German-Southeast Asian Center of Excellence
for Public Policy and Good Governance
CPG

CPG

Online Magazine

Issue No. 5, Sep-Oct 2015

GOETHE UNIVERSITÄT FRANKFURT AM MAIN

WESTFÄLISCHE WILHELMS-UNIVERSITÄT MÜNSTER

UNIVERSITÄT PASSAU

Auswärtiges Amt

DAAD

Foreword

Dear Readers, Colleagues, and Friends,

it is my pleasure to provide you with another, the fifth, issue of our CPG Online Magazine. I would like to take this opportunity to thank all those who have been enabling and enriching the work of our Center.

I hope you enjoy reading!

Henning Glaser

Director
German-Southeast Asian Center of Excellence for Public Policy and Good Governance (CPG), Faculty of Law, Thammasat University

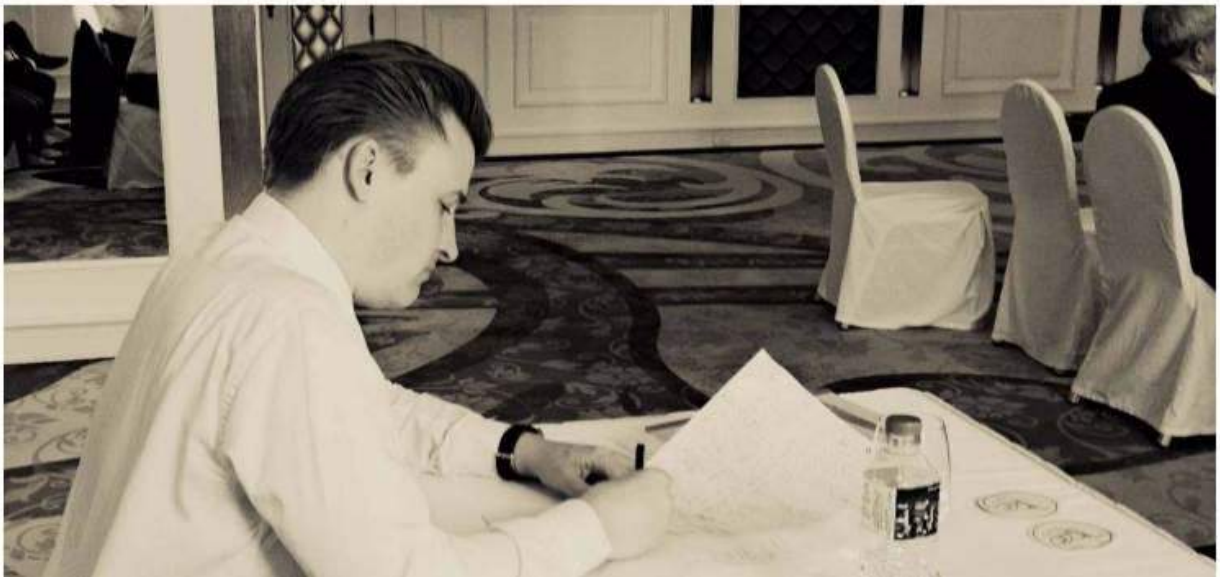


Table of Contents

CPG Events July-August 2015 4

Upcoming CPG Events 12

Articles 14

Assessment of the Public Assembly Act B.E. 2558 (2015) through International Human Right Standards 15
Kohnwilai Teppunkoonngam

Foreign Participation in Land Grabs in Thailand 25
Papawadee Tanodomdej

Thai Peace Day, 16 August: Ideas, Meanings, and Understanding of the Seri Thai Movement and the Modern Thai Generation 42
Col. Dr. Sorasak Ngamcachonkulkid

Comments: New Thai Public Assembly Act 2015 60

Interview with HE. Kasit Piromya 79

Research Material 87

Translation:Organic Act on Anti-Corruption (No. 3) B.E. 2558 (2015) 88

Translation: Draft Charter sections on the National Strategic Committee on Reform and Reconciliation and Reconciliation 100

Announcements 108

Events 109

People 111

Miscellaneous 115

CPG Job-Market 117

Impressum 121

CPG Events
July-August
2015

CPG events in July and August 2015

Special lecture *"Äussere Einflüsse auf die Demokratie in Thailand (External Influences on Democracy in Thailand)", Dr. Warawit Kanithasen*, 7 July 2015, Institute of Political Science, Münster University

On 7 July 2015 *Dr. Warawit Kanithasen*, CPG Senior Research Fellow gave a special lecture on the topic of ***"Äussere Einflüsse auf die Demokratie in Thailand (External Influences on Democracy in Thailand)"*** at the Institute of Political Science of Münster University. Dr. Warawit's lecture was held in the context of his CPG funded research stay in Germany.

Expert Roundtable "Greece and the European Crisis – Impacts on Regional and Global Governance", 16 July 2015, Faculty of Liberal Arts, Thammasat University

On 16 July 2015 CPG hosted an expert roundtable on international politics and economy at the Faculty of Arts, Thammasat University. Under the title ***"Greece and the European Crisis – Impacts on Regional and Global Governance"*** the event dealt with current critical issues of international relations and political economy in the wake of the Greek debt crisis in the European Union. Three eminent experts could be won as speakers for this event. ***Prof. Klaus Larres***, Richard M Krasno Distinguished Professor for History and International Affairs from the Department of History of the University of North Carolina, Chapel Hill, delivered the keynote on the topic of "The EU, the US, and the Crisis of the West: Greece and the Euro, Putin's Challenge and China's Rise". Following the keynote, ***Excellency Kasit Piromya***, former Minister of Foreign Affairs of Thailand, and ***Virot Ali***, Letcurer at the Faculty of Political Science, Thammasat, presented their response from the perspective of international relations and

international development policies respectively. The roundtable was complemented by a lively discussion among all participants.

From left: *Prof. Klaus Larres, HE. Kasit Piromya, Virot Ali*

International seminar "Proper Approaches Towards the Interrogation of Suspects and Witnesses", 22-24 July 2015, CS Pattani Hotel, Pattani

From 22-24 July 2015 CPG in cooperation with the National Human Rights Commission (NHRC) of Thailand and the Hanns Seidel Foundation arrange the international seminar ***"Proper Approaches Towards the Interrogation of Suspects and Witnesses"*** at CS Pattani Hotel, Pattani. The seminar was organized for officers of the Royal Thai Armed Forces, Royal Thai Police and National Human Rights Commission stationed in the Southern border provinces of Thailand. The event provided a platform for the exchange of experiences and best practices pertaining to instruments, methods and rules of interrogation of

suspects and witnesses. The event was attended by scholars and practitioners from relevant stakeholders. Among the speakers were ***Sopol Chingchit***, Director, Human Rights Protection Bureau, National Human Rights Commission of Thailand; ***Supt. S. Shanmugamoorthy A/L Chinniah***, International Affairs/Special Investigations, (D5), Criminal Investigation Department, Royal Malaysian Police, Malaysia; ***Police Superintendent Mohd Zaini Bin Mohd***, Special Task Force, Operations/ Counter Terrorism Division, Royal Malaysia Police, Malaysia; ***Major General Yuttana Panmook***, Vice Director, Human Rights Law Enforcement, Internal Security Operations Command Region 4; ***Police Major General Suthep Pattarawiwat***, Deputy Commander of Yala Provincial Police, Representative of the Commissioner of the Southern Border Province Police Bureau (SPB); and ***Henning Glaser***, CPG Director.

Upper row from left: *CPG Director Henning Glaser; NHRC Chairperson Prof. Amara Pongsapic; Paiboon Warahapaiboon, Deputy Director, NHRC Subcommittee for Human Rights Strategies in the Southern Thailand; seminar participants*
Lower row from left: *Police Superintendent Mohd Zaini Bin Mohd; Supt. S. Shanmugamoorthy A/L Chinniah; Karl Peter Schönfisch, Director, Hanns Seidel Foundation Thailand/Laos Office*

Seminar "Legal Education in Myanmar and Thailand – Current Concerns and Future Prospects in Comparative Perspectives", 23 July 2015, Faculty of Law, Thammasat University

On 23 July 2015, CPG arranged a seminar on the topic of ***"Legal Education in Myanmar and Thailand – Current Concerns and Future Prospects in Comparative Perspectives"*** at Faculty of Law, Thammasat University. The event provided a platform to exchange experiences of legal education in the neighboring countries of Thailand and Myanmar and to discuss the current challenges as well as possible reform potentials in the respective countries. Among the speakers were ***Dr. Jonathan Liljeblad***, research fellow at the School of Law of New England University, Australia, and Fulbright Scholar for Myanmar; ***Associate Prof. Malee Pruekpongsawalle***, Faculty of Law, Thammasat University; ***Dr. Sombat Peutthipongsapuc***, Judge, Research Justice Division, Supreme Court of Thailand; ***Krairit Khosangruang***, Judge, Office of the President of the Supreme Court; and ***Sarawut Benjakul***, Secretary General, Institute of Legal, Education Thai Bar Association. The presentations was followed by a vivid discussion among all participants

From left: Dr. Sombat Peutthipongsapuc, Sarawut Benjakul, Dr. Jonathan Liljeblad

Special Lecture "TTIP Meets Public Land Policy – On the Debate Surrounding the Realignment of Berlin's Award Procedures for Public Assets", Prof. Dr. Fabian Thiel, 24 July 2015 Faculty of Law, Thammasat University

On 24 July 2015 ***Prof. Dr. Fabian Thiel*** from Frankfurt University of Applied Sciences gave a special lecture of the topic of ***"TTIP Meets Public Land Policy – On the Debate Surrounding the Realignment of Berlin's Award Procedures for Public Assets"*** at the Faculty of Law, Thammasat University. An expert on land management, Prof. Thiel shared his insights regarding some critical issues and consequences of the Transatlantic Trade and Investment Partner between the USA and the European Union for European cities such as Berlin.

Special lecture "Äussere Einflüsse auf die Demokratie in Thailand (External Influences on Democracy in Thailand)", Dr. Warawit Kanithasen, 30 July 2015, Interdisciplinary Centre for East Asian Studies, Frankfurt University

On 30 July 2015 ***Dr. Warawit Kanithasen***, CPG Senior Research Fellow gave a special lecture on the topic of ***"Äussere Einflüsse auf die Demokratie in Thailand (External Influences on Democracy in Thailand)"*** at the Interdisciplinary Centre for East Asian Studies, Frankfurt University. Dr. Warawit's lecture was held in the context of his CPG funded research stay in Germany.

Seminar "Private Law – European-Asian Perspectives", 13-14 July 2015, Faculty of Law, Thammasat University

On 13 and 14 August 2015 CPG in cooperation with the Faculty of Law, Thammasat University, and the Faculty of Law, University of Jember, Indonesia, arranged the seminar ***"Private Law – European-Asian Perspectives"*** at the Faculty of Law, Thammasat University. The seminar was organized for more than 20 Master students and students of the postgraduate notary degree program of the Faculty of Law of Jember University. Among the lecturers were scholars and practitioners introducing the participants to various topics of private and economic law from European-Asian comparative perspectives. ***Dr. Nilubol Lertnuwat*** and ***Dr. Anne Coulon-Rana***, both lecturers from the Faculty of Law, Thammasat University, presented on "Company Law in Thailand" and "Indian Business Law" respectively. ***Assist. Prof. Dr. Kittisak Prokati***, also lecturer at Thammasat Faculty of Law and member of the Supervisory Board of CPG, followed with a lecture on "The Thai Legal System: An Overview". The lectures were completed by two experienced German attorneys at law. ***Martin Klose***, Rödl & Partner Bangkok, introduced to selected issues and cases of product liability law in his lecture "International Dimensions on Product Liability Law: Related Cases and Legal Frameworks in Selected Countries in North America, Europe and Asia". ***Dr. Constantin Frank-Fahle*** from Lorenz & Partner Bangkok, presented on "German Real Estate Law". The seminar was rounded up by visits to cultural sites in Bangkok and a welcoming dinner funded by Thammasat Faculty of Law.

Left column: *seminar participants*
Right column clockwise: *Dr. Nilubol Lertnuwat, Assist. Prof. Dr. Kittisak Prokati, Dr. Constantin Frank-Fahle*

Upcoming
CPG Events

Confirmed CPG events in the weeks and months ahead

Date	Event
21 September 2015	***Special lecture "Remedies Against Court Decisions in German Procedural Law", Prof. em. Dr. Peter Gilles, Frankfurt University***
25 September 2015	***Seminar "Legal Reform – Current Issues and Challenges in Comparative Perspective"***
28 September 2015	***CPG Friendship Award Ceremony in honor of Prof. em. Dr. Peter Gilles***
18-23 October 2015	***CPG Winter School "Human Rights"***
23-25 October 2015	***CPG 6th Annual International Conference "Law and Ideology"***
18-19 November 2015	***International Conference "Regional Economic Governance: ASEAN and Beyond – Perspectives for the Post-2015 Development" in cooperation with the Taiwan ASEAN Studies Center***
26-27 November 2015	***International Conference "Good Governance for Regulators" in cooperation with Hanns Seidel Foundation***
2-3 December 2015	***International Conference "Peace and Stability in Asia" in cooperation with the Taiwan ASEAN Studies Center***
17 December 2015	***Seminar "The Fall of the Berlin Wall and the German Re-Unification "***

Articles

Assessment of the Public Assembly Act B.E. 2558 (2015) through International Human Right Standards

Kohnwilai Teppunkoonngam, Human Rights Lawyer

> *"Since the fighting began on Thursday at least 22 people have died with 147 wounded…. The spiralling violence, which has moved from street to street over the past three days, has raised concerns that Thailand is heading towards civil war."*
>
> --- Batty, David and agencies (15 May 2010). *Thai death toll rises as redshirts clash with troops.* The Guardian.

The right and freedom of public assembly is both guaranteed by the International Covenant on Civil and Political Rights (ICCPR), to which Thailand has been a party since 1996, and numerous previous constitutions of Thailand, including Section 63 of the Constitution of Thailand of 2007 (B.E. 2550). Nonetheless, it has never been seen as a hot debate until recent years, when we witnessed several rounds of public assembly for a considerable time, sometimes literally aiming at overthrowing the government that led to violence and disruption of public services and sometimes clashed with authorities, counter-demonstrators, or bystanders.

It strikes my heart every time when I learn that a peaceful assembly and its dissolution turns out to be violent or causes damage to Thailand and the people at the demonstration sites, regardless of political groups involved, or nationalities. Instead, this individual right that is expressed in a collective manner can help reach a resolution as well as

better understanding, and cultivate a culture of peace and justice in society, if it is done proportionally in a peaceful manner in a democratic environment, whereby the rights and freedoms of everyone are guaranteed and justly weighted. Needless to say that we need a good tool which is in compliance with international legal standards to help ensure that any public assembly in Thailand from now on will not repeat the same history. This is also the aim of the newly enacted Public Assembly Act B.E. 2558 (2015) of Thailand as follows.

> *"The reason to enact this Act is that it is deemed appropriate to clearly stipulate the requirements for the exercise of the right of public assembly to be in compliance with the International Covenant on Civil and Political Rights to which Thailand is a party, while to ensure that public assemblies will be carried out in a peaceful and orderly manner, not to be in conflict with national security, public order, the good morals of society, as well as public health and the convenience of the people who will use public properties, also not to be in conflict with rights, freedoms, and the human dignity of others, therefore, it is necessary to enact this Act."*

One interesting question that should be raised however is how we can be sure that this Act will serve its objectives and spirit well. To answer this question, we need to look at the legislation itself. The Public Assembly Act B.E. 2558 (2015) spells out two major objectives as follows:

- Firstly, the Act aims to provide requirements for exercising the right of public assembly to be in compliance with the International Covenant on Civil and Political Rights (ICCPR); and

- Secondly, the Act aims to ensure that public assemblies will be carried out in a peaceful and orderly manner, and not be in

> conflict with other principles, namely but not limited to, national security, public order, good morals of society, the health of people, rights, freedoms, and human dignity of others.

The first objective can be tested now by reviewing and analyzing the texts of the legislation in comparison with the ICCPR and other applicable international legal standards or norms, while for the latter objective, it is arguably questionable whether it can be proven before the Act is actually applied through the test of time.

Under the International Covenant on Civil and Political Rights (ICCPR), Article 21 specifically guarantees the right of public assembly and permits a restriction of such right under certain circumstances as follows.

> *The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.*

Furthermore, Article 2.1 of the Covenant stipulates that every State party shall respect, protect and fulfill the rights recognized by the Covenant, without discrimination – or distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Therefore, the State shall undertake measures to guarantee (and impose restrictions, when necessary and applicable to protect) the rights of everyone in its territory, including the right of peaceful assembly without discrimination.

It is essential to note that the peaceful character of a public assembly is the condition of the right guaranteed under Article 21 of the Covenant. If a public assembly is violent, the demonstrators will not enjoy the right enshrined in Article 21 of the Covenant. It should also be noted that the right of peaceful assembly is a good example to show one

character of human rights - the interrelation of rights and freedoms, i.e. the right of peaceful assembly can affect the rights and freedoms of others; moreover, the restriction on the right of peaceful assembly of a person can encroach on other rights of such person as well, namely, the right to life, liberty and security; the right to a fair trial, freedom of association, expression and thought, conscience and religion.

Due to the interrelation of rights and freedoms, when it comes to the restriction of the right of public assembly, Article 21 of the Covenant leaves room for each State party to consider how it is going to uphold and weight all conflicting principles; nonetheless, it gives us a sense to what extent the right of peaceful assembly can be restricted. Firstly, it requires that the restriction shall be made by law, in this case, the primary law (or legislature's law). The law, then, does not only serve to guarantee the right of public assembly, but also to limit and restrict this right. Secondly, the restriction shall be made on legitimate grounds: it must be necessary in a democratic society, in the interests of national security or public safety, public order, the protection of public health or good morals or the protection of the rights and freedoms of others. Henceforth, any restriction without legitimate grounds is considered a violation of the Covenant (or else unconstitutional in several democratic countries).

Similar to most international instruments, the Covenant only provides a broad and general framework, so that the application of the instrument varies in each State party. However, since 2005 there is an approach to harmonize the application of Article 21 of the Covenant across Europe and the OSCE area. In 2010, the OSCE and the Council of Europe launched the Guidelines on Freedom of Peaceful Assembly (Second Edition) to offer a practical toolkit for legislators and practitioners to impose and implement the laws. In 2011, they advanced further by introducing another toolkit named Handbook on Monitoring Freedom of Peaceful Assembly addressed at civil society to monitor the States' application in order to ensure the full respect of the right of public assembly. Both Guidelines and Handbook provide comprehensive checklists for legislators and law practitioners to ensure that the law will

not accord excessive powers to authorities, and to prevent that an excessively wide discretion of the authorities may lead to abuse and aggression. These checklists include a presumption in favor of holding assemblies; the state's positive obligation to facilitate and protect peaceful assembly; legitimate grounds for restriction; legality of the law imposed for restriction; proportionality; non-discrimination; review and appeal; good administration; and liability of the regulatory authority.

Now back to Thailand: When considering the scope and the key features of the Public Assembly Act B.E. 2558 (2015), we shall see that the Act aims to govern a broad area of public assembly which includes all purposes of assembly including but limited to the expression of political opinions, providing that:

> *"'Public assembly' means an assembly of persons in a public space for the purpose of demanding, supporting, protesting or expressing an opinion on any matter to the general public, and where other persons are able to participate in the assembly, regardless of whether or not there is a procession or relocation."*

Further, the Act stipulates numerous detailed requirements for public assembly, which include procedures for giving a notice on the assembly; restrictions on places and sound; duties of assembly organizers and participators; policing powers for safeguard of public order; court's order and execution to dissolve the assembly.

Some key features of the Public Assembly Act B.E. 2558 (2015) are very pioneering to ensure that a public assembly will be peaceful. These include, inter alia, the duties of assembly organizers and participators, the notification requirements and the restriction on sites and sound. However, comparing to international accepted principles and standards, particularly those in the ICCPR and those recommended by the OSCE/ Council of Europe's Guidelines on Freedom of Peaceful Assembly (Second Edition), the Act still falls short of expectations, containing some key problematic issues as follows.

1. Non-discrimination

   Although the Act is silent on the rights of aliens to public assembly, it is of my concern that when interpreting this Act, it shall be interpreted together with the Constitution of Thailand. According to Section 53 of the new constitution draft, the right of public assembly is only recognized and guaranteed for Thais, not for foreigners in Thailand, as Section 53 of the constitution draft is intentionally placed in Part 3: Rights and freedoms of Thai people. Henceforth, Thailand is at risk of violating the non-discrimination principle under Article 2.1 of the International Covenant on Civil and Political Rights (ICCPR).

