Landscapes of the Law: Injury, Remedy, and Social Change in Thailand

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Sociolegal theorists since Weber have postulated that state law operates by interacting with and responding to nonstate legal orders. This article, examining conceptions of injury and compensation in Thailand, analyzes two ways of mapping law onto the landscape. The first is associated with state law and legal institutions established at the turn of the twentieth century. The state legal system imagines space from the outside in, drawing a boundary line and applying law uniformly throughout the jurisdiction it has enclosed. A second type of mapping, which has been more familiar over the centuries to ordinary Thai people, imagines space from the inside out. Nonstate legal orders are associated with sacred centers and radiate outward, diminishing in intensity and effectiveness with distance. This article, based on extensive interviews with injured persons and other actors and observers in northern Thailand, examines the interconnections between these two ways of imagining the landscape of law. It suggests that recent transformations of Thai society have rendered ineffective the norms and procedures associated with the law of sacred centers. Consequently, state law no longer interacts with or responds to nonstate law and surprisingly plays a diminished role in the lives of ordinary people who suffer injuries.

Beneath the wings of a jumbo jet flying north to Chiangmai from the coastal plains of central Thailand, the landscape rises into densely forested mountain ranges separated by long river valleys and covered with teak, bamboo, pyinkado, padauk, and pine. Towns were built centuries ago where the river valleys widen and some, such as Chiangmai, are now bustling cities choked with motorcycles and cars. In the plains and on the hillsides, villagers cultivate rice, grow vegetables, and tend fruit trees. From an airplane, northern Thailand is a panorama of wild mountains, rice fields, orchards, and urban sprawl.

Looking out the window, passengers cannot, of course, see the borderlines separating Thailand from neighboring Myanmar or the province of Chiangmai from the adjacent provinces of Tak, Maehongson, Lampang, Lamphun, and Chiangrai, although the aerial view of the Thai state is precisely the perspective favored by governmental mapmakers. Nor can passengers discern features of the physical landscape that have special significance for the people below, such as sacred trees and pillars, or village shrines and temples, although these features of the physical landscape support nonstate imaginings of the geography of northern Thailand. As the plane descends and its wheels thump on the tarmac, some passengers acknowledge these sacred features of the landscape by lifting their hands together palm-to-palm (*wai*) to show respect to the venerated mountain crest of Doi Suthep, which overlooks the city of Chiangmai. Others give silent thanks to the Buddha and to the magical amulets and spirits that have protected them on their journey.

Since the mid-nineteenth century, differing conceptions of law have been written on the landscape of northern Thailand.[1] In recent years, as a result of social and demographic shifts, this landscape has once again been reimagined, resulting in new juxtapositions of legal norms and procedures. The analysis in this article focuses on injury and injury compensation. Concepts of injury are inseparable from concepts of the person who can be harmed, and persons—as we shall see—are constituted in large part by the places in which they live. Reading the landscape of law thus entails an understanding of the places in which human identity is formed and of the systems of injury remediation that pertain to them.

When injury victims locate their mishaps in the physical and social landscape, they determine both the interpretive frames through which their injuries can be perceived and the range of potential responses that are available to them. Mapping an injury connects the event to concepts of legality that are associated with particular social and political spaces. This article explores the landscape of injury in northern Thailand, an area affected in recent years by intense global influences. By examining the connections between injury and place during a time of rapid social change, I hope to demonstrate how the role of the formal legal system can be

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[1] The term *landscape* here denotes both physical features of the land and their subjective apprehension by various persons and groups of people. It refers to the symbolic, ideological, scientific, and religious interpretations of natural objects and of human structures on the earth's surface in northern Thailand. Compare Cosgrove: "Landscape is not merely the world we see, it is a construction, a composition of that world. Landscape is a way of seeing the world" (1984:13).

unexpectedly diminished or even rendered irrelevant as the effects of change are experienced.

Law and society theorists have long recognized that multiple systems of law operate in particular locales, despite the assertion of legal supremacy by the nation-state (e.g., Ehrlich [1913] 1975; Galanter 1974; Engel 1980; Certeau 1984; Merry 1988; Santos 1995; Fitzpatrick 2005). It is said that modern law[2] arrives after the cartographers have drawn their maps. The state's reimagination of space makes possible the creation and dissemination of new legal norms, institutions, and procedures (compare Vandergeest & Peluso 1995). The imposition of a comprehensive and uniform system of modern law requires governments first to imagine the landscape in particular ways, draw maps to scale displaying the entirety of their terrain, and then to measure, simplify, standardize, and assert power over the peoples and social practices within (Harvey 1990:249–50; Scott 1998; Foucault 1980:68–9).

Yet the state's effort to enclose a territory and impose legal order upon it can never supplant all other legal orderings and other mappings. Modern law never fully occupies the space over which it claims sovereignty (e.g., Galanter 1974; Certeau 1984; Santos 1995; Fitzpatrick 2005) but must inevitably interact with other unofficial or quasi-official legal orders in society. Weber, in his classic study, *Economy and Society*, wrote, "[W]e categorically deny that 'law' exists only where legal coercion is guaranteed by the political authority" (1978:316–7) and insisted that state law must be understood in terms of its mutually dependent relationship with nonstate legal systems. Contemporary law and society scholars have often expressed agreement with this perspective. Galanter, for example, describes the function of state law and its role in everyday life in terms of its connections to dispute settlement systems "appended to the official system" and other "informal systems of 'private justice' which invoke other norms and other sanctions" (1974:126–7). Santos (1995) employs the metaphor of

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[2] Throughout this article, imaginary quotation marks should be placed around the terms *modern* and *modern law*. These terms are not meant to convey approbation or even as concepts that have empirically verifiable referents. Rather, as Asad explains, "Modernity is a *project*—or rather, a series of interlinked projects—that certain people in power seek to achieve. The project aims at institutionalizing a number of (sometimes conflicting, often evolving) principles: constitutionalism, moral autonomy, democracy, human rights, civil equality, industry, consumerism, freedom of the market—and secularism" (2003:13; emphasis in original). Support for the project of modernity has been evident in Thailand dating back to the aspirations of the Thai elite during the reign of Rama V to be *siwilai* (civilized) and embrace Western models of law and culture (Baker & Phongpaichit 2005:65). The concept of modernity as an ideological project espoused by the Thai elite is distinguishable from the sometimes unintended and often unplanned processes of socioeconomic change that have taken place in Thailand for the past 150 years and the radical socioeconomic transformations associated with "globalization" during the past quarter-century.

the map to describe what he calls the "interplay" between different forms and scales of legal regulation. Fitzpatrick describes the paradox of modern law, which "must assert a fixed and determinate position within its sphere, yet it must remain 'infinitely responsive' to that which is outside legal norms (i.e. culture and society)" (2005:9).

Law and society scholars have agreed that the patterns of interaction and response between state law and unofficial law are highly significant. To understand how and why state law is used, according to prevailing sociolegal theory, one must consider its interplay with other normative systems that may or may not have official status. For example, Santos, writing about legal maps, proposes the concept of "interlegality": "[O]ne cannot properly speak of law and legality, but rather of interlaw and interlegality. More important than the identification of the different legal orders is tracing the complex and changing relations among them" (1995:464). Yet these theorists typically characterize the interplay between state law and other legal orders as dynamic and emergent, producing new and sometimes unexpected practices within the domain of state law or the transformation and even revitalization of non-state legality.

In this article, by contrast, a close look at the landscape of injury in Thailand suggests a different conclusion: that the process of rapid social and demographic change may have led to the *end of interlegality*, at least with regard to injury cases. Pathways that formerly connected one legal imagining to another have been obliterated, and the state's mapping of social and legal space has become disconnected from localized mappings based on "sacred centers." The severing of links between these two forms of legal mapping in Thailand has profound and counterintuitive implications for the rule of law, secularization, and customary legal practices in a rapidly changing Asian society.

