

# Possibilities for Decentralisation in Thailand: A View from Chiang Mai

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## Abstract

*In this article we examine radical proposals for political, administrative, and fiscal decentralisation in Thailand which were developed for Chiang Mai, as a potential model for Thailand as a whole. These proposals lay emphasis on local self-government and citizen participation. We argue that they offer a way forward for a Thai decentralisation process that has yet to proceed to the extent envisaged when it was commenced, as part of democratisation, in the 1990s—embraced most notably in the 1997 Constitution. Moreover, this process, we argue, offers a way out of the extreme confrontation between the yellow (royalist-conservative) and red (pro-democracy) factions that has troubled Thailand since 2005. As Thailand is now under a civilian rule after five years of military government, local and provincial government came once more to the fore, and we argue that the Chiang Mai Metropolitan Administration Bill of 2013, still before Parliament, offers more local democracy, as well as imaginative ways of recruiting the enthusiasm of local stakeholders, via a system designed to link provincial and local authorities and the citizenry in a virtuous circle of democracy and development.*

**Keywords:** Decentralisation — Provincial autonomy — Local democracy

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## I. INTRODUCTION

In the early months of 2019, 2020, and 2021, Chiang Mai, the Northern second city of Thailand, was shrouded in haze as airborne fine particulate matter had soared to a level marked “hazardous to human health.”<sup>1</sup> Naturally occurring forest fires and agricultural burning were blamed as its main cause. By March 2019, the city’s air quality came out first in the list of the world’s most polluted cities.<sup>2</sup> However, evidence indicates that Chiang Mai’s haze crisis during the arid season (between February and April) is not novel, but has been a regular occurrence for more than a decade. It only received attention nationwide in 2019 as the Bangkok Metropolitan Region simultaneously experienced a similar problem.<sup>3</sup> The absence of effective long-term and sustainable solutions to the haze problem has generally prompted heated criticism against the Chiang Mai Governor. Yet, it is not correct to blame a mere individual for such failure, which seems to be systemic rather than resulting from some incidental mismanagement: the powers of the Governor are in fact inadequate to deal with such a serious problem. The allegation is that the centre was unwilling, and the local authorities not empowered, to act decisively. Under the current administrative system of Thailand, provincial authority is delegated from the central government. This means that cardinal policies with regard to the haze crisis require initiative from Bangkok, rather than Chiang Mai. Chiang Mai’s haze problem has therefore in effect reinvigorated debate among local scholars and activists on the larger issue of decentralisation, thus raising the general question—why should resolutions to local problems be determined by the central administration?<sup>4</sup> The failure of the Chiang Mai Provincial Government to tackle the haze crisis therefore exemplifies defects pertaining to the present design of central-local relations—or more precisely, in our view, to Thailand’s excessive centralisation that still exists in spite of more than 20 years of purported decentralisation.<sup>5</sup>

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<sup>1</sup> “Chiang Mai Shrouded in Haze” *Thailand News* (23 January 2019) <<https://www.thailandnews.co/2019/01/chiang-mai-shrouded-in-haze/>>; Chularat Saengpassa, “Urgent: Chiang Mai Needs Bangkok’s Spare Air Purifiers” *Nation Thailand* (5 April 2019) <<https://www.nationthailand.com/in-focus/30367199>>.

<sup>2</sup> Apinya Wipatayotin, “Chiang Mai Air Pollution Worst in the World” *Bangkok Post* (13 March 2019) <<https://www.bangkokpost.com/thailand/general/1643388/chiang-mai-air-pollution-worst-in-the-world>>.

<sup>3</sup> Online Reporters, “Smog Worse in Greater Bangkok” *Bangkok Post* (22 January 2019) <<https://www.bangkokpost.com/thailand/general/1615618/smog-worse-in-greater-bangkok>>.

<sup>4</sup> ประชาไทย, “นักศึกษา ม.เชียงใหม่ เรียกร้องผู้บริหารรับมือฝุ่น PM 2.5- COVID-19” ประชาไทย (16 มีนาคม 2563) [Prachatai, “Students of Chiang Mai University Vividly Asking University Executive Team to deal with PM 2.5 and Covid-19” *Prachatai* (16 March 2020)] (Thai) <<https://prachatai.com/journal/2020/03/86800>>; and see CM Publica, “เครือข่ายแก้ไขปัญหามอกควันเชียงใหม่ बुकยื่นหนังสือผู้ว่าฯ เร่งแก้ปัญหาหมอกควัน” *CM Publica* (19 มีนาคม 2562) [CM Publica, “Networks Against the Haze Stormed to Lodge a Petition Before the Chiang Mai Governor to Resolve the Haze Crisis” *CM Publica* (19 March 2019)] (Thai) <<http://www.cmpublica.com/?p=2719>>.

<sup>5</sup> Daniel Unger and Chandra Mahakanjana, “Decentralisation in Thailand” (2016) 33 *Journal of Southeast Asian Economies* 172.

It is not only the haze problem that highlights the lack of control over their situation that Chiang Mai residents perceive. On a range of issues, there is an articulated need for greater local autonomy. These include flooding, corruption, over-development, and traffic congestion. On all of these issues the provincial Governor is seen as simply a “postbox,” acting as a conduit between the province and the central government for the relaying of grievances. Over many years, Chiang Mai has had too many Governors, all appointed centrally, few able to stay long enough to make a real policy difference.<sup>6</sup>

Our main focus in this paper is therefore not so much the haze crisis *per se*, but, taking a broader view, central-local relations in Thailand, in particular relations between Chiang Mai and the central government in Bangkok. It is therefore important to examine related background history, as well as political ideologies and policies on decentralisation at the national level. It should be emphasized that central-local relations do not merely present options for dealing with the specific problem of territorial governance: they define the nature of the state itself.

In terms of general theory of the state, Thailand has long been described as a “bureaucratic polity”—a highly centralised state with Bangkok as the metropolitan centre.<sup>7</sup> This tradition has been critically challenged in recent years by the anti-junta, youth-supported Future Forward Party (FFP), campaigning for greater decentralisation, and its successor movement and political party (following FFP’s dissolution), the Progressive Movement (PGM) and the Move Forward Party. More importantly, the PGM pledges to push forward the currently frozen, but enthusiastically supported, Chiang Mai Metropolitan Administration Bill (CMMA Bill), which is aimed at implementing in that province a new model of provincial and local government. The model outlined in this Bill has been taken up in other provinces, resulting in a more generalised Provincial Self-Government Bill (PSG), which is currently under consideration in Parliament.<sup>8</sup> We therefore ask: how, why, and to what extent does the effort by Chiang Mai citizens to seek more autonomy and authority for local governments, through proposing the CMMA Bill, challenge the constitutional contours of central-local relations in Thailand? Would a reinvigoration of local self-government, via the passing of the CMMA Bill and its potential ripple effect across Thailand, facilitate more stable democracy and constitutionalism—by way of more local autonomy and power-sharing—in Thailand’s polarised political system? We argue that it would.

We proceed by outlining in section two some theories concerning decentralisation, before in section three looking at the history of Chiang Mai, and then in section four the more recent history of decentralisation in Thailand. In the fifth

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<sup>6</sup> See, e.g., James Austin Farrell, “A New Chiang Mai – Self-management of the Northern Rose” *Chiang Mai City News* (13 September 2012) <<http://www.chiangmaicitynews.com/news.php?id=814>>.

<sup>7</sup> Fred W. Riggs, *Thailand: The Modernization of a Bureaucratic Polity* (East-West Center Press 1966).