2. Legality and proportionality of an appeal against the authority's decision

   Under Section 11, paragraph 4, the Act does not clarify whether the assembly organizers can appeal against the decision of the notice receiver's supervisor (appeal authority) at the Administrative Court. Section 11, paragraph 4 even says that the decision of the appeal authority is final; it is worthwhile to remind law practitioners that the authority exercises administrative power which is subject to judicial review by the Administrative Courts. Furthermore, when it comes to the challenges for the constitutional right of public assembly, it is subject to review by the Constitutional Court as well. The Act's silence on whether the assembly organizers can challenge the appeal authority's decision, including challenges on legitimate grounds of restriction, at the Administrative Court, will create a stalemate situation and a big question whether and how the decision of the appeal authority can be checked for legality and proportionality. In any case, we should remember that a legitimate ground of a restriction of the public assembly right must respect one of the requirements under Article 21 of the ICCPR.

3. Flagrant offence and broad policing powers

Section 24 of the Act deals with flagrant offences and the powers of the authorities to remedy such offences. It reads as follows.

> *"Upon the expiration of the prescribed time period for the participators to vacate the control area, if there is a participator in the control area or enters the control area without permission of the authorized official in charge of the public assembly, such person shall be* ***deemed to have committed a flagrant offence****, and the situation controller and person assigned by the situation controller shall take action to enforce the termination of the public assembly pursuant to the court order. In this regard, the situation controller and person assigned by the situation controller shall have the following powers:*
> *(1) Arrest a person in the control area or person who has entered the control area without permission from the authorized official in charge of the public assembly;*
> *(2) Search, seize, attach or remove property used or held for use in the public assembly;*
> *(3) Act as necessary pursuant to the plan or guidelines for public assembly supervision as provided under Section 21;*
> *(4) Order the prohibition of certain acts for the benefit of terminating the assembly."*

The fact that certain acts committed by participants of the assembly are deemed to be **flagrant offences** under Section 24 is totally in conflict with the general legality principle of criminal

law and with Section 80 of the Criminal Procedure Code of Thailand, which reads as follows:

> *"An offence is considered flagrant when a person is* ***seen committing it*** *or is* ***found in such a condition as there can be practically no doubt that it has just been committed*** *by him.*
>
> *However,* ***offences specified in the Schedule*** *annexed to this Code, shall be* ***deemed to be flagrant*** *in the following case:*
>
> *(1) When a person is being* ***pursued as an offender with hue and cry****, or*
>
> *(2) When a person is* ***found almost immediately after the commission of the offence in the vicinity of the place where the offence has been committed****, and he has* ***in his possession articles obtained through the offence****,* ***tools****,* ***arms or other articles which were presumably used in the commission*** *of the offence, or there are* ***clear traces of guilt upon his dress or body****."*

Section 24 of the Criminal Code above complies with the general principle of criminal law regarding the flagrant offence in two folds: one is the typical flagrant crime when there is proximity in time between the moment the crime was committed and the moment of its discovery; and the offence is discovered immediately after it has been committed. The other one is the assimilated flagrant crime where flagrance can be presumed due to the proximity in space and time of the commission of the offence and/or the publicity of the commission (when a person is being pursued as an offender with hue and cry) together with the aggravated offence (offences specified in the Schedule). (See

further at Ciprian, Bogea Marius. *General concepts on flagrant crimes. Aspects de lege ferenda and comparative law*, p. 3)

Interestingly, a participant remaining in the control area or entering into the control area without the permission of the authorized official in charge upon the expiration of the prescribed time period for the participants to vacate the control area **does not commit a *lex lata* offence nor an offence specified in the Schedule annexed to this Code** nor an aggravated offence. Section 24 of the Public Assembly Act B.E. 2558 (2015), in this sense, arguably fails to comply with the internationally accepted general principle of criminal law and Section 24 of the Criminal Procedure Code of Thailand; henceforth, the legality of the Act in this respect should be a big question.

4. Civil Court or Administrative Court's Jurisdiction?

The nature of the dispute regarding the legality of the exercise of the public assembly right and the legality of the authorities' act against it lies in the territory of administrative law, whereby the administrative acts' legality is reviewed by the Administrative Court (in case of a dual court system). According to the Constitution of Thailand, particularly Section 227 of the current constitution draft and Section 227 of the Constitution in 2007), the Administrative Courts have the power to try and adjudicate cases of dispute between a State agency, State enterprise, local government organization, organ under the Constitution or State official on one part and a private individual on the other part, or between State agencies. When the authority finds that the public assembly is illegal or becoming illegal and needs to dissolve or end the assembly, the authority shall seek an order and execution from the Administrative Courts. However, Section 21, paragraph two, and Section 22 of the Public Assembly Act B.E. 2558 (2015) requires that the authorities shall file a motion with a Civil Court or a Provincial Court, instead of the Administrative Courts. Confusions within the concept of jurisdiction under Section 21 and Section 22 of the Act will multiply problems for both

authorities and demonstrators and put the country at risk of a deadlock conflict between authorities, or state institutes and people, as well as the society at large.

Taking into consideration the problems above and assessing the Public Assembly Act B.E. 2558 (2015) through an international human rights lens, I fear that the Act may fail to even serve the first objective, as the Act provides a confusing concept of jurisdiction, conflicts with the criminal procedure code with regard to flagrant offences and broad policing powers, raises questions regarding the judicial review of the legality and proportionality of an appeal authority's decision, and risks a violation of the non-discrimination principle under the ICCPR when it is interpreted in conjunction with the constitution (draft) in the future. With this Public Assembly Act B.E. 2558 (2015) of Thailand, I hope that another round of insurrection will not begin.

Foreign Participation in Land Grabs in Thailand

Papawadee Tanodomdej, Research fellow, International Institute for Trade and Development (ITD)[1]

Over the past decades, land grabbing has emerged as a pervasive phenomenon stirring heated debates and physical confrontations in many developing countries. Local people are concerned of its impact on environmental, social and economic issues. There are reported cases in which foreigners allegedly have occupied agricultural land in several provinces, such as Suphan Buri[2]. Investors from the Middle East have also been reported to be interested in leasing or purchasing land in Thailand for farming purposes[3]. Beyond such cases, the actual magnitude of how much land in Thailand is owned and occupied by foreign individuals and firms is unknown. Moreover, it is rather unlikely to be quantified, given the fact that a large number of cases are done illegally or legally through legal and administrative loopholes. To understand the context and impact of land grabs by foreigners in Thailand, this article first provides the background on a number of issues that are rising regarding foreign ownership of land in the country. This is followed by a review of the previous and existing legal framework on foreign ownership and use of land. Then, the last section discusses policy implications.

[1] Email: papawadee@itd.or.th. This article is based on the research project on "Exploring the Trade Patterns and Developmental Implications of Land Concessions: The Case of Cambodia, Lao PDR and Thailand" financed by the International Institute for Trade and Development. The views contained in this article do not necessarily represent those of the Institute.

[2] Bangkok Post. (2009, August 24). Foreigner's own 90% of Phuket beach land. Retrieved from: www.bangkokpost.com

[3] Gulf Daily News. (2009). Eastern Promises! Retrieved from: http://farmlandgrab.org/5809

1. The history of foreign land grabs and its current situation in Thailand

Thailand has always been open to foreign investment, notably since the country started to adopt the first National Economic plan in 1961. Since then, the government has implemented various approaches to industrial and trade policies, ranging from import substitution to export-oriented measures. Regardless of the policy approaches, the general attitude has always been that the country's economy is open to foreign investors, and various sectors of the economy have become more liberalized over the years. Foreign investment in Thailand has continued to contribute significantly to the economy. A large number of foreign businesses receive investment promotion from the Thai government, particularly through the Board of Investment. The right to lease land is considered to be the fundamental guarantee of foreign investment promotion.

Historically, the concern about foreign ownership of land is not new in Thailand. During 1855 – 1937, foreigners, especially Japanese, were purchasing land for farming. The intention was that Japanese farmers would emigrate to Thailand to cultivate rice[4]. Japanese investors would give Thai farmers some money to explore and occupy large plots of land in newly cultivated areas, and then purchase and occupy them later on. The concern among the local people was real, so much that the government enacted a number of laws and regulations that controlled foreign land ownership which will be discussed in the next section.

a) Problem of "Nominees"

Despite the legal instruments prohibiting foreigners to own land, some foreign businesses in Thailand are able to own land and real estate by using "nominees" through the following channels.

The first channel is to marry a Thai citizen, who will legally own the land. However, the right to use the land belongs to the foreign spouse. The Department of Lands, which is responsible for registering and

[4] Asawai, S. (1990). Foreign Land Ownership Issues in Thailand: A Case Study of the Japanese During 1855 – 1937 (in Thai). Bangkok: Thai Studies Program. Thammasat University.

regulating land transactions, had a measure to prevent the use of nominees by foreigners: that is, both of the spouses have to provide a document confirming in writing that all the money used to purchase the land is a personal asset of the Thai citizen, not a marriage property or an asset that they have jointly acquired. But the measure has not been effective in preventing foreigners from using Thai spouses as nominees.

The second channel of using a nominee is to have a Thai citizen purchase the land, and at the same time, have the person make a loan, lease, or mortgage contract with the foreigner who actually pays for the land. This channel is very difficult for the authority to investigate.

These two options are often accompanied by a contract that grants either the right of habitation or the usufruct right to the foreigner. Both rights are granted under the Civil and Commercial Code. The right of habitation gives a person a right to dwell in the house of another person gratuitously. On the other hand, the usufruct right allows the grantee to use, possess, manage and occupy another person's real property. The right of habitation differs from the usufruct right, in that the person granted a usufruct is allowed to transfer her rights to a third person, whereas the right of habitation grants only the use of a property for the residence of the grantee and family. A usufruct right exists as long as the holder of the right is alive or up to 30 years. However, once the holder of the right passes away, the land and property reverts back to the owner. In such as a case, no rent is paid to the property owner. In both cases, the contract is different from a lease contract, in which rent is paid and the transaction is legally regarded as a hire of property.

The third channel is to set up a business dealing with real estate properties that are registered as a Thai company. Even though more than half of the company's stocks must belong to Thai citizens, the actual management and decision-making power rests with foreigners who own preferred stocks, which are senior to common stocks. A report by Potavanich[5] for the Office of the Ombudsmen indicates that business transactions that use nominees seem to be increasing, which may have serious implications for the country's economy, society, and security.

[5] Potavanich, P. (2011) Nominees. (in Thai). Bangkok: Office of the Ombudsman.

For instance, certain occupations that used to be reserved for Thai citizens could be conducted by, or under the control of, foreigners. Not only is there a loss in tax revenue, but the nominee problem could be linked to international crimes as the income and other financial flows from land transactions cannot be easily identified and monitored.

In this context, there has been rising concern in recent years among the general public and the government about the nominee issues which eventually lead to the amendment of the Foreign Business Act. The draft of the new Foreign Business Act has defined the definition of "foreigner" by considering not only the proportion of company share but also the decision making and management power of the company. This new definition of "foreigner" is able to reflect the actual nationality of a corporation.

b) Rental and long-term lease

The long term lease is an increasingly popular way in which foreign individuals and firms can occupy and use land and property, not just through personal relationship in the form of nominees. With assistance from local and international law firms, foreigners are able to draw up various contractual agreements that make sure that their rights are secured. The lease of land could either be for residential or business purposes for the duration of 30 years. The usual practice is a clause in the contract stipulating the possible renewal of the contract for another 30 years, which is not the same rental contract under the Hire of Immovable Property of Commerce and Industry Act B.E.2542. Nevertheless, there is little evidence for land grabbing by foreigners for agricultural uses, other than a few cases that have already been reported in the media. The land grabbing by Thai conglomerates is clearly more pronounced and extensive. This is not to mention the prevalence of contract farming, which is debatable in term of the benefit that the land-owning farmers shall receive. There are reported cases in which the Bahrain-based Islamic bank Al Salam has signed an agreement with Thai agricultural and food company Charoen Pokphand Foods to jointly

invest in agricultural businesses. But it seems the land is still owned and utilized by their Thai partner, not the foreign counterparts.

In addition to long-term rental agreements, timeshare is increasingly becoming another popular form of ownership arrangement for foreigners who desire to live or invest in Thailand. The growing interest in timeshare properties indicates the increasing diversification and segmentation of the rental property market, especially for condominiums in resort towns. The usual arrangement is that multiple individuals or companies hold rights to use the timeshare property, with a specific time period allocated for each year. Some properties allow timeshare owners to stay the same time every year for the amount of days or weeks that they pay for. Other properties use the point system, in which owners buy and use the points wherever and whenever they prefer. In terms of property rights, the arrangement could either be partial ownership, leasehold, or usufruct right, in which the buyer has no claim to ownership of the property. Even though there are no comprehensive surveys of the timeshare market in Thailand to date, several news reports indicate the market is growing. For instance, according to Thailand Timeshare News[6], Anantara Vacation Club, an international timeshare service, enjoyed a 100 percent growth in vacation club sales in 2013, while club ownership grew by 75 percent to over 4,000 club owners in Asia. Owners of timeshare properties could sub-let their units to other people and earn income without having to report the transactions to any authorities. They may request the property management companies to deal with sub-letters on their behalf, but these companies are not required by law to report such transactions to the authorities.

c) Foreign participation through real estate investment funds

Another important trend is the increasing number of real estate investment funds, for which foreign participation is actively sought and happily welcomed. This is due to the continuous increase in the number of new properties and the growing need for funds among local

[6] Thailand Timeshare News (2014). Available from http://insidethegate.com/gatehouse/2014/05/ thailand -timeshare-news-may-24-2014/#sthash.bwsyxLUc.dpuf.

developers. Property investment funds have expanded rapidly in the past few years in Thailand. According to Fitch Ratings, the number and the value of assets under management of property investment funds in Thailand continue to grow in 2014 and 2015[7]. The market capitalization of property funds listed on the Stock Exchange of Thailand jumped from 96.5 billion baht at the end of 2011 to 243.0 billion baht at the end of 2013. The number of funds also increased from 33 to 46 during the same period. Because of the expectation for greater returns, such funds are regarded by many investors as a more attractive option than bank deposits and fixed income investment. It is also expected that regulatory changes to establish a real estate investment trust (REIT) structure for these funds will lead to further growth of the sector.

For the time being, foreign participation in the Thai property market through real estate investment funds may not possess the same level of ownership and other property rights as the traditional ways of buying, owing, and occupying land. This is partly due to the fact that the financial market is extremely fluid; foreign investors can participate or pull out of the Thai market relatively easily and quickly, so the level of foreign ownership constantly fluctuates. Meanwhile, these equity owners generally do not have direct influence on the strategic directions and day-to-day operations of the funds. In other words, they do not have direct power to dictate how land and properties are developed and utilized. As such, the effects of this type of property ownership are very different from those of direct ownership. In fact, foreign investment still accounts for only 16% of the total value of the domestic real estate investment funds in 2013. According to the Bank of Thailand, the ratio is still relatively low and does not indicate any unusual signs[8]. Nonetheless, as this sector continues to grow, there could be important implications for land policy and planning, which deserves close monitoring and evaluation.

[7] (2014). Fitch: Thai Property Funds to Continue to Grow. 7 August 2014. Available from: http://www.reuters.com/article/2014/08/07/fitch-thai-property-investment-funds-to-idUSFit71327920140807.

[8] Prachachat Thurakij. (2013) Foreign money buying up condos, rushing to speculate. (in Thai). Retrieved from: http://www.prachachat.net/news_detail.php?newsid=1362106223.

d) Increase in land value and decrease in affordability

One major concern is whether foreign participation in the local land market has driven up land prices, which has in turn crowned out local buyers who generally have lower purchasing power than foreigners. In the case of Thailand, this is particular applicable to popular resort cities, such as Pattaya, Phuket, and Chiang Mai, as well as industrial areas, such as Chonburi and Rayong. In these cities, expensive condominiums and land subdivision projects, many of which are located in prime areas, are beyond the affordability of most Thais. Because of the increase in land and housing prices, Thai workers usually live in suburban and exurban areas where land is relatively less expensive and drive cars or motorcycles to work.

The pattern of the soar of land value is demonstrated through the investment of wealthy upper-class Thais and foreigners in the local market. As long as they possess significantly higher purchasing power than the middle-class Thais and the property tax systems remain inadequate, they can benefit from the increase in property value. Luxury condominiums with astronomical prices are no longer rare in the central areas of Bangkok. For instance, a 1500 square-meter unit in the Mahanakohn project in Bangkok was bought by an Indian businessman for 480 million baht (USD 15 million)[9], and a beach-front villa in the Vertigo project in Phuket was sold for 227 million baht (USD 7 million). Properties such as these are only for the upper-class Thais and the foreign investors with large amount of funds, who benefit from the constant increase in land value.

The effect of rising in land value, which is partially explained by the constant inflow of foreign investment in the property market, could be felt by middle class in Bangkok and other big cities. The prices for townhouses, detached homes, and condominium units in the past few year are beyond the average income of middle class. For instance, a company worker whose income is about 15,000 – 20,000 Baht cannot

[9] Prachachat Thurakij. (2013) "The top of the top: most expensive land and condominiums in 2013" (in Thai) 30 December 2013. Available from: http://www.prachachat.net/news_detail.php?newsid=1388333306.

obtain a mortgage that is large enough to buy a condominium unit near the city center where jobs are concentrated. The price per square meter of a condominium unit in the downtown area is about 70,000 – 120,000 baht and the unit prices range from two to four million baht. The middle-income workers thus have to buy cheaper properties in the suburbs and endure a long commute everyday into the city.

e) Scarcity of agricultural land

The concern on food security drives the countries which heavily depend on food imports to invest in food production outside their countries where there is a better climate, fertile land and less constraints on natural resources. This pattern is demonstrated through the interest of Gulf States, South Korea and Japan in investing in developing countries' agricultural sectors such as in Thailand, Lao PDR and Cambodia.

For Thailand, even though its continuing economic expansion in recent decades has been mainly attributed to the increasing output in the industrial and service sectors, agricultural production is still growing and remains the backbone of the economy and society. The strength of the country's agricultural sector relies greatly on the natural endowment. Fertile soil and abundant land have allowed farmers to cultivate rice and other staple crops. While agricultural is no longer the largest economic sector of Thailand's economy and trade, more than half of the land is still used for agricultural production. There are 168.5 million rais (269,600 square kilometers) of land that is suitable for agricultural production, or about 52.5% of 320.7 million rais, the total area of the country. Such amount of land is utilized by as many as 24.5 million people who are still considered farming population.

However, the pressure on agricultural land has intensified since the 6th National Social and Economic Development Plan in 1987 due to the demand for industrial and residential land. The economic boom driven mainly by export-oriented industrialization since the 1980s was accompanied by massive rural-urban migration, which further propelled the trend of urbanization. While agricultural land was increasingly converted into built-up areas to serve new economic activities, investors

from Gulf States, Japan and South Korea are interested in agricultural investment in Thailand to serve their countries' food security. It has been reported through media that foreign investors acquire land through Thai nominees and hire the farmers who are the former owner of the land to cultivate rice or other productive crops for them. Despite the violation of the Foreign Business Act which prohibits agricultural activities conducted by foreigners, the farmers are able to earn a living through their traditional way of life. In this context, the equitable wage that the farmer should receive from the foreign investors is as important as the illegal pattern of land grabs which stimulates the landless farmer incidents.

Even though there is currently no evidence on the economy-wide effects of land grabs in Thailand by foreign entities, large investment associated with land grabbing usually induce structural changes to the local economy and society. For instance, the extensive and ongoing encroachment of forest areas for corn, maize and rubber plantation by tenant and landless farmers is one example for large scale land grabs for agricultural production.

2. Laws and regulations on foreign ownership of land

Despite the media's recent interest in foreign land ownership, the fact is that Thailand has had laws controlling foreign land ownership for a long time. In 1856, during the reign of King Rama IV, foreigners who had lived in Thailand for less than 10 years were not allowed to purchase and own land within Phra Nakorn District and its surrounding areas in Bangkok, where the Royal Palaces and other key institutional building were located. Foreigners were allowed to rent only. This restriction was later included as part of the Bowring Treaty with the United Kingdom in 1856. Much later on in 1943, the Land Act B.E. 2486, as well as the modified version in 1950, stipulated that foreigners could own land according to international treaties for specific activities and with maximum limits; for example, not more than 25 rais for agricultural and 50 rais for industrial production. The size of foreign ownership allowed

for those under international treaties was reduced to 10 rais both for agricultural and industrial purposes in 1954 in the Land Code B.E. 2497.

Even though the Land Code allowed foreign land ownership, the Revolutionary Council Order number 281 (24 November 1972) restricted the types of businesses that foreigners were allowed to engage in. The restricted sectors included a wide range of agricultural production, ranging from farming, gardening and forestry to raising livestock and fishery. Furthermore, the Foreign Business Act B.E. 2542 categorized businesses into 3 groups, one of which is not allowed to be operated by foreigners. The forbidden businesses include rice and other farming, gardening, raising livestock, forestry and timbering, fishery, herb extracting, and land transactions.

Due to the financial and economic crisis in 1997, the government enacted a number of national acts that deregulated the control of foreign ownership of real estate properties in Thailand. These include the Land Code Amendment Act (No.8) B.E. 2542, the Condominium Act (No.3) B.E. 2542, and the Hire of Immovable Property for Commerce and Industry Act B.E. 2542.

