Dear Readers, Colleagues, and Friends,

welcome to the third issue of CPG’s Online Magazine. The Magazine bi-monthly informs about our Center’s work as well as about other interesting issues and events related to or relevant for the work of CPG in the fields of public law and good governance.

In this issue for March and April we are happy to have among other features an article of HE. Son Soubert, High Privy Councillor to His Majesty King Sihamoni, King of Cambodia, on the constitutional crisis as a consequence of the legislative election in July 2013; a paper of Prof. Michael Barr on life and legacies of Singapore’s former Prime Minister and Minister Mentor Lee Kuan Yew on the occasion of his passing away in March; a review of a decision of the German Federal Constitutional Court on the ban of headscarves for teachers at German schools by our CPG colleague Dr. Lasse Schuldt; an opinion pool relating to the Thai draft constitution recently proposed by the Constitutional Draft Committee; and three informative interviews with Dr. Prinya Thaewanarumitkul, Vice Rector of Thammasat University; Somtow Papinian Sucharitkul, artistic director of the Bangkok Opera; as well as Hanns Bühler, Head of the South- and Southeast Asian Division of Hanns Seidel Foundation.

I hope you enjoy reading!

Best regards,

Henning Glaser

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

March-April 2015
On 2-3 March 2015 CPG in cooperation with Hanns Seidel Foundation and the Department of Special Investigation (DSI) arranged the workshop “Good Governance in Law Enforcement and the Protection of Human Rights” at CS Pattani Hotel in Pattani. The event provided various perspectives on international and national human rights standards of police work with special attention paid to situation in the Southern border provinces of Thailand and offered a forum to stakeholders to discuss the obstacles to implement better practices. Speakers included CPG Director Henning Glaser; Pitthaya Jinawat, Director-General (ret.), Department of Rights and Liberty Protection, Ministry of Justice; Angkhana Neelaphaijit, Director, Justice for Peace Foundation; Pol. Col. Songsak Raksaksakul, Director Bureau of Foreign Affairs and Transnational Crime, Department of Special Investigation, Ministry of Justice; Asst. Prof. Piya Kijthaworn, Deputy Secretary General, Southern Border Provinces Administration Centre, Office of the Prime Minister. The workshop addressed field officers of the DSI as well as participants from other related stakeholders including the Royal Thai Police and the Southern Border Administration Center.

On 6 March 2015 CPG and the National Human Rights Commission of Thailand jointly organized a seminar on “Good Human Rights Governance in Thailand – Prospects for the Future” at Banyan Tree Hotel Bangkok on the occasion the Signing of a Memorandum of Understanding between both institutions. Against the backdrop of the ongoing constitution drafting process the seminar discussed future prospects of human rights in Thailand and assessed the role of the Human Rights Commission to play therein. Presentations were delivered by: Pokpong Lawansiri, Human Rights Officer, Regional Office for Southeast Asia of the United Nations High Commissioner for Human Rights; Sonja Gebauer, Political Counsellor of the German Embassy in Bangkok; Chalida Tajaroensuk, Director of the People’s Empowerment Foundation; and Prof. Amara Pongsapich, Chairwoman of the National Human Rights Commission of Thailand. Following the presentations the MoU was signed by Pirom Sriprasert, Secretary-General, National Human Rights Commission of Thailand, and CPG Director Henning Glaser.
Visit of Prof. Dr. Andreas Geiger at CPG, 10 March 2015, Faculty of Law, Thammasat University, Bangkok

On **10 March Prof. Dr. Andreas Geiger**, member of the Board of the German Academic Exchange Service (DAAD) and former Vice President of the German Rectors’ Conference, visited CPG at Thammasat University during his stay in Thailand. The CPG team enjoyed the discussions with him pertaining to various issues of international development- and higher education cooperation.

International Seminar “**Tackling Corruption – National and International Frameworks**”, 12 March 2015, Faculty of Law, Thammasat University, Bangkok

On **12 March 2015**, CPG hosted the international seminar “**Tackling Corruption – National and International Frameworks**” at the Faculty of Law, Thammasat University. The keynote speech was given by **Prof. Dr. Bartosz Makowicz**, Director of the Viadrina Compliance Center (VCC), Europe University Viadrina in Frankfurt (Oder), and CPG Senior Research Fellow. Prof. Makowicz is currently also the Head of the German Delegation of the Project Committee PC 278 (Anti-Bribery Systems) at the International Organization of Standardisation (ISO). His presentation combined an introduction in the current of compliance discussion with insights on “Current Concerns and Future Perspectives of International Anti-Corruption Standards”. His international perspective was complemented by national perspectives on the Thai situation and practices presented by **Dr. Kriengsak Chareonwongsak**, President of the Institute of Studies for Future Development; **Weraorn Tiyasiritanon**, Regional Compliance Officer at the Compliance Department of Siemens Ltd. Bangkok; **Lt. Col. Korntip Daroj**, Director, Bureau of Suppression of Corruption, Public Sector Anti-Corruption
On **13 March 2015** CPG held a seminar on the topic **“Cross-cultural Compliance”** for a delegation of professors and students from the School of Business of Mainz University of Applied Sciences at the Faculty of Law, Thammasat University. Speakers at this event were CPG Director **Henning Glaser**, **Dr. Archie Alexander**, Faculty of Law, Thammasat University; **Georg Schlüter**, Attorney at Law and consultant; and CPG Project Manager **Dr. Duc Quang Ly**.
On **17 March 2015**, CPG offered a seminar on “*The Role of the Parliamentary Opposition in Germany*” at the Faculty of Law, Thammasat University, Rangsit Campus. The seminar covered a historical introduction as well as an account of the current status of the parliamentary opposition in Germany. **Dr. Duc Quang Ly**, CPG Project Manager, presented the role of the parliamentary opposition during the Weimar Republic (1919-1933) from a political science perspective while **Terence J. Freibier**, CPG, gave a presentation on the role and rights of the opposition in the German parliament – the federal as well the state parliaments – under the current constitution (Basic Law).

On **23 March 2015** CPG organized a roundtable on the topic of “*Human Rights Protection in Thailand - The Work of the National Human Rights Commission of Thailand*” and a study visit at the National Human Rights Commission of Thailand. The event provided an opportunity to get to know the institution and its work at the coalface. After being welcomed by the Commission’s Chairwoman **Prof. Amara Pongsapich** the participants were invited to observe a meeting of the Commissioners of the NHRC. The program was completed by a guided tour through the facilities of the NHRC and a presentation on the mission, duties and performance of the NHRC with a subsequent Q & A session.
On **25 March 2015** CPG and Hanns Seidel Foundation (HSF) jointly arranged a professional training workshop on “*The Role of Personal and Material Evidence in Fighting Transnational and Organized Crime in an Area Without Borders*” for special case officers of the Department of Special Investigation (DSI) and law enforcement officers of other related security agencies in Thailand. The event was held at the Faculty of Law of Thammasat University. It continued the longstanding cooperation between CPG and HSF pertaining to the professionalization of police agencies in the region for a long term partner of HSF and CPG. The event contributed not only to CPG’s efforts in the field of national security, but also to its human rights approach, a field in which the partner organizations have been enjoying a fruitful cooperation for many years. Especially against the backdrop of transnational crime the professionalization of police agencies contributes to the protection of weaker and vulnerable groups in society, for example in the fields of organized drug crime or human trafficking. Workshop instructor was Chief Superintendent Bernhard Egger, Director of the Central Investigation Services Division at the Bavarian State Office of Criminal Investigation Bureau in Munich. He was introduced to the audience by Hanns Bühler, Head of the Division South- and Southeast Asia of the HSF who also informed about HSF’s global engagement in the field of international development cooperation. (See also the contribution on the HSF below.)

Core of Chief Superintendent Egger’s contribution to the training workshop was the presentation of practical insights in investigative measurers, including in particular the arsenal of biometric methods but also advanced applications of other investigative methods like fingerprint and DNA-analysis. While there are still case scenarios in which fingerprints proof to be an immensely valuable sources of evidence for which Mr. Egger gave some interesting examples he introduced in a number of newer approaches and methods of sometimes surprising impact.
Remarkable concerning the work with fingerprints, however, is the fact that officers of the criminal investigation office are trained for not less than three years in fingerprint analysis before they are considered as being competent to give respective expert testimony before a court of justice. In view of the more complicated DNA analysis as a source of evidence. Mr. Egger pointed out the fact that leaving fingerprints cannot be avoided while leaving DNA is basically unavoidable. On the other side, precondition of investigating with DNA samples is a sufficient data-base where it comes to the importance of police cooperation within and beyond countries, an issue highlighted by Mr. Egger in relation to actual cooperation among European countries in particular. Access to such data-bases and continuously improving techniques are also one of the sources for regular cold-case assessments which are done by a special team at the Bavarian state’s criminal office.

Related to the actual potentials of biometric investigative measurers which can be actually operated much faster than in the past, a challenge to master in the near future will be to enable searches for faces “wanted” in real time CCTV transmissions. The most stunning innovation within the field of these investigative measurers which also includes systematic routine based radio cell analysis in cases of serious crime was reported to the audience in form of what might be called a “digital fingerprint”.

Besides these and other examples which Director Egger illustrated in depth by cases, it became clear during the workshop how important and successful police cooperation advanced in recent years between various European countries. It was further instructive to learn how local police forces including local forensic experts cooperate with the state’s criminal investigation office to save evidence for further analysis. The workshop concluded with a vivid discussion among the participants and will be continued.
On 27 March 2015 CPG’s Spring School Scholarship Ceremony and seminar on “Law Studies in Germany” took place at the Faculty of Law, Thammasat University. After the welcome speeches Assoc. Prof. Narong Jaiharn, Dean of the Faculty of the Law of Thammasat University, handed out the Spring School Scholarship Certificates to the scholarship holders of this year’s Spring School to be held from 31 May – 10 June at Münster University. Subsequently, Dr. Warawit Kanithasen (alumni Univ. Bonn), Prof. Dr. Boonsri Mewongukote (alumni Univ. Heidelberg) and Assist. Prof. Dr. Kittisak Prokati (alumni Univ. Bonn) gave presentations on different aspects of law studies in Germany providing encouragement and valuable advice to the awarded students and young legal professionals from the Office of the Administrative Court. The Thai delegation to CPG’s Spring School 2015 in Münster will be completed by an Indonesian delegation which could not participate in the event.
On **30 March 2015** the first of two Spring School 2015 preparation seminars was held at the Faculty of Law, Thammasat University.

**Seminar “Criminal Law and Justice in Comparative Perspectives”, 31 March 2015, Faculty of Law, Thammasat University, Rangsit Campus, Rangsit**

On **31 March 2015** CPG held a seminar on “*Criminal Law and Justice in Comparative Perspectives*” at the Faculty of Law, Thammasat University, Rangsit Campus. The first paper was presented by **Brian Pearce**, U.S. Department of Justice Attaché at the Embassy of the United States of America in Bangkok, explaining differences and common principles of criminal in Thai and American criminal procedures. He was followed by **Narendra Jatna**, Attorney Attaché at the Embassy of the Republic of Indonesia in Bangkok, talking on historical and current perspectives on criminal law and justice in Indonesia. Finally, **Dr. Lasse Schuldt**, DAAD Expert-Lecturer at CPG/Faculty of Law of Thammasat University, gave a presentation on the legal framework of pre-trial detention in Germany with a particular focus on the contentious issue of bailouts.

*From left: Narendra Jatna, Dr. Lasse Schuldt, Brian Pearce*
On 1 and 2 April 2015, CPG together with the Faculty of Law, Thammasat University, and the School of Law, University of New England, Australia, co-hosted the International Conference on “Constitutionalism, the Rule of Law and Democratic Governance – Challenges and Prospects in Comparative Perspectives” at the Faculty of Law, Thammasat University.

The keynote speech was given by Hon. Dr. Jaran Pukditananakul, Justice of the Constitutional Court of Thailand, on the topic of “Judicial Review by the Constitutional Court for the Protection of the Rule of Law and Democratic Governance in Thailand”.

The keynote speech was followed by a panel consisting of three speakers presenting on general perspectives of constitutionalism. Among them were Prof. Dr. Boonsri Mewongukote, Faculty of Law, Thammasat University, with a paper on “Problems and Prospects of Constitutional Development from Comparative Perspectives with Special Emphasis on Thailand”, Dr. Same Varayudej, School of Law, University of New England, speaking about “Challenges and Prospects for Constitutionalism, the Rule of Law and Democracy in Comparative Perspectives”, and CPG Director Henning Glaser presenting the paper “In the Form of Law and Beyond – The Design and Dynamics of Constitutional Ordering in Comparative Perspectives”.
The general panel was followed by papers on challenges and prospects in the constitutional development of seven Asian constitutional orders, namely Cambodia, Indonesia, Japan, Malaysia, Myanmar, Singapore, and Thailand. They were presented by Dr. Jade Donavanik, Dean of the Faculty of Law, Dhurakit Bandit University, and member of the Constitution Drafting Committee (CDC) for Thailand; Dr. Jonathan Liljeblad, School of Law, University of New England, for Myanmar; Professor Dr. Hitoshi Ushijima, Faculty of Law, Chuo University, for Japan; Calvin Liang, Senior Associate at Tan Kok Quan Partnership, for Singapore; Assoc. Prof. Dr. Faridah Jalil, Faculty of Law, National University of Malaysia, for Malaysia; Prof. Dr. Widodo Ekatjahjana, Dean of the Faculty of Law, University of Jember, for Indonesia. H.E. Son Soubert, Privy Councillor to His Majesty the King of Cambodia, concluded the conference. A part of his presentation is published in this Magazine below. The academic program of the conference was complemented by a cultural trip to the island of Koh Larn, funded by Thammasat Faculty of Law.

The conference was attended by academics, students and professionals from Thailand, representatives from the diplomatic community and international organizations, as well as by a strong delegation of students and scholars from Indonesia.
On **17 April 2015** the selection examination for CPG’s LL.M. Scholarship took place at the Faculty of Law, Thammasat University. The examination, which was conducted in German, required to pass reading, writing, listening and speaking tests. Headed by **Dr. Warawit Kanithasen**, the selection committee furthermore consisted of **Prof. Dr. Boonsri Mewongukote, Dr. Kittisak Prokati, CPG Director Henning Glaser, Danaya Raksil** (Head of the German Department of Thammasat University, representing CPG’s German language classes instructors), **Dr. Duc Quang Ly**, and **Dr. Lasse Schuldt**.

On **20 April 2015** two postdoc scholarships for a one month research stay at one of CPG’s partner universities in German were granted to **Dr. Warawit Kanithasen**, CPG Senior Research Fellow, and **Prof. Dr. Boonsri Mewongukote** from the Faculty of Law of Thammasat University.
Selected Events of CPG Partners and Those Related to the Work of CPG in March and April
In March and April the Faculty of Law of Thammasat University arranged a great number of academic events. Among them were the:

- Public Lecture “The South African Experience Relating to Equality Legislation” on 12 March by Prof. Anton Kok, University of Pretoria, South Africa, at the Faculty of Law, Thammasat University;

- International Conference “Good Governance and Transparency in Public and Private Sectors” on 17-18 March at the Faculty of Law, Thammasat University;

- Public Lecture “Challenges for International Law in the 21st Century” on 19 March by Prof. W. Michael Reisman, Yale Law School, Yale University, at the Faculty of Law, Thammasat University;

- Public Lecture “Extraterritorial Application of US Computer and White Collar Crime” on 27 March by Prof. Joseph L. Hoffmann, School of Law, Indiana University Bloomington, USA;

- International Conference “Constitutionalism, the Rule of Law, and Democratic Governance – Prospects and Challenges in Comparative Perspectives” on 1-2 April in cooperation with the School of Law, University of New England, Australia, and CPG

The event provided a platform to explore and discuss principles of transparency and good governance as instruments of tackling corruption. The presentations cover perspectives from international, public, criminal and business law. Among the speakers were: Prof. W. Michael Reisman, Yale Law School; Dr. Mahnoush H. Arsanjani, Judge, World Bank Administrative Tribunal; Prof. Piet Eeckhout, Faculty of Law, University College London; Prof. Dr. Visoot Tuvayanond, former Ambassador of
Thailand; Prof. Neil Andrews, Victoria Law School, Australia; Manida Zimmerman, Hunton & Williams (Thailand); Adam Reekie, Faculty of Law, Thammasat University; Prof. Andrew J. Harding, Faculty of Law, National University of Singapore; CPG Director Henning Glaser; Yordchatr Tasarika, Office of the Council of State (Thailand); Prof. Matti Joutsen, Director, European Institute for Crime Prevention and Control; Dr. Kittipong Kittayarak, Advisor to the Prime Minister, Secretariat of the Prime Minister (Thailand); and Dej-Udom Krairit, President, Lawyers Council of Thailand under Royal Patronage.