Two Types of Legality in the Imagined Spaces of the Thai Landscape

Drawing on research conducted in Chiangmai over a 30-year period,[3] this study suggests that two different kinds of legality were inscribed on the Thai landscape during the nineteenth and twentieth centuries. The first is the legal system associated with the modern Thai state, which imagines space from the outside in. It draws a jurisdictional perimeter around the space it claims. It names the people and objects within that space and defines their

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[3] See Appendix for a full description of the research design and methodology.

relationships, rights, and obligations. It provides institutions and procedures for regulating social interactions—including injuries—within the space it has enclosed. As Delaney and colleagues observe:

> Boundaries *mean*. They signify, they differentiate, they unify the insides of the spaces that they mark …. How they mean is through the authoritative inscription of legal categories, or the projection of legal images and stories on to the material world of things. (2001:xviii; emphasis in original)

Sociolegal scholars, from Weber to the present, regard the creation of national legal maps as a critical turning point. The superimposition of state law attempts to replace geographically specific legal orders arising from localized personal networks with the "law of the land … the *lex terrae*, which was applicable to everyone regardless of personal characteristics, and imposed as a heteronomous law within the boundaries of a given territory" (Santos 1995:468).[4]

This particular reimagining of law and space occurred in Thailand[5] most dramatically during the reign of Rama V (King Chulalongkorn) from 1868 to 1910. Relying on Western surveyors and European concepts of cartography, the Thai government established a boundary line around the kingdom within which it could claim rights of sovereignty and fend off the English and French, who occupied neighboring countries (Winichakul 1994:121; see also Engel 1975, 1978; Harding n.d.). Inside this national perimeter, the new Thai state created subdivisions known as *monthon*, or administrative circles, and within each *monthon* were nested subunits—provinces, cities, and villages (Engel 1978; Winichakul 1994). These new mappings defined space by drawing imaginary lines around the outer edges of the most important places. The king assigned administrators to each of the governmental units and subunits contained within these boundaries, and he promulgated new laws applicable within the territories thus established.

Relying heavily on European legal models and on legal advisors from Europe and Japan, the king and his son, Minister of Justice Prince Ratburi Direkrit, launched a complete transformation of Thai law. In 1896, the Law of the Provincial Courts created a three-level judiciary in the regions outside Bangkok, including Chiangmai. In 1908, the Law of the Courts of Justice transferred

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[4] Santos cites and summarizes a key argument from Weber's *Economy and Society: An Outline of Interpretive Sociology* (1978:698, 724).

[5] Thailand was known as Siam until the name was officially changed under King Rama VIII in 1939. For consistency and clarity, I refer to the country as "Thailand" throughout this article.

control of the provincial court system from the Ministry of Interior to the Ministry of Justice. A law of evidence was promulgated in 1895, provisional codes of criminal and civil procedure in 1896, and the Penal Code in 1908. The codification process continued after the death of Rama V in 1910. Between 1924 and 1935, the six books of the Civil and Commercial Code were enacted, and permanent codes of criminal and civil procedure appeared in 1935 (see generally Engel 1975, 1978; Harding n.d.). As a result of this process, the national legal system permeated the newly reimagined space of the state of Thailand.

Despite the enormity of Thailand's legal transformation in the late nineteenth and early twentieth centuries, the everyday lives of ordinary Thai people have always been guided in many significant ways by a *second* type of legality derived from different concepts of place and personhood. This second kind of legality, which I refer to as the law of sacred centers, imagines space from the inside out. It is more concerned with the distinctive features of the physical landscape and the human communities that are, to a large degree, extensions of the landscape. It is less concerned with external boundary lines. This type of legality emanates outward from centers of authority, which are associated with sacred pillars, shrines, temples, villages, trees, and mountains.[6] People's identities are shaped from birth by the sacred centers, which govern many important aspects of life and human interaction. Near the center, such legal systems are strongest and can command the acquiescence of persons involved in injury cases, but they weaken with distance as they merge and overlap with other centers and authority figures.

Legality associated with sacred centers radiates outward. By contrast, the conception of space and law ratified by Rama V was an act of enclosure establishing a perimeter around the outside, which created a flat and undifferentiated space within which Thailand's new laws and codes might operate. The distinction between these two conceptualizations of sociolegal space echoes and draws on Anderson's comparison of the "dynastic realm" and the nation-state:

> Kingship organizes everything around a high centre . . .. In the modern conception, state sovereignty is fully, flatly, and evenly operative over each square centimetre of a legally demarcated territory. But in the older imagining, where states were defined

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[6] Vandergeest and Peluso (1995, citing Tambiah 1976:102) discuss the spatial design of premodern towns and communities in many parts of Southeast Asia as organized around "a located sacred center (identified with Mount Meru) from which power radiated outward, becoming more diffuse with distance" (1995:395).

> by centres, borders were porous and indistinct, and sovereignties
> faded imperceptibly into one another. (Anderson 1991:19)

The exclusivity of state law across the landscape of Thailand was never realized in practice. As we shall see, the law of sacred centers continued for generations to regulate many central aspects of local life, including the resolution of injury cases. Nevertheless, the two types of legality interacted in distinctive ways. When injuries occurred, some claims traveled back and forth between the two forms of legal regulation, and certain aspects of injury litigation in the national courts can be explained only in terms of the pursuit of nonstate norms within the state legal system. In the 1980s and 1990s, however, an interconnected set of economic, demographic, and cultural changes in Thailand (described below, pp. 79–85) transformed and diminished the radiating effects of sacred centers of authority and, consequently, altered the identities and beliefs of ordinary Thai citizens.

By focusing on injuries as social and legal phenomena, it is possible to perceive with some clarity the effects of social change on the relationship between state law and the law of sacred centers and on the conceptualization of persons and the harms they suffer. In this article, injury is defined as the equivalent to the Thai term *baat jep*, a colloquial and legal expression meaning bodily harm or wound (Haas 1964:288). The interviewees well understood the concept of tangible physical injury and used *baat jep* to describe the mishaps they had suffered that required medical treatment. In contemporary Thai culture, however, concepts of the individuated self exist in a sometimes uncertain relationship with notions of the person embedded in "community culture" (Tanabe 2002:43), and similarly, concepts of physical injury overlap with the belief that traumatic harm can cause less tangible sickness of the body and mind and can damage the community as a whole. In some respects, the tangible and intangible aspects of the human personality are inseparable. While retaining a primary focus on physical manifestations of harm, therefore, this article also explores some of the connections between individualized and material forms of injury on the one hand and collective and spiritual effects on the other. It suggests that the social transformations Thailand has experienced have changed these perceptions of injury, person, and the landscape of law.

Injuries in northern Thailand have in recent years undergone a dual process of relocalization and delocalization. As individuals live their lives and engage in social interactions far removed from the sacred centers of the traditional landscape, injuries become relocalized. That is, the mishaps themselves occur in distant places outside the communities where individuals were born and remote

from familiar dispute resolution procedures or authority figures. At the same time, injuries become delocalized as people adopt new ways of thinking that strip away the locational and communitarian significance of these mishaps altogether. Delocalization of injuries in effect removes them from the map entirely and thereby raises difficulties for the handling of injury claims within any system of legal ordering.

The relocalization and delocalization of injuries have changed the relationship between the two types of legality in Thailand and have affected the salience of state law in regulating interactions between injurers and those they have harmed. One might even say that the transformation of the landscape of injuries has left Thai people bereft of any form of law and without any workable remedy when they suffer harm at the hands of another person. To explain why this has come to pass, it is necessary to describe the transformation of the law of sacred centers in the late twentieth century and the effect of this transformation on popular understandings of law and justice.

The Landscape of Sacred Centers

Although the customary law of injuries associated with sacred centers has undergone significant changes in recent years, it is still possible to describe its distinctive characteristics and procedures as they functioned before the period of intense social change in the late twentieth century. This description is based on interviews with persons who had suffered injuries and with village leaders, monks, spirit mediums, lawyers, insurance adjusters, scholars, and other observers. Collectively, these interviewees portrayed an imagined landscape of injury and identity in northern Thailand that they associated with the past—with the world of their parents and grandparents. This world, an amalgam of Buddhism, spirit worship, and other local practices, still had some significance for them. It was, after all, the world into which many of them were born. Yet nearly all the interviewees conveyed a nostalgic sense that the landscape had now changed, that they now lived in a different world.

