A Legal Analysis of NGO Regulations in Thailand

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Abstract

Non-governmental organizations (NGOs) are part of the non-profit sector, whose main aim is to provide public benefits and help solve various social problems in a non-profit manner. For this reason, the main revenue sources of most NGOs are donations and grants from both the public and private sectors. The image of NGOs in Thailand remains a relatively negative one, and most people still regard NGOs as contributing to societal divisions, accepting foreign funding to create damages to the country's security, or as organizations that often resort to anti-government protests. Thailand has not enacted a specific law on NGOs; therefore, there is no legal definition of NGOs. If one consults the Royal Institute Dictionary, NGOs are specified as "juristic persons". This means that a group of persons wishing to set up an NGO must consider what type of legal forms they would adopt under Thai law. At present, most NGOs operating in Thailand have been established as either foundations or associations under the Civil and Commercial Code (CCC).

This paper provides a legal analysis of NGO regulations in Thailand through doctrinal legal research. It seeks to better understand the role of NGOs and their regulatory frameworks in comparison to those in the UK and US. Thailand's recently proposed Act on Associations and Foundations B.E. … aims to impose more stringent conditions on the formation of such non-profit organizations. This involves verifying their funding sources and imposing stricter punishments to prevent the utilization of these legal entities for criminal offences, especially money laundering. The draft legislation would revoke the CCC's provisions on associations and foundations. The author argues that there is still much debate on this draft—for instance, regarding the provision bestowing excessive power on the registrar. This raises concerns about its wider social impact on the overall non-profit sector, which comprises not only NGOs but also various other not-for-profit organizations.

1. Introduction

The term "non-governmental organization" (NGO) was first utilized by the United Nations around the end of World War II to distinguish independent private entities from intergovernmental bodies (Olivo U., 2007). Today, the term is widely used globally to describe organizations within the non-profit sector that aim to provide public benefits and resolve social issues. According to Anheier (2005), "[t]he nonprofit sector is the sum of private, voluntary, and nonprofit organizations and associations. It describes a set of organizations and activities next to the institutional complexes of government, state, or public sector on the one hand, and the forprofit or business sector on the other" (p. 4). Despite NGOs' long historical developments, it is unclear what 'non-governmental' really entails resulting in a conceptual confusion (Davies, 2013).

The Royal Society of Thailand has provided a definition of Thai NGO as "an organization outside the government sector, with the status of a juristic person formed with a specific nonprofit objective. It may receive financial support from certain groups of individuals who have a similar objective. Occasionally, an organization outside the public sector provides assistance to society in matters for which the state cannot fully fulfil its functions" (Chantraprapa, 2008). For this reason, the revenues of NGOs mostly come from donations and grants from both public and private sectors (TCIJ, 2020). NGOs in Thailand are also known by other names, for example, civil society organizations, private organizations for public benefits, development-oriented private organizations, nonprofit organizations, foreign private organizations, among others. However, the term NGO is generally used. The image of NGOs in Thailand is relatively negative, and most people still view NGOs as a divisive factor in society, funded by external financial sources to create damage to national security, or as organizations that are inclined to instigate anti-government gatherings, among other negative perceptions (Tharanai, 2004).

Even though the term 'non-governmental' depicts autonomy and independence from direct state involvement, NGO laws and regulations stipulate a deeply intertwined relationships between the government and NGOs creating a dynamic tension between independence and state regulation. "NGOs and government agencies share complex interactions, resulting in a blurring of the boundaries between the two sectors" (Brass, 2016, p. 30).

Main circulating topics of NGO laws include registration and legal status, funding regulations, tax privileges, governmental oversight, and advocacy and political restrictions (Harding et al., 2014; and ICNL, 2009). There are two primary legislative methods of NGO laws, namely, a specific standalone law such as the Chinese Law on Administration of Activities of Overseas Nongovernmental Organizations in Mainland China (Overseas NGO Law); and a general non-profit or charity law, with or without distinct legal entities. Governments worldwide, including Thailand, are increasingly scrutinizing and regulating NGOs, resulting in various legal changes and reforms (Harding et al., 2014). In Thailand, three draft NPO/NGO laws have been proposed since around 2021, namely, (1) the draft act on the operation of non-profit organizations, (2) the draft act on the promotion and development of civil society organizations, and (3) the draft act on associations and foundations. Due to severe pushback from the non-profit sector, the first two bills were withdrawn (ICJ, 2022) whereas the 2024 association and foundation bill has been suspended. This bill has been widely opposed by the civil society sector domestically and internationally for violating fundamental rights and international human rights standards, e.g. freedom of association (ICNL, 2024). Most Thai NGOs are currently set up as foundations and associations under the Civil and Commercial Code. By comparing the legal frameworks of NGOs in Thailand with those of the UK and the US, this paper derives lessons for the Thai regulatory system.

