

# **THAILAND IN 2018: Military Dictatorship under Royal Command**

Eugénie Mérieau

On 22 May 2014, Thai army chief General Prayuth Chan-ocha staged a military coup — two days earlier he had declared martial law for the entire territory of the kingdom. The junta, renamed the National Council for Peace and Order (NCPO), abolished the 2007 constitution and replaced it with an interim constitution banning political parties and elections. In April 2015 it lifted martial law only to replace it with NCPO Order 3/2015 prohibiting gatherings of more than five people.

Upon seizing power the NCPO had promised to return the country to democracy according to a roadmap stipulating for the drafting of a new constitution and the organization of elections. Following a referendum in August 2016, the newly crowned King Vajiralongkorn, who had ascended to the throne in December 2016, promulgated a new “permanent” constitution in April 2017. Elections were then planned for November 2018, which were later delayed to February then March 2019. In 2018, in preparation for the upcoming election, the military government lifted some of its restrictions on political activities. It allowed the registration of political parties in March and lifted the ban on political gatherings in December, after more than four years under martial law and NCPO Order 3/2015. In both cases, Prayuth used his absolute powers under Article 44 of the 2014 interim constitution to lift his previous orders.

The general election planned for 2019 will certainly not “return” democracy to Thailand. The planning and organization of elections following a military takeover

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is part of a regular pattern in Thailand, and has been called the “vicious cycle of Thai politics” (*wongchon ubat*).<sup>1</sup> Each cycle starts and ends in a military coup. First a coup is staged, with martial law declared and the constitution abolished. A short interim constitution banning both political parties and elections is promulgated instead. The interim constitution is in turn followed by a permanent constitution providing for elections, only to lead to a further crisis and a military or judicial-military coup, installing a military government. In 2006, the democratically elected leader Thaksin Shinawatra was ousted by a military coup, the 1997 constitution abolished and replaced with the 2006 interim constitution, followed by the permanent 2007 constitution adopted by referendum. Elections were held in December 2007, only for the subsequent government of Samak Sundaravej to be dismissed by the Constitutional Court in 2008. After years of mass mobilization of the red-shirts calling for new elections to be held, Yingluck Shinawatra, the sister of Thaksin, was eventually elected in 2011, but she faced disqualification by the Supreme Administrative Court in 2014. Her government was finally overthrown in the military coup staged by the NCPO.

This regular pattern exhibits continuity beyond the apparent political and constitutional instability. The military and the monarchy remain powerful actors, even at times when there are regular elections and an alternation of civilian governments, suggesting that Thailand is a tutelary democracy. A tutelary democracy, according to Adam Przeworski, is “a regime which has competitive, formally democratic institutions, but in which the power apparatus, typically reduced to the armed forces, retains the capacity to intervene to correct undesirable states of affairs”.<sup>2</sup>

In Thailand, the tutelary powers, identified as the monarchy and the army, can veto decisions of elected politicians whenever needed, while allowing some degree of electoral politics to play out. The nature and dynamics of the relationship between the two tutelary powers are two of the most contentious questions in the academic field of Thai studies. Several analysts have tried to conceptualize this relationship as an alliance, either in functional-structural terms (deep state,<sup>3</sup> parallel state<sup>4</sup>) or in agent-focused types of analysis (network monarchy<sup>5</sup>).

Adopting a historical-institutional approach, this chapter analyses the Thai regime in terms of tutelary democracy, where tutelary powers as well as the mechanisms used by tutelary powers to veto decisions of elected politicians are entrenched through the constitution, laws and administrative structures created by laws. In that regard, the year 2018 was instrumental in setting the structures of continued military rule under royal command, buttressed on a system of flawed electoral democracy — for decades to come.

