

## Legal Implications of Adultery: A Comparative Study of Thai and Cambodian Law

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### Abstract

This study investigates the legal implications of adultery in Thailand and Cambodia, two Southeast Asian nations with shared Theravada Buddhist roots but divergent legal approaches to marital infidelity. The study aims to compare how both countries address adultery through their legal systems and examine whether these approaches align with principles of religion, culture, and international human rights.

This research applies a comparative legal methodology, drawing on statutory law, court decisions, scholarly literature, and international human rights instruments, including the UDHR, ICCPR, CEDAW, CRC, and CRMW. The study also examines general comments, concluding observations, shadow reports, and opinions from legal scholars and NGOs to interpret the legal treatment of adultery.

In Thailand, adultery is treated as a civil matter under the Civil and Commercial Code, allowing the aggrieved spouse to file for divorce and seek compensation for emotional distress, with no criminal penalties imposed. This approach emphasizes personal responsibility and aligns with international human rights principles. In contrast, Cambodia adopts both civil and criminal measures. Adultery is criminalized under the

Law on Monogamy (2006), which includes penalties such as imprisonment and fines. These punitive measures raise concerns about state intrusion into private life, gender bias, and lack of civil compensation mechanisms for victims.

The study recommends that Cambodia consider decriminalizing adultery to align with modern human rights standards. For Thailand, it proposes strengthening financial deterrents by increasing compensation under Section 1523 of the Civil and Commercial Code to better reflect the emotional and reputational harm suffered by the innocent spouse.

**Keyword:** Adultery, Civil Law, Criminal Law, Human Rights, Thai and Cambodian Law

## 1. Introduction

The data on adultery or Infidelity rates by country in 2025 reveals notable variations across nations. According to the World Population Review's 2025 report, Thailand ranks the highest globally, with 51% of married individuals admitting to adultery, followed by Denmark at 46%. Germany and Italy both report 45%, France 43%, Norway 41%, Belgium 40%, and Spain 39%. The United Kingdom and Canada each report a rate of 36%. Notably, societal perceptions of adultery differ significantly; for instance, less than half of the population in France considers adultery entirely unacceptable.<sup>1</sup> Comprehensive data on adultery rates in Cambodia is scarce; however, research suggests male adultery is relatively common and socially accepted. A study of rural Cambodian adolescent males revealed that 45% believed men might seek extramarital relationships, particularly when their wives are unavailable, and saw no

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<sup>1</sup> World Population Review, “Infidelity Rates by Country,” accessed May 25, 2025, <https://worldpopulationreview.com/country-rankings/infidelity-rates-by-country>

obligation to disclose such behavior.<sup>2</sup> These attitudes reflect cultural norms that may contribute to a higher prevalence of male adultery.

According to Black's Law Dictionary, adultery is defined as:<sup>3</sup>

"Voluntary sexual intercourse between a married person and someone other than the person's spouse."

Traditionally, legal definitions of adultery have been grounded in heterosexual norms. For example, in the 2003 case *Blanchflower v. Blanchflower*, the New Hampshire Supreme Court held that adultery, as a ground for divorce, was limited to sexual intercourse between a married person and someone of the opposite sex.<sup>4</sup> However, in a landmark decision in 2021, the same court revisited this definition in *In the Matter of Molly Blaisdell and Robert Blaisdell*, acknowledging the evolving understanding of marriage and sexual relationships. The court expanded the definition of adultery to include voluntary sexual intercourse between a married person and someone other than their spouse, regardless of the sex or gender of either individual. This shift reflects a broader recognition of same-sex relationships within the legal framework of marriage and divorce.<sup>5</sup>

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<sup>2</sup> R. Thapa, Y. Yang, and M. Nget, "Perceptions of Sexual Infidelity in Rural Cambodia: A Qualitative Study of Adolescent Men," *American Journal of Men's Health* 13, no. 3 (2019): 1–9, accessed November 25, 2024, <https://doi.org/10.1177/1557988319848576>.

<sup>3</sup> Bryan A. Garner, ed., "Black's law dictionary," 10th ed., p.62, (The United States of America: Thomson Reuters).

<sup>4</sup> *In the Matter of David G. Blanchflower and Sian E. Blanchflower*, 150 N.H. 226, 834 A.2d 1010 (N.H. 2003), accessed May 25, 2025, <https://www.courts.nh.gov/sites/g/files/ehbemt471/files/documents/2022-07/2003149blanchf lower.pdf>.

<sup>5</sup> *In the Matter of Blaisdell*, No. 2020-0211, 173 N.H. 626 (N.H. 2021), accessed May 25, 2025, <https://law.justia.com/cases/new-hampshire/supreme-court/2021/2020-0211.html>

This definition underscores the legal interpretation of adultery as a breach of the marital contract through extramarital sexual relations.

Adultery is often regarded as a matter of morality and personal conduct; however, it significantly impacts cultural, social, and legal dimensions, particularly in Southeast Asia, where family structures are deeply valued. Thailand and Cambodia share a common historical belief system rooted in Brahmanism- Hinduism and Buddhism that has existed for over two millennia since ancient kingdoms. These two religions have formed the cultural and religious foundations of both countries, leading to a shared culture known as "Buddhist-Brahmanic fusion."<sup>6</sup> Despite their cultural and religious similarities, these neighboring countries adopt distinctly different legal measures in addressing adultery. In Thailand, adultery is regulated under civil law as grounds for divorce, as stipulated in Section 1516(1) of the Thai Civil and Commercial Code.

*"Section 1516: Grounds for Divorce are as follows:*

*(1) If either spouse supports, maintains, or honors another person as a spouse, engages in adultery, or has an ongoing intimate relationship with another person, or engages in acts or accepts acts of another person to satisfy their own or the other person's sexual desires on a habitual basis, the other spouse may file for divorce..."*

Traditionally, the term “spouse” under Thai law referred exclusively to a man and a woman who have lawfully registered their marriage. According to Sections 1448 and 1458 of the Civil and Commercial Code, a legally valid marriage could only be established between a male and a female.

However, the Civil and Commercial Code Amendment Act (No. 24), B.E. 2567 (2024), officially published in the Royal Thai Government Gazette on September 24,

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<sup>6</sup> Prawet Inthongpan, “Religious Culture in ASEAN: A Case Study of Thailand and Cambodia,” *Journal of Humanities Academia* 26, No. 1 (2019): 400-435.

2024, has revised this definition. The amendment replaces gender-specific terminology—such as “husband” and “wife”—with the more inclusive term “spouse,” thereby allowing marriage between any two individuals regardless of gender. As a result, legal provisions related to divorce—such as adultery or sexual misconduct under Section 1516(1)—now apply equally to all legally married couples, including same-sex spouses.

