

# An Unreconciled Gap

## Thailand's Human Rights Foreign Policy versus Its Lèse-majesté Crisis

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### Abstract

The increasing use of lèse-majesté laws in Thailand against political opponents, particularly following the 2020–2021 youth-led protests, has raised concerns. By February 2023, 1,895 individuals faced political prosecution in 1,180 cases, with 233 charged under these laws, including a 14-year-old girl. This situation has influenced Thailand's foreign policy approach to human rights. This article explores how lèse-majesté laws have impacted Thailand's international relations, asserting that its human rights diplomacy is influenced by evolving global politics. Two challenges emerge: first, the regime prioritizes stability over human rights, with the United States and China tolerating rights violations for strategic gain. Second, the rise of illiberal regimes in Southeast Asia normalizes such laws, hindering criticism of human rights abuses and creating a “glass ceiling effect” where states avoid condemning abuses to avoid exposing their own inconsistencies.

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Since the Thaksin Shinawatra government's downfall in 2006, Thailand's foreign policy has appeared adrift. Subsequent regimes in Bangkok grappled with defending themselves amid escalating political divisions. These divisions deepened as the looming royal succession challenged King Bhumibol Adulyadej's political dominance, coinciding with the monarchy's decline. Political elites, traditionally reliant on the monarchy's strength, redirected their focus to domestic politics, neglecting a proactive foreign policy.

This shift contrasts sharply with the Thaksin era, marked by innovative foreign policies. The preoccupation with domestic struggles left Thailand's global engagement reactive and diminished its role in diplomacy.

Amid Thailand's declining foreign affairs, a concerning trend has emerged. The need to defend the monarchy's political position has led to a noticeable increase in the use of lèse-majesté laws against political opponents. Lèse-majesté, defined by Article 112 of the Thai Criminal Code, criminalizes defamatory, insulting, or threatening remarks about the king, queen, and regent, carrying sentences of three to 15 years in prison. For the first time in modern Thai history, the monarchy's politicization became a public issue, marked by the 2020–2021 youth-led protests advocating immediate monarchical reform. These protests challenged the long-held

tradition of refraining from open discussions about the monarchy, signaling a critical shift in Thai politics where royal power was contested.

To quell criticisms against the monarchy, the Thai state exploited the *lèse-majesté* law as a tool to ensure regime stability, resulting in devastating human rights violations. Since the 2020 and 2021 protests, the number of *lèse-majesté* cases has skyrocketed, with 1,895 people facing political prosecution in 1,180 cases by February 2023, including a 14-year-old girl.<sup>1</sup> This situation has drawn global attention and become a determinant factor in Thailand's foreign affairs.

While the deteriorating human rights situation has impacted Thailand's global position, human rights agendas remain marginalized in its foreign policy. The article argues that Thailand's emphasis on human rights diplomacy depends on shifting international politics. A Thai human rights foreign policy faces two significant challenges. Firstly, high politics, vital for the state's survival, consistently outweigh human rights concerns in Thai foreign relations. Notably, two major partners, the United States and China, prioritize their strategic interests over human rights, sustaining the *lèse-majesté* crisis.

Additionally, the rise of illiberal regimes in Southeast Asia has normalized the utilization of *lèse-majesté* laws against their own citizens. This normalization has given rise to the "glass ceiling effect," where states hosting significant human rights violations within their borders refrain from criticizing other rights abusers. This reluctance stems from the fear of exposing inconsistencies between their professed commitment to human rights protection in the region and the harsh reality on the ground.<sup>2</sup> These illiberal regimes have formed informal alliances, providing mutual support to justify their respective human rights abuses, all in the pursuit of safeguarding their regimes.

Consequently, this has resulted in the development of a reactive foreign policy concerning human rights. This study adopts a two-level game approach, considering both domestic and foreign factors, to illustrate the interconnected relationship between the formulation of human rights foreign policy and the evolving international landscape. It specifically examines the *lèse-majesté* situation from the 2020 protests onward. While this research contributes to the existing body of literature

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<sup>1</sup> "February 2023, 1,895 People Politically Prosecuted in 1,180 Cases," *Thai Lawyers for Human Rights*, 17 March 2023, <https://tlhr2014.com/>; and "14 Year-old Girl Accused of Lèse-majesté," *112WATCH*, 12 February 2023, <https://112watch.org/>.