Pursuant to the Land Code B.E. 2497, foreign entities were able to own land as long as there are international treaties between Thailand and the respective governments of the foreign entities, subject to the permission of the Minister of Interior. Thailand used to have international treaties with 16 countries, namely the United States, the United Kingdom, Switzerland, Denmark, Germany, Norway, the Netherlands, France, Pakistan, India, Belgium, Sweden, Italy, Japan, Myanmar, and Portugal. However, all of these international treaties stipulating the right of foreigners to own land were terminated as of 27 February 1970. Therefore, there are no longer international treaties that allow foreigners to own land in Thailand.

Nonetheless, the present legal framework allows foreigners to own land through 3 main channels.

a) Investment

Since January 2002, the Land Code, Section 96 bis, allows foreigners to own not more than 1 rai (0.16 hectare) of land for residential purposes, under the following criteria.

1. Invest more than 40 million baht in Thailand, and the investment remains in the country for more than 5 years;
2. Obtain permission from the Minister of Interior;
3. Invest in one of the following categories;
    - Bonds issued by the Government of Thailand, the Bank of Thailand, state enterprises, or those that the Minister of Finance underwrites the principal or interest;
    - Real estate investment fund or mutual funds established with the purpose of solving problems in the domestic financial system as permitted by the Investment Promotion Act; and
    - Invest in businesses that are listed by the Board of Investment as those to be promoted under the Investment Promotion Act;
4. The land to be acquired by foreigners must be located in Bangkok, Pattaya, municipalities, or in residential zones as designated by city planning laws, and must be located outside military security areas;
5 The land must be used as residence by the foreigner and his/her family in such ways that do not violate the good conduct of the community;
6. If the foreign owner violates any of the regulations or conditions, he will have to sell the land within the time frame determined by the director of the authorized department;
7. If the foreigner who acquired the land does not develop the land for residential purposes within 2 years after registration, the Director of the authorized department can sell the land.

In addition to the Land Code, the Investment Promotion Act B.E. 2520 and the Industrial Estate Authority of Thailand Act B.E. 2522 allow foreign companies which received investment support and authorization from the Board of Investment to own land in a certain amount that is deemed appropriate by the Board, even if such an amount may exceed what is allowed under other laws.

In case of real estate investment, Condominium Act B.E. 2542 allows foreigners to own residential suits, however the Act limits the proportion of ownership at 49% of the total floor space of the condominium.

b) Inheritance

Foreigners may be able to acquire land through legitimate inheritance, but the inherited land and other plots of land that he/she owns cannot exceed the size stipulated by the Land Code: that is, not more than 1 rai (0.16 hectare) per household for residential and commercial purposes, and not more than 10 rais (1.6 hectare) for industrial and agricultural activities.

c) Marriage

As for foreigners who are married to a Thai citizen, the Thai spouse can purchase land, provided that both of them provide a document confirming in writing with the authority that all the money used to purchase the land is a personal asset of the Thai citizen, not a marriage property or an asset that they have jointly acquired.

d) Long-term lease

In addition to the ownership of land, a foreigner can lease real estate properties for commercial or industrial purposes in Thailand for more than 30 years but not more than 50 years according to the Hire of Immovable Property of Commerce and Industry Act B.E.2542. The leasehold can be used as collateral and is transferable to legitimate heirs

and can be subleased to other people in whole or in part unless stipulated otherwise in the lease contract. However, the type of commercial or industrial activities shall not be the activities restricted by the Foreign Business Act B.E.2542.

3. Policy Implication

Land grabbing is an important issue by itself, whether it is engaged by foreign or domestic entities. In the case of Thailand, it is widely known and occasionally reported that certain Thai families and conglomerates have been buying up a massive amount of rural and urban land. Thus, the impact of land grabs in Thailand cannot be attributed solely to foreign participation. The ineffectual property tax system triggered land owner to keep their land unutilized or under-utilized for a long time. Although the issues of land grabs by foreigners are in the attention of media and invoke the negative feelings of many Thai stakeholders, the participation of foreigners in land grab can bring benefits to the local economy, in term of employment, income generation and infrastructure development. The fact that the ASEAN Economic Community (AEC) will be officially launched in 2015 shall draw the attention of the public sector to analyze the land-related investments and formulate the appropriate policies and legal instruments that lead to more equitable distribution of risk and benefit. There are several policy options that the Thai government should specifically develop and implement to promote more efficient and equitable ownership and utilization of land, as follows.

a) Develop coherent land policies and legal framework

The country's land policy with regard to foreigners' ownership and utilization has somewhat reflected an open attitude towards foreigners, as indicated by several legal provisions that allow foreign investors to own and use land for business purposes. Nevertheless, several regulatory constraints and limitations on foreign land ownership still remain. When the demand for land and properties in Thailand continues to grow among

foreign individuals and businesses, the limitation in the land-related regulation are not adjusted to the demand pressure. As a result, there continue to be land-related transactions that are conducted through illegal channels and legal loopholes. Such informal and underground transactions create problems for the government to track and monitor.

Consequently, the country's land policy and legal framework on land ownership and utilization by foreigners have to reflect changing conditions in the global and local economy and the country's social and economic policies. As land and trade are inextricably linked, future land policy cannot be developed without considering the overall economic and trade policies of the country. Some controversial and sensitive issues need further public deliberation such as the duration of lease for foreigners and the prohibition of foreign investment in agricultural production, so that some revision to the current land laws could be made to reflect the changing market conditions. Since Thailand prefers to attract foreign investment, the property right of land owners who are foreign investors shall be properly defined to ensure the right to recoup the investment on property. Another option is to consider allowing ownership of the buildings, if not the land, so foreign investors have some sense of security. At the same time, safeguards should be put in place to deal with possible negative impacts on local communities. There need to be measures to alleviate legitimate concerns that a very long-term lease is tantamount to giving outright ownership, which has important policy implications in terms of national security and the government's ability to manage the economy in the long run.

b) Develop and implement national and regional land use plans

A national land use plan, preferably backed by a statutory national land use act, has to be put in place, together with regional and urban land use plans with implementable and enforceable control measures. Any land development, whether by a local or foreign entity, will have to follow the plan without exceptions. Many socio-economic and environmental problems that are often cited when discussing the issue of foreign land ownership are not direct results of foreign land ownership *per se*. Rather,

they are the consequences of inadequate land use policy, planning and enforcement in the country.

c) Reform land and property tax systems

In terms of legal fiscal measures, the most important and urgently needed reform is in the property tax system. In order to enhance land use efficiency and equity, regardless of the nationality of land ownership, Thailand must revamp its land and property taxes. A proper tax reform should target personal wealth to create a more just system, since the current tax system is unfair to wage earners. While wages are heavily taxed, property and financial assets are minimally taxed. As such, the out-of-pocket and opportunity costs of property ownership are low, making it possible for rich people to own land without having to maximize its value. Adequate property taxes will not only compel land owners to utilize their land more efficiently, but will also help generate income for local governments, which now have mandates to provide an increasing array of basic services to the public.

The new property tax system should also take into account land-use and building controls in each area. Such controls include zoning regulations in Comprehensive Plans and Buildings Codes. Land value of a plot is determined not only by the availability and accessibility of infrastructure and other services in the area but also by the degree of regulation. Therefore, the rates of property taxes should correspond with the variation in building and land use intensity that is allowed by land-use and building regulations. Currently, the land administration system and the urban planning system in Thailand are not in line with each other, even though the law that permits foreign land ownership contains reference to Comprehensive Plans. This is another set of legal and administrative issues to be resolved.

d) Streamline land administration systems to enhance good governance

At the moment, various laws and regulations on land ownership and development in Thailand are not synchronized, creating both confusion among officials and investors and legal loopholes that foreign investors could maneuver through. Such legal incongruence is attributed to various factors, including institutional and organizational fragmentation and competition among government agencies with land-related mandates. Also, political pressure and lobbying from interest groups often block more effective and equitable reforms.

A land information system can serve as an important component for effective and efficient land administration. The Department of Lands is currently upgrading its national land registration databases, while other department are also improving their own databases. But these efforts need to be extended to improve and streamline the disparate systems and processes across various departments and ministries that have information related to land ownership, sale and transfer, and land and building use. All the legal, fiscal and technical changes would not produce meaningful results, unless bureaucratic transparency and accountability are also enhanced. Promoting good governance in the land administration system is thus essential to making land ownership and utilization more effective and equitable. Because foreign land ownership and utilization often rely on legal loopholes and illegal methods, government officials could be bribed to turn a blind eye to, or sometimes directly participate in, the practices. A lack of complete, reliable, and publicly-available databases of land ownership, utilization, and transactions could lead to rent-seeking activities that facilitate land grabbing from the rightful owners. Such a database would be useful in establishing and improving the land-value assessment system, which is another important component of an adequate administration system.

Meanwhile, the government should develop and disseminate clear procedures for registering land ownership and seeking permits for land development and transactions. This would allow everyone to have equal access to and benefit from the land administration system. Responsive,

transparent and accountable land administration systems are thus important for enhancing efficiency and equity in land ownership and use. In the case of Thailand, the land administration systems should be improved in accordance with the current efforts to decentralize other administrative, fiscal and political functions to local governments.

Thai Peace Day, 16 August: Ideas, Meanings, and Understanding of the Seri Thai Movement and the Modern Thai Generation

*Col. Dr. Sorasak Ngamcachonkulkid***,** Department of History, Academic Division, Chulachomklao Royal Military Academy

Key Principles

The Seri Thai Movement's anti-Japanese resistance during World War II was a democratic fight for independence and peace against the military government. Therefore, the ideas, meanings, and understanding of the movement with regard to its peacetime role should not be restricted merely to its activities in resisting an outside invader, but should also include its struggle against the system of military dictatorship. These latter activities can be considered to be the long-term project of the Seri Thai movement – to develop democracy, prevent the emergence of a military dictatorship, and create sustainable peace and equality.

In order to achieve these goals, the mission of the Seri Thai Movement did not end upon the declaration of peace on 16 August 1945, but continued in pushing Thai society towards a secure and sustainable post-war peace through the development of justice and equality and an environment free from the use of violence, but not necessarily conflicting ideas. This process was to involve domestic and foreign measures in three dimensions, namely: political reforms, through the amendment of the 1932 Constitution to establish a real democratic regime, and to encourage the peaceful resolution of conflicts. At the same time, efforts would be made in the foreign arena to free the nation from the influence of the Great Powers, while building friendly relations with neighboring countries. This policy was designed to increase Thailand's autonomy, as well as regional and global peace.

Although these efforts came to naught, the struggles of the Seri Thai Movement in war and peace had extraordinary and interesting meanings, especially in this time when the world is commemorating the 70th Anniversary of the conclusion of World War II, and the region

prepares itself to become an ASEAN Community in December 2015. Therefore, we should revisit this era and continue the effort in pushing for tangible justice and peace.

Introduction

On occasion of the 70th Anniversary of the conclusion of World War II and the 70th Anniversary of the establishment of Thai Peace Day, and the upcoming formation of the ASEAN Community, the author thinks that now more than ever is an optimal time to learn from the past. To be precise, we should revisit our knowledge regarding the role of the Seri Thai Movement to create understanding, allow better access to, and comprehensively develop our knowledge base regarding this important movement. In this process, we should not be overly attached to the paradigm that the movement was only about resisting the Japanese occupation or the nationalistic reaction against a foreign invader. To do so would mean that this 70th Anniversary and the formation of the ASEAN Community would not be marked by anything other than a short-lived outburst of nationalism, patriotism, and a narrow definition of peace – that is, the end of the war. In fact, the ideas of the Seri Thai Movement reflected a greater struggle; or at least greater than has been understood and celebrated in traditional commemorations of Thai Peace Days in the past.

If we begin from this new position, that is, the Seri Thai Movement can be considered to be a movement for independence, peace, and democracy,[1] readers will be able to understand that the ideas and peace-keeping activities of the movement did not only reflect narrow nationalistic and patriotic thoughts, but also included the love of neighboring countries and democracy. The latter affection is an important basis for the understanding of the post-war ideas and activities of the Seri Thai Movement. The movement did not only emphasize

1 See Sorasak Ngamcachonkulkid, *Tamnān mai khǫ̣ng Khabūankān Sērī Thai: rūangrāo khǫ̣ng kāntǫ̣sū phūa 'ēkkarāt, santiphāp læ prachāthippatai yāng thæ̆ching* (Krung Thēp Mahā Nakhǫ̣n: Sathāban 'Ēchīasuksā, Čhulālongkǫ̣nmahāwitthayālai, 2555 [2012]); *The New History of the Seri Thai Movement*. (Bangkok: Institute of Asia Studies, Chulalongkorn University, 2010).

bringing about peace by ending the war, but had a wider ambition of creating a non-violent environment that still allowed disagreement to take place, i.e. a peace built on the basis of justice and equity in the context of a complete democracy.

To achieve this goal, the Seri Thai Movement was systematic in its thinking and implementation of ideas. The movement enacted preventative measures in three dimensions, running in parallel. Domestically, the process began with political reforms to build a true democratic system. At the same time, Thailand's autonomy also had to be ensured at the regional level and in the wider international arena. This environment would be created through amiable relations with neighboring nations, regional integration, and autonomous policy-making, free from the influence or interference of Great Powers. These measures would guarantee and bring about a secure and sustainable peace. The achievement of this goal was a long-term and still unfulfilled objective of the Seri Thai Movement, starting from the end of the war and continuing up to present times.

The key question that follows this discussion is not only why the Seri Thai Movement failed to achieve this objective during the post-war years, but also what the role of the modern Thai people should be in continuing this work to secure a sustainable peace through the establishment of a truly just and equitable democratic system? At the same time, Thailand and her neighbors have become more integrated. There is also less influence and interference from the Great Powers. Yet, Thailand still has the basic problem, similar to those encountered by the Seri Thai Movement – that is, the incomplete democratic reforms. Although the military under the NCPO has put itself forward to administer and "reform" the country, so that the democratic process can move forward, naturally, its activities have also met with resistance. There is doubt among some quarters that the military and democracy can go forward together. Only time will tell whether these doubts are justified and whether the reform process will return to the same old vicious cycles.

Furthermore, the formation of a Community in Southeast Asia to protect and pursue trade, development, and region-wide economic and

security partnerships remains incomplete. The region is not truly unified, although it will become an ASEAN Community by the end of 2015. The cracks in this union threaten to break out in conflicts and violence. Examples of these fractures include the ongoing disputes in the South China Sea and the possible economic conflicts between different models of regional free trade, particularly those between the Regional Comprehensive Economic Partnership (RCEP) and the Trans-Pacific Partnership (TPP), where Great Powers are trying to exert their influence to control ASEAN in a way not so different from the Cold War period.

Nevertheless, before we can answer the questions posed earlier, we should begin by understanding the Seri Thai Movement before proceeding to how to develop or continue its activities following the declaration of peace on 16 August 1945. We should begin with what exactly this movement was about and why the peacema-king/peacekeeping movement does not only mean the absence of war, but the creation of a just and equitable environment, free from violence, but not conflict. Most importantly, we shall see why the Seri Thai Movement's push for true democracy ultimately failed and why the movement for greater regional integration in this period through measures, such as the creation of the Southeast Asia League also failed. Therefore, if the modern generation had a complete understanding of the movement, they would be able to continue and develop upon the previous work of the movement, much like those who perform better in their tasks, with experience.

Thus, before we get to the heart of the matter, that is, the Seri Thai Movement and the new discourse regarding its ideas, meanings, and understanding, we have to understand the new paradigm of the movement. What were the Seri Thai Movement's ideas on peace? Then, we can proceed to the movement's wartime resistance activities and its meanings. Once these ideas are understood, we can continue to its activities in building and maintaining domestic peace. The essay will conclude with what we have learnt from Thai Peace Day and how the modern generation of Thais can cooperate to develop and continue the activities of the Seri Thai, where "Peace is in our hands" so that a true peace can be established.

What exactly was the Seri Thai Movement?

Many readers who are not familiar with the author's earlier work, "*Tamnān mai khǭng Khabūankān Sērī Thai*" ("The New History of the Seri Thai Movement") may wonder why we need to ask the aforementioned questions. The reason these questions have been posited is to create a common understanding, since our understanding and thoughts regarding the movement may be quite different – much like ideas on true democracy. If we do not create a common understanding, there may be problems and an inability to come to a proper conclusion – much like the current efforts at reforms; where should we start from, and in what direction should our efforts go? The Seri Thai Movement is the same; it may seem to be a unified movement with a common understanding, but it was not. This movement was the same as others in Thai history; it was subject to prejudice, facts, and reality. Past understanding regarding the movement has also been attached to the belief system that have been handed down, that is the idea that the movement was only about resisting the Japanese occupation, rather than a deep analysis of the facts behind the movement.

What was the Seri Thai Movement about? Nobody can truly answer this question, but the historical facts clearly show that the movement was not only about resisting the Japanese, but was also a pro-democracy movement. This fact can be seen from one of the objectives of the movement: "We shall guarantee the Thai people a true democracy, without interference from dictatorships". Therefore, the mission and objectives of the Seri Thai Movement was not only to fight off the Japanese invaders and to re-establish independence and peace, but in reality also included resistance against dictatorship and the establishment of complete protection for the democratic system.

Even so, these facts are not often cited in studies of the movement. The activities of the movement have passed into legend, where these legends are only concerned about its anti-Japanese resistance. Thus, through its literature review, this essay will reveal and explore past explanations of the movement, most of which describes the old legends.

Although most of the previous literature has focused on the movement's anti-Japanese activities, there are some works that have existed for more than three decades that have discussed the "new legend" of the movement – mainly by this author (the first of the author's work to create this discussion appeared in 1984, and have continued regularly up to 2014).[2]

The author may diverge somewhat from previous findings in answering the questions posed in this essay, but the gist and direction remains the same. There are two main issues. The first is that the Seri Thai Movement was not only about anti-Japanese resistance, the second is that the movement's struggle was not only focused on regaining independence and establishing peace, but also included the establishment of a truly democratic system. Indeed, this struggle for democracy forms the basis of the Seri Thai Movement's fight for independence, peace, and equality.

To put it another way, in the words of Her Royal Highness Princess Maha Chakri Sirindhorn, who graciously wrote the preface of the author's work "The New Legends of the Seri Thai Movement: The Real Story behind the Struggle for Independence, Peace, and Democracy": "The work that the members of the Seri Thai Movement tried to do was a long-term project – that is, the establishment of democracy and the prevention of dictatorships to create true peace and equality."[3] This is the heart of the anti-Japanese struggle of the movement, since without a true democratic system of government, the regaining of independence and peace will always be incomplete and may eventually amount to nothing.

Independence and peace do not guarantee a democratic system of government. However, a truly democratic system of government, with justice and equality at its heart, will act as a guarantee for independence and peace. The achievement of this system was the highest ambition of

2 Sorasak Ngamcachonkulkid, *Tamnān mai khǭng Khabūankān Sērī Thai: rūangrāo khǭng kāntǭsū phūa 'ēkkarāt, santiphāp læ prachāthippatai yāng thāčhing* (Krung Thēp Mahā Nakhǭn: Sathāban 'Ēchīasuksā, Čhulālongkǭnmahāwitthayālai, 2557).

3 Her Royal Highness Princess Maha Chakri Sirindhorn, "praise" in Sorasak Ngamcachonkulkid, *Tamnān mai khǭng Khabūankān Sērī Thai: rūangrāo khǭng kāntǭsū phūa 'ēkkarāt, santiphāp læ prachāthippatai yāng thāčhing* (Krung Thēp Mahā Nakhǭn: Sathāban 'Ēchīasuksā, Čhulālongkǭnmahāwitthayālai, 2557), i.

the Seri Thai Movement, and some parts of this objective had been achieved by the time peace was announced on 16 August 1945. The good seeds had been planted during the immediate post-war period, although it met with failure two years later. However, the Seri Thai Movement's ideals and peacemaking efforts should be a model or a "Seri Thai Idol" for the new generation to understand, learn from, and develop in order to continue the movement's important work, which is necessary for the maintenance of a secure and lasting peace.

Peace from the Seri Thai Movement's Perspective

The examination of the concept of peace from the perspective of the Seri Thai Movement can be approached in many different ways. It can begin with a consideration of the individual members' or groups' perspectives or a consideration of the objectives and activities of the movement, and so on. However, in general, the search for concepts on peace from the perspective of the Seri Thai Movement will not be so different from other research on the understanding of Thais, that is, there will be multiple perspectives at many levels, since the Seri Thai Movement was made up of Thais from a variety of backgrounds from farmers to scholars, civil servants, teachers, politicians, and members of the royal family. Thus, their views on peace will greatly differ. Some may subscribe to the simplistic view that peace is the absence of war, while others may have a wider perspective and see peace as an absence of violence, reinforced by structural and cultural means. Others may go further still and see that peace is the absence of violence, but not necessarily conflicts and disagreements, where such conflicts are arbitrated on the basis of justice and equality. This latter view is also highly compatible with a democratic system of government.