The rationale for this amendment, as published in the Royal Thai Government Gazette, highlights the significance of the family as a foundational unit of social development and quality of life. It recognizes that the traditional legal concept of family, limited to heterosexual relationships, no longer reflects the current social reality. In contemporary society, families formed by individuals of various sexual orientations who live together in mutual care and commitment are functionally indistinguishable from traditional heterosexual families. Therefore, the amendment seeks to ensure that all individuals, regardless of gender identity or sexual orientation, have equal rights to marry, form families, and receive protection under the law.<sup>7</sup>

In accordance with Section 1516 of the Thai Civil and Commercial Code, a spouse is entitled to file for divorce if the other party engages in adultery or other forms of sexual misconduct. Upon the court’s approval of the divorce petition, the marriage is formally terminated in accordance with Section 1501, which states that: “Marriage is terminated by death, divorce or being cancelled by the Court.” These provisions emphasize that adultery constitutes a legally recognized ground for divorce and that the dissolution of marriage must follow formal legal procedures.

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<sup>7</sup> Civil and Commercial Code Amendment Act (No. 24), B.E. 2567, *Royal Thai Government Gazette* Volume 141, Part 58 Gor, September 24, 2024, accessed May 25, 2025, <https://ratchakitcha.soc.go.th>

It affects asset division and child custody disputes. However, adultery in Thailand is not classified as a criminal offense, reflecting a more flexible approach to individual morality and family relationships.<sup>8</sup>

In contrast to Thailand's approach, Cambodia addresses adultery both as a civil ground for divorce under its Civil Code and as a criminal offense under the Law on Monogamy, 2006.<sup>9</sup> Article 7 of this law criminalizes adultery, defining it specifically as the act of a married man engaging in sexual relations with a woman other than his wife, or a married woman engaging in sexual relations with a man other than her husband. This gender-specific language implies that the law does not encompass same-sex extramarital relationships. Article 10 stipulates penalties for those found guilty, including imprisonment ranging from one month to one year, fines between 200,000 to 1,000,000 riels (approximately 2,000–10,000 Thai baht), or both.

This study contributes to academic discourse on family law and human rights by revealing how differing legal frameworks reflect underlying religious and cultural values in Thailand and Cambodia. It offers practical insights for policymakers seeking legal reform, particularly the decriminalization of adultery in Cambodia and the enhancement of civil remedies in Thailand. Moreover, the findings may benefit comparative legal scholars, human rights advocates, and practitioners in the field of international family law.

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<sup>8</sup> Siam Center Law Group, Adultery lawsuits in Thailand: Legal remedies and guidance by a lead law firm in Bangkok, accessed May 25, 2025, <https://siamcenterlawgroup.com/adultery-lawsuits-in-thailand-legal-remedies-and-guidance-by-a-lead-law-firm-in-bangkok/>

<sup>9</sup> Law on Monogamy (2006), Article 1: The purpose of this law is to protect dignity, to strengthen harmony and happiness in families, and to ensure rights and respect between a husband and a wife in accordance with article 45 of Constitution of Kingdom of Cambodia and in addition to the laws already in force.

Article 2: A Khmer citizen of either sex who is married must sincerely respect the principles of monogamy of one husband and one wife, by registering their marriage in front of Commune Council Members pursuant to the Law on Marriage and Family.

## 2. Objectives

1. Study adultery in the context of religion, culture, human rights and law in Thailand and Cambodia.
2. Analyze the religious and cultural contexts, examine human rights, and compare the implications of adultery laws in Thailand and Cambodia.

## 3. Literature Review: Adultery in the Context of Religion, Culture, Human Rights and Law

Adultery is widely regarded as immoral and unforgivable, shaped by religious doctrines, cultural beliefs, and social systems that have perpetuated monogamous values across generations. Despite this, adultery has been a persistent aspect of human society, driven by various factors.<sup>10</sup> Marriage transcends personal commitment, serving as a social contract with profound cultural and familial significance. Adultery is often perceived as a betrayal of trust and a disruption of family harmony. This perspective is deeply rooted in Theravada Buddhism, which disapproves of actions causing suffering to others, including marital adultery. The third of the Five Precepts, "Kamesu micchacara veramani," translates to abstaining from sexual misconduct.<sup>11</sup>

Theravada Buddhism, the predominant religion in both Thailand and Cambodia, emphasizes moral conduct, harmony and the avoidance of actions that cause suffering. These principles significantly influence perceptions and management of adultery in these societies. Adherence to the Five Precepts forms the foundation of

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<sup>10</sup> Puriphat Pitakorn, "Infidelity: A common issue that should not be overlooked," Thammasat University. accessed May 25, 2025, <https://www.psy.arts.tu.ac.th/articles/extradyadic>

<sup>11</sup> Juejan Wangtapan & Phra Mahamit Thitapanyo, "The Five Precepts in Buddhism and Anuvratas in Jainism," *Dhammadhas Academic Journal* 19, No. 4 (2019): 123–132. accessed May 25, 2025, <https://so06.tci-thaijo.org/index.php/dhammadhas/article/view/159622>

moral living, with the third precept specifically advising against sexual misconduct. This serves as a moral guideline deterring adultery, as it undermines relationships, causes emotional suffering and generates negative karma.

In Thailand, these beliefs are deeply embedded in cultural attitudes, where adultery is condemned as both a betrayal of trust and a moral failure disrupting familial harmony. Monks and community leaders often emphasize the importance of adultery during sermons and teachings, reinforcing these values across generations. Similarly, in Cambodia, Theravada Buddhism shapes social norms regarding marriage and adultery. The third precept is regarded as a crucial moral principle and adherence to it reflects an individual's morality. Buddhist teachings in Cambodia stress maintaining family harmony and avoiding actions leading to social discord. Hotte and Ruel (2007) discuss the comparative and legal aspects of Cambodian monogamy law, stating that it seeks to promote social values such as 'dignity,' 'harmony,' and 'happiness in families,' as well as mutual respect between spouses.<sup>12</sup>

The difference in legal treatment of adultery between Thailand and Cambodia can be partially understood through their respective interpretations of Buddhist teachings on sexual conduct. Specifically, the interpretations and applications of the Third Precept— Kamesu micchacara veramani (abstaining from sexual misconduct) — differ between the two countries. In Thailand, Buddhist teachings often emphasize individual morality, forgiveness, and the minimization of harm. Monks and religious leaders commonly promote personal responsibility, encourage reconciliation, and discourage punitive measures.<sup>13</sup> This perspective aligns with Thailand's legal treatment

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<sup>12</sup> Hotte, R., & Ruel, G. K., "A Comparative and Legal Analysis of the Cambodian Law on Monogamy," Université du Québec à Montréal, accessed May 25, 2025, <https://www.ieim.uqam.ca/IMG/pdf/etude-de-cas-hotte-king.pdf>

<sup>13</sup> Juejan Wangtapan & Phra Maharnit Thitapanyo, "The Five Precepts in Buddhism and Anuvratas in Jainism," 123–132.

of adultery as a civil matter, allowing the aggrieved spouse to file for divorce and claim compensation under Sections 1516(1) and 1523 of the Civil and Commercial Code, without any criminal penalties.<sup>14</sup>