Households, Villages, and Their Inhabitants

In the past, according to the recollections of many interviewees, individuals in northern Thailand were literally born into houses—this was before hospital birthing became common. The houses were themselves geographical locations constructed around a sacred center, the "auspicious post" that served as "the ritual center of the dwelling" (Davis 1984:49). The inhabitants of the house

were guided in their actions and interactions by spirits. When a child was born, his or her identity was immediately established by announcing to the spirits that a new family member had arrived and had become part of the mini-jurisdiction over which the spirits presided. The elders placed the newborn child on a flat, round bamboo tray for winnowing rice and asked the household spirits and the ancestral spirits of the family rice pot to guard and protect the newborn: "Receive this baby as your child; accept this newborn member of our household" (interview with Thiphaa).[7]

The identity of each villager was connected from birth to a sacred location and a geographically based community of humans and spirits. Injuries, illnesses, and other mishaps were located in relation to house and village. For example, if a baby cried all night or if a child was sick or injured, the family prayed for the intercession of the ancestral spirits of the rice pot, which was, of course, a prominent feature of the house's kitchen—a "place" in the geography of the home. Other household spirits required regular propitiation and notification of the family's comings and goings. In exchange, they offered protection against harm: "If you wanted to do anything, you had to consider the household spirits first. They were always watching. People respected them" (interview with Banchaa). Villagers propitiated the spirits and asked for their protection on special occasions by praying: "Household spirits, please guard and protect us. Look after our house. Keep us from harm. May those who live in this house live in happiness and comfort" (interview with Banchaa).

Spirits were involved in many aspects of injury practices. Injuries inflicted on a villager could offend the spirits and require propitiatory ceremonies. If individuals behaved disrespectfully, the spirits themselves could cause injuries as a form of punishment. When injuries or illnesses occurred, moreover, the household spirits had the power not only to relieve suffering but also to identify the underlying cause. In one such ritual, the family rice pot was covered with a shirt, and two women who were traditional healers sat on either side. They would ask the spirits of the rice pot, "What about this person? Where did he get in trouble? What did he do wrong?" A wooden stick, suspended above a large flat bamboo tray filled with grains of rice, would then swing back and forth as the spirits inscribed their answer in the rice (interview with Műang).

The intimate relationships of the household were enlarged and replicated at the village level. The word for village, *muu baan*, means literally "a group of households." The village chief in northern Thailand is the *phɔɔluang*, or "big father," suggesting a

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collective familial relationship within the village. Guardian spirits watched over the entire village, just as they watched over each household (see Wijeyewardene 1970; Terwiel 1976; Rhum 1994; Tanabe 2002). Even Buddhist temples had their own (non-Buddhist) guardian spirits, or *sŭa wat*, which were propitiated by monks and villagers. One commentator has used the term *villagers' Buddhism* to describe this mixture of Buddhist and non-Buddhist elements in rural Thai communities (Ramitanon 2002:34). Locality spirits were part of village cosmologies that also included Buddhist shrines, temples, monks, and saints.[8]

Shrines for the guardian spirits are familiar features of the village landscape and were remembered as the site of prayers and offerings. They were consulted in cases of injury or illness, so that the spirits could identify the cause and suggest a remedy:

> If someone in the house was ill or injured and didn't get better after seeing a doctor, the elders would go and make an offering at the shrine of the guardian spirits. They would ask the spirits to enter their dreams and explain why the person was suffering and what needed to be done to get better. (interview with Banchaa)

Village leaders resolved conflicts, including injury cases, by reminding disputants that they worshipped the same guardian spirits. They were, in essence, brothers and sisters.

Households and villages were nodes of social and spiritual interconnection. Residence in these communities conferred identity on humans and spirits and gave a place and a meaning to important events, including injuries. The communities were locality-based, centering on shrines and sacred markers that symbolized the spatial locus of human and supernatural authority. Identity as a household member and villager arose from participation in these communities of people and spirits. In order to understand how injuries were conceptualized and handled within these social locations, it is necessary to mention some of the key attributes of identity that were assumed by those who resided there. These identity attributes defined the nature of injury itself—what aspect of a human being was harmed when an injury occurred, and what remedy or response was most appropriate for the injury victim and the community as a whole. Particularly relevant to an understanding of injuries were the components of identity known as *khwan* and *winyaan*.

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[8] Ramitanon (2002:33–4) emphasizes the distinction between this integrated and embedded type of Buddhism, which he calls *villagers' Buddhism*, and the more abstract and doctrinal strain that he terms *orthodox Theravada Buddhism*.

The first identity attribute, the *khwan*, is a flighty spiritual essence found in all living beings and in some natural objects such as rice fields, mountains, and even automobiles.[9] When an individual suffers fright, trauma, or physical injury, it is said that the *khwan* flies out of the body, and a ritual—known as *riak khwan* or, in northern dialect, *hɔɔng khwan*—must then be performed to recall the *khwan* and bind it in the body by tying a sacred string or thread around the wrists. Loss of the *khwan* causes the individual to become unwell, both physically and mentally, and the confusion and alienation of the afflicted person was, at least in the past, understood to pose a risk to the entire community. Symbolically, the lost *khwan* was thought to escape from the physical boundaries of the village and enter a realm beyond that of human society. As Tambiah writes concerning the *khwan* ceremony in Northeast Thailand,

> [T]he spirit essence is thought of as having gone to that part of the external world which is the very opposite of society and human habitation (village) – the forest, cave, mountain, river – lured there by animals of the forest . . .. In other words, the escape of the spirit essence from an individual is suggestive of the escape of a person from his village and community members and into the forest and its non-human inhabitants . . .. When the elders call the *khwan* and restore it to the body, it is they who are charging the celebrant with the vital social force of morale, and they thus enable the celebrant to accept and bind himself to what is expected of him. (Tambiah 1970:243)

Recalling the *khwan* of an injured person was seen as essential to repair the fabric of the community. Significantly, the payment made by the injurer was—and still is—referred to as "payment for the *khwan*" (*khaa tham khwan*). This term, even today, is widely used in Thai society to describe the compensation that is paid in an injury case. It is understandable that, in the closely integrated village society of humans and spirits, the entire community would insist that the injurer pay compensation. The injurer's transgression put everyone at risk, and the victim would cease to be a functional member of his or her family and village until the *khwan* was recalled and bound firmly into the victim's body. Because each injury had this communitarian dimension, compelling the payment of injury costs was assumed to be essential to the preservation of village society.

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[9] Each human possesses 32 *khwan*, located in various parts of the body (Rajadhon 1963; Nimmanhaemin 1978:106; Chetphatanawanit 2004:63). Because the Thai language does not require a distinction between singular and plural nouns, in common speech *khwan* could refer to one or all of the 32 spiritual essences in the human body. Since English requires us to avoid this ambiguity, however, *khwan* in this discussion is a singular noun.

The second component of human identity that is relevant to this discussion of injuries is another type of spiritual essence known as *winyaan*. More durable than the *khwan*, the *winyaan* leaves the body only at the time of death. Buddhist rituals to make merit for the *winyaan* can ensure its progression toward a favorable future life, and ultimately the *winyaan* should undergo reincarnation; but when death results from an injury, there is a danger that the *winyaan* will remain at the spot of the fatality. When a violent or unnatural death (*taai hoong*) occurs, the *winyaan* that is allowed to linger at the location becomes the most dangerous type of ghost (*phii taai hoong*). It waits until other humans come near in order to sicken or kill them, so that a new *winyaan* will take its place and it can continue its normal path in the cycle of birth and rebirth. Thus, when violent or unnatural deaths occur, it is imperative that a ritual be performed to prevent this type of dangerous and malevolent ghost from being created.[10] Interviewees recalled that paying the cost of these merit-making ceremonies in cases of abnormal death was an obligation assumed by the injurer. The entire village had an interest in enforcing this obligation, since everyone was put at risk by the dangerous and malevolent *phii taai hoong*.

In sum, the remembered mapping of injuries onto the landscape of northern Thailand began with traditions located in households and villages. In proximity to those geographical centers, individuals acquired an identity and a status, and they fell under the protection of territorially based authorities—both human and supernatural—who could interpret the cause of injuries, identify the transgressions that caused them, and enforce the payment of compensation. Injuries within the community disrupted social harmony and threatened the well-being of all. The risks associated with this kind of normative violation were voiced by the spirits through various means, such as the ritual to ascertain the views of household spirits, ceremonies associated with spirit mediums, traditional healers, and others. Village elders, including the village or subdistrict chief, served as agents of human authority to compel the payment of compensation. All these practices were understood to be consistent with "villagers' Buddhism," which was actually a heterogeneous mix of Buddhist and non-Buddhist customs and beliefs.