In reality, although the Seri Thai Movement included members from all strata of society, and included many different perspectives on peace – that is from an absence of war, to a more sophisticated view that peace means an absence of violence, but not necessarily free from conflict – the common denominator at the movement's heart was to resist the Japanese occupation, regain independence, end the war, and

establish a truly democratic system of government. This common cause can be seen from the formal announcement of the movement's objectives:

> "First, we shall resist the Japanese with all our strength and with all means at our disposal;
> Second, we shall make all efforts to regain Thai independence; and
> Third, we shall guarantee the Thai people a true democracy, without interference from dictatorships."[4]

Once we examine this announcement, readers may be able to see the message that the Seri Thai Movement was sending to the Thai people in order to enlist their cooperation. The answer most likely not be restricted to war-related and anti-Japanese operations. At the time, Thailand was also facing a significant problem on another front: Field Marshal Phibunsongkhram's[5] military government that did not conform to democratic standards. To put it another way, the nation also had to deal with a military dictatorship, which had been a persistent problem since 1932. It was the inability to deal with this problem that partly explained Thailand's involvement in World War II on the side of the Axis Powers and the subsequent declaration of war on the Allies.

It can be argued that the Seri Thai Movement saw that the problems of occupation and peace originated from Field Marshal Phibunsongkhram's military government. Thailand had to enter the war on the side of the Axis due to the military government's dictatorial policies. The declaration of war against the United States and Great Britain was also contrary to constitutional provisions. In this matter, the leaders of the Seri Thai Movement were in complete agreement that the policy of the Thai government at the time had been led by its pro-

4 Konthi Suphamongkhon, *Kanwithesobai khong Thai* [Thai Foreign Policy]. (Bangkok: Thammasat University Press, 1984.), 56-66.
5 Field Marshal Po. (Plaek) Phibunsongkhram, popularly known as Phibun, was the Prime Minister at that time. Also Phibun is commonly referred to as "Luang Biphul" or "Luang Bipulya" or "Pibul" or "Pibun" in Western sources.

Japanese sympathies. For example, Pridi Banomyong [6] stated clearly that Field Marshal Phibunsongkhram's dictatorship was the cause of Thailand's entry into the war. Most importantly, the Field Marshal had complete power over the nation's armed forces and exercised it. Pridi emphasized this point as follows: "Subsequently, the Council of Regents appointed Field Marshal Phibunsongkhram to be the Supreme Commander, which allowed the Field Marshal to administer the country in an increasingly dictatorial way, taking the country into the Second World War."[7] Furthermore, in the proclamation of peace on 16 August 1945, Pridi also stressed that "The declaration of war against the United States and Great Britain on 25 January 1942 is invalid, since it was contrary to the wishes of the people and violates the Constitution."[8]

If the declaration of war against the United States and Great Britain was indeed contrary to the will of the people and the provisions of the Constitution, and Thailand's entry into the war can be attributed to the dictatorial use of state power by Field Marshal Phibunsongkhram, then it meant that the leaders of the Seri Thai Movement thought that the problem with Thailand was not an external one, but an internal one. This internal problem was the dictatorial and arbitrary Phibunsongkhram Government that did not conform to the wishes of the majority of the people.

Then what are the lessons that we, as the modern generation, can learn, if the above ideas are true? Of course, it is not only about fostering patriotism or nationalism, but also democratic ideals. Most importantly, a measure has to be found to prevent the influence of military dictatorship and/or other groups that wish to use violence to resolve

6 Pridi Banomyong, or Pridi Phanomyong (Panomyong), or Luang Pradit (or Pridist) Manudharm was the only 1932 Promoter whose influence could rival that of Phibun. Since Pridi is the name by which he is better known, it is used in this study.

7 See Pridi Phanomyong, *Lukthan samkhun bang prakan kiew kap Sathana Songkhram khong Thai nai rawang Songkhram Lok khrang thi Song* [Some Important Evidence Concerning the War Status of Thailand during the Second World War]. Part. I, Bangkok: Santhitham Press, 1978, 44-45; and *Khan prasai suntharapoj bang roeng khong nai Pridi Phanomyong lae bang roeng keiw kab Khabuankan Seri Thai* [Some Speech and Eloquence of Pridi Phanomyong along with some Stories about the Free Thai Movement] (Bangkok: Samaniti Bukhol, 1974), 170-171; and Pridi Phanomyong, *Pridi Phanomyong kab Sangkhom Thai* [Pridi Phamonyong and Thai Society: Collection of Pridi's works] (Bangkok: Thammasat University Press, 1983), 451.

8 Pridi's declaration on the "Thai Peace Day" stated that the Phibun government's declaration had not been done by spirit of Thai people, and the Free Thai Movement was established since December 8, to show the resistance of Thai people against the Japanese troops.

conflicts or, in other words, a way to stop the repeat of the Phibunsongkhram Government. This measure is in the establishment of a true democracy, since a military dictatorship was responsible for taking Thailand into the war on the side of Japan and the declaration of war on the Allies. Thailand entered a state of war and risked losing independence during the post-war period. However, the Seri Thai Movement was able to prevent the loss of independence, and this continues to be the most important and tangible result of the movement.

Nevertheless, one idea that must be stressed and identified here is that Thailand was able to escape post-war loss of independence not only through the anti-Japanese operations of the Seri Thai movement and involvement in the negotiations with the Allies, but also through the movement's actions against the military dictatorship of Field Marshal Phibunsongkhram – this latter action as no less important in guaranteeing independence and a secure and lasting peace through the establishment of a true democracy. In other words, the Seri Thai Movement for independence and peace had another significant mission, which was the parallel fight for democracy. This fight for independence, peace, and sovereignty was to be based on promoting a democratic form of government and protecting it from a military government.

To achieve this objective, the Seri Thai Movement decided superior strategies and tactics to those of the military government. The movement linked Thai political problems to the Japanese occupation; or vice versa. They successfully placed the military dictatorship of Field Marshal Phibunsongkhram into the same context with the Japanese invasion, portraying the military government as being on the same side of the national enemy, that is, the Japanese invaders. Therefore, resisting the Phibunsongkhram Government equated to or was a part of the anti-Japanese resistance. It can be seen that when the Seri Thai Movement announced their principles and objectives, they did not only desire the removal of the Japanese in order to restore independence and peace, but also to remove domestic enemies, that is the Phibunsongkhram Government so that a true democracy can be established.

According to the historical facts, the resistance against the Phibunsongkhram Government as part of the anti-Japanese resistance

was an important operation in the Seri Thai Movement. The movement was able to successfully and peacefully achieve these goals. By the middle of 1944, the movement had toppled the military dictatorship using parliamentary methods. Subsequently, the movement began its work of political reforms to promote a true democratic government. It amended the 1932 Constitution to separate public servants from the political sphere and encourage multi-party competition. These reforms continued until the promulgation of the 1946 Constitution, which, for the first time, laid the basis for a true democracy in Thailand. This constitution also reflected the ideas and the foundations for peace, justice, and equality, including those in the minorities or on the margins of society. These could now participate meaningfully in the nation's political life. Even if this constitution was short-lived, but the previously marginalized section of society managed to form the "Sahacheep" (Union of Life) Party, and for the first time help form a government in Bangkok.

Therefore, if we consider the Seri Thai Movement's general objectives and methods, it can be concluded that the movement's ideas with regard to peace was not merely the absence of war. The movement saw the idea of peace as going further and more broadly and wanted to see peace on the basis of justice and equality and freedom from violence, but not disagreements. This peace was to be built on the foundations of a true democracy, since this system would allow all groups and peoples to participate in peacefully resolving conflicts and problems. Furthermore, it will also allow minorities and marginalized sections of society to freely partake in determining the nation's destiny and direction, and in accordance with the people's wishes. These measures will inevitably lead to peace and equality inside the country, and have a positive knock-on effect at the regional and global levels.

Thus, the Seri Thai Movement's mission, which gathered those with pro-democratic ideals and closed the gap between the nobility and the grassroots by bringing them together to resist the military dictatorship, did not end with the war or on the declaration of peace on 16 August 1945. It had not fulfilled its goal, but was still continuing the struggle on the path to reforms so as to create a truly democratic system

of government. This project can be considered to be a "long-term project, that is, the building of democracy and preventing dictatorship, so as to create peace and true equality", as can be seen from the peacekeeping operations of the movement in the post-war period.

The Seri Thai Movement's Peacekeeping Activities

To sum up, once again, the movement's ideas on peace were quite broad and embraced the idea that peace had to be built on the basis of justice and equality. Therefore, the Seri Thai Movement saw the strengthening of democracy as an important element in their task of post-war peacekeeping and to prevent the further encroachment of a military dictatorship. In other words, the new system was supposed to prevent the re-emergence of a military dictatorship and the use of violence to solve conflicts, that is, the return of Field Marshal Phibunsongkhram and the Army faction to power and the interference of Great Powers, no matter which side they hailed from.

These preventative measures to protect and build peace on the basis of justice and equality were enacted in parallel in both the domestic and foreign contexts. The Seri Thai Movement's task had two aspects: the "domestic" and "foreign", where increased democratization in the domestic and foreign contexts would be mutually reinforcing. On the other hand, the prevalence of dictatorships and autocracy, whether in the economic, political, educational, cultural, or even the democratic spheres would serve to erode liberty, which will result in conflicts and violence. Thus, to fulfill this objective, the Seri Thai Movement encouraged Thai society to develop towards a secure and sustainable peace on the basis of justice and equality or a non-violent environment, but one which allowed limited conflict. Therefore, the Seri Thai Movement is a movement for peace and anti-dictatorship at the domestic, regional, and global levels. The movement had engaged in this process during the war, and continued to do so after the war.

At the domestic level, the Seri Thai Movement began with political reforms – that is, to establish a true democracy to resolve conflicts peacefully. These reforms involved separating public officials

from politics. During the war, the movement pushed for the amendment of the 1932 Constitution, with the view of preparing the country for competitive elections to the legislature, with the involvement of multiple political parties. A tangible post-war achievement was the promulgation of the 1946 Constitution, which can be considered to be the starting point of the effort to build a comprehensive democratic system and a lasting peace. Had this constitution continued to be in effect, Thailand would have had the basis for a true democracy, which would have meant more equality and a better economic and justice system than we enjoy today. Naturally, it would have also meant that Thailand would have had a better opportunity to develop a more secure and sustainable peace than at present, since the people would have received just treatment through the articles of the 1946 Constitution, the heart of which was built upon true justice and equality.

At the same time, the Seri Thai Movement also enacted measures to ensure that Thailand will have greater independence in its foreign policy in order to protect the nation's sovereignty and peace at the regional and global levels. In this regard, the movement had an important policy in not siding with any of the great power camps and in rendering assistance to neighboring countries. The movement was behind the repeal of the Anti-Communism laws, which allowed it to become a member of the United Nations and was also instrumental in the establishment of the Southeast Asia League to begin the process of regional integration and giving assistance to neighboring countries.

The repeal of the Anti-Communism laws was conducted as part of Pridi Banomyong's policy to gain membership in the United Nations for Thailand, so that the policy of neutrality on the international stage can be continued. In this quest for the middle ground, Pridi's Government also had another important policy – building friendly relations with neighboring countries through the support of nationalist movements and the establishment of the Southeast Asia League.

Pridi's Government supported the establishment of the Southeast Asia League in Bangkok. The key personalities behind this initiative were Pridi himself and a group of Members of Parliament from the Northeast (Isaan). The League was meant to promote regional stability

in Southeast Asia, where Pridi had the idea that Thailand should lead the newly-independent countries in the region, since he was confident that: "Thailand's independence and success in building good relations with the Allied and other countries will be able to support Thailand's position as the leader of these newly emerging countries."[9]

These initiatives began when Pridi was sent as the Thai government's envoy to the United States to negotiate about the return of various provinces in French Indochina. He took the opportunity to open negotiations with concerned countries and countries with colonies in the region. When Pridi visited France, he proposed that: "France should cooperate with Thailand to support the Union of Southeast Asia, which will consist of Thailand, the free states of Laos and Cambodia, and Viet Nam, which are included in the union of France, Burma, Malaya, Philippines, and Indonesia."[10]

Although this proposal did not bear any fruit, Pridi continued to "try and find a new political structure for the region" and "established the Southeast Asia League in September 1947" with the objective of "being a coordinating platform between the independent states in Southeast Asia." The League headquarters was located in Bangkok. The Isaan MPs would form the backbone of the liaison committee, with Tiang Sirikant as President of the League, Thawil Udol as head of Public Relations and coordination. There were also representatives from the Viet Minh, Pathet Lao, and other local nationalist movements involved in the League's committees.[11]

Undoubtedly, each Southeast Asian country aspired to independence and peace, both in the domestic and regional contexts. Every country also wished to be a democracy, even if that democracy tended to lean towards socialism rather than capitalism. Although each country differed in their ideas on government, they had the common ground of wishing to maintain independence and on this basis could gather in the spirit of friendship and cooperation. This gathering would allow the group more leverage against larger powers and other regions

9 Donald E. Neuchterlien, *Thailand and the Struggle for Southeast Asia* (New York: Cornell University Press, 1965), p. 94.
10 *Ibid*.,p. 95.
11 Charles F. Keyes, *Isan: Regionalism in Northeastern Thailand* (Cornell University Southeast Asia Program, 1967), p. 31.

than if each member of the group acted individually. Had this initiative of the Thai government come to fruition, it would have led to democracy and independence, together with peace throughout the Southeast Asian region. Most importantly, the ASEAN Community may have proceeded further than it has in the present day, since the idea of close cooperation with neighboring countries or forming an association has been in effect since the Seri Thai Movement, and not as a reaction to the developments of the Cold War.

However, all of these attempts by the Seri Thai movement to create peace in the domestic and regional contexts through a democratic movement failed, since Thailand returned to a military dictatorship and/or a regime that used violence to resolve conflicts domestically and abroad. Field Marshal Phibunsongkhram and the Army faction returned to power, supported by the role and influence of the United States during the Cold War. The Seri Thai Movement's mission to build and maintain peace stuttered and came to a halt on 9 November 1947, with a military coup.

It can be said that after the Seri Thai Movement period, Thai society became embroiled more than ever in conflict and violence, both in the domestic and the regional contexts. There was also great economic, social, and political inequality as well as injustice and various forms of exploitation. These factors led to increased direct, structural, and cultural violence where people were discriminated against on the basis of differences in class, nationality, religion, culture, and traditions. Consequently, this increase in violence led to a more unjust society. This structure was intertwined with the global economic and political systems in the capitalist model. Thus, the problems and challenges for the Seri Thai Movement in the post-war period originated from both domestic and external sources, especially those who resort to violence in resolving conflicts in the Thai political scene, as well as those on the global stage.

Nevertheless, these problems and obstacles are not insurmountable. To deal with them, we have to start with ourselves, as the Seri Thai Movement has already done so by gathering as a group to resist the military dictatorship, leading on to reforms to support a truly democratic system of government to ensure justice and equality. These

measures will eliminate structural violence and build a system of justice and peace. These were the key components of the Seri Thai Movement's democracy and what they were fighting for as they struggled against the Japanese occupation in World War II. It also clearly reflects the ideas and meanings of the first Thai Peace Day on 16 August 1945. The war-time actions of Field Marshal Phibunsongkhram's military government was "contrary to the wishes of the people and violates the Constitution". Therefore, if we understood the "New Legends of the Seri Thai Movement", we will be able to significantly develop the work of the movement in the building of a secure and sustainable peace.

Conclusion: How can we continue?

Although the later struggles of the Seri Thai Movement did not fulfill its objectives, the movement's experiences in resisting the Japanese occupation, its perspectives, and its activities in peacebuilding should have a significant meaning and hold lessons for Thais in the modern day. They should be able to glean ideas on how to bring about a secure and lasting peace and allow us all to move forward, if everyone had the Seri Thai Movement's faith and confidence that the forces of "democracy" will always be able to overcome "dictatorship", because democracy is the "power" of everyone. Democracy shall prevail eventually, given time.

Therefore, if one had this faith and confidence, one would know "why" and how we can move forward from here. The author wishes to conclude with the words of Her Royal Highness Princess Maha Chakri Sirindhorn on the occasion of the 50th Anniversary of Thai Peace Day, 16 August 1995. The words remain relevant and challenging: "We all have a duty to maintain and support peace. We must begin with ourselves, our family, and our society, and onwards to wider circles to include our neighboring countries and the nations of the world." This idea is at the heart of the Seri Thai Movement – that "Peace is in our hands", as has been said:

"Peace does not mean inaction, but action with love and compassion for our fellow humans, creatures, and the environment. The mission for peace is one of the greatest of mankind's missions. One cannot merely demand it to achieve it, but actions and sacrifices must be made for the benefit of the majority."

Bibliography

Konthi Suphamongkhon, *Kanwithesobai khong Thai [Thai Foreign Policy]*, Bangkok: Thammasat University Press, 1984.

Pridi Phanomyong, *Lukthan samkhun bang prakan kiew kap Sathana Songkhram khong Thai nai rawang Songkhram Lok khrang thi Song [Some Important Evidence Concerning the War Status of Thailand during the Second World War]*, Part. I, Bangkok: Santhitham Press, 1978.

_____, *Khan prasai suntharapoj bang roeng khong nai Pridi Phanomyong lae bang roeng keiw kab Khabuankan Seri Thai [Some Speech and Eloquence of Pridi Phanomyong along with some Stories about the Free Thai Movement]*, Bangkok: Samaniti Bukhol, 1974.

_____, *Pridi Phanomyong kab Sangkhom Thai [Pridi Phamonyong and Thai Soceity: Collection of Pridi's works]*, Bangkok: Thammasat University Press, 1983.

Sorasak Ngamcachonkulkid, *Tamnān mai khǭng Khabūankān Sērī Thai: rūangrāo khǭng kāntǭsū phūa 'ēkkarāt, santiphāp læ prachāthippatai yāng thæčhing*, Krung Thēp Mahā Nakhǭn: Sathāban 'Ēchīasuksā, Čhulālongkǭnmahāwitthayālai, 2555.

Haseman, John B. , *The Thai Resistance Movement During the Second World War*, Northern Illinois University: Center For Southeast Asian Studies, 1978.

Keyes, Charles F., *Isan: Regionalism in Northeastern Thailand*, Copy-right Cornell University Southeast Asia Program, 1967.

Neuchterlein, Donald E., *Thailand and the Struggle for Southeast Asia*, New York: Cornell University Press, 1965.

Reynolds, E. Bruce., *Thailand's Secret War: The Free Thai, OSS, and SOE during World War II*, United Kingdom: Cambridge University Press, 2005.

Sorasak Ngamcachonkulkid. *The New History of the Seri Thai Movement*, Bangkok: Institute of Asia Studies, Chulalongkorn University, 2010.

Comments: New Thai Public Assembly Act 2015

New Thai Public Assembly Act

The Public Assembly Act B.E. 2558 (2015), Thailand's first ever law specifically dealing with public gatherings, entered into force on 13 August 2015. CPG would like to thank all contributors who have submitted their statements on the Act.

Public assembly is a fundamental right of expression. It has to be peaceful in nature and not otherwise. It usually happens when there arises a perception about the conduct and performances of persons holding public offices. Public assembly can be pre-arranged or spontaneous. The authorities concerned have the duty to coordinate with and facilitate any public assembly in order to minimize public inconveniences and disruptions.

The authorities should ensure that public assemblies with opposing views are appropriately kept apart. The authorities must do their utmost to prevent any act of and attempt at violence by subversive elements to disrupt peaceful assemblies.

On the whole I am not enthusiastic and not in support of the recently promulgated "Public Assembly Act B.E. 2558 (2015)" as I deem it overall to be restrictive in nature. Any act or behavior beyond peaceful assembly can be dealt with by other existing civic and criminal laws. The right to assemble must come first and rules and regulations can follow accordingly.

The Act should be reviewed by the public further and by the future elected legislature.

***HE. Kasit Piromya**, People's Democratic Reform Foundation, former Minister of Foreign Affairs of Thailand*

***Assist. Prof. Dr. Jantajira Iammayura**, Faculty of Law, Thammasat University*

Overall, I would like to make four remarks on the Public Assembly Act B.E. 2558 which entered into force on 13 August 2015.

1. The act specifies many strict conditions for participants of an assembly, before and after the public assembly, for instance, the participants need to notify the assembly to the head of a police station 24 hours in advance of the assembly. There must be an "assembly organizer" in each assembly. The Act further prescribes the duties and responsibilities of the assembly manager and the participants in case any participant violates the law. Moreover, if an assembly is not being notified in advance and if that the respective authority did not grant a waver, the assembly will be considered illegal (Section 14). Participants in such an assembly commit a criminal offence that is punishable with a term of imprisonment not exceeding three years (Section 21, 24 and 33 together) even if in reality such assembly is actually peaceful and unarmed and therefore protected by the constitution. It can be seen that the Act prioritizes "procedure" as laid down in the requirement of advance notice in the same way as it prioritizes "substantive contents" which is the freedom to assemble peacefully and unarmed according to constitution. However, procedural rules and substantive contents should be valued differently. This could raise the question of unconstitutionality in the future.