<sup>2</sup> For example, the "glass ceiling" effect can be apparently seen in the position of Brazilian President Dilma Rousseff to justify her country's noncriticism of the notorious violations in two countries that she visited in February 2012—Venezuela and Cuba—in her capacity as head of state, because of Brazil's own poor record of human rights protection. See: Camila Lissa Asano, "Foreign Policy and Human Rights in Emerging Countries," *SUR* 19 (1 May 2013), <https://sur.conectas.org/>.

on Thailand's foreign policy, it introduces a novel perspective on Thai foreign relations, focusing on the contentious *lèse-majesté* law.

To substantiate the reactivity of Thai foreign policy, this study will analyze Thailand's statements defending its position on the *lèse-majesté* law in traditional international forums. Additionally, it will scrutinize Thailand's foreign policy activities at bilateral, regional, and multilateral levels, with the aim of disseminating information that confirms the inextricable link between the Thai state's perception of human rights and the shifting regional and global order.

Lastly, the article briefly delves into the recent Thai elections held on 14 May 2023, shedding light on the formation of a new government and providing an analysis of its stance on Article 112. This analysis offers insights into the future trajectory of Thai foreign policy and its approach to human rights, especially considering the persistent influence of geopolitical factors on Thai diplomacy.

### **Human Rights Foreign Policy in Emerging Thailand**

A substantial body of literature delves into the role of human rights in foreign policy. Much of this research centers on whether and to what extent states view the promotion of human rights beyond their borders as essential to their national interests. Within the realm of international relations, defending human rights is justified through various avenues. Human rights represent an ideational interest, distinct from material interests such as national sovereignty, territorial integrity, or economic prosperity. Ideational interests may also encompass pursuits like the advancement of peace, international cooperation, and humanitarianism. Furthermore, human rights can serve as a defining value that shapes a nation's identity, a critical lever in diplomatic endeavors.

Gareth Evans examines the foreign policies of Canada and Australia, contending that aligning with values can be a strategic means of advancing national interests. He poses a fundamental question: Why should nations, like Canadians, Australians, or others, concern themselves with issues like human rights violations, health crises, environmental disasters, weapons proliferation, or other problems afflicting distant nations when these matters do not directly impact their immediate physical security or economic well-being in the context of their traditionally defined material interests? Evans' work highlights that acting as responsible global citizens yields reputational and reciprocal-action benefits, bridging the gap between realism and constructivism, and offering realists compelling reasons to adopt con-

structuralist perspectives. In his view, values should not be optional add-ons to a state's foreign policy; they should be woven into its fabric.<sup>3</sup>

Within the diplomatic sphere, the promotion of human rights in foreign policy can contribute to fostering a positive national self-image. National self-image often aligns with a nation's political culture and can influence the roles states choose to play in international relations. In the United States, public opinion polls have shown widespread support for the protection of human rights and the advancement of democracy abroad as legitimate and even important foreign policy objectives.<sup>4</sup>

However, some states openly reject certain universal human rights as part of their political culture and self-image construction. For instance, certain Islamic states uphold cultural and national particularism, which legitimizes their rejection of universal human rights not grounded in Islam.<sup>5</sup> The example of Iran underscores the inconsistencies and challenges evident in the postures of emerging countries concerning international human rights protection.<sup>6</sup> As emerging nations aspire to assume greater international roles in an era of heightened multipolarity, their commitment to enhancing the international human rights system remains less clear. This is because some of these emerging states themselves engage in human rights violations against their own citizens. Consequently, they often abstain from supporting resolutions condemning blatant human rights abuses in multilateral forums, underscoring the intricate relationship between domestic and foreign factors and their impact on human rights foreign policy.

In the Thai context, the intermittent periods of democratic rule punctuated by military juntas have posed significant challenges to the implementation of a human rights foreign policy. Even during periods of elected governments, such as the Thaksin administration, severe human rights violations occurred, exemplified by the massacres of the Muslim minority in the southernmost provinces of Thailand

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<sup>3</sup> Gareth Evans, "Values and Interests in Foreign Policy Making." *Simon Papers in Security and Development* 53, (October 2016), 7–10.

<sup>4</sup> David P. Forsythe, "Introduction," in *Human Rights and Comparative Foreign Policy: Foundations of Peace*, ed. David P. Forsythe (Tokyo: United Nations University, 2000), 6.

<sup>5</sup> See: Ali Akbar Alikhani, "Iran's Religious Fundamentals and Principles in Interaction with the International System," in *Iran and the International System*, eds. Anoushiravan Ehteshami and Reza Molavi (Oxon: Routledge, 2012), 3.

