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Multiple Targets of Thailand's Martial Law

*By Puangthong Pawakapan**

EXECUTIVE SUMMARY

- Despite demands from certain segments of the business sector, Thailand's military government refuses to lift the martial law it has placed on the country. This article seeks to explain the significance of the martial law presently in place by examining the types of people who have been charged under it.
- Apart from suppressing critics and opponents of the coup d'état, two major targets of martial law are firstly, offenders under lèse majesté law and secondly, the allegedly armed groups.
- The martial law is an essential mechanism for the junta to build up its authority to an unprecedented level of control.
- The arrest of relatives of former Princess Srirasmi in December last year and her subsequent divorce from Crown Prince Vajiralongkorn drew widespread public attention and generated a host of rumours. These events also indicate that strict enforcement of the

law is particularly important during the transitional period from the reign of King Bhumibol to the next monarch.

- The arrest of members of allegedly armed groups reflects the military leaders' anxiety over the military's involvement in the violent crackdown of red-shirt protesters in 2010. These groups are perceived to be part of the pro-Thaksin red-shirt movement.

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INTRODUCTION

Nine months after the National Council for Peace and Order (NCPO) toppled the elected government of Yingluck Shinawatra on 22 May 2014, the military junta has shown no attempt to lighten the suppression of civil and political rights. Despite an outcry from the business sector over the negative impact that martial law has had on the economy, coup leader and present Prime Minister General Prayuth Chan-ocha has insisted that maintaining martial law assures that the prosecution process of those who have been charged since the coup will move along smoothly.¹

Under martial law, assemblies of more than five persons are prohibited, political activities are banned, the media heavily censored, searches and seizures of items by the police allowed, areas can be closed off, and people can be summoned and detained without charge for up to seven days.² Prayuth is also able to order any criminal case to be tried in a military court. In addition, Article 44 of the NCPO's interim constitution provides him with sweeping powers to undertake whatever the NCPO deems necessary.

The two questions this article seeks to answer are rather specific: Why does this authoritarian approach remain so important to the regime; and who are its major targets?

MAIN TARGETS

I-law, the Thai non-governmental organization, provides comprehensive information about people being prosecuted under martial law. Most of these have also faced trial in military court. The detainees can be divided into three major groups.³

- *Group 1* comprises seventy-three people who have allegedly defied the NCPO's orders by participating in anti-coup protests and who have not reported to the NCPO after being summoned.
- *Group 2* includes people who have been charged under the *lèse majesté* law in conjunction with the Computer Crime Act. There are twenty-three of them.
- *Group 3* comprises fifty-four people who have been charged under Section 135/1 and Section 135/2 of the Criminal Code (acts of terrorism and planning acts of terrorism

¹ “พลเอกประยุทธ์ยังไม่เลิกกฎอัยการศึกซึ่งทำให้การสอบสวนรวดเร็วไม่ต้องขอหมายศาล” *Matichon*, 16 December 2014.

² “Thailand: Revoke Martial Law Undermining Rights”, *Human Rights Watch*, 20 May 2014, <http://www.hrw.org/news/2014/05/20/thailand-revoke-martial-law-undermining-rights>

³ *I-law* divides them into five groups but, in my opinion, they overlap. See “Charges against Individuals after 2014 Coup”, <http://ilaw.or.th/3177>. The data here is of 3 February 2015.

respectively) and for possession of weapons without authorization. The highest penalty for these is death.

- The above numbers do not include people who were summoned but not charged, or people who were charged but who managed to flee abroad. Many students holding anti-coup activities in Bangkok and the provinces were in fact not charged, but instead suffered intimidation and were forced to sign assurances that they would not be involved in any anti-coup activities again.

ZERO TOLERANCE FOR OPPOSITION

What do the above data tell us? Firstly, the arrest of these people has nothing to do with corruption suppression, which is one of the NCPO's stated reasons for staging a coup and which is also mentioned in the preamble to its interim constitution. Anger against corrupt politicians had been one of the powerful issues mobilizing the Thai middle class to demonstrate against Yingluck Shinawatra's government and to urge the military to seize power. However, rather than politicians, most targets of the coup's suppressive measures are ordinary citizens. Many now recognize martial law's immediate function in reality to be the silencing of critics and the suppression of anti-coup activities.⁴

Secondly, three high-profile cases are in the first group. These are Jaturon Chaisaeng, the former Minister of Education, Sombat Boonngam-anong, the prominent red-shirt activist, and Professor Worachet Pakeerat, a leading member of Nitirat, a group of progressive legal scholars at Thammasat University. All three are very influential among the red shirts and among the pro-democracy population, and their ongoing trials in military court have the effect of freezing their public activities. Recently, four people, one of them a student, were arrested for their anti-coup activity on 14 February 2015, and all will be tried in military court.⁵ The rise of anti-coup activism, especially by Thammasat University's students, has recently led to military surveillance at the campus.

