom mentioned except with reference to the four Muslim majority provinces in the far south. But this article draws on research conducted over a number of years in the north, the region of Thailand known as Lanna (literally, “a million rice fields”). Its subject is the clash not between Buddhism and Islam, but between fundamentally different

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2. See generally Cohen (2012) and Yuktanan (2012).

understandings of Buddhism itself—one urban, cosmopolitan, “rational,” and state-sponsored; the other rural, localized, arguably “irrational,” and historically opposed by the state. This article suggests that current debates over constitutionalism and the rule of law in Thailand may actually contain important religious elements that are not apparent even to the participants.

## 2. RELIGION, MODERNITY, AND LEGAL CONSCIOUSNESS

There can be little doubt that Buddhism has profoundly affected the *legal consciousness* of Thai people—a term that refers to the ways in which ordinary men and women think about, use, avoid, or reject the law. Studies of legal consciousness also consider why, in some situations, the law never enters people’s minds, thoughts, or actions. In Thailand, as in most societies, state law sometimes influences ideas and behaviour in direct and highly visible ways, offering a language and a set of institutional procedures that enable people to achieve a goal or status that would otherwise be difficult to attain. But at other times state law may appear distant, threatening to a way of life, and even disempowering, despite its promise of equality and fairness. Moreover, customary norms and non-state legal systems can offer important alternatives to state law and can affect legal consciousness in a variety of ways. As we shall see, non-state legal traditions in northern Thailand have deep roots in the local culture and have close connections to religious beliefs and practices that are familiar to many residents of the region. Buddhism and non-Buddhist religious traditions in Thailand are quite clearly relevant to legal consciousness in all of its various forms.

This article will consider Thai religious practices in relation to legal consciousness in ways that differ from conventional scholarly approaches to law and religion. It does not begin with the “modern” assumption that church and state occupy—or should occupy—separate spheres and that the role of law is—or should be—maintenance of the boundary between the two. Rather, this article associates itself with a different scholarly approach that interrogates what Fitzpatrick calls the “mythology of modern law”<sup>3</sup> and asks to what extent the binaries of modernity correspond to empirical reality. It asks when, how, and to what extent the conceptual framework of modernity becomes significant for Thai law and legal consciousness. Does religion in fact represent a separate domain in the thoughts and actions of Thai people as they engage with the state and with legal and political issues of the day? At what point in Thailand’s history did the “politics of secularism,” to borrow Asad’s terminology, become salient, and who promoted them? If we join Asad in rejecting a simplistic dichotomous view of law and religion in contemporary Thai society—modern versus non-modern—and if we accept the possibility that Thai people experience “overlapping, fragmented cultures, [and] hybrid selves,” we may gain a more realistic understanding of Buddhism itself as well as the critically important role that religion continues to play in a seemingly modern polity.

Both law and religion are ways of “imagining the real,”<sup>4</sup> and their relationship has a history that should be a significant part of the analysis of law and religion in any society. It is not helpful to accept uncritically the law’s own concepts and categories regarding religion and to use them as a framework for socio-legal analysis. Instead, those concepts and categories should be the *object* of analysis. The law may adopt a resolutely secular

3. Fitzpatrick (1992).

4. Geertz (1983).

perspective, yet religious perspectives and practices may remain integral to popular views of dispute resolution and of justice itself. The tension between law and religion on the books and “in action,” moreover, resolves itself differently in different locations within the state and in different historical moments.

This article asks, therefore, how the ideas of modernity and secularism arrived in Thailand. What were the critical terms and discourses concerning law and religion that came to be associated with the modern Thai state? As Talal Asad has observed, “modernity” is not a verifiable thing in the world. Modernity and its distinctive conception of the law/religion relationship is rather a *project* with certain recognizable features, which is advocated by particular groups for specific reasons:

Modernity is a *project*—or rather, a series of interlinked projects—that certain people in power seek to achieve. The project aims at institutionalizing a number of (sometimes conflicting, often evolving) principles: constitutionalism, moral autonomy, democracy, human rights, civil equality, industry, consumerism, freedom of the market—and secularism.<sup>5</sup>

