

Constitutional Court Ruling No. 19/2564: A Selection of Documents

Translated by Tyrell Haberkorn

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Table of Contents

Reform is Not Revolt: Preliminary Observations on Constitutional Court Ruling No. 19/2564	1
Petition for Constitutional Court to Rule According to Article 49	9
Counter Statement by Respondents	59
Constitutional Court Ruling No. 19/2564	80
Appendix of Relevant Laws	116

Reform is Not Revolt: Preliminary Observations on Constitutional Court Ruling No. 19/2564

Tyrell Haberkorn

In July 2020, a youth-led democracy movement began in Thailand with three initial demands. First, the current prime minister, General Prayuth Chan-ocha must resign. General Prayuth was the head of the National Council for Peace and Order (NCPO), the junta that launched the most recent coup on 22 May 2014, Thailand's 13th since the end of absolute monarchy on 24 June 1932. He governed for five years as a dictator and then retained his position following the March 2019 general election through a series of antidemocratic maneuvers. The election was meant to mark the end of military dictatorship but instead signaled a new era of authoritarian repression cloaked in the form of electoral democracy. Second, a new constitution must be drafted. The 2017 Constitution, Thailand's 20th, was drafted by a junta-appointed body and in sum, dispossesses the people of rights rather than strengthening rights protection. Third, the state must stop threatening dissidents through both excessive legal prosecution and extrajudicial intimidation and violence.

In August 2020, a fourth demand was added: the institution of the monarchy must be reformed. Despite the end of the absolute monarchy close to ninety years ago, the position of the monarchy in the Thai polity, which is ruled by democracy with the king as head of state, remains unclear. One of the reasons for this enduring lack of clarity is the prohibition on criticism, and even open discussion, of the monarchy enforced through Article 112 of the Criminal Code. This law punishes those who commit *lèse majesté* – or insult, defame, or threaten the king, queen, heir-apparent or regent -- with

imprisonment of three-to-fifteen years per count.¹ A broad interpretation of what constitutes lèse majesté combined with rising veneration of the monarchy during the last decades of the life of the former king, Rama 9 (Bhumipol Adulyadej), led to an upsurge in prosecutions under the law beginning with the 19 September 2006 coup and accelerating again following the 22 May 2014 coup.²

The demand for reform of the institution of the monarchy was first introduced by Arnon Nampa, a human rights lawyer and poet, during a speech on 3 August 2020 in which he promised that he would speak openly about the institution of the monarchy from that day forward and called on others to do so. A week later, on 10 August 2020, the United Front of Thammasat and Demonstration (UFTD), a new student organization based at Thammasat University, the historic center of student protest in Thailand, held a protest in which they unveiled a ten-point proposal for how to carry out the reform of the institution of the monarchy.

This demand is where the transformative power of the movement comes from as evidenced by the rapid growth of protests in the weeks and months following the declaration of the UFTD's ten-point proposal. One way to interpret the proposal, and the broader movement, is that they work to make real the promise of Pridi Banomyong, Phraya Phahonphonphayusana and the other members of the People's Party who fomented the change from absolute to constitutional

¹ On the history of Article 112 and related defamation laws, see David Streckfuss, *Truth on Trial in Thailand* (London: Routledge, 2010).

² Rama 9 died on 13 October 2016 and his son, Maha Vajiralongkorn, became Rama 10. Thongchai Winichakul has analyzed the veneration of the monarchy as a social, cultural and political formation of hyper-royalism. See Thongchai Winichakul, *Thailand's Hyper-royalism: Its Past Success and Present Predicament*, ISEAS Trends in Southeast Asia, no. 7 (Singapore: Institute of Southeast Asian Studies, 2016).

monarchy in 1932. The call for reform of the monarchy is also where the dangers to the liberty and lives of its leaders arise. Beginning in November 2020, criminal cases began to be brought against activists who participated in demonstrations, particularly those who called for the reform of the monarchy. Thai Lawyers for Human Rights (TLHR) reports that between 24 November 2020 and 6 December 2021 – just over a year – at least 168 individuals were charged with violation of Article 112.³

Alongside the criminal proceedings under Article 112, another judicial process related to the 10 August 2020 demonstration has taken place during the last year. In September 2020, drawing on a constitutional provision intended to protect against future coups, Nattaporn Toprayoon submitted a petition to the Constitutional Court arguing that the peaceful, unarmed demonstration at Thammasat University by the UFTD and their ten-point proposal constituted overthrow of democracy with the king as head of state.⁴ Article 49 of the 2017 Constitution permits citizens who believe others are engaged in the exercise of their rights and free-

³ These numbers are updated regularly here: Thai Lawyers for Human Rights, “สถิติผู้ถูกดำเนินคดีมาตรา 112 ตั้งแต่วันที่ 24 พ.ย. 63 – 6 ธ.ค. 64,” <https://tlhr2014.com/archives/23983>.

⁴ The Constitutional Court was founded following the promulgation of the 1997 Constitution and has been involved in many highly-politicized cases since the 19 September 2006 coup. For more information, several analyses include the following: Andrew Harding and Peter Leyland, *The Constitutional System of Thailand: A Contextual Analysis* (London: Bloomsbury, 2011); Eugénie Mérieau, “Thailand’s Deep State, Royal Power and the Constitutional Court (1997–2015),” *Journal of Contemporary Asia* 46.3 (2016), 445-466; Khemthong Tongsakulrungruang, “The Constitutional Court of Thailand: From Activism to Arbitrariness,” in *Constitutional Courts in Asia: A Comparative Analysis*, edited by Albert H.Y. Chen and Andrew Harding (Cambridge: Cambridge University Press, 2018), 184-213; and Duncan McCargo, *Fighting for Virtue: Justice and Politics in Thailand* (Ithaca: Cornell University Press, 2020), especially Chapter 8, “Courting Constitutionalism,” 184-210.

doms to overthrow rule by democracy with the king as head of state to request that the Constitutional Court examine their actions, and to order their cessation if found to constitute overthrow. Although Article 49 specifies that allegations made under it are not linked to criminal proceedings, overthrow immediately references Article 113, the measure in the Criminal Code that sanctions overthrow or revolt against the government by a punishment of up to life imprisonment or the death penalty.

Three of activists who spoke during the UFTD protest — Arnon Nampa, the lawyer poet, Panupong Jadnok, a student at Ramkhamhaeng University, and Panusaya Sithijirawat-takul, a student at Thammasat University — were named in Nattaporn’s petition. They submitted a written counter statement to his petition explaining that they were calling for reform, not overthrow, of the institution of the monarchy, and indicating their willingness to provide verbal testimony to the Constitutional Court if needed. Despite the gravity and complexity of the case, the Constitutional Court did not request that either the three activists or the academics and other experts they prepared as witnesses provide verbal testimony.

The Constitutional Court spent over a full year considering the petition. During this period, the three activists named in it have been arrested and charged with numerous violations of Article 112. They have been denied the right to bail and detained pending trial multiple times.⁵ On 10

⁵ Arnon Nampa is currently facing fourteen Article 112 cases and has been detained pending trial since 11 August 2021. Panupong Jadnok is currently facing nine Article 112 cases and has been detained pending trial since 23 September 2021. Panusaya Sithijirawattanakul is currently facing nine Article 112 cases. She has been released on temporary bail until 12 January 2022 to take her university exams; while released on bail, she must wear an electronic-monitoring bracelet and is subject to 24-hour house arrest with the exception of doctors’ appointments and court appearances.

November 2021, the Constitutional Court read an abbreviated version of their ruling in which they concluded that the activists' actions constituted overthrow of rule by democracy with the king as head of state and ordered them to cease their activities immediately. Although the ruling was not entirely unexpected after the crackdown on the protests, it immediately raised two related questions. The first is sharply practical: would this lead to the Arnon, Panupong, Panusaya and other activists being criminally charged with violation of Article 113, or overthrow of the government? In other words, might they face life imprisonment or the death penalty for their peaceful expression of political opinion? The second refracts this question within political theory: what does it mean — for the polity, for the citizens of the polity, for the rulers of the polity — when peaceful calls for reform of rule are deemed to be equivalent to overthrow of rule?

Reactions to the ruling were immediate. The day after the abbreviated version of the ruling was read, the website of the Constitutional Court was hacked and the title “Constitutional Court” was replaced with “Kangaroo Court.”⁶ University lecturers, lawyers, student organizations and many others issued statements criticizing the ruling and demonstrations in support of the activists have been held.⁷ Those who agreed

⁶ The information on the landing page was replaced with a video of the song “Guillotine” by the band Death Grips. Within a day, the new content was removed.