In contrast, Cambodian Buddhist discourse places greater emphasis on the communal impact of immoral behavior. The Khmer Dictionary compiled by His Holiness Chuon Nath (1968) defines the term for adultery, “**ពេទ**” (phet), as not only “improper” or “immoral” but also as a betrayal of one’s spouse, underscoring its social and moral severity.<sup>15</sup> This interpretation reflects a more collectivist worldview that links individual misconduct with societal disorder and family dishonor. Consequently, Cambodian law criminalizes adultery under the Law on Monogamy, 2006, treating it not merely as a private moral failure but as a legal offense that threatens public order and family harmony.<sup>16</sup>

While religious interpretations offer valuable insight into societal values, it is also plausible that the divergent legal treatments of adultery in Thailand and Cambodia stem more directly from differing public policy objectives. In Thailand, legal reforms in family law have aimed to protect individual rights and align with international human rights standards, particularly by emphasizing privacy and non-punitive remedies. The civil nature of adultery law reflects a policy direction toward limiting state intrusion into personal relationships. In contrast, Cambodia’s criminalization of adultery under the Law on Monogamy, 2006, suggests a public policy focus on social order, family cohesion, and moral discipline.<sup>17</sup> This policy orientation is influenced by the country’s

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<sup>14</sup> Thai Civil and Commercial Code, *Civil and Commercial Code of Thailand*, Updated Edition, (Bangkok: Council of State, 2022).

<sup>15</sup> Chuon Nath, “Khmer Dictionary,” Phnom Penh: Buddhist Institute, 1968.

<sup>16</sup> Hotte, R., & Ruel, G. K., “A Comparative and Legal Analysis of the Cambodian Law on Monogamy.”

<sup>17</sup> Royal Government of Cambodia, “Law on Monogamy, 2006,” Phnom Penh, 2006.

historical context and governance style, which often integrates legal, moral, and cultural norms into enforceable laws.<sup>18</sup> Therefore, while Buddhist interpretations inform social attitudes, public policy priorities appear to be the more immediate drivers of legal distinctions between the two nations.

Culturally, adultery encompasses more than its legal definition, as marriage is a significant social institution providing a legal and moral framework for couples to build lasting relationships.

In Cambodia, similar cultural expectations exist, especially in rural areas where traditional norms emphasize marital fidelity and community harmony. This is reflected in the objectives of the Law on Monogamy, 2006. Article 1: specifies its purpose as “to protect dignity, promote harmony and happiness within families, and ensure mutual rights and respect between husbands and wives, in accordance with Article 45 of the Constitution of the Kingdom of Cambodia.”<sup>19</sup>

Article 2 of the Law on Monogamy, 2006 mandates that all Cambodian citizens, regardless of gender, who are married must strictly respect the principle of monogamy (one husband and one wife).<sup>20</sup> This demonstrates that adultery is not merely a legal matter but is deeply tied to societal values, religious teachings, and familial

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<sup>18</sup> Chandler, D., *A history of Cambodia*, 4th ed., Boulder, CO: Westview Press, 2008.

<sup>19</sup> The Constitution of the Kingdom of Cambodia, Article 45: “....Men and women are equal in all fields especially with respect to marriage and family matters. Marriage shall be conducted according to conditions determined by law based on the principle of mutual consent between one husband and one wife.”

<sup>20</sup> Law on Monogamy (2006), Article 7 and Article 10,

Article 7: prescribes criminal penalties for a married man who engages in sexual relations with a woman who is not his wife or for a married woman who engages in sexual relations with a man who is not her husband.

Under Article 10, offenders are subject to imprisonment for a term ranging from one month to one year, a fine of 200,000 to 1,000,000 Riel (approximately 2,000–10,000 THB), or both imprisonment and a fine.

expectations. Understanding these dimensions is crucial for analyzing how Thailand and Cambodia address adultery within their respective legal systems.

Adultery laws, particularly when criminalized, raise significant concerns regarding personal freedoms and the right to privacy.<sup>21</sup> While both Thailand and Cambodia recognize adultery as grounds for divorce, Cambodia continues to impose criminal penalties under the Law on Monogamy, 2006, raising questions about whether such laws infringe upon fundamental human rights and international legal standards.<sup>22</sup> Criminalizing adultery grants the state authority to interfere in private relationships, potentially violating the right to privacy and individual autonomy.<sup>23</sup> Furthermore, the enforcement of adultery laws in Cambodia has been criticized for being selective, leading to gender bias and potential misuse in personal disputes. The Cambodian Defenders Project expressed concerns that women are more likely to be adversely affected due to societal norms and the potential for the law to be used as a tool for personal vendettas.<sup>24</sup> Additionally, the United Nations Working Group on Discrimination Against Women in Law and in Practice has stated that criminalizing adultery can lead to discriminatory prosecutions and is often used to control women's behavior, thereby violating their human rights.<sup>25</sup> In contrast, Thailand does not criminalize adultery but

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<sup>21</sup> United Nations Human Rights Committee. (UNHCR), “General Comment No. 16: Article 17 (Right to privacy),” UN Doc. HRI/GEN/1/Rev.9, accessed May 25, 2025, <https://www.refworld.org/docid/453883f922.html>

<sup>22</sup> Hotte, R., & Ruel, G. K., “A Comparative and Legal Analysis of the Cambodian Law on Monogamy,” pp. 4-6.

<sup>23</sup> United Nations Human Rights Committee. (UNHCR), “General Comment No. 28: Equality of rights between men and women (Article 3),” UN Doc. CCPR/C/21/Rev.1/Add.10, para. 20, accessed May 25, 2025, <https://www.refworld.org/docid/45139c9b4.html>

<sup>24</sup> Hotte, R., & Ruel, G. K., “A Comparative and Legal Analysis of the Cambodian Law on Monogamy.” f

<sup>25</sup> United Nations Office of the High Commissioner for Human Rights, “Adultery should not be a criminal offence at all,” says UN expert group on women’s human rights, accessed May 25, 2025,

applies civil consequences such as influencing divorce settlements and property division.<sup>26</sup> From a human rights perspective, adultery laws raise several concerns. They violate the right to privacy by restricting individual autonomy over personal relationships, as protected under Article 17 of the International Covenant on Civil and Political Rights, 1966 (ICCPR).<sup>27</sup> Additionally, they reinforce gender discrimination, with women often facing harsher legal and social consequences than men, in violation of Article 16 of the Convention on the Elimination of All Forms of Discrimination Against Women, 1979 (CEDAW).<sup>28</sup> Furthermore, such laws can be misused for personal or political persecution.<sup>29</sup>

Adultery, as a legal and moral concept, intersects with various international human rights instruments that emphasize equality, non-discrimination, and the protection of personal rights. The Universal Declaration of Human Rights, 1948 (UDHR) asserts in Article 16 that men and women of full age have the right to marry and to found a family, emphasizing equality in marriage and its dissolution.<sup>30</sup> This foundational principle underscores the importance of mutual respect and equality within marital relationships.

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<https://www.ohchr.org/en/press-releases/2012/10/adultery-should-not-be-criminal-offence-all-says-un-expert-group-womens>

<sup>26</sup> Thai Civil and Commercial Code, *Civil and Commercial Code of Thailand*.