2. According to my remarks under 1., it can be seen that the law aims to regulate large-scale assemblies with a lot of participants. The drafters considered the political assemblies within the last 5 years. Each assembly was occupying the streets quite long. It caused riot, violence as well as social and economic disruption. However, the drafters did not consider assemblies like "Flash Mobs" which are gatherings of a small amount of people who do certain activities together within 20-30 minutes such as lighting candles, reading poetry, or playing music. The activity "Flash Mob" is a kind of entertainment activity or cultural activity. Such activity should not need to have any "assembly organizer". It is open to question whether a person who posts information on social media in order to ask people to join a flash mob at a particular date, place and time could be an "assembly organizer" according to section 4 or not, or whether people who share such information are co-assembly organizers.

(to be continued on next page)

If yes, this would lead to certain legal duties and responsibilities. The Act should make an exception for cases in which a public assembly has very little participants and takes place at a time which would affect the usage of public space by third parties only to a minor extent because the procedural requirements would cause unnecessary burdens for people who want to organize or join a small assembly.

3. The duty to notify the assembly 24 hours in advance without any exception cannot be reconciled with the nature of "public spontaneous assemblies". On the one hand, the drafters might have thought that the police can consider wavers in particular cases which would relieve the participants from criminal liability. But on the other hand, it could be considered that the Act illegitimately limits the freedom of expression of the participating people.

4. The last observation, which is my deepest concern, is that the Act assigns the Courts of Justice to work as administrative authorities. Section 21 and the following sections provide that, when the authority orders the participants to end the assembly but the participants do not comply with the order (the reason of such order might be that the participants did not notify 24 hours in advance and that they have not been granted a waiver which the participants might think is unfair), the authority can file a motion to the court and ask the court to give an order to dissolve such assembly. Even though the court order can be appealed to a higher court, the order of the appeals court is final.

From an academic standpoint, we are not sure whether such a court order is an administrative act or a judicial act, and whether the wording "is final" really implies a final decision in exercising administrative power or not. If it is not final, the participant can bring the case to the administrative court. If it is a "final" decision from the judiciary, this could result in the problem that judicial power cannot be reviewed. But I feel most concern with regard to the wording in section 22 subsection 2. I think that it does not allow the court to use discretion so much.

Therefore, the court is bound to order in accordance with the order of the authority in every case. And even the court is actually called to judicial review, the Thai courts of justice have very few experience with administrative cases, so that the courts of justice might not be the appropriate courts to decide these matters. I wonder whether the drafters wanted the courts of justice to be in "the first line" to deal with the pressure from the administrative authorities.

Public Assembly Act of B.E. 2558: Pros and Cons of the New Act

Pol. Col. Siriphon Kusonsinwut, *Criminal Affairs and Litigation Division, Royal Thai Police*

The right to public assembly has long been protected under the International Covenant on Civil and Political Rights which Thailand has obligated itself to comply with. This right has been written both in the 2540 (1997) and 2550 (2007) Constitutions based on the conceptual framework as the freedom to gather without any interference of the state except some reasons such as the security of state, or the public order. In order to address specific cases, the state needed to enact the new law to control and manage public gatherings.

The enactment of a Public Assembly Act in Thailand has been continuously proposed to the Parliament since B.E.2543 (2000) by the Royal Thai Police Agency (RTP), but failed. It has been almost completed in the Abhisit administration around B.E.2554 but the parliament was dissolved and the draft had not been confirmed by the Yingluck administration. The RTP has relentlessly proposed the same draft to the Prayuth administration in B.E.2557 and finally it has been declared to be in force as of August 13, 2558 (2015).

The current public concern toward this act is whether this law is a good or bad law and how to enforce this law fairly. Is the current government legitimized to pass this Act? After the law has entered into force, how will people exercise their rights to voice their needs to the public? This short essay might be conclusive and understandable as the eye-view of an officer who has played a crucial role in the drafting of this law for the RTP; my answer, therefore, is positive to adopt this law as the tool or measure to manage the method of the exercise of the people's rights and freedom, in terms of *place*, *time*, and *MANNER* when the people need to gather themselves in public place.

Before the adoption of the Act, the RTP was subjected to the difficulties of the legal question regarding the legitimacy and authority of the police to control the constitutional freedom and rights of the people under the specific guarantee of the 1997 and the 2007 Constitutions. Most lawyers, including judges and scholars, have misunderstood that the new categorized rights and freedoms are of a higher value than any other rights because they are protected by the Constitution, and thus the Criminal Code or other parliamentary acts cannot conflict with the public assembly rights. *(to be continued on next page)*

For this reason, when applying other related laws to control and manage public gatherings, those "scholars", including judges, would disagree with the RTP. In the most severe case, known as the "October 7" (2008) case, the RTP exercised the power to disperse the crowd which occupied the area surrounding the parliament to prevent the members of parliament from taking the oath of office. As a consequence, police commissioners and other authority personnel were subjected to criminal charges and got fired from their offices. Another incident that involved the question whether individual rights have been exercised legitimately was the protests against the Yingluck administration regarding the Amnesty Bill in B.E.2556-2557. Finally, the crowd occupied the governmental compounds and many public streets and obstructed the election process. According to the Constitutional Court, the gathering of a crowd is congruent with the "Right to Public Assembly" under the guarantee of the Constitution, and thus the crowd is protected by the Constitution. It sounds very absurd when reading these Constitutional Court verdicts at the time of political turmoil, for example in B.E.2556-2557 (2013-2104). It is, thus, the right time to enact the new law to identify what the people are allowed to do when they want to exercise their rights.

According to this new law, certain activities which are categorized as educational activities at educational places, as well as religious or customary ones, will not be subject to any regulation of this law. The places that are "taboo" for public gatherings reflect our respect for the monarchy as they include places neighboring (closer than 150 meters) royal premises such as the King's palace, but also places like parliament and executive offices. However, other public places are less restricted than this first type of places. The access to public service offices must not be obstructed.

The method to exercise the right is based on the concept of "information". A police official must be informed not less than 24 hours prior to the gathering and the police officer can give instructions and orders to the group leader in order to adjust the place and time including the manner of the gathering under the law. If violence occurs the police must file a motion to the court to disperse the crowd. Until a ruling of the court issued, in case of exigent circumstances, for example if the crowd creates severe public disorder, the police might arrest and control the crowd if this is appropriate under general public law principles such as necessity and proportionality.

In sum, the new law will guarantee the right to public assembly and, simultaneously, it will regulate the time, place and manner of a gathering including guiding the methods for the use of force to control the crowd. This law will save both the participants of the gathering themselves as well as the public in general as a whole. Not only the crowd has the right to exercise their rights, the general people who like to stay in peace also have rights that need to be protected as well. The new law will balance those categories of rights.

Saman Zia-Zarifi,
Director, Asia and Pacific Program, International Commission of Jurists

Thailand's new Public Assembly Act, which just entered into force on August 13, establishes new criteria for holding peaceful public assemblies and penalties for those who violate these criteria. As such, it is unnecessary, and can be seen as part of the general trend of laws restricting civil and political rights in Thailand.

The law is the first legislation to address public assemblies specifically. The government justified the legislation as necessary to regulate public gatherings and curtail violence and disruptions to public service—a response to several years of competing public protests by different political groups in Bangkok. But the vast majority of these protests were peaceful and adequately handled by existing laws, raising questions about the necessity of a new law specifically addressing public assemblies.

In fact, the Thai government has described the law to international observers as a measure to defend human rights (for instance, during Thailand's periodic report to the Committee on Economic, Social and Cultural Rights in June).

But the law potentially limits when, where and how public gatherings may be organized, instead of facilitating the exercise of the right to peaceful public assembly—which is after all enshrined in Article 21 of the International Covenant on Civil and Political Rights.

Chapter 2 of the law demands 24-hour notification of any public gathering to the local authorities, including the chief of police of the area of the proposed venue. The local authorities can deny permission if they are 'of the opinion' that the assembly "impede the performance of duties of, or hinder access to service of" State agencies, courts, airports, hospitals, embassies, or 'other places as notified' (Section 8).

This decision is appealable to the authorities' immediate superior, and, failing that, to the Administrative Court. Failure to comply with these requirements would lead to the assembly being labeled unlawful, and thus subject to cancellation. Organizers of unlawful assemblies could face prison sentences of up to six months.

(to be continued on next page)

The Public Assembly Act says that any public assembly that does not comply with its provisions is deemed illegal, and the authorities can demand its cancellation within a specified period of time.

Thus local authorities (particularly the police) are afforded wide discretion to ban public assemblies, particularly without 24-hour notice. This is contrary to ICCPR Article 21; as explained by the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, "Spontaneous assemblies should be recognized in law, and exempted from prior notification … The State has a duty to design operating plans and procedures to facilitate the exercise of the right of assembly… ." [http://freeassembly.net/wp-content/uploads/2014/11/Freedom-of-Assembly-best-practices-factsheet.pdf]

Furthermore, "Restrictions must still allow demonstrations to take place within "sight and sound" of its object and target audience - not, for example, forced to the outskirts of the city or in a specific square, where its impact will be muted."

And finally, "should organizers fail to notify authorities of their event, the event should not be automatically dissolved simply and organizers should not be subject to criminal or administrative sanctions resulting in fines or imprisonment."

A major shortcoming of the Public Assembly Act was that it was passed without consultation with civil society groups – precisely those most directly affected by the law. Such consultation may have resulted in revision or clarification of some of the law's problematic provisions; it would also have gone a very long way in addressing the suspicion of Thai civil society that the law was not designed to defend the right to freedom of assembly, but rather to restrict this important right. Seeing as how the law was passed at a time when any political public gathering is banned by military law, this suspicion is not unreasonable.

Ultimately the impact of the Public Assembly Act will be determined in practice. The Royal Thai Government should immediately remove restrictions on the exercise of the right to freedom of assembly and allow peaceful public gatherings to take place.

Public Assembly Act fails to meet Thailand's international human rights obligations

Amnesty International

Amnesty International remains concerned that the Public Assembly Act fails to conform to Thailand's international human rights obligations to protect the right to freedom of peaceful assembly.

This right is protected in Article 21 of the International Covenant on Civil and Political Rights (ICCPR), to which Thailand is a state party. The related rights to freedom of expression (Article 19 ICCPR) and association (Article 22 ICCPR) also remain at risk.

Amnesty International is deeply concerned by the imposition of criminal penalties under Articles 27-35 of the Act on those who fail to meet certain requirements in organizing an assembly, including application for prior approval as set out in the Act. Criminalizing organizers and participants of peaceful assemblies would adversely affect the human right to freedom of peaceful assembly as well as to freedom of expression and association.

The UN Special Rapporteur on the rights to freedom of peaceful assembly and of association has stated that peaceful intentions of assemblies should be presumed. (Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, UN Doc. A/HRC/23/39, 24 April 2013, para. 25) The Special Rapporteur has stressed that no authorization should be required to assemble peacefully. (Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, UN Doc. A/HRC/23/39, 24 April 2013, para. 51.) The exercise of the right to freedom of peaceful assembly should be governed at most by a regime of prior notification, which should not be burdensome, the rationale of which is to allow state authorities to facilitate the exercise of the right and take measures to ensure public safety and order and the rights and freedoms of others. (Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, UN Doc. A/HRC/23/39, 24 April 2013, para. 51) The Special Rapporteur has recommended that notice should be subject to a proportionality assessment, and should only be required for large assemblies or those where a certain degree of disruption is anticipated. (Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, UN Doc. A/HRC/20/27, 21 May 2012, para. 28)

(to be continued on next page)

Amnesty International remains concerned that vague wording, including in Article 16 of the Act on the duties of those assembling not to cause "inconvenience" and not to assemble without authorization between 6 pm and 6 am, impose sweeping restrictions on peaceful assemblies, far beyond those allowed by the ICCPR. The police may also order prohibitions of assemblies should they believe that they obstruct government services or any other places as designated by the Prime Minister.

Amnesty International calls on the authorities to remove all provisions imposing criminal or administrative sanctions, including imprisonment or fines, on organizers for lack of notification of an assembly and to remove all provisions criminalizing actions related to peaceful assembly by organizers or protestors, bearing in mind that where internationally recognised criminal offences are committed, general civilian criminal legislation would apply to protestors as to any other person.

While the Act refers to constitutional guarantees and provisions, the current Interim Constitution provides no such guarantees on freedom of peaceful assembly.

Amnesty International also urges authorities in Thailand to restore Constitutional protections of human rights and to remove other obstacles to the full enjoyment of the right to freedom of peaceful assembly. This includes, in particular, repealing military orders and provisions that have made peaceful assemblies involving political activities virtually impossible to hold legally, and which the Assembly Law would not address.

***Dr. Michael Nelson**, Senior Research Fellow, CPG, Faculty of Law, Thammasat University*

Some Remarks on the Public Assembly Act 2015

Given the weakness of Thailand's representative system, and the centralized bureaucracy's arrogance in dealing with local people, protests at all levels have long been a regular occurrence in Thai politics. In Bangkok, the "Assembly of the Poor" used to camp outside of Government House, as did workers from the Triumph factory in front of the Ministry of Labor. Up-country, people protested against the Pak Moon Dam, Bo Nok and Hin Krut power plants, or the construction of Tesco super markets. Farmers protested for better government measures regarding debt relief, while anti-alcohol activists rallied against the listing of an alcoholic beverage company on the stock market. At these protests, a great variety of protest forms have been employed, some of which led to considerations about introducing legal restrictions to maintain public order and to avert negative consequences for non-participants.

(to continued on the next page)

When the Thaksin government, in 2005, sponsored a protest law that, among other things, tried to keep protestors off highways, Democrat Party MPs and NGO activists criticized the draft for possibly curtailing human rights. This did not prevent the Abhisit government, in reaction on the Red-Shirt protests in 2010, from introducing their own public assembly bill (the Council of State was initially concerned with early texts since April 2009, and a number of Phalang Prachachon MPs had submitted a draft in June 2008). In March 2011, there were five different drafts in the House. Then-Deputy Prime Minister Suthep Thaugsuban justified the draft being proposed by the Abhisit government, and noted that protest organizers would have to inform police 72 hours in advance (now reduced to 24, with the possibility of spontaneous protests in place). In April 2011, the government draft was close to be passed in its third reading, yet in September of the same year it still languished in the House.

Therefore, the current Public Assembly Act, based on a preparatory draft by the National Police Office that reacted on the PDRC protests in 2014, reflects a legislative discussion that has been going on for years. Important issues concerned the right to public assembly in a democracy, as stipulated in the Thai constitution, obligations based on international law, and comparative legislation from other countries, including the German Public Assembly Act (see the NLA's Thai-language "Documents concerning the deliberations," dated 25 February 2015). However, the name of Suthep Thaugsuban also indicates a key problem of this law – it is unenforceable when political actors do not respect it. With his PDRC protests, Suthep fundamentally violated the text and the spirit of the planned law that he had earlier defended when he was in government. Protests such as those by the UDD or the PAD/PDRC will thus probably not be affected by the new act, while ordinary protests, such as those mentioned above, will be somewhat bureaucratized. Moreover, there is always the possibility that the authorities could handle the law in a restrictive manner, rather than thinking about the freedom of assembly as a fundamental democratic right.

Finally, a key element of the law had already been substantively compromised before the Assembly Act came into effect. This occurred when the Constitutional Court repeatedly rejected to apply Section 68 of the 2007 Constitution (using non-constitutional means to grab state power) to reign in the PDRC protests.

(to be continued on next page)

The court even rejected to deliberate the complaints oddly arguing that the protestors were merely using their constitutional right to peaceful and unarmed public assembly. Yet, those assemblies were neither peaceful (they expressly aimed to impact as much as possible on the rights of others, especially by making it impossible for voters to use their constitutional rights) nor unarmed (the protest organizers had set up thousands of armed "guards" whose task was to prevent state authorities from enforcing the laws against the protestors). These actions of the Constitutional Court have set the standard for the decisions of lower courts, and it therefore remains doubtful how the Thai legal system can return to a proper legal, rather than politically partisan, interpretation of the first sentence of Section 6 of the Public Assembly Act, which says, "A public assembly must be peaceful and unarmed." Potential protesters must respect the law, but the administrative authorities and courts at all levels must also respect it. Otherwise, this new piece of legislation will be useless or become a tool of suppression (besides unduly bureaucratizing harmless protests and adding work to an overworked police force). Moreover, in a democratic system, there must be a serious discussion about the means in relation to the ends of political actions. This will be obsolete if certain groups in the polity continue to reject constitutionalism (the basis of the new Assembly Act) by claiming special rights that place them outside of the legal and constitutional order that applies to everybody else.

Peaceful Assembly Act or Peaceful Assembly Prohibition Act

The right to freedom of peaceful assembly is a basic human right as we are social animals and living with dignity. Why does Thailand need an Act which is restricting basic human rights more than promoting them? Peaceful assembly is a freedom. The rights to freedom of peaceful assembly and of association are enshrined in international law as fundamental freedoms.

The space for getting out on the street to demand respect for our rights, to share our concerns with the public, to express our political opinions has become smaller in Thai society.

(to be continued on next page)

***Pornpen Khongkachonkiet**, Director, Cross-Cultural Foundation*

On several occasions, we went on the street for peaceful protests because we were desperate for justice or for our basic needs when and where the official mechanisms could not solve our problems. In the 1990s, the assembly of the poor went on the street and protested, and in the 2000s, the northern farmer federation did. There are many trade unions, small farmers including those whose loved ones died under suspicious circumstances who use the public, peaceful protest to raise their voices.

On 13th August 2015, the 2015 Public Assembly Act has come into force having been approved by the military-appointed National Legislative Assembly in May 2015. This act consists of 35 articles regulating public gatherings, which will effectively impose severe and illegitimate restrictions on the right to public assembly.

The restrictive law will govern how we will use our freedom of assembly. It was passed in 2015 in the mist of reforming the nation under the military government. It is obvious that the democratic space is disappearing. Under the new law, we need to ask for permission to gather publicly or privately and to collectively express, promote, pursue and defend common interests. The leader of the protest would be charged criminally if he failed to inform the authorities of such public gathering. According to the Act, the permission will be granted within 24 hours and will contain the details of the assembly. The definitions of "protest" and "assembly" are vague and depend upon the officials to define what is peaceful and what is not peaceful.

It is a prohibition rather than a permission. The freedom of assembly is being restricted rather than being promoted.

Legal Opinion on the Public Assembly Act B.E. 2558 (the Act)

Human Rights Lawyers Association

The Human Rights Lawyers Association, in cooperation with civil societies groups who exercise the freedom of assembly, had reviewed the draft of the Act and delivered our opinion to government agencies. We think that the enactment of this Act was an accelerated process executed by a state agency. There was a lack of people's participation. The current political situation is not as open as to let people exercise their freedom of expression and really participate in such an enacting process. Considering the contents of the Act, we found that particular provisions limit the freedom of assembly, rather than promote the right to assemble which is a fundamental right under the principle of democracy, for the following reasons.

(to be continued on next page)

1. The definition of the "assembly organizer" is too vague.

The definition according to section 4 and section 10 subsection 2 includes a person who persuades or arranges an appointment for others to participate. Due to its broad wording, it is unclear which persons would be covered by this provision. It could be interpreted to be applicable to any person who publicizes and sets a date for an assembly, but also to people who agree with the assembly and help to publicize. But they are not the actual assembly organizers. Being an assembly organizer brings about legal duties and responsibilities. It also involves individual criminal liability as offenders shall be punished by law. In some cases, the state can tackle certain issues immediately such as when a person carries a weapon during an assembly. In that case, it would be unnecessary to create a liability for the assembly organizer or other participants. It is very difficult for an assembly organizer to take care of all participants, especially if it is a large-scale assembly.

2. Definition of "court" and cutting the administrative court's jurisdiction off

According to the Act, the definition of "court" refers to the "civil court and provincial court". Furthermore, section 13 and section 26 specify that orders and actions are not administrative orders and not administrative actions. Therefore, these orders are not subject to the Administrative Procedure Act and the administrative court cannot review such order or action of the authority. Therefore, the people's access to justice is rendered much more difficult.

3. Specifying the area where it is prohibited to assemble

The Act specifies certain assembly areas in section 7 and section 8. The law prohibits any assembly within the area of the National Assembly, the Government House and Courts, except where a space for public assembly has been provided within such area. Due to the fact that public assemblies of civil society in Thailand are designed to call upon the respective authority to solve certain problems or exercise its legal duties in general, such prohibition is very problematic because the people want to urge the respective authority directly.

(to be continued on next page)

Naturally, such assemblies can cause inconveniences per se. The provision seems to prohibit assemblies generally so that people cannot not exercise their right.

4. The provision to notify the assembly within 24 hours in advance with details

The law provides that people who want to organize a public assembly shall notify the assembly before the assembly starts. The organizer shall notify the objective of the assembly according to section 10 to section 14, a requirement that is not in accordance with the nature of assemblies because assemblies can occur spontaneously such as assemblies of laborers when an employer closes the establishment without prior notice, or assemblies against a construction project in the community. Moreover, even though the Act specifies that the assembly needs to be notified, such notice could rather be considered as a de facto request for permission.