## Thailand's Tutelary Democracy as Devised by the 2017 Constitution and 2018 Organic Acts

The 2017 constitution must be understood as a corrective to the 2007 constitution, the aims of which were to establish a tutelary democracy, whereby entrenched elites — the military and the monarchy — could retain their power and status whenever threatened by democratization and the rise of elected leaders. The endeavour ultimately failed with the election of Samak Sundaravej in late 2007 and Yingluck Shinawatra in 2011, both close allies of Thaksin. The 2017 constitution, adopted by referendum in August 2016, aimed to entrench tutelary democracy further by refining provisions regarding the Constitutional Court, the Senate and independent constitutional organs, as well as through the creation of a National Strategic Committee and a National Reform Committee. Like its predecessor the 2007 constitution, but with more assertiveness, the 2017 text organizes a system of *elite self-interested hegemonic preservation* that will be able to insulate the policy preferences of tutelary powers from the vicissitudes of electoral politics and gives them the means to overthrow elected leaders.<sup>6</sup> Meanwhile, constitutional revision is made highly difficult, with broad and vague eternity clauses<sup>7</sup> and a procedure involving the Senate and the Constitutional Court, two bodies placed under the control of the military.

According to the 2017 constitution and its organic acts, especially the 2017 Political Party Act and the 2018 Act on the Election of Members of the House of Representatives, the Constitutional Court has, with the help of independent organs such as the Election Commission and the National Anti-Corruption Commission, the means to overthrow elected leaders and dissolve political parties. These powers are not mere constraints: they are powers to be used. In 2006 and 2014, the Constitutional Court was instrumental in paving the way for the military coups that ousted Yingluck Shinawatra and Thaksin Shinawatra by voiding elections that would have confirmed them into power and thus creating a political vacuum which allowed the military to step in. Thaksin's political party was also dissolved twice, in 2007 and 2008.

Yet the 2017 constitution does not state that the Constitutional Court can dissolve parties as it did in 2007. Such provisions are now "hidden" in the Political Party Act. The new Political Party Act, adopted in September 2017, lists in its Article 92 the acts for which a political party shall face dissolution by the Constitutional Court. The 2018 Act on the Election of Members of the House of Representatives complements this list with a few others. Many of the defined offences are broad and unclear, such as "failure to act according

to the Democracy with the King as Head of State”. The types of actions that can lead to dissolution by the Constitutional Court are so numerous that the Electoral Commission (EC) has prepared a hundred-page document summarizing dissolution grounds for distribution to party leaders — listing thirteen of them.<sup>8</sup> In the name of prohibiting vote buying and the rise of undemocratic parties, the tools of *militant democracy* are here used to thwart democratization. In practice, the Constitutional Court can almost initiate a case of party dissolution *suo motu*: the constitution provides for an individual with the unfiltered right of petition before the Court and no *locus standi* is required.<sup>9</sup> On top of this, it can also veto legislation before and after promulgation, and void constitutional amendments on both formal and substantial grounds.<sup>10</sup> Furthermore, proposing an “unconstitutional” amendment could also be interpreted by the Constitutional Court as an act of malfeasance and lead to cabinet dismissal. In 2014 the Constitutional Court dismissed Yingluck on the grounds that one of her administrative acts had been found by the Supreme Administrative Court to be illegal. This entire framework has been devised to protect the hegemony of the military. To ensure they remain under the control of the military, Constitutional Court judges must, according to the 2017 constitution, be approved by the Senate, which is fully appointed by the military.<sup>11</sup>

According to the “transitory provisions” of the 2017 constitution, the Senate will initially be a body of 250 members fully appointed by the military junta for a five-year term. Of these 250 members, six are *ex-officio*: the permanent secretary of the Ministry of Defense, the supreme commander, the commander-in-chief of the Royal Thai Army, the commander-in-chief of the Royal Thai Navy, the commander-in-chief of the Royal Thai Air Force, and the commissioner-general of the Royal Thai Police. The powers of the Senate are very broad: it participates in the appointment of the prime minister, who does not need to be an elected member of parliament.<sup>12</sup> Moreover, it can impeach elected politicians. Lastly, the Senate is also tasked with monitoring the implementation of the National Strategy Plan,<sup>13</sup> which is legally binding on the government.