<sup>27</sup> United Nations, “International Covenant on Civil and Political Rights,” accessed May 25, 2025, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

<sup>28</sup> United Nations, “Convention on the Elimination of All Forms of Discrimination Against Women,” accessed May 25, 2025, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>

<sup>29</sup> United Nations Office of the High Commissioner for Human Rights, “Adultery should not be a criminal offence at all.”

<sup>30</sup> United Nations, “Universal declaration of human rights,” accessed November 25, 2024, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

The Convention on the Elimination of All Forms of Discrimination against Women, 1979 (CEDAW) further elaborates on these principles. Article 16 of CEDAW obligates States Parties to eliminate discrimination against women in all matters relating to marriage and family relations, ensuring equal rights and responsibilities during marriage and at its dissolution.<sup>31</sup> This includes addressing laws and practices that may disproportionately penalize women for adultery, thereby violating their rights to equality and non-discrimination.

Similarly, the Convention on the Rights of the Child, 1989 (CRC), Article 34 emphasizes the protection of children from all forms of sexual exploitation and abuse, which can be relevant in cases where adultery leads to situations adversely affecting children's welfare.<sup>32</sup> The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990 (ICRMW) also underscores the protection of migrant workers and their families from discrimination and abuse, which can include unjust legal repercussions stemming from adultery accusations.<sup>33</sup>

General comments and concluding observations from treaty bodies provide authoritative interpretations of these instruments. For instance, the Human Rights Committee, in its General Comment No. 36 on the right to life, states that the death penalty should not be imposed for non-violent acts such as adultery, highlighting the importance of proportionality in legal sanctions.<sup>34</sup> The CEDAW Committee expressed

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<sup>31</sup> United Nations, "Convention on the Elimination of All Forms of Discrimination Against Women," accessed May 25, 2025, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>

<sup>32</sup> United Nations, "Convention on the Rights of the Child," accessed May 25, 2025, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

<sup>33</sup> United Nations, "International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families," accessed May 25, 2025, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-protection-rights-all-migrant-workers>

<sup>34</sup> United Nations Human Rights Committee, "General Comment No. 36 on Article 6: Right to life,"

concern over discriminatory provisions in Indonesia's Marriage Act and related by-laws, urging legal reforms to eliminate gender-based inequality in marriage and family life. These include concerns about laws that indirectly support polygamy, unequal marriage age, and restrictions on civil marriage rights, which can reinforce patriarchal norms and disproportionately affect women's rights in family matters, including when adultery is involved.<sup>35</sup>

The interpretation of adultery has shifted from a moral issue to a human rights concern, particularly where criminalization disproportionately affects women. Shadow reports, such as those guided by International Women's Rights Action Watch Asia Pacific (IWRW Asia Pacific), reveal how adultery laws are misused to control female behavior and enforce patriarchal norms.<sup>36</sup> Scholars argue that adultery laws reflect systemic gender bias and have historically been used as tools for personal or political manipulation. A recent study traces this bias through the legal history of England, showing how patriarchal norms shaped doctrines that allowed men to justify violence against women based on infidelity. The Mawgridge case (1707) established adultery as a partial legal defense for killing a wife's lover, while in 1810, a man who killed his unfaithful wife was convicted of manslaughter rather than murder, marking a precedent for legally permissible violence.<sup>37</sup> The study further critiques the case of *R v Clinton*

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UN Doc. CCPR/C/GC/36, accessed May 25, 2025, <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-36-article-6-right-life>

<sup>35</sup> Committee on the Elimination of Discrimination against Women, "Concluding observations on the combined sixth and seventh periodic reports of Indonesia," CEDAW/C/IDN/CO/6-7, paras. 47–48, accessed May 25, 2025, [https://digitallibrary.un.org/record/748335/files/CEDAW\\_C\\_IDN\\_CO\\_6-7-EN.pdf](https://digitallibrary.un.org/record/748335/files/CEDAW_C_IDN_CO_6-7-EN.pdf)

<sup>36</sup> International Women's Rights Action Watch Asia Pacific, "Shadow report guidelines on rights of sex workers under CEDAW, accessed May 25, 2025, <https://www.iwraw-ap.org/wp-content/uploads/2018/04/Shadow-Report-Guidelines-on-Rights-of-Sex-Workers-under-CEDAW-1.pdf>

<sup>37</sup> Menis, S., "Adultery as a defence: The construction of a legally permissible violence, England 1810," *Histories* 3, No.2 (2023): 76–97, accessed May 25, 2025, <https://doi.org/10.3390/histories3020007>

(2012), where despite the formal abolition of infidelity as a legal defense in 2009, judges still cited its cultural relevance, reinforcing outdated gendered assumptions. This analysis draws on theories of masculinity, family and law to demonstrate how hegemonic male identity has historically influenced the legal framing of adultery, enabling systemic gendered injustice. This evolving perspective supports legal reform aligned with international human rights obligations.

Global human rights frameworks generally advocate for the decriminalization of adultery, emphasizing privacy, gender equality, and non-discrimination. Several key legal instruments reinforce this principle. The Universal Declaration of Human Rights, 1948 (UDHR) protects individuals from arbitrary interference with their privacy under Article 12.<sup>38</sup> Similarly, the International Covenant on Civil and Political Rights, 1966 (ICCPR) guarantees the right to privacy in Article 17 and ensures equality before the law under Article 26, discouraging gender-biased adultery laws.<sup>39</sup> The Convention on the Elimination of All Forms of Discrimination Against Women, 1979 (CEDAW) further calls for gender-neutral family laws under Article 16.<sup>40</sup> Additionally, the ASEAN Human Rights Declaration, 2012 (AHRD) upholds privacy rights in Article 21 and guarantees equality before the law in Article 22.<sup>41</sup> Collectively, these legal frameworks underscore the necessity of aligning adultery laws with international human rights standards to prevent privacy violations, gender discrimination, and legal inequality.

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<sup>38</sup>United Nations, “Universal declaration of human rights,” accessed November 25, 2024, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

<sup>39</sup> International Covenant on Civil and Political Rights (ICCPR), “United Nations Treaty Series, vol. 999,” accessed November 25. <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

<sup>40</sup> United Nations, “Convention on the elimination of all forms of discrimination against women (CEDAW),” accessed November 25, 2024, <https://www.ohchr.org/en/treaty-bodies/cedaw>

<sup>41</sup> ASEAN. “ASEAN human rights declaration.” Association of Southeast Asian Nations. accessed November 25, 2024. <https://asean.org/asean-human-rights-declaration/>

Many countries have abolished criminal adultery laws to uphold privacy and human rights. France repealed its adultery laws in 1975<sup>42</sup>, followed by South Korea in 2015 and India in 2018, with courts emphasizing that personal morality should not be subject to state intervention. South Korea's Constitutional Court ruled such laws unconstitutional for violating personal freedoms,<sup>43</sup> while India's Supreme Court found them discriminatory and outdated.<sup>44</sup>

Legally, adultery refers to voluntary sexual intercourse between a married person and someone other than their spouse.<sup>45</sup> It is considered a breach of marital obligations, and the spouse who commits adultery must accept the consequences of violating family stability, particularly its legal implications. Adultery is perceived differently across various contexts, including religion, culture, human rights and law, influencing how societies regulate and respond to it.