<sup>6</sup> Asana, "Foreign Policy and Human Rights in Emerging Countries."

in 2004.<sup>7</sup> Notably, the strategic positioning of Thailand as a partner by certain Western powers has effectively prioritized political and economic interests over the promotion of human rights within the country.

Concurrently, successive Thai governments have selectively embraced certain international agendas to bolster the perception of their commitment to internationalism and enhance the nation's global image. For instance, during his tenure, Thaksin nominated his foreign minister, Surakiart Sathirathai, as a candidate for the position of United Nations Secretary General in 2006, symbolizing his pursuit of an internationalist foreign policy. In a paradoxical turn, Surakiart, in his 2004 address at the United Nations General Assembly, advocated for world peace, even as his government engaged in widespread human rights violations against the Muslim minority that same year.<sup>8</sup>

Although Surakiart's bid for the UN's top position ultimately failed, it did not result in complete failure for Thailand. The country managed to evade international sanctions related to the Deep South massacres. The United States, occupied with solidifying its relationship with Thailand in the aftermath of the 9/11 attacks, willingly downplayed human rights abuses committed by the Thai state.<sup>9</sup> A Thai alliance was crucial in the American War on Terror. This situation highlights how the Thai human rights crisis became entangled in the shifting dynamics of international power politics, a trend that continues to exert influence even in 2023.

### **The Troubled *lèse-majesté* Law**

The *lèse-majesté* law, first enacted in 1908 toward the end of King Chulalongkorn's reign (1868–1910), holds a distinct place in Thailand's constitutional monarchy. The monarchy reinforced this law in the aftermath of the Second World War. A gradual increase in *lèse-majesté* cases marked the early years of King

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<sup>7</sup> In April 2004, thirty-two gunmen took shelter in the Krue Se Mosque in Pattani. Previously, more than 100 Islamic militants conducted attacks on 10 police outposts across Pattani, Yala, and Songkla provinces. After a standoff lasting several hours, soldiers attacked and killed all 32 gunmen. In October of the same year, another tragedy took place. Around 1,500 people demonstrated in front of a police station in Tak Bai (a district in Narathiwat province), calling for the police to release their detained friends. Many demonstrators were arrested and transported to an army camp in Pattani. They were handcuffed and stacked atop one another in trucks. Five hours later, when the trucks arrived at the camp, 78 detainees had died from suffocation and organ collapse. The two incidents—Krue Se and Tak Bai—effectively renewed a profound mistrust between the Muslim community and the Thai state. See: Duncan McCargo, *Rethinking Thailand's Southern Violence* (Singapore: NUS Press, 2007), 4–5.

<sup>8</sup> Statement by H.E. Dr. Surakiart Sathirathai, Minister of Foreign Affairs of Thailand, at the 59th Session of the United Nations General Assembly, New York, 27 September 2004, 4, <https://www.un.org/>.

<sup>9</sup> The United States went ahead with the Cobra Gold military exercise with Thailand in May 2004, a month after the massacre in the Krue Se Mosque.

Bhumibol Adulyadej's reign (1946–2016). However, the situation escalated significantly in the twilight years of Bhumibol's reign, driven by political elites' concerns over the impending end of an era and its potential impact on their political interests. Thailand gained international notoriety for having the world's most stringent *lèse-majesté* law during this period.<sup>10</sup>

The uncertainty surrounding the royal transition amplified anxiety among the elites. To manage this anxiety, the *lèse-majesté* law became an instrument used to secure loyalty to the monarchy and quash opposition. Over time, this not only indicated a weakening of the rule of law but also severely tarnished the country's image and reputation as a champion of human rights.<sup>11</sup>

Since the ascension of King Vajiralongkorn to the throne in 2016, the *lèse-majesté* policy has grown increasingly unpredictable. Following a meeting with Vajiralongkorn in 2018, social critic Sulak Sivaraksa disclosed that the king expressed his desire to see no new *lèse-majesté* cases filed. Sulak stated, "He is very concerned with the survival of the monarchy, and about whether this country could be democratic."<sup>12</sup> While it is true that the *lèse-majesté* law fell into disuse in late 2017, it resurfaced in November 2020 in response to the anti-monarchy sentiment that blossomed during the 2020–2021 protests (see table 1).