The Thailand Office of Konrad-Adenauer-Stiftung arranged three public events in March and April. The first was the seminar “Social Market Economy: Principles and Experiences Sharing from Germany” on the 31 March at Siam City Hotel Bangkok. The second was the workshop on “The Workshop for the Project “Environmental Empowerment for Grassroots and Non-state Actors in Thailand” held at IBIS Hotel Nana Bangkok on 20-24 April, followed by another workshop on “Strengthening Local Communities and Local Leaders – The Process of Strengthening of Participatory Democracy Leadership” on 26-28 April at Woraburi Ayothaya Convention Resort.

On 13 March HE. Kirill Barsky, Ambassador of the Russian Federation to Thailand, hosted the ‘Intellectual Tea’ at the Residence of the Embassy of Russia with a paper by Prof. Michael Share, University of Moscow, on the topic of “Russia’s Pivot to Asia in Late 19th – Early 20th century”.

On 20 March, the Rabi Bhadanasak Research Institute, Office of Judiciary, Thailand, in cooperation with the Friedrich Naumann Foundation, arranged the seminar “The Protection of the Witness’ and Victims’ Rights in Criminal Proceedings” at the Chapraya Park Hotel Bangkok. On invitation of the Office of the Judiciary CPG Director Henning Glaser was giving a lecture on the topic of “The Protection of Witnesses and Victims – German Law and Practices and Beyond”.

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On 1-3 April the National Human Rights Commission of Thailand, MoU partner of CPG, organized an inhouse seminar for its officers on the topic of “The Investigation- and Follow-Up-Process in Cases of Human Rights Violations” at the Classic Kamio Ayuthaya Hotel. In the framework of this seminar CPG Director Henning Glaser made a presentation on “Fundamentals of Human Rights”.

On the occasion of the visit to Thailand of Ambassador Peter Prügel, Regional Director for Asia and Pacific of the German Foreign Office, Dr. Peer Gebauer, Deputy of Head of the German Embassy Bangkok, hosted a roundtable on 1 April to discuss regional political and economic developments in Southeast Asia. Among the participants were Saman Zai-Zarifi, Regional Director Asia-Pacific Programme from the International Commission of Jurists; Pravit Rojanaphruk, Journalists for The Nation (see the contributions of both below); and CPG Director Henning Glaser.

On 21 April the Rabi Bhadanasak Research Institute, Office of Judiciary, Thailand, arranged the seminar “The Role of the Court of Justice in the Protection of Witness’ and Victim’s Rights in Criminal Proceedings” at the Office of the Judiciary on the occasion of the 133th anniversary of the Establishment of the Court of Justice in Thailand. CPG was contributing to this seminar with a lecture given by CPG Director Henning Glaser.

On 23 April Nguyen Tat Thanh, Ambassador of the Socialist Republic Vietnam, hosted a reception at the Vietnamese Embassy to commemorate the 40th anniversary of the end of the Vietnam War.
On 27-28 April the German Academic Exchange Service (DAAD) arranged the symposium “Excellence Through Networking – International Higher Education Cooperation: The Examples of Centers of Excellence and Centers of Competence” at University of Gießen, Germany. Prof. Dr. Joybrato Mukherjee opened and participated in this event in his twofold capacity as Rector of the hosting university and as Vice President of the DAAD.

The event brought together representatives of the worldwide four Centers of Excellence and seven Centers of Competence and provided a platform for exchange of work experience. These Centers originate from the Research and Academic Relations Initiative of the German Foreign Office under Foreign Minister Frank-Walter Steinmeier and are carried out by the DAAD. The event was set after finishing the first period of initial funding of five years at the end of 2014. It offered highly instructive opportunities for participants to discuss challenges of higher education cooperation, share best practices and develop ideas for their future work in line with the Research and Academic Relations Initiative. As one of the four Centers of Excellence with a total number of more than 120 events in 2010-2014 and nearly 600 speakers from 36 countries all over the world CPG could draw on its vast experience in international academic cooperation and was able to significantly contribute to the discussions. CPG was represented at the event by Prof. Dr. Ingwer Ebsen from Frankfurt University, Prof. Dr. Dirk Ehlers from Münster University, Prof. Dr. Robert Esser from Passau, as well as by Henning Glaser and Dr. Kittisak Prokati from Thammasat University. Based on the funding provided for the second period which started January of this year CPG is preparing to establish the ASEAN School of Governance, an academy for future leaders from ASEAN countries or for future leaders with interest in ASEAN.
On 17 April 2015 the Constitutional Drafting Committee officially proposed its draft for a new permanent constitution for Thailand. The draft is currently under consideration of the National Reform Council and the National Legislative Assembly. It was widely disseminated and caused a vivid debate also outside these circles. CPG receives a variety of opinions on the charter draft which are presented below with great thanks to the authors who kindly responded to the request for a concise comment on the draft constitution.
We appreciate the intention of the charter drafters to focus on empowerment of Thai people and ensuring rights and liberties that are commensurate with the country’s international obligations. This is not an easy task under current conditions whereby public opinion has been significantly constrained. For a people-centred charter to be successful, it is particularly important to obtain broad public input and support for its acceptance. Moreover, a commitment to public understanding and substantive participation throughout the process of implementing it will be a prerequisite to achieve a charter that will lay a foundation for national reconciliation and democratic reform.

Luc Stevens, United Nations Regional Coordinator and UNDP Resident Representative

One wonders whether the constitution’s traditional wording, “The sovereign power belongs to the Thai people” (Section 3) should not have better been replaced by something like the German constitution’s equivalent stipulation, “All state authority is derived from the people” (Article 20 II). However, this would not have allowed the drafters to include many bodies exercising state authority without this being derived from a declared will of the people, be it directly or indirectly. As things stand, the draft constitution is undemocratic in this respect, emphasizing the sovereignty of a paternalistic elite rather than that of the people. A positive development is the adoption of a mixed-member proportional (MMP) election system. This change moves away from the decisive role of local constituency contests in favor of emphasizing the concept of representation, meaning that the composition of the House will mirror the relative strength of all major political forces in the Thai polity, thereby also supporting the nationalization of the Thai electorate. Yet, MMP will not necessarily lead to a coalition government, as most members of the Constitutional Drafting Committee seem to expect. How many seats a political party will receive depends on the percentage of its vote total. After the elections of 2005, Thaksin could have formed a single-party government even if MMP had been inplace at that time.

This projected new constitution is another long, but by no means a well devised one. The controversial issues, for example the electoral system, should not be included in the constitution. It’s better to regulate such a hot issue in an electoral law, as the Thai constitution of 10 December 1932 and the German Basic Law respectively have already set such a good example.

Prof. Dr. Boonsri Mewongkote, Faculty of Law, Thammasat University, with public law and political parties as focal research areas

Dr. Michael Nelson, Senior Research Fellow, CPG, Faculty of Law, Thammasat University, with Thai politics and constitutionalism as focal areas of research
Thailand is in need of a legitimate, liberal democratic Constitution which will move the country forward from the political problems of the past and enable a mature and sustained democracy to take root. To this end, the Draft Constitution should be put to a referendum to allow the Thai people to choose whether to put the proposed Constitution into effect or to revert to the one effective before the coup. Such a vote will prevent the country from being trapped in endless arguments about constitutional amendments once democracy returns. The Constitution should also build on democratic progress made in the past decades so that any rights enjoyed by the people to participate in the political process should only be expanded, not curtailed. This must be the guiding principle when it comes to the design of the political system. It should also address the main problem which caused past crises, namely, the abuse of power by those who obtain an electoral mandate in the forms of corruption, intimidation of political opponents through the use of state power and violence, and stifling the role of Parliament and the media to hold those in power to account. Hence a consolidation of the political party system and a higher standard of accountability, coupled with the ability of people to directly participate in the political process should be the aim. Any attempt to turn the clock back on democracy will only be a recipe for further conflicts which Thailand can no longer afford.«

Abhisit Vejjajiva, Leader, Democrat Party Thailand, former Prime Minister of Thailand
To undertake the reform of Thailand is to move the country forward into a modern society, politically, socially and economically. To forge a truly and matured democratic Thailand is to have a liberal constitution. The furthering of the decentralization – process and the enlarging of public participation and participatory politics in the decision – making process is vital and imperative. Civil and political education must go hand in hand with the actual practice of parliamentary democracy and the implementation of reform measures that are inclusive and fair and equitable. [A] Controlled, guided and top-down democratic framework and content is retrogressive, anachronistic, unproductive and but a platform for further conflict and exploitation.

Substantially the draft represents – somewhat inevitably – a new level of Thai constitutionalism adjusting the established basic structure to actual realities (see sect. 7 in the present draft and the 2007 Constitution respectively). It is weakening electoral democracy and implementing mechanisms to contain and discipline it to a comparatively unusual degree, without, however, creating a sufficiently strong political center of the constitutional order instead. The people as well as the new and old oversight bodies are equally far away from being able to occupy this crucial role in the light of the draft. Despite the length of the draft and the reliance on the regulatory power of the constitution as a major steering tool of the political order expressed by it, it prominently refers to external, non-legal values and norms formulating a conservative constitutionalism which is co-opting those of the People who are willing to support the actual proposal to manage the inevitable transition to new shores.
Thailand is currently in the process of drafting the new Constitution with a view to pushing forwards national reconciliation and creating unity in Thai society after the prolonged political crisis. Furthermore, this Constitution is expected to effectively and systematically eliminate social inequity as a root cause of severe human rights problems.

Considering the first draft of the Constitution presented by the Drafting Constitution Commission to the National Reform Council on April 17, 2015, few humanism concepts were raised significantly. This is the first time in Thailand’s constitutional law history that human rights notions are adopted as a whole chapter in the Constitution. On the one hand, it clearly stipulates that the Constitution protects every human being, not only those with Thai nationality, but on the other hand, it is remarkable that only Thai nationals will be considered as so-called “citizens”, a new term under this Constitution. Regarding this, many human rights defenders are still skeptic that this draft Constitution may lead to economic, social and cultural inequity between Thais and non-Thais. However, due to the Section 45, this skepticism may be eased as such rights of the non-Thais, who have been residing in Thailand, are clearly recognized and enactment of the subsequent laws is allowed by the provision.

Thailand’s Containment Constitution The drafters of the new Thai constitution seem determined to go much farther than their predecessors were willing or able to in 2007 to try and replace “bad people” with “good people”, while putting a hedge around the power of elected politicians. The term that is often used is a system of better checks and balances. However, the meaning of that term is very different in Thailand than what it means in much of the rest of the world. Usually, checks and balances refer to elected representatives checking each other. For example, the opposition is given power to limit the power of government, or one elected branch of government checks the power of the other, or elected representatives grant independent agencies oversight power. …

(to be continued on next page)
This new constitution suggests that reformers have a very different model of checks and balances in mind – one which follows from their belief about the problem with Thai Democracy. According to this view all of the problems and instability in Thailand boil down to one thing: ignorant voters keep electing bad people. This suggests two solutions. First, reeducate voters and teach them how to cast their votes for “good people”. CDC head Borwornsak argues that the new charter requires the state to take an active role in promoting “good citizenship” (see http://www.bangkokpost.com/print/493602/). Efforts to help voters learn to vote the “right” way are embedded throughout the draft constitution – including a section on “Citizenship and Citizens’ Duties” (which comes before the sections on “Rights and Liberties” and “Human Rights”), a lengthy chapter on “Good Leadership and Desirable Political System”, and a new National Moral Assembly that will provide the helpful service of pre-screening potential candidates and monitoring elected representatives, and passing along that information to voters.

The second solution to the election of “bad” people is to limit the power of bad politicians, and instead, put in place institutions that let “good people” (almost by definition, unelected people) make the key decisions. Hence the birth of, or more properly, the resurrection of, the Containment constitution. The list of institutions in the new constitution that are designed to contain the power of elected representatives is truly stunning. These include institutions that not only constrain the authority of elected politicians and monitor their behavior, but which also set the legislative agenda for elected representatives. A partial list of these containment institutions follows:

- More powerful Senate, most of which is not directly elected
- Stronger Constitutional Court
- New Appointment Committee
- Public Finance and Budgeting Division
- National Reform Assembly
- National Reform Strategy Committee
- National Moral Assembly and Council
- Referendum required for constitutional amendment

Much like the containment of a virulent virus, this new constitution appears to be designed to try and cordon off and contain elected politicians and thus prevent their influence from infecting the rest of the Thai body politic. All this while empowering “good people” to manage Thailand’s affairs without the corrupting and inconvenient interference from elected representatives.
Society for Everybody (Inclusive Society)

The 1997 Constitution was the first constitution which guaranteed the right of disabled or handicapped persons to receive public conveniences and other aids from the State, as provided by law (Section 55). Then, the 2007 Constitution changed the word from “receive” to “access” according to a proposal of the disabled community. Section 54 stipulated: “The disabled or handicapped shall have the right to get access to, and to utilise of welfare, public facilities and appropriate aids from State”. However, in the current Draft Constitution the right of disabled persons are laid down in paragraph 6 under section 46 which concerns the right of family and stipulates that

Every child, youth, woman, person over sixty years of age with insufficient income and the disabled or handicapped shall have the right to welfare, public facilities and appropriate assistance for the State as provided by virtue of law.

Therefore, the group for persons with disabilities voiced that the current constitutional provision on the rights of disabled is old fashioned, because it used to be a main provision, but now it is only a part of a provision concerning the family’s right. Moreover, it reverts back the word “receive” instead of “access”. The group for persons with disabilities worked hard to promote the new concepts in the 2007 Constitution, but in the current Draft Constitution the rights of disabled or handicapped is not only not extended, but also old-fashioned.

The current Draft Constitution has no provision that implicitly promotes the society of the elderly people. Moreover, it has a lot of extravagant provisions, such as the mentioned section 46 paragraph 6 and section 59 which reads as follows: “A citizen shall have the right to access and utilize public service provided by the State continually, comprehensively and equally and State shall regularly modernize such public service,” and section 61: “A citizen shall have the right to obtain and access to public information in possession of the State, unless …”

Making the current draft constitution to guarantee that the Thai society is going to be the society for everybody and prepare for the elderly people, and to make the constitution not to be extravagant and old-fashioned in this regard, I propose to annul the section 46 paragraph 6, section 59 and section 61, by adding a new section 59 which would say: …

(to be continued on next page)
A Citizen shall have the right to access to public environment, like buildings, transportation, information, communication and public service, adaptive technology and reasonable accommodation, including welfare and other aids as provided by law comprehensively and equally, unless the disclosure of such information shall affect the security of State, public safety, interests of other persons which shall be protected, or personal information of other persons as provided by law.

This draft of section 59 could integrate children, the youth, elderly and disabled people to be part of the citizens. It would guarantee that all citizens have the right to access all public facilities comprehensively and equally. It would guarantee that Thai society is a society for everybody.

When the draft of section 59 would be changed, section 91 has to change too for reasons of consistency. So far, section 91 of the draft constitution reads as follows: “The State shall ensure that the people to have access to Public environment, Public services, Adaptive Technology and Reasonable Accommodation comprehensively and equally. …”

To make the Thai society based on the constitutional right, not a society based on pity, I proposed to change the word “assist” in section 85 and use the word “develop”, which would be in accordance with the end of section 85 that says: “… for their better livings upon self-reliance basis”

Another urgent issue is to create a strong community that supports the elderly persons and welfare system. All benefit the disabled, because the community of disabled people want the strong community. Almost all of disabled persons are the elderly persons. They want the welfare for their living based upon self-reliance basis and they want to have a living quality with human dignity. There are other issues, which need to be reformed, to make the society a society for everybody. Among them are:

• A reform on access to public environment, by enacting a law on access to public environment like in other civilized countries.
• A reform to eliminate unjust discrimination, especially by enacting a law on eliminating unjust discrimination.
• A reform about the public monetary to promote the person with disadvantage for their living based upon self-reliance so that can benefit the society.