⁷ See this statement by a group of twenty-three university student organizations criticizing the court and calling for the protection of the rights and freedoms of the people to peacefully express their political opinions: “23 องค์การนิสิต นศ. แกลงปฏิเสธรคำวินิจฉัยศาล รธน. ตัดสิน ‘อานนท์-โมทย์-รุ่ง’ ล้มล้างการปกครอง,” ประชาไท, 11/11/2021, <https://prachatai.com/journal/2021/11/95884>; and this statement by seventy lawyers and law scholars noting that the ruling amounted to the overthrowing of the rights and freedoms of the people, “70 คณาจารย์-นักกฎหมาย แกลง ‘ล้มล้างสถาบันฯ หรือล้มล้างสิทธิเสรีภาพ ปชช.’ - เปิดความเห็น 3 คมเบตติคณะนิติฯ, ประชาไท, 11/13/2021, <https://prachatai.com/journal/2021/11/95926>.

with the ruling's characterization of calls for reform as overthrow also acted, with at least three different criminal complaints of violation of Article 113 filed against the activists at various police stations throughout the country.⁸ The Office of the National Broadcasting and Telecommunications Commission summoned media workers to their offices and instructed them to avoid reporting on the protests, carrying out interviews with activists, and to stop referring to the ten-point proposal to reform the institution of the monarchy.⁹ All of this took place before the full ruling was published in the *Royal Thai Government Gazette* on 29 November 2021.

A great deal of commentary in Thai has already emerged in the past month about the ruling and there will likely be much more to come as the political, legal, and social implications of the ruling become clear. In the service of contributing to scholarship and to prompt discussion of the ruling and its legal and political implications within a broad, international audience, unofficial translations of three key documents related to the ruling are presented here:

- 1) The petition submitted to the Constitutional Court by Nattaporn Toprayoon;
- 2) The counter statement submitted to the Constitutional Court by Arnon Nampa, Panupong Jadnok, and Panusaya Sithijirawattanakul; and
- 3) Constitutional Court Ruling No. 19/2564

⁸ See the following news reports: "กลุ่มรักสถาบันฯ แจงความ สน.ท่งมหาเมฆ เอาผิดมือบั่นทอนสมบูรณาญาสิทธิราชย์ 14 พ.ย. 64," ประชาไท, 11/16/2021, <https://prachatai.com/journal/2021/11/95970>; "อดีตพระพุทธรูปอิสระ แจงความ 'รุ่ง ปันัสยา' พร้อม 5 แกนนำ เอาผิด ม.112," KhomChadLuekOnline, 11/22/2021, <https://www.komchadluek.net/news/493663>; "กทปส.นครสวรรค์ รวม 10 คน บุกกองใต้เข้าแจ้งความ 'รุ่ง ปันัสยา' มาตรา 112," ขบวนการสวรรค์, 11/22/2021, <http://khaonakhonsawan.com/กทปส-นครสวรรค์-รวม-10-คน-บุก/>.

⁹ International Press Institute, "Thailand aims to further censor media reporting of protests," 12/6/2021, <https://ipi.media/thailand-aims-to-further-censor-media-reporting-of-protests/?fbclid=IwAR1x4EZAOUx-G27HtKoZOsehpjzOSLMQ8k11gBm42wFQUmpQedMB4Q1Nx69U>.

One document that is not included, but would be an important addition are the individual opinions of the ten Constitutional Court judges with respect to this ruling.¹⁰

I was inspired, and compelled, to translate these three documents due to the challenging, and troubling, questions they raise about the past, present, and future of democracy, law, sovereignty and history in Thailand. For example, what is the meaning of rule by democracy with the king as head of state? Who is permitted to define democracy in the Thai polity, and what does the silencing of dissidents mean for its future? What does it mean when the Constitutional Court alleges, as they did, that the activists have the ulterior motive of overthrowing rule by democracy with the king as head of state – when the activists repeated over and over again that their goal was reform? How did the Constitutional Court come to this conclusion without questioning the activists? What does it mean when the state refuses to believe the people? Finally, what is the relationship of history to this ruling? Both the petitioner and the Constitutional Court cited an unchanging Thai past in which the institution of the monarchy was central as justification for the conclusion that calling for its reform constituted overthrow of rule. But this is only one interpretation of the past. And, what are the possible future histories of this ruling and the broader political moment of which it is one part?¹¹

¹⁰ The individual opinions in Thai can be downloaded from the Constitutional Court of Thailand website: <https://www.constitutionalcourt.or.th/download/pall19-2564.pdf>.

¹¹ These three documents are also significant as a record of this very political moment and as a historical source. A key caution is that in the petition, the speeches of the three activists were excerpted and quoted. Then, in the ruling, those excerpts were subject to further selection. The Constitutional Court states that they summarized the speeches, but they actually quote selectively from them without using quotation marks. The full text of the speeches has been published in English by PEN International and may be downloaded here: <https://pen-international.org/news/>

Notes on the Translation:

This translation hews very close to the original for purposes of accuracy. At times, legal writing in Thai omits the subject of a sentence or other words that would be present in English. Therefore, when needed for clarity, additional words are added in [] across all three texts.

I have added footnotes to all three documents with background and supplemental information for those who may not be familiar with Thai law and politics; these are all marked with -trans. Readers who would like a more comprehensive English-language introduction to Thai politics may wish to consult *A History of Thailand*, by Chris Baker and Pasuk Phongpaichit (Cambridge: Cambridge University Press, 2015, 3rd edition).

The Appendix includes the English-language text of various laws cited across the three documents.

[thailand-pen-international-releases-booklets-speeches-thailand-protest-leaders](#). Readers may wish to examine the speeches alongside the three documents translated here.

Petition for the Constitutional Court to Rule According to Article 49

[State Emblem]

Constitutional Court

3 September 2020

Between

Mr. Nattaporn Toprayoon, Petitioner

And

Mr. Arnon Nampa and Associates, Respondents

I would like to exercise my constitutional right as in Article 49, paragraph three, to submit a petition directly to the Constitutional Court.¹² The facts and speech for the Constitutional Court to examine and rule on are as follows:

Facts

No. 1. In this case, on 18 August 2020, the Petitioner submitted the petition attached as Document 1 to the attorney general for him to request that the Constitutional Court rule to order the cessation of the actions specified.¹³ But the attorney general did not take any action within fifteen days be-

¹² The original Thai-language version of the petition can be downloaded from the website of the Internet Dialogue on Legal Reform, or iLaw: <https://ilaw.or.th/node/6003>. The first portion of this petition, which contains the contact information for the Petitioner, is not included in this translation. —*trans.*

¹³ Document 1 and the others appended to the petition are not included in this translation. —*trans.*

ginning from the date on which the petition was received. According to Article 49, paragraph three, of the 2017 Constitution, the Petitioner therefore submitted the petition to the Constitutional Court to rule to order the group of people cease the actions specified as follows:

As has occurred from 3 August 2020 until the present, there is a group of people, including various activist groups of Thammasat University students, the Student Union of Thailand or SUT, Mahasarakham University Democracy Front, Seri Thai Plus, etc., who use various places to organize demonstrations which include crimes according to Article 6 of the 2017 Constitution, Articles 112 and 116 of the Criminal Code, and related laws. There is violation of the institution of the monarchy, which is beloved and respected by the Thai people. This is action that is the overthrow of rule by democracy with the king as head of state, and action that creates division, disorder and insubordination among the people.

