

Thailand

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1 From Your Own Country, Is There a Unique Perspective of International Law?

Thailand's approach to international law was shaped by its history, geopolitical position, and domestic politics. Using "bamboo diplomacy," Thailand balances relations with major powers to maintain independence. While the country has made strides in ratifying key human rights treaties and advancing economic and social rights, such as through Universal Health Coverage, domestic implementation remains challenging. Issues like restrictions on political freedoms and freedoms of expression persist, especially under military influence. The paper highlights the gap between Thailand's international commitments and domestic realities, underscoring the need for ongoing reforms to align with global human rights standards.

Thailand's perspective on international law is complicated and deeply influenced by its geopolitical position, domestic policies, and historical context. The country attempts to balance its international relations through a diplomatic approach often referred to as "bamboo diplomacy." This policy is characterized by the metaphor of bamboo bending with the wind, symbolizing a foreign policy that combines adaptability and pragmatism to secure national survival and independence. This alludes to the way in which the country has pursued a flexible, pragmatic policy, aimed at maintaining national survival and independence. "In bamboo diplomacy, Thailand is blatantly playing one great power off against the others amid great power competition."¹ In practice, Thailand strategically leverages its relationships with multiple global powers, seeking to maintain positive relations with several without positioning too closely with any single one. This approach allows Thailand to navigate complex international dynamics and preserve its autonomy on the global stage.

With regard to historical considerations, Thailand, formerly known as Siam until the mid-twentieth century, navigated a complex interplay of regional and global dynamics that significantly influenced its legal and diplomatic stance. A country's perspective on international law is shaped by its unique

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1 JITTIPAT POONKHAM, A GENEALOGY OF BAMBOO DIPLOMACY: THE POLITICS OF THAI DÉTENTE WITH RUSSIA AND CHINA 1 (2022).

historical and geopolitical contexts, making it a distinctive case study in this field. Tracking back to the colonial era, although Thailand avoided direct colonization by Western powers, it, nonetheless, experienced substantial colonial pressures that affected various aspects of its governance, including the practice and interpretation of international law. Thailand faced significant pressure from colonial powers during the eighteenth to early twentieth centuries. This period saw the imposition of numerous unequal treaties that established extraterritorial rights, exempting nationals of colonial powers from local laws and local courts. These treaties were a stark example of how colonial influences penetrated Thailand's sovereignty and affected its legal and judicial systems.² This period highlighted the challenges Thailand faced in maintaining sovereignty and legal autonomy amidst external pressures. In response to these pressures, Thailand undertook significant legal reforms aimed at modernizing its legal system to better interact with Western powers and to gradually regain full judicial sovereignty. This period of legal transformation was crucial in shaping Thailand's contemporary legal framework and its approach to international law.

Due to geographical and political considerations, Thailand's location in Southeast Asia has made it a critical player in regional diplomacy. Its international relations policy seeks to balance relationships with major powers, particularly the United States, China, and neighboring countries. This balancing act reflects Thailand's strategic considerations and cautious approach to international relations and international law. Importantly, at the subregional level in Southeast Asia, Thailand is a founding member of the Association of Southeast Asian Nations (ASEAN), and it actively participates in shaping regional norms and legal practices. Through ASEAN, Thailand engages in collective efforts to address regional issues, such as trade, security, and human rights, thereby contributing to the development of international law from a regional perspective.

After the end of World War II in 1945, the establishment of the United Nations represented a first step towards the acceptance of the principle of universality and uniformity of the law of nations (international law). The application of the principle of universality coincided with the admission of newly independent states as members to the United Nations. Thailand had an early involvement and was an early member of the United Nations.

Regarding human rights considerations, Thailand's engagement with international human rights law is characterized by a complex interplay between

² See OWART SUTHIWARARNUEPUT, FROM EXTRATERRITORIALITY TO EQUALITY: THAILAND'S FOREIGN RELATIONS 1855–1939, at 124–45 (2021).