Thirdly, martial law is an essential mechanism for the junta to build up its authority to an unprecedented level of control. Suppression of different opinions and of public assembly allows it to conveniently institutionalise military-dominated political rule by writing a new constitution. In January the cabinet approved ten bills purportedly meant to enhance the digital economy. One of the bills, the National Cyber Security Bill, will allow authorities to access personal data of people of all forms and formats without court order.⁶ In February, the

⁴ Asian Human Rights Commission, "Thailand: Expression of opinions forbidden by the junta", 20 November 2014, <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-199-2014>

⁵ "4 Thai anti-coup activists arrested, charged for holding peaceful gathering", *Prachatai*, 14 February 2015, <http://www.prachatai.com/english/node/4792>

⁶ "Group wants digital economy bills scrapped, rewritten by affected parties", *The Nation*, 15 January 2015.

junta-appointed National Legislative Assembly passed almost unanimously the Military Court Bill, which allows high-ranking military officers to detain anyone without court order for up to 84 days. The new law is likely to be used against anti-coup activists as it does not stipulate that it covers only military personnel.⁷

IN TRANSITION

Fourthly, the number of people charged under the lèse majesté law started to spike after the coup. Currently, there are 23 new cases. The law states that whosoever defames, insults or threatens the King, the Queen, the Heir-apparent or the Regent, shall be imprisoned for three to fifteen years. As a routine practice, almost all who are charged with lèse majesté law are denied bail. Most of the alleged offences in the recent cases were committed before the coup, and include the posting of offending messages, pictures and video clips on websites, the destroying of pictures of the King, or the e-mailing of links to offending websites. One of the most well-known cases involves two youngsters, one of them a senior student at Khon Kaen University. They took part in a play called “The Wolf Bride”, staged as part of the commemoration of the fortieth anniversary of 14 October 1973, the day that saw demonstrations lead to the end of a military dictatorship. In February this year, they were sentenced to two and a half years’ imprisonment. Though the defamation of the King is not the rationale the NCPO used in staging a coup, Prayuth told the public on a number of occasions that his government will deal severely with those who break the lèse majesté law.⁸ Furthermore, the junta ordered all accused of breaking that law to be court-martialed. Prayuth is known to be a staunch royalist, and in October 2010, he warned that there would be a series of arrests made under the lèse majesté law. He even targeted the red shirts in particular:

“Every time there is a gathering [of the red shirts], there are posters and graffiti [against the monarchy]. Let me inform you that we now have evidence and are in the process of making arrests. Do not whine, because we have warned you many times and you are not supposed to do that.”⁹

It should be noted that *I-law’s* data do not include the arrests of relatives of former princess Srirasmi, a former wife of Crown Prince Vachiralongkorn. On 11 December, Srirasmi officially divorced the Crown Prince and resigned her royal status. At least nine of her

⁷ “Junta-appointed law makers pass controversial military court bill”, *Prachatai*, 20 February 2015, <file:///E:/The%20NCPO%20junta/Military%20Court%20bill%20Jan2015.htm>

⁸ “Prayuth vows tougher crackdown on anti-monarchists”, *Khaosod English*, 11 September 2014, <http://www.khaosodenglish.com/detail.php?newsid=1410445125> ; “All crimes involving alleged lèse majesté, sedition subjected to Military Court: Thai Coup makers submitted”, *Prachatai*, 25 May 2014 <http://www.prachatai.com/english/node/4021>

⁹ “Army chief warns of arrest under lese majeste”, 26 October 2010, <http://www.nationmultimedia.com/home/2010/10/26/politics/Army-chief-warns-of-arrests-over-lese-majeste-30140814.html>

relatives, including two high-ranking police officers and her parents, were charged with corruption and for violating the *lèse majesté* law in late November and early December last year.¹⁰

The arrest of Srirasmi's relatives and the royal divorce have stirred up much public attention and rumour. It has made the headlines in many foreign media outlets, which have been trying hard to explain how and whether the incidents are related to the succession issue. Meanwhile, in fear of the *lèse majesté* law, the Thai media are dutifully self-censoring and have failed to provide any analysis of the events. Social media, such as *Facebook* and *Line*, have instead become a popular way for Thais to share information and spread rumours. On 22 December 2014, the Minister of Information, Communication and Technology warned the public against sharing defamatory messages on *Line* and said that his ministry was conducting surveillance of them.¹¹