The recent youth-led protests effectively shattered a long-standing taboo against openly criticizing the monarchy in Thailand. Many core protest leaders faced *lèse-majesté* charges, resulting in some detentions and others fleeing the country.<sup>13</sup> Among those charged was Thanalop Phalanchai, who faced *lèse-majesté* accusations at the tender age of 14. Surprisingly, the human rights crisis in Thailand has failed to elicit substantial international responses. The European Union (EU) has refrained from direct intervention in the *lèse-majesté* situation within Thailand. In December 2022, the EU solidified its relations with Thailand through a cooperation and partnership agreement, a move seen as lending legitimacy to General Prayuth Chan-ocha's government, the leader of the 2014 coup. An EU representative justified this partnership by stating, "This is an excellent opportunity for the EU to push for higher standards of human rights in Thailand, including the demand

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<sup>10</sup> Michael Kelly Connors, *Democracy and National Identity in Thailand* (New York: Routledge, 2003), 134.

<sup>11</sup> David Streckfuss, *Truth on Trial in Thailand: Defamation, Treason and Lèse-majesté*, (London: Routledge, 2011), 293.

<sup>12</sup> Michael Ruffles, "Lèse-majesté is Dead. Long Live Lèse-majesté." *Sydney Morning Herald*, 22 November 2018. <https://www.smh.com.au/>.

<sup>13</sup> Reuters, "Police to Charge Protest Leaders with Lese Majeste," *Bangkok Post*, 24 November 2016m <https://www.bangkokpost.com/>.

to abolish Thailand’s draconian lèse-majesté law.”<sup>14</sup> The author conducted interviews with two members of the European Union External Action, who acknowledged the sensitivity of the lèse-majesté issue and the need for the EU to balance its overall interests with its support for human rights in Thailand.<sup>15</sup>

**Table 1. Lèse-majesté cases filed in Thailand from 2007–2022**

Year	Number of Cases
2007	36
2008	55
2009	104
2010	65
2011	37
2012	25
2013	57
2014	99
2015	116
2016	101
2017 (first 9 months)	45
2020 (last 2 months)	38
2021	145
2022	70
2023 (until May)	19
<b>Total:</b>	<b>1,012</b>

(Source: “List of Individual Charged with Article 112 of the Criminal Code (Lèse-majesté),” *iLaw Freedom*, 22 July 2018, <https://freedom.ilaw.or.th/>; and สถิติผู้ถูกดำเนินคดีมาตรา 112 “หมิ่นพระมหากษัตริย์ไทย” ปี 2563–66, Thai Human Rights Lawyers, 2 May 2023, <https://tlhr2014.com/>.)

However, certain individual European nations and political parties have taken a more assertive stance regarding the monarchy issue in Thailand. For instance, in October 2020, Frithjof Schmidt, a member of Germany’s Green Party, raised the question of whether King Vajiralongkorn engaged in political activities under German sovereignty in the parliament.<sup>16</sup> Additionally, Georg Schmidt, the German Ambassador to Bangkok, ventured out of his embassy to receive a letter from

<sup>14</sup> David Hutt, “Thailand: MEPs Call for Reform of ‘Draconian’ Lèse-majesté,” *Deutsche Welle*, 18 April 2023, <https://www.dw.com/>.

<sup>15</sup> Interview with two members (names withheld) of the European Union External Action, Brussels, 1 March 2023.

<sup>16</sup> Frithjof Schmidt, interview with the author, via Zoom, 20 October 2020. Also see: Giulia Saudelli, “Thai King should not Reign from German Soil, Berlin Says,” *Deutsche Welle*, 16 October 2020, <https://www.dw.com/>.

the protestors, urging the German government to investigate whether Vajiralongkorn wielded his power on German soil.<sup>17</sup>

Meanwhile, the sole communication from Washington came in the form of a statement from Jake Sullivan, National Security Advisor, who affirmed that “United States’ commitment to the long-standing United States–Thailand alliance based on our shared commitment to peace and stability, but also expressed concern over both recent arrests of Thai protestors and several lengthy *lèse-majesté* sentences in recent weeks.”<sup>18</sup> Despite Thailand’s exclusion from the Summit for Democracy in both 2021 and 2023, it remained unclear whether this exclusion resulted from its human rights crisis.<sup>19</sup>

It is worth noting that the United States has maintained an ambivalent stance concerning the Thai monarchy, partly due to its strategic calculations in response to the warming relations between Thailand and China. As for China and the members of the Association of Southeast Asian Nations (ASEAN), they have remained conspicuously silent regarding the excessive use of the *lèse-majesté* law in Thailand. The rise of authoritarianism in the region has contributed to a high level of tolerance for human rights violations by countries in this part of the world.