The constitution provides for a National Strategy Committee composed of thirty-four people appointed by the junta to write and monitor the twenty-year National Strategy Plan. Half the members of the National Strategy Committee are *ex-officio* members, including the prime minister, speakers of the Houses and the Senate, a deputy prime minister or minister, the Defence permanent secretary, the chiefs of the armed forces, army, navy, air force and police, the secretary general of the National Security Council, the chairman of the National Economic and Social Development Board, and the heads of the Board of Trade,

Federation of Thai Industries, Tourism Council of Thailand and Thai Bankers Association (seventeen members). The remaining members were appointed by the NCPO in July 2017. The twenty-year National Strategy Plan was adopted unanimously in July 2018.

Working under the umbrella of the National Strategy Committee is the National Reform Committee. The National Reform Act, adopted in 2017 to complete the constitution, created eleven subcommittees comprised of approximately ten members each, tasked with writing reform plans and monitoring their implementation by the government and government agencies: about 150 people, many of them members of the military, were appointed in August 2017 to form such subcommittees. Policies of the government must conform to the National Strategy.<sup>14</sup> Failure to follow the National Strategy can lead to dismissal from office.

Meanwhile, similar to the 2007 constitution, an array of other judicial and quasi-judicial bodies can easily remove and initiate both criminal prosecution and civil cases against elected leaders, as was the case with Thaksin Shinawatra and his sister Yingluck Shinawatra, both sentenced to prison terms according to special procedures. For instance, the National Anti-Corruption Commission can petition against the elected government in the Supreme Court for the latter's failure to implement the National Strategy. The EC and the Ombudsmen can petition the Constitutional Court to request for the dissolution of a political party. The EC can also petition the Supreme Court to revoke a politician's right to stand for elections for ten years, which is a doubling of the penalties provided for under the 2007 constitution.<sup>15</sup>

Under the new constitution, extra-constitutional military coups are no longer needed, as the military can stage coups through constitutional means — just as the Constitutional Court no longer needs to twist the constitution to stage judicial coups, as it has been empowered to dissolve political parties and dismiss elected governments on a wide spectrum of legal grounds.

## **The Militarization of the Thai State**

In 2018, the NCPO and King Vajiralongkorn militarized the Thai State by appointing military officers to key positions.

In its four years of rule, the NCPO has militarized the Thai state through hundreds of long-lasting appointments. This process was accelerated in 2018, under the constraint of the prospect of the upcoming election. As of late 2018, according to Thai Lawyers for Human Rights, the NCPO and its advisors consist of about 40 members, of which more than 30 are military officers.<sup>16</sup> Military

officers have been appointed to positions in all major ministries, on top of forming the majority of members of the National Legislative Assembly (200 members), the National Reform Committee and its Subcommittees (150) and the National Strategy Committee (34). In addition, in late 2018 a draft bill was tabled for consideration to make generals eligible for appointments in independent constitutional organizations such as the Ombudsman, the National Anti-Corruption Commission or the EC.<sup>17</sup>

In 2018, appointments to the Privy Council and the Crown Property Bureau also showed a pattern of militarization. The king appointed three new privy councillors: Ampon Kittiampon, Chalermchai Sitthisad and Chom Rungswang. The latter two come from the army, increasing the ratio of army generals in the Privy Council. Meanwhile, two privy councilors, Wirat Chinwinichakul and Tirachai Nakwanit, were dismissed only a few months after their appointment by the king. Significantly, Air Chief Marshal Satitpong Sukvimol, a close aide to the king, was appointed in March 2018 as director-general of the Crown Property Bureau.