Many concerned Thai citizens now depend on the critical analyses offered by foreign media or the social media inputs of Thai dissidents living abroad in self-imposed exile. Their critical comments infuriate the junta greatly, especially after Thailand's stock market plummeted on 15 December 2014. The junta accused dissidents of spreading rumours about the King's health failing in connection with the royal divorce. On 16 December, General Prayuth told the press that his government was seeking to extradite critics of the monarchy living abroad for legal prosecution in Thailand. A spokesperson for the Ministry of Foreign Affairs, Sek Wannamethee, even threatened countries hosting political exiles of possible damage to their bilateral ties with Thailand.¹²

On the one hand, the rise in *lèse majesté* cases, the harsh treatment of those arrested, and the junta's furious reactions to the exiled critics strongly suggest that those who offend the monarchy are considered the military's number one enemy. On the other hand, they underline claims in the foreign media that Thailand's ruling elite is deeply worried about the succession issue.¹³ The purge of relatives of Srirasmi and the royal divorce further fuel public speculation that the royal transition has already begun.

¹⁰ "Updated: More Divorce News", *Political Prisoners of Thailand*, 15 December 2014, <https://thaipoliticalprisoners.wordpress.com/tag/vajiralongkorn/>; BBC, "Parents of Thai ex-princess arrested of lese majeste, 27 February 2015, <http://www.bbc.com/news/world-asia-31656469>

¹¹ "ลั่น! รู้เห็นทั้งหมด ไอซีที ชูพืน คนส่งข้อความ"ไลน์"กระทบมั่นคง-หมิ่นสถาบัน" *มติชน*, 23 December 2014, http://www.matichon.co.th/news_detail.php?newsid=1419293851

¹² "Thai Junta Chairman Vows to Hunt Down Critics of Monarchy", *Khaosod English*, 16 December 2014, <http://www.khaosodenglish.com/detail.php?newsid=1418738422>; "Thai junta threatens bilateral ties if other countries help political exiles", *Prachatai English*, 18 December 2014, http://prachatai.org/english/node/4621?utm_source=dlvr.it&utm_medium=twitter

¹³ For example, "The King and Its Crisis: A Right Royal Mess" *The Economist*, 4 December 2008; "Thailand's Coup: The Path to the Throne", *The Economist*, 24 May 2014; Tabatha Kinder, "Who Will Succeed Thailand's King Bhumibol?" *International Business Times*, 7 August 2014; Brian Rex (Pen name), "Monarchy in spotlight: tensions that threaten new turmoil in Thailand", *The Independent*, 23 June 2011.

CLEANING UP THE BLOODY RECORD AND DISCREDITING THE RED SHIRTS

The third target group comprises people arrested for allegedly being armed. The general public has been given the impression that these are members of the red-shirt movement. Those arrested can be divided into three sub-groups.

- A. The so-called four men in black and a woman, allegedly responsible for killing several soldiers during the red-shirt protest led by the United Front for Democracy Against Dictatorship (UDD), in Bangkok on 10 April 2010. The UDD staged a three-month long protest in Bangkok demanding that then-prime minister Abhisit Vejjajiva dissolve parliament and hold snap elections.
- B. The Khon Kaen model. Twenty-seven people, mostly elderly, were arrested and charged on 23 May 2014, one day after the coup, for planning armed rebellion in several northeastern provinces against the junta. As of 27 October, four are allowed bail for medical reasons.¹⁴
- C. Twenty-two individuals accused of possessing weapons or grenade attacks on demonstrators protesting against the Yingluck government and the People's Democratic Reform Council (PDRC), at various venues.

On 11 September 2014, the junta-appointed police chief, Police General Somyot Pumpunmuang, announced at a press conference that the police had successfully arrested four men and one woman. They were the armed “men in black”, who violently emerged on the night of 10 April 2010 in the midst of a military operation against red-shirt protesters near the Democracy Monument. One of the soldiers killed was Colonel Romklao Thuvatham, Deputy Chief of Staff of the Second Infantry Division of the Royal Guards. His sudden death resulted in the immediate retreat of the troops. Romklao's demise and the temporary setback for the army are known to have caused strong resentment among military leaders. Therefore, the arrest of the alleged men in black was greeted with much fanfare. The police dressed up the four in black, with black hoods covering their faces as if this was how they were dressed when arrested. The next day, their pictures were splashed on the front page of most newspapers in Thailand, insinuating even before they had gone on trial that they were indeed responsible for killing Romklao. The widow of Romklao quickly came out to thank the police for giving her justice.

