

Martial Law and the Criminalization of Thought in Thailand タイ王国における戒厳令と思想の犯罪化

Tyrell Haberkorn

At 5.30 pm on 17 September 2014, police and soldiers interrupted a lecture on the topic of “Democracy Classroom #2: The Decline of Dictatorship in Other Countries” at Thammasat University in Bangkok. The officials went up to Professor Nidhi Eoseewong, the noted historian and public intellectual who was speaking, and told him to stop and come with them. Three additional scholars (Prajak Kongkirati, Janjira Sombutpoonsiri, and Chaowarit Chaowsangrat) and three student activists from the League of Liberal Thammasat for Democracy (LLTD), which had organized the event, were also arrested. They were taken to a local police station and interrogated for several hours. At no time were they allowed to speak with lawyers, as the police and military authorities asserted that they were not being charged with any crimes, but were there for the purpose of “creating understanding.” They were released at 9.30 pm that evening. By not charging the seven individuals with the violation of any laws or orders, the authorities can claim that this was not an arrest, but was rather a discussion to “create understanding,” as they have in cases of arbitrary detention following the coup. To be clear: the lack of formal charges does not change the meaning of this incident as a form of intimidation, violation of the rights of the seven individuals to freedom of thought and speech, and part of the ongoing creation and maintenance of a climate of fear in Thailand.¹



Prajak Kongkirati and Nidhi Eoseewong
(Source: Prachatai)

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Over four months have passed since General Prayuth Chan-ocha and a junta calling itself the National Council for Peace and Order (NCPO) removed the elected government and seized power in a military coup in Thailand. On 22 May 2014, the junta abrogated the 2007 Constitution and installed itself as the government. On 22 July 2014, a temporary constitutional charter was promulgated.² On 24 August 2014, General Prayuth Chan-ocha was selected as Prime Minister by a 194-member assembly chosen by the junta. The general slipped out of his army uniform and into a tailored suit, but he continues to rule by gun and the arbitrary power it provides, rather than law. There is no clear timeline for a permanent constitution or a return to democratic rule and an elected government.

Neither coups nor dictatorships are unusual in Thailand. Since the end of the absolute monarchy on 24 June 1932, there have been

twelve ‘successful’ (meaning that the administrative power of the country was seized) coups and seven other coup attempts. The temporary charter announced in July is the nineteenth constitution to be promulgated since 1932. What makes the 22 May 2014 coup significant is both the acute repression which has followed in its wake, and the context of the nearly eight years between this coup and the previous coup of 19 September 2006. The 19 September 2006 coup was widely supported by royalist-nationalist elites and a large number of middle-class people who viewed the then-elected prime minister Thaksin Shinawatra as a grave threat to the nation who had to be removed by any means necessary, even a military coup. The coup succeeded in removing Thaksin from office (he remains in exile) and also planted a deep seed of contention and enmity into Thai society. This contention generated a series of prime ministers and color-coded movements of royalist-nationalist yellow shirts who supported the coup and the ancien régime and democratic-populist red shirts who supported the ousted former prime minister and regime change towards a more participatory polity. Yet aside from the contention in the streets and the big-P politics of elections and prime ministers, the nearly eight years between the coups also held the growth of remarkable and generative dissident cultural politics in the service of democracy and justice. A new generation of poets, fiction writers, essayists, and intellectuals inside and outside the university brought sharp insights to inequality, rural-urban tensions, and the silenced past as they began circulating their work in progressive literary and political print and online publications. Visual artists and musicians whose work critiqued the past and present and imagined possible futures for the country emerged in the streets and in new performance spaces. Youth and student activists and teachers and professors began to once again turn universities into places of learning and knowledge exchange for all people, not only the elite. Many of those behind

these transformations have been directly targeted for repression following the 22 May 2014 coup.



Prayuth Chan-ocha (Source: The Guardian)

The NCPO identifies anyone who does not share their opinions and dissents in any way as an enemy. Those targeted have included supporters of the United Front for Democracy Against Dictatorship (UDD) and other red shirt movement members, former political prisoners, dissident thinkers, writers, students, and scholars among others.³ During the first four months since the coup, the strategies used by the authorities to target their enemies have shifted and expanded. Initially, the junta targeted a series of individuals via summons and arbitrary detention. Those who opted not to respond to the summons were threatened with military court proceedings for violating an order of the NCPO. Following criticism by domestic and international human rights organizations, public summons have ceased, although arbitrary detention is still ongoing. In addition, there has been a shift to bring criminal cases against dissidents, rather than releasing them after a period of detention. Further, despite the prohibition against protest under martial law, during the first few weeks following the coup, citizens protested regularly. The authorities responded by detaining, and in some cases, bringing charges of violating of martial law against them. These arrests and

proceedings had the result of ending most public protest against the coup, although new forms of protest continue to emerge. In recent weeks, the authorities have added interference in public events on human rights and academic topics they deem to be dangerous, such as the aforementioned event on “The Decline of Dictatorship in Other Countries,” to their arsenal of repressive strategies.