<sup>8</sup> For the PSG Bill, see <<https://journal.oas.psu.ac.th/index.php/asj/article/downloadSuppFile/1101/153>> (Thai).

section we set out and analyse the origins and provisions of the CMMA Bill itself, and in the concluding part we comment on these provisions more generally in the context of decentralisation. The choice of Chiang Mai to examine central-local relations is in our view highly appropriate. First, Chiang Mai is Thailand's second city, and second cities are often a gathering-place for resentment against the domination of the capital city / metropolitan centre of government, thereby representing, so to speak, the principle of local autonomy.<sup>9</sup> Secondly, Chiang Mai has a distinct local Lanna culture that differs quite markedly from that of Bangkok and other parts of Thailand;<sup>10</sup> we explain this difference in the next section. Thirdly, Chiang Mai represents the high-water mark of demand for achieving true local autonomy in Thailand, which has led to a more general move in that direction. This is evidenced by the fact that in 2011 the CMMA Bill was drafted and introduced as a result of a popular initiative that involved citizens of different political persuasions, in particular those of both the red and yellow factions that have emerged and contested for power at both national and local levels since 2005. The Bill was then debated amongst citizen groups and, by virtue of section 142(4) of the then 2007 Constitution, presented to Parliament in 2013, supported by 12,000 signatures.<sup>11</sup> As is well known, the red faction's support relies heavily on, and can be said to originate from, Chiang Mai—the city of its iconic leader, Thaksin Shinawatra. The polarisation between these two factions—deeply rooted throughout Thailand and also in Chiang Mai itself since Thaksin's premiership (2001–6)—is an ongoing problem that has sparked two coups d'état (in 2006 and 2014); of which the latter ensured that the CMMA Bill rested in limbo from 2013 until the present, in spite of already having been presented to Parliament. With the return of civilian, constitutional government in 2019 under a new constitution (that of 2017), which makes provision for decentralisation,<sup>12</sup> the issue of decentralisation came once again to the fore, and the CMMA Bill becomes highly salient, raising the issue of decentralisation across Thailand as a whole. In December 2020 local elections were held for the first time in six years; these failed to signal widespread popular support for democratisation of Thailand's provincial administration system, except in Chiang Mai province, but increased representation of the PGM and discussion of policy issues regarding provincial and local government.<sup>13</sup>

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<sup>9</sup> Jerome I. Hodos, "Identity and Governance in the Second City" in Jerome I. Hodos (ed) *Second Cities: Globalisation and Local Politics in Manchester and Philadelphia* (Temple University Press 2011).

<sup>10</sup> David M. Engel, "Blood Curse and Belonging in Thailand: Law, Buddhism, and Legal Consciousness" in Andrew Harding and Munin Pongsapan (eds), *Thai Legal History: From Traditional to Modern Law* (Cambridge University Press 2021) 89–99.

<sup>11</sup> ไทยพีบีเอส, "เสนอ พ.ร.บ. เชียงใหม่มหานคร" *Thai PBS* (26 ตุลาคม 2556) [Thai PBS, "The Chiang Mai Bill Proposed" *Thai PBS* (26 October 2013)] (Thai) <<https://news.thaipbs.or.th/content/203740>>.

<sup>12</sup> See below IV.

<sup>13</sup> Sebastian Strangio, "In Thailand, Local Elections See Stagnating Progressive Vote" *The Diplomat* (Southeast Asia, 22 December 2020) <<https://thediplomat.com/2020/12/in-thailand-local-elections-see-stagnating-progressive-vote/>>.

## II. THEORIES OF DECENTRALISATION

Decentralisation of powers to provincial and local governments has been an almost ubiquitous phenomenon across the world since the early 1990s, and has been strongly espoused by international agencies such as the World Bank and the UN Development Programme.<sup>14</sup> As we will see in the ensuing section, Thailand has been no exception to this trend. Decentralisation is, however, highly contested in terms of its perceived advantages and disadvantages, and the rationale for pursuing it as well as its actual design may differ somewhat from country to country and over time. Southeast Asian states have nearly all decentralised powers to some extent, in ways that seem quite surprising in view of the region's reputation for authoritarian and excessively centralised government.<sup>15</sup>

The alleged benefits of decentralisation are geared to the ideas of democratisation and development. Often, as in Indonesia from 1999, Myanmar since 2008, and Thailand since 1997, decentralisation is seen to be important as offering a counterweight to excessively authoritarian central government, entrenching democracy and popular control over decision-making, and bringing government closer to the people. Decentralisation is also alleged to enhance balancing in political competition as well as regional development.<sup>16</sup> The two are connected in that enhancing political participation at the grass-roots level produces effectiveness in the promotion and policy relevance of local self-government, where local decision-makers have more local knowledge and respond better to local priorities, compared to central bureaucracies. Local autonomy also helps to de-escalate national political confrontation by getting opposed factions or parties to work together on matters of obvious local benefit—nobody is likely to be opposed to more or better housing, for example, or the mending of roads, or more effective garbage collection, whatever ideological issues divide them. The dangers of decentralisation, on the other hand, may include elements of uncertainty, especially in transition periods, over powers and fiscal arrangements; inconsistencies in policy and implementation across the nation; and the enabling of corruption at the local level, in effect, capture of local power by local

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<sup>14</sup> See, e.g., “World Development Report 1997: The State in a Changing World (English)” *World Bank Group* <<http://documents.worldbank.org/curated/en/518341468315316376/World-development-report-1997-the-state-in-a-changing-world>>; “World Development Report 2000/2001: Attacking Poverty (English)” *World Bank Group* <<http://documents.worldbank.org/curated/en/230351468332946759/World-development-report-2000-2001-attacking-poverty>>; “The Future is Decentralised” *United Nations Development Programme* (2 March 2018) <<https://www.undp.org/content/undp/en/home/librarypage/corporate/the-future-is-decentralised.html>>; “Decentralised Governance for Development: A Combined Practice Note” *United Nations Development Programme* (2015) <<https://www.undp.org/publications/decentralised-governance-development-combined-practice-note>>.

<sup>15</sup> Andrew Harding, “The Constitutional Dimensions of Decentralization and Local Government in Asia” in Adriaan W. Bedner and Barbara M. Oomen (eds), *Real Legal Certainty and its Relevance: Essays in Honour of Jan-Michiël Otto* (Leiden University 2018).

<sup>16</sup> UNDP, “Decentralised Governance” (n 14).

elites.<sup>17</sup> Some even see decentralisation as injurious to national security, and as encouraging fragmentation of the nation-state.<sup>18</sup>

Behind such desire for democratic and developmental enhancement lie pressing conditions that support decentralisation, such as local belief systems and demands for recognition of local identity. As Engel and Chua have argued in their survey of law and society research in Southeast Asia, locality is closely related to identity in this region, and this is probably nowhere truer than in Thailand, especially Northern Thailand.<sup>19</sup> It might indeed be argued that social diversity, and the conflicts to which it can lead, are ameliorated in a system where local people have some control over decisions that closely affect them. Northern Thailand is a particularly diverse part of the region, as we explain in the following section. In the case of Chiang Mai, a history of intense red-yellow conflict, especially during the visit of Prime Minister Abhisit Vejjajiva in 2009, led to the idea that resolving issues locally under decentralised governance offered a way forward that would empower the province and lead to an element of power-sharing.<sup>20</sup>

Naturally, these considerations lead to questions of design, of which the most acute are the allocation of local powers and central-local relations, or the nature and effect of mechanisms for central control over decentralised entities. These determine the true extent of local autonomy in terms of policy areas over which local authorities have control, and the degree of scrutiny, interference, or recall that can be exercised by central government. Across Southeast Asia as well as in Thailand, there has in recent years been a trend towards recentralisation, as governments through experience gained perspective on the realities of local autonomy and found themselves dissatisfied with its performance or the extent of power seeping away from the centre. Thus, even if the principle of decentralisation is accepted, the actuality may not in the event deliver what theory expects. Nonetheless the demand for local autonomy remains strong, and in no case has recentralisation involved anything resembling a reversal to the status quo ante.<sup>21</sup> The demand for decentralisation is far from moribund in Thailand and may lead to extensive reforms within the next few years, as we discuss below.