### **The Determining External Factors**

As mentioned earlier, this study employs a two-level approach to analyze the relationship between the human rights agenda in Thailand and external circumstances, using the *lèse-majesté* crisis as a case study. Due to the state’s politicization of the *lèse-majesté* law, Thailand not only failed to uphold human rights but also actively engaged in human rights abuses. This situation has placed Thailand in contradiction with its diplomatic aspirations in an era marked by global awareness of human rights.

Nevertheless, Thailand has persisted in justifying the existence of the draconian *lèse-majesté* law by citing regional and international contexts. The two most influential powers for Thailand, the United States and China, have engaged in ongoing hegemonic struggles, providing the country with a rationale for its mishandling of human rights. Additionally, the worsening illiberal climate in the region has further

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<sup>17</sup> “Royalists Rally at German Embassy, Submit Letter,” *Bangkok Post*, 28 October 2020, <https://www.bangkokpost.com/>.

<sup>18</sup> “Statement by NSC Spokesperson Emily Horne on National Security Advisor Jake Sullivan’s Call with Secretary General Natthaphin Narkphanit of the Thai National Security Council” (press release, The White House, 8 February 2021), <https://www.whitehouse.gov/>.

<sup>19</sup> “Thailand Shut out of US Democracy Summit again,” *Bangkok Post*, 29 March 2023, <https://www.bangkokpost.com/>.



emboldened the Thai state in its disregard for human rights within its borders. This has effectively created a sense of Thai immunity against intrusive international human rights norms and practices.

### ***US–China Rivalry***

In recent decades, China's ascent has significantly reshaped the world order, challenging American hegemony. This rivalry between the United States and China has had palpable effects on Southeast Asia, where China has traditionally considered the region as its sphere of influence due to historical ties, geographical proximity, shared cultures, and extensive economic interactions. Consequently, China's relations with Southeast Asian nations have been complex, marked by occasional disputes and an often-described unequal dynamic.

During the Cold War, China was viewed as a communist threat in Southeast Asia. However, after the Cold War, China embarked on an image transformation to improve its relations with its Southeast Asian neighbors. China's economic ascent played a pivotal role in this image makeover, as it established strong economic ties with Southeast Asian nations, particularly evident in countries like Myanmar, Cambodia, and Laos, which share land borders with China. Thailand normalized diplomatic relations with China in 1975, coinciding with the US withdrawal following the Vietnam War. Bilateral relations flourished, driven by the absence of territorial conflicts and close connections between the political leadership and armed forces of both countries. Following the 2014 coup, which drew condemnation from Western governments, the Thai junta found solace in its relationship with China. China's consistent noninterference stance toward Thailand was well-received by Thai leaders, signaling Chinese recognition of the political regime in Bangkok.

On the other hand, Thailand's relationship with the United States has been multifaceted. The United States is arguably one of Thailand's most important partners, cemented by a military treaty. During the Cold War, the United States collaborated closely with the Thai military to counter the communist threat and bolster military influence in politics. Despite experiencing a new wave of democratization post-Cold War, US policy toward the Thai military remained largely unchanged. The annual Cobra Gold military exercise, initiated in 1982, served as a cornerstone of Thai-US relations. Following the 9/11 attacks, Thailand earned the designation of the United States' major non-NATO ally. In response to the two military coups in 2006 and 2014, the United States was obligated to impose sanctions on Thailand as mandated by US law. However, Cobra Gold exercises continued despite sanctions, highlighting inconsistencies in US policy toward

Thailand. Today, these inconsistencies deepen as the United States competes with China to maintain its political influence in Thailand.

On one hand, the United States has made democracy promotion a central goal in its foreign policy, occasionally intervening in Thai politics under the banner of supporting democracy.<sup>20</sup> However, with Thai politics heavily influenced by the military, US interventionist efforts have largely been rebuffed. Thai military leaders have explicitly stated, “Thailand is not a colony of the United States.”<sup>21</sup> Some voices in Thailand have even called for boycotting US products.<sup>22</sup> Consequently, the push for Thai democracy has produced counterproductive effects on US–Thai relations, pushing Thailand further into China’s sphere of influence. This situation has created an awkward reality where the United States, while competing with China for influence in Thailand, remains conspicuously silent on the issue of *lèse-majesté* in Thailand. Reports suggest that the US government may acknowledge the growing human rights violations stemming from the *lèse-majesté* law against monarchy critics but displays limited interest in intervening due to the desire to nurture its long-established relationship with Thailand.<sup>23</sup>

### ***Illiberal Trend in the Region***

Thailand is not the sole country in Southeast Asia experiencing the rise of illiberalism. Across the region, an illiberal trend is reshaping national politics. Myanmar’s political landscape has long been characterized by militarism, a trend that was reinforced by the 2021 coup, which ousted the elected government of the National League for Democracy. In Cambodia, Prime Minister Hun Sen’s political monopoly has been maintained through harsh tactics against the opposition. Notably, Cambodia followed Thailand’s lead in enacting its own *lèse-majesté* law in 2018, using it as a tool against political adversaries. Laos and Vietnam, despite differing levels of openness, remain communist states. Singapore has embraced one-party rule, and Brunei continues to thrive as an absolute monarchy.

