

From Securitization to Weaponization: The NGO Draft Act and
the Criminalization of Non-state-led Development in Thailand
จากการทำให้เป็นประเด็นความมั่นคงสู่การทำให้เป็นอาวุธ:
ร่างพระราชบัญญัติเอ็นจีโอและการทำให้การพัฒนาที่ไม่ใช่ของรัฐ
กลายเป็นอาชญากรรมในประเทศไทย

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บทคัดย่อ

บทความนี้วิเคราะห์ร่างพระราชบัญญัติเอ็นจีโอของประเทศไทยในบริบทของการเปลี่ยนแปลงที่กว้างขึ้นสู่ระบอบการปกครองที่ให้ความสำคัญกับความมั่นคงและการควบคุมเชิงสัญลักษณ์ต่อภาคประชาสังคม แม้จะถูกเสนอว่าเป็นการปฏิรูประบบกำกับดูแล แต่ร่างกฎหมายฉบับนี้กลับตอกย้ำสภาพแวดล้อมทางกฎหมายที่องค์กรอิสระต้องเผชิญกับการเฝ้าระวังที่เพิ่มขึ้น ภาะด้านการปฏิบัติตามข้อกำหนด และความหวาดระแวงเชิงวาทกรรม อาศัยการวิจัยเอกสารและการวิเคราะห์วาทกรรมเชิงวิพากษ์ บทความนี้สำรวจว่าคำอย่าง “ความสงบเรียบร้อยของประชาชน” “ศีลธรรม” และ “อิทธิพลจากต่างประเทศ” ถูกใช้เพื่อสร้างภาพให้องค์กรภาคประชาสังคมเป็นภัยคุกคามแทนที่จะเป็นพันธมิตรในการพัฒนาอย่างไร โดยตัดออกจากคำวิจารณ์ของฟังก์ก์แก้ว เหลืองอร่ามศรีเกี่ยวกับการควบคุมโดยอาศัยศีลธรรม และแนวคิดเรื่องอำนาจเชิงสัญลักษณ์ของบุรดิเยอ บทความเสนอว่าร่างกฎหมายฉบับนี้มีได้เพียงแค่จำกัดภาคประชาสังคม แต่ยังนิยามความชอบธรรมของภาคประชาสังคมขึ้นใหม่ผ่านการปรับให้สอดคล้องทางอุดมการณ์และการกลั่นกรองเชิงกระบวนการ แทนที่จะสั่งห้ามองค์กรอย่างเปิดเผย กฎหมายกลับสถาปนาระบบควบคุมตนเองที่เต็มไปด้วยความระมัดระวัง ซึ่งค่อย ๆ บีบให้พื้นที่พลเมืองแคบลงภายใต้ภาพลักษณ์ของความเป็นกลางทางกฎหมาย โดยการเชื่อมโยงทฤษฎีความมั่นคง การใช้นิติศาสตร์แบบอำนาจนิยม และอำนาจเชิงสัญลักษณ์ บทความนี้แสดงให้เห็นว่าการปฏิรูปกฎหมายสามารถถูกใช้เป็น

เครื่องมือในการทำให้การคัดค้านกลายเป็นอาชญากรรม ในขณะที่ยังคงรักษาภาพลักษณ์ของระเบียบประชาธิปไตยไว้ได้

คำสำคัญ: ประเทศไทย, นิติศาสตร์แบบอำนาจนิยม, ภาคประชาสังคมในประเทศไทย, ร่างพระราชบัญญัติเอ็นจีโอ

Abstract

This article examines Thailand's NGO Draft Act as part of a broader shift toward securitized governance and symbolic control of civil society. While framed as a regulatory reform, the Draft Act reinforces a legal environment where independent organizations face increased surveillance, compliance burdens, and discursive suspicion. Drawing on documentary research and critical discourse analysis, the article explores how terms like “public order”, “morality” and “foreign influence” function to recast NGOs as threats rather than development partners. Building on Laungaramsri's critique of moral regulation and Bourdieu's concept of symbolic power, the article argues that the Draft Act does not simply constrain civil society, it redefines its legitimacy through ideological alignment and procedural filtering. Rather than banning organizations outright, the law institutionalizes cautious self-regulation, narrowing civic space under the appearance of legal neutrality. By bridging securitization theory, autocratic legalism and symbolic power, the article shows how legal reforms can be deployed to criminalize dissent while preserving a façade of democratic order.

Keywords: Thailand, Authoritarian Legalism, Civil Society in Thailand, NGO Draft Act