However, there is evidence to contradict the police claim. The grenade explosion that killed Romklao happened on Dinso Road.¹⁵ The operation being carried out by the men in black,

¹⁴ “ได้ประกันเพิ่ม 2 ราย ผู้ต้องหาคดีขอนแก่นโมเดล”, *Prachatai*, 27 October 2014, <http://www.prachatai.com/journal/2014/10/56213>

¹⁵ Thailand's Truth and Reconciliation Committee, *รายงานฉบับสมบูรณ์* กรกฎาคม ๒๕๕๓-กรกฎาคม ๒๕๕๕, Bangkok, p. 105.

however, took place on Tanao Road.¹⁶ These two roads are about 300 metres away from each other, and there were huge crowds of protesters, journalists and soldiers present between these two places. So far there has been no convincing evidence to show that the men in black did in fact move from Tanao Road to Dinso Road in order to throw a grenade at Romklao. Moreover, there is evidence that several people were killed and many protesters injured by live bullets hours before the men in black appeared.¹⁷ This is not to say that there were no men in black on the night of 10 April 2010, but their actions appear to have caused injuries to troops stationed on Tanao Road rather than to those on Dinso Road. Despite the fanfare surrounding their arrest, police later filed against the men in black only the charge of illegal possession of military-grade weapons. No murder or terrorism charges have yet been included. This article interests itself mainly in the implications of the arrest of the men in black, and shall discuss the finer points of the case.

The existence of the men in black is essential to the claim by the Abhisit government and army leaders that they are not responsible for the deaths and injuries of red shirt demonstrators on 10 April and 14-19 May 2010. They have claimed that the men in black, being part of the red shirts, intentionally killed and injured red-shirt protesters in order to put blame on the Abhisit government and the army, and stir up unrest. Indeed, immediately after the emergence of the men in black, Abhisit's government labelled the UDD a terrorist movement, and its leaders have since been charged with acts of terrorism. Mainstream media and the Bangkok middle class loudly condemned the red shirt protesters for being aggressive and violent, and repeatedly urged the Abhisit government to suppress them. This accusation then provided legitimacy for a full-scale military operation to suppress the protest on 14-19 May 2010. Abhisit's government mobilized a total of 67,000 troops into Bangkok, who spent 117,923 live bullets and 2,120 sniper bullets.¹⁸ The overall casualty total between 10 April and 19 May was 94 deaths, including 76 civilians, 10 soldiers, 6 medical and rescue volunteers, and 2 journalists. The number of wounded was over 1,400.¹⁹ As of July 2014, inquests into the death of 17 people killed during April 10-May 19 led the courts to rule that they were in fact killed by bullets fired from the direction of the security forces.²⁰

¹⁶ People Information Center, April-May 2010, *Truth for Justice*, 2012, chapter two.

¹⁷ *Ibid.*, pp. 76-77.

¹⁸ Information provided by Police Lieutenant Colonel Somchai Petchprasert, Pheu Thai Member of Parliament and President of Parliamentary Commission on Defence at the Parliamentary meeting on March 18, 2011. Refer to "Jatuporn Duels Tuag. More Than 50,000 Angry Reds Gather Today," *Kao Sod*, March 19, 2011. Special reports on "Troops Checked Following Parliamentary Debate on Bullets – Red Shirts – Watermelons," *Matichon Weekly*, Year 31, Issue 1597, (March 25-31, 2011, Page 14, 16 (March 25-31, 2011, Page 14, 16; "How Did Such Precise Figures Leak Out? General Dapong complained in "May Atrocities," *Matichon Online*, March 25, 2011, http://www.matichon.co.th/news_detail.php?newsid=1301039135&grpid=no&catid&subcatid.

¹⁹ The number of deaths was proposed by the People Information Center, July 2012. These were counted during the period of April 10–May 19, 2010 and included those who later died from their wounds.

²⁰ ศูนย์ข้อมูลประชาชนผู้ได้รับผลกระทบจากการสลายการชุมนุมกรณี เม.ย.-พ.ค.,

"ชายชุดดำในทัศนะของ สปช." *Prachatai*, 12 September 2014, www.prachatai/node/55509

The most controversial incident is the death of six civilians at Wat Pathumwanaram temple, near the Ratchaprasong junction, the last venue of the red-shirt protest. On the morning of 19 May, when the operation to seize the UDD's protest stage began, the government agreed with the activists that the temple was to be a no-fire zone. Several hundred protesters consequently took refuge there. But the temple soon became a trap instead and six people were killed, including a nurse and two rescue volunteers who were helping the injured. Soon after the incident, pictures and video clips of men in military uniforms appeared on the Internet, showing them stationed on the elevated train rail in front of the temple, pointing their rifles into the temple grounds.