We must ask, then, who promoted this “project” in Thailand and for what purpose? What have the consequences been for different people and groups? Does the history of Thailand’s “modernity project” with respect to both law and religion help to explain certain aspects of the current political and social crisis? In short, this article offers at least a partial response to three highly pertinent questions about law, religion, modernity, and secularism recently posed by Winnifred Fallers Sullivan and her co-authors: “(H)ow did law become secular, what are the phenomenology and social and individual experience of legal secularism, and what are the challenges that taking into account religious formations poses for modern law’s self-understanding?”<sup>6</sup>

### 3. THE HISTORICAL CONTEXT

What Asad calls the project of modernity was launched under King Rama V, who, at the turn of the twentieth century, asserted unprecedented control over semi-autonomous principalities in regions distant from the capital in Bangkok. Rama V’s aim was to form a new kind of polity fashioned after the European nation-state. The establishment of European-style courts and law codes was a central part of this project, as was the imposition of a centralized, rationalized form of Buddhism. In 1932, Thailand became a constitutional monarchy. From that date to the present time, rule of law and basic constitutional principles have guaranteed inclusion and equality to all Thai citizens, including many who previously considered themselves outside the Thai state. In theory, at least, all were now integrated into what became known in 1939 as “Thailand” on equal terms under law, and their religious freedom was guaranteed.

Thailand’s most recent charter, the Constitution of 2007, abrogated by a *coup d’état* in 2014, provided that the Thai people shall hold “sovereign power” exercised by the king through the National Assembly, the Council of Ministers, and the courts (Section 3). It guaranteed the people’s “human dignity, rights, liberty, and equality” (Section 4) and provided that all Thais “shall enjoy equal protection under this Constitution” (Section 5). Significantly, perhaps, Section 87 provided for implementation of “citizen participation” in policy-making and political

5. Asad, *supra* note 1, p. 13.

6. Sullivan et al. (2011), p. 2.

decision-making. Even the Interim Constitution of 2014, imposed under martial law, contains the customary guarantees of popular sovereignty and equality under law.

There is no question that, despite the frequent change in constitutional texts,<sup>7</sup> Thailand has consistently reaffirmed the principle that all citizens hold equal rights and must be included within the national polity regardless of region, race, gender, or religion. The law codes that form the backbone of the Thai legal system do not feature religion as an essential source of legal norms or as a framework for dispute resolution. Thai constitutions do, however, reserve a special place for Buddhism, requiring that the king, as “head of state,” shall be a Buddhist and an upholder of *sasana*—a term that is usually translated into English versions of Thai constitutions as “religions” but could actually be understood to refer singularly to the Buddhist religion.<sup>8</sup> The Constitution of 2007 also singled out Buddhism as the religion of the “majority of Thais,” mandating that the state protect Buddhism as well as “other religions” and “promote good understanding and harmony among followers of all religions.”<sup>9</sup> Some groups in Thailand have advocated a more explicit constitutional statement to the effect that Thailand is a Buddhist state, giving the Buddhist religion pride of place among all the faiths in Thai society. Their efforts have thus far failed.<sup>10</sup> Nonetheless, as we shall see, religion permeates Thai legal consciousness in countless ways.

This article will suggest that Buddhism itself varies across the Thai social landscape, and thus religion can produce strikingly different forms of legal consciousness in different sectors of Thai society. Although the vast majority of the population self-identifies as Buddhist, significant differences exist among urban and rural Thais and among central Thais and those in the north, south, and north-east. When modern law and constitutionalism were established as hallmarks of the emergent Thai state, therefore, its guarantees of equality and religious freedom contained hidden contradictions. The very process of inclusion—purporting to make the residents of the entire geo-political space of the new Thai state into “citizens” bearing equal rights and legal status—tended to produce a lasting sense of exclusion among those who suddenly found themselves absorbed into a culturally unfamiliar national entity and were regarded as socially or culturally inferior. I shall attempt to explain this paradox of inclusion and exclusion with respect to the northern region of Thailand, known as Lanna.