Introduction

Since the 2014 military coup, the Thai state has increasingly sought to regulate civil society through legal mechanisms that present themselves as neutral or administrative, but that in practice function as tools of political control. One of the most significant instruments in this regard is the “Draft Act on the Operations of Not-for-Profit Organizations” (commonly referred to as the NGO Draft Act). This article primarily analyzes the 2021 version of the draft, titled in Thai as ร่างพระราชบัญญัติการดำเนินกิจกรรมขององค์กรไม่แสวงหาผลกำไร พ.ศ. 2564, which was made

public by the Royal Thai Government and critiqued by both domestic and international civil society organizations. This NGO Draft Act, a legislative proposal that aims to formalize the state's authority to monitor, discipline, and determine the legitimacy of non-governmental organizations (NGOs) in Thailand. While officials frame the “Draft Act on the Operations of Not-for-Profit Organizations” as a matter of transparency and national interest, this article argues that it represents a shift from securitization—where civil society is discursively framed as a threat—to weaponization, where the law itself is used to institutionalize suspicion and suppress dissent. Drawing on Kim Lane Scheppele’s theory of autocratic legalism, the article explores how legal instruments are mobilized not to protect democratic norms but to consolidate elite power under the appearance of constitutionalism. Pierre Bourdieu’s concepts of symbolic power, social capital, and habitus are used to examine how legal and discursive authority are naturalized, and how legitimacy is constructed and contested across development spaces. In parallel, Pinkaew Laungaramsri’s critique of depoliticization and moral regulation reveals how civil society is not merely constrained by law, but also filtered through normative standards that privilege state-aligned actors. Together, these theoretical tools enable a multidimensional analysis of how civil society in Thailand is being redefined—legally, morally, and discursively.

This article employs a documentary research approach grounded in critical discourse analysis to examine legal texts, policy drafts, government statements, and media coverage related to the NGO Draft Act. Rather than treating the Draft Act as a discrete legal reform, it is analyzed as part of a broader authoritarian strategy to recode development as a state-owned domain. The analysis focuses on how specific legal provisions and discursive framings intersect to marginalize independent civic actors, delegitimize foreign-funded organizations, and enforce a model of “licensed” civil society participation. The article proceeds in six sections. The first section outlined the conceptual foundations, drawing on Scheppele’s theory of autocratic legalism, Bourdieu’s notion of symbolic power and Laungaramsri’s critique of NGO depoliticization. The second situates these frameworks within Thailand’s evolving political context, examining the historical dynamics of state-civil society relations. The third explores the post-2014 expansion of legal control, highlighting how Instrumentalization of law has been used to manage civic actors. The fourth analyzes the NGO Draft Act itself, focusing on provisions that facilitate surveillance, compliance pressure and administrative filtering. The fifth turns to discourse, assessing how legal texts and official rhetoric construct NGOs as ideologically deviant or foreign-

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aligned. The final section reflects on the broader implications for civic legitimacy and development, situating the Draft Act within Thailand's wider shift toward securitized, state-managed governance.

Theoretical Foundations

Kim Lane Scheppele (2018) introduced the concept of autocratic legalism, which refers to the process by which elected governments use the law to entrench authoritarian rule. Rather than abandoning legal frameworks, such regimes strategically manipulate constitutional and legislative tools to neutralize opposition, restrict civil society, and maintain a façade of legitimacy. According to Scheppele, “[t]he new autocrats.... [don’t destroy state institutions....; their weapons are laws” (Scheppele, 2018, p. 573). This reframing challenges liberal assumptions that law is inherently protective of democratic values. Instead, legal instruments can become mechanisms of repression when wielded by dominant political actors. Central to her argument is the idea that legal systems can be weaponized—not by their absence but by their overuse or strategic design. This concept provides a useful lens for evaluating how governments reconfigure the legal order to discipline or exclude dissenting voices, including NGOs.

Pierre Bourdieu's theoretical framework offers a multidimensional approach to understanding power and legitimacy, particularly through the interrelated concepts of symbolic power, social capital, habitus, and field. Symbolic power refers to the capacity to impose meanings and establish classifications that appear legitimate, often through language, institutions, and law (Bourdieu, 1991, pp. 166-170). It is exercised invisibly, operating through the acceptance of dominant narratives rather than through coercion. Bourdieu emphasizes that power is most effective when it is misrecognized as natural or neutral.

Symbolic power, as theorized by Bourdieu, operates most effectively when its classifications and norms are perceived as natural, inevitable or morally grounded. In the context of the NGO Draft Act, this power manifests through the strategic deployment of vague legal concepts such as “public order”, “national security”, and “morality”. These terms are not merely bureaucratic categories; they function discursively to shape public perceptions of legitimacy and threat. By leaving such terms undefined, the law enables flexible interpretation while maintaining an appearance of neutrality, allowing state actors to reclassify dissent as deviance without overt

coercion. This ambiguity enhances symbolic power by encouraging self-regulation among civil society actors. NGOs, uncertain about the legal thresholds of acceptable behavior, may alter their programming or avoid sensitive topics altogether to remain in the state's good graces. In this sense, ambiguity becomes a tool of preemptive compliance: it disciplines actors not through explicit prohibition, but through the fear of falling outside moral and political acceptability. However, the overuse of such ambiguity may eventually undermine the state's symbolic capital. When legal indeterminacy is perceived as arbitrary or weaponized, its risks eroding the legitimacy of state authority, prompting resistance or international criticism. Thus, symbolic power, while subtle and often invisible, relies on a delicate balance between concealment and credibility.

Social capital, meanwhile, pertains to the resources individuals or groups access by virtue of their networks and social affiliations (Bourdieu, 1986, p. 248). It helps explain why certain actors enjoy greater legitimacy or influence in specific institutional contexts. Habitus—the ingrained dispositions shaped by history and social conditioning—provides insight into how dominant norms and expectations are internalized and reproduced by both state actors and civil society (Bourdieu, 1977, pp. 72-76). Together, these concepts enable an analysis of how legal and discursive power is naturalized and exercised, not only through formal structures but also through everyday practices and internalized beliefs. In contexts where state authority is contested, these tools are particularly useful for analyzing how legitimacy is constructed, challenged, and reproduced across social fields, including law, development, and civil society.

