

Roles of the Constitutional Court of the Kingdom of Thailand in Protecting Democracy

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Justice of the Constitutional Court of Thailand

Presidents of the Constitutional Court,

Justices of the Constitutional Court,

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Since the Siamese Revolution in 1932 of which the form of government has been transformed from Absolute Monarchy to Constitutional Monarchy – a democratic regime of government with the King as Head of State, Thailand has modified and developed various constitutionality review systems.

At the first stage, the Constitution of the Kingdom of Siam 1932 granted the House of Representatives the absolute authority of constitutional interpretation. Later in 1946, in the Judgment No.1/2489, the Supreme Court ruled that the provisions retrospectively criminalizing

the cabinet's action of allying the country with Japan and declaring war on the Allies during the World War II was unconstitutional and declared it void. There was a controversy afterwards between the legislative body and the judiciary over which body had the power of constitutionality review.

At the second stage, the Constitution of the Kingdom of Thailand 1946, therefore, granted the Parliament the absolute authority of constitutional interpretation, and established the Constitutional Council entitled to do constitutionality review.

At the third stage, the Constitution of the Kingdom of Thailand 1991 granted the Constitutional Council the sole authority of constitutional interpretation.

At the Fourth stage, the Constitution of the Kingdom of Thailand 1997 has since then established the Constitutional Court as a judicial body vested with the authority of constitutionality review. Moreover, the

1997 Constitution has assigned to the Constitutional Court the additional duty and power to protect the Constitution and democracy.

First, the Constitutional Court has the power to decide whether an act constitutes an exercise of rights and liberties prescribed in the Constitution to overthrow the democratic regime of government with the King as Head of State. The Constitutional Court in the Ruling No.19/2564 (2021) ordered the respondents not to act or give speech that instigates the overthrow of the democratic regime of government with the King as Head of State.

Second, the Constitutional Court has the power to review constitutional amendments, so the legislative body cannot amend the constitution in the way that changes the democratic regime of government with the King as Head of State or the form of state. In the Ruling No.15-18/2556 (2013) and No.1/2557 (2014), the Constitutional Court ruled that the Draft Constitution

amending the structure of the senate and the source of senators was unconstitutional because it amounted to an annihilation of characters and essential substances of the bicameral system of the parliament and was contrary to the Principle of Checks and Balances. Also, in the Ruling No.4/2564 (2021), the Constitutional Court ruled that the formulation of a new Constitution by drafting a Constitutional Amendment would result in the repeal of the current Constitution. If the National Assembly wished to draft a new Constitution, a referendum must be held for the people to vote on whether or not there should be a new Constitution. This case was originally debated within the legislature and subsequently sent to the Constitutional Court for judgement.

Third, the Constitutional Court has the power to decide whether an act of state agencies or state officials is a violation of people's rights and liberties recognized by the Constitution. In the Ruling No.15/2565 (2022),

the Constitutional Court confirmed the duty and power of the senate in approving Judges of the Supreme Administrative Court.

In conclusion, the role of the Constitutional Court of the Kingdom of Thailand in protecting democracy has been increasingly strengthened and evident. The Court has also been able to solve many problems or disagreements that the political sector may not be able to do so. Although sometimes not all parties are contented with the ruling, the Constitutional Court has played a key role in securing democracy and ensuring that constitutional organizations would perform their duties and exercise their powers under the rule of law, in order to protect the integrity of the jurisdiction and for the nation to thrive.

Thank you.