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<sup>42</sup> France, “Loi n° 75-617 du 11 juillet 1975 portant réforme du divorce [Law No. 75-617 of July 11, 1975, reforming divorce],” *Journal Officiel de la République Française*, 1975, accessed May 25, 2025, <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000000888294>

<sup>43</sup> Morley, J. D., “South Korea court says adultery law is unconstitutional,” The Law Office of Jeremy D. Morley, accessed October 15, 2024, <https://www.international-divorce.com/2015/02/south-korea-court-says-adultery-law-is.html>

<sup>44</sup> Shrivastava, G., & Tulika, M., “Decriminalization of adultery in India,” *Journal of Contemporary Issues in Business and Government* 27, No.1: 455–467, accessed October 15, 2024, <https://www.bibliomed.org/mnsfulltext/218/218-1639741770.pdf>

<sup>45</sup> Garner, B. A. (Ed.), “Black's law dictionary,” 10th ed., (The United States of America: Thomson Reuters).

Adultery, n. (15c) Voluntary sexual intercourse between a married person and someone other than the person's spouse

#### **4. Methodology**

This research adopts a qualitative approach, focusing on the examination and analysis of adultery within the legal, cultural, religious, and human rights contexts in Thailand and Cambodia. The study relies on documentary research conducted between June 2024 and February 2025, utilizing key legal texts, including national laws, judicial decisions, international legal instruments, books, academic articles, research papers, and court rulings from both domestic and international sources. By analyzing these materials, the study aims to compare the legal implications of adultery in both jurisdictions while exploring how cultural, religious, and human rights perspectives influence legal frameworks and enforcement.

#### **5. Result**

##### **5.1 The Legal Framework in Thailand**

In Thailand, adultery is addressed through civil measures rather than criminal ones. It is considered a valid ground for divorce, while criminal law does not explicitly define adultery as a criminal offense. However, actions related to adultery may result in other legal consequences, such as lawsuits for defamation, physical assault, or domestic violence. These civil measures reflect a balance between personal morality and legal resolution, emphasizing compromise and civil justice rather than criminal punishment.

The Civil and Commercial Code, “*Section 1516: Grounds for Divorce are as follows:*

*(1) if either spouse supports, maintains, or honors another person as a spouse, engages in adultery, or has an ongoing intimate relationship with another person, or engages in acts or accepts acts of another person to satisfy their own or the other person's sexual desires on a habitual basis, the other spouse may file for divorce..."*

The statute provides detailed criteria to support claims of marital dissolution on the grounds of adultery. For example, in Supreme Court Judgment No. 529/1982, the first defendant, the wife, allowed the second defendant to sleep in her shop. When the plaintiff discovered this, negotiations took place at the police station, during which the first defendant agreed to cohabit with the second defendant as husband and wife. These circumstances indicate that the two defendants were engaged in an adulterous relationship.

Divorce to terminate a marriage under Section 1501 of the Civil and Commercial Code is not considered a matter of individual liberty. Rather, it is a legal action subject to regulation and control to prevent social disruption and exploitation.<sup>46</sup> This has implications for subsequent legal proceedings, such as the division of marital property, custodial rights over children, and claims for compensation from third parties. The details are as follows:<sup>47</sup>

#### (1) Effects on Marital Property

The termination of marriage through divorce has significant implications for the property of the spouses. Under the Civil and Commercial Code, the division of marital property (commonly referred to as *sin somros*) and individual property (*sin suan tua*) must be conducted in accordance with the legal framework. This includes ensuring an equitable division of assets acquired during the marriage while safeguarding the personal property of each spouse. The process aims to prevent disputes and promote fairness in the allocation of shared wealth.

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<sup>46</sup> Thanitta Mungdee, “Divorce under the Discourse of Family in the Thai Legal System: A Case Study of Court Judgments,”

<sup>47</sup> Pairoj Kampusiri, *Explanation of the Civil and Commercial Code, Book 5: Family*, 9th rev. ed., (Bangkok: Thammasat University Press, 2017).

a) The division of marital property and debt settlement under Section 1532 of the Civil and Commercial Code must be based on the amount existing on the date the divorce is filed. Therefore, after the date of filing, the marital property system ceases to exist. Any property acquired by either party after the filing date belongs exclusively to that party and is not considered marital property subject to division. The method of division follows Section 1533, whereby the husband and wife are entitled to equal shares of the marital property, similar to the division of liability for joint debts, which must be shared equally.

b) Compensation

Compensation is the monetary payment prescribed by law for the spouse who is the defendant in a divorce case to pay as damages to the plaintiff spouse. This type of compensation applies only in cases where the divorce is filed based on grounds of adultery. Additionally, there is only one situation in which a third party may also be required to pay compensation, as stipulated in Section 1523 of the Civil and Commercial Code.

According to Section 1523 of the Thai Civil and Commercial Code, a spouse whose partner has committed adultery has the right to claim compensation not only from the adulterous spouse but also from the third party involved in the extramarital relationship. The provision states:<sup>48</sup>

“When the court grants a divorce on the grounds under Section 1516 (1), either spouse shall have the right to claim compensation from the other spouse and from the person who has been maintained, honored, or who is the cause of the divorce.

Either spouse may also claim compensation from a person who has had an affair with the other spouse in the manner of an adulterous relationship, or from a

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<sup>48</sup> Royal Thai Government Gazette, Civil and Commercial Code Amendment Act (No. 24), B.E. 2567.

person who publicly presents themselves as being in an adulterous relationship with the other spouse.

If either spouse has consented to, or connived with, the other spouse in the act under Section 1516 (1), or has permitted another person to engage in the conduct described in paragraph two, that spouse shall not be entitled to claim compensation.”

This provision establishes a civil remedy for adultery, allowing the aggrieved party to pursue compensation for emotional and reputational harm. However, the right to claim is forfeited if the claimant has previously consented to or colluded in the adulterous act.

The determination of the compensation amount is at the court's discretion, considering the circumstances and the damage incurred. Section 1525 of the same code states: "The compensation under Section 1523 and Section 1524 shall be decided by the Court according to the circumstances..." This implies that the court will evaluate factors such as the severity of the conduct, the harm caused to the spouse, and the social and economic status of the parties involved. Therefore, the amount of compensation awarded by the court may vary in each case, depending on the facts and circumstances.

For instance, Supreme Court Judgment No. 6804/2558 states that Section 1523, paragraph one of the Civil and Commercial Code provides that if a court grants a divorce on the grounds of the wife's adultery, the husband is entitled to claim compensation from the adulterer. This provision requires that the man who engages in an affair with a married woman must be aware that she is legally married but deliberately violates the husband's rights, thereby incurring liability for compensation.

