

# Book Review: Fighting for Virtue: Justice and Politics in Thailand by Duncan McCargo

**Fighting for Virtue: Justice and Politics in Thailand**, authored by **Duncan McCargo**, is a compelling text that portrays the dynamics of a complicated judiciary, a central player in the fractious political landscape of contemporary Thailand, writes **Al Lim**.

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**Fighting for Virtue: Justice and Politics in Thailand. Duncan McCargo. Cornell University Press. 2020.**

Who are Thai judges and how have they become embroiled in the country's contentious political landscape? This has especially been the case in contemporary Thai politics with the escalating number of lèse-majesté and politicised legal cases. In *Fighting for Virtue*, Duncan McCargo takes up these vital issues and opens the worlds of Thai judges, exploring how they came to be so deeply involved in Thai politics. Through a political ethnography that involved spending hundreds of hours in criminal courts and reviewing numerous Thai documents, he illuminates their messy, complex and ambivalent perspectives. McCargo posits that the judges have taken on an impossible task — to execute an ambiguous royal mandate while being trained for entirely different roles. In this manner, the judges embody and reproduce forms of hyperlegalism, which refers to an obsession with legal measures as the necessary solution, thus shaping much of the nation's political crisis.

King Bhumibol's speeches in 2006 struck Thai judges as a royal mandate to solve the nation's political problems. In the first three chapters, McCargo explores the relationships between Thai judges and the monarchy, unpacking the challenges that the judiciary had been facing following the King's speech. In short, he explains that the judges have not been equipped for the task that they were now expected to execute. Judges were socialised into a professional world and sat for extremely difficult exams to become public servants held in high regard. They saw themselves as arbiters of royal justice who have been set apart to support virtuous rule, combining notions of serving the King with dispensing legal judgments. At this juncture of judicial royalism, Thai judges had to reconcile navigating a sensitive political terrain of legal cases without having the proper training for it, all the while under increasingly intense public scrutiny.

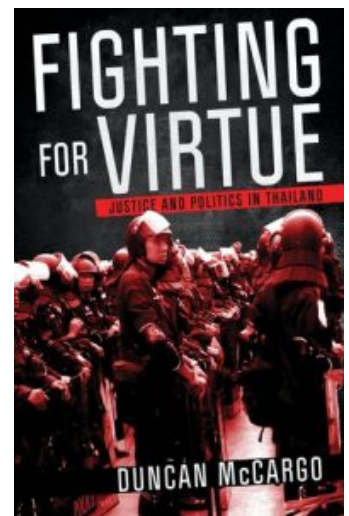




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McCargo then unpacks three legal cases on the treason spectrum in Chapters Four to Six, reinforcing the politicisation of the judiciary and their struggles to manage their cases' process and outcomes. The first case is Somyot Prueksakasemsuk's lèse-majesté trial in 2010 when he was given a ten-year jail term for two articles he did not write. Second, Katha Pachachirayapong was charged under the Computer Crimes Act of 2007 for an anonymous computer post that repeated rumours about the King. The third case involved the conviction of Jon Ungpakorn and nine co-defendants who disrupted the National Legislative Assembly (NLA) in 2007. McCargo posits that these defendants should never have been charged. Nevertheless, he avoids a polemical stance to justify their innocence, and unpacks the intricacies of each trial to highlight their wider political significance instead. McCargo details the way that the defendants' lawyers did not present these cases well and produced counterproductive arguments. Correspondingly, the judges were exasperated by these tactics and imposed their own form of order in the court and draconian judgments. The nuances of these legal proceedings reveal the dynamism of Thai courtroom spaces, connected to their wider national significance.

Following these three cases, McCargo focuses on the controversial rulings of the Constitutional Court (Chapters Seven to Eight). At the centre of judicialisation's politicisation is the ex-premier Thaksin Shinawatra. At first, Thaksin was supported by an alliance of liberal royalists in a major 2001 acquittal, as they believed he would be able to firm up the political system and ensure stability. This changed over the next few years as he gained political prominence with his popular Thai Rak Thai party. Subsequently, he was ousted in a 2006 coup and faced a barrage of charges from the Constitutional Court and Courts of Justice. McCargo claims that these anti-Thaksin cases depict the judiciary as being hesitant and confused, alternating between relationships of antagonism and collaboration. To add to the ambiguity of the Constitutional Court's position, he analyses an important 2012 constitutional amendment in Chapter Eight. Despite there being an anti-Thaksin bias in the court, a one-sided view or a characterisation of the judiciary as an instrument of the 'Deep State' would be far too simplistic. Indeed, leading judges were trying to avoid hearing the case at all in what was a messy, uncertain and complex situation. The charge of the Constitutional Court to protect national interests meant that it shifted its position with the political winds.

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McCargo's book provides a valuable exposé and analysis of the Thai judiciary's role in politics. The country's opaque legal system, shrouded in formality, combined with a series of contentious judgments, have left many questioning the logic and rationale behind major political decisions. Further, hyperlegalism has not only failed to solve Thailand's political problems but has exacerbated them. This monograph is a key resource that tracks these processes and raises key questions of *who* these judges are and *how* they have been implicated in political processes. Here, judges are neither demonised nor celebrated, but cast in an ambivalent light. McCargo paints a simultaneously critical yet sympathetic picture of the judiciary, while locating them within a rigid and hierarchical system. Looking to the future, he ends with a proposal towards a radical anti-legalism and a call to have countries run by elected politicians and not by courts. But if not the judiciary, would politicians not find other avenues to accumulate power or dismiss their opponents? It remains to be seen what a reduced hyperlegalism could do for the country, and what 'powers of imagination and empathy' might judges be able to muster as a 'force for good' (218).

*Fighting for Virtue* is a compelling text that portrays the dynamics of a complicated judiciary, a central player in the fractious political landscape of contemporary Thailand. It is highly recommended to readers of political anthropology, legal studies, history, political science and Southeast Asian studies.

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*Note: This review gives the views of the author, and not the position of the LSE Review of Books blog, the Saw Swee Hock Southeast Asia Centre or of the London School of Economics and Political Science.*

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