its formal commitments to global standards and the practical realities of its domestic priorities. Thailand is a party to eight out of the nine core international human rights treaties. The first core human rights treaty is the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).³ Thailand acceded to it on August 9, 1985, and the CEDAW became effective in Thailand since September 8, 1985. Later, on June 14, 2000, Thailand became party to the Optional Protocol to the CEDAW, allowing the CEDAW Committee to accept complaints from individuals and instigate the inquiry procedure into “grave and systematic violations” of the CEDAW.⁴ The second core human rights treaty is the Convention on the Rights of the Child (CRC).⁵ Thailand acceded to the CRC on February 12, 1992, and the CRC became effective in Thailand since April 26, 1992. Subsequently, Thailand acceded to all three optional protocols to the CRC, namely: (1) Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography (OPSC)⁶ on January 11, 2006; (2) Optional Protocol to the CRC on the Involvement of Children in Armed Conflict (OPAC)⁷ on February 27, 2006; and (3) Optional Protocol to the CRC on a Communications Procedure (OPIC)⁸ on September 28, 2002. The third core human rights treaty is the International Covenant on Civil and Political Rights (ICCPR).⁹ Thailand acceded to the ICCPR on October 29, 1996, but has not acceded to any Optional Protocols to the ICCPR. ICCPR became effective in Thailand on January 29, 1997. The fourth core human rights treaty is the International Covenant on Economic, Social and Cultural Rights (ICESCR).¹⁰ Thailand acceded to the ICESCR on September 5, 1999, but has not acceded to any Optional Protocols to the ICESCR. ICESCR became effective in Thailand on December 5, 1999. The fifth core human rights treaty is the International

3 Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13.

4 Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women art. 8, Oct. 6, 1999, 2131 U.N.T.S. 83.

5 Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3.

6 Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, May 25, 2000, 2171 U.N.T.S. 227.

7 Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, May 25, 2000, 2173 U.N.T.S. 222.

8 Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure, Dec. 19, 2011, 2983 U.N.T.S. 131.

9 International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171.

10 International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3.

Convention on the Elimination of All Forms of Racial Discrimination (CERD).¹¹ Thailand acceded to the CERD on January 28, 2003, and the CERD became effective on February 27, 2003. The sixth core human rights treaty to which Thailand became a party to is the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).¹² Thailand acceded to the CAT on October 2, 2007, and the CAT became effective on November 1, 2007. Thailand has not acceded to the Optional Protocol to the CAT (OPCAT).¹³ The seventh core human rights treaty is the Convention on the Rights of Persons with Disabilities (CRPD).¹⁴ Thailand acceded to the CRPD on July 29, 2008, and the CRPD became effective on August 28, 2008. Thailand also became a party to the Optional Protocol to the CRPD¹⁵ on October 2, 2016, allowing the CRPD Committee to consider complaints from individuals. The last core human rights treaty is the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED).¹⁶ Thailand ratified the ICPPED on May 14, 2024, and it became effective on June 13, 2024. Thailand, however, has not signed the remaining core human rights treaty, which is the International Convention on the Protection of Rights of All Migrant Workers and Members of Their Families (CRMW).¹⁷

Nevertheless, Thailand encounters substantial obstacles in the domestic implementation of these international human rights laws. This includes the state's adherence to rights, such as freedom of expression, freedom of assembly, and the treatment of ethnic minorities and migrants. The application of laws like the *lèse-majesté* provision under Section 112 of the Thai Penal Code,¹⁸ which criminalizes defamation against the monarchy, has been particularly

11 International Convention on the Elimination of All Forms of Racial Discrimination, *opened for signature* Mar. 7, 1966, 660 U.N.T.S. 195.

12 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, 1465 U.N.T.S. 85.

13 Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 18, 2002, 2375 U.N.T.S. 237.

14 Convention on the Rights of Persons with Disabilities, Dec. 13, 2006, 2515 U.N.T.S. 3.

15 Optional Protocol to the Convention on the Rights of Persons with Disabilities, Dec. 13, 2006, 2518 U.N.T.S. 283.

16 International Convention for the Protection of All Persons from Enforced Disappearance, Dec. 20, 2006, 2716 U.N.T.S. 3.

17 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Dec. 18, 1990, 2220 U.N.T.S. 3.

18 Pramuan Kotmai Aya [PKA] [PENAL CODE] § 112 (Thai.) (“Whoever, defames, insults or threatens the King, the Queen, the Heir-apparent or the Regent, shall be punished with imprisonment of three to fifteen years.”).

contentious. Critics argue that this law is used to suppress free speech and dissent.

Finally, the political landscape in Thailand, notably the military's significant role following coups in 2006 and 2014, has also shaped the country's human rights environment. Under military rule, Thailand experienced heightened restrictions on political dissent and increased censorship. Although the country has since transitioned to a civilian government, the legacy of military intervention continues to exert a considerable influence on its human rights practices.

Despite these challenges, however, Thailand has achieved significant advancements in the realm of economic and social rights. The implementation of the Universal Health Coverage (UHC) scheme stands out as a successful initiative,¹⁹ enhancing access to healthcare and contributing to poverty reduction. All Thai citizens are now entitled to essential healthcare services throughout their lives. This policy includes coverage for preventive, curative, and palliative care across all age groups.²⁰ The extension of benefits to high-cost treatments, such as kidney dialysis, cancer care, and stem-cell transplants, has enhanced financial protection for patients. Well-organized district health systems allow individuals to access care or referrals at nearby health facilities.²¹ As a result, the increased use of services has led to a significant reduction in unmet needs for both outpatient and inpatient care.²² This progress in economic and social rights illustrates a more favorable aspect of Thailand's human rights record.