According to Eoseewong (1998:22–24), the household and village guardian spirits formerly enforced a localized customary law at the village level. When villagers violated social norms, the guardian spirits identified the transgressors and demanded that they be called to account. He distinguishes between the ghosts of particular

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[10] Such rituals were called *thɔɔn* winyaan or *suut thɔɔn*. They provide another illustration of the seamless merger of Buddhism and spirit-based practices.

deceased individuals—the *winyaan* that linger among humans and
cause trouble rather than proceeding on the cycle of rebirth—and
the household or village guardian spirits. The latter, according to
Eoseewong, were regarded generically as ancestral spirits but were
not associated with any identifiable individual. As nonindividual-
ized beings, they played a key social role. They were not the
frightening "ghosts" that, in Eoseewong's view, became part of
Thai folklore relatively recently. Rather, they were the respected
upholders of social norms and customs. In particular, the locality-
based guardian spirits were the enforcers of a village-level cus-
tomary law concerning injury and compensation.

Injuries Far From Home

As recalled by the interviewees in this study, the prototypical
law of sacred centers was the localized customary legal order as-
sociated with the house and village. Space was conceived as radi-
ating outward from these centers—and from the guardian spirits
and markers around which the centers were constructed. Their
potency weakened as individuals moved farther from them—
across the fields, into the forests, and onto the highways leading to
other villages and towns. Injuries located at a distance were less
likely to result in compensation to the victim. Of course, other
villages, towns, and provinces also had their own sacred centers.
Yet for each person one particular locality had special significance
—the one where he or she was "registered" with the guardian
spirits and familiar with the local norms and authority figures.
Outside this locality, unless the person had re-registered with spir-
its elsewhere, legal enforcement became problematic.

Beyond the village and the rice fields, and in some cases di-
rectly adjacent to them, the dense forests and mountains of north-
ern Thailand represented zones of ambiguity and risk. Unlike the
village, the forest was unregulated by customary law. It was wild
and uncivilized. Injuries in the forest, it seemed, were nearly always
caused by dangerous spirits who lived beyond the boundaries of
civilization. Such spirits could be offended by improper human
behavior, even when it was inadvertent, and in retaliation they
could cause injury or illness or could cause the transgressor to
become hopelessly lost. Stepping on or climbing a tree occupied by
a spirit could lead to unfortunate results, and many injuries oc-
curred because villagers urinated or defecated in the forest without
asking permission of the spirits. Forest spirits could also cause in-
juries in retaliation for highway construction projects that de-
stroyed their habitat. When major highways were built, the
foreman would promise the spirits that, in return for permission

to complete the construction without incident, they could take the life of a traveler in the future:

> When you built a new highway, you didn't sacrifice a chicken; you sacrificed a person. You offered a person's head. They left it to the spirits to choose a person who had come to the end of his karma and whose time had come to die. If it's not a person's time, he won't die. That's how it is. (interview with Jampaa)

Thus, vehicular injuries on these new highways could be attributed to the forest spirits rather than human negligence, although the Buddhist concept of karma also played a part in the selection of one person rather than another as the victim. The spirits of the forest were not benevolent like the ancestral spirits located in households and villages, nor did they enforce customary legal systems that provided compensation. The interviewees' accounts of injuries in the forest never described dispute resolution between a victim and a negligent injurer. Instead, the responsibility for the injury was always assigned to malevolent spirits, even when another human actor was obviously involved. Distance from the village in such cases affected the interpretation of injuries and diminished the effectiveness of ordinary compensation mechanisms.

The weakening of the law of sacred centers became more pronounced as individuals traveled farther from home, toward other villages and towns. The highways themselves could be a source of danger since the malevolent ghosts of accident victims resided along the roadside. When injuries occurred on the highway, the cause was often traced back to the depredations of these ghosts. They could obscure the vision of a person who came too close or could otherwise try to cause a fatal accident in order to have the victim's *winyaan* take the place of the ghost and allow the latter to leave that location and resume its spiritual progression toward a new birth. Such explanations did not necessarily support the assumption that the injured person should receive customary compensation from another human, since the essence of the problem was the ghost.

Injuries far from home presented another problem: the difficulty of negotiating a remedy. When both parties lived in the same village, the village chief or subdistrict chief (*kamnan*) could remind them of local norms and expectations for paying compensation after an injury took place. But when injuries occurred on the highway, the parties were likely to have been strangers to one another and may have found themselves without a mutually acceptable mediator. In such cases, injurers who disagreed about their obligation to pay compensation might discover that there was no authority figure to compel them to change their

minds. In legal spaces where authority radiates outward from a sacred center, the more distant a location is from the center that holds significance for the disputants, the more problematic enforcement becomes.

Injuries Off the Map: Delocalized Causes of Harm

I have spoken thus far of injuries that were associated with specific locations: the house, the village, the forest, and the highway. Yet even in the imagined landscape familiar to preceding generations, many causes of injury were not locality-based and could not be mapped at all. For example, karmic explanations of injury, which often appeared in combination with other explanations, were not place-specific. They referred to the injured person's own misdeeds, either in this life or in an earlier life. The injury was thus a consequence of actions the injury victim had previously directed at the injurer or at another person or even an animal. The effects of these actions later manifested themselves in the form of an accident.

Karmic explanations placed the ultimate causal responsibility on the victim him- or herself. What then of the injurer? A different type of explanation that may be more common in the present than in the past is negligence. The concept of negligence is also "off the map" in that its causal roots are not fixed to any particular geographical location. The Thai word for negligence is *pramaat*, which is also a legal term, but its colloquial meaning in Thai is more complex than it is in English. When individuals cited the injurer's negligence as one cause of their injury, they usually hastened to add that they themselves had also been negligent. Negligence on the part of both parties—injured and injurer—appeared to be linked conceptually in the minds of ordinary people in Thailand.

Injuries occurred because both parties lacked *sati*, or mindfulness. *Sati* is another Buddhist concept, signifying a mind that is focused, calm, aware, and undistracted.[11] *Sati* can be achieved through concentration and meditation as well as a philosophical understanding of the illusory quality of everyday life. Negligence is, in a sense, the opposite of *sati*. As one interviewee observed, "[I]f you are negligent then you don't have *sati*; you are acting without *sati*" (interview with Uthit). The concept of negligence was thus connected to the lack of mindfulness by the victim as well as the injurer, and both in turn were tied to the Buddhist concept of an

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[11] "*Sati* denotes self-watchfulness, which is to distance or detach oneself from one's thoughts and actions and so attain mental and moral equilibrium. *Sati* or mindfulness is the basic Theravada meditative practice, usually developed by the practice of observing the inward and outward breath" (Jackson 2003:135).

undisciplined mind[12] and a lack of spiritual training and aware-ness. Moreover, the teachings of the Buddha would explain that negligence was a secondary cause of injury, not the root cause. The root cause, from a Buddhist perspective, is karma. The carelessness of both parties and their lack of *sati* have karmic origins.

Karma and negligence are two of the most important "off-the-map" causal explanations for injuries. Neither cause has specific spatial referents; neither has a geographic "place." Interviewees also identified other nonlocalized explanations for injury. The concept of fate or destiny (*khrɔ*), for example, is connected to karma yet distinguishable from it. Women "have *khrɔ*" when their age is an odd number, but men have *khrɜ* and are therefore more susceptible to injury, when their age is an even number. According to Keyes, *khrɔ* is a non-Buddhist concept of causation "that operates irre-spective of the moral actions of people, whereas the Buddhist con-cept of Karma relates all causation ultimately to moral action" (1977:117). Nevertheless, injury victims in northern Thailand tended to merge the two concepts, and they spoke of their *khrɔ* as the product of bad karma they had accumulated through misdeeds in their current or previous lifetimes.

Injuries sometimes arose from another nonlocalized cause, one's "stars" (*duang*). When a person's stars are in the ascendancy, good luck of all kinds may occur—one may win the lottery, succeed in gambling, and achieve success in all endeavors. But when one's stars are on the decline, bad fortune is likely, and injuries may occur.

Injuries could even be caused by a person's name. One inter-viewee, for example, complained that his parents did not choose a name for him that was appropriate for the day, month, and year of his birth. An inappropriate name can bring bad luck and make one susceptible to injuries. At the time of the interview, he was consid-ering a name change in order to improve his luck and avoid fur-ther mishaps. A female interviewee changed her name after her husband was killed in a traffic accident, but this did not protect her several years later from a motorcycle collision that broke her leg. It may, however, have made her accident less serious and saved her life.