5. Power of the authorized official in charge of ensuring the public assembly's compliance

The Act specifies that the head of the police station in the locality where the public assembly is held shall be the authorized official in charge of ensuring the public assembly's compliance with the Act. Where a public assembly extends to several areas, the commandant or commander of the police in charge of these areas, as the case may be, shall be the official authority in charge of the public assembly. Moreover, the Commissioner General of the Royal Thai Police may appoint another police official as an additional authorized official. The officer has the duty to ensure the public's convenience, to maintain the safety of the participants and third parties, to facilitate the traffic and public transport and to prescribe the conditions or issue the orders which must be complied with by the assembly for the benefit of convenience and safety. Thus, the officer is the "middle man" to take care of the benefits of both the participants and the people who might be affected by such assembly. Giving the power to the public official to make orders or set the conditions which the participants need to comply with – otherwise they would be punished – could make the officer being able to "control" the exercise of the freedom of assembly. If there are no clear rules, the officer might exercise his discretion in order to restrict the rights and liberties of the people.

(to be continued on next page)

6. Conducting a procession or relocating an assembly

Both the conducting of a procession as well as the relocating of an assembly need to be notified 24 hours in advance. There are certain limitations on the relocation of an assembly according to sections 16 to section 18. In some cases, participators may start the assembly in a provincial area and then transport to Bangkok over night in order to reach Bangkok the next morning.

7. The Court of Justice is the authority to order the dissolution of an assembly

According to section 21 and section 22, the court might engage in a dispute with the participants. This is contrary to the principle of the "separation of power". It could create legal problems later, when the people want to sue in a court in order to get a ruling that the order to cancel the assembly is illegal.

8. Determination of criminal punishment

According to sections 27 to 35, the freedom of assembly is a basic right. Therefore, there should be no criminal punishment. The most severe punishment according to the Act should be dissolution of the assembly. The participants who commit criminal offences should be punished separately according to the relevant laws. To specify a punishment which certain laws already prescribe, could increase the punishment of participants and assembly organizers to an unnecessary extent.

Opinion on the Public Assembly Act

iLaw Thailand

There are two issues which need to be considered with regards to the Public Assembly Act)the Act(, i.e., the content of the Act and the process of its enactment.

(to be continued on next page)

1. The definition of "assembly organizer" is too vague. So it could be risky to violate the law on assembly.

According to the Act, the definition of the assembly organizer includes "a person intending to organise a public assembly and a person who persuades or arranges an appointment for others to participate in a public assembly by representing oneself or by conduct causing others to believe that one is the organiser or co-organiser of the assembly". It might lead participators, who support an assembly and want other people to participate, to be afraid of inviting other people to join the assembly.

In case of a large-scale assembly, people who want to participate in the assembly generally tend to invite friends to participate as well. In particular, social network is very popular now. Posting, tweeting or sending *Line* messages to invite online friends to participate in an assembly is a common behavior of participators. It doesn't mean that those people are actual assembly organizers.

If the term "assembly organizer" includes those people, this could cause concern among participators that they considered as assembly organizers with duties and responsibilities according to the Act. The definition could, therefore, indirectly limit the freedom of expression.

2. Duty and Responsibility of Assembly Organizer is not sensible.

There is a concern that prescriptions of the duty of an assembly organizer, for example the duty to take care of the assembly to be peaceful and unarmed, could increase too much responsibility to an insensible extent. In large-scale assemblies, it is almost impossible that an assembly organizer is able to take responsibility for all participators. But when he fails to do so, he could be punished. This could violate core principles of punishment in criminal law because any punishment has to be rendered according to the given individual guilt. A person shall be liable for an offence he or she really committed by him/herself. Hence, it should not be prescribed that an assembly organizer is liable for offences of another person.

3. The Notification in advance is an mechanism to "control" an assembly.

The Act prescribes the prior notification of any public assembly. There are several issues of concern in this regard. This sort of prior notification is indeed used in many countries. However, the Thai mechanism grants the "Notice Receiver" to use his discretion to not allow the assembly without any concrete criteria. *(to be continued on next page)*

First Issue: To be obliged to notify an assembly at least 24 hours in advance could put an unjustified burden on the organizer. So the Act allows an organizer to request a waiver of such time limit "with reasonable ground". However, there is no criteria, in which situation such a waiver can be requested. So it is a personal discretion of "Notice Receiver".

Second Issue: The "Notice Receiver" according to the Act is a policeman. But other countries prescribe "Notice Receiver" to be the head of a municipal government because they might understand the assembly better and could facilitate and manage better by considering the rights and liberties of the people.

4. The determination of the area and radius in which it is prohibited to assemble is not in accordance with the purpose of public assembly.

To assembly publicly is part of direct democracy**.** It aims to urge the responsible public authority to solve a problem or provide for justice. The assembly needs to be held near public authority agencies. Therefore, the prohibition on assembling near the National Assembly, the Government House and courts, is a measure_that reduces the bargaining power of the people. And the Act also imposes punishment by imprisonment for entering such areas even such if an assembly would not cause grievance to anybody or interrupt the public administration at all.

5. The right of the courts to order to cancel an assembly could be a problem on review of the government

The Act determines that the responsible public authority or the "Notice receiver" can submit a petition to a civil court or provincial court to make an order to cancel an assembly in case the assembly is illegal.

First Issue: It is problematic that the regulations cuts off the jurisdiction of the administrative court in favor of the civil and provincial court.

Second Issue: To let a court order to cancel an assembly is not a guarantee of judicial review in favor of the administrative power because the public authority still has the legal duty and legitimacy to take care of the assembly. If the Act aims not to let the public authority exercise too much power, it should just impose strict rules to apply the relevant laws clearly._ […]

(to be continued on next page)

Third Issue: The measure puts the court in the opposite position to those who want to use their right to assemble freely. It could raise concerns if the court cannot retain its neutrality so far.

6. The period between appeal and the court's order to cancel an assembly affects the purpose of the assembly.

The public assembly affects the opposite by demanding or pressuring it to solve a problem or to comply with an urgent request as much as possible. In general, people are able to appeal and ask the court to order a temporal injunction. During the appeal against the order to dissolve an assembly, the assembly is suspended. The situation could affect the strategy to pressure the opposite side, in particular when immediate action is needed. For instance in cases where employees are laid off and the employer closes his factory or does not pay any salary. The employees would not be able to pressure the employer because the employer might have already closed the factory and left with all assets.

The main problem is lack of participation

The six observations above contain issues which people have brought forward to request an amendment of the Act. The National Legislative Assembly was asked to postpone the enactment. But the requests were dropped. So the Act is in force even though it is flawed and not accepted by many people. To enforce a law which is unaccepted by many people will increase the injustice of the law. The people's "participation" would let us reconsider the political conditions and adjust the law to be more compatible with the reality of the society.

Interview with HE. Kasit Piromya

His Excellency Kasit Piromya, former top diplomat and Minister of Foreign Affairs of Thailand, has ever since been one of the most critical and vocal commentators of Thai politics. In the interview below he shares his views and assessments on current issues of Thai foreign policies and domestic politics.

Q: Excellency Kasit, as a former Thai Ambassador to the USA: How do you see the current Thai-US relationship?

> *The problem of the current Thai-US relationship is that the US only looks at whether the Thai government is an elected or non-elected one without digging deeper into the causes of those problems in Thailand that ended up with the military coup d'état: corruption, lack of governance, abuse of power, majority absolutism, parliamentary dictatorship, interference in the judicial process and populist policies that destroy the financial rules and the economic performance of Thailand. So, the problems in Thai politics and society are there because the government was abusive and corrupted. The military government came as a consequence of the failure of elected government. The United States must look at the causes of the problem, but instead the US. Only look at the result: a coup d'état [installed] military government. Make a judgment and "punish" Thailand on that basis. The punishment lies in lowering the level of the relationship as a soft sanction. This is including measures such as no high officials [of these countries] will come to Bangkok. They will not accept [our] high level delegations to Washington, they will withhold or delay military procurements, they will not renew preliminary negotiation on the free trade agreement, and they will might, I think, slow down the cooperative activities [in general]. All this is done to show a sign of displeasure with the military government. So it's like "punishing" the military government and therefore punishing the Thai society as a whole. At the same time they are also urging the military government to hold elections as*

quickly as possible. So, what the United States has been doing in the past 12 months is first soft punishment and second pressuring and pressing the military government to hold the elections.

On the other hand, the Thai military government has failed to explain to the US why did the hell they made a coup d'état. What were the real reasons? It was not because of the yellow shirt and the red shirt on the streets. No, it's not that simple. The military government must explain why the yellow and red they came out to the street and what were the causes and believes? And when I said explanation, I mean that you don't have to make it on TV, you quietly tell to the United States Ambassador here or you send a delegation to Washington and explain what are the problems, what were the problems and what do I want to do in order to overcome the problems, whether the United States can help, etc. This is what the Thai government should do. At the same time, the United States must not just look at whether we have an elected government or a military government, but see how to help Thailand to become a stronger democratic society.

Q: And what about the relationships to the European Union, Germany and China?

The Chinese don't care whatever type of the government we have in Thailand, and the Chinese at the same time are trying to sell the idea that a one-party-system is good for a developing country. So, that is undemocratic. It is to have a bigger [political] suppression with some economic freedom, which I don't accept because it denies [political] freedom. So, the Chinese model may be good for China, but it is not good for Thailand because we want to have a democratic system, not a suppressive one-party environment. The EU is behaving similarly like the US. They also only look at Thailand with the "this is an elected or this is a military government"-lense. Again: [that´s] too simple and not helping. Germany, so far, is still most active among those countries in supporting Thailand to rebuild democracy which has

very much to do with capacity building in the fields of administrative and legal framework and governance. Germany is in particular helping in civic and political education.

Q: How do you assess the position of Thailand within the AESAN context since the coup?

Thailand is the one of the founding states of ASEAN, and we are one of the biggest countries therein. We are in a very central geographical position, and we are quite advanced, – relatively to the neighboring countries. So, we should continue to play the leading role of forging the integration of ASEAN. But how much Thailand can lead depends on the type of government and on the question who is the Prime Minister and who the Foreign Minister.

Q: The launch of the ASEAN Economic Community (AEC) is scheduled for 31 December 2015. How do you evaluate the current status of preparation and what are the prospects of this AEC?

I don't think the preparation in any of all the 10 ASEAN countries is good. All of us could have done much more. Thailand could have done more on the transportation network inside Thailand. The Yingluck government was not spending time and money on this issue, but was only looking at populist policy measures. The military government for the past one year had not done much. They don't know what to do [in this respect]. Also, the customs around the country, around the airports, seaports and on land are still not yet ready in terms of the modernization of the customs and immigration. I think that is not satisfactory. Third, the general education of school children, business men, house wives and so on could have done better, could have been undertaken much more intensively. The government media has paid not much attention and spent not much time to educate the people. The private sector has also not been educating their members, [for example] through the Federation of Thai Industries and Chamber of Commerce. So there should be more activities for people to know what ASEAN is

and what opportunities are provided, where the competition is coming from and so on. I think overall, there is still a failure of the 10 ASEAN countries to have a common migrant labor law and system. So a lot of work has to be done.

Q: So the prospects are…

I think the prospects have much to do with the failure of [all] the 10 ASEAN leaders. They have not been sincere. I think they only come superficially to various meetings, but they are not outing their answers to jointly move ASEAN forward. They only come to meeting for the photo session, and have speeches, and joint statements and nothing else. There is no vision, there is no fighting spirit; it is more of a ceremonial performance they have to perform. It is ritualistic, deeply ritualistic, and I am disappointed by all ASEAN leaders. None of them is taking the lead or trying to forge ASEAN together.

Q: Turning to domestic politics: Recently the "crisis panel" as proposed by the constitutional drafters in Draft Charter has become a hot issue in public debate. How do evaluate this issue in particular and the draft charter in general?

I do not agree with "crisis panel" because it is undemocratic. You cannot have a "politbureau" imposing itself on an elected parliament. That is the Chinese way. That is an authoritarian way of doing it. Those people in the "crisis panel" are bureaucrats. Why should bureaucrats have power over the elected members of the parliament? I am against it. And I hope that the whole Foundation will be against it. We have not discussed this matter yet. There is no need for whatever such strategy or national committee. All of this is undemocratic and supposed to perpetuate the bureaucratic and military power. It will not make Thailand a full-fledged, mature democracy. And why should they act like the Vatican, they are not our spiritual leaders. They have no right to do so. My point in addressing Dr. Borwornsak and the military

government is: We have come this far in terms of democratizing and democratic evolution reflected by such achievements as people's participation in Thai politics, more civil society, independent constitutional organizations like the Human Rights Commission and the Ombudsman, the Supreme Administrative Court and the Constitutional Court and so on. We have to develop all of these further and must not to go back. And that is the task of Dr. Borwornsak. If he doesn't do that, I accuse him of being a servant of authoritarianism. And because they deliberately wrote a draft that they knew in advance that it will not be accepted by the yellow shirts and the red shirts, the intention was firstly not good and secondly in order to prolong the life of the military government. So, why the hell do you have to write a bad document. It is [like] a "crime": writing such a bad undemocratic constitution by Dr. Borwonsak with the backing of the military is [like] a "crime" because you are denying the freedom to the people.

Q: You have recently joint the People's Democratic Reform Foundation (PDRF). What is your role in this newly established foundation?

My role in the PDRF is to explain to the international community two things. One is what has been happening in Thailand for the past years, why there were so much street politics. The other issue is explaining why we need the reform before the elections for the next 15 months, what we can do on some of these issues before the elections and what can we continue to do when we have an elected government. Furthermore, my role is also to work with my colleagues in the Foundation to formulate reform proposals to be delivered to the military government and the Thai public.

Q: Is your role in the PDRF possibly conflicting with your role in Democrat Party?

No, there is no conflict, simply because I have submitted a memo to Khun Abhisit informing him that I have relinquished all positions and activities in the Democrat Party as of 5th of August, although I still retain membership in the Democrat Party because that is an expression of my liberal stance. So, I have no official role in the Democrat Party to play and therefore there is no conflict with my new role in the PDRF. When I accepted the invitation from Khun Suthep, we had already talked about my resignation from official functions of the Democrat Party.

Q: Speaking of the Democrat Party, what is in your opinion the role the Party is playing right now and what could it be in the future?

It cannot have any role [in the party] at the moment, unless it reforms itself. This is the first thing the [Democrat] Party must do. Secondly, it must have the guts of determination to offer a draft constitution of its own to the public, and to come forward with another paper for national reform in Thailand, too. So, that means the Party has to commit itself to the public with regards to two things: a draft constitution and a reform concept for Thailand according to the ideas and views of the Democrat Party, without having to listen to anyone. As we are a very experienced political party with experienced politicians, so it's nothing wrong [with that]. But to make the draft constitution and the reform concept for Thailand, the Party must reform itself in principle. I myself did make a proposal for such a reform of the internal structure of the Party which foresees a dual structure within the Party consisting of members of parliament and those politicians solely responsible for the political work in parliament, the committees and the constituencies on the one side and professionals running the administration of the Party free from external interferences on the other side. But Khun Abhisit did not agree with my proposal.

Q: So, there is a lack of political will to a self-reform of the Democrat Party?

> *One problem I discovered on the internet about Oxford is an article in the Guardian a year ago. It found out that all the Prime Ministers from Oxford University around the world operate their political life on the basis of the trend and not on a pre-commitment to an idea. It's nothing harmful or nothing wrong, I think it is just what type of education and what type of political ideas you have.*

Q: You have been a top diplomat and Foreign Minister. If you would be the Minister of Foreign Affairs again, what will be your priority message to convey to the international community?

> *I would say that we are going through a democratization process, and that we have [already] come to a certain point because we have seen more and more participatory politics in the past 20 years. But there are maybe still 20 percent left to achieve full participation and central ownership by the people. That is why we need the best practices from Germany, from France, and from the United States and other democratic nations. How do you have a system of public procurement that can prevent corruption? One of the rules is that none of the ministers in cabinets in European countries has any power to put their name or signature on a public procurement [document]. But every Thai minister among the corrupted ones, the first day they come to their respective ministry, they ask "How much money is left in the ministry´s budget; what can I sign?". That's why all the corruption in this country.*

Thank you very much for the interview, Excellency.

The interview was conducted by Dr. Duc Quang Ly, CPG Project Manager. Picture by Siraprapa Chalermphao, CPG Office Manager.

Research Material

Translation: Organic Act on Anti-Corruption (No. 3) B.E. 2558 (2015)

On 10 July 2015 the new Organic Act on Anti-Corruption (No. 3) B.E. 2558 (2015) entered into force. Please find below CPG's English translation of this Act which will be one of the topics in the next issue of our Magazine.

Organic Act on Anti-Corruption (No. 3)

B.E. 2558

_____

BHUMIBOL ADULYADEJ, REX.

Given on the 3rd Day of July B.E. 2558;

Being the 70th Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to amend the Organic Act on Anti-Corruption:

Be it, therefore, enacted by the King, by and with the advice and consent of the National Legislative Assembly, as follows:

Section 1. This Act is called the "Organic Act on Anti-Corruption (No. 3) B.E. 2558 (2015)".

Section 2. This Act shall come into force as from the day following the date of its publication in the Government Gazette.

Section 3. The definitions of "official of a foreign state" and "official of an international organisation" shall be added between the definitions of "state official" and "person holding political position" in section 4 of the Organic Act on Anti-Corruption B.E. 2542:

" "official of a foreign state" means a person holding position in the field of law, public administration or judiciary of a foreign state and any person performing official duties for a foreign state including performance of duties for a government agency or state enterprise regardless of whether being appointed or elected, holding a permanent or temporary position and whether receiving a salary or other remuneration;

"official of an international organisation" means a person performing work in an international organisation or a person assigned by an international organisation to perform work on behalf of such international organisation".

Section 4. The following shall be added as (4/1) and (4/2) of section 19 of the Organic Act on Anti-Corruption B.E. 2542:

"(4/1) to inquire and rule whether an official of a foreign state and an official of an international organisation or any person commits an offence under section 123/1, section 123/3, section 123/4 and section 123/5;

(4/2) to inquire and rule a commission of an offence, within the scope of powers of the National Anti-Corruption Commission, occurred outside the Kingdom of Thailand. In this regard, cooperation for the purpose of inquiry and ruling shall be in accordance with the law on such matter".

Section 5. The following shall be added as (14/1) of section 19 of the Organic Act on Anti-Corruption B.E. 2542:

"(14/1) to carry out in accordance with a request for assistance from a foreign state in an anti-corruption case as submitted by the Central Authority, under the law on mutual legal assistance in criminal matters, to the National Anti-Corruption Commission or to consider providing assistance to a foreign state in a corruption case even if a request for assistance is not a request under the law on mutual legal assistance in criminal matters".

Section 6. The provision in paragraph two of section 19 of the Organic Act on Anti-Corruption B.E. 2542 amended by the Organic Act on Anti-Corruption B.E. 2542 (No. 2) B.E. 2554 shall be repealed and the following shall be replaced:

"a fact inquiry or examination under (1), (2), (3), (4), (4/1), (4/2) and (6) may be assigned, by the National Anti-Corruption Commission, to an inquiry official to be a responsible case official and such official shall report to the National Anti-Corruption Commission for further consideration. In this regard, the performance of duties of the inquiry official shall be in accordance with rules, procedures and time period as prescribed by the National Anti-Corruption Commission".

Section 7. The following shall be added as (3/1) of section 25 of the Organic Act on Anti-Corruption B.E. 2542:

"(3/1) to cooperate with relevant agencies for the purpose of performance of duties under this Organic Act by concluding an agreement with commanders of the relevant agencies to assign an official to provide an assistance, support or a joint performance of duties as necessary in accordance with regulations, rules and procedures as prescribed by the National Anti-Corruption Commission".

Section 8. The provision in paragraph three of section 39 of the Organic Act on Anti-Corruption B.E. 2542 shall be repealed and the following shall be replaced:

"the provisions of section 32, section 33 and section 35 paragraph one and paragraph four shall apply to declaration, submission, receipt of the account showing particulars of assets and liabilities and the inspection of the accuracy and actual existence of the assets and liabilities of the persons under paragraph one, *mutatis mutandis*".

Section 9. The provisions in (1) of paragraph two of section 40 of the Organic Act on Anti-Corruption B.E. 2542 amended by the Organic Act on Anti-Corruption B.E. 2542 (No. 2) B.E. 2554 shall be repealed and the following shall be replaced:

"(1) in the case where a state official is a high-ranking executive, the provisions of section 32, section 33, section 35 paragraph one and paragraph four shall apply, *mutatis mutandis*, to the submission of an account showing particulars of assets and liabilities".

Section 10. The following shall be added as (6) of paragraph one of section 43 of the Organic Act on Anti-Corruption B.E. 2542:

"(6) in the case where a fact inquiry under section 99/1 shall be carried out".