In this case, it was established that Defendant 2 knew that Defendant 1 was the plaintiff's wife but still engaged in an adulterous relationship and had habitual sexual relations with her. As a result, the plaintiff, as the husband, has the right to sue

Defendant 2 for compensation. The court ordered Defendant 2 to pay compensation of 500,000 baht plus interest at a rate of 7.5%. The amount of compensation is at the discretion of the court, which considers the circumstances and damages incurred in each case.

c) Alimony

Alimony refers to monetary payments or other benefits that the law requires one spouse to provide upon divorce as ordered by a court. This is stipulated under Section 1526 of the Civil and Commercial Code. It serves as a punitive measure, requiring the spouse at fault in the divorce to pay alimony to the other party.

(2) Implications for Offspring

To prioritize the welfare and best interests of the child, legal frameworks are instituted to delineate parental authority, custodial responsibilities, provisions for child maintenance, and visitation entitlements, as detailed below:

a) The court has the authority to determine which party will exercise parental authority over each child, prioritizing the best interests of the child. Additionally, the law empowers the court to revoke parental authority of either spouse under Section 1520 of the Civil and Commercial Code, provided there are grounds for revocation under Section 1582. Such grounds may include misuse of parental authority over the minor or engaging in immoral conduct. In such cases, the court may appoint a third party as the guardian of the child.

b) In cases of divorce by court judgment, child support is governed by Section 1522, final paragraph, of the Civil and Commercial Code. The court determines the amount of child support that either or both spouses must pay, taking into account the financial capacity of both parties.

c) Visitation Rights

A spouse who does not have parental authority after the court issues a divorce judgment retains the right to maintain contact with their child as deemed appropriate under the circumstances. This right applies regardless of who holds parental authority or guardianship, in accordance with Section 1584/1 of the Civil and Commercial Code.

In summary, adultery in Thailand constitutes grounds for divorce under Section 1516(1) of the Civil and Commercial Code. The legal implications include the division of marital property, compensation, alimony, and considerations regarding offspring. Additionally, the court plays a crucial role in determining parental authority and child support, ensuring fairness and prioritizing the best interests of all parties involved. Moreover, the court has discretion over the compensation awarded to the wrongdoer spouse and the third party.

## 5.2 The Legal Framework in Cambodia

In Cambodia, the legal framework governing marriage and family matters emphasizes the importance of protecting family harmony and moral values. The Law on Monogamy, 2006 serves as a key statute, explicitly prohibiting polygamy and prescribing monogamy as a foundational principle. Under this law, adultery is recognized as both a moral and legal offense, and individuals engaged in such acts may face criminal liability. The Cambodian Civil Code further regulates issues such as marital property, divorce, alimony and child custody. Courts play a central role in ensuring equitable resolutions, prioritizing the welfare of children and fairness to both parties. This integrated approach reflects the influence of cultural, religious and legal norms on Cambodia's family law system.

Cambodian legal measures for addressing a spouse who commits adultery against the other include both civil and criminal measures, as follows:

(1) Civil Measures: According to the Civil Code of Cambodia.<sup>49</sup> The grounds for divorce are outlined in Section IV: Divorce, Sub-section I: Grounds for Divorce of the Civil Code of Cambodia, Article 978 (1)

*"The Civil Code of Cambodia, Article 978(1), states: "A husband or wife may bring a suit for divorce only under the following circumstances:*

(a) If the other spouse has committed an act of adultery."

The term "adultery" in Khmer, known as “ຜេតិ” (phet). According to the 1968 Khmer Dictionary by His Holiness the Supreme Patriarch Chuon Nath, the term “ຜេតិ” is defined as: **ក. បុគ្គ. (ស. ដត អ. ច. កត “ឈស, មនឹមន, មនុល ...”)**  
**កាត់បាត់ការសក្រោះ សដតប៊ី**

It carries two primary meanings:

1. The first meaning, “**ବସ, ମନ୍ଦିର, ମନ୍ଦିର...**” translates to “wrong, improper, bad.”

2. The second meaning, "ក្រុចចាបតាគត្រករះ ព្រៃដចតប់," translates to "betrayal of a partner."

To sum up, the civil legal measures in Cambodia for addressing spousal adultery are outlined in Article 978 of the Civil Code, which specifies that adultery constitutes a lawful ground for divorce. The term "ជោគ" in Khmer refers to actions

<sup>49</sup> Ministry of Justice of Cambodia, “The Civil Code of Cambodia. Phnom Penh: Ministry of Justice,” accessed August 25, 2024, [https://moj.gov.kh/files/user-folder/Media-Law/Civil-Law/Law\\_030\\_1207\\_EN.pdf](https://moj.gov.kh/files/user-folder/Media-Law/Civil-Law/Law_030_1207_EN.pdf)

that are morally wrong and signify betrayal of a partner, reflecting the strict societal and legal values placed on marital fidelity.

The following are the results of the divorce.

1) Effects on Marital Property

a) Regarding property division upon divorce, Article 980 stipulates that if mutual agreement on the division is unattainable, the court will intervene. Each spouse retains his or her separate property, and the common property is typically divided equally. However, the court may adjust this distribution based on various factors, including each spouse's contribution to the property, the duration of the marriage, and the welfare of any children involved. Notably, the Code acknowledges that domestic work holds equal value to external employment.

Furthermore, Article 981 addresses post-divorce surname usage, allowing a spouse who changed their surname due to marriage to either revert to their original surname or retain the surname used at the time of divorce.

b) Compensation

Under Cambodia's Civil Code of 2007, the provisions regarding alimony and compensation in divorce cases have evolved from earlier legislation. The current Civil Code does not explicitly provide a legal basis for spousal alimony post-divorce. Instead, it emphasizes the division of marital property and the obligation to support children.

c) Alimony

Under Cambodia's Civil Code of 2007, there is no explicit provision for spousal alimony post-divorce. However, the Law on the Implementation of the Civil Code (2011) addresses this omission by stating that Articles 76 and 77 of the 1989 Law on Marriage and Family, which govern alimony, remain valid. Article 76 specifies that a party who is not at fault and is in need may request alimony from the other party. The

amount is determined by mutual agreement or, failing that, by the court. Alimony obligations cease if the recipient remarries.

## 2) Implications for Offspring

Under Cambodia's Civil Code of 2007, the implications of divorce on offspring are comprehensively addressed, particularly concerning child support and custody:

### a) Child Support

Article 1040 of the Civil Code stipulates that both parents are obligated to support their children financially until they reach adulthood. The amount of child support is typically determined by mutual agreement between the parents or, if necessary, by the court. This ensures that the child's financial needs are met appropriately.

### b) Child Custody

Article 1037 of the Civil Code addresses custody arrangements, emphasizing that decisions should prioritize the child's best interests. In cases where parents cannot reach an agreement on custody, the court intervenes to determine the most suitable arrangement for the child. Additionally, the non-custodial parent retains the right to maintain personal relations and direct contact with the child on a regular basis, ensuring the child's well-being and balanced development. These provisions underscore Cambodia's commitment to safeguarding the welfare of children during and after divorce proceedings, ensuring that both parents continue to play a supportive role in their upbringing.