This range of rights violations indicates that the repression of freedom of thought and expression are a key part of the NCPO’s strategy of dictatorship. It is not only that dissident thinkers are being targeted, but that through violence, law, and policy, the NCPO aims to control the production of knowledge, and in particular, what constitutes the truth. In what follows below, the three primary methods through which dissident thinking has been criminalized in coup-era Thailand are first described: summons and detention, prosecution (with particular reference to *lèse majesté*), and restriction of thought and expression. Then, the implications for analysis, politics, and action that these conditions present for concerned parties are examined. Finally, suggestions for further reading are included in an appendix.

Summons and Detention

During the first days following the coup, the NCPO carried out a series of mass summons and arrests. This included raids and arrests of people at home, public summons through broadcast orders, and summons via telephone call or, in the case of some university lecturers and students, via request to one’s dean. Under martial law, which was declared two days prior to the coup and remains in force, the authorities can detain an individual for up to seven days without bringing charges or presenting evidence. According to the Internet Dialogue on Law Reform (iLaw), a Thai nongovernmental organization that works to improve citizen access to law, since the coup there have been a total of 577 persons

summoned and 288 persons arrested. Of these 859 persons, 402 are affiliated with the red shirt movement or the Pheu Thai party of the ousted government, 51 are affiliated with the People’s Democratic Reform Council or the Democrat Party, 154 are academics/writers/journalists/activists/djs, and 107 are those who were arrested at peaceful demonstrations.⁴ While the junta discontinued the practice of public summons through broadcast orders in July 2014, arbitrary arrest and detention continue.

The junta has consistently refused to release their own numbers of how many people have been summoned, detained and released, as well as the location of places of detention. The length of detention of those summoned has varied widely, from those who are questioned and then released on the same day either following signature of a promise to not engage in political events, detention for the seven days possible under martial law, and detention in excess of the legally-permissible seven days. In addition, treatment has varied widely, and ill-treatment has included verbal intimidation, threats of murder, and torture.

Not everyone who is summoned chooses to report to the junta. The potential penalty for not reporting is being subject to military court proceedings and up to two years in prison and/or a 40,000 baht fine if found guilty. In several cases, individuals who waited several weeks before reporting, such as labor activist and human rights defender Jittra Kotchadet and law professor and human rights defender Worachet Pakeerut, are now undergoing proceedings in the military court system.⁵ There are also a number of other people who have continued to refuse to report, including scholars, students, activists, and former political prisoners. In particular, former political prisoners and those with close links to the red shirt movement fear for their safety and lives if they report to the military and some have chosen the path of flight and exile.

Thanthawut Taweewarodomkul, a former political prisoner who was released after three years behind bars following a royal pardon in July 2013, explained why he opted for exile rather than report to the junta:

The first reason is that I could not accept the seizure of power by the junta, the NCPO. I cannot accept any seizure of power without the necessary agreement from the people.... This is the primary reason why I did not report myself to the NCPO.... Another reason is that I could perhaps no longer trust the Thai judicial process. After I had once withstood and struggled to call for justice in a *lèse majesté* case in which I was sentenced to 13 years with no release on bail [for appeal], I could no longer trust the process. I fought and called for the right to bail and asked for fairness of different kinds. But I never received any compassion. What was once faith [in the system] became resentment.... But that ... that was in the civilian court. This would be even more [unfair] because it was military court, which is much more absolute. If they pressed charges, if they framed me in any way, I might not have any right to counter it.... If you were me, and a crowd of prisoners had stomped on you with their feet with the connivance of the wardens simply because you opened your mouth to excuse yourself, you would well understand my feelings. I was slapped and kicked simply for opening my mouth, because they did not listen.⁶

Thantawut's concerns grew out of his own experience of imprisonment in the Bangkok Remand Prison, and are born out by the documented human rights abuses which have taken place under martial law in southern Thailand since January 2004 and the account released by Kritsuda Khunasen following twenty-seven days of detention under the NCPO.