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<sup>17</sup> See, e.g., this critique of decentralisation in the Philippines: Sarah Shair-Rosenfield, "The Causes and Effects of the Local Government Code in the Philippines: Locked in a Status-quo of Weakly Decentralised Authority?" (2016) 33 *Journal of Southeast Asian Economies* 157.

<sup>18</sup> Andrew Harding and Rawin Leelapatana, "Towards Recentralisation?: Thailand's 2014 Coup, Tutelage Democracy and their Effects on Local Government" 50 *Shades of Federalism* <<http://50shadesoffederalism.com/case-studies/towards-recentralisation-thailands-2014-coup-tutelage-democracy-and-their-effects-on-local-government/>>.

<sup>19</sup> David M. Engel and Lynette Chua, "State and Personhood in Southeast Asia: The Promise and Potential for Law and Society Research" (2015) 2 *Asian Journal of Law and Society* 211.

<sup>20</sup> Interview with Chamnan Chanruang, independent scholar and former deputy leader of the Future Forward Party, via Zoom (29 January 2021).

<sup>21</sup> Edmund J. Malesky and Francis E. Hutchinson, "Varieties of Disappointment: Why Has Decentralisation not Delivered on its Promises in Southeast Asia?" (2016) 33 *Journal of Southeast Asian Economies* 125.

### III. HISTORY OF CHIANG MAI

In the case of Chiang Mai, the demand for local autonomy rests in the main on issues of cultural identity, and so the history of the region now forming the nation-state of Thailand needs to be understood.

In medieval times, the territory that forms the Thailand we know today was settled by various ethnic groups, in particular Khmer (Cambodians), Mon, and Tai. By the thirteenth century CE, the Tai had become a dominant clan within that territory.<sup>22</sup> Mainstream historians normally regard Sukhothai, Ayutthaya, Thonburi, and Bangkok as Siam's four kingdoms. However, the reality should not be forgotten that Thailand *qua* nation-state in its modern form had never existed before the reign of King Chulalongkorn (r. 1868–1910). Before the mid-nineteenth century, the aforesaid four kingdoms were in fact dominant cities that ruled directly or indirectly over other semi-autonomous city-states. To the north, another Tai group had already settled since the ninth century in the areas now known as Nan, Phrae, Phayao, Lampang, Lamphoon, Chiang Rai, and, more importantly for our purposes, Chiang Mai. Before the reign of King Chulalongkorn, these cities comprised a kingdom that was once dominant in the north but later subjugated to Siam in the Bangkok period—the Kingdom of Lanna.<sup>23</sup>

The Northern Tai kingdom of Lanna was founded by the great King Mangrai (r. 1292–1311). Mangrai was a Tai nobleman who previously ruled a city-state called Ngoen Yang Chiang Saen (now a part of Chiang Rai). In an aim to unify scattered city-states on the banks of the Fang, Kok, Ping, Yom, and Nan rivers, he successfully annexed the then-dominant Hariphunchai kingdom as a part of Lanna in 1292. In 1296, Mangrai founded the city of Chiang Mai as the capital of this new Kingdom. Lanna expanded furthest under Mangrai's descendant, King Tilokkarat (r. 1441–87), annexing parts of Sibsongpanna (now Xishuangbanna in Yunnan, China), Phrae, Nan, Lan Chang (Laos), and Shan (now in Myanmar).<sup>24</sup> However, an oppressive and unpopular rule under the reign of the later king, Mekuti (r. 1551–64), led to its decline and eventual conquest by Toungoo (Myanmar) in 1558. Burmese rule lasted until 1775.

In the mid-eighteenth century, an extremely unpopular period of rule by the Burmese instigated local resistance and a series of revolts. With Bangkok's assistance, Lanna chiefs led by Kawila successfully regained their control over Chiang Mai in 1775. Yet, such assistance also turned Lanna and its successor—the Kingdom of Chiang Mai (1802–99)—into a tributary state of Bangkok. Until 1939, Chiang Mai was ruled by tributary kings and princes; rulers who held a degree of autonomy from Bangkok.<sup>25</sup>

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<sup>22</sup> George Coedès, *The Indianized States of South-East Asia* (Walter F. Vella ed, Susan Brown Cowing tr, University of Hawaii Press 1968) 190–91, 195–96.

<sup>23</sup> ณัฐพล อยู่รุ่งเรืองศักดิ์, ประวัติศาสตร์ล้านนาฉบับสังเขป (โรงพิมพ์มหาวิทยาลัยศิลปากร 2558) [Natthabala Yurungruangsakdi, *Short History of Lanna* (Silapakorn University Press 2015)] (Thai) 1.

<sup>24</sup> *ibid* 30–31.

<sup>25</sup> For a detailed history of Chiang Mai, see Sarasawadee Ongsakul, *History of Lanna* (Chitraporn Tanratanakul tr, Silkworm Press 2005) 155.



In the late nineteenth century, the ancient system of central-local relations, that of the “tributary state,” was significantly challenged by the advent of Western imperialism.<sup>26</sup> During the reign of King Chulalongkorn, Bangkok faced a grave imperial threat posed by the Western colonial powers, notably the British and the French. This intimidating menace forced the king to initiate rapidly fundamental bureaucratic reforms, beginning in the 1870s, by espousing the Western model of a “nation-state.” This reform, widely known among scholars as *the Chakri Reformation*, significantly also transformed Bangkok-Chiang Mai relations.<sup>27</sup>

To realise his Siamese nation-state policy, King Chulalongkorn established in 1892 the sinew of a unified pyramidal bureaucracy extending from the Ministry of Interior (MoI) down to local provinces. Under the new system of central-local relations, the ancient tributary state was abolished and replaced by a new system called *Tesaphiban* (local-government administration). Chiang Mai and other Lanna provinces were subsumed under the Northwestern *Tesaphiban*.<sup>28</sup> Bangkok officials were appointed to Chiang Mai province by the MoI, leaving Lanna nobles as mere figureheads. No doubt, the reformation was met with discontent which eventually led to the Shan uprising in 1902, secretly supported by some Phrae nobles.<sup>29</sup> Nevertheless, having adopted the Western system of a standing army, Bangkok successfully suppressed the Shan. The Bangkok government’s show of force demonstrated to other Lanna princes, including those in Chiang Mai, “the futility of revolt.”<sup>30</sup> Apart from these administrative and military policies, in 1886 as a political gesture King Chulalongkorn married Dararatsamee, the daughter of Inthavichayanon, the last king of Chiang Mai, thus fostering a solid bond between the two kingdoms and succeeding in the process of “internal colonisation”.<sup>31</sup>

The nation-state policy together with “the political marriage” led to the full merger of Lanna with Siam in 1899. Led by Bangkok, the sons of Inthavichayanon—Intawaroros Suriyawong (r. 1901–10) and Kaew Nawarat (r. 1910–39)—ruled Chiang Mai as Prince Rulers under Siamese tutelage. The death of Kaew Nawarat in 1939 confirmed the eventual abolition of the nobility in Chiang Mai, which is today is administered as one of Thailand’s 76 provinces.