All these delocalized causes of injury—karma, negligence, ab-sence of *sati*, fate, stars, and other forms of bad luck—had one thing in common: none of them, except perhaps the injurer's neg-ligence, was associated with a remedy of any kind, or at least a

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[12] Compare French: "In Tibetan Buddhism the mind, like a wild elephant racing through the jungle, must be tamed through ethical actions, meditation, understanding, and habitual calm, clear thought. The liberated mind achieves enlightenment; the afflicted mind creates conflict" (1995:75).

remedy that the injurer was obliged to provide. If the cause of the injury was the victim's own karma, contributory negligence, lack of *sati*, fate, or bad luck, then why should the injurer take responsibility? In the past, these delocalized causal explanations were familiar and widely accepted, yet they did not necessarily relieve the injurer of an obligation to pay compensation. When injuries occurred in villages near the watchful eyes of the guardian spirits, the delocalized explanations were rarely regarded as the *exclusive* cause of the injury. Causation was multiple, shifting, and overlapping. No single explanation trumped the others. All of them were relevant, and combinations of them were likely to be mentioned when an injury occurred. The village chief could refer to the victim's karma at the same time that he reminded the injurer that he or she had violated local norms and disturbed the well-being of the entire village. Injuries could be simultaneously localized and delocalized. In the normal course of things, injurers were in the end expected to pay compensation.

Interrelationship of Two Legal Geographies—A History of Interlegality

The recollections of the interviewees in this study make it possible to reconstruct the landscape of injuries in northern Thailand in the period before the effects of globalization intensified. Etched on the strikingly beautiful terrain were two different conceptualizations of space and law—one supported by the authority of the state and the other by the authority of sacred centers. These two different forms of mapping interacted in distinctive ways. When injury cases arose in village settings, they were most often resolved by local authorities, particularly the village chiefs. Local leaders could invoke unofficial customary law to compel injurers to pay compensation by citing norms associated with village guardian spirits. They could also cite "modern" law and promote settlements with reference to the norms and procedures—and risks—of the official legal system. Thus, the two types of legality converged in this type of mediation, marking a point of intersection between the two maps.

The two types of legal mapping also converged occasionally in lawsuits brought by injury victims in the provincial court. Injury cases could be filed as tort claims or as private criminal actions in which the injured party acted as prosecutor. Such cases were infrequent, according to research I conducted in Chiangmai during the 1970s, but they did appear at a steady rate. Internal evidence in cases filed from 1965 to 1974 suggests that the purpose of litigating injury claims was to obtain a settlement that had somehow been

blocked at the level of customary law (Engel 1978:137–49). For example, sometimes the injurer refused to pay customary compensation because he or she was a person of unusual power, such as a village leader, or because the claimant was seen as a person of lesser status—as in cases involving a woman who had been sexually mistreated or a child. In most cases, litigation ended in settlement before the judge rendered a verdict, and it was sometimes obvious that the amount of the settlement corresponded to customary injury payments, such as the cost of performing a merit-making ceremony in a case of wrongful death. In these instances, injury victims moved back and forth from one type of injury map to another, and the two forms of legality interacted and even reinforced one another. State law was a rare but legitimate means to pursue remedies that were sanctioned—and even required—by local customs.

In the last decades of the twentieth century, however, it appears that these patterns of "interlegality" underwent significant change. The number of litigated cases per injury diminished greatly. Although the number of injuries in Chiangmai province very probably increased exponentially, as indicated by indirect measures such as a nearly 80-fold increase in the number of motorized vehicles,[13] the number of tort cases per thousand population underwent very little change.[14] In effect, therefore, the rate of tort litigation (lawsuits per injury) declined sharply toward the end of the century. This was dramatically true of private criminal cases, which declined from 8.25 per year in the earlier period to only 1.33 per year in the later period (Engel 2005:500).

Interview data substantiated the inference that interlegality—movement back and forth between local customary law and "modern" law—was all but nonexistent in the 1990s. None of the hospitalized injury victims interviewed in 1998 pursued a legal remedy. None consulted a lawyer. None considered bringing a tort or private criminal action. In fact, it was extremely rare for any of the interviewees even to mention the law in the course of our

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[13] In 1965, there were 8,547 registered motor vehicles in Chiangmai (National Statistical Office 1972:27); but by 1997, the number had increased to 677,123 (National Statistical Office 1998:65).

[14] From 1965 to 1974, which was the time period covered by my previous research in Chiangmai (Engel 1978), the mean rate of tort litigation per thousand population in the Chiangmai Provincial Court was 0.071. From 1992 to 1997, the time period covered by the current study, it was 0.088—a negligible change. Not all tort cases, of course, involved personal injuries; the majority were for property damage. If one considers only tort cases that involved personal injuries, recent litigation rates appear even more miniscule—an average of only 11 personal injury tort cases per year were litigated from 1992 to 1997 out of a total population of more than 1,300,000 people—a remarkably low number—and 95 percent of these cases arose out of traffic accidents (unfortunately, these breakdowns are not available for the litigation figures of the 1960s and 1970s). For a more detailed analysis of litigation rates during these two periods, see Engel (2005:496–9).

lengthy discussions. State law was strikingly absent from their thoughts and actions. Its absence was confirmed by numerous interviews with others, including local leaders, monks, insurance agents, lawyers, and scholars. The convergence of state law and the law of sacred centers and the interplay between these two types of legality had all but disappeared. To understand why the relationship between the two forms of legal mapping had changed so drastically—why the pathways from one to the other had become blocked—it is necessary to consider transformations in the relocalization and the delocalization of injuries.

Relocalization and Delocalization of Injury and Identity

Viewed from above, the landscape of northern Thailand might appear to have undergone little change over the past 25 years. The major cities—Chiangmai, Chiangrai, Lampang, Lamphun, Phayao, Phrao, and Nan—still occupy sites along the rivers where they were founded centuries ago, and smaller towns and villages are still scattered among the rice fields, orchards, and forests. Yet a closer view would disclose some new features. The cities have extended outward into the adjacent countryside as their populations and their commercial activities have expanded. Major highways have been constructed throughout the region. Airfields now handle hundreds of flights from elsewhere in Thailand and from Laos, China, Myanmar, Malaysia, and Singapore. Housing developments and resorts have proliferated. Some villages have shrunk and even disappeared as young workers have migrated to the cities.

During the 1980s and 1990s, Thailand experienced dramatic social, economic, demographic, and cultural changes as a result of intensified global influences. In part, these changes were fueled by the transformation of the Thai economy from one that was primarily agricultural to one that was increasingly based on industrial development and the export of manufactured goods (Dixon 1999; Phongpaichit & Baker 1998). As described by Baker and Phongpaichit, Thailand's GDP increased 500 percent from 1975 to 2000, 25 percent of Thai workers left the agricultural sector, and the population of Bangkok tripled (2005:201–3). "Globalization" in Thailand during this period intensified across all five dimensions described by Appadurai (1996): population movement and change, media innovation and dissemination, technological expansion and interactivity, financial interconnectedness, and ideological and political expression (for a discussion of globalization's influence on Thai political and legal culture, see Munger 2007). Although there is not space here to describe how all these types of change were experienced in Thailand, particularly in the northern region, there can be no question that the final decades of the twentieth century

brought profound transformations to the lives and identities of Thai people.

As these changes took place, the landscape of injuries in northern Thailand was transformed in two significant ways, both of which affected the relationship between state law and the law of sacred centers. First, because people in northern Thailand tend to live and travel away from their birth communities, injuries have become increasingly relocalized. That is, injuries no longer occur near a sacred center that is known and respected by the injurer and his or her victim. Instead, most injuries now occur far from home, near other less familiar centers or outside the reach of any form of customary legal ordering. In only one instance did an interviewee describe an injury located in the village where he was born. In that case, local customary practices were applicable, and mediation by a village leader was still possible. More typically, however, injuries are not viewed as a matter of concern to all the humans and spirits in a particular location. There is no community that demands a resolution. Loss of the *khwan* no longer has implications for the rest of the community. Behavior that injures the individual no longer offends the guardian spirits of the village. Compensation obtained, or not obtained, from the injurer to restore the physical, psychological, and spiritual well-being of the injured person no longer affects others who live nearby. There is no village leader of whom the disputants can say, in the words of one of our interviewees, "He knows the accused and he knows the accuser. He knows both of them. He will do justice to both of them" (interview with Maanit).