Kritsuda Khunasen is a 27-year-old former student activist who has worked on behalf of political prisoners and their families in Thailand since the April-May 2010 crackdown by the Democrat Party government on red shirt protestors. She was arrested on 27 May in Chonburi when the home of a red shirt supporter with whom she worked to coordinate donations to political prisoners and other red shirts affected and their families was raided by the authorities. When she had not been released and her whereabouts were unknown after seven days, the maximum period of detention permitted under martial law, concern over her safety began to rise. On 17 June, Kritsuda was summoned to report to the junta in a public broadcast order. Given that she had been arrested 21 days prior and was not known to have been released, the summons order deepened the concern about her safety. She was only released on 24 June after Human Rights Watch and domestic Thai human rights organizations expressed concern that she may have been forcibly disappeared.⁷ Following her release, she left Thailand and is currently in exile and seeking political asylum.



Interview with Kritsuda Khunasen (Source: Prachatai)

Kritsuda’s case indicates how the control of knowledge is interwoven with the other forms of repression used by the NCPO. A day prior to her release, she appeared in a junta-produced television broadcast in which she attested to her happiness and explained that she had asked the junta to detain her longer than the initial seven days permitted under martial law. Once she was safely outside the country, she gave two video interviews disseminated by the Organization of Free Thais for Human Rights and Democracy, a red shirt exile group, in which she described a much different picture of her time in detention.⁸ She noted that while in detention, she was constantly blindfolded and her hands were bound. She was repeatedly hit, punched, and suffocated when she was interrogated. She was unable to use the toilet or shower by herself; instead, her clothes were removed by a female soldier and she could hear the voices of male soldiers nearby as well. She was threatened and intimidated throughout her period of detention, and also informed of the torture and assault of other red shirt supporters who were detained. She further noted that she was compelled to make the video that the junta broadcast prior to her release.

The junta’s response to Kritsuda’s disclosures was swift and intended to both discredit and intimidate her. Winthai Suvaree, the NCPO

spokesperson, asserted in an interview to Reuters that her account “...is 100 percent fabricated” and “We checked with the officials, and no such incidents took place.”⁹ In addition to denying the truth of her account, the NCPO questioned the motivations behind her actions and insisted that she return to Thailand to face weapons and defamation charges. In early September, the authorities revealed to reporters that the evidence for Kritsuda’s involvement in weapons procurement were bank deposit slips to those accused and arrested on weapons charges.¹⁰ Kritsuda Khunasen’s experience was not an aberration. A report released by Thai Lawyers for Human Rights on the 100-day anniversary of the coup, referenced 14 cases of documented torture of detainees by the authorities.¹¹ This is the context in which the difficult decision to not report to the authorities when summoned, or to pre-emptively flee the country into exile, has become an option chosen by an unknown number of dissidents, including those formally summoned shortly following the coup and those who decided that in the increasingly repressive atmosphere, leaving the country was the best option.

For those who were officially summoned and chose flight and exile, the junta’s response was to first issue arrest warrants against them, and then revoke their passports. While the action was technically permitted under the regulations of the Ministry of Foreign Affairs, given the highly politicized, persecutory, and unusual conditions of the summons and subsequent arrest warrants, while it may be within the law, it contradicts the rule of law. Certainly, it is in direct contravention to Thailand’s obligations as a state party to the International Covenant on Civil and Political Rights (ICCPR). This action has rendered those whose passports have been revoked as de facto stateless persons.¹² In addition to the official revocation of passports, there are indications that the junta is using unofficial and extrajudicial means to pursue dissidents who

have sought safety outside Thailand. For example, Ekapop Luara, who faces charges under Article 112 and for not responding to a summons by the junta, has sought refuge in Cambodia. In recent weeks, he has learned that Thai military authorities are actively pursuing him with a plan to kidnap him to take him back to Thailand. As a consequence, he must change his location frequently and lacks security.¹³ Finally, the junta has harassed the families of those who have not reported themselves. Thantawut Taweewarodomkul wrote an open letter noting that officials come to his parents' house daily and have told them that they will continue to do so until he reports himself.¹⁴

The experiences of Kritsuda Khunasen, Ekapop Luara, and Thantawut Taweewarodomkul should be read as representative, rather than exceptional. There are likely others who have faced similar violations of their rights - but may not have reported it given that the potential sanctions for speaking out are severe.