Within ASEAN, progress in promoting democracy and protecting human rights has been sluggish. This is primarily because member states often have poor human

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<sup>20</sup> Marian I. Lawson and Susan B. Epstein, *Democracy Promotion: An Objective of U.S. Foreign Assistance* (Washington, DC: Congressional Research Service, 4 January 2019), <https://sgp.fas.org/>.

<sup>21</sup> Pravit Rojanaphruk, “No, Thailand is not a Colony of the US. Nor the Junta, for that Matter,” *Khaosod English*, 28 May 2016, <https://www.khaosodenglish.com/>.

<sup>22</sup> “Nak Wichakarn Ruan Pankrasae Boycott Sinka Makan Kratop Thai Eng” [Scholar Warns that Inciting a Boycott Measure against the United States will Affect Thailand], *Siam Rath*, 29 October 2019, <https://siamrath.co.th/>.

<sup>23</sup> Pavin Chachavalpongpun, “My Attacker Has Been Jailed. But Who Was Pulling the Strings?,” *Washington Post*, 9 June 2022, <https://www.washingtonpost.com/>.

rights records of their own, rendering them vulnerable to international scrutiny. Autocratic regimes within the region have informally collaborated, seemingly to legitimize each other in the face of Western disapproval. For instance, Supreme Commander Senior General Min Aung Hlaing visited Bangkok shortly after the 2014 coup to express support for the Thai junta, which reciprocated by endorsing the 2021 coup in Myanmar. Interestingly, Myanmar later sought Thailand's assistance in restoring democracy.<sup>24</sup>

Over time, the political interests of Thailand and its autocratic neighbors have converged, particularly with the backing of China. These Southeast Asian autocratic states have increasingly appeared as a substantial “dark hole” with the potential to undermine democracy in the region. However, this collaboration is not unique to Southeast Asia; it is part of a broader global trend of democracy facing reversals. Democratic decline is no longer confined to one region or continent, encompassing a wider array of nations from various parts of the world. This trend is unlikely to be halted.

Joshua Kurlantzick argues that with authoritarian states like China wielding more power and established democracies in the West and the developing world showing reluctance to stand up for their values or employing democracy promotion strategies that often focus solely on rhetoric and elections, the international environment has become increasingly complex and challenging for democracy.<sup>25</sup>

Despite the concerning human rights situation, ASEAN as an organization has never issued an official statement on the *lèse-majesté* situation in Thailand. In practice, many Southeast Asian states do not prioritize human rights protection as it could jeopardize regime stability. Additionally, ASEAN's fundamental principle of noninterference has hindered any meaningful discussion on human rights crises in member states. This principle has not only become an organizational norm but also a prevailing political culture in the region.

In February 2023, ASEAN Parliamentarians for Human Rights (APHR) called on the Thai government to establish communication channels with Thai protestors to address issues related to amending the *lèse-majesté* law. This call coincided with the start of a hunger strike by two young female protestors, Tantawan Tuatulanon and Orawan Phupong, who demanded reforms in the Thai justice system, the release of political prisoners, and the abolition of the *lèse-majesté* law.<sup>26</sup> However,

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<sup>24</sup> “Myanmar Junta Leader Asks Thai Counterpart for Help on Democracy,” *Reuters*, 10 February 2021, <https://www.reuters.com/>.

<sup>25</sup> See: Kurlantzick, *Democracy in Retreat*.

<sup>26</sup> “Southeast Asian MPs Urge the Thai Government to Listen to Hunger Strikes, Amend the *Lèse-majesté* Law,” *ASEAN Parliamentarians for Human Rights*, 10 February 2023, <https://aseanmp.org/>.

the APHR's call faded without significant impact, lacking an enforcement mechanism to address human rights issues in the region. Thailand has continued to handle its *lèse-majesté* issue without substantial pressure from its key partners and fellow ASEAN members.