The relocalization of injuries is partly a by-product of population movement across space. Since individuals spend less time in their birth villages, it is more likely that the injuries they suffer will occur far from home. More broadly, however, relocalization is connected to a general weakening of the linkages between individuals and the sacred centers that formerly shaped identities and daily practices. When babies are born today, they are less likely to be presented to the local guardian spirits because births increasingly take place in hospitals rather than homes. Birth rituals are less often performed, and children do not immediately become a part of the community of humans and spirits as they did in the past. Similarly, when young people marry in hotels rather than in their home village, the traditional wedding ceremonies no longer resemble the community celebrations of the past, and the new spouse does not move in with the parents and grandparents or "register" with the household spirits as a new member of the family. Instead, the young couple often lives and works in the city and not in the villages where they were raised. In these and other ways, the linkages between individuals and sacred centers have been weakened. The relocalization of injury is symptomatic of a more general

loss of locality-based identity that has occurred in northern Thailand.

The second transformation of the landscape of injuries is apparent in the pervasive tendency to view injuries in terms of their delocalized qualities. That is, the causes that are "off the map"—karma, fate, stars—have become highly significant in the perceptions of injury victims, and injuries are often viewed as lacking any locational significance whatsoever. Malevolent ghosts are still thought to cause injuries in particularly risky places. But when injuries occur far away from the view of village guardian spirits, their mapping becomes less consequential and therefore of less interest to the parties.

The delocalization of injuries—the tendency to offer explanations that cannot be mapped—may be part of a broader shift in the ontology of Thai belief systems. As we have seen, "villagers' Buddhism" in the past integrated Buddhist and animist beliefs and practices into a seamless whole. Belief in karma and other aspects of formal Buddhist doctrine existed side by side with belief in local guardian spirits, *khwan*, and *winyaan*. Put another way, villagers' Buddhism contained both locality-based and delocalized elements. These elements were not sharply distinguished, for there was no need to do so. Phenomena—including injuries—could be explained simultaneously in terms of karma, fate, and locality spirits. But as individuals tend increasingly to live and work far from home, they have less opportunity to propitiate village guardian spirits, to inform them of their activities, and to seek their protection and guidance.

Observers of contemporary Thai society have noted an enormous growth in the popularity of delocalized deities, who can affect human lives but are not tied to a particular spatial location or sacred center. Such deities have, in a sense, replaced village-based sacred places and entities, both Buddhist and non-Buddhist. One is Chao Mae Kuan Im, a female god–like figure of Chinese origin who is associated with morality, piety, and kindness (Ganjanapan 2002:131).[15] Images of Chao Mae Kuan Im can now be seen throughout Thailand, and interviewees often mentioned her as an object of veneration. Equally ubiquitous is King Rama V (r. 1868–1910), known by his abbreviation as "Rɔɔ 5." Long respected as a shrewd and able ruler who steered his country past the shoals of colonialism into an era of independence and "modernity," Rɔɔ 5 has in recent years attained godlike status. His pictures and statues are placed on shrines and worshipped in many houses and business establishments throughout the country. As the modernizing

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[15] Yŭ (2001) traces the historical origins of the "Goddess of Mercy" in India and China and its evolution and transmission throughout Asia.

king, he is thought to bring "luck in business as well as protection" to those who honor him (Ganjanapan 2002:130–1).

Failure to propitiate and worship both Chao Mae Kuan Im and Rɔɔ 5 could bring misfortune, which in turn may lead to injury. Yet unlike the village and household guardian spirits, these newer deities are delocalized. Their influence and protection is not associated with a particular place. They can be "accessed" wherever people may go as they travel far from their birth village to live and work in Thailand's new economy. Religiosity has become less place-dependent.

Other deities or protective spirits are equally mobile and, in some cases, are adopted specifically because they are believed to provide protection as people travel from one location to another. Mobile spirits, as opposed to sacred centers, are particularly useful to those who participate in the internal migrations associated with Thailand's economy in the late twentieth century and early twenty-first century. For example, a pair of "spirit brothers" (*nɔɔng ku-maan*) played a key role in the injury suffered by a young woman named Daaw. When Daaw was 13, poverty forced her mother to send her away from their small village in central Thailand to live with relatives hundreds of miles to the north. Before Daaw left on her journey, her mother presented her with the two spirit brothers. These supernatural boys, probably metal or ceramic images, were only a little younger than Daaw herself and came originally from Daaw's uncle, who was a spirit medium. He gave them to Daaw's parents so that they would be prosperous and "live well." He told them that the boys would bring good fortune but that they must take proper care of them: "If we don't feed them, we will suffer" (interview with Daaw).

Daaw speaks to the spirit brothers frequently. Each day she offers them fruit, rice, and sweet drinks or milk. She must also inform the spirit brothers about her comings and goings before she leaves the house. If she tells them everything, they will protect her. Once they even helped her buy a winning lottery ticket. But if she fails to inform them before she goes out, she will lose their protection, with potentially disastrous consequences. That is one of the most important causes of a serious injury she suffered in a motor-cycle accident:

> When I left the house, I wasn't thinking about anything. Usually I would tell the spirit brothers, "I'm going to help Older Sister sell things." As soon as I return, I tell them . . .. I tell them every time, but that time I didn't tell them—before the accident happened.

Daaw's narrative illustrates how delocalized supernatural figures have replaced village-based spirits in the everyday lives of many Thai citizens. Worshiping such figures can bring good luck and

protection. Failing to worship them properly can bring loss of protection and injury. But these mobile, delocalized spirits do not provide access to any official or unofficial legal system that would require the payment of compensation when injuries occur.

In sum, both the relocalization and delocalization of injuries entail a subtle but highly significant shift in the conceptualization of why injuries occur and what should be done about them. Together, they tend to reduce or eliminate the role played by the law of sacred centers. They make it less likely than ever before that any system of customary law will hold the injurer responsible and require the payment of compensation to the injury victim. Instead, they reinforce interpretations of injury that place the ultimate responsibility for accident prevention on the victim him- or herself.

The Delocalization of Karma

The lowland peoples of northern Thailand are overwhelmingly Buddhist,[16] and belief in the law of karma is central to their religious outlook. Yet the recent social transformations have brought a marked change in the role karma plays in explaining injuries and shaping the responses of injured persons in contemporary Thailand. Buddhism was, of course, a key consideration for injured persons 25 years ago, and long before that. Yet in the past villagers did not perceive sharp distinctions between their Buddhist beliefs and remediation systems founded on customary village-based practices, spirit worship, and mediation. Mediation of injury cases by secular authority figures also incorporated Buddhist norms of moderation, selflessness, and forgiveness. Buddhism may have tempered the quest for a remedy by discouraging selfish or overly aggressive responses, but it was not understood to prohibit entirely the demand for compensation. Since compensation reflected the interests of the entire village, not just the interests of the injured party, it could be pursued without violating Buddhist precepts. In this sense, Buddhism and belief in karma were viewed as consistent with spirit-based belief systems and the customary law associated with them.

In recent years, however, the integration of Buddhism with other locality-based belief and remediation systems has begun to break down. As individuals leave their birth communities, they worship at temples in locations where they have no network of friends and relations. Indeed, they may have no affiliation with any particular temple, and for ceremonial purposes they may regard a

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[16] Highland peoples, or "hill tribes," are predominantly non-Buddhist. According to the 2000 census, which counted mostly lowland peoples, 92.2 percent of Chiangmai's population was Buddhist and 6.0 percent was Christian. See http://web.nso.go.th/pop2000/finalrep/cheingmaifn.pdf (accessed 14 Sept. 2008).

number of temples in various locations as equally suitable. Furthermore, individuals in contemporary Thailand can now access Buddhism in new and sometimes unprecedented ways, thanks to dramatic technological changes over the past quarter-century. The teachings of charismatic Buddhist teachers have long been available through books, pamphlets, magazines, and newspapers, and nowadays such writings are extremely popular. But new media have facilitated other forms of delocalized Buddhist practice. Televangelism now supplements the ever-popular radio broadcasts of Buddhist sermons. Buddhism can also be accessed over the Internet and by DVDs and cassette tapes (compare Hirschkind 2006 on Islamic cassette sermons in Egypt). Devout Buddhists can, and increasingly do, perceive their religious practices as delocalized. Buddhist practices have tended to lose the geographical specificity and the linkage to other localized spirit-based belief systems that they once had.