2. NPO/NGO regulatory frameworks

The International Center for Not-for-Profit Law (ICNL) (1997) describes the importance of laws relating to NGOs as follows:

> Governments have great power over NGOs through the laws they enact or administer. They can either help or hinder them through the laws and regulations that they use to establish them, to direct their activities, to tax them, to allow them access to funds (public, private, and foreign), to require them to report, to audit them, and to involve them, or to refuse to involve them, in Government projects and policies. By passing laws they can repress NGOs or they can encourage them; they can also have great influence in molding the kinds of NGOs they want […] Repressive laws can suffocate the NGO sector; but if NGO laws or their enforcement are inadequate, misconduct and abuse may become rifle and the NGO sector as a whole may be brought into disrepute (ibid, p. 9).

ICNL further elaborates why governments should enact laws to govern NGOs, despite the potential criticism and opposition from these organizations. Specifically, these laws help uphold freedoms of association and speech, encourage pluralism and tolerance, and promote social stability and the rule of law. Furthermore, they enhance economic efficiency, correct public sector market failures, and support market economy (ibid). Even though Regulatory frameworks for NGOs or NPOs are diverse, their common elements are rather similar. Among these, the paper will explore three main legal requirements: establishment, non-profit and public benefit purposes, and funding.

The first element relates to their establishment. Setting up an NGO involves critical foundational decisions, including choosing legal forms, deciding between individual founders or legal entities, securing tax privileges, and identifying sources of income, among others. NGO legal forms may be categorized into four main groups, namely unincorporated associations; trusts, charities and foundations; not-for-profit companies; and specialized NGO legal entities (Stillman, 2006). While NGOs without separate legal personality are easy to set up, their founders face significant legal and financial risks. Although registered charities and foundations are entitled to tax privileges, they are normally subject to strict supervision by the state. Not-for-profit companies may find it easier to seek diverse income streams than charities and foundations, which rely heavily on grants and donations. However, they are generally prohibited from distributing any surplus profits to their members. This indicates that no single legal structure is optimal for all NGOs. However, governments should ensure that establishment of an NGO, both domestic and foreign, is voluntary, easy and inexpensive.

Secondly, operating on a non-profit basis, pursuing charitable purposes and serving the public interest are essential elements for NGOs, and are generally stipulated as statutory requirements in NGO law. For this reason, NGOs should be guaranteed their fundamental rights under international law, particularly the right to freedom of peaceful assembly and association and the right to express unpopular opinions and to challenge the status quo. However, these rights may be limited to protect national security, public safety and the rights of others (ibid). Politics-related NGO activities are generally restricted or prohibited under sweeping national security or anti-foreign interference laws.

The third common element of NGO law is the disclosure of funding, particularly that of foreign origin. There are many reported cases on charity fraud or money laundering worldwide. Small and new NGOs are highly vulnerable to financial crime threats, particularly when donations come from multiple countries and are made online (AML Watcher, 2025). Consequently, it becomes difficult to trace the origins of these donations. In addition, operating with a non-profit and charitable purpose is a vital requirement for NGOs to be entitled to tax benefits. However, this status can sometimes be exploited as a vehicle for money laundering. Consequently, many countries enforce strict supervision and penalties to suppress and prevent these financial crimes. In 2023, the Financial Action Task Force (FATF) proposed focused, proportionate, and risk-based measures—such as disclosing foreign donors—to prevent the abuse of NPOs. However, they emphasized that these safeguards must not unduly disrupt or discourage legitimate NPO activities. Similarly, the ICNL (1997) recommends that funding regulations entail a minimum of bureaucratic judgment and discretion.

3. The United Kingdom

Regulating NGOs in the United Kingdom is not based on any specific law. NGOs in the UK are mostly non-profit organizations, which are required to register for charitable purposes under the Charities Act 2011, s 3(1), whose objectives cover a wide range of public affairs, such as protection or relief of poverty; advancement of education, religion, and health; advancement of citizenship or community development; advancement of human rights and the environment; advancement of the arts, culture, heritage or science; and advancement of animal welfare, among others. UK charitable organizations can formed as legal entities under various types of law, which are mostly those for non-profit organizations, including charitable company limited by guarantee, which cannot distribute profits to members, charitable trust, which is not a juristic person, charitable incorporated organization, and unincorporated association. This latter type of organization can be easily formed with an executive board and articles of association but with unlimited liabilities (Kelly, 2019). The principal reason for NGOs to register as charitable organizations is their desire for tax benefits and they must earn a revenue of not less than 5,000 pound a year.