A few months later, in October, Apirat Kongsompong, freshly appointed as new army chief, was named board member of the Crown Property Bureau. He is the son of the general who overthrew Chatichai Choonhavan in 1991, and, in line with his father's legacy, did not rule out a coup in the future. Unlike his immediate predecessors, who hailed from the Queen's Guard, he comes from the King's Guard, a unit in which the king himself had served in his youth. The same month, the king appointed another close aide as board member: Privy Councillor Ampon Kittiampon. The Crown Property Bureau now comprises 11 men, most of whom are members of the military and police and close to King Vajiralongkorn. Only one member maintained his position from the previous reign.

Since coming to power, the king has sought to gain, through the revision of key legislation, direct control over organs previously under some, or at least formal, control of the elected government, such as the Crown Property Bureau and the Buddhist Supreme Patriarch. These moves highlight a return to the conditions of the 1960s, when King Bhumibol built his power through an alliance with military dictator Sarit Thanarat.

In November 2018 the Crown Property Act was amended, redefining the king's possessions to include what the monarchy had "accumulated under ancient royal traditions". According to Article 5 of the act, any disputes over what assets are considered Crown property under the ancient royal traditions are to be decided by the king himself. The Crown Property Act had already been amended in 2017, allowing the king discretion to appoint members of the committee managing the

Crown property. The Crown Property Bureau, which has more than sixty square kilometres under its oversight, has reclaimed plots of land in the vicinity of the Palace, notably at Dusit Zoo, the horse-racing track, Ananta Samakhom Throne Hall and the current parliament buildings.

In July 2018, the Sangha Act was amended to give the king the power to appoint and dismiss all twenty members of the Sangha Council. The act had already been amended in 2017 to grant the king the power to appoint the supreme patriarch. He had used this power of appointment in February 2017 to select Amborn Prasatthaphong, a representative of the Thammayut sect, which has close relations with the Palace, bypassing the nominee for supreme patriarch proposed by the Supreme Council. The Supreme Council nominee, Somdet Chuang, is associated with the Dhammakaya sect, usually considered close to Thaksin. Likewise, in May 2018, Vajiralongkorn used discretionary powers to dismiss three members of the Supreme Council following their arrests on grounds of corruption.

A more punitive and expeditious approach to law and order under the guidance of the monarchy could also be observed by the resumption of the death penalty in Thailand in June 2018. In what was the country's first execution since August 2009, a twenty-six-year-old man convicted for murder was executed by lethal injection. The death penalty in Thailand is closely connected with the institution of the monarchy, through the institutionalized practice of royal pardon — only after a royal pardon has been rejected can an execution be carried out. A remarkable development in 2018 though concerns the use of the *lèse-majesté* law. The number of cases significantly dropped in 2018, reversing a trend of its skyrocketing use since the 2014 coup and the 2016 death of King Bhumibol. According to Thai Lawyers for Human Rights, no new cases were prosecuted in 2018.<sup>18</sup> Several high-profile cases were either entirely dropped or convicted under other charges. In September, young people who had set fire to portraits of Kings Vajiralongkorn and Bhumibol were not convicted of *lèse-majesté* but instead charged with damaging public property. Prominent social critic Sulak Sirivaksa (who himself faced charges in early 2018) reported, following an audience with the king, that such a drastic change could be explained by a royal order towards “mercy”.<sup>19</sup>

## **Towards Elections?**

The year 2018 was marked by preparations for the coming elections. In September, two organic laws were promulgated: the Act on the Election of Members of the House of Representatives and the Act on the Recruitment of Senators. Meanwhile, the Political Party Act that was adopted in September 2017 went into effect.

According to the version modified by an order issued in September 2018, political parties must meet the following requirements: to possess funds of at least a million baht, have branches in different parts of the country, and have at least five hundred members. In December, using its sweeping powers of Article 44, the military amended the Political Party Act to lift the ban on political activities and confirmed that the election would take place on 24 February 2019, the election decree issued on 2 January 2019, the official announcement by the Election Commission made on 4 January, and applications to be filed between 14 and 18 January in order for the official announcement to be released on 25 January. The stated aim is that parliament could convene in early May (after the appointment of senators). Yet, the decree was not issued on 2 January 2019, and the possibility that the election will be delayed looms large.