Pinkaew Laungaramsri's scholarship critically examines the transformation of civil society in Thailand, particularly the role of the state in shaping the developmental landscape through mechanisms of depoliticization and moral regulation (Laungaramsri, 2018). She argues that Thai civil society has undergone a process of bureaucratization and professionalization that has stripped it of its political content, reducing NGOs to service providers aligned with state agendas. This depoliticization is reinforced by a parallel process of moral regulation, in which legitimacy is granted not through pluralistic engagement, but through adherence to state-defined values such as "order," "discipline," and "morality" (Laungaramsri, 2018). These values are often rooted in hierarchical, nationalist, and conservative discourses that marginalize dissenting voices, especially those advocating for rights-based or grassroots approaches. Laungaramsri also critiques the emergence of what she terms an ethnocratic state, where political authority is justified through culturally specific notions of Thainess and national unity, thereby excluding those

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perceived as foreign, oppositional, or morally deviant (Laungaramsri, 2016, pp. 207-209). Her work offers a powerful lens through which to understand how civil society is not only governed through formal laws, but through symbolic boundaries and normative filters that define who is permitted to participate in the national development discourse.

Taken together, these three bodies of thought provide a multidimensional framework for analyzing the evolving relationship between the Thai state and civil society. Scheppele's concept of autocratic legalism highlights how legal mechanisms can be used to entrench authoritarian power while maintaining a veneer of legality. Bourdieu's concepts of symbolic power, social capital, and habitus illuminate how legitimacy is constructed and contested across social fields, including law and development discourse. Laungaramsri's critique of depoliticization and moral regulation reveals how civic participation is shaped not only by legal instruments, but by normative standards imposed by the state. These concepts will be used in the sections that follow to analyze how the NGO Draft Act functions as both a legal and symbolic instrument: —regulating which civil society actors are permitted to exist, what forms of development are deemed acceptable, and how dissent is framed as a threat. In doing so, this article bridges securitization discourse with legal analysis to uncover the mechanisms by which civil society is simultaneously disciplined and delegitimized in contemporary Thailand.

Methodology

This article employs a qualitative documentary research approach to examine how the Thai state uses legal instruments to regulate civil society. The primary materials include official versions of the NGO Draft Act, ministerial statements, parliamentary debate records, white papers, media reports, and public responses from civil society organizations. These documents span multiple iterations of the Draft Act between 2021 and 2024, allowing for longitudinal comparison of discursive shifts and legal developments. The research process unfolded in three stages. First, relevant documents were collected and catalogued chronologically. Second, each text was thematically coded with attention to key terms such as “foreign influence,” “public order,” “morality,” and “national interest.” These codes were derived from preliminary readings and guided by concepts drawn from Scheppele (autocratic legalism), Bourdieu (symbolic power, social capital), and Laungaramsri (depoliticization, moral regulation). Third, the study identified

patterns of framing, omission, and rhetorical emphasis across the data to assess how legal discourse evolved toward the codification of suspicion.

This approach was chosen in lieu of interviews due to the political sensitivity of the topic and the legal risks posed to potential informants. Thailand's lese-majesté laws, defamation statutes, and digital surveillance infrastructure create a climate in which open criticism of state policy—particularly regarding civil society—is both legally and personally hazardous. Documentary materials, by contrast, offer access to a wide array of stakeholder perspectives across time while mitigating ethical and security concerns. The analysis integrates critical discourse analysis with policy analysis. Discursively, the study focuses on how language is used to construct NGOs as morally suspect or politically subversive actors. In parallel, a three-part policy analysis—assessing effectiveness, efficiency, and equity—is applied to key provisions of the Draft Act. This dual approach allows the study to evaluate both the symbolic and material dimensions of legal repression. Triangulation is achieved by comparing government narratives with civil society rebuttals and independent media coverage, allowing for a more robust interpretation of the law's potential impacts on development actors in Thailand.

This study draws on a defined corpus of publicly accessible documents, including: multiple iterations of the NGO Draft Act (2021-2024) sourced from the Royal Gazette, Ministry of Interior publications, and news archives; ministerial statements and policy papers issued by the Ministry of Social Development and Human Security; parliament debate transcripts and committee summaries; formal objections and advocacy materials from NGOs such as iLaw (Internet Law Reform Dialogue), ENLAW (Environmental Law Foundation), and the Human Rights Lawyers Association; news reporting as well as international commentary from organizations such as Human Rights Watch Amnesty International and the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association. While the Draft Act has reportedly undergone thirteen iterations, not all versions are publicly available or archived in full. This study therefore analyses a subset of traceable versions and related materials that have been subject to public discussion or citation. These documents are sufficient to establish longitudinal patterns in the law's evolution, rhetorical justifications and institutional intent.