Prosecution (with particular reference to lèse majesté)

iLaw reports that subsequent to the coup, there are 86 persons facing criminal prosecution following summons or arrests. Among these, 64 face proceedings in the military court system and 22 face trials in the civilian court system.¹⁵ The alleged crimes include violations of martial law, including peaceful protest, not reporting to a junta summons, weapons and terrorism charges, and alleged violations related to speech or other expression. The military court was invoked for proceedings involving civilians who violate martial law, orders of the junta, or commit other crimes against the crown or state. Within the military court system, there is no right to appeal and there are other restrictions that remove key rights protections from those subject to proceedings in them.¹⁶

Of particular concern, since the coup, there have been at least 14 cases of arrest and

detention and 2 cases of accelerated investigation and prosecution of alleged violation of Article 112 of the Criminal Code, often referred to as the lèse majesté law.¹⁷ Article 112 stipulates that, "Whoever, defames, insults or threatens the King, the Queen, the Heir-apparent or the Regent, shall be punished with imprisonment of three to fifteen years." Article 112 has been part of the Criminal Code since the last major revision in 1957, but its use has risen exponentially since the 19 September 2006 coup.¹⁸ The use of the measure has been highly politicized and it has frequently been used to target dissident thinkers, those who refuse to be quiet, and others who do not conform. The total number of people currently behind bars in relation to Article 112 is 21, including both those serving sentences following convictions made prior to the coup and those detained facing being formally charged or awaiting proceedings or trials.¹⁹ While the order providing for the use of the military court only went into force on 25 May 2014, there are indications that the jurisdiction of the military court may be applied retroactively to a larger range of cases of alleged violation of Article 112.²⁰

One case that is of particular concern in relation to the criminalization of dissident thought following the 22 May 2014 coup is that of two young activists and artists who are currently being detained while an investigation of their alleged violation of Article 112 is carried out. Patiwat (last name withheld), age 23 and a student in the Faculty of Fine and Applied Arts at Khon Kaen University, and Pornthip (last name withheld), age 25 and a graduate of the Faculty of Political Science at Ramkhamhaeng University, were arrested in mid-August 2014 in relation to their performance in an allegorical play titled 'The Wolf Bride' (*Jao Sao Ma Pa*). The play was performed in October 2013 as part of the forty-year commemoration of the 14 October 1973 student uprising. Ultra-royalists filed lèse majesté complaints against them at the time,

but the police did not take action against them until after the coup. Their detention has been extended six times since their arrest while the investigation into them is ongoing. Despite repeated requests for bail, the court has repeatedly denied it on the basis that they face being charged with grave crimes and may flee if they are released.²¹ The decision whether or not to formally charge them is expected to be made soon by police investigating officials and the prosecutor's office, and many observers believe that it is likely that they will be charged.

A second case which raises concern is that of an unnamed 27-year-old musician who was convicted of nine alleged violations of Article 112 and the Computer Crimes Act of 2007.²² This is an example of a case which was initiated before the coup and then accelerated following the coup. He was accused of posting nine defamatory Facebook posts in 2011 and 2012. The musician was initially arrested on 16 March 2012 in Ubon Ratchathani province and he was granted bail. No charges were filed against him at this time. On 16 June 2014, less than a month after the coup but over two years since his initial arrest, the prosecutor filed charges against him. The musician was again arrested and this time, he was denied bail. At a preliminary hearing in the case on 30 June, the musician pled guilty and the decision was set to be read one month later.²³ On 31 July 2014, he was sentenced by the court to fifteen years in prison, which represents a reduction by half due to his confession. In early October, *Prachatai* reported that the sentence he received is the harshest to be meted out in many years and that the way in which he was sentenced is inconsistent with the law.²⁴

While it remains too early to assess the kinds of decisions and sentences that the civilian and military courts may make during the coup period, and compare these with the decisions made under the previous civilian governments, it is already apparent that the police and

judicial authorities are acting upon many more complaints. This is the case with grave measures with harsh penalties such as Article 112, as well as misdemeanour laws. In an example of the latter, on 25 September 2014, five student activists from the League of Liberal Thammasat for Democracy were ordered to each pay a 1000 baht (approximately 30 USD) fine for hanging a banner from a pedestrian bridge commemorating the suicide of Nuamthong Phraiwan, a taxi driver who killed himself in protest against the 19 September 2006 coup. The police alleged that the banner violated Article 10 of the Cleanliness and Order Act. The students were ordered to report to the police station in which the pedestrian bridge was located and were interrogated, by both police and military, in addition to paying the fine.²⁵ While the legal penalty was relatively minor, even, or perhaps especially for this reason, this was a clear instance of intimidation and harassment of the students who dared to express their dissent.²⁶