This group of people, especially those who give speeches with content about the “institution of the monarchy,” in particular Mr. Arnon Nampa, Mr. Panupong Jadnok (Mike), Miss Panusaya Sithijirawattanakul (Rung), Mr. Parit Chiwarak (Penguin), Miss Juthathip Sirikhan, Miss Siripatchara Chungthirapanich (Nong Mee), Mr. Somyot Prueksakasemsuk, and Miss Athitaya Pornphrom (San) act as a movement. Leadership, ideas, theory, and strategies come from a former political party, Future Forward, which provides support behind the scenes.¹⁴ There is the use of the three-finger sym-

¹⁴ Future Forward is a political party that was founded in 2018 by Thanathorn Juangroongruangkit, Thai Summit Group executive and former student activist, and Piyabutr Saengkanokkul, a legal scholar from Thammasat University. Progressive and focussed on equality and strengthening the peoples’ participation in politics, they were very successful in the March 2019 election. This was the case even though the election, the first after nearly five years of dictatorship following the 22 May 2014 coup by the National Council for Peace and Order, was highly constrained with

bol, the disrespect of teachers, and opposition to rule by democracy with the king as head of state.¹⁵ In addition, they distributed a booklet with “The Monarchy and Thai Society” on the cover in various demonstrations as in Document 2.¹⁶ Speeches given in public included the following:

At the Cast a Spell to Protect Democracy event at the Democracy Monument on 3 August 2020 and at the Chiang Mai Won’t Stand For It event in Chiang Mai province on 9 August 2020, Mr. Arnon Nampa gave the speeches as in Document 3. The main points in abbreviated form are as follows:

Mr. Arnon Nampa said of the institution of the monarchy that, “It is of the utmost necessity that we speak about how the monarchy is involved in Thai politics today. We have shoved this problem under the carpet for many years, brothers and sisters. There is no mention of the actual problem, which means that the solutions miss the mark. We have to accept the truth that part of the reason that the students and the people have risen up to protest today is because many wish to ask questions about our monarchy. They hold up signs at demonstrations about the person who is in Germany

election regulations favoring junta-aligned political parties. Their success, and brave political ideas, were a profound threat to the elite. The party was dissolved by the Constitutional Court on 21 February 2020 in Ruling No. 5/2563. They cited as the reason that a loan of \$6 million USD made to the party by Thanathorn was a donation and therefore illegal. The full ruling was published in ราชกิจจานุเบกษา, เล่ม 137, ตอนที่ 21 ก, 18 มีนาคม 2563, หน้า 23-46. —*trans.*

¹⁵ The three-finger salute refers to the holding up of three fingers in the air, inspired by the film *The Hunger Games* and signifying fraternity, liberty and equality. First used as a symbol of solidarity and dissent in protests following the 22 May 2014 coup, it is now a regular part of protest repertoire in Thailand. —*trans.*

¹⁶ An English translation of this booklet has been disseminated by PEN International and can be downloaded here: <https://pen-international.org/app/uploads/The-Monarchy-and-Thai-Society.pdf> —*trans.*

and mention the person who flies back and forth. Such statements can allude to no one other than our monarch, brothers and sisters. But these are meaningless if we do not speak frankly and with reason and evidence in line with the principles of rule of democracy with the king as head of state.”

“At present we are facing a problem of the utmost importance. This problem is that our monarchy has grown more and more distant from democracy. This process began after the 2014 coup. Prayuth Chan-ocha and his cohort that launched that coup ordered their jurists to draft a new constitution. The first was drafted by Bowornsak Uwanno. The content of the constitution first drafted by Bowornsak was not substantially different from that of the 2007 Constitution. It turned out that the Thai ruling class did not accept it and the National Reform Assembly (NRA) dispensed with it.¹⁷ The NRA then handed the responsibility to the real, live wizard-jurist of Thailand, Meechai Ruchuphan.”

“Meechai used his wizardry to design a constitution with a structure that was conducive to the expansion of the royal prerogative in a direction departing from democracy. The farther, the better. How did he design it? 1) He designed the second paragraph of Article 15 to create royal units as part of national governance, and for such units to be administered in line with the king’s pleasure. Translated into common language, the statement that such units will be administered in line with the king’s pleasure means that they will be run as the king wishes. The design of this law is in complete contravention to democracy. Subsequently, the draft was brought to a referendum through a messy process. The referendum itself lacked any semblance of democracy. Many of my friends were arrested and threatened.¹⁸ I won’t go into detail today.

¹⁷ The NRA was a body appointed by the junta after the 22 May 2014 coup. —*trans.*

¹⁸ The 2016 Act on the Referendum of the Draft Constitution was a

But once it was passed through a referendum, the monarchy interfered in the promulgation of the constitution. The first time was when Prayuth Chan-ocha presented the constitution passed through the referendum to the king. The king ordered the amendment of the constitution on many key points. If the country was a democracy with the king as head of state, this could not occur because it was official interference with the promulgation of the constitution.”

“The amendment involved two significant points:

The first amendment regarded the situation of a national crisis. Meechai’s constitution said to examine it in line with administrative custom and to establish a committee to examine [the situation] with the president of the Supreme Court, the president of the Administrative Court, the president of Parliament, and the opposition leader. Examination of national crises would be carried out by those institutions bound up with the people. But the king ordered amendment and for this point to be removed. All that remained was for the examination to be in line with the custom of democracy with the king as head of state. This was the first amendment with definite impact on the key content of the constitution.

The second amendment was to make it such that the king does not need to appoint a regent to act in his stead when he is not in the country. We have therefore seen our king go to live in Germany and Switzerland. He returns to Thailand infrequently. This is a fact that all of the brothers

wide-ranging piece of legislation that criminalized protest and distribution of information about the draft without authorization by the junta. Thai Lawyers for Human Rights reported that at least 212 people faced prosecution under this law. See Thai Lawyers for Human Rights, “รัฐธรรมนูญใหม่ประกาศใช้ แต่ ‘ผู้ต้องหาประชามติ’ กว่า 104 ราย ยังถูกดำเนินคดี” [“The new constitution has been promulgated, but more than 104 defendants in ‘referendum cases’ are still being prosecution”], 7 April 2017, <https://tlhr2014.com/archives/3924> —trans.

and sisters know. All of the soldiers and police know. But I believe that no one dares to say it. With the greatest respect for the monarchy, I think that this problem must be officially discussed in order to find a collective solution to the problem.”

“Upon promulgation, the power of Meechai Ruchuphan’s constitution was immediately displayed. The National Legislative Assembly, which had been appointed by that damn dictator Prayuth, colluded to pass many laws which expanded the monarchy’s royal prerogative. The first of these laws was the 2017 Royal Service Administrative Act.¹⁹ This law created the opportunity for units to be established directly by the king and to act according to the king’s pleasure, but for the salaries of such units to be paid by the people. An important law, the 2018 Royal Assets Structuring Act, was then drafted.²⁰ An organization, the Crown Property Bureau, already existed to manage the assets of the king. There may have been problems and arguments over who looked after the assets of the crown and [personal] assets of the king. But the amendment of the constitution and the promulgation of this law in 2018 was an earth-shattering transformation of Thai politics. Why? Because after this, brothers and sisters, those assets which were national, public assets which we owned collectively, whether Sanam Luang or the palaces or the shares of stock of which we once shared ownership, became the property of the king and subject to management according to the king’s pleasure. This mattered but no one dared to talk about it. That is the reason why the younger brothers and sisters asked me to speak today. How is it

¹⁹ This was the พระราชบัญญัติระเบียบบริหารราชการในพระองค์ พ.ศ. 2560, which was published in ราชกิจจานุเบกษา, เล่ม 134, ตอนที่ 48 ก, 1 พฤษภาคม 2560, หน้า 1-5. —*trans.*

²⁰ This was the พระราชบัญญัติจัดระเบียบทรัพย์สินพระมหากษัตริย์ พ.ศ. 2561, which was published in ราชกิจจานุเบกษา, เล่ม 135, ตอนที่ 88 ก, 3 พฤศจิกายน 2561, หน้า 1-5. —*trans.*

important? When the People's Party transformed rule [from absolute to constitutional monarchy on 24 June 1932], they made a clear division of assets. The People's Party did not touch those which belonged to the king. But those which came from our taxes before the transformation were given to the state to administer by the People's Party. It is important in that these assets, many of which we once used communally, are no longer as such. For example, children played and homeless people dwelled on Sanam Luang when it was not being used for royal ceremonies. We will not see such things anymore. That alone was not enough. The transformation of the assets of the crown to be administered solely by the king caused another point of law to arise. When our king is residing in Germany, according to the terms set by the state of Bavaria in Germany, he may be required to pay tens of thousands of millions in baht in tax. To whom do those tens of thousands of millions of baht belong? It is the tax money of each and every one of us. This is a significant vulnerability of which the Prayuth government has never spoken. All of us witnessed the subsequent problematic amendment of the constitution. All of us have talked about it. The students who are down below the stage have all talked about it. But many have turned a deaf ear to it. What problems arise when the king does not live in the country? At present, a Western incarnation of King Tabinshwehti is ridiculing our king in Germany by projecting lasers and having children shoot air guns.²¹ It is unseemly and has arisen because the king is not in the country. It also includes the instance of ministers being unable to swear an oath of allegiance before being appointed. They had to wait for the king to return to the country first.