Two consequences flow from the approach taken in this article. First, it discusses aspects of Thai law and religion that are not viewed in such terms by the actors on the ground. In other words, it highlights religious dimensions to political and legal issues even though the individuals involved almost certainly do not share the perception that religion is a central

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7. The precise number of Thai constitutions from 1932 to the present is debatable and depends on whether one counts interim and substantially amended charters. It is often said, however, that the current Interim Constitution of 2014 is Thailand’s nineteenth. If this is the case, then Thai constitutions have had an average life of less than four and a half years. The frequent abrogation and replacement of Thai constitutions are, of course, connected to the frequent change of government by *coup d’état*—an act that would be punishable as treason if the pre-existing Constitution remained in effect. See Harding & Leyland (2011) and Streckfuss (2011).

8. See e.g. the Thai Constitution of 2007, Ss. 2 (king as head of state) and 9 (king as Buddhist and upholder of religion/s). Whether the latter provision is meant to refer to the king’s role in relation to all religions or only to Buddhism is ambiguous in part because the uninflected Thai noun *sasana* could be either singular or plural. Further, *sasana* is a specifically Buddhist term, from the Sanskrit and Pali, referring to the teachings of the Buddha. Thais can use the term to refer to other religions as well, such as the *sasana* of Christianity or of Islam. When used without any modifier, however, the referent of the term *sasana* is uncertain.

9. *Ibid.*, S. 79.

10. See e.g. *Bangkok Post* (2015).

concern. Second, it avoids the usual Bangkok-centric view of Thai law and religion. Far removed from the Thai capital, in regions such as the north or north-east, we can see quite clearly the impact of the project of modernity as it was projected from Bangkok by the ruling elite a century ago. Drawing on research in northern Thailand conducted over the past several decades, it will focus primarily on relations between Bangkok and Lanna, which is not coincidentally the home region of Thaksin and many other red-shirt leaders and followers.

#### 4. THE BLOOD CURSE AND LEGAL CONSCIOUSNESS

The Thai nation unites the blood and flesh of all Thai people (Thai national anthem).

How does religion help us to understand the highly unusual blood-curse ritual of March 2010? More broadly, how does decoding the religious aspects of this incident shed light on Thai legal consciousness and even, perhaps, provide insights into Thailand's current crisis of law and legitimacy?

The blood-curse ritual had very different meanings for the red-shirt demonstrators and for most urban middle-class onlookers. In the eyes of their Bangkok opponents, the ritual was bizarre and outrageous. It confirmed the red shirts' irrational, primitive, and unhygienic qualities. Because they came primarily from the north and north-east, they were viewed as upcountry bumpkins, unsophisticated, uneducated, and stupid. Some even dismissed the demonstrators as *khwai*, water buffalo—a label portraying men and women as dirty and ignorant labourers. Performing the blood ritual played directly into these prejudices. How could people who would do such a thing ever participate as equals in civil discourse? They did not even speak standard dialect,<sup>11</sup> and they followed what were considered deviant cultural and religious practices.

But, for the red-shirt demonstrators, the blood ritual had entirely different meanings. Since they viewed the political power structure as biased in favour of privilege and status, they felt that ordinary people had nothing but their votes and their very blood to support their position. As Yuktanan points out, blood has a sacred quality that expresses both patriotism and Thai-ness.<sup>12</sup> A reference to blood appears in the opening line of the Thai national anthem.<sup>13</sup> For the demonstrators, the blood ritual represented a way for social outsiders to claim membership in the Thai nation. It signified their patriotism and their willingness to make a fundamental sacrifice for their country. It also indicated a sense of collective identity. Thousands of people merged their individual essence to create a community literally based on common blood. For them, as Yuktanan wrote, this ritual spoke a "sacred language as well as the language of blood to not only invent a collective identity but to also sacralise their demands for democracy."<sup>14</sup>

But, as we have seen, the blood ritual was not intended only to affirm collective identity, patriotism, and Thai-ness. It was also used to put a curse on the government and its leaders.<sup>15</sup> One of the Democrat leaders, Suthep Thaugsuban, fully understood this dimension of the ritual. Speaking for the government, this opponent of the red shirts commented

11. See Alexander & McCargo (2014).

12. Yuktanan, *supra* note 2.

13. *Ibid.*, p. 103.