The accounts of numerous injury victims illustrate the extent to which the Buddhist perspective on injury has been delocalized—cut loose from its geographical anchor in village society. These individuals portrayed their injuries as primarily the result of their own misdeeds. One young man speculated that his frequent accidents resulted from his earlier employment in a slaughterhouse, when he took the lives of many animals (interview with Aran). A middle-aged woman believed her broken leg was caused by her own actions in beating a dog that had entered her house years before and breaking its leg (interview with Buajan). Others explained that they must have injured their injurer in a previous lifetime, creating karma that had caught up with them in their present life. The cycle of injury and response would continue across many lifetimes, according to the law of karma, unless one of the parties manifested the Buddhist virtues of generosity, compassion, and forgiveness.

Moreover, karmic explanations of injuries have expanded, because people believe that the conditions of modern life make them more vulnerable to injuries caused by karma. As one interviewee observed, a devout Buddhist who has trained him- or herself to be mindful (to have *sati*) at all times can, to some extent, guard against the accidents that karma might otherwise produce. But in contemporary Thai society, it is more difficult than before to maintain *sati*. Both the injurer and the injury victim are hurried, distracted, and careless. Under these circumstances, their karma is far more likely to catch up with them and to manifest itself through the negligence of both parties:

> The factors that cause them to lose *sati* or to be negligent have to do with the way people live their lives every day at the present

time . . .. In today's way of life, people are more likely to be in-
attentive. Their minds are not at peace. There are so many things
that incite and arouse them. They want to go roaming about.
They want to have fun. And that makes people lose their *sati*.
They do everything fast and carelessly without thinking first.
Or they want lots of money, and that can also make them lose
their *sati*. (interview with Uthit)

In contemporary Thailand, people find it more difficult to main-
tain the spiritual discipline necessary to guard against injury. These
same societal changes have transformed the concept of karma itself
by removing it from the context of ''villagers' Buddhism'' and
disconnecting it from any functioning system of compensation that
an injury victim might attempt to invoke. With the atrophy of cus-
tomary mechanisms for compensation, and with the relocalization
of injuries far from the traditional sacred centers and the delocal-
ization of injuries off the map entirely, injured persons look to
themselves and their immediate family to manage their physical
and spiritual recovery.

The Lost Path to Law

How have the processes of relocalization and delocalization
changed the relationship between the two maps of injury and
identity? Previously, as we have seen, the two maps coexisted and
interacted in relatively predictable ways. Neither supplanted the
other, and individuals who had been injured could draw on both
types of legality to frame their experiences and seek a remedy.
Occasionally, injured persons would even follow a pathway from
the law of sacred centers to the institutions of state law. Official law
did not violate religious teachings because it was seen as an exten-
sion of village-level customary practices, albeit an option that was
risky and seldom invoked.

Interconnections of this kind between two types of legality are
not surprising, and in fact, as we have seen, they are predicted by
sociolegal theory. What may be surprising, however, is the discov-
ery that recent changes in Thai society have reduced the process of
interlegality in injury cases almost to the vanishing point. Although
one might expect injured persons to turn increasingly to state law
for the remedy that customary law can no longer provide, I have
suggested in the previous section that such has proved not to be the
case, and the court is, in effect, used *less frequently* per injury today
than in the past.

Thai legal scholars and longtime personal injury lawyers could
not point to any change in the formal law of injuries from 1975 to
2000 that might account for the diminished probability that the law

would be invoked in an injury case. No dramatic increase in oppressive or corrupt treatment of litigants by Thai government officials appears to have occurred during that 25-year period. There are far more lawyers, not fewer lawyers, available to potential litigants today than in the past. Interviewees did not mention insurance awards or government benefits as significant factors in their injury narratives. Indeed, the increased availability of liability insurance seemed as likely to increase litigation as to diminish it, since insurance companies by the end of the twentieth century had begun to appear in the Chiangmai Provincial Court both as defendants and as plaintiffs. One must seek other explanations as to why state law is less likely to be used by injured persons at the turn of the twenty-first century.

Two explanations emerge with some clarity from the injury narratives offered by the interviewees. First, it is evident that injured people increasingly perceive an oppositional relationship between law and religious belief. As a result of the relocalization and delocalization of injuries, customary remedial practices are no longer efficacious, and religiosity in its more recent forms is now positioned in opposition to the law of courts and lawyers. Religion, especially belief in karma, is often cited by injured persons as a compelling reason to seek no compensation whatsoever and to reject the law. The aggressive pursuit of a remedy rather than a generous act of forgiveness would tend to produce more strife and suffering in the future. This is a new way of thinking about Buddhism, which was formerly understood to be consistent with village-level beliefs and practices that justified—and to some degree *required*—the search for compensation, even if that search led injury victims on rare occasions to a court of law.

The second explanation, also connected with the processes of relocalization and delocalization, is the individuation of injury. The very concept of an injury and the identity of the person who suffers it have undergone a transformation. The loss of the *khwan*, for example, has always been, in some sense, an individualized, delocalized occurrence, yet within the village it can be seen as holding great significance for an entire geographically specific community. In the village context, the *khwan* is said to fly away to the forest. The weakened or dysfunctional individual whose *khwan* has escaped is no longer a contributing member of the household or of village society generally. Failure to perform a ceremony to recall the *khwan* may displease the local spirits, and traditional customary legal practices involving village elders may be invoked to enforce the requirement to pay *khaa tham khwan*.

In contemporary Thailand, an individual who no longer lives in a village community is still said to have lost his or her *khwan* when injured. A ceremony to recall the *khwan* may also be required

for that person. In this case, however, because the victim now lives far from the sacred center of his or her birth, the communal and locational aspects of the injury have disappeared. The *khwan* may drop from the body at the place where the accident occurred, but that place is not located within a community of humans and spirits, and the *khwan* is no longer described as flying away to the forest near the village. No one views the loss of the *khwan* as a concern to anyone but its owner. As a result of this individualization of injury and of the identity of the injury victim, there is no community interest in recovering the *khwan*, and there is no set of customary legal practices that can be mobilized to compel the injurer to pay *khaa tham khwan*. If the injured person seeks payment for the *khwan*, he or she must find some other mechanism to obtain it.

One may see a similar indication of the individualization of injury and identity in the interviewees' description of the "life extension" (*süüp chataa*) ceremony. Many injury victims reported that they performed this ritual—which combines Buddhist and animist elements—to recover spiritually from the effects of the harm and ensure good fortune into the future. Interviewees in this study described the post-injury life extension ceremony as an individualized practice unconnected to any particular geographically defined community. Yet in rural society, the ceremony is a distinctively communal event and is locality-based, since it involves all the households within the village. As one interviewee recalled, the village-wide version of the ceremony connected all the households to one another, both literally and symbolically:

> We perform the ceremony in the village. They bring incense, candles, and flowers and other things used in offering prayers. They bring everything to the temple along with sacred string. They bring all that they have and connect it from the temple to the house, just like an electric wire going into the house. They bring the monk's "electrical wire" right into [inside] the house. They do this for every household. The monks begin the ceremony in the morning and continue to midnight. They perform the religious ceremony with prayers to expel the ghosts from the house. This is called life extension [*süüp chataa*]. They do it once a year. (interview with Banchaa)

In the village setting, the life extension ritual emphasized the interconnectedness of all households and villagers, the importance to the entire community of each villager's strong and durable personality, and the place-specific conception of community. Interconnectedness was symbolized by the sacred string running from the temple to every house in the village. Yet when the injury victims in our study performed the same ceremony to recover

from their mishap, the communal aspect and the geographical specificity had disappeared. This transformation underscores the individuation of injuries in contemporary Thailand as a result of the processes of relocalization and delocalization. By performing an individualized life extension ceremony, the injury victim symbolically demonstrates that one is alone in the quest to improve one's spiritual well-being and prospects in life and that there is no village community insisting on the observance of customary remedial practices.

As a result of these changes in the concepts of society, self, and the law, the maps of injury and identity in northern Thailand have been transformed. Pathways that formerly connected the map of sacred centers to the map of state law have all but disappeared. Injury victims in this study no longer viewed their misfortune in the context of a viable system of customary law, nor did they consider the provincial court a forum of last resort, where customary claims could be enforced. Interlegality, the interconnecting of the two types of maps in the imaginations and actions of injury victims, now occurs only in the sense that each map denies the relevance of the other. State law, from the karmic perspective, represents a denial of the transcendent reality of cause and effect, a wrongful choice by which an injured person will perpetuate the problem of injury rather than resolving it through compassion and forgiveness.