Thus, despite Chiang Mai’s gradual absorption into Siam/Thailand, this absorption will be noticed to have reached full completion only around 80 years ago, and for reasons of culture and identity has been in any case quite shallow. Legacies

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<sup>26</sup> Thongchai Winichakul, *Siam Mapped: A History of the Geo-Body of a Nation* (University of Hawaii Press 1994) 81–84, 93, 103.

<sup>27</sup> Chris Baker and Pasuk Phongpaichit, *A History of Thailand* (3rd edn, Cambridge University Press 2014) 54–56.

<sup>28</sup> Sarasawadee, *History of Lanna* (n 25) 195–213.

<sup>29</sup> Katherine A. Bowie, *Of Beggars and Buddhas: The Politics of Humor in the Vessantara Jataka in Thailand* (The University of Wisconsin Press 2017) 235.

<sup>30</sup> Sarasawadee, *History of Lanna* (n 25) 206.

<sup>31</sup> Peter A. Jackson, “The Ambiguities of Semicolonial Power in Thailand” in Rachel V. Harrison and Peter A. Jackson (eds), *The Ambiguous Allure of the West: Traces of the Colonial in Thailand* (Hong Kong University Press 2010) 45.



from the past “internal colonisation” still remain, namely the Bangkok-appointed Chiang Mai governorship, together with the system of central-local relations under decentralisation, which emphasises the privileging of the centre, as discussed in the next section.

This cultural difference can be seen clearly, for example, in local conceptions of justice, as discussed by David Engel in his study of the Lanna “blood curse” ritual:

In the place of traditional Lanna justice, interviewees said that the people of the North generally responded to injuries with generosity and forgiveness. Justice is attained by reconciling the disputants, not by winner-take-all adjudication. Justice, in other words, is inter-subjective. Bancha, a Chiangmai resident, characterised Lanna legal culture this way: “You must give each other justice,” not receive it from a judge. It does not matter so much who is right and who is wrong—justice in Lanna is not about right and wrong. As he put it, “Both sides should be able to understand each other. Justice should give equally to both of them.” Therefore, Lanna residents do not expect the courts or the legal system to provide justice. As Phakdi, another Lanna resident, stated, “Justice can’t be the result of a legal decision. Rights are fixed and defined by the law, but justice isn’t based on a verdict. We can’t tell what justice will be. It depends on the feelings of satisfaction of the two parties.”<sup>32</sup>

We examine next related legislation on decentralisation in Thailand, and Bangkok-Chiang Mai relations in the context of the governance system as a whole.

#### IV. MODERN THAILAND’S SYSTEM OF DECENTRALISATION AND ITS PRESENT TRAJECTORY

In this section, we explain the development of the current system of local government, including related legislation, and its trajectory in modern Thailand.<sup>33</sup> Again, we approach this issue by examining relevant history. At the outset, the history of Chiang Mai narrated above indicates that before the late nineteenth century, Siam was a highly decentralised kingdom, in which subaltern tributary city-states were almost independent from royal supervision.<sup>34</sup> The Chakri Reformation replaced local dignitaries with Bangkok-appointed officials, in effect dissipating the ideas of local self-determination and local public participation, which have in present times been foci of social movements demanding decentralised powers.<sup>35</sup>

Importantly, as a result of the adoption of the nation-state model by King Chulalongkorn, as from 1893, MoI-appointed officials were posted in outer provinces to run local administration.<sup>36</sup> Although this might well have changed after the end of

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<sup>32</sup> Engel, “Blood Curse” (n 10).

<sup>33</sup> Andrew Harding and Peter Leyland, *The Constitutional System of Thailand: A Contextual Analysis* (Hart Publishing 2012) ch 7.

<sup>34</sup> Baker and Pasuk, *A History of Thailand* (n 27) 41–42.

<sup>35</sup> *ibid* 53.

<sup>36</sup> *ibid* 55–56.

the absolute monarchy in 1932, royalist and military factions have since then continually espoused a Bangkok-centric form of tutelage democracy denoted in the slogan of the Democratic Regime with the King as the Head of the State (DRKH), in particular from the late 1940s onwards. The notion of democracy entailed by this indicates that the people's interest is protected, in the name of the King, by a military dictatorship. With such definition of democracy, these elites have laid claim to a legitimacy based on Thai traditions. Since the late 1950s the DRKH's hegemony has therefore limited, rather than extended, decentralisation. When local political actors started "to exert local influence over matters such as policy-making and appointments, traditionally reserved for officials in the military and centralised bureaucracy," they were accused of undermining the DRKH, and this contributed to the occurrence of royalist coups on several occasions, most recently in 2006 and 2014.<sup>37</sup> These coups not only placed in mothballs parliamentary democracy, but also the process of decentralisation. For example, the local elections held in December 2020 were the first for six years.

Despite the implementation of a highly centralised model of statehood, some foundations for the present-day system of decentralisation were nevertheless laid during the period of absolute monarchy pre-1932. Having heard claims by foreigners regarding Bangkok's sanitation, King Chulalongkorn, given his promise and effort to "civilise" the new nation-state, passed the Royal Decree establishing Bangkok *Sukhaphiban* (sanitary district) in 1898.<sup>38</sup> Its implementation was later expanded to local areas by virtue of the Management of Provincial Sukhaphiban Act 1909. Chiang Mai *Sukhaphiban* was established in 1912 during the reign of King Vajiravudh. In general, the *Sukhaphiban* had typical local government responsibilities for waste management, provision of healthcare facilities, and prevention of diseases.<sup>39</sup> This system, although in no way designed to create political participation among local residents, at least provided a nascent idea of local public service, and was in existence until 1999, when local-government reforms began pursuant to the 1997 Constitution.

The liberal idea of local government autonomy was introduced to Thailand by Pridi Banomyong, the civilian leader of *Khana Ratsadorn* (the People's Party)—the group of bureaucrats and military officials that staged the 1932 Revolution, formally abolishing royal absolutism on 24 June, and opening up the possibility of decentralisation. Regarding local elections and local citizen participation in policy decision-making essential for cultivating a liberal democratic culture, Pridi succeeded in persuading the then legislature to pass the Municipality Act in 1933. This led to the creation of local municipalities (*Thetsaban*) qua decentralised local government units

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<sup>37</sup> Federico Ferrara, *The Political Development of Modern Thailand* (Cambridge University Press 2015) 271.

<sup>38</sup> It may be noticed that public health issues have often been drivers for development of local government, as with the case of haze in Chiang Mai. For example, local government in Bombay (Mumbai) can be traced to efforts to deal with an outbreak of plague: Prashant Kidambi, *The Making of an Indian Metropolis: Colonial Governance and Public Culture in Bombay, 1890–1920* (Ashgate 2007) 68.