²¹ Tabinshwehti was the king of Burma from 1530-1550 C.E. and led the first of a series of wars between Burma (today Myanmar) and Siam (today Thailand). In June 2017, German teenagers shot air guns at Rama 10 while he was biking near Munich. Then, in early 2020, activists projected questions about the monarchy using laser lights on the outer walls of a hotel where members of a royal entourage were staying in Germany.—*trans.*

Everyone is aware of this problem. All of the police know but no one dares to discuss it. Everyone who came to the demonstration on 18 July 2020 who held up posters about this knows. But no one talks about it.”

“It is not only that laws been been promulgated that have caused the monarchy to move outside democracy. Do you remember, brothers and sisters, when the election was held in 2019? The elected government proposed another law: the 2019 Royal Decree on the Partial Transfer of Forces and Budget of the Royal Thai Army, Royal Thai Armed Forces Headquarters, Ministry of Defence to the Royal Security Command, a Royal Unit.²² The 1st and 11th Infantry Regiments were transferred for the monarchy to supervise according to the king’s pleasure. This is significant. No democracy exists in which the king is given the power to supervise such a large number of soldiers. Not a one. Doing so is risky. It risks transforming a monarchy that exists within a democracy into an absolutist regime. We are lucky in our unluckiness in that there was one daring politician which stood up and raised this issue in parliament. Allow me to mention his name. At the time, he was a member of parliament for the Future Forward Party and said that they did not endorse the promulgation of a royal decree transferring military forces to be under the monarchy. That person is named Piyabutr Saengkanokkul. He was the first and only member of parliament in decades of Thai history who dared to stand up and raise this issue in parliament. He discussed the troubling nature of this transfer because it was accomplished through royal decree, rather than allowing a wide-ranging debate in parliament. In addition, placing many military units under the monarchy risked leading to a change in the form of gover-

²² This was the พระราชกำหนด โอนอัตรากำลังพลและงบประมาณบางส่วนของกองทัพไทย กระทรวงกลาโหม ไปเป็นของหน่วยบัญชาการถวายความปลอดภัยรักษาพระองค์ ซึ่งเป็นส่วนราชการในพระองค์ พ.ศ. 2562, which was published in ราชกิจจานุเบกษา, เล่ม 136, ตอนที่ 103 ก, 30 กันยายน 2562, หน้า 1-3. —*trans.*

nance. As fate had it, talking about this issue led to the dissolution of the Future Forward Party. Brothers and sisters, let's have everyone give some applause to the Future Forward Party."

"This is the courage of a very rare MP. Today, we are a democracy with the king as head of state. But the monarchy exercises royal prerogative in excess of that permitted in a democracy. With respect for the monarchy, there is no way to solve this problem without talking about it. This kind of discussion is not the toppling of the monarchy. But it is talking about it so that the monarchy will exist in Thai society in a manner that is correct and legitimate for a democracy with the king as head of state."

"All of the students who came out to protest after the new year are aware of this. All of the students who hold up posters with messages containing a double meaning that mention the individual I have already discussed are aware of this. From now on, there must be discussion of this in public. Each of us must demand that members of parliament discuss this in parliament as our representatives. Do not leave it to those on the margins to have to talk about the monarchy and then face threats and harassment all alone. Do not leave it to the political exiles to talk about the monarchy and then be brutally murdered and disappeared. From now on, this is not going to happen anymore."

"This is merely the opening scene of the transformation of the monarchy's royal prerogative that poses a problem to democracy. It is the promulgation of law by a parliament of dictatorship."

"The next point is that our monarchy has remained silent in excess of necessity and allowed people to progress by referencing the monarchy over and over again in order to damage those who think differently about politics. The first

person I am going to talk about, who has pulled the monarchy in to support himself is named Prayuth Chan-ocha. Brothers and sisters, do you recall that the constitution stipulates that before a person is to become prime minister, he must take an oath in front of the king? He must pledge that he will be loyal to the monarchy and rule faithfully, and, importantly, protect and act in accordance with the Thai constitution. But Prayuth Chan-ocha intentionally did not pledge in front of our king that he would protect and act in accordance with the Thai constitution. What is this meaning of this, brothers and sisters? What it means, brothers and sisters, is that Prayuth Chan-ocha did not give his word that he would not once again tear up the constitution. Prayuth Chan-ocha did not give his word that he would act in accordance with the constitution. But the monarchy still allows Prayuth to refer to them over and over again. After the [first] oath, there was preparation for the oath to be given again. But brothers and sisters, do you remember the next day? Prayuth cited the king's words, which was a royal written message in which the king sent him his encouragement. This is the referring to the institution of the monarchy for personal gain. But the institution of the monarchy did not explain this matter and allow people like Prayuth Chan-ocha to refer [to the monarchy] over and over again."

"I do not believe that the monarchy, which has military units who serve as an intelligence wing, a wing that looks after social networks, are not aware of the how people like Major General Rienthong Nanna use the monarchy to smash us. I do not believe that he does not know.²³ But that the monarchy and the Bureau of the Royal Household do nothing even though they know that there are individuals who refer to the

²³ Major General Rienthong Nanna is a retired army officer and physician who founded the Rubbish Collection Organization in 2013. The group searches for those they believe have defamed the monarchy, outs them, and files criminal charges of violation of Article 112 against them.—*trans.*

monarchy and then come down to smash the people. This makes us unable to resist asking, really, what does the monarchy think about us? If my voice reaches the monarchy and the Bureau of the Royal Household, allow me to call on him to express a neutral political stance. Deal with Major General Rienthong and do not let him hurt the people, don't let him threaten us anymore. In addition, this country still distorts many other important issues. The monarchy has become so that it is the institution of a particular group of individuals, not an institution of all Thai people in the country. This particular group has claimed that the actions of those who call for the removal of Prayuth Chan-ocha are equivalent to the toppling of the monarchy. This is not the case. Calling for the removal of Prayuth is calling for the removal of Prayuth. The amendment of the constitution is the amendment of the constitution. Saying that the removal of Prayuth is the equivalent of topping the monarchy is an exaggeration. Can we accept this? That group of individuals must cease doing so before those in the country come face to face with violence. Additionally, each and every one of us must try to talk about this genuine problem openly and in public. Starting tomorrow and from now on, if I am invited to speak but those who invite me to ask me to contort myself and not talk about the monarchy, I will not do it. I will only go up on stage when given the chance to speak the truth. And I maintain, on my manly honor and my human dignity, that I speak with respect and sincerity. If I lie, even a little bit, let me expire within three, seven days, brothers and sisters. The next point is that in addition to the expansion of the royal prerogative by the monarchy in excess of that permitted by the system, the dictatorship of Prayuth Chan-ocha has referred to the monarchy in order to undemocratically govern this country."

"Part of this is the enactment of the National Budget Act that allocates funds to the monarchy without examination of the monarchy's expenditures, brothers and sisters. This is an important issue. Every organization that uses funds from

the national budget must be audited and must be able to be criticized. But this is not an issue for this government. Funds have been apportioned in many areas in excess of necessity. For example, the Ministry of Commerce has promoted the fashion clothing of Sirivannavari. The national budget has been used to promote the personal brand of a princess. This is this government's excessive sucking up to the monarchy. This would not happen if we had an elected government, brothers and sisters."

"The next point is the parliamentary provision of a more than 5,000,000,000 baht budget allocation for air travel in the National Budget Act. We have seen the problems that arise where our monarchy is abroad for long stretches. Within a democracy, parliament is able to hold a debate and advise the king to return to the country. But such things do not arise in Thailand. Many tens of thousands of millions of baht have been squandered without any oversight. This does not include the budget of the local organizations that constructed roadway arches to glorify the monarchy to the tune of tens of millions. Whether people are going to be loyal to the monarchy or are going to believe in the monarchy has nothing to do with the roadway arches, but rests on the actions of each royal. Therefore, this toadying excessive allocation of the national budget to construct such arches, when we are facing COVID-19 and impoverished people have nothing to eat, must stop from this point forward. They should not exist. If they do, only as necessary and in concert with the country's economic state."