(to be continued on next page)
A social enterprise should be established. For making the social enterprise grow rapidly, I propose to change the lottery office to become the social enterprise.

The world tends to have more serious disasters. Facing this, we have to reform the disaster prevention system and to relieve the victims of the disaster. We have to support the community for their living upon self-reliance basis by enacting the law to protect people’s rights and liberties in an emergency case and public calamity, especially, the management of news, information and communication. In this regard I propose to amend section 295 (2) by eliminating the clause

and by adding

The word “Civilized Architecture” was used by Mr. Krissana Lalai for promoting a building which everybody can access (Universal Design), but not including the information, communication, transportation, adaptive technology and reasonable accommodation."
The draft constitution seemingly tries to meet one important objective: How to prevent elected politicians to exercise actual power and to do so without appearing to be undemocratic. This objective may come from the perception that politicians are bad but clever enough to lure uninformed citizens to vote for them by offering ‘populist policies’. To meet this objective, the drafters came out with many regressive innovations. They introduce, for instance, the notion of ‘good citizens’ as holders of sovereignty (in Thai ‘Pen Yai’) who would be immune from the luring of bad politicians. This discourse on ‘citizen’ provides a nuanced concept of ‘demo’ as in the word ‘democracy’ and counters the discourse of ‘one man one vote’ based on universality and equality of rights. ‘Good citizens’ are empowered to supervise or inspect the use of state power and to enforce virtue and ethics upon all office holders. A plethora of new bodies will be created to exercise this supervisory power over elected bodies. Members of new bodies need not receive the consent of the people, suffice to trust that they will be good citizens selected by elite good citizens.

The exercise of executive power will seriously be hampered (1) in the formulation of policies by the Reform Prime-Mover Council comprising mainly of those who currently exercise reform and legislative powers, (2) in the spending of money by constitutional restrictions and by a new section to be established in the Administrative Court to adjudicate on ‘finance and budget discipline’, and (3) in manpower management by a ‘super board’ who will make proposals on the reshuffle or promotion of top level bureaucrats and by a largely unelected Senate.

The exercise of legislative power by the elected House of Representatives will be seriously hampered by the Senate which for the first time in Thailand will have almost the same legislative power as the House. The Senate will have 200 members, 123 of which will be either ex-officio or selected whereas 77 members will be elected but candidates in each province will be screened down to 10 persons. The Senate will be able to initiate and examine in the first instance draft legislation and in the case of legislation pertaining to reform as proposed by the National Reform Council, the Senate will prevail over the House.
The new constitution generally weakens political parties and elected representatives while strengthening the judiciary and bureaucracy. Article 121 allows for a Senate which is even less democratic than the previous one: only 77 members are elected by votes while at least 20 appointed Senators can be retired military officers. Meanwhile, Article 207 empowers bureau-crats (including military officials) to alone nominate other bureaucrats for appointments or transfers, diminishing the power of elected officials. Ultimately, Thailand’s 20th Constitution, born as a result of military putsch, enshrines juristocratic-bureaucratic polity atop enfeebled democracy.

Thailand is trapped in a cycle of tearing down the constitution and drafting of a new constitution due to successive and frequent military coups. I have little doubt that the current draft ‘permanent constitution’ will not be permanent as generals are often tempted to seize power. The drafting of this charter, as with many previous post-coup junta-sponsored charters, involved little or no meaningful public participation. As a result, the draft charter does not represent a genuine social contract as the majority of the people are left out of the process.

The first draft of the constitution contains many anti-democratic provisions. It limits the power of the elected politicians and places an emphasis on the non-elected institutions. The Council of Ministers and the House of Representatives will be weak, but the Constitutional Court, the Senate and other independent organs will have much more power. Many rules in the first draft are vague and susceptible of several interpretations. This draft is not up to date and will precipitate a political conflict.

Prof. Dr. Worachet Pakeerut, Faculty of Law, Thammasat University, founder and leader of the Nitirat Group

Virot Ali, Faculty of Political Science, Thammasat University with research areas in global political economy, and political economy of development in Thailand

Pravit Rojanaphruk, Journalist, The Nation
»In essence, the draft of the constitution presented by junta-appointed committee (without public participation) aims to diminish the role of those same citizens that it claims to empower. The new constitution would weaken the influence of elected politicians through proportional voting system that is designed to create weak coalition governments while the senate would be dominated by former military figures and bureaucrats. Under certain circumstances, the prime minister could be appointed from outside parliament. Autonomous agencies perceived to be tied to the establishment would get new powers. Along these lines, unelected elites could have more power than ordinary voters. The solution doesn’t lie in disempowering politicians or its own citizens. Solely voters can give government legitimacy. More importantly, any constitution that tries to get around basic democracy will only ensure to prolong the country’s political stalemate.«
Many Thai citizens, including me, already expected that this constitution – no matter how well-written – will not properly address the transitional conflicts of current Thai politics. This constitution was drafted by military-appointed experts who have no link to the conflicting parties and Thai citizens in general. Human rights advancement and democratic development are topics that cannot be “fixed” quickly. I wish that my ideas for the new constitution would also be included. In this regard, the constitution drafting process between 1993 and 1997 would be my ultimate dream. However, a written constitution will not change the culture of our politicians and Thai politics at the national level. Letting the military participate in politics is not healthy and it caused more deadlock than conflict resolution. Rather, comprehensive civil education and the upholding of freedom of expression, assembly and association will facilitate mutual understanding. Tolerance and respectfulness is needed.

This Constitution intends to solve the country’s problem. Unfortunately, the wrong proposition was set. Persons, who know and understand the problems, have a chance to participate in constitutional drafting process inadequately. The drafters have ideas and concepts to find the new solution which creates the country’s new rule under their understanding of the so-called “Thai-style democracy”. But this idea is contrary to democratic values. It distorts the main principles of parliamentary democracy, reflected for instance in the fear of political parties able to reach a majority in parliament. Additionally, the drafters rely on a number of new organizations created to control the government’s work, rather than to set a strong democratic control system which is linked to the people’s voices. The elected government should work under the control from the people, media and opposition.

Actually, we can go to the right way to draft a new constitution, if we can find the country’s primary culprits. Importantly, the reform has to be created out of the cooperation which all parts of society and state authorities. All Thai people have to come together. The problem is not that we don’t have enough laws, but the effectiveness of law enforcement. People don’t trust that the state authority enforces laws equally. Thus, people don’t obey the law. The State has to make law enforcement effective. Every person should be equal before the law. An attitude of good disciplines to live together should be created.
The ICJ has not had sufficient time to assess fully the compatibility of the 315 Sections of draft Constitution with international human rights standards. But after an initial, somewhat cursory review of the leaked, unofficial translation of the draft charter, we fear that the new draft Constitution will neither serve as a firm basis for protecting and promoting Thailand’s international human rights legal obligations, nor the establishment of the rule of law in Thailand.

There are two significant problems to point out with the draft Constitution, before even addressing its substantive provisions: First, the procedure under which the draft has been elaborated falls short of international principles of participation, representation and transparency; Second, the preservation of the Martial Law of 1914, which has been repeatedly criticized for its grant of broad, arbitrary, unaccountable authority to the military, undermines Thailand’s international legal obligations.

The International Covenant on Civil and Political Rights (ICCPR), to which Thailand is a party, guarantees under Article 25 the right of every citizen: “(a) To take part in the conduct of public affairs, directly or through freely chosen representatives; (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors.”

The UN Human Rights Committee (the body providing authoritative interpretations of the ICCPR) has affirmed in its General Comment No. 25 (The right to participate in public affairs, voting rights and the right of equal access to public service (Art. 25) CCPR/C/21/Rev.1/Add.7) that:

the conduct of public affairs, referred to in paragraph (a), is a broad concept which relates to the exercise of political power, in particular the exercise of legislative, executive and administrative powers. It covers all aspects of public administration, and the formulation and implementation of policy at international, national, regional and local levels. The allocation of powers and the means by which individual citizens exercise the right to participate in the conduct of public affairs protected by article 25 should be established by the constitution and other laws. …

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The Committee also recognized (in the same General Comment’s subsequent paragraphs) that Article 25 guarantees that: “peoples have the right to freely determine their political status and to enjoy the right to choose the form of their constitution or government”; and that “[c]itizens also participate directly in the conduct of public affairs when they choose or change their constitution or decide public issues through a referendum or other electoral process.”

The constitution drafting process has not provided for the establishment of a representative and democratically elected body responsible for drafting the Thai Constitution, nor does it ensure adequate time for a comprehensive public dialogue in order to draft a constitution that fully represents the views of Thai people. This procedure undermines the rights of the Thai people to fully participate in the constitution-making process and to make an informed decision about the basic framework of governance and law for their society, particularly in the context of the deep political instability of the past few years.

One aspect of the draft Constitution that will be quite familiar to all observers of Thailand is the ongoing presence of the Martial Law, which (if the leaked, unofficial draft can be relied upon) appears in Section 191:

The King has the prerogative to declare and lift a martial law in accordance with the conditions and procedure under the Martial Law. In the case where it is necessary to declare martial law in a certain locality as a matter of urgency, the military authority may do so under the Martial Law.

The Martial Law, which has survived despite Thailand’s tumultuous constitutional history, has been severely criticized inside and outside the country because it gives the military superior power over civil authorities when it comes to maintaining security and keeping public order. It also gives the military wide-ranging powers, including enlarged powers of arrest and detention without charge and impunity from claims for compensation. ….

(to be continued on next page)
As was pointed out by the United Nations (among others) after the most recent invocation of Martial Law in May 2014, international law prohibits emergency measures that would violate human rights. Any measure can only restrict certain rights to the extent strictly necessary to meet a specific threat to the life of the nation. The situation in Thailand over the past few years has not met that standard.

Even if a situation warrants the imposition of emergency measures, under the ICCPR, such emergency measures must be limited in duration, geographical coverage and material scope in proportion to the actual threat. Time and again, Martial Law has been invoked in Thailand in violation of this standard.

Maintaining the Martial Law, as it currently stands, creates a massive loophole for any protection that the Constitution may (or may not) provide in terms of human rights. As has been demonstrated amply, military authorities can use the tremendous authority granted by the Martial Law to violate human rights with impunity.

The absence of a participatory, representative and transparent Constitutional drafting process, and the presence of the Martial Law, immediately raise serious questions about the compatibility of the draft constitution with international standards. Further, more specific, questions will likely arise with closer analysis of a definitive text.«
Legal reform in Thailand is under way manifest in a great number of recently approved or pending reform bills. Below is a selective list of some of the most relevant ones.

**Recently approved bills**

*Revised Act on the Organization of the Military Court, B.E. 2558, approved on 19 February 2015*

*Revised Gender Equality Act, B.E. 2558, published in the Royal Thai Government Gazette (GG) on 8 March, entering into force on 9 September*

*Revised Fisheries Act, B.E. 2558, published in GG on 29 April, entering into force on 27 June 2015*

*Revised Anti-Trafficking in Persons Act, B.E. 2558, published in GG on 28 April, entering into force on 29 April 2015*

*Thammasat University Act, approved on 8 May 2015*

**Pending bills**

*Public Assembly Act*

*Bill amending the Anti-Terrorist Financing Act, B.E. 2556*

*Bill amending the Anti-Money Laundering Act, B.E. 2542*

*Bill adding an anti-corruption clause to the Hire-Purchase Act, B.E. 2507*

*Inheritance Tax Act*

*Customs Act*

*Local Government Organization Act*
ARTICLES
The deeply flawed and widely criticized counting of the votes of the legislative election in July 2013 in Cambodia resulted in a constitutional and political crisis culminating in a wave of mass protests led by the oppositional Cambodian National Rescue Party against the ruling Cambodian People’s Party. CPG is providing below a part of a paper on the background and development of this crisis by HE. Son Soubert, High Privy Councillor to His Majesty Sihamoni, the King of Cambodia and the efforts of HE. Son Soubert to neutralize it while he was personally involved in his capacity as Privy Councillor amidst a highly contentious and partly violent situation. These efforts are reflected in the paper which was presented at the international conference “Constitutionalism, the Rule of Law and Democratic Governance – Challenges and Prospects in Comparative Perspectives” jointly organized by the Faculty of Law, Thammasat University, the School of Law, University of New England, Australia, and CPG on 1-2 April 2015 at Thammasat Faculty of Law (see report above). A full chapter will be published in the forthcoming conference transcripts in summer.

HE. Son Soubert who already contributed to the success of many CPG events is – besides being Privy Councillor – Professor at the Faculty of Archaeology of the Royal University of Fine Arts, Phnom Penh, and Holder of the Ordre des Palmes Académiques as Chevalier for Culture. Formerly he held a number of other high ranking political positions, among them Member of the Constitutional Council, appointed by His Majesty the King of Cambodia, Second Vice-President of the National Assembly and Member of Parliament. He was also the President of the Son Sann Party, successor of the Buddhist Liberal Democratic Party founded by HE.’s father Son Sann.
What is the Role of a Constitutional King in Cambodia, in the Recent Constitutional and Political Crisis, After the July 2013 Legislative Election?

HE. Son Soubert

(...) 

Factual Crisis of the July 2013 Legislative Elections

The results of these legislative elections were rigged with frauds, and outright objected by the opposition party or the Cambodian National Rescue Party (CNRP), by independent observers and NGOs.

The CNRP resorted to the legal procedure, by lodging complaints to the Constitutional Council which in this occasion acts as a court. They asked for the recounting of the ballot papers in two constituencies they believed incorrectly counted and eventually the organization of new elections in these constituencies. In one of the constituencies, the Constitutional Council failed to organize the new elections, although they knew the whole process was not correctly respected, arguing a lack of time which was stipulated in the Constitution according to which 60 days after the elections, the National Assembly should proceed to its opening. The ballot papers from the other Constituency, that is Kratie province, were not convincingly recounted by the Constitutional Council's Member in charge of the problem. Despite all of that, the Constitutional Council proceeded to the proclamation of the final results of the elections. Failing to have satisfaction on their legitimate demands the CNRP decided to boycott the Opening Ceremony of the National Assembly, in order to response to its supporters advising the party not to attend. The CNRP created thus a crisis without precedent: mass demonstrations succeeded one another for months.

His Majesty the King acting as the go-between convened the ruling party and the opposition one to meet Him, which they did, and handed over to them the Convocation invitation for the Opening Ceremony of the
Parliament. As already planned, the CNRP boycotted the Opening Ceremony, creating therefore a constitutional crisis, for the Chapter 7 Article 76 of the Constitution stipulated that the National Assembly should have at least 120 members. At the Opening Ceremony presided over by the King, the National Assembly failed to meet the 123 elected members, i.e. 55 from the opposition party, but only the contested 68 of the ruling party. The quorum of the first meeting of the National Assembly should be a quorum of more than 2/3 of the total number of its members, but the Rule of Procedures (Article 47 New) allows a quorum of more than the half of the total members of the National assembly, which the ruling party having more than 62 seats deems it legal to proceed. Furthermore, the ruling party believes that the fact that the King came to open the National Assembly despite the absence of the 55 members of the opposition party, was an endorsement of the legitimacy of the National Assembly. Therefore, the government approved by the National Assembly being legitimate could proceed to the normal affairs of the state.

His Majesty the King was much criticized by the young people through their face-book network, if not insulted. They failed to understand that as a Constitutional Monarch, He had to comply with the Constitution and the laws, what He exactly did. As a Privy Councillor to His Majesty the King and a former Member of the Constitutional Council, I felt it my duty to explain in a public declaration, published by the local and international press, that His Majesty the King had only fulfilled his obligations as a Constitutional Monarch. However the National Assembly and the ruling party did not meet the requirement for legitimacy, exactly because of the Article 76 of the Constitution fixing the number of the seats: therefore the National Assembly can only be but a virtual National Assembly, since the other elected members of the opposition were not sitting there. In consequence of this assessment, logically all the proceeddings of the National Assembly are virtual, including the government and all the acts voted by the National Assembly.