Section 11. The provision in section 74/1 of the Organic Act on Anti-Corruption B.E. 2542 amended by the Organic Act on Anti-Corruption B.E. 2542 (No. 2) B.E. 2554 shall be repealed and the following shall be replaced:

"section 74/1. In criminal proceedings under this Chapter, if an accused person escapes during the prosecution or during the trial, the time an accused person or offender escapes

shall not be reckoned in the statute of limitation period and if the Court makes the final judgment to sentence the offender and such offender escapes having been sentenced by a final judgment, the provisions of section 98 of the Criminal Procedure Code shall not apply".

Section 12. The following shall be added as Chapter 8/1Criminal Prosecution of an official of a foreign state, official of an international organisation and private sector section 99/1, section 99/2, section 99/3, section 99/4, section 99/5, section 99/6 and section 99/7 of the Organic Act on Anti-Corruption B.E. 2542:

"CHAPTER VIII

Criminal Prosecution of an official of a foreign state, official of an international organisation and private sector

---

Section 99/1. Accusation of an official of a foreign state, official of an international organisation and any person that he or she commits an offence under section 123/2, section 123/3, section 123/4 and section 123/5 shall be made to the National Anti-Corruption Commission.

Such accusation under paragraph one may be made verbally or by writing in accordance with the rules as prescribed by the National Anti-Corruption Commission and the provisions in section 85 shall apply, *mutatis mutandis.*

Section 99/2. The National Anti-Corruption Commission may refuse to accept or invoke for consideration the accusation which is of the following descriptions:

(1) a matter for which no clear evidence or no clear circumstances of the commission of the offence is so sufficiently specified as to enable a fact inquiry;

(2) a matter that has lapsed for a period of more than five

years as from the date of its occurrence to the date of the accusation, for which evidence cannot be so sufficiently obtained as to enable a further inquiry;

(3) an accusation against an official of a foreign state, official of an international organisation and any person whom the National Anti-Corruption Commission finds that proceedings against such accused person under other law has been completed and legitimately conducted, and there is no reasonable cause to suspect that such proceedings were unjustly carried out.

The provision of section 86 shall apply, *mutatis mutandis*, and the word "Court" shall include Courts in foreign countries.

Section 99/3. Upon receiving the accusation of an official of a foreign state, official of an international organisation and any person under section 99/1 or a reasonable ground to believe that an official of foreign state, official of an international organisation and any person commits an offence under section 123/2, section 123/3, section 123/4 and section 123/5, the National Anti-Corruption Commission shall carry out in accordance with Chapter 4 on the fact inquiry.

Section 99/4. In the case where an injured person makes a complaint or accusation before an investigating official to initiate a proceeding against an official of a foreign state, official of an international organisation and any person as a result of a commission of offence under section 99/3, the investigator shall submit such matter to the National Anti-Corruption Commission within thirty days as from the date of making such complaint or accusation to proceed under the provisions in this Chapter. In this regard, if the National Anti-Corruption Commission considers and sees that such matter does not fall within cases under section 99/3, the National Anti-Corruption Commission shall return the matter to the investigating official to further proceed under the Criminal Procedure Code.

Section 99/5. In the case where an accused person is detained within the powers of the Court due to an arrest of the accused person during the prosecution under section 99/4, an investigating official shall have the power to request the Court to continue to detain such accused person and the investigating official shall inform the National Anti-Corruption Commission for acknowledgement and shall proceed the case under the Criminal Procedure Code without submitting such case to the National Anti-Corruption Commission.

In the case where the investigating official or prosecutor orders not to prosecute the accused person, this matter shall be reported to the National Anti-Corruption Commission for acknowledgement. In such case, the National Anti-Corruption Commission may request a case file for investigation, including evidence and related documents, from the investigating official or prosecutor or may conduct a new fact inquiry.

The performance of the investigating official under paragraph one shall not prejudice the powers of the National Anti-Corruption Commission to conduct a fact inquiry or to assign an inquiry official to jointly conduct an investigation with the investigating official.

Section 99/6. In the case where the National Anti-Corruption Commission considers that it is appropriate, it may submit the accusation of an official of a foreign state, official of an international organisation and any person that such person commits an offence under section 123/2, section 123/3, section 123/4 and section 123/5 and is under the prosecution to an investigating official, to further proceed under the Criminal Procedure Code.

Section 99/7. If the National Anti-Corruption Commission conducts a fact inquiry and has a resolution that a ground for the accusation is not found, the accusation shall be rejected. In regard to any accusation which the National Anti-Corruption Commission has a resolution that there is a ground for criminal offence, the Commission

shall carry out an act under section 97 and the provisions in section 98 and section 98/1 shall, *mutatis mutandis*, apply".

Section 13. The followings shall be added as section 123/2, section 123/3, section 123/4, section 123/5, section 123/6, section 123/7 and section 123/8 of the Organic Act on Anti-Corruption B.E. 2542:

"Section 123/2. Any state official, official of a foreign state or official of an international organisation who illegitimately requests, accepts, or provides a consent to accept properties or other benefits for himself or other persons for exercising an act or refraining from exercising any act under duties regardless of whether such conduct is legitimate or illegitimate under duties shall be liable to imprisonment for a term of five years to twenty years or life imprisonment, and to a fine of one hundred thousand Baht to four hundred thousand Baht or penalty of death.

Section 123/3. Any state official, official of a foreign state or official of an international organisation who exercises or refrains from exercising any act under duties by considering properties or other benefits which he or she requests, accepts, or provides a consent to accept before taking the office shall be liable to imprisonment for a term of five years to twenty years or life imprisonment, and to a fine of one hundred thousand Baht to four hundred thousand Baht.

Section 123/4. Any person who requests, accepts, or provides a consent to accept properties or other benefits for himself or other persons as a return in motivating any state official, official of a foreign state or official of an international organisation, by corruption, illegal method or influence, to exercise or refrain from exercising any act to benefit or harm any person shall be liable to imprisonment not exceeding five years or to a fine not exceeding one hundred thousand Baht, or to both.

Section 123/5. Any person who requests, accepts, or provides a consent to accept properties or other benefits for a state

official, an official of a foreign state or official of an international organisation to motivate such person to exercise an act or refrain from exercising an act or delay an act illegitimate under duties shall be liable to imprisonment not exceeding five years or to a fine not exceeding one hundred thousand Baht, or to both.

In the case where a offender under paragraph one is a person related to any juristic person and acts for the benefit of such juristic person and the juristic person has no appropriate internal control measure to prevent such commission of the offence, the juristic person shall be liable for the punishment prescribed in this section and shall be liable to a fine of one time but not exceeding two times the damages occurred or benefits obtained.

A person related to a juristic person under paragraph two shall mean an employee, an agent, a subsidiary company or any person who acts for or acts on behalf of such juristic person regardless of whether such person has the powers and duties to exercise such act.

Section 123/6. In regard to confiscation of a property from an offence committed under this Organic Act and in additional to the Court which has the powers to confiscate a property as provided by a specific law, such Court shall have the powers to order a confiscation of the following properties, except if such property belongs to another person who is not an accomplice in the commission of the offence:

(1) a property used, or , in possession, for the commission of an offence;

(2) a property or benefit which may be calculated in a monetary value obtained from a commission of an offence or from being a user, supporter or a person who advertises or announces to find another person to commit an offence;

(3) a property of benefit which may be calculated in a monetary value obtained from a sale, distribution or transfer of the property or benefit under (1) or (2);

(4) other benefits obtained from the property or benefit in (1), (2), or (3).

In respect of the Court making an order to confiscate the property under (1) of paragraph one, the Court shall consider, as appropriate, in accordance with the circumstance and seriousness of the commission of such offence including an opportunity to use such property to commit a repeated offence.

In the case where the Court sees that there is another mean to ensure that the person is unable to use the property under 1 of paragraph one to commit a repeated offence, the Court shall order to carry out such mean instead of confiscating the property.

If the execution under paragraph three is not accomplished, the Court may, subsequently, order a property confiscation.

Section 123/7. All the following properties shall be confiscated, except if such property belongs to another person who is not an accomplice in the commission of the offence:

(1) a property or benefits which may be calculated in a monetary value which a person provided, requested or provided the consent to accept and gave to a state official, an official of a foreign state, or an official of an international organisation as a motivation to exercise an act or refrain from exercising an act or delays an act illegitimately under duties;

(2) a property or benefits, which may be calculated in a monetary value, obtained by a state official from committing a wrongful act under duties or a wrongful act under the official position or a wrongful act under judicial duties;

(3) a property or benefits, which may be calculated in a monetary value, obtained by an official of a foreign state or an official of an international organisation from committing an offence under section 123/2 or section 123/3 or an offence with the same characteristic under other laws;

(4) a property or benefits, which may be calculated in a monetary value, given, requested or provided with consent to give to motivate a person to commit an offence or as a reward for such person committing an offence;

(5) a property or benefits, which may be calculated in a monetary value, obtained from a sale, distribution or transfer of the property or benefits under (1), (2), (3), (4) or (5);

(6) other benefits resulting from the property or benefits under (1), (2), (3), (4) or (5).

Section 123/8. If it appears to the Court or the matter appeared under the request of the plaintiff that the objects confiscated by the Court under section 123/6 (2), (3), or (4) or section 123/7 is the object which is lost or is not able to be recovered regardless of reason or such object is attached with other properties or is sold, distributed or transferred, or the recovery of such object is too difficult or there is an appropriate ground to do so, the Court may prescribe the value of such object by considering the market price of the object as of the date that the final judgment is made and order the person, who is ordered to submit the confiscated object, to make a payment or order to confiscate other properties of the offender in accordance with the prescribed value within the time period specified by the Court.

In respect of prescribing the value of the object ordered to be confiscated by the Court under paragraph one in the case where the object is attached to another property or prescribing the value of such object in the case where the value of such property obtained for the replacement is less than the value of the property attached to another property on the day of sale, distribution or transfer, the Court shall prescribe the value by taking into account the proportion of the property attached or the value of the property obtained for the replacement of such property, as the case may be.

In respect of ordering the person, who is ordered by the Court to submit the confiscated object, to make a payment, the Court may order such person to make the whole payment or pay in

installments, by taking into about the appropriateness and fairness in such case.

The person, ordered by the Court to deliver the confiscated object who fails to make a payment or fails to make a complete payment and fails to make a payment within the time period as prescribed by the Court, shall pay the interest during the time in default in accordance with the rate as provided by law.

In the case where the Court makes a confiscation order as a result of the commission of an offence under this Organic Act but the Court judgment is not final, the Secretary-General shall have the power to maintain and manage such property until the case is final or until the Court makes another order. In this regard, the rules and procedures on maintaining and managing the property shall be as prescribed by the National Anti-Corruption Commission".

Countersigned by

General Prayuth Chan-O-Cha

Prime Minister

Translation: Draft Charter sections on the National Strategic Committee on Reform and Reconciliation

The National Strategic Committee on Reform and Reconciliation has been a hot issue in the debate on the Draft Charter inThailand. Please find below CPG's English translation of the sections in the Draft Charter of 22 August 2015 pertaining to the so called "crisis panel".

CHAPTER II

Reform in order to reduce the disparity, to create fairness and reconciliation

---

Part I

National Strategic Committee on Reform and Reconciliation

Section 259. For the purpose of continuous and accomplished reform including to prevent and settle the dispute of the people in the nation and to build reconciliation, the National Strategic Committee on Reform and Reconciliation and the Reforming and Promoting Reconciliation Council shall be established with the composition, selection procedure, powers and duties as provided in this Constitution.

Section 260. The National Strategic Committee on Reform and Reconciliation shall consist of one President of the Committee and no more than twenty-two members of the Committee appointed, by the King, from the following persons:

(1) *ex-officio* members which are: Speaker of the Parliament; President of the Senate; Prime Minister; Supreme Commander; Commander-in-Chief of the Army; Commander-in-Chief of the Navy; Commander-in-Chief of the Air force; and Commissioner General of the Royal Thai Police;

(2) qualified members appointed from former Speakers of the Parliament, Prime Ministers, Presidents of the Supreme Court selected amongst themselves for one person in each type; and

(3) not exceeding eleven qualified members appointed, in accordance with the resolution of the Parliament, from the persons with expertise in different types of reform and reconciliation building.

Members under paragraph one shall select an appropriate person as the President of the National Strategic Committee on Reform and Reconciliation.

Qualifications, prohibitions, rules and selection procedure, term of office, vacation of office, powers and duties and other necessary matters of the Committee under this

section including position remuneration and other benefits of the President and members shall be in accordance with the Organic Act on Strategy in Reform and Reconciliation.

Speaker of the Parliament shall countersign a Royal Command of the appointments of President of the Committee and members of the National Strategic Committee on Reform and Reconciliation.

In the case where members of the National Strategic Committee on Reform and Reconciliation are not complete under the composition or numbers under paragraph one, if the remaining members are over than one-half of the total members of the Committee, the existing members shall be composition and constitute quorum and shall be able to continue to undertake powers and duties.

The Secretariat units of the National Strategic Committee on Reform and Reconciliation and the Reforming and Promoting Reconciliation Council shall be established. Such units shall be independent in terms of personnel administration, budget and other matter, in accordance with the Organic Act on Strategy in Reform and Reconciliation.

There shall be an annual performance assessment of the Strategic Plan of Reform and Reconciliation of the National Strategic Committee on Reform and Reconciliation and the Reforming and Promoting Reconciliation Council by the National Assessment Commission. Upon the assessment, the National Strategic Committee on Reform and Reconciliation and the Reforming and Promoting Reconciliation Council shall be notified and the result of the assessment shall be announced to the public. In this regard, it shall be in accordance with the Organic Act on Strategy in Reform and Reconciliation.

Section 261. The National Strategic Committee on Reform and Reconciliation shall have the powers and duties as follows:

(1) to appoint reform committees and independent committee on reconciliation promotion in order to study and make a recommendation on reform and reconciliation promotion to the National Strategic Committee on Reform and Reconciliation;

(2) to propel the reform by making a policy recommendation and reform proposal including necessary budget allocation proposal to the Parliament, the Council of Ministers or relevant agencies for the country development, decrease in disparity and fairness building;

(3) to propose a reform of the National Reform Council under the Constitution of the Kingdom of Thailand (Interim) B.E. 2557 including action plan and strategy for reform of every sector to integrate to ensure continuous and sustainable country development, decrease in disparity and fairness building including adjusting the plan and procedure as appropriate;

(4) to undertake any act necessary to build reconciliation and harmony between the disputing Parties and to build reconciliation amongst the public in accordance with the transitional justice principle, as provided by the Organic Act on Strategy in Reform and Reconciliation;

(5) to undertake or order any necessary act for the protection and settlement of disputes or violence and to settle or prevent any act resulting in the obstruction of the reform or reconciliation building, as provided by the Organic Act on Strategy in Reform and Reconciliation;

(6) to examine and inquire any act which is contradictory to the action plan or procedure prescribed by the National Strategic Committee on Reform and Reconciliation under (2), (3), (4) or (5);

(7) to propose a matter with opinion to the Constitutional Court in order to consider cases under (6) or other cases under section 222 or section 257 paragraph three;

(8) to promote education, research study and dissemination of knowledge relating to reform and reconciliation;

(9) to promote and develop the potentials of the public to be good citizens;

(10) to follow up and assess the performance of relevant agencies to ensure that the reform is conform with and is accordance with the provisions of this Constitution;

(11) to perform any other duties as provide by the Constitution or laws.

For the purpose of performance of powers and duties, the National Strategic Committee on Reform and Reconciliation shall have the powers to prescribe a reform strategy and reconciliation building, administration and undertake to ensure an environment facilitating the living with harmony and reconciliation. In this regard, the Council of Ministers and state agencies shall proceed in accordance with such strategic plan. The Committee shall have the powers to propose to the Council of Ministers, for consideration, means and measures necessary for the purpose of resolving disputes and building reconciliation. In this

regard, the National Strategic Committee on Reform and Reconciliation shall not have powers and duties in public administration.

Upon the receipt of the proposal under paragraph one or the means and measures under paragraph two, the Council of Ministers shall consider and undertake the proposals or means and measures including providing the budget support. In the case where the Council of Ministers is unable to undertake any proposal or mean or measure, it shall inform reasons to the Parliament and the National Strategic Committee on Reform and Reconciliation. In this regard, if the National Strategic Committee on Reform and Reconciliation revises the proposals, means or measures and passes the resolution to confirm such matters with no less than three-fourths of the votes, the Council of Ministers shall undertake in accordance with the resolution.

Section 262. There shall be the Reforming and Promoting Reconciliation Council consisting of the persons under section 260 and section 261 (1) to undertake sustainable reform and reconciliation as provided by the Organic Act on Strategy in Reform and Reconciliation.

The Council shall undertake the reform and build reconciliation, annually assess the reform and reconciliation building and conduct a reform and reconciliation building plan for the following year. It shall consider a bill on reform and reconciliation which shall be further proposed to the Council of Ministers or Parliament and shall have the powers and duties as provided by the Organic Act on Strategy in Reform and Reconciliation.

The President of the National Strategic Committee on Reform and Reconciliation shall convene a meeting and shall be the chairperson of meetings of the Council on Propelling the reform and reconciliation.

Section 263. For the process under section 261, if it sees that it is necessary to enact an Act, the Reforming and Promoting Reconciliation Council shall make a draft bill on such case and propose to the National Strategic Committee on Reform and Reconciliation to further submit it to the House of Representatives. In this regard, the

National Strategic Committee on Reform and Reconciliation may amend such draft bill or submit it to the Reforming and Promoting Reconciliation Council to amend any part of such bill.

The House of Representatives and the Senate shall appoint an extraordinary committee to consider such draft bill and such committee shall consist members of the Reforming and Promoting Reconciliation Council and representatives of the National Strategic Committee on Reform and Reconciliation together for the numbers of no less than one half of the total members of the extraordinary committee. In the case of consideration of such draft bill by a joint committee, members of such joint committee shall consist of members of the Reforming and Promoting Reconciliation Council and representatives and representatives of the National Strategic Committee on Reform and Reconciliation together for the numbers of no less than one-third of the total members of the joint committee.

In the case where the draft bill proposed under paragraph one is the draft bill concerning finances, it may be proposed upon the affirmative statement of the Prime Minister. In this regard, the Prime Minister shall consider providing the affirmative statement within thirty days as from the date of receipt of such draft bill. In the case where the Prime Minister fails to notify the consideration result within the prescribed time period, it shall be deemed that the Prime Minister gives the affirmative statement.

Section 280. During the primary period, upon the appointment of the National Strategic Committee on Reform and Reconciliation under section 260, the appointments of the Speaker of the Parliament, President of the Senate and Prime Minister as *ex-officio* members under section 260(1) shall wait until the Speaker of the Parliament, President of the Senate and Prime Minister are obtained under this Constitution and the National Strategic Committee on Reform and Reconciliation appointed under this section shall be deemed the National Strategic Committee on Reform and Reconciliation under section 260.

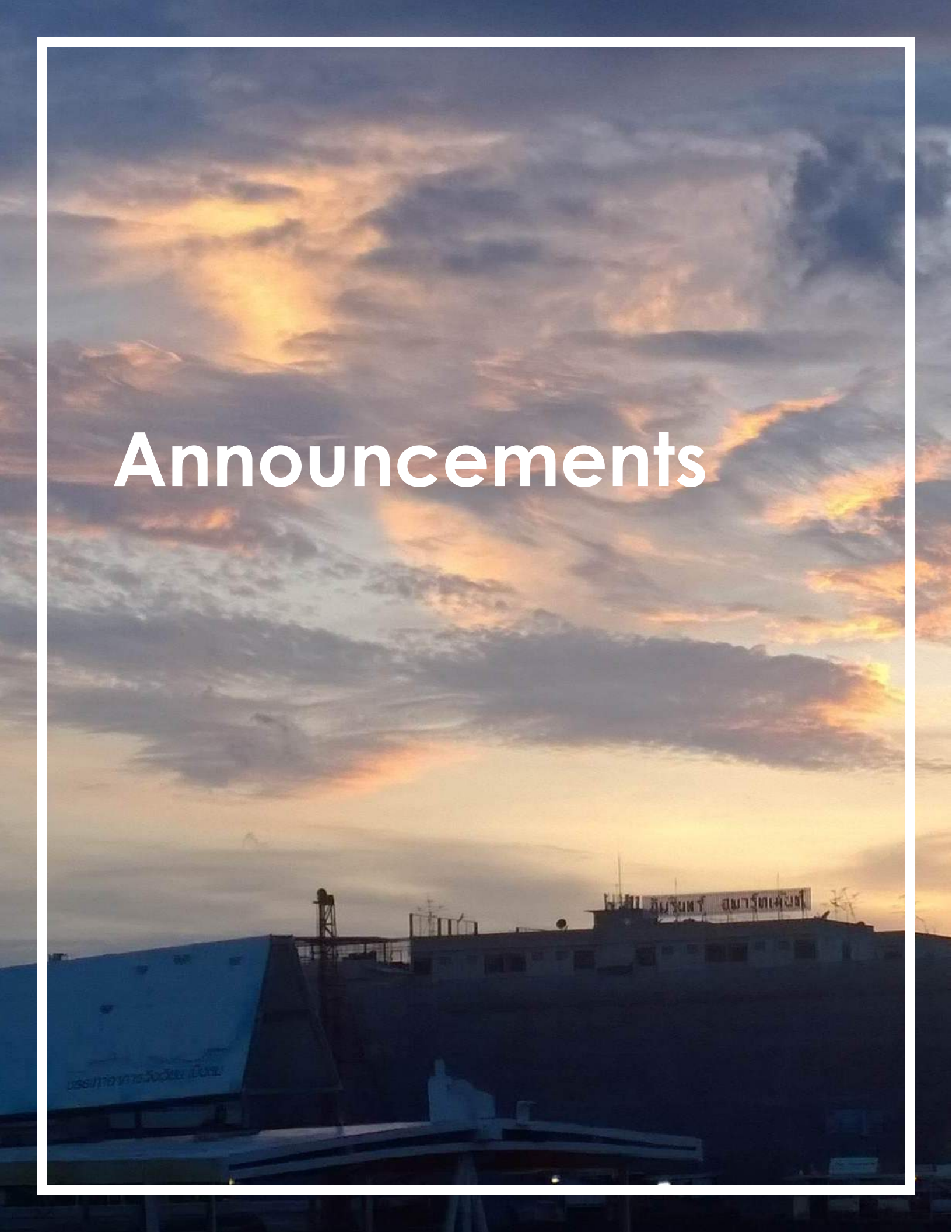
Within five years as from the date of enforcement of this Constitution, if it is necessary to maintain the independence of the nation, territorial integrity or to protect, prevent or suppress any act which would destroy the order or national security, throne, economy of the country or any case resulting from the dispute which may lead to violence in the country, regardless of whether an incident occurred inside or outside the Kingdom and if the political institutes under the Constitution and the Council of Ministers may not act to settle such case, the National Strategic Committee on Reform and Reconciliation shall pass a resolution of no less than two-third of the votes of the existing members of Committee to exercise the power to use necessary measure to deal with such situation, after consultation with the President of the Constitutional Court and the President of the Administrative Court, to ensure that the situation expeditiously returns to the normal environment.