"I speak today out of great concern for the country. I speak about the problems that have arisen from the expansion of the monarchy's royal prerogative as a citizen. I do not have any other intention, brothers and sisters. I am not just blathering on either: I have proposals to address the problems. After this, if we amend the constitution, have an election, and have a parliament with representatives who are on

the side of democracy, the sections of the constitution that pertain to the monarchy must be revised. The king must be in Thailand in order to be the revered idol of those of us in the country, rather than going to live in Germany. In cases in which he does go, a regent must be appointed to act in his stead in Thailand so as to not leave the country king-less. The king should be in the country as befits a democracy with the king as head of state. This must be addressed. The next matter that must be addressed is amendment of the law that has allowed the assets which are the public property of the country, which belong to us, to be transferred to the monarchy. This has taken place via the 2018 Royal Assets Structuring Act. These assets must be pulled back to be ours once again. The law must be revised so that the assets which belong to the public, whether Sanam Luang, or Wat Phra Kaew, are returned to belong to us, the people, brothers and sisters. If this is left unaddressed, brothers and sisters, it is unavoidable that there will one day be a violent clash between two groups and two ideologies. One day, if we choose a political party that favors democracy, they must dive in and amend this law. If they do not do so, a battle will ensue. For sure. Each one of us must work together to vote for the party that has a policy to revise the constitution to really and truly bring the monarchy under it. We must vote for the party that has a policy to return public assets to the people. Choose that party, brothers and sisters. Do not choose parties with policies to expand and expand the royal prerogative, who squander the national budget and who do not pay attention to the economic conditions of the people. We will starve to death, but they expend and lavish money upon the monarchy to the tune of tens of thousands of millions. Do not choose them. People like this need to be taught a lesson."

On 10 August 2020 during the Thammasat Won't Stand For It demonstration at Thammasat University, Rangsit campus, there were speeches by Mr. Arnon Nampa, Mr. Pan-pong Jadnok (Mike) and Miss Panusaya Sithijirawattanakul

(Rung) as in Document 4. The main points in abbreviated form are as follows:

Mr. Arnon Nampa said of the institution of the monarchy that, "We assembled here today in order to assert that in addition to the three proposals that we talk about at each demonstration, in truth, there is a proposal between the lines that is the most important of them all. This proposal is to solve the problem of the expansion of the royal prerogative of the king. And I assert, once again, that this is not a mob to overthrow the monarchy.²⁴ It is not a mob to impinge upon the monarchy. It is a mob that is speaking the truth about the problems of the country. Thammasat University was established by Professor Pridi Banomyong. Today, we, each one of us, have taken the baton from the People's Party. We have taken the baton from our ancestors to clear up all of the problems, right? We, each one of us, are the offspring of the People's Party who have come to act in their place. Give yourselves a round of applause. The important point I have come to speak about today is our demand between the lines. A democracy with the king as head of state is a system in which the king is above politics and under the constitution. From now on, whatever royal duties cause the monarchy to become involved in politics will be loudly questioned in public. We want to see the institution of the monarchy adjust itself to meet with the people, rather than us having to adjust ourselves to meet with the monarchy. Being under the constitution is a key aspect of the kind of rule that we have. But problems arose when the monarchy attempted to expand the royal prerogative through the junta that emerged in 2014 with a leader named Prayuth Chan-ocha. I have spoken about and stressed this issue many times in

²⁴ The word mob (ม็อบ) in Thai is pronounced the same way as the English word, but does not have the same meaning and connotation of violence. It is used as both a noun and a verb to refer to a large public protest gathering.--*trans*

many places other than public demonstrations, including on Facebook and in academic seminars. The final straw that caused me to stand up and speak on 3 August 2020 dressed in a Harry Potter gown were the images of the brother and sister secondary and university students below the demonstration stages holding up signs questioning the institution of the monarchy. But those up on the stage did not dare to speak. After that, the younger brother and sister secondary school students and university students were all threatened. This was the last straw. Society has to accept the truth. The signs held up by the students, aunties and uncles referring to the institution of the monarchy referred to none other than the king. No need to speak in code. It will be of more use to speak directly. This was my thinking and so I chose to speak frankly out of respect for the human dignity of those listening, my own human dignity, and respect for the institution of the monarchy. If we don't speak frankly, there is no chance of any understanding. In addition to leaving the problem unresolved, it will result in our brothers and sisters who speak the truth down below [the stage] having to bear the risk. From now on, we will question the institution of the monarchy out of respect for it as a primary institution that must be spoken of rigorously and publicly. And from now on, no one is going to be threatened because they speak about the problems of the institution of the monarchy. Let's have a bit of applause, please."

"If the king remains a king in a democracy with the king as head of state, he must not sign to endorse a coup. If a coup takes place, the institution of the monarchy must stand only on the side of democracy. What is important is to not let the struggle of our brother and sister university students and the people be in the service of anyone else. History will cease to hold the images of the fruits of one person's labor going to another who did not expend it. Thank you to everyone who has come to stand and assert that the decision to start talking about the institution of the monarchy was not in vain. Thank

you for making the younger brother and sister university students who are the leaders and organized the event feel that they are not alone in struggle. From now on our struggle will be direct. We promise that we will fight together, isn't that right? If yes, let me ask for everyone to promise by raising three fingers. We are making a promise to each other that we will fight together until the true victory line of the people. Brothers and sisters, it will not be long until our victory."

In his speech on 10 August 2020 at Thammasat University, Rangsit campus, Mr. Panupong Jadnok said that, "People would ask me, wasn't it like trying to dig in the earth with my bare hands? Or trying to pull out the roots of a large tree with only the strength of a single person? But today is proof that I am not excavating the roots or pulling out the stump by myself. Let me offer an example. Suppose we are paving a road in the service of the country's progress and development and a large tree happens to be in the way? Do you know who that big tree is? Many may think that there is nothing difficult about constructing a road in such circumstances. One simply builds the road around the tree, right? But as for me, I think that we should relocate this tree to an appropriate place. Then we should construct a paved road that is strong and complete. I am drawing a comparison to the institution of the monarchy. The institution is a matter that we can talk about. Once I move that tree, and build a road that is strong and complete, the tree will be in its appropriate place and the road will still be strong. We can draw a comparison to today and how we are creating a country in which progress can occur by placing the king in an appropriate location."

"You are familiar with absolute monarchy, right? Today I am going to talk about the absolute monarchy that has not died. This system has been around since Rama 5 and is the centralization of the power of the nobles and bureaucrats in the service of the king. This is a system in which the king has absolute power and one in which it can be said that the

king rules directly. Absolute monarchy was in effect for three reigns: Rama 5, Rama 6, and Rama 7. But on 24 June 1932, the People's Party was born with Professor Pridi Banomyong and Phraya Phahonphayusena. A revolution changed Siam from an absolute monarchy into a democracy and the king was placed under a constitution. I think that absolute monarchy has extended into the present reign. The king is above the sovereign power of all three branches: judiciary, executive and legislative.

Let me ask, why do we have to speak like this? Are you aware of what is at the end of Article 6, in the second chapter of the 2017 Constitution? It says that, 'No person shall expose the King to any sort of accusation or action.' This is as if to demonstrate that the king is above the sovereign power that belongs to the people. My intention in speaking is that I want the king to be placed in an appropriate location."

"Where he is able to co-exist with the Thai people. When I say that he is above the sovereign power, it means that he is above the power of the people. The people are unable to touch him. Anyone who does will be hit with an Article 112 charge. What is most important is to make it possible for the king to be able to adjust himself to co-exist with the people and return to Thailand to be their protector. I want him to return to Thailand in order to not waste the taxes paid by the people."

In her speech on 10 August 2020 at Thammasat University, Rangsit campus, Miss Panusaya Sithijirawattanakul read "Declaration No. 1 of the United Front of Thammasat and Demonstration," which had the following content:

"To the people:

Since the People's Party fomented a revolutionary transformation, the people have hoped that our country

would be a democracy with the king as head of state who is truly above politics. But it has not been as such as the king has exercised power to intervene in politics from above. For example, whenever a coup topples a government that has arisen from a real democratic process, the king has signed to appoint the head of the junta. This constitutes the endorsement of each and every coup as legal.

Moreover, the king has moved troops and also transferred a significant amount of the national budget to belong to the king himself personally. He has exercised extralegal royal authority to amend the constitution, which had already passed a referendum, to allow him to reside outside the kingdom without having to appoint a regent.

This could be done because the dictatorship government bowed down under the shadow of the king and continues to claim the monarchy for its own benefit. It can be seen that they mutually benefit. Such a situation constitutes an enemy to the principles of a democracy with the king as head of state. There is no democratic country in which such actions take place.

The people ought to know that the king of our country is not above politics. This has consistently been the root of political problems. He has neglected his duties of being the head of state that binds him to the hearts of the people and uses the people's taxes to seek pleasure and reside outside the country. This takes place while the people are experiencing hardship from the economic downturn. He also has close relationships with the rebels who foment coups to topple democratic rule.

It is therefore evident that if there are no adjustments made for the monarchy to co-exist with the institution of the people, the people will necessarily lose faith in the monarchy.