### **The Thai Human Rights Stance in the World**

As a member of the United Nations, Thailand bears certain obligations to fulfill in order to align with its desired international role. However, the deteriorating *lèse-majesté* situation, driven by the state's crackdown on critics of the monarchy, has cast ambiguity over Thailand's commitment to improving the international human rights system within the UN framework. The *lèse-majesté* issue has essentially held Thailand's human rights stance hostage on the global stage. In multilateral meetings, Thailand frequently abstains from supporting resolutions condemning blatant human rights abuses.

For instance, in April 2022, Thailand abstained from a vote to suspend Russia from the UN Human Rights Council (UNHRC) during the UN General Assembly in New York. Indonesia and Malaysia within ASEAN also abstained, while Laos and Vietnam voted against the suspension. Thailand's Permanent Representative to the UN, Suriya Chindawongse, explained that the abstention was due to the importance attached to maintaining a "transparent, impartial and inclusive approach in the multilateral regime."<sup>27</sup> Thailand's ambiguous stance could be viewed as a defensive maneuver to obscure its deteriorating human rights situation. It's worth noting that Russia is one of Thailand's significant trading partners, having sold \$50 million worth of arms to Thailand between 2015 and 2021.<sup>28</sup> In October of the same year, Thailand also abstained from the UN resolution rejecting Russia's annexation of Ukrainian territories, raising doubts about Bangkok's commitment to human rights.<sup>29</sup>

At the UNHRC in Geneva, the spotlight illuminated human rights issues in Thailand during the third Universal Periodic Review (UPR) on November 10, 2021. The international community, comprising Western governments and some Asian and developing countries—Afghanistan, Japan, Mongolia, South Korea, and

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<sup>27</sup> "Thailand Abstains in Vote to Suspend Russia from UN Human Rights Council," *Thai PBS World*, 8 April 2022, <https://www.thaipbsworld.com/>.

<sup>28</sup> David Hutt, "Why Southeast Asia Continues to Buy Russian Weapons," *Deutsche Welle*, 5 April 2022, <https://www.dw.com/>. Also see: Siemon, T. Wezeman, *Arms Flows to Southeast Asia* (Stockholm: Stockholm International Peace Research Institute, 2019), 40.

<sup>29</sup> Ian Storey, "When Abstention Speaks Volumes: Thailand's Turnaround in the UNGA," *Fulcrum*, 14 October 2022, <https://fulcrum.sg/>.

Timor-Leste—emphatically and vocally called for Thailand to reform the *lèse-majesté* law. Beyond addressing the *lèse-majesté* law, the UPR on Thailand encompassed a broad spectrum of human rights concerns. These included freedom of expression, freedom of assembly and association, protection of human rights defenders from harassment, attacks, and Strategic Lawsuits Against Public Participation (SLAPP), as well as matters related to enforced disappearances and torture. Notably, 12 countries recommended modifications to the *lèse-majesté* law: Luxembourg, Norway, Sweden, Switzerland, the United States, Austria, Belgium, Canada, Denmark, Finland, France, and Germany.<sup>30</sup>

These recommendations from various countries can be categorized into three primary themes. Faced with substantial international pressure, the Thai government mounted a vigorous defense of the *lèse-majesté* law during its responses to the interactive dialogue. The government cited the monarchy's central role as the "main pillar of the nation," highlighting its revered status among the Thai people.<sup>31</sup>

The Thai Foreign Ministry argued that not all complaints had resulted in formal charges and prosecution, emphasizing the need for due diligence by law enforcement authorities. The final decision on whether to prosecute cases rested with the Attorney General. The Thai government also asserted, "Appeals are often invoked and if the accused do not pose a risk of committing further violations of the law, their bail requests would also be granted. Like in many other countries, any review of the law is an issue for the Thai people to decide. Current discussions reflect the functioning of relevant parliamentary and constitutional mechanisms that allow different voices to be heard in the consideration of this very important law."<sup>32</sup>

Following the UPR process, in March 2022, the Thai government officially responded to the recommendations, staunchly maintaining its position. Thailand rejected all recommendations related to the reform of the *lèse-majesté* law.<sup>33</sup> This strong defense of the law underscored Thailand's disregard for international human rights norms and revealed inconsistencies in its human rights foreign policy. Intriguingly, six months after rejecting the UNHRC members' recommendations for *lèse-majesté* law reform, Thailand announced its bid to become a member of the UNHRC for the 2025 cycle, further highlighting the inconsistency in its human

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<sup>30</sup> Pavin Chachavalpongpun, "Countries which support the reform of Article 112," *112 Watch*, 10 November 2021, <https://112watch.org/>.

