

THE BIG INTERVIEW

112WATCH interviews scholar Mark S. Cogan on the excessive use of lèse-majesté in Thailand.

112WATCH: As a non-Thai living outside Thailand, what do you think about the current excessive use of lèse-majesté against critics of the monarchy?

Cogan: The use of Article 112 as a political weapon is problematic and it has concerned me for quite some time. There has been a steady progression of lèse-majesté as a vehicle for repression since the May 2014 coup. Also, as Thailand grieved the loss of the late King Bhumibol, extreme political divisions also amplified the use of Article 112 among Thai citizens. Some even looked online for violators or reacted to rumours or speculation that their neighbour had insulted the monarchy. It has only increased in usage as the government has weaponized the law to control dissent. That is worrying not only for Thais, but to foreigners who are planning to visit the country, as many states have added lèse-majesté information into their travel advisories. It's also concerning because many tourists regard Thailand as one of the safest travel destinations.

112WATCH: Domestic advocacy groups have attempted for years to push for reform of Article 112. But there remained obstacles. This is also applicable to the efforts coming from the international community. What else can we do to help materialise this agenda?

Cogan: Advocacy and human rights groups mainly push for reform through so-called "naming and shaming" the Thai government into compliance. That has proven to be completely ineffective. If we are not talking about government actors, but domestic Thai organisations and international actors, the best catalyst is a combination of advocacy at the international level and political dialogue at the local level. Media interest in lèse-majesté is event driven. After an excessive or draconian sentencing, for example, is the best time to approach reporters to fuel the international discussion and raise awareness about Article 112. Advocacy groups must realise that the window for media interest will be short. Other stories will break. Public interest in the topic will wane. That is the reality of a 24-hour (or less) news cycle. The second half of the equation is political dialogue at the national level. Advocacy groups may need to maintain a discreet distance from political protesters, as the government may not see them as rational or credible partners. Reform is likely to come at a snail's pace. There is no motivator for the government (or the monarchy) to come to a political

dialogue on the issue. Events, however, may become a motivator for change. The key is finding moderate partners and established political actors to steer political discussion. The proper venue for organisations to address human rights concerns is through the Universal Periodic Review (UPR), a mechanism administered by the United Nations Human Rights Council. Last year, just like all states do every four and a half years, Thailand went through the process in Geneva. However, it did not go well and I think that advocacy leading up to the UPR was insufficient. Advocacy groups should better prepare for upcoming UPR sessions, as well as those of other UN treaty bodies where the issue may present itself. It must, however, go beyond the mere act of "naming and shaming" and into a discussion about what reform might look like, providing a reasonable policy alternative or communicate that there would be dramatic upsides to lèse-majesté curbs.

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112WATCH: The monarchy is at the centre of the Thai political crisis. So far the king has shown no sign of supporting the reform. If this trend continues, how do you see the future of Thailand?

Monarchical reform is bound to be controversial and will surely draw extreme responses from those wishing for the status quo to remain. Surely there are influences in the palace that would like to see the same. I don't believe that reform was the main catalyst that created modern Thailand's polarised society, but in the past few years it has become synonymous with political expression, as social and political taboos have been broken. It's not a conversation that can be avoided. The effect the threat of arrest has on activists has decreased, despite record

prosecution under Article 112. As more Thais dare speak of what only years ago could not be spoken, arrests and instances of extreme sentencing, evidenced recently by the record 43-year sentence for a former civil servant, will increase in the short term. That inevitably leads to a dilemma for the regime and for the monarchy. Added repression comes at a steep cost, measured by reduced popular legitimacy. As this continues to escalate, this negative spillover effect will ultimately be damaging for the monarchy. It is, however, completely avoidable.

112WATCH: Western governments have been reluctant to raise the issue of Article 112 and reform of the monarchy because of their vested interests in Thailand. One should not expect them to disregard their national interests. But will there be ways for these countries to strike a balance between interests and promotion of democracy and human rights as they deal with Thailand?

Cogan: This is fraught with challenges. As we have seen from the UPR, Thailand's Ministry of Foreign Affairs is very good at handling responses from Western governments on *lèse-majesté*. It, like in previous UPRs, held firm, calling the Thai monarchy the "main pillar of the nation" and despite receiving many recommendations from states who were concerned about the increased usage of Article 112 as a political weapon, declined to accept a single one. Maintaining normal bilateral relations has proven to be the priority of Western states. When under President Obama, the United States chose to admonish Thailand after the 2014 coup. Critics have since argued that Obama's normative stance on democracy and human rights pushed Thailand further into the embrace of China. While most scholars know that Thailand's foreign policy "bends with the wind" like bamboo, it is far more rigid in navigating issues like *lèse-majesté*. As I have learned in the past from my experience with the United Nations, topics like this are far too delicate to press in most diplomatic venues and are likely to be scrapped far before an agenda can be set. States, unfortunately, expect a kind of reciprocity on sensitive issues.

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112WATCH: Thailand has been in the shadow of Myanmar when it comes to human rights violations in the eyes of the world. Do you have any suggestions for Thai advocacy groups to communicate with the world and let it know that the situation here in Thailand is no less precarious than that in Myanmar?

Cogan: I'm uncomfortable with the word "shadow". There are levels of state violence and what the military regime in Myanmar has been doing since the coup in February 2021 takes human rights violations to their digestible limit. It is important not to get into a position where Thai and Burmese victims of human rights jockey for international attention. Like with the Tatmadaw in Myanmar, Thailand has had moments in its history where the state showed a complete lack of regard for human rights—1973, 1976, 1991, 2010, and recently with *lèse-majesté* excessive sentencing, police brutality, military detentions and trials, and "reeducation" camps. My advice in this situation is to avoid any comparison with that of Myanmar and to seek the opportunities to share human rights abuses in Thailand with international media when opportunities present themselves. I'm being deliberately pragmatic and realistic here. When Russia invaded Ukraine on February 24, any remaining visibility for the plight of the people of Myanmar vanished. Prior to that, the world's attention was on the situation in Afghanistan, whose population faces a desperate humanitarian crisis that has now been largely forgotten by the international press. The inability of human beings to split their attention during times of multiple crises remains a persistent challenge.



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