Since no progress for any solution was in view, I therefore wrote to His Majesty the King as His Privy Councillor by quoting the Articles 8 and 9 of the Constitution, according to which the King is the symbol of national unity and the State continuity, and is the guarantor of national independence,
sovereignty and territorial integrity (Article 8), and exercises the role of an arbitrator in order to guarantee the good functioning of the public powers (Article 9). As such, He can convene again the two parties in front of Him and asked them to come to an agreement for a political solution. Failing that, I took the liberty to suggest three solutions:

- His Majesty can appoint a neutral acceptable person by both parties as interim Prime Minister to sort out the pending problem, in this case Her Majesty the Queen Mother.
- As stated by the Constitution Article 9, His Majesty can take in His hands the pending problem personally and instruct the two parties to come to a compromise in a special Cabinet that He would supervise, with the Ministries being run under this Cabinet.
- By stepping down provisionally, as King Sihanouk did in His time, and have the Queen Mother as Guardian of the Throne, and act as a Provisional Prime Minister, while the two contending political parties’ leaders act as Deputy Prime Ministers, until the crisis is solved.

His Majesty sent my letter to the Constitutional Council for review, but the latter deems it not within its competence to examine the content of the letter, although the letter referred to the Articles 8 and 9 of the Constitution, which would oblige the Constitutional Council to interpret those Articles, when the Article 136 paragraph 1 clearly states that the Constitutional Council has the competence to guarantee and defends the respect of the Constitution, to interpret the Constitution and the laws approved by the National Assembly and thoroughly reviewed by the Senate. Again the Constitutional Council hides behind the argument that it is beyond its competence, in order to avoid the political aspect of the problem. Furthermore, the Constitutional Council Members are in majority members of the ruling party, the Cambodian People's Party (CPP), among the 9 members only three can be considered as neutral, since they are appointed by the King. For a $\frac{2}{3}$ majority vote, the 6 members belonging to the CPP are
sure to get their way through.

The Prime Minister was not happy with my suggestions: without naming me explicitly, he publicly criticized some person who made such suggestions.

**The Political Solution**

I don't know whether this intervention has any leverage on the change that came shortly after that. Both the opposition and the ruling parties came to some understanding on the composition of the 9 members of the National Electoral Committee (NEC), by agreeing with the formula of 4 members from each political party and a neutral figure from the NGO.

I still don’t feel that this compromise would lead really to the neutralization of the whole process, if on the commune and provincial levels the composition would lean toward the ruling CPP. Again it would not be enough to neutralize the NEC, the Constitutional Council which in the last resort decides on the outcome of the results of the elections has to be neutralized also.

In the precarious situation of Cambodia, where the Armed Forces are involved in fishy businesses, if not land grabbing, with an inflation of generals (over 900), some without troops and harshly educated in the democratic ideal, the democratization process will be difficult, in terms of rule of law and democratic governance. This kind of situation is the result of the ill-implementation of the UNTAC (UN Transitional Authorities in Cambodia) which did not succeed to canton, disarm and demobilize the four factions’ armed forces in 1992, prior to the UN organized elections. Finally the armed forces ended up to be the instruments of the Prime Minister who tolerates their fishy businesses, either incapable of controlling them or unwilling to do so by a laisser-faire in order to have them depending on his good will, because they are somehow linked with criminal activities. Even though the King is the President of the Supreme Council of the National Defense, He has no power on the Military. The present Armed forces are barely National Armed Forces, but rather the ruling party Armed Forces.

The Constitution stipulates that the King is the guarantor of the
independence of the judiciary. Although the King is the President of the Supreme Council of the Magistracy which supervises the functioning of the judiciary system and the behavior of the judges, He has no power to make His points of view known. The judiciary system is still weak and fearful of the executive power, if it is not liable to corruption. His Majesty King Sihanouk told us in 1997, when the Members of the Permanent Committee of the National Assembly visited Him in the Royal Residence of Siem-Reap, that He would never preside over the Supreme Council of Magistracy, because He did not know the judges, hearing nothing about them, and could say or see anything, by putting His hands in front of His mouth, of His eyes and before His ears.

In Thailand, at least the Armed Forces are not those of a political party, they are on the side of the King who is the Chief of State and represents the State. In Cambodia, the Constitutional King cannot properly guarantee the proper functioning of the State Institutions, since He has no leverage on the judiciary or the Armed Forces which are not conscious of their role as the defenders of the Nation, of the People and the Constitutional Monarchy which cannot be amended according to the Constitution. The Minister of Defense, Mr. Tea Banh, recently declared that the Armed Forces are defending the government for its stability, which apparently seems to be logical, since the Armed Forces are under the control of the government, but in Cambodia the government is mostly made of members of the ruling party, i.e. the Cambodian People’s Party, which Mr. Tea Banh himself belongs to. He failed to understand that the Armed Forces are there to defend the State institutions and the Constitution.

(....)
On the occasion of the passing away of Lee Kuan Yew, the founder and long-term leader of Singapore, we present in our rubric “Asian leaders” an article of Michael Barr, PhD, Associate Professor in International Relations at the School of International Studies of Flinders University, Australia. Author of “Lee Kuan Yew: The Beliefs Behind the Man”, Michael Barr presents in this paper conclusions on life and legacies of Lee Kuan Yew on whom he has been doing research for 20 years.

Lee Kuan Yew: A Reflection

Assoc. Prof. Michael D. Barr

The death of Lee Kuan Yew on 23 March 2015 has prompted many assessments of the man and his legacy. He was a highly successful political leader, administrator and communicator who presided over the building of a successful city-state and economy, so it is not surprising that most assessments have been gushingly positive. He was also an unreconstructed racist and dictator who rode roughshod over his opponents, so it is just as unsurprising that a few have been highly critical. Yet none of the assessments that I have read (or written) have identified succinctly what it is that distinguished Lee Kuan Yew from other successful politicians, administrators, communicators, racists or dictators. This little article is designed to contribute some thoughts to fill that gap, based on 20 years studying the man.

In my view, if you want to seek the most basic difference between Lee Kuan Yew and most political leaders is that at his peak he possessed a rare gift for political judgment and capacity. This is a simple statement and might even be read as a ‘motherhood’ statement, but in using it I am speaking very precisely. On the one hand, he had no time for hopeless dreams. He declared in 1966 that he was interested in only one test of an idea: “the sheer test of its applicability.” Democracy itself was one of the ideas that he regarded as being an experiment under consideration – an experiment that he judged was failing
before his eyes in the mid-1950s, in contrast to his perception of the wonderful utility of Chinese-style communitarianism. On the other hand, if there was a way to build a scenario for success based upon his own prejudices, he was clever enough and energetic enough to create the edifice of ideas by which it could be rationalized and justified in terms of pragmatism.

When I was researching my PhD thesis on Lee Kuan Yew, Michael Lever – one of his former fellow-students in the Cambridge Law School and later an English judge – wrote me a letter reflecting on the Lee Kuan Yew he knew at university. He said that Lee had perhaps the ‘greatest legal brain’ he had ever encountered. He underlined the word ‘legal’, to point to both the limitations and the power of his ‘greatness’. Lee’s was not a mind suited to philosophy or deep reflection. Not science or creative prose or maths (though his son’s achievements as a mathematician gives us grounds to doubt that last disclaimer).

His was a mind that could construct powerful and persuasive arguments to suit the argument of the day – or of the moment. Another of his fellow students, David Allen, described this capacity to me as one that enables a legally trained mind to provide powerful and logical arguments pro- or anti- any stance. He said Lee was masterful at this. He used it to terrific effect but unlike a lawyer working for a fee, Lee used it in the service of politics in two ways.

First and most obviously he used it to cower opponents and rouse supporters. The second service to politics is slightly less obvious: he was able to use his prosaic analytical approach to rise above his own prejudices and preferences to determine what was possible and what was not. This is certainly not to say that he freed himself of his prejudices. No, these stayed with him to the end: he died as he lived, as a Chinese supremacist and a thoroughgoing elitist. But he was able to see past his prejudices to recognise the limits of the possible, and to make confident (and often correct) judgements about how best to achieve those outcomes that he judged possible. Furthermore, he was no fainthearted leader: he stretched the limits of the possible as far as he could, on many occasions going beyond the limits of prudence.
Not perfect…

One of the more spectacular failures of Lee’s judgement in this respect was manifest in his push in the 1980s to introduce eugenics programmes into Singapore. I do not intend to dwell on his eugenics initiatives, but I mention them because they draw attention to Lee’s most deep seated prejudice, which lies close to the heart of his technique of governance: his elitism. For Lee, the distribution of talent and energy and intelligence among peoples, both as individuals and as collectives, explained the world and he never understood why this was not perfectly obvious to everyone else. Furthermore, race had always formed an important element of his understanding of the hierarchies of the talented. When he looked out over civilizational history and contemporary global politics, he saw strong societies being led by natural elites. The critical point here is that his social cognition saw the world in hierarchies, where elites ruled and others served to the best of their abilities.

He was circumspect about such thoughts in the 1950s, but once Singapore separated from Malaysia, he was suddenly liberated to speak his mind on elitism, if not yet on race. The social “pyramid,” said Lee late in 1966, consisted of “top leaders” at the apex, “good executives” in the middle, and a “highly civic-conscious broad mass” at the base. The role of each of these social strata was distinct, requiring “qualities of leadership at the top, and qualities of cohesion on the ground.” Lee supplemented his imagery of the pyramid with that of a military organization, and argued that after the leaders come the “middle strata of good executives,” because “the best general or the best prime minister in the world will be stymied if he does not have high-quality executives to help him carry out his ideas, thinking and planning.” Finally comes “the broad base” or the “privates.” They must be “imbued not only with self but also social discipline, so that they can respect the community and do not spit all over the place.”

Democracy and constitutionality demanded routine genuflections, but neither was important to Lee. It so happened that in the first decade and a half of Singapore’s independence, the country’s very survival was a matter of serious doubt and for someone who had only ever considered democracy to be an “experiment” bequeathed by the British on their former colonies and who sought to highlight crises and challenges as a matter of political technique, this was a golden
opportunity. The 1970s was the dark decade for Singapore’s democracy, as Parliament, political parties, the news media, the trade unions, and the ethnic and language associations succumbed, and dissidents were detained, bankrupted, or marginalized. Lee was clearly comfortable rationalizing the use of repressive practices – including the detention without trial or charge of political opponents for years at a time, along with beatings, sleep deprivation, induced coldness, and intimate humiliations – to the point where it became standard government practice in the 1960s and 1970s, and was still an option at the end of the 1980s when he stepped down as prime minister.

Today a government attack on political opponents is more likely to take the form of litigation and civil action than actual detention without trial – though it needs to be noted that the threat of detention remains, and the courts have not been of any help in upholding even the most basic natural rights of defendants or the most elemental of judicial procedures when it is a political case. The political process Lee created under himself and tried (with only limited success) to bequeath to his successors was therefore supine and compliant; the ordinary folk giving way and giving deference to their betters.

Lee’s Legacy

Lee Kuan Yew has now left this world at the end of his long and successful life. By the end he was clearly out of touch with the changing attitudes of his own constituency in Singapore, which is why his son forced him to retire in May 2011. History will no doubt confirm how much he has contributed to public discourse and ideas – particularly to the politics of economic development and to recognition of the importance of professional management. Some of his prescience has today become common wisdom: welcoming international capital; the idea and best practice of state capitalism at a time when regional economic unions and liberal capitalism are lurching from crisis to crisis; seeking export markets wherever they can be found; and the importance of a rising China. Even his persistence in thinking in terms of ethnic communities and structuring society through this prism may turn out to be an enduring legacy. And who knows? His very effective utilization of communalism to feed national success, even at the relative expense of minority groups, could yet prove to be visionary, as distasteful as this idea sounds.
In among all these legacies it seems likely that one of the more significant and powerful of them might be the legitimacy he has lent to authoritarianism as a political system, and the example he has created for the world’s more intelligent and sophisticated dictators – those willing to seek a long-term marriage between a strong state at least bordering on dictatorship and capitalism.

Within his tiny former fiefdom of Singapore, his legacy will be enduring, well beyond his own lifetime. He has implanted the ideal of a meritocracy deeply into the national psyche – and that ideal will stay there even if the reality is a highly flawed distortion of the ideal. He built an education system that is elitist and in many ways unfair to significant sections of the population, but which produces high calibre outputs that make excellent professionals, and then set up a system of importing more expertise. As a direct consequence, the society he leaves behind has an extraordinarily high regard for education and professionalism. This is the core of his positive legacy.

As his legacy becomes part of history rather than part of contemporary politics, we can expect the critical interrogation of it to intensify, producing increasingly candid assessments that acknowledge the flaws within the achievements and the foibles within the brilliance. Some of these negatives are relatively incidental to his achievements, but others seem to be intrinsic either to his vision or to the reality of his achievement. Many of these failings reflect deep-seated impulses on his part. On the one hand, his disrespect for democracy, human rights, rule of law, and for any idea with which he disagrees is intrinsic to his political vision and praxis, as is his systemic privileging of Chinese people and “Chinese values.” On the other hand, it remains to be seen whether his wilful persistence in creating a cosy network of personal contacts and family members to run and profit from the instruments of state capitalism are central to his method of operation. These practices were and continue to be so endemic that his claims to have been running the country through a system of meritocracy are easily challenged.

One of the other fundamental challenges that his system faces, and that it has been trying to overcome for nearly two decades with indifferent success, is the production of educational, social, and political systems that conspire to stultify the imagination and engender a culture of bland and sterile conformity. The government has been trying to introduce a significant degree of diversity into the
education system in an effort to stimulate entrepreneurial individualism and creativity, but it faces a problem: the same features that make Singapore an outstanding success by its own terms also serve to cramp independence of imagination. This conundrum leads to an even more fundamental impasse: the ruling elite wants independent thought and creativity in business and enterprise, but not in politics. There is a basic contradiction between the demands of capitalism in a knowledge-based economy and the demands of authoritarian rule, and they may prove to be irreconcilable in the long term.

Lee Kuan Yew is a colossal figure in modern Asian history. Whether he is regarded as a hero or a villain will ultimately depend on the values of future generations casting judgment. For my part, I think that Singaporeans have paid a high price for Lee’s vision. He has produced prosperity for many, but at a very high cost.
Constitutional Court Decision Review: BVerfGE 1 BvR 471/10, 1 BvR 1181/10

Balancing Religious Freedom and State Neutrality

General Headscarf Ban in State Schools Declared Unconstitutional by the Federal Constitutional Court of Germany

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I. Introduction

Germany’s “headscarf debate” has taken a new turn after a recent decision of the Federal Constitutional Court of Germany (the “Court”). With order of 27 January 2015 (published 13 March), the Court ruled on the constitutionality of a state (Land) law prohibiting public school teachers from wearing any religious clothing or symbol while teaching. The decision differs from the Court’s 2003 judgment on a comparable legal matter as the new ruling limits the lawmakers’ discretion in balancing religious freedom and state neutrality more narrowly than before.

II. The Facts

The Court pooled two separate individual constitutional complaints by two women who worked as educational staff – one as a teacher, the other as a social educator – in state schools in the Land North Rhine-Westphalia. Both applicants are Muslim women of German nationality and both of them consider the rule to cover oneself as an obligatory rule according to their Muslim belief. They
entered the school service on the basis of private employment agreements in 1997 and 2001, respectively. Both of them used to cover their hair and neck by wearing a headscarf while working.

In 2005, the state legislative chamber of North Rhine-Westphalia inserted a revised provision into its Education Act (SchulG NW). According to § 57 sec. 4 sentence 1 SchulG NW, at school, teachers may not publicly express views of a political, religious, ideological or similar nature which are likely to endanger, or interfere with, the neutrality of the Land with regard to pupils and parents, or to endanger or disturb the political, religious and ideological peace at school. Pursuant to sentence 2, conduct that might create the impression among pupils or parents that a teacher advocates against human dignity, the principle of equal treatment, fundamental freedoms or the free democratic order is prohibited. However, under sentence 3, carrying out the educational mandate in accordance with the Constitution of the Land and presenting Christian and occidental educational and cultural values accordingly do not contradict the prohibition set out in sentence 1. By way of § 58 sentence 2 SchulG, these provisions apply not only to teachers but also to other educational staff, including socio-educational staff, employed by the Land.