According to the Organic Act on the Election of Members of the House of Representatives, the House shall be composed of 500 members divided into 350 constituency seats and 150 party-list seats. Unlike the situation under the 2007 constitution, eligible voters can only cast a single vote each, which counts for a specific candidate as well as for that candidate's party. This electoral reform fragments the vote, making electoral majorities more unlikely and leading to unstable coalition governments. Small parties failing to obtain many constituency members of parliament will receive additional party-list seats, while those scoring well in constituencies will be allocated a reduced number of party-list seats, following a mechanism of "inverted" majority bonus or minority bonus. The targeted party is the Pheua Thai Party, which will see its number of seats reduced. However, the Pheua Thai Party had anticipated the manoeuvre and had created sister parties to increase its chances under the complicated system: the Thai Raksa Chat (Thais Safeguard the Nation), the "Pheua Tham" ("for justice") and "Pheua Chart" ("for the nation"). Having sister parties might also prove critical if Pheua Thai were to be dissolved by the Constitutional Court.

In March, political parties began to register for the election. More than 30 parties registered immediately, followed by almost 50 more to date. A pro-military party was formed to support Prayuth in the upcoming election: the Palang Pracharat Party. Uttama Savanayana, the current minister for industry, is the official leader, while other Cabinet members have also joined the party. It was also reported that more than 150 former MPs, senators, ministers and famous figures have defected from their parties to join the pro-military party. Other like-minded parties have also registered, such as the party created by Suthep Taugsuban, former member of the Democrat Party and leader of the PDRC, together with Anek Laothamatas, an academic close to the Democrat Party, called Phalang Prachachat Thai. A third



party supporting the army, Prachachon Patirup, was founded by Paiboon Nittitawan. Other than the three pro-military parties, it remains unclear whether the traditional Phuea Thai parties, led by Sudarat Keyuraphan and Chatchat Sittipunt, and the Democrat Party, led by Abhisit Vejjajiva, would entertain the possibility of an alliance with the military.

New anti-military forces have also emerged, such as the Future Forward Party and the Party of the Common People. The Future Forward Party is led by Thanathorn Jeungrungruangkit, a Thai billionaire known for his political antipathy towards the military and the conservative elites. The Future Forward Party has “vowed to cut the military budget and reduce the number of generals in the army”. The Party of the Common People is led by Tanaporn Sriyakorn, a former member of Thaksin’s original Thai Rak Thai party banned from politics after the 2006 coup. Both parties share a common platform aimed at reducing inequalities, decentralizing power, solving the conflict in the South by promising more autonomy, promoting freedom of expression and association, and demilitarizing Thailand.

On 7 December the army organized a meeting of the NCPO, the EC and representatives of seventy-five political parties to discuss preparations for the elections. The meeting was however boycotted by the major political parties, including Phuea Thai, the Democrat Party and the Future Forward Party.

Delays in the organization of the election have created rifts in the EC. In March, the chair of the EC, Somchai Srisutthiyakorn, critical of the military’s handling of the election, was dismissed by Prayuth through Article 44. In July, the NLA endorsed five new EC members and the EC picked Ittiporn Boonpracong as its chairman. In November, Prayuth once again invoked Article 44 to allow the EC to redraw the electoral constituencies to disadvantage the larger parties, Phuea Thai and the Democrat Party. Meanwhile, other measures and mechanisms were put in place to monitor, on behalf of the army, the implementation of the election, such as the setting up of election monitors appointed under the supervision of the military. The military-dominated ISOC will also play a role in such monitoring throughout the entire territory during the time of the electoral campaign. In November 2017, Prayuth Chan-ocha had used Article 44 to amend the Internal Security Act to add “domestic threats” as part of the mandate of the Internal Security Operations Command, a body under direct command of the military.<sup>20</sup> In sum, the entire constitutional, legal, and administrative framework is designed to make Prayuth the next premier. He himself hinted at this calculation by declaring: “I talked to the legal team: I don’t need to be a member or anything [to become premier]”.<sup>21</sup> Indeed, provided all 250 Senators support him, Prayuth needs only

126 members of parliament (out of 500) to vote for him in order to command a majority in parliament (376 out of 750).