14. *Ibid.*, p. 99.

15. Cohen, *supra* note 2, p. 230.

sarcastically: “The world sees some people in Thailand as believers in black magic and as uncivilized.”<sup>16</sup> The red shirts may have viewed the curse as a weapon of the weak, a weapon used by people who were outside the establishment. But non-red shirts viewed it as just another confirmation of social inferiority, as proof that the red shirts were primitive and barbaric.

The use of a curse in conflict situations is actually well known in Lanna, although the organizer of this particular ritual may not have come from the north or north-east—there is some uncertainty about who was responsible for planning this dramatic display. Nonetheless, the curse carried out by the demonstrators was readily understandable within Lanna legal culture. Rosalind Morris, for example, discusses a traditional northern cursing ritual—*phithii saap chaeng*—performed in Chiangmai in 1992 to protest insulting statements about Lanna voters made by General Suchinda in Bangkok.<sup>17</sup> That ritual involved burning dried hot chilli peppers and salt rather than scattering blood, but it was considered very efficacious. The same type of ceremony was used seven years later by Chiangmai farmers who became angry with a group of university professors. The farmers felt that the professors had unfairly sided with highland communities in a conflict over water rights, so they burned the chillies and salt, and cursed the relatively privileged and high status scholars.<sup>18</sup>

At a Karen village in the highlands of Chiangmai, I visited a sacred forest where the family of each newborn baby tied a bamboo container containing the infant’s umbilical cord to a tree they had selected. A nearby sign announced that cutting down any tree in this forest was a violation of the law, but that violators would also be cursed by the community. Local leaders assured me that people feared the curse much more than the possibility that the government would fine or imprison them. Certainly, cursing rituals are found elsewhere in Thailand, but they have particularly strong roots in Lanna culture.<sup>19</sup> They are a means of stepping outside the law—and outside orthodox Buddhism—to enforce customary norms. They also give marginalized people a chance to exercise power over those with higher social status.

The blood ritual of the red shirts on the streets of Bangkok was, in this sense, an attempt by the demonstrators to project local-level legal consciousness onto the national stage. It carried with it a distinctive understanding of identity, group affiliation, and legality. The red shirts believed they had lost their judicial contests and had their electoral victories taken from them, so the curse was all they had left. If the law could not deliver them justice, the curse might. It simultaneously empowered the demonstrators and disempowered them by re-inscribing their inferiority, irrationality, and backwardness in the eyes of others.

In short, the use of the cursing ritual made sense to the demonstrators because it represented an explicit invocation of the sacred to bring justice to Thailand’s legal and political institutions. But the very conception of the sacred for Lanna residents appeared to differ from that of the Bangkok onlookers, who saw the beliefs and practices of the demonstrators as primitive and misguided. Lanna legal consciousness has deep

16. *Ibid.*, p. 227.

17. Morris (2000), pp. 262–6.

18. Rajah (2005).

19. “Although consciously linked to assertions of Northern Thai culture and identity in this instance, *sayasaat* and *phithii saap chaeng* are more generally embedded in Thai folk religion, an amalgam of animist and Buddhist beliefs. In northern Thailand, these beliefs have been important aspects of purification and protective rites at the household and village levels involving the expulsion of inauspicious spirits. Historically such rites have also been performed at the level of the *müang* (walled city, principality or premodern polity), of which Chiang Mai was arguably the exemplary centre in the North.” See *ibid.*, p. 113.

historical roots in law and religion that extend back for many centuries, and the conflict with what we might call Bangkok legal consciousness can best be understood in terms of a much longer history involving the central Thai kingdom and the outlying regions it sought to control.

## 5. BANGKOK AND LANNA LEGALITIES

There was, of course, no Thai nation-state until the late nineteenth or early twentieth century. Separated by more than 400 miles, travel and communication between the central kingdom<sup>20</sup> and Lanna was difficult and the exercise of power was tenuous. At times, Lanna was governed directly or indirectly by neighbouring Burma. At other times, Lanna paid tribute to the kingdoms of central Thailand while still manoeuvring to protect its autonomy. Lanna had its own distinctive language and culture, its own brand of Buddhism, and its own legal tradition.