Despite evidence that the Abhisit government had authorized a live-fire zone, the army repeatedly denied that it had used live bullets.²¹ General Prayuth, who was also involved in the operation, gave the rebuttal that the deaths and injuries were not the work of the army but of the men in black.²² Aside from the finding that those who died were killed by bullets fired from the direction of security forces stationed on the train rails in front of the temple; results from investigations done by the Central Institute of Forensic Science did not find gunshot residue on the hands of the victims. The judicial inquest held on 6 August 2013 thus concluded that they were not using any weapons, and the court reading even stated that no men in black were present in the area.²³

Interestingly, on 4 December 2014, General Prayuth told the press that he knew who were behind the killings at the temple and that he had evidence against everyone involved. He added that the pictures of soldiers on the train rail were actually of soldiers posing for photos.²⁴ Despite strong evidence to the contrary revealed at the inquest, the military leadership continues to blame the deaths on unknown armed groups, and reiterate the army's innocence.

The arrests of the Khon Kaen model group and of individuals allegedly responsible for violent attacks on the PDRC protesters are commonly understood to follow from how leaders of the Democrat Party and the military had been claiming that the red shirts were aggressive and violent; that there were armed elements among the red shirts, and that these were responsible for the casualties of 2010.

So far, no military leader has answered for involvement in the crackdown against the red shirts. Only Abhisit and his former Deputy Prime Minister Suthep Thueaksuban have been charged, with premeditated murder. Nevertheless, the disclosure in the court inquests of

²¹ “ทหารยืนยันไม่ใช้กระสุนจริงกับผู้ชุมนุมปี 53.” *Voice TV*, 4 July 2012,

<http://news.voicetv.co.th/thailand/43692.html>

²² “Army rebuttals deaths at Wat Prathum”, *The Nation*, 20 June 2012.

²³ “Six dead in Wat Pathum Wanaram shot by military: Criminal Court”, *Prachatai*, 6 August 2013, www.prachatai.com/english/node/3663

²⁴ สรวุฒิ วงศ์ศรานนท์, “6 ศพวัดปทุม กับวาทะท่านผู้นำ”, *Prachatai*, 16 December 2014, <http://prachatai.org/print/57013>

gruesome evidence implicating the army did alarm military leaders. During the court hearing of the Wat Pathum temple case, General Prayuth expressed his desire to have the testimony of witnesses kept secret. He was apparently irritated at disclosures of witness accounts.²⁵ In light of this, one important move that took place after the coup has added significance. In December 2012, the Office of the Attorney General (OAG) decided to indict Abhisit and Suthep, but three months after the coup, the Criminal Court rejected the case against the two on the grounds that it lacked jurisdiction over the case. Instead, it suggested that the National Anti-Corruption Commission (NACC) investigate it, and that the only court with the authority to hear it was the Supreme Court's Criminal Division for Holders of Political Positions.²⁶ The NACC is well known for its anti-Thaksin and pro-Democrat position.

CONCLUSION

Targets of the martial law under which Thailand presently lives are ordinary citizens deemed a threat to Thailand's military regime and ruling elite. Apart from what most observers have known, which is that martial law is meant to suppress critics and opponents of the military regime, people charged under the *lèse majesté* law and the alleged armed groups, who have suffered since the coup deserve serious public attention.

Given that the country lives in an atmosphere of fear, most do not expect due process of law to be followed. Judgments made by the military court are also final and cannot be appealed.

The *lèse majesté* cases show the angst of the royalist elite over what they perceive to be a conspiracy to overthrow the monarchy—and at a time of successional transition. Martial law, together with the criminal code, becomes highly useful at such a time in suppressing critics of the monarchy.

The arrests of allegedly armed groups indicate the military leaders' anxiety over their own involvement in the violent crackdown of red-shirt protesters. The detentions express most disturbingly their deep perception of the red shirts as being aggressive and violent, and being against the monarchy. Moreover, martial law not only allows the military to suppress the voices and activities of their opponents, it is in fact required for smoothening the process of writing a new constitution, which will likely pave the way for a bigger role and more political power for the military in Thai society.

Reforms under the iron fist of martial law look set to fail if the end goal is to bring reconciliation to a deeply polarized society.

²⁵ "Prayuth wants temple testimony kept secret", *Bangkok Post*, 23 June 2012,

www.bangkokpost.com/news/local/299303/prayuth-wants-temple-testimony-kept-secret

²⁶ "Criminal Court declines to hear murder case against Abhisit and Suthep", *The Nation*, 29 August 2014.

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