

ABSTRACT

This study is related to the control of the use of powers under the Sangha Act, B.E. 2505 (1962) focusing on the control of the use of powers of Buddhist organizations viz.: the Supreme Patriarch, Council of Elders, monks who are ecclesiastic officials, the abbots together with the wats (temples) in Buddhism. This is because there are several manners of the use of powers of Buddhist organizations; either actions based solely on Dhamma Vinaya (Lord Buddha's Teachings or Disciplines) or actions based solely on the Sangha Act, B.E. 2505 (1962). Consequently, it is necessary to study in details in order to distinguish the boundaries of the actions of Buddhist organizations. Hence, this thesis aims to study the use of powers of Buddhist organizations according to the Sangha Act, B.E. 2505 (1962), the legal status of Buddhist organizations and the actions of the Buddhist organizations and the boundaries of the use of powers of Buddhist organizations. It also aims to find out possible ways to control such use of powers.

It is found that prior to the establishment of the Administrative Court, a number of cases involving with the use of powers under the Sangha Act, B.E. 2505 (1962) among Buddhist organizations themselves or between the Buddhist organizations and other persons or other organizations had been filed to the Judicial Courts. The Judicial Courts had also accepted and rendered a lot of orders and Dikas (judgments from the Supreme Court) relating to the said cases. Consequently, it is noticed that the use of powers under the Sangha Act, B.E. 2505 (1962) prior to the establishment of the Administrative Court, the use of powers under the Sangha Act, B.E. 2505 (1962) had been controlled and reviewed by the Judicial Courts. However, the problem arising after the establishment of the Administrative Court is that the Administrative Court has refused to accept such cases as per the Orders of the Supreme Administrative Court No. 1/2545 (2002) and No. 4/2545 (2002) with the reasons that the Sangha or Buddhist organizations have their own appropriate procedures for the internal remedy and justice and there is no need for the Administrative Court to control such use of powers. It is also noticed that the

Administrative Court does not distinguish the actions of Buddhist organizations that there are two (2) boundaries viz.: one is based solely on the Dhamma Vinaya, which should not be under the control or review of the Administrative Court and another one is based solely on the Sangha Act, B.E. 2505 (1962), in which the Administrative Court should not refuse any control and review because it is the use of powers according to the law of an administrative agency.

Therefore, this thesis suggests that the use of powers under the Sangha Act, B.E. 2505 (1962) be controlled by the Administrative Court by distinguishing the actions of Buddhist organizations into two (2) aforesaid boundaries and only the use of powers of Buddhist organizations which is based solely on the use of powers under the Sangha Act, B.E. 2505 (1962), not concerning Dhamma Vinaya, be controlled by the Administrative Court in the conformity with the principles of Rule of Law and to create the justice for the procedures of the use of powers by the Buddhist organizations. Moreover, it is suggested as follows:

1. The Sangha Act, B.E. 2505 (1962) be amended and improved to be standard to bring the cases into the controlling mechanism to control and review the use of State powers by an administrative agency via the control and review by either internal or external means;

2. The Administrative Procedure Act, B.E. 2539 (1996) and the Act on the Establishment of Administrative Court and Administrative Court Procedure, B.E. 2542 (1999) be amended to be able to enter into the control of the actions of Buddhist organizations;

3. The Rules of Council of Elders on the Punishment Procedures and Sangha's Commission Procedures be issued by establishing the independent organizations to control the use of powers of Buddhist organizations. This shall include the internal remedial principle prior to the submission of the cases to the Administrative Court;

4. The Training Center be established and the Sangha and who are ecclesiastic officials be educated to understand the procedures and the exercise of their own rights under the Sangha Act, B.E. 2505 (1962) appropriately and fairly.