In summary, Cambodia's Civil Code of 2007 addresses spousal adultery by designating adultery as a legitimate ground for divorce under Article 978. Upon divorce, Article 980 outlines the equitable division of marital property, considering factors such as each spouse's contribution and the marriage's duration. While the current Civil Code does not explicitly provide for spousal alimony post-divorce, the Law on the

Implementation of the Civil Code (2011) maintains provisions from the 1989 Law on Marriage and Family, allowing the non-fault party in need to request alimony. Regarding children, Articles 1037 and 1040 emphasize that both parents are obligated to support their offspring financially until adulthood, with custody decisions prioritizing the child's best interests. These legal measures reflect Cambodia's commitment to upholding marital fidelity and ensuring the welfare of all parties involved in divorce proceedings.

## (2) Criminal Measures

The Law on Monogamy, 2006 of Cambodia specifies the objectives of criminal measures in Article 1, stating that they aim to protect dignity, promote family harmony and happiness, and ensure mutual rights and respect between husbands and wives, in accordance with Article 45 of the Constitution of the Kingdom of Cambodia.

Article 2 mandates that all Cambodian citizens, regardless of gender, who are married, must strictly adhere to the principle of monogamy (one husband and one wife). Consequently, Article 7 prescribes criminal penalties for a married man who engages in sexual relations with a woman who is not his wife or for a married woman who engages in sexual relations with a man who is not her husband.

Under Article 10, offenders are subject to imprisonment for a term ranging from one month to one year, a fine of 200,000 to 1,000,000 Riel (approximately 2,000–10,000 THB), or both imprisonment and a fine.

In the first application of the newly enacted law criminalizes adultery, the Phnom Penh Municipal Court formally charged Prince Ranariddh in March 2007,<sup>50</sup> exposing him to potential penalties of up to one year in prison and a fine of approximately \$245. Concurrently, Prince Ranariddh faced an 18- month prison

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<sup>50</sup> Yun, S., "Court Charges Prince Ranariddh With Adultery," *The Cambodia Daily*, accessed November 2, 2024, <https://english.cambodiadaily.com/news/court-charges-prince-ranariddh-with-adultery-60926/>

sentence for embezzlement related to the sale of the FUNCINPEC party headquarters,<sup>51</sup> a charge he denied, attributing it to political motivations.<sup>52</sup> To avoid imprisonment, he sought asylum abroad. In September 2008, King Norodom Sihamoni granted him a royal pardon, allowing his return to Cambodia. Regarding the adultery case, available public records do not indicate a formal conviction or sentencing. The absence of further legal proceedings suggests that the case may have been dropped or resolved without trial. This outcome underscores the politically sensitive nature of the proceedings, given the involvement of prominent members of the Cambodian royal family.<sup>53</sup>

While Prince Ranariddh's case drew national attention, enforcement of the adultery law in Cambodia has been rare and inconsistent. For instance, in 2021, a deputy district governor in Phnom Penh, Heak Chan Leang, was convicted of adultery following a complaint by his wife but received only a six-month suspended sentence and was released the same day.<sup>54</sup> Legal practitioners have observed that few such cases go to trial. Sok Sam Oeun, director of the legal aid NGO Cambodian Defenders Project, stated that he could recall only one adultery case that went to trial, and even his recollection of it was sketchy.<sup>55</sup> These instances suggest that the adultery law is

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<sup>51</sup> VOA News, “Cambodian court sentences prince in absentia. VOA,” accessed November 2, 2024, <https://www.voanews.com/a/a-13-2007-03-13-voa29/347515.html>

<sup>52</sup> Al Jazeera, “Cambodia prince on adultery charge,” accessed October 2, 2024, <https://www.aljazeera.com/news/2007/3/19/cambodia-prince-on-adultery-charge>

<sup>53</sup> LICADHO, “Human rights in Cambodia: The charade of justice. Cambodian League for the Promotion and Defense of Human Rights,” accessed May 25, 2025, <https://www.lcadho-cambodia.org/reports/files/113LICADHOReportCharadeJustice07.pdf>

<sup>54</sup> Khouth Sophak Chakrya, “District official guilty of adultery released,” *The Phnom Penh Post*, February 2, 2021, accessed May 25, 2025, <https://www.phnompenhpost.com/national/district-official-guilty-adultery-released>

<sup>55</sup> Wells, C., & Chakrya, K. S., “Sex and punishment: Cambodia’s adultery law,” *The Phnom Penh Post*, October 28, 2010, accessed May 25, 2025, <https://www.phnompenhpost.com/national/sex-and-punishment-cambodia%E2%80%99s-adultery-law>

seldom enforced rigorously and may be applied selectively, potentially serving political or personal agendas rather than upholding consistent legal standards.

As of February 2025, the Cambodia's Law on Monogamy, 2006 remains a fundamental component of the nation's family law, enforcing monogamous marriages and criminalizing bigamy, incest, and adultery. The law aims to protect individual dignity, enhance family harmony, and ensure mutual respect between spouses. To bridge the gap between traditional practices and legal standards, the Cambodian government, in collaboration with various organizations, has implemented awareness campaigns and educational programs emphasizing adherence to the Law on Monogamy, 2006. These initiatives strive to align customary practices with legal requirements, fostering societal shifts toward the principles enshrined in the law.

In summary, while the Law on Monogamy, 2006 remains legally binding and central to Cambodia's family law approach, its effective implementation requires ongoing efforts to address cultural nuances and ensure that legal provisions are respected and upheld across all segments of society.

## 6. Discussion

Adultery, a deeply personal transgression, carries profound legal and cultural consequences, especially in Thailand and Cambodia. While both nations share Theravada Buddhist roots and intertwined cultural histories, their legal responses to marital unfaithfulness diverge markedly, reflecting unique societal values and legal philosophies.

### **6.1 Legal Frameworks: A Comparative Overview**

In both Thailand and Cambodia, adultery is recognized as a serious breach of marital obligations, serving as valid grounds for divorce in both nations. However, the legal responses to adultery differ notably between the two countries.

Thailand, adultery is addressed within the civil legal framework. Section 1516(1) of the Thai Civil and Commercial Code permits the aggrieved spouse to file for divorce on the grounds of adultery. Additionally, under Section 1523, the innocent spouse has the right to claim compensation from the unfaithful partner and, in certain circumstances, from the third party involved in the extramarital affair. This compensation aims to address the emotional distress and damage caused by the adultery. Notably, adultery does not carry criminal penalties in Thailand, the law refrains from imposing criminal sanctions on either the unfaithful spouse or their partner.

Cambodia, the legal system adopts a more stringent approach to adultery. The Law on Monogamy, 2006 criminalizes acts of adultery. Article 7 of this law defines adultery as a married person engaging in sexual intercourse with someone other than their spouse. Individuals found guilty may face imprisonment ranging from one month to one year or fines between 200,000 and 1,000,000 Riels (approximately 2,000–10,000 Thai Baht), or both. While adultery serves as valid grounds for divorce under Article 978 of the Cambodian Civil Code, the law does not explicitly provide for compensation to the aggrieved spouse. This dual approach underscores Cambodia's commitment to preserving marital fidelity through enforceable punitive measures, distinguishing it from Thailand's civil-only remedies.