In 2005 and 2006 respectively, the school authority, citing the new law, requested the two claimants to remove their headscarves while on duty. One of them replaced the headscarf by a beret with a knit band and a polo-neck pullover. Nevertheless, she received a warning by the school authority. Her lawsuit, brought to the labour courts and directed at removing the warning from her personal file, was unsuccessful at all levels of jurisdiction. The other applicant refused to discard the headscarf, received a warning and was finally dismissed. Her lawsuits in the labour courts were equally unsuccessful.

III. The Decision

By a majority of six votes to two, the Court’s First Senate decided in favour of the two complainants.¹ The order found the labour court judgments in breach of their the freedom of faith and the freedom to profess a belief (Art. 4 secs. 1 and 2 of the

¹ Federal Constitutional Court of Germany, Order of 27 January 2015, 1 BvR 471/10, 1 BvR 1181/10. The order (in German) as well as an English press release are available at http://www.bundesverfassungsgericht.de.
Basic Law, Grundgesetz – GG). According to the First Senate, the labour courts did not take into account that the relevant sections of the Education Act have to be interpreted restrictively, in a way that is in conformity with the Constitution: In order to justify the prohibition of expressing religious beliefs by outer appearance or conduct, it shall not be sufficient that this expression constitutes an abstract danger. Rather, it has to constitute a sufficiently specific danger of impairing the peace at school or the state’s duty of neutrality.

1. Scope of Protection

The Court first emphasizes that state employees – like, in the present case, educational staff – can invoke freedom of faith against the state. The fact of being integrated into a certain state sphere of duties does not put into doubt the general ability to claim the protection by basic rights. Furthermore, it is irrelevant whether the respective individual is a state employee under private law or a civil servant under public law.

Regarding the material scope of protection, the Court states that Muslim women who wear a headscarf or any other piece of cloth in order to cover the hair and neck for religious reasons can invoke Art. 4 secs. 1 and 2 GG. It is of no importance whether a big or small number of believers considers a religious rule as mandatory. Rather, the Court will consider any rule under the scope of freedom of faith as long as this rule can be substantiated by reference to individual beliefs as well as the religious group’s general convictions. As both applicants submitted from the earliest stage of the labour court trials that they wear the headscarf due to an imperative religious rule, the Court found that this practice was under the scope of Art. 4 secs. 1 and 2 GG.

2. Restriction

The school authority as well as the labour courts based the headscarf ban on § 57 sec. 4 sentences 1 and 2 SchulG NW that prohibit, inter alia, the expression of religious views by teachers. In this respect, the Court holds that the two

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2 Order, para. 84.
3 Order, para. 87.
complainants indeed expressed a religious view by wearing a headscarf while teaching. Though a headscarf cannot by itself be considered a religious symbol, it has to be viewed within the relevant social context. According to its findings regarding the complainants’ religious motivation, the Court attributed a religious connotation to their wearing of headscarves.\(^4\)

The school authority’s order to discard the headscarves, however, constituted a serious restriction of the complainants' freedom of faith: It was a restriction as it made it impossible for the complainants to adhere to their religious rules while at work; and it was serious in character because both complainants considered the rule to cover the hair and neck an imperative commandment of faith. This imperative commandment touches upon the complainants' personal identity (Art. 2 sec. 1, Art. 1 sec. 1 GG).\(^5\)

3. No Constitutional Justification

Though the Justices reiterate that the state legislatures possess a general prerogative of evaluation in order to assess new facts and new developments, they emphasize that, in any event, the balance has to be reasonable.\(^6\) In the present case, the Court came to the conclusion that § 57 sec. 4 sentences 1 and 2 SchulG NW are constitutional but need to be interpreted restrictively. The labour courts, however, failed in interpreting the relevant sections in this way as they simply adopted the lawmakers opinion according to which the expression of religious beliefs by outer appearance or conduct needs to constitute only an abstract danger in order to justify a warning or dismissal. Rather, the Court holds, the teachers’ behaviour has to constitute a sufficiently specific danger of impairing the peace at school or the state’s duty of neutrality.\(^7\)

Therefore, the Court holds that the restriction was disproportionate. On the way to this result, the Court balances the teachers’ freedom of faith with conflicting legal interests of constitutional value, i.e. third persons’ basic rights as well as other constitutionally rooted values. In the present case, the Court weighed the

\(^{4}\) Order, para. 94.  
\(^{5}\) Order, para. 96.  
\(^{6}\) Order, para. 102.  
\(^{7}\) Order, paras. 103, 113.
educational mandate of the state (Art. 7 sec. 1 GG) and state neutrality, the right of parents to educate their children (Art. 6 sec. 2 GG) and the pupils' negative freedom of faith (Art. 4 sec. 1 GG).

First, the Court considers the pupils’ negative freedom of faith. It holds that, on the one hand, in a pluralistic society, nobody has the right not to be confronted with religious beliefs, practices and symbols. On the other hand, the Court acknowledges that the situation in a school is particular as the pupils do not have any chance to escape it. However, the Court differentiates a situation in which the state as an institution and out of its own impetus presents religious symbols – as it would be the case with crucifixes on classroom walls –, and situations like the present one in which the religious symbol is presented due to a teacher's individual decision for which he or she can invoke the individual freedom right of Art. 4 secs. 1 and 2 GG.

Furthermore, the Court emphasizes that, by tolerating a religious expression that is connected with the wearing of a headscarf by a single teacher, the state does not adopt this expression. Moreover, this expression can also not be attributed to the state. Therefore, as long as the teaching staff does not advertise their religious beliefs verbally, the pupils' negative freedom of faith is not violated. This reasoning is then applied accordingly to the right of the parents to educate their children.

Regarding the educational mandate of the state, the Court notes that this mandate has to be implemented neutrally. State neutrality under the Basic Law means that the state has to treat all religions and faiths equally and that the state must refrain from identifying itself with or giving privileges to a certain religion or faith. However, according to the Court, this meaning of state neutrality shall not be mistaken as a strict separation between state and church. Rather, it shall be understood as an open approach that fosters and supports religious beliefs and practices of all kinds. As religious symbols worn by individual teachers cannot be attributed to the state, tolerating a teacher wearing a headscarf due to an imperative religious commandment does therefore not violate this concept of neutrality.

The central aspect of the Court’s decision is that an abstract threat to state

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8 Order, para. 104.
9 Order, para. 105.
10 Order, paras. 109, 110.
neutrality and peace at school, as posed by individual staff wearing religious symbols, cannot justify an order to discard a religious symbol if the person in question considers this symbol as an imperative commandment of faith. However, as already noted above, a sufficiently specific danger can indeed function as a justification. According to the Court, a situation of specific danger could arise if pupils or parents at a particular school or within a particular area hold very controversial or even contradictory views and, due to the visibility of religious symbols, promote these views at school in a way that endangers the school’s order as well as the educational mandate of the state. However, before ordering a teacher to remove the religious symbol, the school authority will have to try to find a possibility for the teacher to work in a different position, first.\footnote{Order, para. 113.}

Regarding § 57 sec. 4 sentence 2 SchulG NW, the Court further holds that wearing a headscarf for religious reasons does not constitute a conduct that might create the impression among pupils or parents that a teacher advocates against human dignity, the principle of equal treatment, fundamental freedoms or the free democratic order. According to the Court, it can by no means be implied that those religious doctrines which consider the wearing of a headscarf as mandatory advocate such a behaviour.\footnote{Order, para. 118.}

After having clarified that § 57 sec. 4 sentences 1 and 2 SchulG NW need to be interpreted restrictively and thereby saving these provisions from the verdict of unconstitutionality, the Court finally declares outright unconstitutional the third sentence of § 57 sec. 4 SchulG NW. By stipulating that presenting Christian and occidental educational and cultural values does not contradict the prohibition to express religious views, the law violates the prohibition of discrimination on grounds of faith and religious beliefs (Art. 3 sec. 3 sentence 1, Art. 33 sec. 3 GG).

Whereas the Federal Labour Court tried to save these provisions by differentiating between the terms “expressing” and “presenting” and by noting that the word “Christian” was held to mean a set of values stemming from the tradition of Christian-occidental culture, but were not connected to Christian beliefs, the Court rejected this view. Rather, it deducted from the legislative material the lawmaker's intention to insert a privilege for Christian believers with regard to
clothing and symbols.\textsuperscript{13} In the eyes of the court, this constitutes a direct unequal treatment. Therefore, the Court declared this provision null and void.

IV. Comment

After almost twelve quiet years since the Court’s first “headscarf decision”\textsuperscript{14}, the present ruling has relaunched the “headscarf debate” in Germany. The result of the decision is that it will be much more difficult for the state to prohibit female Muslim teachers from wearing a headscarf.

Whereas some voices in German media in consequence considered whether they better send their children to private schools,\textsuperscript{15} others applauded the decision and called it a ruling against hysteria and in favour of integration.\textsuperscript{16} I agree with the opinion that the decision reflects the reality of a pluralist society in which Muslim women wearing a headscarf for religious reasons should not be deterred from becoming teachers.\textsuperscript{17} In this regard, the ruling echoes the words of the former Federal President of Germany, Christian Wulff, who noted in his speech to mark the twentieth anniversary of German unity: “Islam has now also become part of German identity”.\textsuperscript{18}

1. From Crucifixes to Headscarves

However, long before the legal implications of headscarves occupied the Justices in Karlsruhe, it was the Christian cross, or crucifix, that the Court had to deal with on two occasions. First, in 1973, the Court ruled that parties to administrative trials can request that crucifixes inside the courtroom be removed.\textsuperscript{19} At that time,
courtrooms in North Rhine-Westphalia were by default equipped with a Christian cross. A Jewish lawyer and his Jewish client leading a trial before the administrative court in Düsseldorf formally requested the removal of the cross.

The Court stated that the presence of a cross in itself does not demand anybody to identify with the ideas and institutions represented by it. A Christian cross in a courtroom constituted only a “relatively minor interference”.\(^\text{20}\) However, the state must take into account that individual parties to a case can invoke their freedom of faith (Art. 4 sec. 1 GG) as they cannot be forced to lead a trial “under the cross” against their religious convictions.

The second instance in which the constitutionality of crucifixes on state walls had to be examined by the Court resulted in the famous “Crucifix decision” of 1995.\(^\text{21}\) By a close majority of five votes to three, the Court quashed a provision of the Bavarian Education Act that made the hanging of Christian crosses in Bavarian classrooms mandatory. The Court held that the pupils' negative freedom of faith (Art. 4 sec. 1 GG) and the parents' right to educate their children (Art. 6 sec. 2 GG) were violated.

According to the Court, the pupils were forced to “learn under the cross” with no chance to escape due to mandatory school attendance. The Court particularly pointed to their youth and limited ability to form individual standpoints, thus being particularly susceptible for psychological influence.\(^\text{22}\)

Furthermore, the Court rejected the Bavarian attempt to frame the cross as a mere expression of the occidental culture in part having been shaped by Christianity. Rather, the Court noted with remarkable clarity,

it is, indeed, its symbol of faith as such. (…) The equipping of a building or a room with a cross is still today understood as an enhanced profession of the Christian faith by the owner. For the non-Christian or the atheist, just because of the importance that Christianity attaches to it and that it has had in history, the cross becomes a symbolic expression of particular religious convictions and a symbol of their missionary dissemination. (…) It has appellant character and identifies the contents of belief it

\(^{20}\) BVerfGE 35, 366, at 376, para. 28.
\(^{21}\) Federal Constitutional Court of Germany, Order of 16 May 1995, 1 BvR 1087/91, BVerfGE 93, 1; an English translation can be found on the website of the Institute for Transnational Law, The University of Texas at Austin, School of Law: http://www.utexas.edu/law/academics/centers/transnational/work_new/german/case.php?id=615.
\(^{22}\) BVerfGE 93, 1, at 20, para. 46.
symbolizes as exemplary and worthy of being followed. In 2003, finally, the first headscarf case was decided by the Court. The facts were quite similar to those of the 2015 decision: Ms. Ludin, an educated teacher, applied to be admitted to the civil service. The school authority in Stuttgart rejected her application, pointing to the fact that she was unwilling to remove her headscarf while teaching and thereby demonstrated a lack of aptitude. The Court held that the school authority’s refusal violated Ms. Ludin’s right of equal access to public office and the guarantee of religious freedom. However, the Court based its decision on the fact that the Land of Baden-Württemberg lacked an appropriate legal basis for the authority's decision.

Indeed, the Court held that the Länder were free to provide the statutory basis lacking at that time by specifying the extent to which religious clothing may be worn at school. The Court noted that, in creating the respective laws, each Land could take into account its school traditions as well as the population’s denominational composition and its stronger or weaker religious rooting. It is particularly noteworthy that the Court explicitly allowed the Länder to create a statutory basis to treat as a breach of the duties of office or as evidence of unfitness for office the abstract danger of conflict arising from the religious clothing of the teacher. As a matter of fact, following the Court’s decision in 2003, eight Länder adopted legal provisions regulating religious clothing in schools.

2. Critique

The first and most obvious line of argument possibly able to cast some shadow on the Court’s 2015 decision directly relates to my previous paragraph. It concerns the question of consistency in the Court’s jurisprudence. In 2003, the Justices of the

23 BVerfGE 93, 1, at 19, 20, paras. 44, 46; English translation adopted from the Institute for Transnational Law, The University of Texas at Austin, School of Law.
24 See supra note 14.
26 BVerfGE 108, 282, at 303, para. 47.
27 BVerfGE 108, 282, at 303, para. 49.
Second Senate somewhat backed away from finding a clear stance on the substantial constitutional questions and, more importantly, offered a broad margin of appreciation to the state legislative chambers. In contrast, the First Senate in 2015, in essence, did not much more than paying lip-service to the principle of legislative discretion. Rather, the Senate departed from the path taken by their fellow Justices and stated that a mere abstract danger of impairing the peace at school or the state’s duty of neutrality can never be enough to ban religious practices based on imperative commandments of faith. Dissenting Justices Schluckebier and Hermanns criticise this as unpredictable constitutional jurisprudence.\(^{29}\) They point to the fact that North Rhine-Westphalia as well as seven other Länder relied on the Court's 2003 ruling when creating the new laws.

Indeed, the different approaches taken by the Court’s First and Second Senate can create the impression of inconsistency. However, I submit that 2003 and 2015 were different scenarios: In 2003, Baden-Württemberg simply lacked a legal basis for restricting the freedom of faith of its teachers. By 2005, North Rhine-Westphalia (alongside seven other Länder) had created the relevant provisions that were now put to the test of constitutionality. However, and this is of crucial importance, North Rhine-Westphalia’s law deliberately exempted Christian symbols from the ban. The Court holds that the “overall design” of the whole provision (§ 57 sec. 4 SchulG NW) was meant to provide an exemption for Christian symbols.\(^{30}\)

Maybe it was a form of rebuttal that the Court not only struck down the Christian privilege but interpreted the whole provision very restrictively. I speculate that, without the privilege for Christian beliefs, the law would probably have passed the test of constitutionality without additional restrictions. However, as North Rhine-Westphalia misused the legislator's margin of appreciation granted by the 2003 ruling, the Court might have felt provoked and compelled to come up with a sharp response – a response, however, that deserves applause with regard to its strong position in favour of individual rights, in this case freedom of faith and religion.

The clear words describing public employees and civil servants not as anonymous instruments of the state but rather as individuals with individual

\(^{29}\) Dissenting opinion of Justices Schluckebier and Hermanns, para. 7.
\(^{30}\) Order, para. 127.
personalities reflect the fundamental value of human dignity on which the Basic Law is built. Though a person who seeks public employment voluntarily takes the “side of the state”\(^{31}\), this person still enjoys his or her basic rights that need to be balanced with the principle of state neutrality. The Court, again, points out that neutrality under the German constitution must not be confused with laicism or “militant secularism”\(^{32}\) of, for example, France and Turkey. Rather, state neutrality is an open approach that fosters and supports religious beliefs and practices of all kinds.\(^{33}\)

The dissenting Justices of 2015 find a teacher wearing a headscarf hardly reconcilable with the notion of teachers as role models.\(^{34}\) Moreover, they attribute an “appellant character” to the headscarf – a term that the Court used in the 1995 “Crucifix decision” for the Christian cross. However, the fundamental difference is that it is the state that is responsible for a crucifix on a classroom wall. The decision to wear a headscarf, by contrast, is the purely individual decision of an individual teacher. The pupils will associate this religious symbol most likely with the personality of the teacher, not with the institution of the state. Consequently, there are two lines of argument that materially differentiate the crucifix from the headscarf: The wearing of a headscarf is backed by an individual right; and it is not directly associated with the educational mandate of the state.