The agency responsible for regulating NGOs is the Charity Commission, which is extensively authorized to deal with various issues, such as investigating offences, collecting evidence, seeking a search warrant, seizing property, deregistering or removing members or directors, appointing persons in acting positions, or suspending transactions of NGOs. Although the Charity Commission is the principal regulating agency in the United Kingdom, NGOs are also required to abide by other laws governing the legal entities they assume. For example, if an NGO is formed as a charitable company limited by guarantee, it must not only submit its annual report to the Charities Commission but it must also submit its memorandum of association and annual report to the Companies House, which also functions as a regulatory agency for companies.

The crucial information normally sought by the Charities Commission involves financial matters such as details on foreign revenue sources, especially those associated with funding support by foreign governments. Usually, NGOs need to keep their financial documents for at least six years. If their obtain donations via Gift Aid, they must report details of the donors to prevent tainted charity donations. Moreover, there are regulations on requirements for specific reports which are different depending on the organizational forms of the NGOs and the amounts of their revenues – the higher the amounts, the stricter the regulations are. For instance, if the net revenue of an NGO is higher than £1 million in a relevant taxable year, or has a total asset of more than £3.26 million plus a net revenue of more than £250,000, it must not only prepare accounting documents under the Charities (Accounts and Reports) Regulations 2008 and Statement of Recommended Practice (SORP) as required, but these documents must also be certified by a corporate auditor and a certified external auditor (Charity Commission for England and Wales, 2023).

4. The United States of America

NGOs in the United States are part of the non-profit sector, which comprises various forms of organizations. The essential features of these organizations are their freedom from government control and interference, non-profit orientation, and pursuit of public and social interests. In pursuing this role, non-profit organizations in the United States attach importance to human rights protection and human development. Therefore, the laws governing NGOs place emphasis on facilitating and supporting the activities of these organizations rather than strictly regulating them. Even though the United States does not have a specific legislation for NGOs, in case of foreign countries or foreign governments it has laws relevant to such a case, for example, the Foreign Agents Registration Act (FARA).

Moreover, the President of the United States is also authorized to issue executive orders, which are effective as laws within the jurisdiction of the federal government for the purpose of enabling relevant government agencies to inspect or take any measure against any NGO in case of its suspicious undertakings (U.S. Department of State, 2025). Most recently an executive order was issued to impose control over all revenue sources of NGOs, as well as limitations or suspension of funding or aid to NGOs which have been involved in illegal immigration and assistance to NGOs abroad. In addition, the revenue collection agency, i.e., the U.S. Internal Revenue Service (IRS), has the authority to audit the accounts of non-profit organizations seeking tax benefits (Kalinowski et al., 2025).

Normally, setting up NGOs in the United States is relatively easy. The person forming an NGO need not be an American citizen, and the NGO does not have to be a legal entity. It may be formed as a charitable trust, and it is not necessarily registered under any specific law. The easy process of forming an NGO is aimed to reduce the authority and discretion of public officials and prevent abuse of power. Most NGOs are non-profit organizations; therefore, they may submit a request for tax exemption at both federal and state levels. However, most state laws require NGOs pursuing religious, educational and other charitable objectives, and acting under charitable solicitation laws, must register with the state authority in charge of charitable assets, namely the state charity official, and regularly submit reports to this authority. Failure to comply with such laws may result in huge fines and in some states this failure amounts to a legal offence.

The legal forms adopted by most NGOs seeking tax benefits are known as public charities pursuant to Section 501(c) (3) of the Internal Revenue Code. This law stipulates various types of exempt purposes, including charitable, religious, educational, scientific, literary, testing for public safety, fostering national or international amateur sports competition, or preventing cruelty to children or animal activities. Moreover, charitable purposes also refer to relief of the poor, the distressed, or the underprivileged; advancement of religion; advancement of education or science; erecting or maintaining public buildings, monuments, or works, or even lessening the burdens of government, among others (U.S. Internal Revenue Service (IRS), 2025). However, NGOs being involved in political and legal purposes (generally termed lobbying) are not eligible to tax exemption; they may only be entitled to tax reduction. Donors' financial contributions to NGOs eligible to tax exemption under Section 501(c)(3) can claim tax deduction on the basis of their charitable donations.