This article primarily analyzes the 2021 version of the Draft Act, which was released publicly by the Royal Thai Government and drew immediate responses from domestic and international civil society. Although not enacted into law, the 2021 draft was adapted in principle

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by the Cabinet and formed the basis for subsequent revisions. In 2024, a revised version was introduced under a new title: the Draft Act on Associations and Foundations. Despite this rebranding, key provisions – particularly Sections 17, 19-21 – remain substantively unchanged, as noted by legal observers such as the International Center for Not-for-Profit Law (2024). The core issues of vague language, invasive oversight and discretionary enforcement persist, reinforcing the act's repressive potential. The timeline of the Act's development includes the Cabinet's acceptance in principle (International Commission of Jurists, 2022), civil society pushback throughout 2022-2023, and the 2024 reintroduction of a near identical draft. This study therefore treats the 2021 draft as the most revealing document for analyzing the legal discourse and symbolic power embedded in Prayuth's 2019-2023 administration.

The Evolution of Legal Instrumentalization in Thailand

Historical Overview of NGO-State Relations

Prior to the 2014 coup, the relationship between the Thai state and non-governmental organizations (NGOs) was characterized by a complex mixture of cooperation, contention, and cautious negotiation. Throughout the 1990s and early 2000s, NGOs played a significant role in Thailand's socio-economic development, particularly in areas such as rural empowerment, public health, and environmental advocacy (Pawakapan, 2021). However, as Winichakul (2007 , pp. 12-15) argues, this period of apparent pluralism existed within tight ideological constraints, as Thai civil society was often forced to operate within the boundaries of monarchy-centered nationalism and state-defined legitimacy. Successive governments often recognized NGOs as valuable partners in achieving national development goals, albeit selectively and under varying degrees of political patronage and oversight (Laungaramsri, 2018). However, tensions periodically surfaced, particularly when NGOs engaged in human rights advocacy, environmental protection against state-backed projects, or political mobilization (Pawakapan, 2021, p. 5). These activities occasionally positioned them as adversaries to specific government initiatives but did not, at a systemic level, redefine NGOs as existential threats to national security (Laungaramsri, 2018). While regulatory frameworks existed — including registration requirements and oversight mechanisms — these were generally limited in scope and did not aim to fundamentally constrain civil society. During the early 2000s, many NGOs operated with relative autonomy, particularly in

sectors aligned with development goals such as education, public health, and rural livelihoods. However, following the 2014 military coup, the state's posture towards civil society shifted dramatically. Under the NCPO (National Council for Peace and Order) as the military junta that ruled Thailand from 2014 to 2019 after the coup, increased surveillance, digital monitoring, and rhetorical suspicion of foreign funded organizations began to reshape the legal and political environment in which NGOs operated (Laungaramsri, 2018). This pre-2014 landscape is essential to understanding the qualitative shift that occurred after the coup, when NGOs were increasingly reframed not as developmental partners but as potential agents of foreign influence and domestic destabilization.

Escalation Post-2014 Coup: The NCPO Era

Following the 2014 military coup, the NCPO entrenched its authority through a quasi-legal framework that justified political control in the name of national security, public order, and morality. While nominal elections were reintroduced in 2019, the resulting political order retained strong authoritarian characteristics. General Prayuth Chan-O-Cha, who led the NCPO, remained in power as Prime Minister under the new civilianized administration. As Connors and Pathmanand (2021) explain, the 2017 constitution institutionalized military influence through mechanisms such as the appointed Senate and limits on political opposition, ensuring elite control even under a democratic façade. Complementing this, Dressel (2011) shows how legalism has long functioned in Thailand as a mechanism for elite entrenchment, using the language of constitutionalism to suppress reform and maintain political dominance (pp. 71-74). The State's securitized approach to civil society remained intact, with surveillance and administrative control mechanisms continuing beyond the NCPO era. This continuity underscores that the 2019 transition was not a rupture, but rather a recalibration of authoritarian rule under the veneer of civilian legitimacy.

This pattern aligns with what Levitsky and Way (2010) describe as competitive authoritarianism; regimes that preserve democratic appearance while sustaining autocratic control. Understanding the trajectory of legal development during this period is crucial to contextualizing the securitization and weaponization strategies embedded in the NGO legislation. Rather than relying solely on overt coercion, the post-2014 government, first under the NCPO and later under the civilianized administration of Prayuth Chan-O-Cha, increasingly utilized legal mechanisms to normalize repression, limit dissent, and curtail civil liberties (Dalferro, 2022). The

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NGO Draft Act emerged from this broader trend, reflecting a logic of autocratic legalism, whereby the law serves as an instrument to secure elite dominance rather than to guarantee citizen rights.

In the immediate aftermath of the coup, the NCPO consolidated power not only through military means but through the systematic expansion of legal control. Emergency decrees such as Order No. 3/2558 granted the military officers sweeping powers to detain individuals without charge and suppress political gatherings. The 2017 Constitution, drafted under military oversight, embedded national security priorities over civil liberties, as the 2017 Constitution notably changed from the previous system where the 2007 Constitution provided for senators “to be elected by the people” moving instead to an appointed system enshrined in section 107 of the 2017 Constitution, that gave significant influence to military and establishment figures (Royal Thai Government, 2016, p. 38), laying the groundwork for enduring authoritarian governance. The 2017 Constitution not only institutionalized elite dominance but also set the legal tone for subsequent legislation that prioritized control over participation. One key instrument in this regard was the Computer Crimes Act, which was amended to broaden the scope of state surveillance and criminalize dissent, particularly online expression. Ostensibly justified under the banner of cybersecurity, these amendments enable the government to monitor and suppress critical commentary, further reinforcing a climate of legal security.