Restriction of Thought and Expression

Operating alongside the summonses, detentions, and prosecutions described above is a concerted effort by the junta to restrict thought and expression. Political radio and satellite television stations have been temporarily closed.²⁷ Print and online media that do not obey the junta's requests and toe the line have been threatened with sanction or closure.²⁸ Special surveillance task forces have been established to comb social media and other internet sites for any criticism or questioning of the monarchy or the junta.²⁹ University lecturers have been instructed to report on any criticism of either institution made by students in their classrooms. History books have been revised with a new vision of citizenship and the name of former prime minister Thaksin Shinawatra scrubbed from them.³⁰ What these actions indicate is that the National Council for Peace and Order is keenly

aware of the importance of controlling and limiting knowledge, and stemming the circulation of unsanctioned versions of the truth, in order to preserve their political power.

The interference in the lecture organized by the League of Liberal Thammasat for Democracy on “Democracy Classroom #2: The Decline of Dictatorship in Other Countries” and the arrest of the four lecturers and three student activists was not an isolated incident, but rather is part of a broader pattern of intervention by the authorities in public events organized by students and human rights activists. The intervention is carried out by the local military unit in a given area, which then cites the authority and wishes of the NCPO as the reason for their intervention. While the interventions have been described by the authorities as “requests for cooperation,” those who have made the requests have the power of guns, military courts, and executive power behind them. These are not ordinary “requests” but are rather a form of intimidation.

With respect to the League of Liberal Thammasat for Democracy, this is the second time that the authorities have intervened in one of their events. On 8 August 2014, they organized Democracy Classroom #1, on the topic of “The Interim Constitution of Thailand,” with Piyabutr Saengkanokkul, lecturer in the Faculty of Law at Thammasat University, and Pandit Chanrochanakit, lecturer in the Faculty of Political Science at Ramkhamhaeng University. The purpose of the seminar was to explain the implications of the interim charter promulgated by the junta on 22 July 2014. Several hours before the seminar, the university administration received a request from the authorities that they cancel the event. The university took a partial stance in support of the students - they allowed the event to take place, but required that the students take responsibility for what took place during the event - and the event began an hour after it was initially set to take place. Approximately

100 people were in the audience, including a large number of ordinary citizens in addition to students. In addition, there was also a significant presence of members of the various branches of intelligence; despite being out of uniform, they are identifiable by their haircuts, t-shirts advertising gun companies, pressed pants, and ostentatious photographing of those present.

Amnesty International Thailand (AI Thailand) organized an evening discussion to be held on 17 August 2014 on the Israel-Palestine conflict at a bookstore in Chiang Mai. Chiang Mai provincial military authorities called them two days prior to the event and requested that they cancel the event. The reasons given were that it violated the junta’s order prohibiting public assemblies of more than five persons and was about politics. AI Thailand informed the authorities that this was not a political event, but was instead a discussion and exchange of ideas about human rights. As the authorities were unmoved by this explanation, AI Thailand decided that they had to cancel the event.³¹

Thai Lawyers for Human Rights (TLHR), a group of lawyers and human rights defenders who formed following the coup to redress human rights violations caused by the junta’s rule, organized an event in collaboration with AI Thailand and the Cross Cultural Foundation (Thai nongovernmental organization carries out documentation of human rights abuses, particularly torture and disappearance) to release a report on the human rights situation 100 days after the coup on 2 September 2014 at the Foreign Correspondents’ Club of Thailand. When the organizers arrived at the event, there were both police and army troops waiting for them. Threatened with military court proceedings if they went ahead, they decided that they had to cancel the event.³²

Since the interference in the event at Thammasat on 17 September 2014, several other events have been cancelled following

demands by the authorities. The authorities have mandated that topics and outlines of public academic events must be submitted for approval ahead of time.

Conclusion

The message for dissident thinkers of the first four months of rule by the National Council for Peace and Order is clear: the authorities can decide who can speak and act when, where, and on what topic. If their wishes are not followed, they will act with the power they have under the gun, the military court, and executive fiat, to compel citizens to follow their wishes.