Lanna legal and religious traditions trace their origins to the reign of King Mangrai, who founded the northern kingdom more than 700 years ago. Lanna's pre-modern law texts, known as *Mangraisat*—the *sastras* of King Mangrai—were organically connected to village-level customs and practices and to Lanna-style Buddhism. Thus, understandings of law and justice from the village to the palace—the legal consciousness of ordinary people and the ruling elite—had a distinctive Lanna flavour.<sup>21</sup> Pre-modern Lanna legal consciousness had three important characteristics, particularly with respect to the law of wrongs:

1. *Connection of law to spirits and the supernatural.* Lanna religion was an amalgam of traditional Buddhism and the worship of local spirits. “Villagers’ Buddhism” in Lanna was even more syncretic in this regard than in central Thailand.<sup>22</sup> Locality spirits and ancestral spirits articulated and enforced legal norms. Wrongful acts were expressed in terms of their offensiveness to the spirits—they had a supernatural aspect that could be understood only with reference to Lanna conceptions of the sacred. Wrongful acts were identified not by judges as we might understand them, but by spirit mediums or by local princes endowed with religious authority. Legal remedies involved sacred rituals to appease the spirits.
2. *Connection of law to place.* The locality where improper conduct occurred could determine both the nature of the offence and the injurer’s obligations. Conduct that was considered harmless in one locale could place villagers at risk if it occurred elsewhere, because there it offended that locality’s spirits and required ritual propitiation. Legal norms were not universal. They were not, that is, applicable to all persons in all locations. The sacred geography of Lanna was also a map of the law.
3. *Law’s roots in collective identity.* The legal subject was not highly individuated. Wrongs to individuals and groups were typically framed in terms of harm to their

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20. “Central kingdom” here refers to the kingdom of Ayutthaya from 1351 to 1767 and, after Ayutthaya’s destruction by the Burmese in the late eighteenth century, to the short-lived Thonburi Dynasty (1767–82) and the current Chakri Dynasty founded in Bangkok in 1782.

21. Engel (2011).

22. Ramitanon (2002).



*khwan*, or spiritual essence, not just their bodies or property.<sup>23</sup> But the *khwan* of villagers were linked to one another and could be nourished or strengthened through collective ceremonies. Moreover, fields, forests, mountains, and dams also had *khwan*, thus connecting human communities to their natural surroundings. Wrongful acts, therefore, harmed the *khwan* of social groups and their environment, not just individuals. Wrongdoers had an obligation to restore order in the community, not just compensate the individual victim's loss.

These three characteristics of the Lanna legal consciousness remain important even today. But now they are contained within a very different legal framework. How did this come about?

After a particularly bloody and destructive battle with the Burmese, the Siamese people of central Thailand regrouped and eventually founded the current Chakri Dynasty in Bangkok in 1782. The newly installed king, Rama I, as he attempted to consolidate his kingdom and his power, ordered a new compilation of prior laws to purge impurities and imperfections that had arisen over the years. The resulting legal code, known as the Law of the Three Seals, was closely connected to Rama I's broader effort to reform Thai religion. Indeed, some provisions of the new law code spoke directly to the deviant regional religious practices that Bangkok sought to root out by declaring them unlawful. In this conception, law and religion were inseparable. The king had a responsibility to preserve and protect both law and religion. He could demonstrate his legitimacy by maintaining their purity, and he could thereby construct his identity as *thammaracha*—literally a “dharma king.”<sup>24</sup> By this means, the king could establish his *barami*, or moral perfection and charismatic authority.<sup>25</sup> Rama I's successors in the Chakri Dynasty, for the same reason, engaged in similar purification efforts. By the time Rama V ascended the throne in 1868, his reforms of Thai law and religion adhered to a pattern established by the *thammaracha* kings who came before him.