These legal developments were complemented by a rhetorical campaign that framed civil society actors – especially those with international affiliations – as threats to national sovereignty. As Dalferro (2022) reports, this logic was clearly manifested in the government’s efforts to expel Amnesty International from Thailand. On 11 February 2022, Seksakol Atthawong, then a vice-minister in the Office of the Prime Minister, publicly called for Amnesty’s expulsion, citing its alleged interference in domestic affairs. This followed a petition launched in November 2021, reportedly signed by over 1.2 million people – many from ultra-royalist groups – who accused the organization of endangering national security. The case exemplifies how foreign-funded NGOs have been discursively framed as destabilizing agents, thereby justifying state-action under the legal-nationalist narratives.

Drafting the NGO Law: From Oversight to Suppression

The drafting of the NGO Act in Thailand began in earnest in early 2021, when the Ministry of Interior submitted a preliminary version to the Cabinet for consideration. This marked

a turning point in the Thai state's regulatory approach to civil society. Earlier frameworks, such as the 1992 Regulation on the Operation of Private Organizations, focused primarily on basic administrative functions like registration and annual reporting, and it provided for only limited enforcement powers. By contrast, the 2021 Draft Act introduced expansive provisions: mandatory registration, annual financial disclosures, restrictions on foreign funding, and broad state authority to suspend or dissolve organizations that were deemed to threaten “public order” or “national security” (Royal Thai Government, 2021). These changes signaled a qualitative shift from administrative oversight to legal suppression, a move widely criticized by both domestic NGOs and international watchdogs (Human Rights Watch, 2021; Amnesty International, 2021).

The official justification provided in the preamble and the introductory sections of the Thai NGO Draft Act further illuminates how the law frames civil society as a potential threat under the guise of maintaining public order and moral harmony. The principle on which this Draft Act function is that it highlights the ‘need’ to have a law regarding the operation of non-profit organizations. This highlights the fundamental idea that underpins the law. This is the opening of the reasoning of the law why the Royal Thai government feels this law is necessary. The Draft NGO Act provides the following reasoning as justification for the law:

“Whereas Section 78 of the Constitution of the Kingdom of Thailand stipulates that the state should promote the people and communities to have correct knowledge and understanding of the democratic regime with the King as head of state and to participate in the development of the country in various aspects, including the provision of public services, together with Section 42 of the Constitution of the Kingdom of Thailand stipulates that individuals have the freedom to unite as associations, cooperatives, unions, organizations, communities or other groups, therefore, the development of potential and the creation of strength should be promoted and supported. Non-profit organizations can operate in a tangible manner and with good governance by acting in accordance with the law, openly and transparently so that the public is aware of the activities of non-profit organizations, which is to protect public interests and maintain peace and order or good morals of the public. Therefore, it is necessary to enact this Act.”

Civil society backlash was swift. A coalition of over 1,800 NGOs issued a joint statement condemning the 2021 Draft – officially titled the “Draft Act on the Operations of Non-for-Profit Organizations” – for its vague language, lack of transparency, and disproportionate penalties (The Nation, 2022). In response, the government announced in 2022 that it would return to the

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drafting table, promising broader consultation and a revised legal framework (Fortify Rights, 2022). However, when a new version of the Law surfaced in 2024 under the name “Draft Act on Associations and Foundations”, observers quickly noted that the core repressive features remained largely intact. While the title and some procedural elements had changed, the ideological and structural underpinnings of the original NGO Draft Act persisted, suggesting that the renaming served more to deflect criticism than to meaningfully reform the legislation. According to the International Center for Not-for-Profit Law (2024), the new draft preserved the requirement for all non-profit groups to register, empowered authorities to conduct intrusive audits, and retained discretionary powers to dissolve organizations based on undefined threats to national security and public order. Procedural changes had been made but the state’s underlying logic of securitization and normative control remained structurally unchanged.

This pattern reflects the legacy of the NCPO era, during which civil society was increasingly framed as a space of potential subversion, particularly when linked to foreign funding or rights-based advocacy (Laungaramsri, 2018). Across its multiple iterations – including the 2021 version and the rebranded 2024 draft – the NGO Draft Act exemplifies this trajectory. While framed rhetorically as a measure to enhance transparency and accountability, the draft legislation consistently embeds mechanisms of preemptive control, legal ambiguity and moral filtering. These features are not incidental but structural, suggesting continuity rather than reform in the law’s core purpose. As Scheppele (2018, p. 547) writes, the erosion of democracy is not merely circumstantial but often the result of “constitutional malice” by legally savvy autocrats “who use constitutionalism and democracy to destroy both”. The evolving NGO Draft Act aligns with this logic. Across its iterations, the law adopts the formal language of transparency and public accountability, yet embeds discretionary controls that shrink civic space and reframe dissent as illegitimacy. This pattern reflects not open repression but a calculated effort to entrench state dominance through legal means, illustrating how reform under hybrid regimes can obscure continuity in authoritarian governance.