The United Front of Thammasat and Demonstration therefore makes the following demands in order to resolve the problems with the monarchy:

1. Revoke Article 6 of the 2017 Constitution that does not allow anyone to make any accusation against the king. And add an article to allow parliament to examine the wrongdoing of the king, as had been stipulated in the constitution promulgated by the People's Party.

2. Revoke Article 112 of the Criminal Code, as well as allowing the people to exercise freedom of expression about the monarchy and giving an amnesty to all those prosecuted for criticizing the monarchy.

3. Revoke the Crown Property Act of 2018 and make a clear division between the assets of the king under the control of the Ministry of Finance and his personal assets.

4. Reduce the amount of the national budget allocated to the king to be in line with the economic conditions of the country.

5. Abolish the Royal Offices. Units with a clear duty, for example, the Royal Security Command, should be transferred and placed under other agencies. Unnecessary units, such as the Privy Council, should be disbanded.

6. Cease all giving and receiving of donations by royal charity funds in order for all of the assets of the monarchy to be auditable.

7. Cease the exercise of royal prerogative to express political opinions in public.

8. Cease all public relations and education that excessively and one-sidedly glorify the monarchy.

9. Search for the facts about the murder of those who criticized or had some kind of relation with the monarchy.

10. The king must not endorse any further coups.

These demands are not a proposal to overthrow the monarchy. They are a good-faith proposal made for the monarchy to be able to continue to be esteemed by the people within a democracy.

Therefore, for the monarchy to be secure in the present-day world, it must not hold power related to politics. It should be able to be controlled, audited, and criticized and it should not be a burden on the people. Then it will be able to be held as a monarchy that is dignified in line with the universal meaning of democracy.”

At the Khon Kaen Has Had Enough demonstration in Khon Kaen province on 20 August 2020 and at the Democracy Has Not Ended in Ayutthaya demonstration in Ayutthaya province on 21 August 2020, Mr. Parit Chiwarak (Penguin) spoke as in the attached Document 5. The main points in abbreviated form are as follows:

Mr. Parit Chiwarak spoke in Khon Kaen about the institution of the monarchy that, “We must succeed today in lifting up the ceiling [of what can be spoken]. Why is this a key part of our struggle? Everyone knows, look down from Mars and you will know, you can ask anyone. Everyone knows the problems that have arisen with the institution of the monarchy. The institution of the monarchy is unwell and out of place to a degree that it may obstruct our country’s democratic process.

More than eighty years have passed since the People’s Party, Professor Pridi Banomyong and Field Marshal Plaek Phibunsongkhram, fomented the 1932 revolution. In the time of the People’s Party, their intention was to bring the institution of the monarchy under the constitution. Eighty years have passed since then. Let me ask, is the institution of the monarchy really under the constitution? Ever since I was a child in primary school, I have learned in social studies textbooks that Thailand is a democracy with the king as head of state. This means that he is not involved in politics. I have a great many doubts about this. If the institution of the monarchy is really and truly under the constitution, then where

did the power come from for the king to sign to endorse the soldiers tearing up the constitution more than ten times?

Some people say that the king is forced to sign to endorse coups. Some say that coups are carried out by soldiers and the institution of the monarchy is not involved. But let me offer examples from political history both inside the country and internationally. In 2524 BE [1981 CE], Spain was under a long-standing dictatorship. When they changed to be a democracy, one group of soldiers was dissatisfied. So they used force to take over parliament, to take over government house, to arrest the parliamentary representatives and take the prime minister as a hostage. But their king, King Juan Carlos, set up a table and issued a statement that the king had to protect democracy. He said that the institution of the monarchy was on the side of the people. He announced that the institution of the monarchy did not endorse that group of soldiers and that it was therefore a rebellion. Let me ask, why was their king able to do this? Why have we never had such a situation arise with the institution of the monarchy in Thailand?

In the case of Thailand, there is the example of the Young Turk revolt in 2524 BE [1981 CE]. They were going to topple the government of General Prem Tinsulanond and seize power. This was the attempted seizure of power that used the largest number of forces in Thai history — more than 40 units of soldiers, which was more than half the army. They entered and were able to completely take over Bangkok. Usually, when they seized power in the past, taking over Government House, Parliament, and the media was enough to win. But this time, the person who was to sign in endorsement fled with the prime minister to Korat. The king did not assent to sign for the coup and appoint the junta that tried to seize power. Instead, he fled for protection with General Prem to Sunari Base. The soldiers took over all of Bangkok, but were unable to win because they did not have the signa-

ture. This is the evidence of why the signature [of endorsement] is important.

Brothers and sisters, if the soldiers seize power on their own, they cannot succeed if the monarch does not sign and endorse the coup. This is because the signing and endorsing, the signing of the royal appointment of the head of the junta, is the endorsement of the coup as legal. Anything that the king signs his name to becomes law. But let me ask why, in more than ten previous instances, has the king nearly never refused to endorse the coup? Why doesn't he refuse to endorse the plunder of power by the bandit-in-chief? Whoever shares my doubts, let's have some applause.

When we say that we don't want a coup, a coup must not take place. Ordinarily, we will call on the army, which is the entity that carries out coups, the entity that lifts their hands to do it, to not foment a coup. But I think that from today on out, in addition to calling on the army not to do it, we have to call on the person who endorses it to not do so. Like with the rumor of the smelly hint of a coup that Professor Pavin [Chachavalpongpun] shared today, I will say flat out that if the institution of the monarchy takes a clear position on the side of the people and the side of democracy, the coup will fail because he will not endorse it. Unless he takes a different position and endorses it.

Before we put this issue aside, let me close with a short sentence. If there is no signature for a coup, no signature for the seizure of power, the soldiers become traitors. But if there is a signature, it is the person who signs who is the traitor of the people.

I think that all of us here can see clearly that there is a problem with the role of the institution of the monarchy in history. How do we know that there are problems? Compare the Thai monarchy with monarchies in other countries.

Can Queen Elizabeth of England sign to endorse coups? Can the Japanese emperor come out to direct politics? Can the Dutch king abandon his country and go live in a far away place for a year at a time? Can the King of Sweden promulgate laws to arrest and imprison people who criticize him? Why must it occur in Thailand alone when it does not occur anywhere else in the world? If we allow this phenomenon to continue, we can fight to the death and there will be no way for sustainable democracy to arise. That is why our hashtag is #LetItEndWithOurGeneration. We have to fight to the roots, to the core, for it to end in our generation. We must resolve the problem at its source. Therefore, it is time for us to speak about the problem of the institution of the monarchy. It is time for us to speak about the reform of the institution of the monarchy. I repeat that it is reform. Reform is to find remedies for it to continue to exist. We have to speak about the issue of the reform of the institution of the monarchy in a straightforward, serious, and open manner. They will know that we are well-intentioned. We see the problems and so we speak out about them so that they will be remedied. If you agree that speaking about this problem frankly is better than quietly gossiping, let's have some applause.

Brothers and sisters, the Thai institution of the monarchy is not on the right track. It is putting itself above the constitution and above the people. As the people, we have to come out to warn it to adjust itself urgently. The institution of the monarchy will be able to happily and peacefully coexist with the institution of the people in a democracy. Neither one side nor the other has to die or disappear.

Let me go over the 10-point proposal. These are the 10 points that were announced at the UFTD Thammasat Won't Stand For It demonstration:

1. Revoke Article 6 of the 2017 Constitution that does not allow anyone to make any accusation against the king. Add an article to allow parliament to examine the wrong-

doing of the king, as had been stipulated in the constitution promulgated by the People's Party. This is to prove that everyone must be under the same law, no matter who one is, no matter one's class, and no matter with what color blood one is born.

2. Revoke Article 112 of the Criminal Code, as well as allow people to exercise freedom of expression to analyze and criticize the monarchy. Provide an amnesty and clear the names of all those prosecuted and exiled simply because they did so.

3. Revoke the Crown Property Act of 2018 and make a clear division between the assets of the king under the control of the Ministry of Finance and his personal assets. This is so that the people's tax money will not be used haphazardly.

4. Reduce the amount of the national budget allocated to the king to be in line with the economic conditions of the country.

5. Abolish the Royal Offices. Units with a clear duty, for example, the Royal Security Command, should be transferred and placed under other agencies. Unnecessary units, such as the Privy Council, should be disbanded.

6. Cease all giving and receiving of donations by royal charity funds. This is so that all of the assets of the monarchy will be auditable and for the institution of the monarchy to not have to accept bribes from capitalists.

7. Cease the exercise of royal prerogative to express political opinions in public.

8. Cease all public relations and education that excessively and one-sidedly glorify the monarchy.

9. Search for the facts about the murder of those who criticized or had some kind of relation with the monarchy. Press for justice for Wanchalearm [Satsaksit].