Upon the process under paragraph two, the President of the National Strategic Committee on Reform and Reconciliation, with the approval of the National Strategic Committee on Reform and Reconciliation, shall have the power to order, settle, suppress, perform any act regardless of whether such act would result in the legal or administrative enforcement and such order, act and order compliance shall be deemed a legitimate act or compliance under this Constitution and laws and shall be deemed final. In this regard, upon performing such act, the National Strategic Committee on Reform and Reconciliation shall expeditiously report the Speaker of the House of Representatives, President of the Senate, President of the Constitutional Court and President of the Supreme Administrative Court and make an announcement to the public about the use of such measure.

In the case where there shall be a person to countersign a Royal Command, the President of the National Strategic Committee on Reform and Reconciliation shall countersign the Royal Command.

Upon the exercise of power under paragraph two, the parliamentary session shall be deemed to have been convened without an enactment of the Royal Decree to convene the Parliamentary Session

and, during the period where the power is exercised under this section, such period shall be deemed the Parliamentary Session.


Announcements

Events

From 9-11 September 2015 the Thailand Office of Konrad-Adenauer-Stiftung will host the workshop ***"Development of Corpus of Knowledge and Legal Competency Training in Human Rights and Environmental Litigations"*** in Chiang Mai. Please find more details on the event at http://www.kas.de/thailand/en/events/65202/.

On 12 and 13 September 2015 the Thailand Office of Konrad-Adenauer-Stiftung will host the workshop ***"Capacity Building and Development of Human Rights Lawyer Networks in the Northern Region"***. More information is provided at http://www.kas.de/thailand/en/events/65206/.

On 10 September 2015 the ISEAS - Yusof Ishak Institute, Singapore, will host the Seminar ***"Spirits of Power in 21st Century Thailand: Magic and the Supernatural at the Centre of Political Authority in Thailand"***. Please find more information at http://www.iseas.edu.sg/events/upcoming-events/item/1716-seminar--spirits-of-power-in-21st-century-thailand--magic-and-the-supernatural-at-the-centre-of-political-authority-in-thailand.

On 14 September 2015 ***Prof. Dr. Luigi Cornacci***, University of Salento, Italy, will give a guest lecture on the topic of ***"Strafzwecke im Völkerstrafrecht"*** at the Faculty of Law of Münster University. Further information are available at http://www.jura.uni-muenster.de/index.cfm?objectid=B698C6A3-CCB8-1E4F-46032D950EE55FF4.

On 14 September 2015 the ISEAS-Yusof Ishak Institute, Singapore, will arrange the ***"ASEAN Roundtable 2015 – ASEAN Community 2015: Expectations and Realities"***. For details, please see http://www.iseas.edu.sg/events/upcoming-events/item/1546-asean-round table-2015-asean-community-2015-expectations-and-realities.

On 14 August 2015 the Faculty of Law, Thammasat University, in cooperation with the Central Intellectual Property and International Trade Court will host the public lecture ***"Overlooked French Influence on IP Clauses in the US Constitution"*** at the Rangsit Campus of Thammasat Faculty of Law. The lecture will be given by ***Prof. Sean O'Conner*** from Washington University School of Law. Please see http://www.law.tu.ac.th/overlooked for more information.

On 15 and 16 September 2015 Regional Universities Network Australia will hold the ***10th Annual University Governance and Regulations Forum*** in Canberra. For more details, please see the link http://www.informa.com.au/conferences/education-conference/university-governance-and-regulations-forum.

On 16 August 2015 the Faculty of Law, Thammasat University, in cooperation with the Central Intellectual Property and International Trade Court will host the public lecture ***"Overlooked French Influence on IP Clauses in the US Constitution"*** at the Lampang Campus of Thammasat Faculty of Law. The lecture will be given by ***Prof. Sean O'Conner*** from Washington University School of Law. Please see http://www.law.tu.ac.th/overlooked for more information.

On 16 and 17 September 2015 the European Center of Sustainable Development, Rome, will host the ***International Conference on Sustainable Development*** at Gregorian University in Rome. Further information is provided at http://www.ecsdev.org/index.php/conference.

On 17 September 2015 the DAAD Information Center Bangkok will hold the next of the monthly held information events on ***"Study and Research in Germany"*** (in Thai), at the auditorium of the Thai-German Cultural Foundation. Following the presentations by one of the DAAD IC Study Counselors time will be given to ask questions. The admission is free. For more information, please follow the link http://www.daad.or.th/en/.

From 21-26 September 2015 the Institute for Cultural Diplomacy, Berlin, will arrange the ***International Symposium on Cultural Diplomacy in the UN "The 70th Anniversary of the Establishment of the UN: Developing Initiatives to Promote Cultural Understanding, Global Human Rights & World Peace"*** in New York City. For more details, please see http://www.culturaldiplomacy. org/academy/ index.php?international-symposium-on-cultural-diplomacy-in-the-un.

On 23 and 24 September 2015 Columbia University will organize the *2015* ***International Conference on Sustainable Development*** at Columbia University, New York City. More information is available at http://ic-sd.org/.

On 29 and 30 September the Thailand Office of Konrad-Adenauer-Stiftung will host the workshop ***"Renewable Energy: Direction to Sustainable Development"*** in Nakhonratchasima Province. For more information, please see http://www.kas.de/thailand/en/events/65227/.

From 14-16 October 2015 the Universiti Sains Islam Malaysia will host the ***International Future Global Economic Development (IFOGED) Conference*** at Chiang Mai University, Thailand. More information is accessible at http://ifoged.com/.

People

Peter Prügel new German Ambassador to Thailand

Peter Prügel took up his assignment as Ambassador of the Federal Republic of Germany to Thailand beginning of August 2015.

Prior to arriving in Bangkok, he served as Regional Director for Asia and the Pacific at the Federal Foreign Office in Berlin (2012-2015) and before that as Minister

and Deputy Head of Mission at the German Embassies in Tel Aviv (2009-2012) and Ankara (2006-2009).

Ambassador Prügel joined the German Foreign Service in 1989 and began his career at the Political Affairs Department of the Federal Foreign Office where he was in charge of the withdrawal of the Soviet troops from the former German Democratic Republic (1991-1992).

Following first assignments abroad to the German Embassies in Rome (1992-1995) as First Secretary for Economic Affairs and Belgrade (1995-1997) as Counsellor for Political Affairs, he worked at the Federal Foreign Office's Division for Parliament and Cabinet Affairs (1997-2000).

From 2000 to 2002 and in the framework of close German-French Cooperation, he was Chargé de Mission at the French Ministry of Foreign Affairs in Paris in charge of Bosnia and Herzegovina and representing France in the Peace Implementation Council (PIC) created by the Dayton Peace Accords. Back at the Headquarters in Berlin, after a short interim as Deputy Head of the Department for Arms Export Control, he was Principal Private Secretary to the Federal Minister of Foreign Affairs from 2002 to 2006.

Ambassador Prügel studied Political Science as well as Romance Languages and Literature at Konstanz University (M.A. and State Exam) and graduated from the Ecole Nationale d'Administration (E.N.A.) in Paris in 1989.

Ambassador Prügel is married to Lucia Costantini and has two children.

CPG would like to wish Ambassador Prügel success for his work in the years ahead.

Jan Blezinger new Head of Press and Cultural Section at the German Embassy Bangkok

Jan Blezinger has recently taken up his position as Counsellor, Head of Press and Cultural Affairs Section, at the Embassy of the Federal Republic of Germany in Thailand. Prior to his post at the German Embassy in Bangkok, he served at the Federal Foreign Office in Berlin in the Real Estate Management Unit (2012-2015) as well as in the Police Reform Unit (2007-2008). Further posts abroad included posts at the German Embassy in Chisinau (2008-2011), the Badakhshan Area Office in Feyzabad of the German Embassy in Kabul (2006-2007), as well as the German Embassies in Tegucigalpa (2001-2006), Lomé (1997-2001) and Riga (1994-1997).

Jan Blezinger has a degree in Public Administration from the Cologne School for Public Administration. He is also holding a Master of Arts in European Administration Management from the Berlin School of Economics and Law.

CPG would like to wish Mr. Blezinger an interesting and successful time in Thailand!

Maria Salcedo Ortiz new Minister Counsellor/Deputy Head of Mission at the Embassy of Spain Bangkok

Since August Maria Salcedo Ortiz has been the new Minister Counsellor/Deputy Head of Mission at the Embassy of Spain in Bangkok. Prior to this post she served as Counsellor (Head of Cultural Section, 2014-2015) and as First Secretary (2011-2014) at Embassy of Spain in Beijing. Further assignments within the Foreign Service which she joined in 2007 cover posts at the Embassy of Spain in Mali and Mexico. From 2008-2011 she was Head of Area (Africa and Asia) at the Office of the

Spokesman of the Spanish Ministry of Foreign Affairs and Cooperation. Ms. Salcedo Ortiz holds a degree in law from Universidad San Pablo CEU Madrid and Université de Paris/Panthéon-Sorbonne, Paris.

CPG would like to wish Ms. Salcedo Ortiz an interesting and successful time in Thailand!

Sila H. Pulungan new Attorney Attaché at the Embassy of the Republic of Indonesia in Bangkok

In August Sila H. Pulungan assumed his post as Attorney Attache at the Indonesian Embassy in Bangkok. Prior to his current post he was Chief of the Office of District Prosecutor of Ambarawa. Mr. Sila holds a Master of Law from Gadjah Mada University of Yogyakarta, Indonesia.

CPG would like to wish Mr. Sila an interesting and successful time in the years ahead!

Dr. Georg Verweyen new Director of the DAAD Information Centre Bangkok

Since the beginning of August Dr. Georg Verweyen has been the new Director of the DAAD Information Centre Bangkok. Prior to his current post he headed the section for International Science at the International Office of the University of Cologne from 2013-2015. From 2009-2013 he was DAAD-lecturer at Kenyatta University in Nairobi, Kenya. Dr. Verweyen studied German Literature, Linguistics, Philosophy and cultural Anthropology in Bonn, Paris, Utrecht, Bochum and Düsseldorf. He received his PhD from Ruhr University Bochum.

CPG would like to wish Dr. Verweyen an interesting and fruitful time in Thailand!

Farewell to Lt. Colonel Doan Quang Thuong

In August Lt. Colonel Doan Quang Thuong completed his 5 years term of office as Deputy Defence Attaché of the Embassy of the Socialist Republic of Viet Nam in Bangkok. He has returned to Vietnam to be staff officer at the Ministry of Defense, awaiting his new assignment. Prior to his post at the Vietnamese Embassy in Bangkok Lt. Colonel Doan was Assistant Defence Attaché in New Delhi, India (2003-2006) and Assistant Defence Attaché in Bangkok (2010-2011). He is married and has two children.

CPG would like to very cordially thank Lt. Colonel Doan for his constant and tremendous support of our Center's work. We wish you all the best, Lt. Colonel Doan, and hope to see you again soon.

Miscellaneous

Reception on the occasion of the French National Day

On 14 July 2015 *HE. Thierry Viteau*, French Ambassador to Thailand, hosted a reception on the occasion of the French National Day at Sofitel So Hotel Bangkok. Among the guests were Minister of Tourism and Sports ***Kokobkarn Wattanavrangku*** former Deputy Prime Minister and Minister of Finance ***Pridiyathorn Devakula***, former Minister of Education ***Chaturon Chaisaeng***, former Deputy Prime Minister and Minister of Education ***Pongthep Thepkanjana***.

Reception on the occasion of the 70th anniversary of the Independence Day of the Republic of Indonesia

On 24 August 2015 ***HE. Lufti Rauf***, Indonesian Ambassador to Thailand, hosted a reception at Erawan Grand Hyatt Hotel on the occasion of the 70th anniversary of the Independence Day of the Republic of Indonesia. Among the guests were ***Direk Ingkaninanda***, President of the Supreme Court of Thailand, Minister of Culture ***Vira Rojpojchanara***, and Minister of Tourism and Sports ***Kokobkarn Wattanavrangku***.

Viet Nam visa exemption

Until 30 June 2016 citizens of Germany, France, the UK, Italy, and Spain are exempted from visa requirements for a stay in Viet Nam up to 15 days. For more information please see http://www. vietnambotschaft.org/visa/ or http://vietnamembassy.org.uk/ index.php? action=p&ct=Notice2.

CPG Job Market

As a service CPG provides an overview of currently open job offers in fields and from institutions related to CPG's focal areas of work.

Organization	Vacant position	Department, Office, Location	Closing Date	Information available at:
German-Southeast Asian Center of Excellence for Public Policy and Good Government (CPG)	Program Coordinator (full time) starting January 2016	Faculty of Law, Thammasat University, Bangkok	15 November 2015	www.cpg-online.de
Economic and Social Commission for Asia and the Pacific	Senior Programme Officer	ESCAP Bangkok	28 September 2015	http://unjobs.org/vacancies/1438492877300
Economic and Social Commission for Asia and the Pacific	Programme Officer	ESCAP Bangkok	25 September 2015	http://unjobs.org/vacancies/1438039326155
Economic and Social Commission for Asia and the Pacific	Statistician	ESCAP Bangkok	21 September 2015	http://unjobs.org/vacancies/1437650491077
Economic and Social Commission for Asia and the Pacific	Economic Affairs Officer	ESCAP Bangkok	18 September 2015	http://unjobs.org/vacancies/1437391307967
Economic and Social Commission for Asia and the Pacific	Editor (English language)	ESCAP Bangkok	14 September 2015	http://unjobs.org/vacancies/1437036688079
Economic and Social Commission for Asia and the Pacific	Intern – Economic Affairs	ESCAP Bangkok	31 December 2015	http://unjobs.org/vacancies/1426694240668

Economic and Social Commission for Asia and the Pacific	Intern – Social Sciences	ESCAP Bangkok	31 December 2015	http://unjobs.org/vacancies/1422313341771
Economic and Social Commission for Asia and the Pacific	Intern – Political Affairs	ESCAP Bangkok	31 December 2015	http://unjobs.org/vacancies/1421282314007
Economic and Social Commission for Asia and the Pacific	Intern – Programme Management	ESCAP Bangkok	31 December 2015	http://unjobs.org/vacancies/1421188857792
Economic and Social Commission for Asia and the Pacific	Intern – Statistical Information Systems	ESCAP Bangkok	31 December 2015	http://unjobs.org/vacancies/1421188778609
Economic and Social Commission for Asia and the Pacific	Intern – Public Information	ESCAP Bangkok	31 December 2015	http://unjobs.org/vacancies/1421102014590
FHI 360, non-profit human development organization	Monitoring and Evaluation Officer	FHI 360 Bangkok	Not specified	http://unjobs.org/vacancies/1435940743403
FHI 360, non-profit human development organization	Project Director/Chief of Party	FHI 360 Bangkok	Not specified	http://unjobs.org/vacancies/1435813062808
FHI 360, non-profit human development organization	Senior Program Officer	FHI 360 Bangkok	Not specified	http://unjobs.org/vacancies/1435653458969
FHI 360, non-profit human development organization	Human Resources Coordinator	FHI 360 Bangkok	Not specified	http://unjobs.org/vacancies/1435080586746
FHI 360, non-profit human development organization	Technical/Program Officer	FHI 360 Bangkok	Not specified	http://unjobs.org/vacancies/1419894228741
Institute for Sustainable Communities	Asia Regional Director	Bangkok	Not specified	http://unjobs.org/vacancies/1425769875359

International Organization for Migration	Junior Project Assistant	Facilitated Labour Migration Programme, Bangkok	10 September 2015	http://th.iom.int/index.php/migration-resources/vacancies/VN-TH017-2015-Jr-Project-Assistant-%28PDO%29-TIC-Bangkok/
International Rescue Committee	Casework Coordinator	IRC Resettlement Support Center, Bangkok	Not specified	http://unjobs.org/vacancies/1436548767798
International Union for Conservation of Nature	Finance Assistance	IUCN Asia Regional Office, Bangkok	15 September 2015	http://unjobs.org/vacancies/1440140839814
Management Systems International (MSI)	IQC Manager/Chief of Party	Support Services for Local Solutions IQC, Bangkok	Not specified	http://unjobs.org/vacancies/1411598352524
Office of the High Commissioner for Human Rights	Intern – Human Rights	OHCHR Thailand, Bangkok	31 December 2015	http://unjobs.org/vacancies/1424988039306
Social Impact, Inc. – International Development Consulting firm	Senior Team Leader (Democracy)	RDMA Frontiers Learning Series, Bangkok	For two events in 2016	http://unjobs.org/vacancies/1437900318006
Social Impact, Inc. – International Development Consulting firm	Senior Team Leader (Economic)	RDMA Frontiers Learning Series, Bangkok	For two events in 2016	http://unjobs.org/vacancies/1437900317527
Social Impact, Inc. – International Development Consulting firm	Lead Researcher – a rapid assessment on Effective Communication with USAID/RDMA Audiences	RDMA Frontiers, Bangkok	Period of performance: mid-September till mid-November	http://unjobs.org/vacancies/1437900316285
Social Impact, Inc. – International Development Consulting firm	Regional Program Assistant – USAID/RDMA Monitoring	Bangkok	Not specified	http://unjobs.org/vacancies/1437641113716

United Nations	Intern – Database Development	Department of Safety and Security, Bangkok	31 December 2015	http://unjobs.org/vacancies/1422219027786
United Nations Development Programme	Programme Associate	UNDP Regional Centre in Bangkok	9 September 2015	http://unjobs.org/vacancies/1440573871472
United Nations Office for Disaster Risk Reduction	Intern – Programme Management	United Nations International Strategy for Disaster Reduction, Bangkok, Thailand	31 December 2015	http://unjobs.org/vacancies/1437036688079
United Nations Office for Project Services	Human Resources Associate – Staff Contract Administration	UNOPS APO Bangkok, Thailand	15 September 2015	http://unjobs.org/vacancies/1439799371554
United States Embassy in Thailand	Administrative Assistant	Technical Assistance Program Office, Bangkok, Thailand	10 September 2015	http://bangkok.usembassy.gov/current_vacancies.html
World Vegetable Center, non-profit international agricultural research center	Regional Director	AVRDC regional office Bangkok, Thailand	Not specified	http://unjobs.org/vacancies/1401387677808
World Vegetable Center, non-profit international agricultural research center	Scientific Coordinator	AVRDC regional office Bangkok, Thailand	Not specified	http://unjobs.org/vacancies/1401387670783

Impressum

© Copyright 2015 by

German-Southeast Asian Center of Excellence
for Public Policy and Good Governance (CPG)
Faculty of Law, Thammasat University
2 Prachan Road
Bangkok 10200, Thailand
Phone: +66 2 613 2971
Fax: +66 2 224 8100
Website: www.cpg-online.de
E-mail: contact@cpg-online.de
Facebook : facebook/CPGTU

Responsible for content: Henning Glaser, Duc Quang Ly, Lasse Schuldt
Outline and artwork: Duc Quang Ly
Pictures : Siraprapa Chalermphao