The Foreign Agents Registration Act (FARA) designates individuals or organizations in the United States to serve as agents of foreign organizations and engage in activities under this law. These individuals or organizations must periodically disclose their information to the Department of Justice. The information to be disclosed includes details of the activities, the sources of funding for supporting such activities. The law requires such information for disclosure to the American people and the legislators, who will consider whether the funding sources adversely affect public opinion, policy or the law. Under the law foreign organizations refer to foreign governments, political parties, individuals or organizations outside the United States (excluding American nationals) and any legal entity set up under foreign law or with establishment in a foreign land. Governments of certain countries regard FARA as a law limiting political freedom in the United States, but the U.S. government has argued that this law does not amount to information censorship or restriction of information dissemination; nor does it forbid acceptance of foreign revenue sources (U.S. Department of State, 2025).

5. Thailand

Thailand has not legislated a specific law on NGOs; therefore, there is no legal definition of this type of organization. If we take the Royal Society of Thailand's definition into consideration, we will see that NGOs are designated as "juristic persons", which show that the group individuals forming NGOs want them to be juristic persons under Thai law. At present most NGOs operating in Thailand are set up as the foundation and association types under the Civil and Commercial Code (CCC), since this law stipulates organizational objectives that well reflect the ideas of NGOs, as follows:

> **Section 78**. An association created for conducting any activity which, according to its nature, is to be done continuously and collectively by persons other than that of sharing profits or incomes earned, must have its regulations and must be registered according to the provisions of this Code.
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> **Section 110**. A foundation consists of property specially appropriated to public charity, religious, art, scientific, education or other purpose for the public benefit and not for sharing profit, and has been

registered under the provisions of this Code. The property of a foundation must be managed for implementing the objects of that foundation, and not for seeking interest for any person.

In addition to the public benefit purposes, a foundation or an association may claim corporate tax exemption on revenues from registration and membership fees, donated money or assets, cash gifts or property gifts, and revenues from private school operation. But their other revenues, such as those in the form or rents, interests, or dividends, are subject to corporate income tax (Thailand Revenue Department, 2020a). Moreover, if a foundation or an association is recognized as a public charity organization under Section 47(7) of the Revenue Code, taxes on all types of its revenue will be exempted, and donors to these organizations are entitled to tax privileges (Thailand Revenue Department, 2020b).

Foundations must abide by the law and regulations, and the registrar is authorized to issue a written order to these organizations to clarify the facts and produce documents. The registrar is also able to enter the office of the foundation between sunrise and sunset for inspecting its business (CCC, s. 128). However, the association registrar does not have an authority similar to that accorded to the foundation registrar, because an association must have members, and this arrangement places its operation mainly under the supervision of its general meetings (CCC, s. 86), and the members are entitled during working hours of the association inspect the business and property of the association (CCC, s. 89).

Apart from the foundation and association, whose organizational forms most NGOs have assumed, there exists another type of organizational structure called "foreign private organization" under the **Regulations of the Ministry of Labour and Social Welfare on the Operations of Foreign Private Organizations in Thailand B.E. 2541 (1998)**. Section 5 of this regulation defines foreign private organizations as "institutions, organizations, associations, foundations, or other types of juristic persons, or groups of foreign individuals who are private or who are supported by foreign governments", and Section 12 stipulates two attributes for such organizations, namely: (1) being non-profit in orientation and not pursuing any political goal, and (2) the purpose of operating in Thailand covering assistance offering, personnel development, development of groups of individuals, or juristic persons; and/or government agencies or state enterprises, whose objectives are compatible with Thailand's development and security policy, and whose orientations are not in conflict with the policy of the Thai government.

In addition, there are also **Regulations of the Committee on Foreign Private Organization Operations B.E. 2543 (2000) on Criteria and Procedures for Foreign Private Organizations Operating in Thailand and Setting up Regional Offices in Thailand**. This regulation permits one year of the operational period at the first submission of the permission request, and the period may be extended to not more than two years at a time. Relevant agencies, such as the Ministry of Foreign Affairs, are authorized to consider information on the status of the foreign private organizations and the suitability of the assistance to Thailand insofar as foreign relations are concerned. The Office of the National Security Council will consider matters relating to internal security policy; the National Intelligence Agency, Armed Forces Security Center, the Royal Thai Armed Forces Headquarters, and the Special Branch Bureau are authorized to assume responsibility for internal security and oversee the behavior of the foreign private organizations and foreign nationals who are permitted to operate in Thailand. At present there are 85 foreign private organizations in Thailand. Of these 26 are permitted to operate in the country; 50 are permitted to set up regional offices, and there are nine Thai private organizations which have been permitted to engage in projects financially supported by, or benefitting in other ways from, foreign private organizations (Thailand Foreign Workers Administration Office, 2021).