Despite the repressive context, and ample evidence that the authorities will not hesitate to use both legal and extrajudicial strategies to halt dissent, courageous citizens continue to protest. Following the arrest of the four lecturers and three students at Thammasat University on 17 September 2014, sixty university lecturers signed a petition criticizing the authorities' actions.³³ Every few days, students paper their campuses with fliers calling for intellectual freedom. Symbolic protests continue and messages of solidarity for political prisoners continue to circulate on social media. Critical reporting and publication of dissenting commentary continues, notably by the online independent media outlet *Prachatai*.³⁴

With grave concern for the future in mind, I would like to conclude with the following observations:

1. What began as an attack on dissident thinking in the wake of the 22 May 2014 coup has become the criminalization of dissident thinking. This affects all those who dare to think differently than the junta, those inside and outside the university, those with many letters after their name and those with none. General Prayuth Chan-ocha and the NCPO are aware that in order to preserve their position, they must control what version of the truth about what is taking place is produced and circulates in and about Thailand.
2. Within universities, there has been a notable lack of support from administrators given to students and lecturers targeted by the junta. While there have been some exceptions, on the whole, university administrators have actively supported the junta. Some university rectors have even joined the National Legislative Assembly following invitations by the junta.
3. The temporary constitution promulgated by the junta and the consolidation of their repression suggests that the NCPO may remain in power for an extended period. What kinds of action can be taken by those outside the country? In addition to the urgent need for protection and support of those fleeing the country, it is essential that academics, students, and other thinkers outside the country closely monitor the situation and lend their energy to understanding the foundation of this dictatorship, its operations, and what may be needed for a return to a regime based in democracy, human rights, and the rule of law. The particular forms of repression practiced by the NCPO demand analytic and political interpretation.

Appendix - English-language Resources for Further Reading

1. Amnesty International issued a comprehensive report on the human rights situation 100 days following the declaration of martial law, *Attitude Adjustment: 100 days under martial law*. The report is available online here (<http://www.amnesty.org/en/library/info/ASA39/011/2014/en>).
2. *Cultural Anthropology* has a collection of fifteen short essays about the coup and

its underpinnings. The collection is available online here (<http://www.culanth.org/fieldsights/582-the-wheel-of-crisis-in-thailand>).

3. The English-language site (<http://www.prachatai.org/english>) of the independent media outlet *Prachatai* has the most extensive and up-to-the-minute reporting on ongoing developments.
4. The Thai NGO iLaw (<http://www.ilaw.or.th>) frequently publishes their information and commentary in both Thai and English - scroll down for English. iLaw's Freedom of Information Documentation Center is bilingual and contains a wealth of information about Article 112, Computer Crimes Act of 2007, and other freedom of expression cases. Language selection can be toggled at the top right. See here (<http://freedom.ilaw.or.th/case>).
5. In addition to Amnesty International, other international and regional human rights organizations are closely monitoring the situation in Thailand. Two organizations with which to begin are Human Rights Watch and the Asian Human Rights Commission:
 1. Human Rights Watch (<http://www.hrw.org/asia/thailand>)
 2. Asian Human Rights Commission (<http://www.humanrights.asia/countries/thailand>)
 3. Front Line Defenders (<http://www.frontlinedefenders.org/Thailand>)
6. Several blogs frequently carry news and commentary related to the coup and human rights violations:
 1. Political Prisoners in Thailand (<https://thaipoliticalprisoners.wordpress.com/>)
 2. New Mandala (<http://asiapacific.anu.edu.au/newmandala/>)
 3. Bangkok Pundit (<http://asiancorrespondent.com/autor/bangkokpundit/>)

4. Siam Voices (<http://asiancorrespondent.com/autor/siamvoices/>)

Tyrell Haberkorn is a fellow at the Radcliffe Institute for Advanced Study at Harvard University for the 2014-2015 academic year. She is the author of *Revolution Interrupted: Farmers, Students, Law, and Violence in Northern Thailand* (<http://uwpress.wisc.edu/books/4798.htm>) (University of Wisconsin Press, 2011) and articles and translations on human rights, state violence, and history in Thailand which can be found here (<https://anu-au.academia.edu/TyrellHaberkorn>).