Even though Rama V's “modernizing” reforms followed a centuries-old pre-modern pattern of moral purification, his reform efforts had a strongly European flavour. Rama V, in his effort to construct a modern nation-state, enacted a Western-style “rational” legal system, with courts and law codes fashioned after French and German models. He then imposed this entire framework on Lanna and other regions of Thailand. His actions were no doubt read in Lanna as yet another effort by Bangkok to take over their region—a perception supported by substantial evidence. Bangkok leaders believed they could successfully annex the north by forcing Lanna's cultural and political arrangements to conform to a centralized model administered from Bangkok. Terms like “purification” or “rationalization,” from the perspective of the people of Lanna, carried an implication of disempowerment or even colonization. They signified an intention to purge Lanna religion of its involvement with local spirits, to weaken traditional forms of legitimation in Lanna, and to bring local religious and political leaders under the control of the central government.

23. Charles F. Keyes defines and describes *khwan* in the following passage: “This ‘vital essence’ exists in plural forms, occupying 32 parts of the human body, according to the Thai belief. ... In practice, villagers throughout the region think of the ‘vital essence’ as a unity. The ‘vital essence’ must be in the body of the human, the rice, or the animal lest the human or animal suffer misfortune and eventually die or the rice be deprived of its nutrient quality and its fertility. Thus, periodic rites are performed in order to secure the ‘vital essence’ to the body, such rites for humans occurring on such occasions as a radical change in status, a shift of residence, or a serious accident or disease.” Keyes (1977), p. 116.

24. Tambiah (1976), p. 187.

25. Jory (2002).

Thus, the arrival of this alien-appearing legal system in Lanna coincided with political annexation by Bangkok and eventual integration into the emergent nation-state. The transformation of Lanna's legal system was part of Bangkok's broader strategy to transform Lanna's religious, cultural, political, and social arrangements. Legal change was not separable from the reform of culture and religion but was integral to them. The most conspicuous feature of the new European-style legal system was not that it was modern, rational, or secular, but that it was extraordinarily powerful. Lanna residents resisted all of these reforms, but their leaders, institutions, and many of their traditions were simply overwhelmed.

Modern Thai law opposed each of the three characteristics of Lanna-style law and legal consciousness enumerated above. The European-style law codes aimed to sever any connection between law and spirits or the supernatural and were framed almost entirely in secular terms. Law was no longer variable according to location but was uniform across all the spaces of the nation-state. Collective identity was foreign to modern injury law, which typically constructs each person as a separate and autonomous individual.<sup>26</sup> The concept of *khwan* was banished from legal discourse. It is no accident that each of these three developments also reinforced Bangkok's efforts to bring greater "rationality" to Thai Buddhism and purge Lanna religion of its connections to locality spirits and other supernatural beings. Secular law and rational religion were two sides of the same coin, and both were aimed, at least in part, at cultural transformation of the hinterlands.

What remained of traditional Lanna legal culture by the mid- to late twentieth century? Modernity in the form of Rama V's new legal system dealt the Lanna justice concept a powerful blow, but Lanna-style legal consciousness did not simply disappear. Throughout much of the twentieth century, Lanna justice concepts persisted in a parallel universe outside the formal legal system. Far from the new courthouses of the Thai state, village mediators continued to resolve conflicts through compromise rather than through the adjudication of legal rights. Spirit mediums continued to voice the concerns and commands of locality spirits. Wrongdoers were still required to provide rituals to appease the spirits and restore the *khwan*.

Occasionally, the mechanisms of traditional justice broke down or were unavailable to handle certain kinds of claims. When that happened, some disputants filed lawsuits to bring pressure on their adversaries and compel them to come to terms. The aim of the plaintiffs, however, was not to vindicate legal rights, but to enforce traditional customary norms. Lanna legal consciousness lived on in the interstices of modern law.

By the end of the twentieth century, however, economic, technological, and demographic changes weakened Lanna cultural institutions. As villagers moved to urban settings and village life became less important in their lives, locality spirits lost their authority and collective identities began to fade. People no longer saw themselves as part of village communities with strong and coherent customary legal norms and procedures. They began to forget their customs and legal traditions.