<sup>39</sup> พระราชบัญญัติจัดการสุขาภิบาลตามหัวเมือง ร.ศ. 127 (พ.ศ. 2451) [Sukhaphiban Management Act RS 127 (1908)] (Thai) s 13.

as distinct from the MoI-established organs; namely, local provinces (*Changwat*) and provincial districts (*Amphoe*) headed by appointed officials, at the levels of cities, towns, and villages across the nation.<sup>40</sup> Thailand's first city municipality was founded in Chiang Mai in 1935. Later, in 1936, the first Local Assembly Election Act came into force, thus bestowing upon local citizens the right to elect members of the municipal assembly (19 members in Chiang Mai). Notwithstanding the recurrence of military coups precipitating the suspension of both electoral politics and decentralisation, other forms of decentralised agencies were gradually introduced across the Kingdom to facilitate local development through local citizen participation and the carrying out of public service, namely the Provincial Administration Organisation (PAO) in 1955 and the Tambon Administration Organisation (TAO) in 1994. With their own legislative assembly and executive council directly elected by local citizens, *Thetsaban*, PAO, and TAO make up and provide a backbone for Thailand's general system of local government. Importantly, the endorsement of the right to local self-government as a constitutional right by the 1997 Constitution further increased their significance in the democratic process.<sup>41</sup>

The "Black May" incident of 1991, in which the military government killed many protesters demanding for a fuller democracy on the streets of Bangkok, created a political push for thorough reform, which was given expression in the 1997 Constitution, embracing thorough decentralisation and necessitating the passing of the seminal Decentralisation Plan and Process Act 1999. The 1999 Act specifies various functions and powers that were to be transferred to the decentralised authorities; these included waste management, city and investment planning, sport and recreation, and education.<sup>42</sup> Section 30(4) also provides for the central government to transfer to the local authorities at least 35% of its annual budget. The proposed reforms would in effect turn these provisions on their head, reversing the balance of fiscal transfers as well as local versus central powers.

While the 1999 reforms reflected a growing demand for local democracy and decentralisation, the premiership of Thaksin Shinawatra between 2001 and 2006 led to increasing polarisation between the red and yellow factions that rendered decentralisation a point of difference between them, blighting the reforms of 1997 and resulting in the coups of 2006 and 2014. These periods of military rule have halted the reforms, and in several respects reversed them, in a process of recentralisation.<sup>43</sup> Indeed, since 2014, decentralisation, facilitating local influence of the red faction, has been regarded by conservative factions as a threat to the DRKH itself. It was only with

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<sup>40</sup> มรุต วันทนากร และ ดรฤณี หมั่นสมักร, "ประวัติและความเป็นมาของเทศบาล" (สถาบันพระปกเกล้า) [Marut Wanthanākōn and Darunee Mansamak, "The History of Thailand's Municipalities" (King Prajadhipok's Institute)] (Thai).

<sup>41</sup> ss 78, 284.

<sup>42</sup> พระราชบัญญัติกำหนดแผนและขั้นตอนการกระจายอำนาจให้แก่องค์กรปกครองส่วนท้องถิ่น พ.ศ. 2542 [Decentralisation Plan and Process Act 1999] (Thai) ss 16–18.

<sup>43</sup> Grichawat Lowatcharin, "Along Came the Junta: The Evolution and Stagnation of Thailand's Local Governance" *Kyoto Review of Southeast Asia* (October 2014) <<https://kyotoreview.org/yav/along-came-the-junta-the-evolution-and-stagnation-of-thailands-local-governance/>>.

reluctance that the post-military government of 2019 finally agreed to local elections in December 2020. This return to local self-government can be attributed to the fact that the 1997 Constitution, although abrogated in 2006, had galvanised demands for local self-governance as a permanent feature of Thai governance, including under the 2017 Constitution, whose drafting was heavily influenced by the military.

The CMMA Bill is one cogent piece of evidence for the existence of such demand. Interestingly enough, during 2020, even as the return of local elections became unavoidable, there was also disagreement between the Interior Minister and the Election Commission over the question whether the Commission was in a position to hold local elections. The Commission insisted that it was.<sup>44</sup>

During the period of military rule 2014–19, General Prayuth implemented a number of draconian measures, notably coup announcements, directives, and section 44 (M-44) of the 2014 Interim Constitution, which gave him power as Head of the National Council for Peace and Order (NCPO) to promulgate executive orders. These were used to reverse Thailand's decentralisation process. In 2014, two NCPO Announcements suspended all local elections.<sup>45</sup> A problem then arose in that the terms of office of some local legislature members and executive heads, including in Chiang Mai, expired and no replacements could be elected. The solution provided by the two Announcements was to establish appointments committees at provincial level to fill the vacancies.

The composition of these appointments committees leaves much to be desired from the aspect of local self-government. The deputy director of the provincial Internal Security Operations Command sits on the committee, which is chaired by the provincial governor, who is appointed by the MoI. The Announcements also provide that as many as two-thirds of the newly appointed members of the local legislatures must be former senior civil servants. By the issuing of two further NCPO Announcements in 2014,<sup>46</sup> military officials and deconcentrated agencies, that is, provincial governors and district heads, were given substantial authority to review and veto local budgetary allocations. These attempts at recentralisation have, we would argue, severely undermined fragile democracy in Thailand and, more specifically, decentralisation in Chiang Mai—already set back by five years of military rule.<sup>47</sup>

The situation of decentralisation is now dealt with by the 2017 Constitution, which does not seem to offer significant improvement, but at least recognises important basic principles. Whereas the Constitutions of 1997 and 2007 provided that members of the local legislative assemblies and executive councils be elected directly by local citizens, the 2017 Constitution at section 252 allows instead the installation of administrators of specially-autonomous local authorities (currently, that is, Bangkok Metropolitan Administration and the City of Pattaya) by what it calls “means other

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<sup>44</sup> Post Reporters, “EC ‘Ready’ for Local Elections” *Bangkok Post* (12 August 2020) <<https://www.bangkokpost.com/thailand/politics/1966795/ec-ready-for-local-elections>>.

<sup>45</sup> Nos 85/2557, 86/2557.

<sup>46</sup> Nos 88/2557, 104/2557.

<sup>47</sup> Unger and Chandra, “Decentralisation in Thailand” (n 5).

than direct popular election.” This leaves room for the current or any future government to appoint its favourites to such positions. Unlike—again—its predecessors, the 2017 Constitution allows MoI bureaucrats to run for local office. This new measure clearly strengthens the dominance of central government over local governments, thus diluting Chiang Mai citizens’ inspiration for creating CMMA. We have drawn attention above to the fact that this recentralisation of powers has done nothing to assist solutions to problems such as the haze in Chiang Mai.

Recentralisation also appeared problematical in dealing with the spread of the Covid-19 virus during 2020. The central government chose to declare a state of emergency enabling the issuing of several Covid-19 Regulations, forbidding social gatherings and the dissemination of “false” and “fake” information.<sup>48</sup> These tended to support the Prime Minister’s policy of recentralisation, and have been widely resented as being aimed at repressing the rising demand for liberal democracy.<sup>49</sup> In Chiang Mai, the power-concentrated approach also undermines the culture of compromise discussed above, leading to the unsympathetic application of law without regarding to local contexts. Like other parts of Thailand, Chiang Mai experienced economic breakdown caused by the pandemic, causing the loss of many jobs and liquidations. Not being able to afford the rent, some individuals had no choice but became vagrants. However, it was reported in 2020 that instead of showing leniency towards destitute local citizens, a number of vagrants were arrested by Chiang Mai police for breaching a curfew.<sup>50</sup> Given socio-political turbulence bred by the Bangkok-centric, one-size-fits-all solutions, the liberal notion of local governance envisaged by the defunct 1997 Constitution then appears to be demanding as Covid-19 conditions tend to require officials to have heeded specific local grievances.

Overall, we may discern two different notions of territorial governance and central-local relations in Thailand. Their relationship resembles “the binary-star scenario”—the gravitational pull between two stars that orbit around a shared centre of mass, neither of which is absolutely subjugated to the other.<sup>51</sup> The Bangkok elite view is that local authorities enjoy merely “deconcentrated” powers, in which they act essentially as agents of the central government. Holdover elites prefer, over

<sup>48</sup> Covid-19 Regulations Nos 1, 2, and 3.

