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BOOK REVIEWS

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Tyrell Haberkorn. *Dictatorship on Trial: Coups and the Future of Justice in Thailand*. Stanford: Stanford University Press, 2024.

Reviewed by Gregory V. Raymond*

Tyrell Haberkorn's remarkable work of human rights scholarship ultimately rests on imagining a different world rather than on explaining the one in which we currently live. In this respect her work upholds Albert Einstein's maxim that "imagination is more important than knowledge." That is not to say that her latest book, *Dictatorship on Trial*, does not exhibit meticulous, painstaking, exacting scholarship. It does—to a very high degree. But the brilliance of this book lies in its creativity, its imagining of how Thailand's justice system might have dealt with people had it been more genuinely committed to fairness rather than the ceaseless legitimizing of state power.

The relationship between law and power is a topic on which oceans of philosophical ink have been spilled, and even a good-sized lake in Thai studies, with such notable contributions as the "cultural constitution" (Nidhi 2003) and the "supra-constitution" (Connors and Ukrist 2021) used to explain why the law in Thailand is fragile and partial. To paraphrase John Girling (1966, 160), Thai law often seems caught between the hammer of brute military power and the anvil of monarchical charisma and Buddhist cosmology. In this volume Haberkorn spends relatively little time on the debate about the origins of Thai injustice, directing readers to other sources such as Eugénie Mérieau's (2016) work on the monarchy and the constitution. Haberkorn's purposes are different, but her views are unambiguous.

Indeed, Haberkorn lays her cards on the table early, naming Thailand a perverse distortion of Max Weber's definition of a state: Thailand is a state, she says, "characterized by holding a monopoly on the legitimized use of illegitimate violence" (p. xv). In her earlier work, Haberkorn's response to this illegitimacy was to put the Thai state, or rather its 2014 coup-makers, on trial, imagining a future when a democratic Thailand might wish to prosecute those who misused state power (Haberkorn 2020). This prospect, the author points out, is not far-fetched, given

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that the Thai prime minister and deputy prime minister were indicted for mass state violence following the bloody events of 2010, a hitherto unprecedented event in Thai history (Haberkorn 2020, 302). And we might also note here the recent decision of the Philippines to send a former president to the International Court of Justice as another breakthrough that seems to defy the global trend away from liberalism and democracy.

This time, however, Haberkorn takes a different approach, one inspired by feminist legal scholars who have rewritten court judgments. Using the available evidence and extant law, these writers compose new rulings that are more just, in the sense of treating women as "equal members of the polity" (p. xviii). While admittedly utopian, this action is important and emancipatory. Haberkorn replicates this process in a Thai context, rewriting judgments made during the time of the National Council for Peace and Order between 2014 and 2019. In doing so she transforms the judgments from a "jurisprudence of impunity," in which there is reflexive privileging of the monarchy and the military, to a "jurisprudence of accountability," in which the participation of ordinary people in the polity is given greater weight and there is a willingness to hold state officials to account (p. 17). She selects five decisions, two where Thais attempted to hold the junta to account for their illegal seizure of power and use of military bases for detention of civilians, and three where people disobeyed junta orders. After detailing the events leading up to each court case, she forensically dissects the Thai court judgment before finally offering a different judgment issued from an imaginary Thai "court of the people."

Haberkorn's decision to work at the micro-scale is interesting, not least because it evokes the work of Michel Foucault, who—though never mentioned here—also mapped power in its local and intimate contexts. Like Foucault, Haberkorn exposes the contingency inherent in critical moments, thereby denying the seamless inevitability that official state narratives of Thai history and the court judgments seek retrospectively to impart. If Foucault shows that movement in Western science has been less a steady progression and more a series of ruptures characterized by arbitrariness, Haberkorn aims to highlight "the incomplete and sloppy logic offered in support of coup" whilst noting that "the courage of people in standing up to dictatorship reveals the precarity of the seemingly strong justification for coups" (p. 27).

