

Criminal Proceedings and Moral Discipline of Theravada Monks: A Comparative Case Study between Thailand and Sri Lanka

N Nachan^{1#} and T Wongyai¹

¹School of Law, Mae Fah Luang University, Thailand

[#]natdanao.nac@mfu.ac.th

Abstract

In cases where Buddhist monks commit criminal offenses, two approaches are typically used: enforcement under Buddhist monastic discipline (Vinaya) and enforcement according to civil laws. In Thailand, monks must disrobe before criminal proceedings can proceed, a process that can be detrimental, especially if they are later found innocent, resulting in the permanent loss of their monastic status. Conversely, Sri Lanka, sharing a Theravada Buddhist heritage with Thailand, allows monks to retain their monkhood during the criminal justice process until a final verdict is reached. This approach reflects a key difference in how the two countries handle monks within their legal systems, with Sri Lanka offering more protection for monk's rights and dignity. This research compares criminal justice practices regarding monks in Thailand and Sri Lanka, focusing on their Criminal Codes, Criminal Procedure Codes, and Vinaya. The aim is to identify legal measures and models that ensure fairness and accuracy in handling criminal cases involving monks. Through a review of literature and interviews with scholars and monks in both countries, the study found that Thailand's primary issue lies in the use of authoritative power by government officials to disrobe monks without their consent or the involvement of Buddhist monastic organizations, violating principles of criminal justice and religious freedom. The study recommends amending Thai law to allow criminal proceedings against monks without requiring disrobing, unless done with the Sangha's consent. This proposed change will safeguard monks' rights and dignity while upholding justice within the context of Theravada Buddhism.

Keywords: *criminal justice process, disrobing practices, Theravada Buddhism, Thailand-Sri Lanka jurisprudence*