An Act of Weaponization: The NGO Draft Act as a Tool of Weaponization

Legal Provisions and Their Repressive Potential

Though publicly framed as a measure to improve transparency and accountability, the 2021 version of the NGO Draft Act (ร่างพระราชบัญญัติการดำเนินกิจกรรมขององค์กรไม่แสวงหาผลกำไร พ.ศ. 2564) contains provisions that would significantly expand state control over civil society organizations (Royal Thai Government, 2021). Its most critical weakness lies in its reliance on ambiguous terms such as “affecting public order”, “threatening national security”, and “violating good morals”, none of which are precisely defined. This vagueness enables discretionary enforcement, allowing authorities to interpret compliance in ideologically selective ways. As Human Rights Watch (2021) notes, the law gives officials “unchecked powers to shut down NGOs on vague grounds”, creating an environment of uncertainty and self-censorship. Two provisions stand out in particular.

Section 19 states: “For the sake of transparency and for the public to be aware of the activities of non-profit organizations, non-profit organization have a duty to disclose information about the organization's name, objectives of establishment and how it operates, source of funds, list of people responsible for operations, by allowing government agencies and the general public to easily access that information. The criteria and methods for disclosing information under paragraph one shall be as determined by the Committee. Information will be disclosed by electronic means in the system at the Ministry of Development.” (Royal Thai Government, 2021).

Section 20 states: “A Not-for-Profit Organization must not operate in the following manner:

1. Affect the government's security, including the government's economic security, or relations between countries.
2. Affect public order, or people's good morals, or cause divisions within society.
3. Affect public interest, including public safety.
4. Act in violation of the law.
5. Act to infringe on the rights and liberties of other persons, or affect the happy, normal existence of other persons (Royal Thai Government, 2021).”

Section 19 mandates that all registered organizations disclose operational goals, funding sources, and program activities, a measure that effectively institutionalizes surveillance under the guise of oversight. Section 20 authorizes suspension or dissolution of organizations

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based on the undefined criteria mentioned above, without requiring judicial processes into tools of preemptive control, bypassing the checks and balances of ordinary legal procedure.

The 2024 iteration, renamed the Draft Act on Associations and Foundations, maintains this underlying architecture. According to the International Center for Not-for-Profit Law (2024), the updates draft still prohibits Not-for-Profit Organizations (NPO) from operating without registration – subjecting them to criminal penalties – and grants the Ministry of Interior expansive powers to interfere in internal affairs, such as removing board members deemed “disreputable” or “opposed to democratic rule with the King as Head of State”. The law also authorizes warrantless inspections, the dissolution of organizations for broad or vague violations and invasive financial reporting – particularly targeting foreign-funded NGOs. Oversight remains politicized under the Ministry of Interior, reinforcing the risk of discretionary enforcement based on ideological or political loyalty. The most problematic sections of the Act raised in critiques of the 2021 iteration – Namely Sections 17, 19, and 20-21 – remain unchanged any meaningful way in the 2024 iteration (ICNL, 2024). This legal architecture does more than constrain; it classifies. As Bourdieu explains, the power to define legitimacy is a form of symbolic power, one that operates not by force, but by shaping what is seen as acceptable, normal, or moral. In this framework, the state does not merely regulate NGOs; it disciplines them, filtering legal recognition through politicized standards of conformity. Civil society engagement thus becomes a conditional privilege, reserved for actors who align ideologically with state-defined norms.

Financial Surveillance and the Politics of Compliance

While the Draft Act’s overt powers to deregister or dissolve organizations have received considerable scrutiny, its financial reporting and funding restrictions, codified in Section 21 and 22 reveal a more problematic layer of control.

Section 21 states: A Not-for-profit Organization which receives funding or donations from foreign sources is required to act as follows:

1. Inform to the registrar the name of the foreign funding sources, the bank account receiving the funds, the amount received, and the purposes for the disbursement of the funds.
2. Must receive foreign funding only through a bank account notified to the registrar.
3. Must use the foreign funding only for the purposes notified to the registrar in article (1).

4. Must not use foreign funding for any activity characteristic of pursuing state power, or to facilitate or help political parties (Royal Thai Government, 2021).

Section 22 states: Non-profit organizations that earn income from receiving donations from the general public, or from foreign funding sources It is responsible for preparing income and expense accounts for each calendar year, which the person responsible for operating the non-profit organization certifies its authenticity and reveal the account Income and expenditure information is easily accessible to the general public. The account of income and expenses must be kept available for inspection for three years The contents of paragraphs two, three and four of Section 19 shall apply.”

These provisions construct an administrative architecture that enforces ideological discipline through legal bureaucracy. Section 21 prohibits NGOs from using foreign funds for any activity that could be interpreted as “seeking state power” or “supporting a political party” (Royal Thai Government, 2021). The vagueness of this clause allows the state to equate political advocacy with subversion, thereby disqualifying a wide range of rights-based and development-focused intervention. This not only restricts funding sources but imposes an implicit moral judgement on the type of work civil society organizations are permitted to do.

Section 22, meanwhile mandates that NGOs publically disclose detailed annual financial reports, including income sources, expenditures, and program activities. Framed as a measure to promote transparency, this requirement institutionalizes a logic of surveillance, transforming routine compliance into a sustained performance of loyalty. These requirements place a disproportionate burden on grassroots and rights-based organizations, which often lack the administrative capacity to meet continuous financial reporting thresholds. ENLAW (2021) has warned that the Draft Act’s financial disclosure rules, particularly regarding foreign funding, could be used to stigmatize environmental and community-based organizations as politically subversive. Organizations are not merely accountable in a financial sense; they are symbolically defined into a system that equates transparency with ideological harmlessness. These mechanisms impose a burden of proof on NGOs to demonstrate that they are not subversive, effectively reversing the presumption of legitimacy and replacing it with one of default suspicion.