Thailand's relationship with international human rights law is marked by a formal adherence to international treaties, contrasted with notable challenges to domestic implementation. The interplay of political, social, and economic dynamics profoundly affects the application and respect for these human rights laws within the country. This duality underscores the complexity of Thailand's human rights situation, highlighting areas of both progress and ongoing concern.

In conclusion, Thailand's approach to international law is shaped by its history, geopolitics, and domestic context. Through "bamboo diplomacy," it balances relations with multiple powers. While it has made progress in human

19 Kanitsorn Sumriddetchkajorn, et. al., *Universal Health Coverage and Primary Care, Thailand*, 9 BULLETIN OF THE WORLD HEALTH ORGANIZATION 415, 415 (2019), <https://pmc.ncbi.nlm.nih.gov/articles/PMC6560367/pdf/BLT.18.223693.pdf>.

20 *Id.*

21 *Id.*

22 *Id.*

rights, particularly in economic and social areas like healthcare, domestic challenges persist, especially regarding political freedoms and ethnic rights. Thailand's engagement with international law reflects a blend of formal commitment and ongoing challenges, requiring continued efforts to align with global human rights standards.

2 What Has Been Your Country's Contribution to the Development of International Law?

Thailand has played a key role in developing international law both regionally and globally. As a founding member of ASEAN, it has helped shape legal frameworks, promote human rights, and advance environmental and economic cooperation. Thailand has also contributed to global efforts in humanitarian law, peacekeeping, and environmental protection, including climate change and biodiversity treaties. These contributions reflect Thailand's commitment to strengthening the rule of law and addressing global challenges.

Thailand has made contributions to the development of international law at both regional and global levels. This reflects Thailand's strategic role in the Southeast Asia subregion and its engagement with global legal frameworks.

With regard to ASEAN and regional integration, Thailand was one of the founders of ASEAN, along with Indonesia, Malaysia, the Philippines, and Singapore. The country played a significant role in the founding of the ASEAN. Thailand has made significant contributions to the development and promotion of international law within ASEAN, playing a key role in shaping legal frameworks and promoting cooperation among member states. Thailand's contributions to international law within ASEAN have been substantial and diverse, spanning the development of foundational legal frameworks, dispute resolution mechanisms, human rights advocacy, environmental law, maritime security, and economic integration. Through these efforts, Thailand has played a crucial role in strengthening the rule of law and promoting legal cooperation within the region, thereby enhancing ASEAN's capacity to address complex regional and global challenges.

As one of the founding members of ASEAN, Thailand was instrumental in the establishment of the legal and institutional frameworks that underpin the organization. The ASEAN Declaration of 1967 (Bangkok Declaration),²³ which Thailand helped to draft, laid the foundation for ASEAN's principles

23 Ass'n of Se. Asian Nations [ASEAN], Declaration (Aug. 8, 1967), <https://asean.org/wp-content/uploads/2022/02/0719.pdf>.

and objectives, including respect for sovereignty, territorial integrity, and non-interference in the internal affairs of member states. Later, Thailand was a member state that played a significant role in the drafting and adoption of the ASEAN Charter,²⁴ which came into force in 2008. The Charter provides ASEAN with a legal personality and establishes a more rules-based framework for cooperation among member states. It codifies fundamental principles such as democracy, human rights, and the rule of law, thereby strengthening the legal basis for ASEAN's activities and interactions with the international community.

Thailand has actively contributed to the development of ASEAN's dispute settlement mechanisms. For instance, it has been involved in the formulation and implementation of the ASEAN Protocol on Enhanced Dispute Settlement Mechanism (2004), which aims to provide a more effective and efficient means of resolving disputes among member states. This protocol enhances the legal processes available within ASEAN for addressing trade and investment disputes, thus promoting a more predictable and stable legal environment in the region.

Thailand has been a strong advocate for the promotion of human rights within ASEAN. It has been actively involved in the regional human rights mechanisms under ASEAN. Thailand supported the establishment of the ASEAN Intergovernmental Commission on Human Rights (AICHR) in 2009 and has participated in discussions and initiatives aimed at improving human rights standards across Southeast Asia, which serves as a consultative body to promote and protect human rights in the region. Thailand's involvement in AICHR reflects its commitment to integrating international human rights norms into regional frameworks.

