

## THAILAND UPDATE

- “Lèse-majesté”: A Distinctive Character of Thai Democracy amidst the Global Democratic Movement by Professor Dr. Borwornsak Uwanno is a legal and sociological analysis on the issue of Lèse-majesté in Thailand. Dr. Borwornsak explains how the lèse-majesté laws of Thailand can be misinterpreted by the Thai and international community and how it relates to other basic human rights and laws. Please find key excerpts below.
- “Whatever the form of democracy, it is commonly recognized that the Head of State has a status different from that of ordinary citizens, being not an individual but an institution and a representative of the state. This is both an **international customary law** and a **constitutional legal principle in democracies.**” (Page 8)
- “Article 5 of the Norwegian Constitution of 1814 states that ‘The King’s person is sacred; he cannot be censured or accused.’” (Page 9); “Article 13 of the Danish Constitution of 1953 states that ‘The King shall not be answerable for his actions; his person shall be sacrosanct...’” (Page 9)... “Article 56[3] of the Spanish Constitution states that ‘The person of the King is inviolable and is not subject to political responsibilities.’” (Page 10); “Article 4 of Luxembourg’s Constitution states that ‘The person of the Grand Duke is inviolable.’” (Page 10)
- “Insulting or threatening...the Head of State of foreign countries [Section 133],...is an offence against the friendly relations with foreign states...” (Page 22)
- “...if we believe that no country is right or wrong but that each is democratic in its own way based on its own social, cultural and ethical norms, thereby creating diversity, then we will better and more easily appreciate others without passing judgment on them based on our own standards. The term for this is ethical relativism.” (Page 17)
- “The bond between the Thai monarchy and the Thai people is unique. It is not one between the Head of State as a political institution and the people as holders of sovereign power...The lèse-majesté offence means not just harm to the monarch but also to the “father” of most Thais – **a serious social offence comparable to ingratitude towards one’s own father.**” (Page 27, 32)
- “It is clear...that the Thai Criminal Code classifies offences of insult or defamation in accordance with the status of and relations among persons in line with ethical norms in Thai society. This has made Thai laws different from those of other countries in a number of respects. For instance, deliberate homicide [Section 288] is punishable by death, life imprisonment, or imprisonment for 15-20 years, while murdering an ascendant [e.g. parents and grandparents], an official in the exercise of his or her duties, etc. [as specified under Section 189] carries a mandatory death sentence. This is because in Thai society, parricide is, based on its religious and ethical norms, an unforgivable sin and the gravest act of ingratitude.” (Page 23)
- “All this demonstrates that **in Thai society**, the lèse-majesté offence has its basis not only in the principles of international law or constitutional law but also in Thai ethics, culture and Buddhist principles which are unique to Thai society. In a similar vein, some Western countries may protect their Parliaments through contempt of parliament laws..., or protect their Courts through contempt-of-court laws, while Muslim countries protect their God and faith...This is in line with the criminological principle that certain acts may be criminalized if there is a social consensus that they are harmful to society and constitute a limitation of freedom of expression.” (Page 32-33)
- Dr. Borwornsak is the Secretary-General of King Prajadhipok’s Institute. King Prajadhipok’s Institute is established and mandated by the House of Representatives of Thailand to promote democracy within the Thai government. For more information, the website is <http://www.kpi.ac.th>, where full text of the document can be found.

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