Conclusion

> I remember our village near the forest in the highlands more than forty years ago. In those days they said that the mountains and forests and rural towns were full of spirits. The old people told us that there were spirits in every blade of grass. Over the entire surface of the earth, you could not find any place larger than the palm of your hand that was free of spirits. (Mala Khamchan, *Laaw rŭang phii lanna* [Stories of the Lanna spirits])

> It is unfortunate that the Thai people have abandoned their belief in spirits, but we have not established in their place a system of law and legal institutions that are considered sacred. We have lost the spirits and gained nothing in exchange. (Nidhi Eoseewong, *Yuk samai mai chŭa yaa lopluu* [An era of disbelief not disrespect])

For more than a century, injuries have been mapped onto the striking landscape of northern Thailand according to two different conceptions of physical and social space: that of the nation-state and that of the customary law of sacred centers. Modern legal systems claim predominance within the territory of the nation-state,

yet their every operation is affected by and helps constitute other forms of legality in the broader cultural milieu. Sociolegal theorists tell us that the relationship between state law and nonstate law is not binary and oppositional but overlapping and interdependent. The role of law in the lives of ordinary people can best be understood not in terms of stark choices between one form of legality or another but in terms of what Santos (1995) calls interlegality—the spaces or connections between the legal claims of the state and of nonstate authorities.

Until the end of the twentieth century, the maps of state law and the law of sacred centers in northern Thailand differed fundamentally yet interacted in predictable ways and thereby reinforced and legitimated one another. When injured persons could not obtain a remedy through the customary law that regulated most aspects of villagers' lives, they sometimes pursued a pathway to the state legal system, whose institutions and procedures proved useful in obtaining the compensation expected and even demanded by village society. State law, although it was used infrequently, served as a forum of last resort when the law of sacred centers faltered.

This pattern of interlegality, however, has all but disappeared for injury victims in contemporary Chiangmai. The process of rapid social change has transformed the legal landscape and diminished the authority of sacred centers that formerly linked individuals to their birth communities. Most Thais still believe in karma, in the injurious interventions of ghosts in human affairs, in luck, and in fate, but these long-standing beliefs and practices have fundamentally changed as ordinary people relocate or engage in interactions far from the communities of villagers and guardian spirits that formerly regulated most aspects of their lives. The delocalization of injury is a product of the internal migrations and dislocations experienced by ordinary people in northern Thailand. Injuries are no longer significant for their effect on a community arranged spatially around a sacred center, nor are the customary remedies associated with such centers efficacious in the vast majority of cases. At the same time, however, injury victims almost never attempt to locate their injuries within the jurisdictional mappings of state law in order to litigate an injury claim in the formal legal system.

As injuries are stripped of their locational significance, their causes are perceived in terms of the victim's own failure to make merit, to be sufficiently "mindful," or to guard against ghosts or bad luck. Injuries are individuated both in terms of their origins and their consequences. Harm to one person no longer threatens the well-being of the community as a whole. No one but the victim has a stake in the payment of compensation. Moreover, the

aggressive pursuit of an injury payment is now understood to compound the problem rather than solving it. If injuries arise from the bad karma of the injury victim, then things are more likely to improve—and future harm is less likely to occur—if the victim displays generosity and forgiveness rather than demanding a remedy. To bring a claim within the system of state law now seems to contradict deeply held beliefs and cultural values rather than to reinforce customary practice. With the process of delocalization, injuries have disappeared from both legal maps, and the linkages between the maps have been shattered.

Such were the views expressed by the injury victims interviewed in this study. There is good reason to think they are widely shared, as indicated by the relative diminution in injury cases brought to the Chiangmai Provincial Court from the 1960s to the present. One might expect the impact of globalization to have been different. One might think that the weakening of customary law would have led greater numbers of claimants to invoke state law, but this does not appear to have occurred—at least not for cases involving injuries. The patterns of interlegality that were formerly evident have all but disappeared. The pathway to state law has been lost.

Appendix: Research Design and Methodology

The study on which this article is based had two major components: extended ethnographic interviews with more than 100 individuals in northern Thailand, 35 of whom had been hospitalized for treatment of serious injuries; and a survey of personal injury and other tort cases litigated in the Chiangmai Provincial Court over a 35-year period. Fieldwork was designed to probe both the base and the tip of the "injury pyramid" (compare Saks 1992). The base of the pyramid contains all the harms that might potentially be perceived as wrongful and, in some cases, as having legal significance. The tip of the pyramid consists of tort cases that are actually litigated, adjudicated, and—even more rarely—appealed. Understanding the base of the injury pyramid is essential to the analysis of all the other layers, since the perception and interpretation of injury determine all that follows—whether the injured person holds another party responsible, whether compensation is expected or demanded, what mechanisms for obtaining compensation are considered, and whether legal or other normative systems are used to evaluate the responsibilities of the parties. At the base of the pyramid, cultural factors and the consciousness, cognition, perceptions, and practices of ordinary people are extraordinarily important.

To explore the base of the injury pyramid in Chiangmai, interviewees were identified in a large hospital that treated patients from the entire province of Chiangmai and thus drew cases from a "jurisdiction" comparable to that of the provincial court. Altogether, 93 current or recently discharged patients volunteered to participate in the research, 35 of whom were selected for interviews. All interviewees had suffered serious injuries involving the conduct of another party. Each was asked to provide an extended "injury narrative" describing his or her life experiences, everyday practices, belief systems, social relationships and interactions, sense of self, the communities in which he or she lived—and the events that gave rise to the injury as well as the events that followed. Interviews concluded with a discussion of the interviewees' experiences with and impressions of governmental agencies, officials, lawyers, and courts and their perceptions of "justice" in contemporary Thai society. I conducted all interviews in Thai and later, after they had been transcribed, I translated them into English.[17]

The 35 injury victims were selected to provide a range of perspectives, based primarily on rural versus urban background, social class, gender, circumstances of the injury, and age. Although chosen purposively in order to provide insight into differing kinds of life experiences and perspectives, this group of individuals was obviously not intended to be a random sample. They were not chosen to make quantitative predictions about a broader universe, but they do illustrate in considerable depth some of the quite different ways in which major social changes have affected the legal consciousness of differently situated individuals in Chiangmai.

In order to supplement the insights gained from interviews with the 35 injury victims—and to obtain at least a rough understanding of the intermediate levels of the injury pyramid—I interviewed more than 65 additional persons who had knowledge of injuries, village life, insurance, negotiations, legal practice, and other matters relevant to our study. These interviewees ranged from village leaders to insurance adjusters, priests, spirit mediums, attorneys, judges, Thai scholars, doctors, government officials, and others.

The second major component of the study consisted of an exploration of the tip of the injury pyramid—the Chiangmai Provincial Court. This portion of the research built on a study of tort litigation I had conducted in the same court 25 years earlier. During fieldwork conducted in 1974 and 1975, I had surveyed cases litigated in the Chiangmai Provincial Court from 1965 to 1974. At

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[17] I conducted each interview with one or more members of a research team consisting of co-investigator Jaruwan Engel and two Chiangmai-based research assistants, Sutthira Foocom and Rotjarek Intachote.

that time, I obtained detailed information from the pleadings, witness testimony, and judicial opinions of every tort case that appeared in the court during four of those years: 1965, 1968, 1971, and 1974 (see Engel 1978). In addition, I conducted interviews with litigants, lawyers, judges, police officers, village leaders, and others.

During fieldwork conducted from 1997 to 2000, I once again surveyed the docket of the Chiangmai Provincial Court, this time selecting cases litigated from 1992 to 1997. Using the court registers, I identified every injury case filed by a private party. Most took the form of civil actions, but some were litigated as private criminal cases, in which the injured party him- or herself acted as prosecutor. I retrieved and photocopied the entire case file of each of these civil and criminal cases, analyzed their contents, and compared them to the 10 years of cases I had studied in the 1970s. As a result, it was possible to compare both the qualitative and quantitative data from the current study to the data obtained in Chiangmai a quarter of a century earlier. It was also possible to interpret patterns and trends in the more recent litigation data in relation to the data obtained at the base of the pyramid from the recent interviews with injury victims.

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