Speaking of inevitability, the question of positionality is one that will likely be raised in relation to this work, as it was at a presentation that Haberkorn gave at my own university. Haberkorn is a white North American citizen offering a critical rendering of Thailand's legal system. The history of such unsolicited evaluations from Anglophone states is, of course, not a pretty one. A little more than one hundred years ago British diplomats responded unfavorably to the entreaties of Prince Charoon and other Siamese delegates to the Paris Peace Conference. The delegation sought the lifting of unequal treaties, imposed on Siam by the threat of the use of force, that enshrined the rights of foreign powers to have their citizens immune from Thai laws and courts. In August 1919 the British diplomat T.H. Lyle argued that such Thai requests

should be dismissed, writing of the "insurmountable disparity between the contracting parties," a disparity of "political development, national education, growth and mental capacity."[1] Moreover, the history of Western human rights organizations such as Amnesty International have themselves been subject to recent criticism, for the way in which they embody a deliberate strategy of Western capital (represented by such groups as the Mont Pelerin Society) to use the discourse of individual human rights to ensure that questions of justice are not allowed to permeate into free trade. In this way, Jessica Whyte (2019, 141–155) argues, human rights have depoliticized the division of labor in the world economy so vital for Western capital.

In considering these troubling questions, it might first be usefully observed that in the contemporary era, authoritarian states have become adept at drawing on this history to legitimize their oppression. As one commentator has observed, when "progressives mobilise in such liberal ways for causes ranging from anti-racism to anti-colonialism, . . . they do so at some risk of enabling their own enemies," including far right governments in Asia (Devji 2021). China, in particular, wishes to see liberal values dethroned and so argues that the United States in the past has used these norms to contain China's rise. This argument—that the West uses liberal values as a geopolitical tool to maintain its global power—has been readily accepted in authoritarian states such as Russia, Iran, and Venezuela.[2] Thai conservatives have also readily embraced parallel arguments. Witness the conservative monk Buddha Issara, who argued that the politics of a free democracy were a threat to morality (*sinlatham*) and that Thailand should have a Thai-style democracy consistent with the state's institutions and background (Somsak and Winai 2018). This argument for particularism persuades some Western observers.

However, to this reviewer's mind, Haberkorn's methods ensure that her work is far from that of a *farang* imposing liberalism in order to subjugate. First, Haberkorn reads Thai state documents, doctrines, and justifications issued by the Thai state against their own standards and logics, exposing where these do not add up or where there are gaps. She pays particularly close attention to the tortured reasoning Thai judges adopted to absolve coup-makers of wrongdoing after every instance of their disobeying the lawful orders of a government put in place under a previous constitution. An example is her account of a Supreme Court ruling on a suit filed by 15 ordinary Thais against the architects of the 2014 coup. The petitioners charged the putsch leaders with depriving them of liberties and rights that they had previously enjoyed. Unsurprisingly, the Supreme Court dismissed their complaint. But in the process it let slip a curious and vital admission, conceding that the interim constitution imposed by the junta providing immunity from prosecution was law *only on the basis of the junta having gained control of the state*. The legitimacy of the junta document, given the circumstances in which the military gained control of the state, was a separate matter that the court consciously decided to ignore, writing, "[W]hether or not that power was legitimately obtained is another issue to be discussed elsewhere" (p. 44).

Second, Haberkorn's work is an exercise in empowering ordinary Thais, chronicling their history of resistance and giving voice to their long history of seeking justice. The cases she presents are the result of working with the Thai legal agencies that document these cases through court attendance, as well as her own attendance at court hearings. Haberkorn thereby acknowledges and validates ordinary Thais, such as Sombat Boonngamanong, who said of the cases:

> All of these cases are a record of the system of the judicial process. I hope that one day they become small case studies, or the decisions are debated with respect to the politics of law in the future. I hope that's how it will be. Let them be recorded in history. Because they have the troops, they have the guns. All we have are our voices. (p. 18)

As Haberkorn has noted in an earlier work, there is a tendency for histories of Thailand to use coups as non-contentious marker points of different eras, glossing over the injustice and resistance that each inspired (Haberkorn 2018, 5, 27). Her rendering of Thai history and rewriting of Thai court judgments prevents this fate for Thais who resist, and offers hope for a different future.

Notes

1) Mr. Lyle to Earl Curzon, Bangkok, August 20, 1919. UK National Archives, Kew Gardens, FO 371/4091.
2) "A 'China Model?' Beijing's Promotion of Alternative Global Norms and Standards," Hearing before the US-China Economic and Security Review Commission, March 2020. https://www.uscc.gov/sites/default/files/2020-10/March_13_Hearing_and_April_27_Roundtable_Transcript_0.pdf, accessed April 7, 2025.

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