In addition to the Civil and Commercial Code, which is the principal law governing NGOs, there is another important legal instrument, namely, the Anti-Money Laundering Act, B.E. 2542 (1999). Section 16/1 of this Act authorizes the Anti-Money Laundering Office (AMLO) to issue written orders to foundations, associations, or any other non-profit organizations including NGOs to explain facts on suspicious transactions. The law also authorizes a temporary suspension of such transactions. In case of urgent need, and in case there is a written instruction from AMLO, authorities may enter the office of a foundation, association, or non-profit organization between sunrise and sunset to inspect information.

Recently, the cabinet decided to approve **Draft Act on Anti-Money Laundering (No…) B.E….** and **Draft Act on the Repeal of Legal Provisions Determining Predicate Offences under the Anti-Money Laundering Law, B.E. ....**, which contain provisions on NGOs, namely, revision of Section 16/1, which adds paragraph 2, as follows: "the Office, with the approval of the transaction committee or the AMLO Secretary-General, as the case may be, has the authority to order any foundation, association, or non-profit organization, which receives money or property from individuals who are not Thai nationals or from foundations, associations, or non-profit organizations which are located abroad in the annual amounts specified in the ministerial regulation, to act in an appropriate way designated in paragraph 1, and in a necessary case to also report the donations and expenses and assets".

However, the Ministry of Foreign Affairs issued an official letter dated 26 April 2024 offering opinion on the above revision. According to this opinion, AMLO can already use its authority under Section 16/1; the ministry thus requested AMLO to consider whether the increase in AMLO's authority such that it is empowered to order non-profit organizations that receive money or property from abroad more than the designated amount to declare that amount to AMLO is in accord with the financial measures against specific targets being pursued by the Financial Action Task Force (FATF).

Moreover, proposals have been made to more precisely define non-profit organizations, namely, as "an association or a foundation under the Civil and Commercial Code or other types of juristic persons as designated by ministerial regulations". However, at the same time, the Department of Provincial Administration has proposed a **draft Act on Association and Foundation B.E…,** with a view to modernize law and impose stricter regulation of such organizations. The new measures include a stricter procedure of forming associations and foundations, inspection of their funding sources, and provision of penalty for association or foundation leaders who have committed offences. The purpose is to maintain law and order in society and to prevent the use of associations and foundations as a means of legal violation, especially as a means of money laundering. The draft Act will repeal the provisions on associations and foundations in the Civil and Commercial Code (CCC), because the CCC is a private law emphasizing voluntary compliance of the parties who have created the relevant juristic relation. This imposes limitations on inspection of the operations of these organizations by the registrar, who may do so only in case of complaints about illegal undertakings of associations or foundations.

Nonetheless, even though the proposed draft Act is aimed to upgrade the regulation of associations and foundations by enhancing the strictness of their formation and inspection to prevent them from being used as a channels for wrongdoings, representatives of the civil society sector and NGOs regard the draft Act as granting too much power to the registrar, who will then be authorized to revoke the registration of associations or foundations without filing a formal request with the court. Complaints about this draft Act include its duplication with other laws, the ambiguity of the discretion by the registrar, and the imposition of too stringent criminal and administrative penalties (Thailand Senate Commission, 2024).

6. Conclusion

To regulate NGOs effectively, their vast and varied nature must be understood and respected. As part of the wider non-profit sector, NGOs engage in a multitude of social activities adopting different types of organizations. Because a specific, overarching NGO law could restrict their fundamental characteristics, they are instead governed by existing frameworks, particularly charity or foundation law, tax law, and anti-money laundering legislation. Although Thailand does not have a specific law governing NGOs—meaning there is no legal definition for them—the Thai government often perceives NGOs as politically motivated or interfering with state policies. This perception has resulted in numerous proposed acts on non-profit organizations, civil society organizations, and associations and foundations; in reality, these bills are just NGO laws in disguise.

NGOs dedicated to wildlife conservation should not be subject to the same strict regulations as advocacy groups that protest state policies. There should not be one specific NGO law, but rather legal measures on how NGOs can qualify for tax privileges, disclosures of suspicious funding, and self-regulatory methods, among others. The government should not have a default mindset that NGOs are likely to commit crimes; instead, it should assume that they are there to help society.

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