From a theoretical standpoint, this financial visibility operates as a form of symbolic power in the Bourdieusian sense, where the state’s ability to define what counts as “transparent”, “legitimate” or “politically neutral” becomes an instrument of classification and exclusion. Rather

than outlawing dissent directly, the law establishes a symbolic boundary that renders dissenting organizations procedurally suspect. In Laungaramsri's (2018) terms, this represents a deeper level of bureaucratic filtering, where moral and nationalistic standards are internalized not only through registration but through financial conduct. Civil society thus becomes legible to the state only insofar as it conforms to narratives of non-disruption, even when pursuing development objectives. The consequence is not merely compliance, but civic docility: NGOs are compelled to weigh the political risks of each activity, grant or partnership. Fear of misinterpretation or punitive audits incentivizes self-censorship, eroding the autonomy necessary for civil society to perform its watchdog role. In this way, Sections 21 and 22 do not monitor civil society, they reshape it, incentivizing ideological alignment through a framework that conflates legality, loyalty and legitimacy.

Discursive Threats and the Framing of Civil Society

The NGO Draft Act Operates not only through legal mechanisms of control but also through the language it employs to define the boundaries of legitimacy. From its very preamble and early provisions, specifically Sections 1 and 2 of the 2021 version), the law invokes the protection of “national security”, “public order”, and “good morals” as guiding principle, concepts left deliberately undefined but politically loaded (Royal Thai Government, 2021). These terms are not administrative. They are discursive categories that carry historical weight and cultural resonance in Thailand's political lexicon, enabling the state to conflate civic dissent with existential threat.

The Thai government has repeatedly used this framing to justify the law, suggesting that civil society must be monitored to guard against “foreign interference” and protect national values. This logic is most clearly aimed at foreign-funded NGOs, which are framed as potential vehicles for destabilization. However, the government insists that Thailand needs this new law to prevent nonprofits from straying from the work they claim to do. “We found that some NGOs and some civil organizations have not conducted their activities in a transparent manner,” said Ratchada Thanadirek, a government spokeswoman. “They have received some money and are not acting appropriately in accordance with the purpose of their organization.” (Peter, 2021) However, no concrete evidence was provided nor would it cite any names of organizations, associations or groups that the government believes are violating their mission statements, saying it did not know

exactly how authorities believe they have misused their funds. “There are several activities that we have determined are inappropriate and violate the law, but I don’t have any details,” Ratchada said (Boonreak, 2021). The spokeswoman declined to comment on the specific concerns raised by the groups about the scope of the proposed law or the powers it gives to the Home Office, but stressed that the draft was still a work in progress. “I understand the social organizations that they are not happy. I understand their position, but that is subject to review. It doesn’t end here, she said. “There is room for revision.”

This framing strategy has drawn criticism from international observers. As FIDH (2021) argues in an open letter, the Draft Act reflects a broader trend toward the repression of civic space and would grant the government unchecked and arbitrary powers over domestic and international organizations, thus legitimizing expanded control under the pretext of protecting national sovereignty. Human Rights Watch (2021) observed that the draft law “gives officials unchecked powers to shut down NGOs on vague grounds”, effectively delegitimizing advocacy through rhetorical implication. Amnesty International Thailand similarly warned that the draft law created an “atmosphere of fear”, where legitimate criticism of government policy could be recast as a security risk. The International Federation for Human Rights (FIDH, 2021) went further stating that “the government is portraying NGOs as enemies of the state “to justify a crackdown on civic space”.

This discursive strategy reflects a deeper securitization of civil society, not only in law but in the public imagination. Terms like “foreign agent” and “national security” act as semantic traps: seemingly neutral language that repositions dissenting voices as threats rather than contributors. According to a joint analysis by Asia Center and the ICNL (2024), the rhetorical coupling of civic activity with threats to sovereignty “provides legal cover for measures designed to suppress political pluralism and independent monitoring.” In this light, the Draft Act doesn’t simply regulate NGOs, it re-narrates them, producing a public perception of activism as infiltration.

As Scheppele (2018) argues, autocratic legalism involves the act of weaponizing legal form, in which elected governments use the appearance of constitutionalism to entrench authoritarian rule. As she writes, some constitutional democracies “are being deliberately hijacked by a set of legally clever autocrats, who use constitutionalism and democracy to destroy both” (p.547). Through this lens, the Draft Act is not only punitive, but productive as well: it contributes

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to a discursive climate in which critique is framed as betrayal and foreign funding as ideological subversion. By embedding these framings into the Draft Act and public discourse, the Thai state transforms law into a narrative instrument, one that renders repression not just institutional, but morally justified.