Meanwhile, the repression of protesters calling for elections continued unabated. The “We want elections” protesters led by prominent activist Nuttaa Mahattana have been arrested repeatedly by the army. Academics who held a banner bearing the slogan “An Academic Conference is Not a Military Barracks” in July 2017 were prosecuted; the trial is still ongoing. Meanwhile, censorship of the press, TV and the Internet has continued, with the use of the Computer Cybercrime Act as amended in 2016 and NCPO orders. An unprecedented opening, however, surprisingly occurred with the dissemination on YouTube of a rap song entitled “What My Country’s Got” (*prathet ku mi*). The music video achieved ten million views within a couple of weeks and passed fifty million by the end of 2018. The song, written and performed by a collective of rappers known as “Rap Against Dictatorship”, or RAD, denounces the meddling of the army in politics, corruption and the repression of dissent. The clip is a tribute to the events of October 1976, when students were massacred in Bangkok by the military and police forces. The military at first issued a summons for the rappers but then backed down.

## Economy and Foreign Policy

In preparing for the upcoming elections, the Thai military has engaged in the massive distribution of cash handouts to eligible voters. The military government has been replicating Thaksin’s policies of benefitting the poor in the hope of getting their votes. These policies have included a three-year moratorium on farmers’ debts, monthly cash handouts of 200 to 500 baht per person for people of low incomes, free Internet SIM cards, cheap loans to first-home buyers, and funds for small and medium-sized enterprises. This has amounted to hundreds of billions of baht in public spending under the Palang Pracharath scheme.

Following the scandal of the luxury watches seen on the wrist of deputy chairman of the junta and deputy prime minister Prawit Wongsuwan, the National Anti-Corruption Commission announced in December that it was “finalizing its investigation”, although no member of the military junta has been prosecuted so far. Other scandals of corruption tainting the military government have been silenced. It has been reported that inequalities have grown since the military took power. In 2016, the 1 per cent richest Thais (500,000 people) owned 58.0 per cent of the country’s wealth, while in 2018 they controlled 66.9 per cent.<sup>22</sup> Meanwhile, economic growth stagnated at 4 per cent, while it had averaged 7 per cent under Yingluck’s elected government.

In order to get out of the middle-income trap, the military announced a plan entitled Thailand 4.0, which includes megaprojects such as developing U-Tapao, a former American base, into a full airport to make Thailand an airport hub in Southeast Asia, and high-speed trains to China through Laos which would connect Isan to Bangkok. In July 2018 the National Legislative Assembly voted unanimously to approve the National Strategy, with binding effect over the next twenty years and penalties for non-compliance. The six strategic areas were security, competitiveness, human resources, social equality, green growth and public sector development.

In the field of foreign policy, since the coup there has been a clear shift towards China, accompanied by a reinforcement of cooperation with authoritarian governments while Thailand prepares to assume the chairmanship of ASEAN in 2019. The 2014 coup harmed U.S.-Thai relations and prompted Thailand's turn to China for the sake of political legitimation. The Thai military has purchased Chinese submarines and is planning to buy Chinese tanks, while discussing advancing military cooperation with China. The high-speed railway project with China as part of the Belt and Road Initiative was agreed to hastily through the use of Article 44, and construction is set to start in early 2019. The Chinese influence can also be seen in the admiration Prayuth has never concealed for Chinese President Xi Jinping.