As a result, the 2015 decision reflects the realities of a pluralist society. Whereas it is true that the preamble of the Basic Law mentions the “responsibility before God”, the Court’s ruling makes clear that there is no pro-Christianity bias when it comes to basic rights. In this regard, the 2015 ruling differs from the 2003 decision that left the Länder a considerable margin of appreciation based on regional traditions and the denominational convictions of the majority. By the same token, the present ruling differs from ECHR jurisprudence according to which the Council of Europe member states enjoy a broad margin of appreciation regarding the balance between state neutrality and religious freedom.\(^{35}\)

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\(^{31}\) This was the argument of the dissenting minority in the first headscarf decision, see Dissenting Opinion of Justices Jentsch, Di Fabio, Mellinghoff, BVerfGE 108, 282, at 315, para. 77.


\(^{33}\) Order, paras. 109, 110.

\(^{34}\) Dissenting opinion of Justices Schluckebier and Hermanns, para. 12.

\(^{35}\) However, this form of judicial self-restraint, resulted in a number of pro-Christianity but anti-Islam rulings. Joppke criticises the using of the notion of pluralism “as a norm to be defended from an assumed threat of Islam
In *Dahlab v. Switzerland* (2001), the ECHR upheld a school authority order requesting a Muslim teacher to remove the headscarf while teaching. Among other arguments, the ECHR noted that the headscarf “appears to be imposed on women by a precept which is laid down in the Koran and which, as the Federal Court noted, is hard to square with the principle of gender equality. It therefore appears difficult to reconcile the wearing of an Islamic headscarf with the message of tolerance, respect for others and, above all, equality and non-discrimination that all teachers in a democratic society must convey to their pupils.”

In the Grand Chamber decision *Lautsi and others v. Italy* (2011), the ECHR ruled in favour of Italy that wanted to keep crucifixes in classrooms. The ECHR noted,

a crucifix on a wall is an essentially passive symbol and this point is of importance in the Court's view, particularly having regard to the principle of neutrality (...) . It cannot be deemed to have an influence on pupils comparable to that of didactic speech or participation in religious activities.

However, it has to be noted that the European Court of Human Rights is not a constitutional court, but rather supervises a multiplicity of constitutional orders. Therefore, it shall not surprise that the German Federal Constitutional Court can take a much clearer stance regarding the balance between state neutrality and religious freedom.

3. Conclusion

The Court’s present ruling shall be welcomed regarding its effort to reconcile two,
on the first hand, opposing interests: a state's neutral educational mandate versus a teachers' individual freedom of religion. However, I would like to submit a certain caveat: By stipulating that, in order to justify a removal order, a teacher's expression of religious views must constitute a sufficiently specific danger, the question is: How to prove it? The Court says, a situation of specific danger could arise if pupils or parents at a particular school or within a particular area hold very controversial or even contradictory views and, due to the visibility of religious symbols, promote these views at school in a way that endangers the school's order as well as the educational mandate of the state.

In response, the two dissenting Justices submit that substantial problems regarding evidence and proof will arise in this regard, with the additional danger of “personalising” the conflict to an extent that might in itself cause disruption of the school order. I tend to side with the dissenting Justices in this question, considering the difficulty of how to set the threshold of intensity that needs to be reached in order to justify a removal order.

Moreover, the prerequisite of a specific danger implies that there need to be pupils or parents who complain about the teacher's “inappropriate” religious practice. If these complaints result in a fierce conflict disrupting the school order, the school authority could command the removal of the religious symbol. But: Should the right to exercise a basic right – like freedom of faith – depend on the opinions and reactions of third parties? Shall a barking mob have the power to deprive individuals of their basic rights? The realistic answer is: Yes, probably the need for order would prevail.

However, this scenario seems highly theoretical as, until now, there have not been any known incidents of this kind. It appears therefore that the vast majority of the German population has already accepted the realities of life in a pluralist society.

41 Dissenting opinion of Justices Schluckebier and Hermanns, para. 16.
Interviews
Interview with Dr. Prinya Thaewanarumitkul

On 17 April 2015 the Constitutional Drafting Committee (CDC) of Thailand officially proposed in its Draft Constitution the Mixed Member Proportional (MMP) election system based on the German model as the new election system for Thailand under the new constitution in the making. Shortly before, from 15-20 March 2015 a Thai delegation, headed by CDC Chairman Dr. Bowornsak Uwanno, visited Germany to study the German Mixed Member Proportional (MMP) election system. Among the members of the delegation was Dr. Prinya Thaewanarumitkul, Vice Rector of Thammasat University, who received his Dr. jur. from Göttingen University in Germany with a dissertation on a comparison between political parties in Germany and in Thailand. CPG had the opportunity to talk to him about the trip and the insights gained for the reform of the Thai election system.

Q: Vice-Rector Prinya, what was the background of the trip to Germany in March?

I was approached by the German Embassy in January and asked to provide information about the ongoing constitution drafting process in Thailand and the discussion on a possible adoption of the German MMP election system. At this meeting the idea came up to organize a visit of a delegation to Germany to deepen the understanding of the German election system and its functioning within a constitutional system of checks and balances for a possible adoption in the new constitution. Eventually, a trip to Berlin and Karlsruhe could be arranged for 15-20 of March for a group of nine, headed by Prof. Dr. Borwornsak Uwanno, Chairman of the Constitutional Drafting Committee, and further comprising members of the Constitutional Drafting Committee, the National Reform Council, and the Election Commission. I was joining the delegation as an external expert and advisor as I am not affiliated with the mentioned institutions.
Q: Why Germany?

There are several aspects to mention with regards to this question. First of all, we consider the previous election systems under the Constitutions of 1997 and 2007 as one of the main causes for the disappointing democratic development in Thailand because they enabled majority situations in the House of Representatives to establish a government ruling beyond parliamentary control, like the one under former Prime Minister Thaksin Shinawatra. Second, we are aware of the impressive historical development of Germany from the Nazi-dictatorship under Adolf Hitler to one of the most stable and effective democracies in the world with a strong parliamentary system. We believe that the German election system has played a most vital role in this “success story” ever since it was adopted in 1949. Finally, if we compare countries across the world with parliamentary systems based on MMP elections, Germany comes closest to Thailand with regards to the size of population. This is relevant for the technical administration of elections and was therefore another factor for us to turn our attention towards Germany.

Q: What was the aim of the trip?

Our goal was to explore in what way the German election system precisely contributes to a strong parliament within an effective system of checks and balances so that it is possible to prevent an overwhelmingly strong and un-controllable executive power. For that purpose we visited the relevant institutions and held discussions with relevant persons. Among them were members of the Bundestag and Bundesrat* from all represented political parties, members of various related committees, the Federal Returning Officer and, last but not least, Constitutional Court Judge Peter Müller.

* In the bicameral system in Germany the national legislature is made up of the Bundestag and the Bundesrat. The former consists of delegates elected by the people every four years, the latter of representatives of the governments of the 16 federal states. (Remark of the editor)
Q: What are the main insights gained from those meetings and talks?

One of the most important insights is that with regards to the distribution of seats in the parliament the German MMP election mirrors the votes of the people. Votes will not be “lost” or “wasted” like in a majoritarian, first-past-the-post system. Every individual vote counts. The result of this is another aspect which was highly interesting to the delegation. Ever since the first parliamentary election in 1949, Germany have always been ruled by coalition governments. The German election system creates the need to build coalitions between political parties to form the parliamentary majority backing the government. There has never been one single political party to form the government on its own and to dominate the parliament. A third main insight drawn from the trip lies in the functioning of the German Constitutional Court. We have been especially impressed by the independence and impartiality of Judges of the Constitutional Court. Although they belong to political parties and although one half of the total number of judges are elected by an election committee consisting of party-affiliated members of the Bundestag and one half by the Bundesrat they uphold legal professionalism and standards in their adjudication for which they generally enjoy high esteem throughout the German population. In this regard, the remarks of Constitutional Court Judge Müller whom we met in at the Constitutional Court in Karlsruhe provided a clear picture of a well-functioning system of checks and balances among the state organs in Germany as laid down in German constitution and of the important role the Constitutional Court plays therein. It is my wish for Thailand that we can reform our Constitutional Court in terms of the independence of the judges in the direction of the German model, similar to the election system.

Q: To what extent is the election system proposed in the Draft Constitution reflecting the German model?

In principle it does so. The Draft Constitution adopts the German MMP election system with one vote for candidates on constituency basis and one vote for candidates on party lists of six regions. But there are also some differences to take not of. First, the proposed election system does not have an election threshold, unlike the German counter-part with a 5% threshold. Another deviation is the open party list.
Voters will have the opportunity voice their preferences and to rank the candidates of a party list by themselves. Third, not only members of political parties but also members of so-called political groups are eligible to run for election. The purpose of this invention is to provide a possibility to recruit members of the House of Representatives from outside the political parties.

Q: How do you in general assess the Draft Constitution?

With regards to the issue of the election system I am satisfied with the adoption of the German MMP system in the Draft Constitution and confident that this can contribute to a stronger parliamentary system in Thailand. The only aspect I consider worth further consideration in this regard is the introduction of an election threshold to avoid a fragmentation of the House of Representatives. A further aspect of concern for me is the system of checks and balances. The Draft Constitution foresees the establishment of what I would call a “hybrid system” of checks and balances. By that I mean that besides the classical trias politica of the executive, legislative and judicial branch mutually controlling each other the Draft Constitution installs a great number of non-elected elite institutions with competencies to monitor and supervise democratically legitimized state organs. To my understanding this institutional structure reflects a prevailing distrust against democratic politics and procedures. In this regard I see only little chance that the Draft Constitution – should it remain unchanged – will receive the consent of the majority of the people in a referendum which in my view should be held in order to provide the necessary legitimacy and stability for the new constitution to come.

Thank you very much for the interview, Vice Rector Prinya.

The interview was conducted by
Dr. Duc Quang Ly, CPG Project Manager.
Picture by
Siraprapa Chalermphao, CPG Office Manager
Interview with Somtow Papinian Sucharitkul

Somtow Papinian Sucharitkul, awarding winning novelist and opera composer, has been the artistic director of the Bangkok Opera since its foundation in 2002. Under his directorship the Bangkok opera has become one of the most prestigious cultural institutions in Thailand attracting lovers of operas from all over the world. The interview below informs about the background, cross-cultural experiences and current work of a man who once was referred to as the best known Thai in the world, selected one of the 40 internationally most acclaimed Thais and in 2013 received the Golden W Award of the International Wagner Society for his contributions of bringing the work of Richard Wagner to Southeast Asia.

Q: Mr. Somtow, we know from your background that you grew up in Western countries and that you had been moving between East and West. What do you feel as a person influenced by both cultures?

Yes, that is quite an interesting question because, normally, most of the people think of me as being a bi-cultural person. But actually, I was being formed by three different cultures, not two. I spent my childhood in Europe but most of my career has been in the United States which is as different from Europe as Thailand is different from Europe. So in that sense it is a kind of predictable question to answer. But the reality of that is when I left this country I was about six months old and after that I lived in about half a dozen countries before the age of twelve, so, because of that I have never actually specifically belonged to one culture. My father was collecting degrees from different universities and, when I was born, we moved to Oxford. After that my dad went to Harvard and then we lived in Paris because he did another degree at the Sorbonne, and then he was working at the international law courts in The Hague. All of that happened before I was about eight years old at which age I came back to Thailand for the first time. At that age I could not speak Thai at all. My parents had been using it like a secret language but they never taught it to me. I could actually speak Dutch better than Thai,
although that is not true anymore. There are certain elements that all cultures have in common and usually they relate to very ancient things, mythic things. Also they relate to traditional or very basic old cultural ideas. They often are more constant and because of that, my world was also formed by very old ideas, things like mythologies. They remained the same wherever I went whereas other things did not. This is actually the reason why I ended up doing this sort of things I do for a living.

Q: You have experienced audiences in the West and in Asia. Is there a difference regarding the reception of classical music between Europe and Asia, particularly Southeast Asia?

How classical music is received is a very interesting question, because in the West people have been complaining for the last twenty years that the audience is getting very old. Of course they also said that two hundred years ago. Actually people have always said that the audience is getting too old. So, in fact it is sort of an illusion. But the interesting thing is that when I do extremely intellectual things in this country I get a very young and committed audience. When I first came to this country and began doing classical music there were two kinds of audience. There was the expatriate audience which is already familiar with this culture. And then there were rich people who only want to wear diamonds while going to the opera. But in the last 15 years, since I have come back to Thailand, there is change, and now we have a much younger and more enthusiastic audience than European countries. This is because young people have taken certain things that can be inherited from Western society and then reinterpreted them in their own way. This is what we are doing. However, I am still hearing the older people say, “Why are you doing this foreign art form like opera?”, and then I have to say “So you say we should have no movies, no television because it is all a foreign art form, this is what you are saying, right?” They said “Oh, no, no!” And then I say well, once upon a time about fifty years ago you would say “Why are we watching television? We should be going to Li-kay*. When I was a child every television

* Likay is a popular folk theater form in Thailand. (Remark of the editor)
program, Channel 5 and Channel 7, showed foreign movies. We grew up with sit-coms like Leave It to ‘Beaver and I love Lucy’ and our adventure movies were ‘The Outer Limits’ and ‘The Twilight Zone’. There was no Thai program whatsoever. So, of course people might say this is foreign. But today, television is completely integrated in a way that nobody could imagine that it is not completely native. Of course, all the foreign programs still exist but on top of that there is more. And the same thing applies to the cinema. There is a unique Thai cinema even though it is not the cinema that people in Thailand think is unique. There are many Thai films that are very well received internationally and they are not even shown in Thailand. But they are unique. Nobody except a Thai could make a movie like the ones of Apichatphong **. Nobody else could make it. They are completely Thai. So, we cannot say that it is a foreign art form. So, when I produce new operas that I have written, even though they are in English, they could not have been written by somebody who is not Thai. They are completely Thai. I use English to communicate because opera is an international media and when you use a more rare language to create operas you limit the numbers of performers. Opera performances all over the world have singers from every country. Opera is an international profession where you go to other cities to perform. It is not a profession where you stay in one town. So there is a limited number of languages that operas can be written and performed in. The work of some composers in the last twenty or thirty years has become so well known that it is exposing the new generation of opera singer to learn in another language. For example, now the opera singers have to know Czech as well, as well as German, French, Italian, English and Russian because younger Czechs have become very important opera composers and these operas are written in Czech. I do not want to risk this myself, I speak English.

Q: Let us talk about your latest production ‘Brundibár’. What to your understanding is the humanitarian massage of this opera? And how has it been received among the Thai audience?

** Apichatpong Weerasethakul, award winning film director. Among other awards he won the Palme d’Or prize, the highest award at the Cannes Film Festival in 2010, for his film Uncle Boonmee Who Can Recall His Past Lives.
(Remark of the editor)
The reason we did ‘Brundibár’ is really that I discovered that many of my students did not know that Thailand was in the Second World War. And they did not know that Thailand was on the side of Japan. They did not know that. The problem is that the history books in Thailand are very revisionist. And many things that people should know, they do not know. We know that there is an incredible gap of ignorance that we cannot blame young Thai people that much because, as you know, in America kids do not know about the Vietnam War. And they certainly do not know that America lost the war. In the same way, most Thais do not realize that Thailand was defeated by the Allies in the Second World War. I wanted to do this opera which is written by Hans Krása. Hans Krása was a Jewish Czech composer who was imprisoned in the Theresienstadt concentration camp. Before he was sent, he wrote it for an opera competition for children, a children opera. But before the competition could take place, the Germans invaded Czechoslovakia and all the Jews were sent to this camp. This was like a VIP camp because all the great Jewish artists were imprisoned there. For example, half of the Czech Philharmonic was Jewish and they were all sent there. So it was a very highly cultured concentration camp. Anyway, the Nazis tried to pretend that this was a normal camp. And that they were being well-treated. So they got to do lot of cultural things there, and one of the things happened there was that Hans Krása was able to produce this opera ‘Brundibár’ with children who were in the camp. And it was so impressive that it was performed over fifty times in the camp. The Nazis made a film of ‘Brundibár’ and used it as propaganda. They showed this opera when the Red Cross came to inspect the camps. And everybody wrote back saying, oh, nothing happened here, the Jews are fine. But after they made the film, the children were all sent to Auschwitz and they were all killed. But the opera itself is a very positive and beautiful work about the triumph of good over evil and it is also secretly subversive because the villain in the opera is clearly supposed to be Hitler. When they performed this opera, they always wondered how the Nazis did not realize it. They would say it is in Czech and they do not speak Czech so they just do not realize it. And the second thing they would say is “They are going to kill us anyway.” So they did not care. Those were the two explanations why they got away with that. In fact, there was another opera called ‘The Kaiser von Atlantis’. That was going to be done in the camp but the Nazis actually censured it and refused it. But somehow
they got away with ‘Brundibár’. But the text of the ‘Kaiser von Atlantis’ was in German so they probably understood the text. So that was the reason why I am doing this opera and I was amazed to discover that no one in Asia had done it. So when we did ‘Brundibár’ it was quite historic. I think the way we produced that opera was sort of designed to really send the message about the Second World War. We had the whole cast wearing concentration camp uniforms when they performed this opera. It was quite powerful, a lot of people were crying.