In the place of traditional Lanna justice, interviewees in my research on injuries said that the people of the north generally responded to wrongs with generosity and forgiveness. Justice is attained by reconciling the disputants, not by winner-take-all adjudication. Justice is inter-subjective. Bancha, a Chiangmai resident, characterized Lanna legal culture

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26. My research over the years in Lanna has focused primarily on injuries and the law of wrongs.

this way: “You must give each other justice,” not receive it from a judge. It does not matter so much who is right and who is wrong. Justice in Lanna is not about right and wrong. As he put it, “Both sides should be able to understand each other. Justice should give equally to both of them.” Therefore, Lanna residents do not expect the courts or the legal system to provide justice. As Phakdi, another Lanna resident, stated:

Justice can’t be the result of a legal decision. Rights are fixed and defined by the law, but justice isn’t based on a verdict. We can’t tell what justice will be. It depends on the feelings of satisfaction of the two parties.

Most of the interviewees understood Buddhist teachings to counsel against the aggressive pursuit of their own individual rights and they rejected the invocation of law to resolve interpersonal dealings or disputes. Rights-based claims were viewed as selfish and materialistic, since they no longer represented the interests of an entire community. These interviewees feared that pursuing legal claims would violate Buddhist teachings and create more bad karma. In the end, secular legalism would lead to further suffering and misfortune for them and for members of their family, and it would not produce justice in the Lanna sense of the word.<sup>27</sup> Rights are part of the legal-religious-cultural package that was aimed in some senses at the elimination and not the protection of Lanna as a distinctive cultural entity. Rights can be a Trojan horse that smuggles alien ideologies into Lanna and hastens its destruction.<sup>28</sup>

## 6. CONCLUSION

The blood-curse demonstration was an attempt by the red-shirt demonstrators to reconcile two ultimately irreconcilable forms of legal consciousness. First, they wanted to express a belief that their basic constitutional rights of equality and democratic participation had been violated. They contended that the liberal principles of the so-called People’s Constitution of 1997 and its successors had never been fully realized. A century of integration into the Thai legal and political system had, in their view, resulted in their exclusion and subordination rather than inclusion. Their rights had been denied. Second, they wanted to step outside the rule of law framework itself and participate in an entirely different type of discourse about justice. The traditional principles of law, sacrality, and community could not be adequately expressed through judicial decisions or debates about rights but could, they believed, be more fully communicated through a ritual that had no place in the framework of legal modernity.

The red shirts and their supporters have from time to time used the language and the principles of “modern” legalism, which originated in the programme of nation-building and centralization initiated from Bangkok by King Rama V in the late nineteenth century. They sometimes speak the language of rights. They have scored some legal victories and, by invoking the tropes of electoral democracy and majority rule, they have won support both inside Thailand and in the international community. But, on the whole, the red shirts and their leaders have not fared well in legal battles, and they do not regard the Thai legal system as

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27. Engel & Engel (2010).

28. Panikkar (1982).

their friend. Moreover, criminality and corruption among the red shirts have undercut their efforts to claim the legal high ground.

Unlike the Thai judicial system, the blood-curse ritual spoke a culturally intelligible language for the red shirts and their supporters. Cursing rituals maintain the pre-modern legal culture of Lanna in inverted form. The spirits are asked to harm an adversary rather than help a kinsman. But, as Rosalind Morris observes, asking the spirits to inflict this injury on an outsider can actually produce *justice* for the community, “because it will correct an imbalance in the moral order.”<sup>29</sup> The curse is the dark side of traditional Lanna law, but it rests on the same foundation of legality, sacrality, and collective identity, expressed now in a patriotic and nationalist ideology.

Viewing the incident of March 2010 through the lens of law and religion makes it legible and connects it to the long and sometimes conflicted history of Lanna and Bangkok. It makes an otherwise bizarre behaviour intelligible in terms of what Asad might call a hybrid legal consciousness. It also explains why the outcome of the blood-curse ritual was not what the demonstrators intended. It did not empower them or offer them a way out of their unproductive relationship with the modern Thai legal or constitutional systems. Instead, it reconfirmed their identity as primitive, irrational, and atavistic elements whose traces needed, quite literally, to be swept from the streets in the name of modernity.

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29. Morris, *supra* note 17, p. 265.

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