<sup>31</sup> Reuters, "Thailand defends its strict royal insults law at UN rights review," *Straits Times*, 10 November 2021, <https://www.straitstimes.com/>.

<sup>32</sup> "The Third Universal Periodic Review (UPR)," *112 Watch*, 12 November 2021, <https://112watch.org/>.

<sup>33</sup> "Thailand: Statement for the Outcome of the Universal Periodic Review (UPR)," *International Federation for Human Rights*, 24 March 2022, <https://www.fidh.org/>.

rights stance.<sup>34</sup> A significant gap persists between Thailand's actual human rights situation and its diplomatic aspirations as articulated through its human rights policy.

## **Conclusion**

Thailand's much-anticipated May 2023 elections were anticipated as an opportunity to break the political stranglehold of the military, which had staged a coup in 2014. The pro-reform Move Forward Party emerged victorious, winning the most seats, potentially positioning its leader, Pita Limjaroenrat, as the next prime minister. This party was the sole advocate for amending the *lèse-majesté* law. In a surprising twist, the conservative establishment employed parliamentary means to thwart the Move Forward Party's ambitions.<sup>35</sup>

The military-appointed Senate blocked Pita's premiership, effectively sabotaging its bid for political power. Meanwhile, the second-place Pheu Thai Party rapidly shifted its stance, pledging to leave the *lèse-majesté* law untouched while reaching out to other conservative parties to form a coalition government. This strategic maneuver paid off, and Thaksin, who had been in exile for 15 years, returned to Thailand with the potential to re-enter politics. Srettha Thavisin from the Pheu Thai Party was approved as the thirtieth prime minister of Thailand. Although the nature of Srettha's government remains uncertain, his party's announcement that it would not consider reforming Article 112 suggests that human rights foreign policy may remain elusive. The composition of the current government, a mix of politicians from the previous regime, reinforces the belief among the Thai public that human rights will have a low priority on the foreign policy agenda.

The future of Thailand's human rights foreign policy appears grim. The United States has already congratulated the new Srettha government and expressed a commitment to enhancing bilateral relations.<sup>36</sup> However, the United States remains hesitant to engage in discussions regarding the future of Thai democracy and the state of human rights, particularly given the government's newfound partnerships with entities known for human rights violations. American interests, particularly concerning the monarchy and *lèse-majesté* law, are deemed non-negotiable, influencing Washington's strategic calculus.

In the case of China, noninterference in Thailand's domestic affairs aligns with its efforts to cultivate ties with Thai conservative elites. Ultimately, the Thai po-

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<sup>34</sup> Yawee Butrkrawee, "Bid for UNHRC Seat Needs Care," *Bangkok Post*, 13 October 2022, <https://www.bangkokpost.com/>.

<sup>35</sup> Pavin Chachavalpongpun, "Everybody Wins in Thailand's Election Except the Voters," *New York Times*, 2 August 2023, <https://www.nytimes.com/>.

<sup>36</sup> "US Congratulates Thailand's New PM," *Thai PBS*, 24 August 2023, <https://www.thaipbsworld.com/>.

litical deadlock aligns with the broader illiberal trend in Southeast Asia, with Myanmar's military maintaining its grip on power, and Cambodia's Hun Sen transferring his premiership to his son, Hun Manet, further solidifying dynastic politics.<sup>37</sup> The defeat of the Move Forward Party underscores the challenges facing Thai democracy. Consequently, the rise of illiberalism is poised to exacerbate the human rights situation, and major powers appear reluctant to address it comprehensively. ✪

### **Dr. Pavin Chachavalpongpun**

Dr. Chachavalpongpun is a notable Thai academic and political exile residing in Japan. He earned his bachelor's degree from Chulalongkorn University and his PhD from the University of London. Pavin worked as a diplomat in Thailand's Ministry of Foreign Affairs for over a decade before transitioning to academia as a professor at Kyoto University. There, he serves as editor-in-chief of the *Kyoto Review of Southeast Asia*. Pavin is the author of several acclaimed books on Thai politics and society, including *A Plastic Nation: The Curse of Thainess in Thai-Burmese Relations* (2005) and *Coup, King, Crisis: A Critical Interregnum in Thailand* (2020). His pointed criticisms of the Thai monarchy forced him into exile in Japan, where he continues his scholarship and advocacy.

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<sup>37</sup> Shaun Turton, "Hun Manet Appointed by King as Cambodia's Next PM," *Nikkei Asia*, 7 August 2023, <https://asia.nikkei.com/>.