Q: So the reaction from the Thai audience was quite impressive?

Yes, I think so. Well, there were not many Thais in some nights. On some nights there were. But those people who were there did get the massage. I think it was useful. We have been invited to present this production in the Czech Republic. So, I have to teach the whole opera to my performers again in Czech because we did it in English before. The reason we did it in English is not that I did not want to do it in the original language but because there was not enough time to teach it. But if we do it in Czech we will get some tutors to help the kids. It is a little difficult because Czech has a lot of consonants. There are many words like ‘Zmuzlina’. It contains five consonants. And there are many words like that in the text and they have to sing the opera very fast. But I think they can do it. Actually, the kids told me that it is easier to sing in Czech than in German which I find is very strange. Because, the more you grow up in music the more you are always used to grow up with German all the time. So, I am used to it. But it turned out that the kids found it easier for the phonetics, a little bit easier. Actually by the way the music is written it is actually easier to sing it in Czech than in English, because of the way they are stressing tones or notes.

Q: Are most of the audience foreigners?

Well, half of the audience is made up of foreigners what is quite a lot. Usually, I get a much larger local audience. They came from everywhere. And some people have actually flown in from Germany to see it. And the German government gave quite a lot of money for this. At first, I did not invite them to give any money. It was the Israeli and Czech governments. But then, I guess, you know,
guilt can be a very useful thing sometimes. But the Germans ended up being very, very helpful.

Q: Do you think there is a difference between Thai people who are listening to your music and other people? Do you think they interpret it in the same way?

I think that the young Thai people who are in our audience are quite a lot more serious and less superficial. And I think that the audience in Thailand is better, especially the young audience.

Q: Has the quality of international audience declined?

Well, you know they say it has declined, but it really has not. But, when you play these things here, the level of excitement is often a lot higher among the people who come from Thailand. Two days ago, I performed Mahler's ‘9th Symphony’ in Rangsit. Many people drove all the way from Bangkok to see it. The problem is that some people are always saying: “Why are you playing this? This is too damaging for us to comprehend.” And basically what I respond is that Thai classical dance-theater is even harder to understand because, for example, Thai classical music songs and even single notes deliver specific meanings and knowledge is required to fully grasp those meanings. Unfortunately Thai people are not receiving education to obtain that knowledge. In this regard, I assume that Western classical music is even easier to understand for the Thai audience.

Q: How do you assess the development of classical music in Thailand in recent years, and how do you see the cultural policy of the different governments of the past years in this light?

Well, the government has been saying for many years “We must turn Thailand into a major hub of culture and innovation”. Well, the news is that Thailand is a major center of culture and innovation. They do not need to do anything to turn it. It already is. Of course, many of the things that are so innovative and new and exciting are not the kinds of things that they are giving money to. They are happening in spite of that, not because of that. But why am I
here and not back in Los Angeles where I can make money much easier and would not have to work so hard? Because it is actually exciting to work here. It is challenging. And I can do extremely adventurous things I could never dream of doing. For example, right now, I am writing a cycle of ten operas. It is the complete ‘The Ten Lives of Lord Buddha’. The longest opera cycle in the world has four operas. I am doing little bits of it yet every year. Next month, we are going to premiere the third part of the cycle, the ‘The Silent Prince’. It is very exciting. I am combining dance and song in a new way. And it is very much influenced by Asian art forms. But it is also very Western. I had the idea of doing this piece because when it is finished it will actually be the largest stage work in history. And, secondly, it can be a new focus for cultural tourism in this country. People will come. If you go to see the Ring cycle in Germany, you have to book ten years in advance to get a ticket. My idea is to create a work of that kind of scale, but one that is uniquely Asian so that people would really have to come here to really appreciate it. And it gives employment to hundreds of artists and singers and musicians and scenery designers and costume designers. It gives employment to so many people for years and years. Since I am getting old now, I figure that this big cycle of ten big works is going to be my final gift to the Thai people before I die.

Q: So, this will be your project for years ahead?

Yes, I am in the middle of it. Actually, some of them will be quite short and some of them will be full-length. Because not every ‘life’ can be a full-length opera. Some of them will be only very short ones. So, my feeling is that ‘The Ten Lives of Lord Buddha’ will take about five evenings to show. That means that the tourists will come for a week and every night they will go to see it. I think it is what we need to capture people’s imagination. We need some very big ideas. That is what I am doing.

Q: Do you have any support from the government for your work?

Well, although this particular government says that they are being very supportive we actually got more money from the Thaksin government. I cannot really say whether it is good or bad, because I think they want to do the right thing,
but they are not quite sure what the right thing is yet. So, we need to gently push them in the right direction. Because they are soldiers. They don't know anything. We just have to help them. However, not directly. Because if you tell these people directly they will cut off your head. You just need to gently push them. I do not think that they intend to harm us. Sometimes they just have an old-fashioned way of looking at the world.

Q: We know that you are also a writer. Do you see any difference between these two works?

To me there is no difference whatsoever between writing and music. I started writing books because the last time I came to Thailand in the 70s, my music was so badly received that I burnt out. And it took twenty years to come back.

Q: Are they published also in Thai or only in English?

Some of my works have been translated into Thai. I have been translated into twenty other languages. But Thai was the last one to be translated into. Postbooks Publishing House is trying to bring out more of my books. They are publishing them all in a series. The whole deal has been put together by Khun Ngarmpun Vejjajiva who came up with the idea of a series.

Thank you very much for the interview, Mr. Somtow.

The interview conducted by Siraprapa Chalermphao. Pictures by Siravich Teevakul.
The Hanns Seidel Foundation – A Short Introduction & Interview with Hanns Bühler (Head of HSF’s South- and Southeast Asia Division)

In all facets of its work as an academic institute and think tank CPG is closely connected to a great number of partner institutions throughout Southeast Asia and beyond. In Thailand this applies especially to the German political foundations which will be introduced in this and following issues of the Magazine under the rubric “think tanks and institutions of development cooperation”. In this issue we introduce one of CPG’s oldest and closest cooperation partners, the German/Bavarian Hanns Seidel Foundation (HSF) with which CPG was and is running a number of program lines in the field of the rule of law dialogue and professional training, mainly in the field of human rights and related to the intersection of human rights and security issues. Only with the HSF’s offices in Thailand and Indonesian more than 40 events have been arranged since 2010.

Founded on 7th of November 1966 HSF is one of six German political foundations (next to Konrad Adenauer Foundation, Friedrich Ebert Foundation, Friedrich Naumann Foundation, Heinrich Böll Foundation, and Rosa Luxemburg Foundation). HSF is legally distinct from, but politically affiliated to the Christian Social Union (CSU), a center-right political party with political tenets covering conservatism, liberalism, and subsidiarity, all of them embedded in a religiously, namely Christian informed concept of society. In Germany, a federal state with 16 federal states, the CSU runs for election only in the biggest Federal State of Bavaria with the capital of Munich where the CSU has been in power with an absolute majority from 1966-2008 and again since the latest election in 2013. On the national level, the CSU as a “sister-party” of the Christian Democrat Union (CDU) is currently forming the ruling coalition government of the joined CDU/CSU faction and the Social Democratic Party. Within the German federal government CSU-members are currently holding the offices of the Federal Minister of Food and Agriculture, of Transport and Digital Infrastructure, and for Economic Cooperation and Development.
Under the motto “In the service of democracy, peace and development” *HSF* is globally engaged in the fields of policy advice, political education, international development cooperation and promotion of young academics. Organizationally the work in these four fields is divided up into four departments, namely the *Academy for Politics and Current Affairs*, the *Institute for Political Education*, the *Institute for International Cooperation*, and the *Institute for Scholarship Programmes*. With a budget of around 60 Mio. Euro in 2014 these four departments together arranged more than 6000 events across the world attracting nearly 270.000 participants.

The following interview with *Hanns Bühler*, Head of *HSF’s* South- and Southeast Asia Division, informs about *HSF’s* global engagement in the field of development cooperation with special focus on Southeast Asia. Mr. Bühler supervises the Foundation’s activities in India, Pakistan, Myanmar, Indonesia, Thailand, Laos, the Philippines, and Vietnam. Prior to his current appointment he served inter alia as Programme Manager at the liaison office to the European Union in Brussels and the Project Office in Jakarta, Indonesia. He holds a Master degree in International Management and Asian Studies from the University of Konstanz, as well as a Master degree in European Law from Eberhard-Karls University Tübingen.

Q: Mr. Bühler, where and in which areas of international development cooperation is the Hanns Seidel Foundation (HSF) globally engaged? How much funding is provided and where does the funding come from?

*Established in 1967, the headquarter based in Munich in the Free State of Bavaria, the Hanns Seidel Foundation is one of the six German official political foundations. We are currently active with project offices in more than 60 countries worldwide, conducting more than 103 projects.*

*Being one tool of German foreign and development policy means also that we are 100% public funded. However we are not a government organisation. It is*
the German Federal Parliament (Bundestag) where we get our mandate from and it is the Bundestag which decides on the Budget, which is in then channelled through our Ministry of Economic Cooperation and Development.

Our core task is to strengthen Germany’s bilateral relations through a dialogue with our project partners on the promotion of democratic structures. This assignment or mandate involves the strengthening of the relevant institutions and persons, procedures and norms and the requisite attitudes enabling development worldwide which are sustainable and in accordance with rule of law.

The former German Federal President Roman Herzog once said that “education towards democracy” is the “permanent and real responsibility of political foundations” both within Germany as well as abroad. He stated that this education helped “citizens of an open society to participate in the development process of a democracy with as much knowledge as possible”.

When we talk about democracy promotion I am convinced that lecturing other countries or our project partners is not a successful way to work together. The Hanns Seidel Foundation does not lecture. We offer experiences and ideas towards our project partners, which can be representatives from civil society, institutions or politics.

In 2014 the budget for the international work of the HSF was approximately 25 million Euros.

Q: What are the focal points of HSF’s work in Southeast Asia and in Thailand? What specific projects are you are currently running in this region?

We currently focus our work in Southeast Asia on three pillars:

- promotion of democratic structures and institutions and rule of law
- promotion of environmental policies
- promotion of economic and social structures

Despite their heterogeneity, the countries of South- and Southeast Asia are increasingly shaped by regional integration. Therefore, concerted yet individualized approaches of project cooperation are needed to complement each other.
On a regional level, HSF maintains close contact to the Association of Southeast Asian Nations (ASEAN), the Asia Europe Foundation (ASEF), the ASEAN Inter-Parliamentary Assembly (AIPA) and the United Nations Environment Programme UNEP in Bangkok. This network contributes to the strengthening of legislative powers and promotes regional integration.

On national level HSF runs projects offices in Indonesia, Myanmar, Vietnam, the Philippines and Thailand.

Thailand is a very essential country for HSF not only because of its regional and economic importance but also because the representation of HSF in Bangkok is responsible for our activities in Lao PDR as well.

In Thailand HSF is active since 1988. In cooperation with the Ministry of Interior and selected Thai universities we are supporting the idea of a more effective local self-government. In addition, we share experiences with the Royal Thai Police in the field of democratic and community friendly policing. And together with the CPG and local partners we are constantly supporting a human rights dialogue in South Thailand.

Q: What project is dearest to your heart or what project you deem as most interesting?

It is always very difficult to pick one certain project. All of our local and regional partners in Thailand as well as in the other ASEAN and Asian countries work with great commitment. Therefore, please allow me two pick two regional aspects of our work.

One aspect of our work in Asia and beyond is the support of federal and decentralized structures. We initiate on a yearly basis the Munich Federalism Days. This international exchange program provides an in-depth analysis on the standing and stage of development of federalism in Asia and Europe and gives practical recommendations on how cooperation between national and sub-national levels of government can be established. This conference has for example led to an extensive and sustainable exchange with Myanmar’s Parliament, civil society organizations and civil servants on the topic of principal state organisation and federalism. In this context I would like to underline that cooperation mechanism between national and sub-national levels of government and parliaments can not
be invented on a drawing board. They have to grow from the bottom up and respect national contexts, traditions and the national balance of power. Each country must find its own way, as context is crucial and circumstances are very different everywhere. Therefore, there is no “one size fits all”-solution for federal nations, or for countries that are considering greater sub-national autonomy and decentralization. However, I am sure you would agree that it is not necessary to reinvent the wheel; one can definitely learn from others, perhaps more so from avoidable mistakes rather than from their ‘good practices’. The sharing of power and competences between different levels of government might also be a very good tool for conflict regulation between centre and regions.

One further aspect of our regional work in Southeast Asia, which I would like to mention, is our cooperation with ASEAN police forces. Police organizations occupy an important position in the engagement between governments and their citizens. They are one important corner stone of democracies. Our understanding is that police forces should be responsible for protecting the freedom of each citizen. And police forces around the world have a monopoly over the use of legitimate force, which gives them a special responsibility in terms of ethical and legitimate conduct. Therefore, HSF’s main field of work is the development of a police education and training program that provides policemen and -women with knowledge and methods needed in order to safeguard a democratic country. We are aware of the sensitivity of this cooperation but we believe that it is an important contribution towards a better protection of human rights and rule of law.

Q: As Head of the South- and Southeast Asia Division, what are in your eyes conditions and indicators for success?

Structural change in order to strengthen rule of law, democracy and human rights takes time in any country. You could for example argue that the activities in Thailand were not successful because the military has taken power. To measure success you have, however, to analyse the projects themselves. Of course it is very difficult to measure success in the field of rule of law and democracy promotion. In Indonesia for example HSF has been supporting the institutional building of the Indonesian Constitutional Court (MKRI) since its establishment in 2003. Joint
activities like knowledge exchange with the Constitutional Court in Germany have certainly contributed to the development of the MKRI which is considered more than a decade later as one of the pillars of democracy in Indonesia.

I also believe that our cooperation with the Royal Thai Police has been proven successful because we could build a partnership where we trust each other and where we have the feeling that there is interest to improve the educational system for young cadets. You have to be patient and constantly work together to be successful. Short term projects are very rarely successful in this kind of work.

We Germans know from our own bitter experience before, during and after the World War II: freedom and democracy is not a gift. Freedom, rule of law and democracy have to be won and constantly defended. The understanding of a democracy, the participation of all sectors of society in political processes, has to be newly acquired in each generation. Civic education or the promotion of rule of law is a long-term duty for democracies and it is also a long term duty for political development actors.

Formulating indicators is one major task of our work. We have to explain to the German tax payers in detail what we do and why we do it and we need to be able to measure our own success in order to improve our projects. To measure success we need indicators. But as the field of democracy promotion and rule of law is vast and varied, indicators have to be formulated for specific projects according to aim and context. In civic education for example, a development actor could aim to reach people in rural areas where the voter participation is generally low. Through workshops and seminars, they seek to teach voters how important each single vote is in a democracy, as this is how each and every one can influence policies in their country. Indicators could be the percentage of participants after the workshop who feel that it is unacceptable to accept money in return for their vote or the percentage of participants who plan to participate in the next election. On a more macro level – and if close to all people in a rural area have been reached – the rise of voter participation could be a good indicator. If a development actor, as a second example, seeks to raise the participation of citizens in political decision making on a communal level, one possibility would be introducing discussion forums or open councils to the mayor and his team. The number of forums or open councils offered to citizens by the mayor posterior to the
programme activities would be a good indicator for a change in the mayor's attitude and for a successful project.