10. The king must not endorse any further coups.

I am not going to go into greater detail about this 10-point proposal because these are not new or complicated issues. These are ordinary principles of countries that have

both a king and a democracy. I see Japan and it is like this. I see Scandinavia and it is like this. The United Kingdom is like this. I cannot think at all of why our Thailand cannot be like this. This is what we have been fighting for since 24 June 1932, fighting for since 14 October 1973, fighting for since 6 October 1976, fighting for since May 1992, and fighting for up until the dispersal of protests in 2010.²⁵ We are face-to-face with our historic duty. We have a duty to take the baton of struggle from the previous generations and make it succeed in our generation. We have a duty to end it in this generation. Here, today, in this year, this 10-point proposal is an ultimatum. This is an ultimatum yelled out by the people who were born and whose feet are on the ground like us for those people who poop clouds to hear. It does not matter if anyone says that we are only dust. Today, all of the dust is coming together to be the earth. Today, the dust is able to drown out anything that does not listen to the voice of the dust.

Before I leave the stage, let me thank everyone. Let me thank the people who sacrificed before me. Let me thank the people who are steadfast with me here. Let me thank the people who will come to join the struggle in the future and will help push up the ceiling. We will not retreat. The

²⁵ These four events comprise key moments in the peoples' struggle for democracy in Thailand. On 14 October 1973, a mass uprising led to a transition to democracy after fifteen years of dictatorship. The period of democracy was brief, and a massacre of student activists at Thammasat University and a coup on 6 October 1976 began another long period of dictatorship. Following a gradual transition to semi-democracy that began in 1988, in May 1992, people again went into the streets to protest military involvement in politics and call for fulsome democracy; they succeeded and secured what became the 1997 "People's Constitution," so called because it was drafted with civil society involvement. This constitution was then made null by the 19 September 2006 coup. In April-May 2010, after over three years of appointed governments following the coup, people went into the streets to call for elections and a return to democracy. They were suppressed in a brutal crackdown.—*trans.*

war of the people has started. In addition, let me thank the teachers and professors who persist in the struggle to speak the truth. You are inspiration for the subsequent generations to be able to continue speaking the truth. Let me thank the two big professors of the internet world, Professor Somsak [Jeamteerasakul] and Professor Pavin [Chachavalpongpun]. I am fairly certain that if we are determined to fight and persist in our struggle until we win and have real democratic rule with the king under a constitution and under the people, we will be able to hear their lectures without it having to be live via the internet.

Finally, as we are well aware of how our country works, I don't know that I will have another opportunity to say the things that I have said here in Khon Kaen. I don't know what will happen to me when I come down from the stage and leave. For those who do not think well of me, who think of using methods outside the law to harm me, do whatever you are going to do. But we have unmasked our struggle. If you do anything to us, if you do anything to me, we have only one enemy. We will all know who ordered it. Let me take this opportunity, before I do not have any more opportunities, to affirm to my brothers and sisters that as long as I am still breathing, I will struggle with you for our enduring ideals. If I have blundered, been careless, erred, or ever been offensive, I ask for forgiveness here. If there is anyone who disagrees, if there is anyone who thinks that what I spoke about is not a real issue, you don't have to come and arrest me. If you are really smart, you will set up a table and make a declaration. Declare and respond with how it is not real. If it happens that you are not available to come to make a declaration in Thailand, you can videoconference in from a far away land. I am referring to Dubai. Finally, if you agree with me, please raise three fingers and utter these words:

Down with feudalism, long live the people.

Down with feudalism, long live the people.

Down with feudalism, long live the people.

On 19 September, the 19th of next month, our Bangkok team is going to organize a big protest, let's make it really incredible."

On 21 August 2563, Mr. Parit Chiwarak gave a speech in Ayutthaya province and said, "In 2524 BE [1981 CE], you chose not to sign. Why then in 2557 BE [2014 CE] did you not think to not sign? How are the institution of the monarchy and the institution of the coup related? If the king does not sign [to endorse] the coup, the soldiers will be criminal rebels. If the king chooses to sign [to endorse] the coup, chooses not to protect democracy, it is the institution of the monarchy itself that revolts against the people. If we don't come out to speak about the issue of the institution of the monarchy openly today, how many more years will we struggle, how many more generations will demonstrate? There will be no day when it can end in our generation because we have still not scratched the itch, isn't that right, brothers and sisters? Impoverished people like us can only yell, yell for those in the clouds to hear. Even though I was born a penguin, I will speak the truth for the garuda to hear. Take note that the person who gives the orders, is the only one who will be dissatisfied to hear what I have to say today. There is only one person.

We have come to weave the dreams and ideals of Professor Pridi Banomyong by speaking about the problems of the institution of the monarchy openly together. Like I told the brothers and sisters in Khon Kaen yesterday, everyone knows that today the institution of the monarchy has problems. If it was a person, the institution of the monarchy would have a chronic disease that is obstructing the democracy process in the country. All of this, the institution of the monarchy in Thailand at present, has too much power. I ask, Professor Pridi Banomyong, fomented a revolution in 2475 BE [1932 CE] to place make the institution of the monarchy be under a constitution. More than 80 years have passed from then until today. Is it really under a constitution? I have studied since

primary school, since kindergarten, that Thailand is ruled by a democracy with the king as head of state. "As head of state" means that he not involved in politics, means that he floats above politics. I ask, is he really not involved in politics? (The crowd answers 'No') That's right. If the institution of the monarchy was really not involved in politics, if the institution of the monarchy was really under the constitution, I ask, I ask explicitly, I ask, where would the institution of the monarchy get the power to sign to endorse the tearing up of the constitution by soldiers more than ten times? Some people say, some people say that each time there is a coup, the king has to sign. They say it is not about the king, but is about the soldiers who take action to carry out a coup. But the examples in political history, both that arise in Thailand and internationally, clearly demonstrate that it is the institution of the monarchy. If a coup takes place, and if there is a signature [to endorse the coup], they must be involved.

Let me raise the example of what took place in Spain in 1981. After Spain had been ruled by a dictatorship for a long time, they returned to be a democracy. But a group of remaining soldiers were very dissatisfied. They brought forces to shut down parliament, seize the assembly, arrest members of parliament, arrest the prime minister, hold the cabinet hostage. But their king at that time, King Juan Carlos, set up a table to make a declaration and said that he would like to not sign because the king is on the side of democracy, the king is on the side of the people. The head of Spain was able to do so. How come our head cannot do so? Or an example that occurred in Thailand is that in 2524 BE [1981 CE], during the government of Prime Minister General Prem Tinsulanond, there was a group of soldiers who wanted to seize power from General Prem. They brought more than forty units of soldiers to take control of Bangkok, which was a lot back then. It was the attempted coup with the largest number of soldiers in Thai history and they were able to take control of Bangkok.

Respected mothers and fathers, brothers and sisters, usually in the past, before they took power, they would just seize Government House. They would just seize Parliament. They would just seize the radio stations, the television stations. They would be able to announce that this was a successful coup. But this time when they seized, the signer did not sign. It appeared that the Young Turks took the prime minister, who was General Prem, into custody. A mysterious telephone call came and said, "This is me, let the prime minister go." Once they let the prime minister go, he went to be with the king at Suranari Base in Nakhon Ratchasima province. In sum, no one signed. They were about to succeed, they had taken Bangkok, they had the prime minister, and then in a flash it was a revolt because no one signed for them. In 2524 BE [1981 CE] you chose not sign, and why then in 2557 BE [2014 CE] did you not think to not sign?

Let me raise another example, the coup of the National Peacekeeping Council in 1991. At that time, the head of the junta, whose son is now the commander of the army, was Sunthorn Kongsompong. In 1991, General Chartchai Choonhavan was the prime minister and was taken at gunpoint by Air Force soldiers when he was boarding a plane at Don Muang airport. What was he boarding the plane to do? At that time, General Chartchai was boarding the plane to try to take General Athit Kamlangaek, who was a new cabinet member, to go give his oath [in front of the king]. They hijacked the prime minister when the prime minister was taking a cabinet member to give his oath. Let me ask, if you hijack someone on their way to give an oath, can the person who is receiving the oath not know about it? Therefore, it is likely clear enough for me to have said this much to show how the institution of the monarchy and the institution of the coup are related.