Meanwhile, the Thai military has also sought legitimation from democratic governments. Following the government's promise of a general election, European governments softened their stance towards the ruling generals. The European Union expressed interest in restarting negotiations for a free-trade agreement with Thailand, which had been frozen since the military takeover. Prayuth was keen on getting legitimation from democratic governments in order to boost his legitimacy at home. Prayuth toured Europe in June, meeting Emmanuel Macron in Paris and Theresa May in England. In July he was featured on the cover of the Asia edition of *Time* magazine with the subtitle "Democrat. Dictator. Which path will Thailand's Prayuth Chan-ocha choose?" Although the cover treatment upset him, in several speeches he mentioned his international recognition and the trust given to him by the governments of Germany, the United States, Australia, the United Kingdom and France. This enterprise of legitimation is important, as Thailand is set to assume the chairmanship of ASEAN in 2019 — several op-eds, including some in the *Jakarta Post*, have urged ASEAN to refuse Thailand's chairmanship due to its lack of legitimacy.

Thailand has not only deepened its cooperation with China but also with other authoritarian governments, most notably in Southeast Asia, but also elsewhere. The

first area of cooperation has been the return of political fugitives to their countries of origin, including those with refugee status. In 2015 Thailand returned several Uighurs to China. This year it vowed to return Cambodian fugitives in exchange for the return of Thais hidden in Cambodia. In January the dead bodies of Thai dissidents exiled in Laos were found floating in the Mekong River.

## Conclusion

The current apparent liberalization of Thai politics in 2018, as part of preparations for the coming elections, should not mask Thailand's sophistication of authoritarianism since the coup, an increased authoritarianism that has been noted by international think tanks on freedom and democracy. The almost five hundred pieces of legislation enacted, either as NCPO orders or laws passed by the National Legislative Assembly, will remain in force after a government is sworn in and they will continue to repress dissent and constrain the political system. Moreover, it is likely that the elections will further militarize the state by giving a stamp of legitimacy to Prayuth Chan-ocha, who is very likely to be appointed premier by the parliament. The 2017 constitution has entrenched Thailand's "Deep State" even further than the 2007 constitution did, embedding the 2014 post-coup interim charter (very short and authoritarian, giving full power to the army) into its democratic-liberal framework (a long document beginning with a catalogue of rights, providing for elections, legislatures, political parties and governments, as well as watchdog bodies). The set of laws issued and appointments made during 2018 highlight the reinforcement and deepening of the institutionalization of the alliance between the military and the monarchy.

## Notes

1. Chai-Anan Samudavanija, *Thailand's Young Turks* (Singapore: Institute of Southeast Asian Studies, 1982), p. 1.
2. Adam Przeworski, "Democracy as a Contingent Outcome of Conflicts", in *Constitutionalism and Democracy*, edited by Jon Elster and Rune Slagstad (Cambridge University Press, 1988).
3. Eugénie Mérieau, "Thailand's Deep State, Royal Power and the Constitutional Court", *Journal of Contemporary Asia* 46 (2016): 445–66.
4. Paul Chambers and Napisa Waitoolkiat, "The Resilience of Monarchised Military in Thailand", *Journal of Contemporary Asia* 46 (2016): 425–44.
5. Duncan McCargo, "Network Monarchy and Legitimacy Crises in Thailand", *Pacific Review* 18 (2005): 499–519.