Related articles

- Philip J. Cunningham, Red and Yellow: Thailand's Future in Check and Balance (https://apjff.org/-Philip_J_-Cunningham/3786)

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Notes

¹ See Human Rights Watch, "Thailand: End Crackdown on Academic Freedom," 20 September 2014, Available online here (<http://www.hrw.org/news/2014/09/20/thailand-end-crackdown-academic-freedom>); Asian Human Rights Commission, "THAILAND: Ongoing criminalization of thought and expression," 22 September 2014, Available online here (<http://www.humanrights.asia/news/ahrc-news/AHRC-STM-172-2014>).

² The temporary constitution can be found in *Ratchakitchanubeksa*, 22 July 2557 [2014], Book 131, Part 55 Ko, pages 1-17, Available online here (<http://www.ratchakitcha.soc.go.th/DATA/PDF/2>)

557/A/055/1.PDF). For an unofficial English translation, please see Pakorn Nilprapunt, "Translation of the Constitution of the Kingdom of Thailand (Interim), B.E. 2557 (2014)," *Law Drafter*, 23 July 2014, Available online here (<http://lawdrafter.blogspot.com/2014/07/translation-of-constitution-of-kingdom.html>).

³ What became the red shirt movement, known as such for the color of the t-shirts worn by its supporters, emerged in the aftermath of the last coup of 19 September 2006 that ousted elected prime minister Thaksin Shinawatra. The movement is heterogeneous, and includes supporters of Thaksin and his sister Yingluck, as well as radical democrats, republicans, and others dissatisfied with the status quo.

⁴ "Statistics of summons, arrests, and releases as of the fourth week of September 2014," *iLaw*, 2 October 2014, Available online here (<http://ilaw.or.th/node/3268>).

⁵ *Prachatai*, "Military Court sentences anti-coup protester to 6 months in jail, Worachet, Jitra deny allegations," 9 August 2014, Available online here (<http://www.prachatai.org/english/node/4326>).

⁶ Thantawut Taweewarodomkul, "Why I did not report myself," translated by Tyrell Haberkorn, *Prachatai*, 28 July 2014, Available online here (<http://www.prachatai.org/english/node/4249>). Thantawut was convicted of allegedly violating Article 112 and the 2007 Computer Crimes Act in March 2011 and sentences to thirteen years in prison.

⁷ Human Rights Watch, "Thailand: Account for 'Disappeared' Political Activist," 18 June 2014, Available online here (<http://www.hrw.org/news/2014/06/18/thailand-account-disappeared-political-activist>).

⁸ The two videos are available on YouTube here (<https://www.youtube.com/watch?v=bB4ir62uSas>) and here (https://www.youtube.com/watch?v=gz51Ek_F

DPM). Please note: the videos are not subtitled, and so the ability to understand spoken Thai is necessary.

⁹ Andrew R.C. Marshall, "Opposition activist fabricated torture allegations, says Thai junta," *Reuters*, 5 August 2014, Available online here (<http://www.reuters.com/article/2014/08/05/us-thailand-torture-idUSKBN0G51FN20140805>).

¹⁰ *Prachatai*, "Police link Kritsuda to militant 'men in black' in 2010 political violence," 11 September 2014, Available online here (<http://www.prachatai.com/english/node/4336>).

¹¹ *Prachatai*, "At least 14 tortured and ill-treated during military detention: human rights lawyers," 8 September 2014, Available online here (<http://www.prachatai.com/english/node/4329>).

¹² Asian Human Rights Commission, "THAILAND: Revocation of passports by junta restricts freedom of movement and creates spectre of statelessness," 12 July 2014, Available online here (<http://www.humanrights.asia/news/ahrc-news/AHRC-STM-135-2014>).

¹³ Pavin Chachavalpongpun, "Thai junta hounds opposition across board," *Japan Times*, 21 September 2014, Available online here (<http://www.japantimes.co.jp/opinion/2014/09/21/commentary/world-commentary/thai-junta-hounds-opposition-across-borders/#.VCWZmyRM5S0>).

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¹⁵ "Statistics of summons, arrests, and releases as of the third week of September 2014," *iLaw*, 21 September 2014, Available online here (<http://ilaw.or.th/node/3249>).

¹⁶ Asian Human Rights Commission,

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¹⁷ Internet Dialogue on Law Reform (iLaw), “A Forceful Attempt to have Article 112 Cases Tried in the Military Court,” 25 September 2014, Available online here (<http://www.ilaw.or.th/node/3254>).