<sup>49</sup> International Crisis Group, “COVID-19 and a Possible Political Reckoning in Thailand” *International Crisis Group* (4 August 2020) <<https://www.crisisgroup.org/asia/south-east-asia/thailand/309-covid-19-and-possible-political-reckoning-thailand>>.

<sup>50</sup> For further details see Rawin Leelapatana and Chompunoot Tangthavorn, “Thailand: Emergency Responses or More Social Disturbance” in Victor V. Ramraj (ed), *Covid-19 in Asia: Law and Policy Contexts* (Oxford University Press 2021); ชาวสด, “คนไร้บ้านเชียงใหม่’ ถูกจับ-ส่งฟ้องศาล ขอให้ออกจากบ้าน ฝ่าเคอร์ฟิว” ชาวสด (22 เมษายน 2563) [Khaosod, “Vagrant in Chiang Mai’ Arrested and Prosecuted for Violating Curfew” *Khaosod* (22 April 2020)] (Thai) <[https://www.khaosod.co.th/covid-19/news\\_3994471](https://www.khaosod.co.th/covid-19/news_3994471)>.

<sup>51</sup> Rawin Leelapatana, “The Thai-Style Democracy in Post-1932 Thailand and its Challenges: A Quest for Nirvana of Constitutional Samsāra in Thai Legal History before 1997” in Harding and Munin, *Thai Legal History* (n 10) 217–32; Andrew Harding and Rawin Leelapatana, “Constitution-Making in 21st-Century Thailand: The Continuing Search for a Perfect Constitutional Fit” (2019) 7 *Chinese Journal of Comparative Law* 266, 270.

decentralised autonomous agencies, MoI-appointed agents—notably provincial governors and district heads, playing a leading and supervisory role with regard to local issues. Despite the elitist attempt to reinforce the DRKH, the now-defunct 1997 Constitution has nevertheless succeeded in reinvigorating the appetite for greater decentralisation and increasingly sturdy demands for local autonomy. As is evident from the restoration of local elections in December 2020, the military and the elites are forced to recognise the impossibility of absolute negation of decentralisation in a modern, industrialised Thailand. In fact, the junta-initiated Constitution of 2017, as with the 1997 and 2007 versions, reserves extensive provision for local administration. The main principles are contained in section 249, which states:

Subject to section 1 [which provides that Thailand is an indivisible kingdom], local administration shall be organised in accordance with the principle of self-government according to the will of the people in the locality, as per the procedure and form of local administrative organisations as provided by law. In establishing a local administrative organisation in any form, due regard shall be had to the will of the people in the locality together with the capacity for self-government in respect of revenues, number and density of the population, as well as areas under its responsibility.<sup>52</sup>

Thus section 249 gives force to the demand from Chiang Mai for local autonomy. Section 250 also emphasises the need for decentralisation and independence, with minimal mechanisms for central control.

The law ... shall provide for independence of local administrative organisations in respect of management, provision of public services, promotion and support of education, public finance, and for the supervision and monitoring of local administrative organisations which may be done only insofar as is necessary to protect the interests of the people in the locality or the interests of the country as a whole to prevent corruption and for the efficient spending of funds, while having regard to the suitability and difference of each form of local administrative organisations. Such laws shall also contain provisions on prevention of conflict of interest and prevention of interference to the performance of duties of local officials.<sup>53</sup>

Sections 252–54 provide for the right to local democracy, as well as for freedom of information and public participation, extending as far as the right to petition for an ordinance and remove council members and administrators. However, given the holdover elites' scepticism towards local autonomy, the reserved authority to appoint specially-autonomous local governors maintains the Bangkok-centric tutelage rule, thus compromising the aim of the CMMA Bill. But, despite this hurdle and the still-prevailing authoritarian climate, we still contend that the initiation of the CMMA Bill challenges the constitutional contours of central-local relations in Thailand—in

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<sup>52</sup> For the translated text of these sections, see Constitute, "Thailand 2017" *Constitute* <[https://www.constituteproject.org/constitution/Thailand\\_?lang=en](https://www.constituteproject.org/constitution/Thailand_?lang=en)>.

<sup>53</sup> *ibid*.



particular, by inspiring a growing public appetite for local autonomy among many sections of Thai society. This is discussed in the next section.

## V. THE CHIANG MAI METROPOLITAN ADMINISTRATION BILL

Despite the discouragements set out in the last section, the people of Chiang Mai have continued to struggle for local self-government for more than a decade. This, in turn, propelled the drafting of the CMMA Bill with wide public consultations and discussions in the beginning of the 2010s. The Bill having the endorsement of more than the requisite 10,000 signatures, the Speaker of the House of Representatives himself travelled to Chiang Mai in late October 2013 to pick up the draft Bill.

The CMMA Bill was an initiative of the Chiang Mai Provincial People's Network for Self-governing Administration. This civil-society network adopts the notion of a "self-governing province" which, according to Prin Nithat-ek,

entails local people in each province participating in decision-making and determining their own developmental strategy and distribution of resources in politics, economy, society, culture, natural resource and environment, physical and mental health. The essence of self-governing province is to transfer political power that is concentrated in the central administrative system to a provincial community unit ... The concept might be considered as the background notion for [a] "new social movement," leading to national restructuring which focuses on forming citizen consciousness as a form of "country ownership" under [a] democratic regime.<sup>54</sup>

The political crisis of 2010, which led to violent clashes between the red and yellow supporters in Chiang Mai and consequential adverse impacts on the local economy, further hastened a Chiang Mai-based attempt to find areas of compromise between the red and yellow factions.<sup>55</sup> Both sides located the main source of the problem in the presence of the Bangkok-centric system of bureaucratic polity, viewing greater decentralisation as its solution. Such compromise would allow a measure of power-sharing in that parties would be able to achieve power locally in some provinces even if not nationally.<sup>56</sup> FFP/PGM politician Chamnan Chanruang was instrumental in the drafting of the Bill and ensuring it received parliamentary scrutiny. A dissolution of parliament in 2013, followed by a military coup in 2014, prevented the Bill from becoming law.

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<sup>54</sup> Prin Nithat-ek, "The Rise of Antagonism: The Chiang Mai Province People's Network for Self-Governing Administration and Its Reaction Against the Hegemonic Centralising State" (2017) 13 *Journal of Social Sciences*, Naresuan University 187, 192–94.

<sup>55</sup> ชำนาญ จันทร์เรือง, "การกระจายอำนาจคืออนาคตของประเทศไทย" *ประชาไทย* (15 มีนาคม 2561) [Chamnan Chanruang, "Decentralisation is the Future of Thailand" *Prachatai* (15 March 2018)] (Thai) <<https://prachatai.com/journal/2018/03/75884>>.