In addition, the country has also contributed to the development of international environmental law within ASEAN. It has been active in promoting legal frameworks for sustainable development and environmental protection. For instance, Thailand has supported initiatives related to the ASEAN Agreement on Transboundary Haze Pollution, which seeks to address environmental issues that cross national boundaries and require collective legal and policy responses.

Given its strategic location and extensive coastline, Thailand has been involved in regional efforts to address maritime security and uphold international maritime law. Thailand supports the implementation of the United Nations Convention on the Law of the Sea (UNCLOS)²⁵ within the ASEAN con-

24 Ass'n of Se. Asian Nations [ASEAN], Charter (Nov. 20, 2007), <https://asean.org/wp-content/uploads/images/archive/publications/ASEAN-Charter.pdf>.

25 U.N. Convention on the Law of the Sea, Dec. 10, 1982, 1833 U.N.T.S. 397.

text, advocating for a peaceful resolution of maritime disputes and cooperation on issues such as maritime safety and the protection of marine resources.

Finally, Thailand has promoted the harmonization of legal standards and regulations to facilitate economic integration within ASEAN. By supporting the ASEAN Economic Community (AEC) Blueprint, Thailand has contributed to the creation of a single market and production base, which necessitates the alignment of legal and regulatory frameworks among member states.

Concerning global legal frameworks integration, the integration of global legal frameworks is crucial for addressing complex, cross-border issues, in particular, international humanitarian law (IHL) and environmental protection. Engaging with these frameworks ensures that nations can collaboratively develop and enforce laws that uphold international standards and foster global cooperation.

Thailand has actively participated in IHL treaties aimed at protecting victims of both international and non-international armed conflicts. Thailand is a party to the Four Geneva Conventions of 1949, namely: Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field;²⁶ Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea;²⁷ Geneva Convention Relative to the Treatment of Prisoners of War;²⁸ and Geneva Convention Relative to the Protection of Civilian Persons in Time of War.²⁹ In addition, Thailand has also ratified the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (OPAC),³⁰ which is the consequence of the conferences under the framework of the International Committee of the Red Cross (ICRC) and the United Nations, respectively.

In addition, the country has contributed to peacekeeping operations under the United Nations, providing personnel and support in conflict areas. Thailand has participated in peacekeeping operations in many countries, particularly in Kuwait, Timor-Leste, and Fiji. Apart from these missions, Thailand also took

26 Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Aug. 12, 1949, 6 U.S.T. 3114, 75 U.N.T.S. 31.

27 Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, Aug. 12, 1949, 6 U.S.T. 3217, 75 U.N.T.S. 85.

28 Geneva Convention Relative to the Treatment of Prisoners of War, Aug. 12, 1949, 6 U.S.T. 3316, 75 U.N.T.S. 135.

29 Geneva Convention Relative to the Protection of Civilian Persons in Time of War, Aug. 12, 1949, 6 U.S.T. 3516, 75 U.N.T.S. 287.

30 Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, *supra* note 7.

part in peacekeeping activities in Cambodia, Darfur Sudan, South Sudan, Nepal, Burundi, Bosnia and Herzegovina, and South Africa. This participation underscores Thailand's commitment to upholding international humanitarian standards in the global context.

Concerning Environmental Law and Sustainable Development, Thailand has made significant contributions to international environmental law and sustainable development through a combination of policy initiatives, participation in international agreements, and domestic measures aimed at sustainability and environmental protection. Thailand has actively participated in international environmental agreements and has committed to the Sustainable Development Goals. It has signed and ratified various international treaties related to climate change, biodiversity, and marine conservation, contributing to global environmental governance.

In addition, Thailand has made contributions to regional and global environmental efforts by playing a leading role in ASEAN's environmental initiatives, including the ASEAN Agreement on Transboundary Haze Pollution³¹ and regional strategies for biodiversity conservation and climate change adaptation. Furthermore, Thailand actively participates in international forums, such as the United Nations Environment Programme (UNEP) and the Asia-Pacific Economic Cooperation (APEC), to advocate for global environmental sustainability and share best practices.

In conclusion, Thailand has made significant contributions to international law, both regionally through ASEAN and globally. As a founding member of ASEAN, it has shaped key legal frameworks, promoted human rights, and advanced environmental protection. On the global stage, Thailand has actively engaged in international humanitarian law and peacekeeping efforts, while also supporting global treaties on climate change and sustainability. These efforts reflect Thailand's commitment to upholding the rule of law, fostering regional cooperation, and addressing global challenges.

31 *ASEAN Agreement on Transboundary Haze Pollution* (June 10, 2002), <https://asean.org/wp-content/uploads/2021/01/ASEANAgreementonTransboundaryHazePollution-1.pdf>.