These contrasting legal frameworks reflect the differing cultural and societal values regarding marriage and fidelity in Thailand and Cambodia. While both countries recognize adultery as a basis for divorce, Thailand emphasizes civil remedies, including

compensation, without criminalizing the act. In contrast, Cambodia incorporates criminal sanctions to deter adultery, highlighting a more punitive stance on the matter.

**Table 1**  
**Comparative Legal Framework on Adultery and Divorce:**  
**Thailand and Cambodia**

Aspect	Thailand	Cambodia
Legal Basis for Divorce	Section 1516 of the Civil and Commercial Code	Article 978 of the Civil Code
Criminalization of Adultery	Not Criminalized	Criminalized by the Law on Monogamy, 2006
Compensation for Aggrieved Spouse	Available by Sections 1523 and 1525 of the Civil Code	Not Explicitly Provided

Source: Researcher

## 6.2 Religious and Cultural Underpinnings

Thailand, Theravada Buddhism, the predominant religion, emphasizes personal morality and forgiveness. While adultery is morally frowned upon, societal responses often lean towards reconciliation and personal resolution rather than legal intervention. This cultural backdrop influences the nation's legal framework, which refrains from criminalizing adultery, viewing it instead as a private matter warranting civil remedies. Cambodia, similarly rooted in Theravada Buddhism, Cambodian society places a strong emphasis on communal harmony and social order. Adultery is perceived not only as a personal failing but as a disruption to societal equilibrium. This perspective is mirrored in the legal system's readiness to impose criminal penalties, reflecting a collective commitment to uphold moral standards and familial integrity.

Thailand, the absence of criminal penalties for adultery does not equate to societal acceptance. Social stigma and familial pressures often serve as deterrents. Legal recourse is available through civil courts, where aggrieved spouses can seek divorce and

financial compensation. However, the onus of proof lies heavily on the complainant, and the process can be intricate and emotionally taxing. Cambodia, the criminalization of adultery signifies a proactive legal approach to marital fidelity. Law enforcement agencies are empowered to investigate and prosecute cases of adultery, and convictions can lead to imprisonment or fines. This stringent legal stance serves as a deterrent and reflects the societal imperative to maintain moral conduct within the institution of marriage.

### **6.3 Human Rights Examining**

The criminalization of adultery raises significant concerns about privacy, gender equality, and human rights. While both Thailand and Cambodia recognize adultery as grounds for divorce, Cambodia's Law on Monogamy, 2006 imposes criminal penalties, granting the state intrusive authority over private relationships and leading to selective enforcement and potential misuse. In contrast, Thailand treats adultery as a civil matter, impacting divorce settlements, alimony, and compensation, with laws ensuring gender equality in legal proceedings. As global trends move toward decriminalization, many countries have abolished adultery laws to align with modern human rights principles, emphasizing personal freedom and non-discrimination. Cambodia may benefit from re-evaluating its stance, while Thailand's approach reflects a balance between legal accountability and the protection of individual rights.

In essence, while both nations view adultery as a serious breach of marital obligations, their responses diverge significantly. Thailand's civil-focused approach prioritizes personal resolution and legal remedies, whereas Cambodia's inclusion of criminal sanctions reflects a collective commitment to preserving societal harmony. These contrasting frameworks illustrate how deeply cultural values and legal philosophies shape responses to marital unfaithfulness, offering valuable insights into the intersection of law, morality, and society.

## 7. Conclusion and Recommendations

This comparative analysis highlights the divergent legal frameworks that Thailand and Cambodia employ to address adultery, reflecting the cultural and societal values unique to each nation.

Adultery carries profound legal, cultural, and societal implications in Thailand and Cambodia, yet their legal approaches differ significantly. Thailand treats adultery as a civil matter under the Civil and Commercial Code, allowing the aggrieved spouse to seek divorce and claim compensation without criminal penalties. In contrast, Cambodia enforces a stricter stance, criminalizing adultery under the Law on Monogamy, 2006, with penalties ranging from fines to imprisonment. These legal differences reflect deeper cultural and religious influences, where Thailand's Theravada Buddhist traditions emphasize forgiveness and personal resolution, while Cambodia upholds social order and moral integrity through punitive measures. Additionally, the criminalization of adultery in Cambodia raises human rights concerns, particularly regarding privacy and selective enforcement, whereas Thailand's civil approach aligns more closely with global legal trends toward decriminalization. While both nations recognize adultery as grounds for divorce, Cambodia's legal framework prioritizes deterrence, whereas Thailand emphasizes compensation and personal accountability. As human rights perspectives continue to shape family law reforms worldwide, Cambodia may benefit from reassessing its criminal penalties, while Thailand's legal framework offers a balanced approach to marital disputes.

To maintain a balanced and effective approach to marital disputes, this study recommends enhancing civil remedies—specifically by strengthening financial repercussions—as a deterrent to adultery in Thailand, while refraining from introducing criminal sanctions. Such an approach would uphold Thailand's alignment with international human rights standards that emphasize privacy, proportionality, and non-punitive responses to private moral conduct. Presently, adultery in Thailand is governed

exclusively under civil law, with Section 1523 of the Civil and Commercial Code granting the aggrieved spouse the right to claim compensation from the unfaithful spouse and the third party involved, provided the divorce is granted on grounds under Section 1516(1). The Code also allows claims against those who openly display an adulterous relationship. However, compensation is precluded in cases where the claimant has consented to or colluded in the adulterous conduct.

Despite this provision, compensation awarded under Section 1523 is often modest and inconsistent, failing to reflect the depth of emotional, reputational, and psychological harm suffered by the aggrieved spouse. According to the World Population Review's 2025 report, that over 51% of married Thais engage in extramarital affairs, it is imperative to consider that the normalization of such behavior may partly stem from the law's failure to adequately deter it. When civil remedies are perceived as symbolic rather than substantial, the law loses both its expressive and deterrent functions. Accordingly, this study proposes a revision of Section 1523 to authorize courts to apply enhanced compensation criteria, including emotional trauma, social status, and public exposure, supported by judicial guidelines that restore the legal and moral seriousness of marital fidelity. This policy refinement would not only reinforce trust in civil justice mechanisms but also advance key principles such as individual autonomy, gender equality, and the protection of private life, in accordance with Thailand's constitutional and international obligations.

## 8. Future Research

Future research should focus on determining the appropriate amount of compensation under Article 1523 of the Civil and Commercial Code that adequately reflects the emotional distress, honor and reputational damage suffered by the innocent spouse due to adultery. Similar studies conducted in different legal and cultural contexts could provide valuable comparative insights, examining how compensation varies across jurisdictions and its effectiveness in deterring infidelity.

Additionally, research could narrow its scope to specific cases, such as compensation awarded based on the duration of the marriage, the presence of children, or the financial standing of the parties involved. A sector-specific approach could also analyze how compensation policies impact different social classes and their legal access to justice. These studies would contribute to the development of fair and effective compensation frameworks aligned with international human rights standards.

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