<sup>56</sup> *ibid.*

In general, the CMMA Bill seeks to empower local autonomy by abolishing the MoI-supervised system of deconcentration, replacing Chiang Mai province with the devolved body called Chiang Mai Metropolitan Administration. The theory of local governance represented by the Bill involves a number of other elements that follow from rejection of deconcentration. First, it adopts from the example of Japan the idea of two-tiered local government, involving democratic participation by the lower level and cooperation between the two levels.<sup>57</sup> Secondly, it involves the notion of a citizen assembly at the provincial level, counterbalancing the granting of legislative power to the elected Council and executive power to an elected Governor.<sup>58</sup> And thirdly, it involves transfer of 70 percent of revenue from the central government in Bangkok to the province, as opposed to the present allocation which reverses these percentages, reflecting a dramatic shift in allocation of powers on the basis of a principle similar to subsidiarity—retaining only military, foreign relations, judiciary, and fiscal powers with the central government, with all else to be devolved to local authorities.<sup>59</sup> The citizen assembly is crucial to this enterprise in providing an element of direct democracy that can be compared to the creation of similar bodies in some Western states, such as those that led to abortion reform in the Republic of Ireland.<sup>60</sup> Similar assemblies in the United States inspired the adoption of this device in the case of the CMMA Bill. However, rather than being chosen on a random basis reflecting the composition of society, as with the Irish model, the Chiang Mai model involves a selection system that more resembles the notion of functional constituencies, if we understand these as including representation of lower-level local government bodies (in Chiang Mai there are 25 of these). A major reason for yellow interests being in support of the CMMA Bill is that they are convinced that in elections votes are simply bought; the selection system for the Citizen Assembly (the details of this system are to be decided by local regulations) tends to empower the civil society, which is largely controlled by yellow interests. More details of this are provided below.

No doubt, given that Chiang Mai is widely regarded as the heartland of Thaksin Shinawatra's supporters and the red faction, Prime Minister Prayuth has for this reason continuously placed the Bill in limbo. Nonetheless, the Bill indicates that the demand for ever greater decentralisation is by no means spent. In addition, the Bill offers, and is intended to offer, a model that might inspire reforms in the future, not just in Chiang Mai but across Thailand generally. In 50 of Thailand's 76 provinces the CMMA Bill has been studied with a view to being applicable more widely, and it has found favour there, leading to consideration of the PSG Bill in parliamentary committee. It is not possible at this stage to say whether the outcome of this process will involve extensive modification of the PSG Bill or lead to enactment of the CMMA

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<sup>57</sup> Chiang Mai Metropolitan Administration Bill (CMMA Bill) s 7.

<sup>58</sup> *ibid* s 71.

<sup>59</sup> *ibid* ss 18(1), 118.

<sup>60</sup> Michela Palese, "The Irish Abortion Referendum: How a Citizens' Assembly Helped to Break Years of Political Deadlock" *Electoral Reform Society* (29 May 2018) <<https://www.electoral-reform.org.uk/the-irish-abortion-referendum-how-a-citizens-assembly-helped-to-break-years-of-political-deadlock/>>.

Bill, but the former undoubtedly bears more than a family resemblance to the latter. No doubt there will be demands for refinement or modification of the more radical elements of these bills.

According to the Preamble of the CMMA Bill, which sets out the Bill's rationale, the current platform of centralisation severely compromises the country's development, in particular by creating inefficiency, cumbersome administrative procedures, and unresponsiveness to local demands. As a result, restructuring the system of local government in Chiang Mai is a pressing issue. Accordingly, the Bill is directed towards replacing the prevailing model of Thai nation-state as applied in Chiang Mai—that is, the scheme of “deconcentration,” by which the central government appoints the Chiang Mai provincial governor and other district chiefs—with the principles of devolution and delegation, set out in section 18. It therefore seeks to establish a two-tiered system of local government. The upper tier concerns the establishment of the Chiang Mai Metropolitan Administration (“CMMA”), while the lower tier is organised in the form of 25 Chiang Mai municipalities (“CMMs”). Indeed, section 9 of the Bill imposes several responsibilities of the CMMA towards the CMMs, designed to support collaboration and improvement at the lower level of technical expertise.

However, the Bill mainly concerns the CMMA itself. To ensure a smooth and uninterrupted transfer of authority, functions, and obligations from the central government to decentralised agencies in Chiang Mai, the Bill further sets up a Chiang Mai Metropolitan Administration Committee, with the obligation to determine criteria, procedures, and plans for giving effect to the transfer of powers within two years of the Bill coming into effect. The members of this committee include the Prime Minister or a Deputy Prime Minister assigned by the Prime Minister; five representatives of Chiang Mai local administrations; a group of three experts comprising a scholar, a representative of the NGOs, and a representative of local community organisations; and the Head of the Office of the Decentralisation to the Local Government Organisation Committee.<sup>61</sup> The Bill in Part IV also sets up the CMMA itself. This comprises three major elements. The CMMA Council (“the Council”); the Governor of the CMMA; and a Citizen Assembly.<sup>62</sup> The Council is the legislative branch of the CMMA, which consists of Councillors directly elected by Chiang Mai citizens for a term of four years, the number of Councillors depending on the population at the relevant time. The area governed by the CMMA shall be divided into constituencies with the approximate number of 100,000 Chiang Mai citizens—each shall be represented by one member of the Council.<sup>63</sup> Its main function is to consider and approve Chiang Mai ordinances.<sup>64</sup> The Governor of the CMMA is also directly elected by Chiang Mai citizens for a term of four years.<sup>65</sup> Not only does he /

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<sup>61</sup> CMMA Bill (n 57) s 14.

<sup>62</sup> *ibid* s 23.

<sup>63</sup> *ibid* ss 24–25.

<sup>64</sup> *ibid* pt 8.

<sup>65</sup> *ibid* ss 56–58.

she hold authority to initiate policies and plans necessary for local administration, but also to dissolve the Council.<sup>66</sup> Unlike existing governors, including the Bangkok Governor, the Chiang Mai Governor may hold a referendum on significant matters affecting the CMMA.<sup>67</sup>

Whereas the Council and the Governor of CMMA are generally based on the Bangkok model, the Citizen's Assembly is a striking innovation proposed by the Bill. The status of the Citizen's Assembly is stated to be "equivalent to the Governor," although it is not clear what this implies in terms of the balance of power between them.<sup>68</sup> It has been explained in terms of the three Chiang Mai entities resembling the three apexes of a triangle, but it should be noted that according to section 71 of the Bill, the Citizen's Assembly shall be comprised of 200 members installed from a selection amongst four groups as follows, the details still to be determined:

- (i) civil society organisations having the objectives of promoting agricultural, environmental, and natural resources development and urban infrastructure development; the interests of children, youths, women, elderly people, disabled people, HIV patients, and other types of patients; individual rights and liberties, consumer rights, and labour development and democratisation; healthcare, education, or arts and culture;
- (ii) delegates of every Tambon civil organisation;
- (iii) delegates of professional groups; and
- (iv) special experts.

In order to understand the sweep of these provisions, we need to set out here the duties of the Citizen's Assembly as enshrined in section 72, which are those of:

- (i) supervising and recommending policies and direction of development;
- (ii) tracking the performance of local Members of Parliament and civil servants, including by bringing lawsuits as an injured party, and by proposing a motion for impeaching members of the Council;
- (iii) promoting and supporting members of civil-society organisations to collaborate in sustainably managing the local environment and in conserving and reviving local traditions, wisdoms, arts, and good cultures;
- (iv) organising public forums for Chiang Mai citizens and residents to exchange opinions;
- (v) reporting problems in the CMMA administration and their consequences, resulting from any operations carried out by CMMA, CMMs, or other government to these institutes.

Deliberation in the Citizen Assembly is, in line with local culture which has already embraced the idea informally, not based on voting or specific decision-making, but rather on consensus; the Assembly having no legal powers as such.

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<sup>66</sup> *ibid* s 60(7).

<sup>67</sup> *ibid* s 140.

<sup>68</sup> *ibid* s 71(1).

Within its territory, the CMMA shall, according to section 72 of the Bill, have authority in the following matters, representing a very wide range of functions, from development planning, infrastructure and environmental and cultural conservation to policing, tourism, and education.