¹⁸ See David Streckfuss, *Truth on Trial in Thailand: Defamation, treason, and lèse-majesté* (New York: Routledge, 2011), for an excellent analysis of the genesis of Article 112. While official statistics from the Office of the Judiciary have not been made public since 2010, the number of complaints filed under Article 112 rose from 33 in 2005, to 30 filed in 2006, 126 filed in 2007, 77 filed in 2008, 164 filed in 2009, and 478 filed in 2010. See ประชาไท, 17 ธ.ค. 2554, “‘แห่งอัปลักษณ์’ แสดงสถิติคดีหมิ่นฯ กลางถนนราชดำเนิน” [Prachatai, 17 December 2011, “‘Hideous Bars’: Display of LM case statistics in the middle of Ratchadamnoen Road”], Available online here (<http://prachatai.com/journal/2011/12/38371>).

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²¹ Asian Human Rights Commission, “THAILAND: Additional freedom of expression arrest and denial of bail by junta,” 18 August 2014, Available online here (<http://www.humanrights.asia/news/ahrc-news/>

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²² The Computer Crimes Act of 2007 was passed as part of Thailand’s compliance as a state party to the United Nations Convention Against Transnational Organized Crime. Instead, it has frequently been used in combination with Article 112 to silence dissenting speech and ideas circulated online.

²³ iLaw, “Case #354: A musician in Ubon Ratchathani,” *Freedom of Expression Documentation Center*, Available online here (<http://freedom.ilaw.or.th/en/case/354#detail>).

²⁴ Under the Criminal Procedure Code, when a person is charged with violating multiple laws simultaneously, the various counts cover multiple laws, and the penalty for each count must cover all of the included laws. In other words, if a person is convicted of violating both Article 112 and the Computer Crimes Act of 2007, then the punishment for both violations should be combined. In this case, the initial punishment was rendered by the court as 27 years for the 9 nine violations of Article 112 (3 years per count), and then 36 months (4 months per count) of the 2007 Computer Crimes Act. While the correction of the form of the sentence will not necessarily lead to a reduction in the sentence, ensuring that the Court follows procedure is important. See ประชาไท, “นักกฎหมายชี้คดี 112 อุบลฯ ศาลพิพากษาผิดเพิ่มโทษไปถึง 3 ปี” [Prachatai, “Jurists point out the incorrect decision in an Article 112 case by the Ubon court, punishment augmented by 3 years”], 2 October 2014, Available online here (<http://www.prachatai.com/journal/2014/10/55806>).

²⁵ Prachatai, “Police charge 3 anti-coup student

activists for holding 2006 commemoration," 26 September 2014, Available online here (<http://www.prachatai.com/english/node/4366>).

²⁶ Three additional students were summoned to report to the police on 2 October for the same event.

²⁷ Marwaan Macan-Markar, "Thai coup darkens dawn of digital TV," *Nikkei Asian Review*, 3 June 2014, Available online here (<http://asia.nikkei.com/Politics-Economy/Policy-Politics/Thai-coup-darkens-dawn-of-digital-TV>).

²⁸ Saksith Saiyasombat & Siam Voices, "Thailand's junta sets up media watchdogs to monitor anti-coup dissent," *Asian Correspondent*, 26 June 2014, Available online here (<http://asiancorrespondent.com/124165/thailand-military-junta-sets-up-media-watchdogs/>).

²⁹ Thaweeporn Kunmetha, "Thai authorities reportedly to conduct mass surveillance of Thai internet users, targeting lèse majesté," *Prachatai*, 10 September 2014, Available online here

(<http://www.prachatai.com/english/node/4331>).

³⁰ Thomas Fuller, "Loved and Hated, Former Premier of Thailand Is Erased From Textbook," *New York Times*, 16 September 2014, page A8.

³¹ *Prachatai*, "Thai military orders Amnesty International to stop activities on Gaza, 16 August 2014, Available online here (<http://www.prachatai.com/english/node/4291>).

³² Office of the High Commissioner for Human Rights, "Press Release: Increasing Restrictions on Human Rights Defenders in Thailand," 3 September 2014, Available online here (<http://bangkok.ohchr.org/files/ROB%20Press%20Release%20030914.pdf>).

³³ *Prachatai*, "Open letter condemning the intimidation and temporary detention of academics and students," 22 September 2004, Available online here (<http://www.prachatai.com/english/node/4349>).

³⁴ See *Prachatai (Thai)* here (<http://www.prachatai.org>) and *Prachatai English* here (<http://www.prachatai.org/english>).