Implications for Civil Society and Development Practice

Shrinking Civic Space and Self-Censorship

The aftermath of the 2014 coup fundamentally reshaped the operational terrain for civil society in Thailand. NGOs engaged in environmental protection, human rights and advocacy for marginalized groups have faced legal and political pressure. Under the NCPO rule and into the civilianized Prayuth administration, organizations navigated intensifying surveillance, arbitrary registration hurdles, and public suspicion (Laungaramsri, 2016; Human Right Watch, 2021). As Sangkhamanee (2021) notes, many NGOs resorted to strategic compromise, modifying language, avoiding public mobilization, or retreating from contested policy areas, to ensure organizational survival.

Despite formal elections in 2019 and 2023, the political landscape has remained structurally hostile to independent civil society. While Prayuth Chan-O-Cha formally stepped down following the 2023 election, many of the securitized legal mechanisms introduced under his leadership remain intact and continue to shape governance under the new administration. The 2024 iteration of the Draft Act, which maintains key provision of earlier versions, underscores this continuity. Laws such as the Computer Crime Act and the Lese Majesté stature are still applied to silence dissent and discourage advocacy that challenge state priorities. The proposed NGO Draft Act, the 2024 iteration, deepens these pressures by normalizing state intrusion into organizational life and introducing open-ended thresholds for what constitutes unlawful behavior. Rather than relying on clearly defined legal categories, the law trades in ideological cues – patriotism, morality and public harmony – that invites broad discretionary enforcement. The persistence of unresolved issues first identified in the 2021 iteration contribute to a pervasive climate of caution, where civil society actors face growing incentives to self-censor.

The space for democratic participation in development has narrowed, as non-state-led initiatives risk being framed as illegitimate or non-compliant with state-defined norms. International

observers have warned that Thailand's civic constraints exceed permissible bounds under the International Covenant on Civil and Political Rights (ICCPR). Human Rights Watch (2021), iLaw (2021) and Amnesty International (2021) flagged the pattern of legal overreach as incompatible with international human rights norms, particularly regarding the rights to freedom of association and expression. The implications extend beyond NGO operations; they affect the foundations of participatory governance and Thailand's credibility as an international development partner committed to rights-based practice.

Anticipated Effects and Regional Trends

While the NGO Draft Act has not yet been enacted, its anticipated enforcement has already shaped the behavior of many civil society actors. According to iLaw (2021) and Amnesty International Thailand (2021), following the initial introduction of the NGO Draft Act, NGOs in Thailand began to recalibrate their operations, limiting the scope of their advocacy, avoiding controversial language, and diverting resources to legal compliance, as a precautionary response, showing the chilling effect of the draft. This form of anticipatory adaptation was particularly evident among organizations working on labor rights, environmental justice and minority protections, where heightened sensitivity to legal risk intersects with politically sensitive programming (Sangkhamanee, 2021). The cumulative legal uncertainty contributed to a widespread atmosphere of self-censorship, as many organizations adopted more cautious models of engagement to avoid potential state reprisal. Thai Lawyers For Human Rights (2022) documented numerous cases in which NGOs altered programming, canceled events, or withdrew from coalition work due to fears of violating vaguely defined national security clauses.

The Draft Act, which was approved in principle by the Thai Cabinet in early 2021 for further legislative development, may institutionalize this cautious posture in additional ways besides self-censorship (ICJ, 2022). Development actors had already reported increased administrative burdens related to registration, reporting and financial transparency, especially when receiving foreign funding. These procedural obligations, while framed as regulatory standards, place strain on smaller organizations and community-based groups, whose resources are limited. In contests where programmatic flexibility is critical, such constraints may lead to delays, scaled-back interventions, or the suspension of advocacy-related components (Kohpaiboon & Jongwanich, 2020). As iLaw (2021) notes, the legal ambiguity surrounding what constituted “political activity” or “public order violations” compounds this challenge by making full

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legal compliance uncertain even for well-intentioned actors. Although it is premature to claim definitive impact, the current climate, shaped by overlapping laws, surveillance practices and legal reforms, may already have begun to alter civil society's engagement with development. The result is not necessarily withdrawal, but can be interpreted as a form of strategic retreat, where NGOs weigh legal risk against mission goals, often opting for institutional preservation over public advocacy.

Conclusion

This article has examined Thailand's NGO Draft Act as part of a broader shift toward securitized governance. Rather than functioning as a neutral oversight mechanism, the Draft Act reflects how legal frameworks can be mobilized to redefine civic legitimacy. Through its language, structure and expected enforcement, the law positions civil society not as a development parent, but as a potential threat. This aligns with Scheppele's notion of autocratic legalism, whereby laws serve not as neutral rules but as instruments for sustaining authoritarian control. Drawing on Laungaramsri's observations on the post-2014 Thai state and Bourdieu's concept of symbolic power, the analysis has shown that the Act operates through more than legal restriction: it imposes categories of legitimacy. Organizations are not only regulated, but classified, with legal recognition tied to ideological alignment and procedural compliance. While not yet enacted, the Draft Act has already prompted caution among civil society actors, particularly those engaged in advocacy and rights-based work, this anticipatory adaption reflects a broader transformation in the governance of development: one that privileges conformity over contestation. Civil society in Thailand is not merely shrinking, but undergoing a structural recalibration shaped by legal and normative criteria. By filtering participation through moral and administrative criteria, the Draft Act narrows civic space without resorting to outright bans; instead it reframes dissent as deviance and independence as risk, embedding control within the formal language of law. This shift signals a deeper redefinition of development as a state-managed, ideologically bounded domain.

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