Significantly, the Bill provides several mechanisms, in addition to the Citizen Assembly, aimed at encouraging local citizens to participate in the administration of Chiang Mai. They have the rights to obtain information related to the CMMA and participate in the legislative process;<sup>69</sup> express their political opinions with regard to CMA;<sup>70</sup> be consulted;<sup>71</sup> participate as members of a committee or sub-committee or a working group responsible for administering Chiang Mai;<sup>72</sup> request a public hearing; and vote in a referendum.<sup>73</sup>

Furthering the democratic orientation of the Bill, it reflects an innovation, in that 5,000 and 10,000 citizens of Chiang Mai, respectively, may lodge a petition for the impeachment of a Councillor, or the Governor.<sup>74</sup> But this device still requires the enactment of specific legislation.

The CMMA Bill is, as we have seen, both extensive in scope and question-begging in detail. It represents a plan that requires much further discussion. More importantly, the Bill inspires the proposal of the PSG Bill by the Law Reform Committee which proposes the implementation of two-tiered local government,<sup>75</sup> the abolition of the MoI-supervised system of deconcentration,<sup>76</sup> the adoption of the 70/30 revenue share,<sup>77</sup> the creation of the directly elected governor of CMA,<sup>78</sup> the introduction of the Citizen Assembly<sup>79</sup> in local provinces throughout Thailand. Calls for PSG foster the sense of local identity within many local provinces, in particular, Pattani, a Muslim-majority province currently struggling with insurgencies.<sup>80</sup> Despite these promising provisions, enormous challenges still remain. At present, the approximate annual amount of taxation collected in Chiang Mai is one hundred billion baht. Under the present Bangkok-centric system, however, 70 percent of its revenue must be remitted to Bangkok.<sup>81</sup> It is therefore highly unlikely that Bangkok and the

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<sup>69</sup> *ibid* s 134(1) and (6).

<sup>70</sup> *ibid* s 134(2).

<sup>71</sup> *ibid* s 134(3).

<sup>72</sup> *ibid* s 134(4).

<sup>73</sup> *ibid* ss 134, 137, 143.

<sup>74</sup> *ibid* s 146.

<sup>75</sup> Provincial Self-Government Bill (PSG Bill) s 12.

<sup>76</sup> *ibid* s 126.

<sup>77</sup> *ibid* s 96 para 2.

<sup>78</sup> *ibid* s 32.

<sup>79</sup> *ibid* s 12 para 2.

<sup>80</sup> สฤตชัย ศรีตระกูล, “แนวคิดและข้อเสนอการเป็นจังหวัดจัดการตนเองของฝ่ายต่าง ๆ ในจังหวัดเชียงใหม่” (วิทยานิพนธ์ศิลปศาสตรมหาบัณฑิต, วิทยาลัยพัฒนศาสตร์ ป๋วย อึ๊งภากรณ์, มหาวิทยาลัยธรรมศาสตร์ 2558) [Sanchai Srirakool, “Concepts and Proposals for the Self-governing of Chiang Mai Province, Thailand” (Master of Arts Thesis, Puey Ungphakorn School of Development Studies, Thammasat University 2015)] (Thai) 26.

<sup>81</sup> เชียงใหม่นิวส์, “เชียงใหม่ จังหวัดจัดการตนเอง ฝันนี้ไกลคงไปไม่ถึง!! หรือยัง?” เชียงใหม่นิวส์ (4 สิงหาคม 2561) [Chiang Mai News, “Chiang Mai as PSG an Overreaching Dream!! or What?” *Chiang Mai News* (4 August 2018)] (Thai) <<https://www.chiangmainews.co.th/page/archives/770569/>>.

holdover elites will easily let their ties loosen. An abrupt restructure of the revenue system appears to be radically ambitious. Besides, it should be reiterated that the CMMA Bill was propelled by a reached compromise between moderate red and yellow supporters grieved by consequential adverse impacts on the local economy resulting from the country's intractable political conflict. However, the implementation of the CMMA model as enshrined in the PSG Bill in other provinces must take into account other factors beyond an economic issue. As this model requires decentralisation at both city and district levels, the climate of reconciliation which facilitates discussions among wide-ranging interests is crucial. The presence of ultra-royalist movements against anti-establishment protesters in eastern and southern provinces, which reinvigorate a strong sense of radical nationalism and advocate the current form of establishment, ostensibly undermines this climate. In short, the CMMA Bill inspires the establishment of a radical reorientation in central-local relations that impacts not just on territorial governance but on Thai democracy itself. It conspicuously challenges the nation-state as it has been defined so far, after 90 years of constitutional government. However, while the Bill is radical in its implications, it cannot be negated that it was drafted from a non-partisan perspective in terms of the divisive colour-coded politics. It is, in those terms, an *orange* proposal, and will reward discussion and refinement in the ongoing development of Thai democracy—if given the chance to do so.

## VI. CONCLUSION: ANTI-COUP MOVEMENTS AND SOME HOPES FOR DECENTRALISATION?

In his public interview on 14 June 2020, Deputy Prime Minister Wisanu Krua-ngam stated that local elections might potentially be delayed given that “the central budget for them has been diverted to contain the coronavirus outbreak.”<sup>82</sup> Unsurprisingly, this interview enraged large segments of Thai society, already frustrated by Prayuth's attempt to prolong his tutelage regime under the cloak of the DRKH and its incompetence in alleviating adverse socio-economic impacts caused by Covid-19. This simmering discontent, in turn, galvanised nation-wide anti-junta protests led by younger generations and pro-liberal, pro-decentralisation activists between July and August 2020, continuing through November and December 2020. As a result of the immense public pressure, Prayuth allowed the local elections to be held, as discussed above. The anti-junta PMG, led by Thanathorn Juangroongruangkit, former leader of the dissolved left-wing FFP, also fielded its candidates to compete in the elections, including in Chiang Mai. The CMMA Bill remains a bill before Parliament, and the election results do not indicate a strong push for more decentralisation outside Chiang Mai itself. The main red party, Pheua Thai, won handsomely in Chiang Mai and the

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<sup>82</sup> Post Reporters, “Coronavirus Ate Local Poll Budget, Claims Wissanu” *Bangkok Post* (15 June 2020) <<https://www.bangkokpost.com/thailand/politics/1934708/coronavirus-ate-local-poll-budget-claims-wissanu>>.



North and Northeast generally, but elsewhere the failure of PGM to secure a single local government headship indicates that demand for more decentralisation nationwide is weaker than it is in Chiang Mai.

Nonetheless the CMMA Bill represents what is so far the most radical attempt to decentralise powers in Thailand. It takes very seriously not just local autonomy for Chiang Mai, but local autonomy within Chiang Mai, on the basis that what is granted to Chiang Mai must also, on the same principle, be granted to the districts and municipalities of Chiang Mai. The Bill therefore represents a high-water mark for local democracy as well as for local autonomy. In this sense it has proved to be a model appropriate to be adopted in other parts of Thailand, especially where local culture differs from that of Bangkok—that is, virtually everywhere.

The CMMA Bill is also radical for another reason. It offers a way forward for power-sharing between the red and yellow factions or parties, not just at city level but at district level too. That this should be envisaged in Chiang Mai, the epicentre of the red faction, is remarkable; but if the conflict proves impossible to resolve finally at the national level—an outcome that appears quite likely in view of ongoing protests—then this type of decentralisation reform might just be attractive to all parties. If so, then we suggest that the Thai people will be the winners. In addition, reforms along the lines suggested would contribute to the experimentation that has been taking place globally in public participation in local government.

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