Q: How do you assess the potentials of international development cooperation with regards to the rule of law-dialogue in Southeast Asia and selected cooperation countries (for example Thailand and Indonesia)?

The results of the recent ASEM meeting in Kuala Lumpur on 27 April 2015 in regard to rule of law and democracy is promising. In the Kuala Lumpur Declaration on a people-oriented, people-centered ASEAN the head of states reaffirm to “continue to promote the principles of democracy, rule of law and good governance, social justice, as well as to promote and protect human rights and respect for fundamental freedoms (…)”.

However, as Southeast Asia is characterized by heterogeneity, which rejoices in a multiplicity of ethnicities, cultures and religions, a generalized statement for the region on the potential of development cooperation regarding rule of law would be misleading.

Thailand, for example, has had a comparatively long history of self-determined politics and has an advanced educational system. The principles of democracy are generally understood. The preconditions for a rule of law-dialogue are therefore generally good. The latest political and juridical events before and after the takeover of power by the military have increased the need for stabilizing reforms in the sector of rule of law and human rights protection.

I am convinced that the majority of people worldwide would like to live in a country where they have the possibility to participate in political processes and where rule of law is granted to each and every citizen. Against this backdrop, HSF is keen to share Europe’s, Germany’s and our Bavarian experiences in the field of rule of law and further strengthen the bilateral relations between our beautiful countries.

Thank you very much for the interview, Mr. Bühler.

The interview was conducted by Dr. Duc Quang Ly, Project Manager CPG.
Dear Ajarn Henning Glaser, Director of the CPG,
Dear Professors and Members of the Academic Circle, Ladies and Gentlemen,

let me first congratulate you for having successfully passed the examination. From now on you are officially on the list to participate at the Spring School intensive course in Germany. Although your stay in Germany will be of a short duration, nevertheless it will surely leave a lasting impression on all of you.

It is my wish that all of you will take the fullest advantage of this study tour. Once you land on German soil, you should not only be physically connected to this great Teutonic nation, but also mentally. Try to recall what you have read and learned about the achievements of the German people, whether it was in the science and history classes of your school, in the libraries and in the lecture halls of your respective universities.

Most of us are familiar with German products, such as *Mercedes Benz*, *Zeiss* or *Leica*. But did you know that when you go for a general check up at the hospital, that the x-ray was discovered by the German *Konrad Röntgen*? In fact the German word for x-ray is ‘Röntgenstrahlen’, named after the famous German discoverer. When you turn on the radio in your car, do you know that the word connected with ‘Megahertz’ comes from the German name *Hertz*? If your car or the bus that brought you to Thammasat is a Diesel, then you know what I am talking about. Honestly, do you know that if the vehicle does not have a Diesel motor, it is called an Otto engine? *Otto*, the inventor, was a German. Today there are more cars with Otto engines than Diesel, although modern versions of Diesel engines are catching up since they are much quieter than before and have a longer life.

Science, in particular natural science is tangible, a subject you can visualize. There is another side of science, called ‘Geisteswissenschaft’ in German. German thoughts and philosophy has influenced the world. Did you know that American universities have been structured according to *Humboldt*, a
German? Names like Leibniz, Kant, Schopenhauer, Hegel, Marx, Weber, Heidegger, Arendt, Ardorno, and Habermas, just to mention a few, may not be very familiar to you at the present, but I am already certain that one day you will have the opportunity to get more acquainted with German thoughts and philosophy. Hence it would not surprise anybody that Germany is also known as ‘Das Land der Dichter und Denker’ – ‘The land of poets and philosophers’.

Rome was not built in a day. And so it is with Germany. It took the Germans many centuries to build a nation, based on a solid foundation of democracy and the rule of law. That was not always so. There were periods of war and peace, of trial and error with happiness, but also with lots of suffering and despair. Fortunately or unfortunately, I am one of the few living Thais that have witnessed the rebirth of modern Germany. Although most of the ruins of the Second World War have been removed when I first arrived in Germany, but traces of a completely destroyed country were still to be found everywhere. The suffering was immense and I must honestly say that it is difficult for people from other parts of the world, not only for Thais, to imagine what the German people have gone through. ‘Die Hoffnung stirbt zuletzt.’ – ‘Hope is the last thing to die.’ As long as there is hope, there is life. Then step by step the Germans started to rebuild the country again. I remember having visited a German professor at his home. He told the visitors, including me, that he literally built his house with his own hands. Each single brick of his house was laid and cemented by himself. As he was neither an architect, nor a construction worker, he was particularly proud of his achievement. In this respect, he was only someone doing his duty. ‘Die Pflicht ruft’, the German would say, recalling that he has a duty to fulfill.

When the Germans were building their country out of the ashes and the ruins, they all had one thing in mind: to never again violate the dignity of human beings and to respect the rights of others. In order to achieve a common goal for the pursuit of happiness, the Germans had to learn to accept the underlying principles of law and democracy. It is only if you respect other people’s rights as an honest citizen that you will be able to live in a peaceful world.

Allow me to paraphrase Kennedy’s and Churchill’s famous speeches into one single sentence: Freedom is not easy and democracy is not perfect, but there is no other better form of government than democracy.
As soon as you set foot on German soil, you will be seeing democracy in real life. You will be seeing cars stopping in front of traffic sign that had turned red, people queuing in front of the bakery waiting for their turn to buy, while at the same time respecting the rights of others who came before them. Just by watching the streets in Germany alone will tell us how democracy works in daily life. Your observations will certainly be useful to you and supplement your courses in Münster.

Changing the laws by improving them may help us to live in a better world, but at the end of the day, it is not only the laws as such, but our attitude towards law and justice that counts. A purely legal mind is not enough, it has to also be democratic. The German people have a long history behind them and when they took over Roman law or parts of it, they already began making commentaries. Throughout the many centuries that have passed ever since, the Germans were always striving for knowledge. During certain periods, much of this knowledge was heavily influenced by the teaching on Christianity, later more on the philosophy of enlightenment and science. People who could not read and write often attended sessions organized by those who were already literate. Unlike England, where university education was centered in Oxford and Cambridge at that time, the German universities were truly provincial, scattered here and there and thereby enabling people living nearby to educate themselves with higher education. Some of these universities were really small with only a few hundred students at the very beginning, but the standard remained more or less the same.

When I visited Germany a few years ago, I was in a small town near Frankfurt am Main, called Bad Soden. It just happened to be that the average citizen of Bad Soden spent 158 Euros for books per year, which is the equivalent of around 6000 baht. The German town with the lowest average spending was at 78 Euro or around 3000 baht per annum. Each day well over 200 new books are being published in Germany and once you land at Frankfurt airport, please think about the annual book exhibition in Frankfurt which has been around since over 500 years. In this connection, I would like to mention that there only a few people who have encouraged me to read good classical books and articles, not only on topics with regard to legal science, but also to history and philosophy as well. One of them is no other than Henning Glaser, Director of CPG.
While praising Germany and the Germans, I would like to mention an event that took place a few weeks ago. This is to give you a more objective picture of the world. I was invited by the French Ambassador to an awards ceremony attended by a number of guests. Many of them were French-speaking, but all of them were Francophiles and certainly pro-democracy thinking Thais. The citation was about 10 pages, the longest I have ever heard in my entire diplomatic carrier. When I make my annual presentation in Germany, I will also touch upon certain historical events in England that had an impact on the philosophical thoughts of Pridi Banomyong, the Father of Thai Democracy and Founder of Thammasat University. I still have to finish reading a few books or rather a few chapters written by prominent and lesser known British historians on this topic.

My message to you for today is that you should try to have an objective picture of the world and see things in the right proportion and perspective. Beginning with Germany under the guidance of the CPG Spring School is a good starting point. There is a quotation in facebook that says: “Education is not about learning of the many facts, but the training of the mind to think.” The exact quotation from Albert Einstein, whom we consider to be a citizen of the world, is as follows: “It is not so very important for a person to learn facts. For that he does not really need a college. He can learn them from books. The value of an education in a liberal arts college is not the learning of many facts, but the training of the mind to think something that cannot be learned from textbooks.” This is what is generally known as critical thinking. Critical thinking is an important element of the Spring School course. It is the first and crucial step in understanding and experiencing good governance, the rule of law and democracy in the German context and beyond.

On behalf of the CPG as well as on my own behalf, let me once again extend my congratulations to you all. May you have a successful trip and come back not only with fond and pleasant memories, but also with even more critical thoughts than before as well.

Thank you!
New in Town: Stine Klapper, Resident Director of Friedrich-Ebert-Stiftung, Thailand Office

Since 1 April 2015 the Thailand Office of Friedrich-Ebert-Stiftung (FES) has a new Resident Director. Stine Klapper, formerly Resident Director of FES Macedonia in Skopje, succeeded Marc Saxer in this post. Below she tells about first impressions of her work in Thailand.

“There is something you need to learn and I also had to learn this when I first arrived in Thailand: you need to smile more!” – this was my predecessor’s advice and since I came to Bangkok as the new Resident Director of Friedrich Ebert Foundation two weeks ago I have been remembering his words. It has not been hard to do as I had been told. I have already met many nice and interesting people, including the great tea at the FES office. But I have to admit that there have also been a few situations that made me smile more due to surprise and wonder.

These surprises, getting to know new places and meeting many people with very different stories is part of my job for FES and is one of the reasons why I find it incredibly interesting. It is even more interesting when it comes to identifying common goals, developing ideas how to achieve them and cooperating to make a change. In my experience I have more often than not seen that even if we come from different backgrounds we are not at all that different in the end; we share goals, needs and responsibility. In line with this are the core values of solidarity, social justice and freedom – the guidelines for FES’s commitment.

FES is one of the six German political “Stiftungen” (=foundations) which are all publicly funded and fulfill different tasks both in Germany and in other countries. FES was founded 90 years ago in the spirit of the first democratically elected German president Friedrich Ebert. Its first goals (political education for all, support of students and promotion of international understanding) have not changed much since then. Today, FES engages in political education, has a scholarship program for students, preserves and displays documents of the history of social democracy and the labor movement in one of the world’s biggest
academic specialty archives and libraries, offers policy consulting and supports international cooperation. In the field of international cooperation, FES works in more than 100 countries in the world and on regional and global level. Our partners are international and national NGOs and trade unions, think tanks and universities, parliaments and ministries as well as other groups and institutions. Internationally, our aims are to promote democracy and development, to contribute to peace and security and to make globalization more socially equitable.

In Thailand, FES has been active since 1970. Today, our main objectives are to cooperate with civil society and academics striving for a sustainable and socially just economic development, to support trade unions in the social dialog, to engage in civic education and to further debates on Thailand’s future. In all our commitment we pay special attention to gender equality. Together with a broad range of partners we facilitate activities like workshops, debates and conferences, publish papers and books, offer expertise to different stakeholders and organize delegation visits from and to Germany as well as in the region. In addition to these more “traditional” formats we jointly organize a TV debate show, theatre plays and public forums. Whenever possible we use our network to share experience, give mutual advice and develop common visions on the regional level.

I am very much looking forward to being a part of these activities. After great experiences during my last posting in Macedonia, I am now excited to work in a new environment here in Thailand. It is particularly interesting for me to see that there is a German-Southeast Asian Center of Excellence for Public Policy and Good Governance, and I intent to follow its research which is closely related to the foci of our work.

I hope to meet many of the CPG’s scholars and students soon. And please excuse me if I don’t smile enough – I am working on it!

*Stine Klapper*
Announcements

CPG is pleased to announce that Poonthep Sirinupong, lecturer the Faculty of Law of Thammasat University and holder of CPG’s LL.M. Scholarship, just finished his Master degree study program “Deutsches Recht (German Law)” at the Faculty of Law of Westfälische Wilhems-University Münster, one of the three German partner universities forming CPG together with Thammasat University. He graduated with the highest possible grade “summa cum laude” and is currently planning his PhD study program.

Aunthicha Jirathawornlerk, a CPG Spring School alumni (University Passau 2012) and former CPG student assistant, received the Asian Development Bank/Government of Japan Master Program Scholarship 2015. In April she started her Master of Art’s Program in International Development Cooperation at the Graduate School of International Development of Nagoya University, Japan.

Dr. Johannes Görbert, from September 2013 until March 2015 Director of the Information Center Bangkok of the German Academic Exchange Service (DAAD), has left Bangkok to start a postdoc project position at the Graduate School of Literary Studies at Freie Universität Berlin, Germany. CPG thanks for good and productive cooperation and wishes him all the best.

Since 1 April 2015 the Thailand Office of Friedrich-Ebert-Stiftung (FES) has a new Resident Director. Stine Klapper, formerly Resident Director of FES Macedonia in Skopje, succeeded Marc Saxer in this post. (See her contribution in this issue above.)
On 8 May 2015 Hristian Todorowski, member of the German Language Department at Thammasat’s Faculty of Liberal Arts and one of the instructors of CPG German language classes for lawyers, will leave Thailand. Ajarn Hristian has been with CPG since 2013. He has been an excellent and highly motivated teacher with outstanding skills in communicating with the students. CPG would like to cordially thank him for his contributions to our German language classes.

**CPG Publications**

In April the volume *“Norms, Interest, and Values – Conflict and Consent in the Constitutional Basic Order”* of the CPG Series of Comparative Constitutional Law, Politics and Governance was released by Nomos publishing house edited by Henning Glaser. Please see below the table of contents.

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Forthcoming this summer is the next volume of our publication series: “Constitutional Jurisprudence – Function, Impact and Challenges”. The volume deals with various issues pertaining to constitutional jurisprudence in a wide a range of constitutional systems. In the past two decades specialized constitutional courts of the Continental-European type have largely prevailed so far over the model dominating the Anglo-Saxon legal systems. Moreover, Constitutional courts have been increasingly deciding questions with far-reaching political consequences. In this respect the general tendency towards the juridification of politics is embodied particularly clearly in the institution of constitutional courts. In the course of this development the role and performance of constitutional courts have been increasingly challenged in the practical debate while, within the academic discourse, they have become one of the most interesting topics. Constitutional courts, often despite their common roots, vary in their concrete – and often shifting – role within the respective constitutional systems, their functions and performances to a significant extent. Within the frame of these aspects the contributions collected in this volume address questions such as the constitutionalization of the legal system by constitutional courts and the increasing politicalization of constitutional courts. The contributions refer to constitutional systems in Cambodia, Croatia, Germany, Indonesia, Japan, Mongolia, Poland, Spain, South Korea, Thailand and Taiwan.

Official Facebook Page of the German Embassy Launched

Please notice that the German Embassy in Bangkok has launched its official facebook page accessible at www.facebook.com/GermanEmbassyBangkok.
Educational Policy Event of the Friedrich-Ebert-Stiftung, Thailand Office

On 20 May 2015 the Friedrich-Ebert-Stiftung, Thailand Office, in cooperation with various related stakeholder institutions in Thailand will arrange the “Educational Forum: ‘Learning to Live Together – Global Citizenship/ASEAN Citizenship’” at the Faculty of Law, Chulalongkorn University. For further information, please contact FES Thailand Office at info@fes-thailand.org.

Information event of the DAAD Information Center Bangkok

The next of the monthly held information events of the DAAD Information Center (IC) Bangkok on “Study and Research in Germany” (in Thai) will be held on 21 May 2015, 6-7.30 pm, 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/.

Support for Victims of Earthquake in Nepal

To express our condolences with the victims of the earthquake in Nepal and solidarity with people and institutions committed to providing help and relief, CPG is joining the Non-Resident Nepali Association (NRNA), Thailand, in urging donations for survivors of the natural catastrophe in need of immediate relief.
Donations can be made to the following bank account:
Bank Name: Kasikorn Bank
Branch: Sukumvit
Acc. No.: 0032739905
Account Name: Khagendra Raj Dhakal, Kedar Prasad Timalsina & Gopal Lama

For further information and queries please visit NRNA at http://www.nrnathailand.org/.

Notification

CPG senior research fellow Dr. Michael H. Nelson is providing a third collection of source material selected from a broad range of Thai and English language newspapers providing information on the constitution making process 2015. To access the material please visit our webpage at www.cpg-online.de.
# 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.

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