6. Ran Hirschl, *Towards Juristocracy* (Harvard University Press, 2004).
7. Section 255. An amendment to the Constitution which amounts to changing the democratic regime of government with the King as Head of State or changing the form of the State shall be prohibited.
8. Election Commission, *Khwampit le attar thot tam kotmai thi kiaokap kanlueaktang lae phak kanmueang* (December 2016).
9. Section 49. No person shall exercise the rights or liberties to overthrow the democratic regime of government with the King as Head of State. Any person who has knowledge of an act under paragraph one shall have the right to petition to the Attorney-General to submit a motion to the Constitutional Court for an order to cease such act. In the case where the Attorney-General orders a refusal to proceed as petitioned or fails to proceed within fifteen days as from the date of receiving the petition, the person making the petition may submit the petition directly to the Constitutional Court. The action under this section shall not prejudice the criminal prosecution against the person committing an act under paragraph one.
10. According to Section 256, an amendment to Chapter I General Provisions, Chapter II The King or Chapter XV Amendment to the Constitution, or a matter relating to qualifications and prohibitions of persons holding the positions under the Constitution, or a matter relating to duties or powers of the Court or an Independent Organ, or a matter which renders the Court or an Independent Organ unable to act in accordance with its duties or powers, shall involve a referendum and can be reviewed by the Constitutional Court subject to a petition filed by at least one-tenth of the members of both houses.
11. Section 204. A person who is elected or selected to hold the position of judge of the Constitutional Court must obtain the approval of the Senate with the votes of not less than one-half of the total number of the existing members of the Senate. In the case where the Senate disapproves any selected or elected person, a new person shall be selected or elected and thereafter submitted to the Senate for approval.
12. This particular disposition was approved by referendum in August 2016. It was the object of an additional question: "To solve the crisis, should the Senate participate in the nomination of the prime minister?"
13. Section 270. Apart from the duties and powers provided in the Constitution, the Senate under section 269 shall have the duty and power to monitor, recommend and accelerate national reform in order to achieve the objectives under Chapter XVI National Reform, and the preparation and implementation of the National Strategy. In this regard, the Council of Ministers shall report the progress of implementing the national reform plan to the National Assembly every three months.
14. Section 162. The Council of Ministers which will assume the administration of the State affairs must, within fifteen days as from the date it takes office, state its policies to the National Assembly, which must be consistent with the duties of the

- State, directive principles of State policies and National Strategy, and declares the sources of incomes which will be expended in the implementation of the policies, with respect to which no vote of confidence shall be passed.
15. Section 226. When proceedings under section 225 are undertaken, or after announcing the result of an election or selection, if there appears evidence to reasonably believe that a candidate of the election or selection has committed a dishonest act in the election or selection or has connived at such act of other persons, the Election Commission shall submit a petition to the Supreme Court for an order to revoke the right to stand for election or the right to vote of such person. The consideration of the Supreme Court under paragraph one shall be based upon the file of the investigation or inquiry of the Election Commission, and in the interest of justice, the Court shall have the power to order an inquiry for additional facts or evidence. In the case where the Supreme Court has rendered a judgment deciding that the person under paragraph one has committed an offence as petitioned, the Supreme Court shall order the revocation of the right to stand for election or the right to vote of such person for a period of ten years, in accordance with the Organic Act on the Election of Members of the House of Representatives, or the Organic Act on Installation of Senators, as the case may be.
  16. Thai Lawyers for Human Rights, *Collapsed Rule of Law: The Consequences of Four Years under the National Council for Peace and Order for Human Rights and Thai Society* (2018), p. 6.
  17. *Ibid.*, p. 7.
  18. Thai Lawyers for Human Rights, “Changes in Thailand’s *lèse majesté* Prosecutions in 2018” (2019) <<https://www.tlhr2014.com/?p=10431>>.
  19. Shawn Crispin, “A Lighter Royal Touch for Thailand”, *Asia Times*, 16 October 2018.
  20. See Puanthong Pawapakan, *The Central Role of Thailand’s Internal Security Operations Command in the Post-Counter Insurgency Period*, Trends in Southeast Asia 2017, no. 17 (Singapore: ISEAS – Yusof Ishak Institute, 2017).
  21. Quoted in “Thai PM Prayuth Keeps Options Open”, *Straits Times*, 27 November 2018.
  22. “Report: Thailand Most Unequal Country in 2018”, *Bangkok Post*, 6 December 2018 <<https://www.bangkokpost.com/business/news/1588786/report-thailand-most-unequal-country-in-2018>>.

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