Respected mothers and fathers, brothers and sisters,

in every constitution it is said that the king is the commander-in-chief of the army. He is the head of all the soldiers. Therefore, theoretically, he is able to suppress incidents in which the soldiers overthrow democracy. When all of the soldiers are your subordinates, I say in brief, simply, that if the next time, if there is a next coup, if the king refuses to sign [to endorse], the soldiers will be criminal rebels. But on the other hand, if the king chooses to sign [to endorse] the coup, chooses not to protect democracy, it is the institution of the monarchy itself that is rebelling against the people. The problem with respect to our highest institution, the problem to this great degree, of which I have to come speak today, indicates that it is entering a stage of critical illness. Critical illness means close to death. We therefore must reform it urgently. If not, the institution of the monarchy, the institution of the people, and the institution of democracy, will be unable to join together. Compare with the monarchies in other countries and ask and look carefully. Does Queen Elizabeth in England sign [to endorse] coups? Does the Japanese emperor come out to speak and guide politics? Does the king of Denmark flee to spend a year at a time in Germany? Does the king of Sweden hunt down and arrest those who think differently and put those who criticize him in prison for tens of years? In other countries that are democratic and have kings, they don't do this. It is only Thailand that is crazy-crazy like this. Once we see the problems, we cannot let them go.

We have to have reform of the institution of the monarchy, and the United Front of Thammasat and Demonstration has proposed ten points. Originally I intended to read them to everyone here, but I have spoken for a long time already, and another speaker will come up on stage to read the ten points after me. Let me emphasize that with these ten points — I think everyone can find and read them, and perhaps some have already read them — there is not any point that is the overthrow of the institution of the monarchy at all, isn't that right? Brothers and sisters, they proposed the ten

points because they are well-intentioned. They want for there to be adaptation to coexist with the people without anyone having to come out to criticize and protest. This is the root of all political problems. If we don't struggle together now, if we don't come out to speak about the issue of the institution of the monarchy openly today, how many more years will we struggle? How many more generations will demonstrate? There will be no way for it to end in our generation because we still cannot scratch the itch, isn't that right brothers and sisters?

Therefore, may the institution of the monarchy carefully listen and consider all ten points that we have already stated. This is the voice of the people who were born and walk on the earth, people who do not have anyone to lay down a carpet for them, people who have no one to carry an umbrella to shield them, people who are impoverished. But we will yell, we will yell for those who poop clouds to hear. I was born a penguin, but I will speak the truth for the garuda to hear.

If anything happens to me after I come down from this stage, please know that there is one person who ordered it. There is only one person who is dissatisfied with what I said today. We have struggled to this point already. Now we know that we have one enemy. Down with feudalism, long live the people. Thammasat will have a big demonstration on 19 September at Thammasat University, Tha Prajan campus. I guarantee it will be a big demonstration, an enormous demonstration. See you there, brothers and sisters."

On 30 August 2020 at the Snap Your Fingers To Drive Out Dictators demonstration in Samut Prakan, the key points of the speeches by Mr. Parit Chiwarak (Penguin), Mr. Panupong Jadnok (Mike), Miss Juthathip Sirikan, Miss Siripatchara Chirathirapanich (Nong Mee) Mr. Somyot Prueksakasemsuk and Miss Athitiya Pornphrom (San) can be summarized as

follows:

Miss Juthathip Sirikan said during her speech that, “Everyone take a look at the budget of the institution of the monarchy. It is the king’s portion of the government’s budget that was discussed in committee in 2020. The total amount was 7,685 million baht. In 2021, the institution of the monarchy increased the amount the amount to 8,980 million baht, without any explanation of the budget. Plus, it cannot be audited, and what is important is that it is the taxes of the people. If you look at the numbers and speak directly, this amount of money could be used to create a good quality of life for us. It could be used to create a social welfare state. Imagine that if this amount of money was used to develop the quality of life, we would not have to go hungry anymore. We would not have to work hard to this degree, we would not have to work until we have no life. We already work until we do not have a life. This amount of money could be taken and allocated for the costs of healthcare, education, public transportation, or whatever else will improve our lives. Not allocated for one person alone, but to improve the lives of all Thai people throughout the country. The dust and smoke will disappear, the trains will go everywhere, and no one will have to wake up at 5-6 am to make it to work by 8-9 am. Progress will not be clustered in Bangkok alone, but will be diffused everywhere. Today we are speaking frankly about the institution of the monarchy. We know who signs to endorse coups. Who is it? We speak the truth, we speak about that for which we have data. People are able to examine and look at the data.”

Miss Siripatchara Jungthirapanich said in her speech that, “For those who follow the news on Twitter, do you remember there there was a hashtag, #ClosePhuketIsland (#ปิดเกาะภูเก็ต). If you remember that, let’s have some noise. There was a word that she said that made me feel a pain all the way in my bones. She said, ‘What can I do? We cannot choose to

be born.' We do not choose to be born, fathers and mothers, brothers and sisters. She said she did not choose to be born. I want to ask her, ask her directly, would you come down and be a serf, be a farmer, be a worker like us? And then you will know for sure who did not choose to be born."

"Moreover, there is a brand of clothing that is produced in a sweatshop that is paraded during fashion shows in Paris. If anyone remembers another hashtag, it was #CloseTheStreet (#ปิดถนน). People who live from hand to mouth, taxi drivers, hawkers, who don't have any social security, the street is their workplace and where they make a living. But the city of Bangkok claimed that they closed the streets to make order for them to then have to pay more to rent the space they use. They don't have any customers. But fathers and mothers, brothers and sisters, the people who closes the roads so that ordinary people cannot walk and cannot make a living, traffic is stopped up for hours, how come they are not subject to order being created? Fathers and mothers, brothers and sisters, do we dare to think, dare to dream to fight with the feudal patronage system, with enormous connections in this country?"

Mr. Somyot Prueksakasemsuk said in his speech that, "Whatever our last name, we are all poor, but this country has the wealthiest person. Before we were a country with the third greatest inequality in the world. Inequality here means there is a large gap between the rich and the poor. The richest person in the world is the king. The richest in the world. Successfully cut in front of the British monarchy. Queen Elizabeth has only 30,000,000,000-40,000,000,000 baht. But ours is the richest in the world with 3,000,000,000,000 baht. This is one example. And if we took the money of the top fifty wealthiest families in Thailand, took all of those assets and put them together, we would have enough to give all 65 million Thai people 10,000 baht/month for their entire lives.

Miss Atitiya Pornphrom said in her speech that, "Do the comrades who are here know where the putrid decay is in Thai society? I will tell you. Where is the putrid, decaying structure of Thai society? Where do the majority of our taxes for governing the country go? Our taxes must be apportioned to all of the people in the country. Why are they given to one person alone? Why does the state have to give bountiful support to the group of feudal capitalists and children of nobles and royals? If PM2.5 creates heat, the conditions of the air are warning humans that you are dying. The condition of the air is not good. I am comparing the monarchy and society at present. If we cannot find a better way, we will all die because of one piece of trash. Trash is the same as a single person. Wherever one is with high PM2.5, the PM2.5 is the fuel that causes problems for people. Even PM2.5 in other countries can spread to Thailand. Hmm. Like the case that arose in the north, the villagers say that burning the rice fields makes their costs low. Notice that the smoke comes from neighboring countries. It may be in the foreign countries that I am referring to, they cannot choose where to be born, and they were perhaps born children of the lords. We cannot be higher than them, but they cannot be above the constitution. This is how it must be under the agreement we have. We are not living in the Ayutthaya period. We are no longer living at the beginning of the Rattanakosin period, in which the children of slaves must prostrate themselves at the feet of nobles."

Mr. Parit Chiwarak said in his speech that, "Next, if the king errs and shoots his brother in the head, does someone have to be responsible? If the king errs and ordered the students at Thammasat University to be killed on 6 c 1976, he doesn't have to be responsible, isn't that right? Or if he orders, or if he errs and puts bullets into the people, does he not have to be responsible at all? And what is important, what is a significant crime that we must bring the truth about out into the open is the matter of conspiracy to plot

and the juntas in seizing governing power and overthrowing democracy, which the king has signed to endorse for a long time. There must be an answer given to the people about this. Brothers and sisters, the soldiers seizure of power is a violation of the country's law. They have violated Article 113 of the Criminal Code that is about the overthrow of rule, and carries a punishment of the death penalty. If the king does not sign to endorse, if he does not put his signature down, the soldiers who do this will have to be punished. But once he signs, right then, he becomes a co-conspirator and part of the revolt by the soldiers as well. Therefore, from now on, from now on, abolish Article 6. Whether one is the king or the elite, or a serf like us, we must all be under the same law. Whoever agrees, let's have a bit of applause."

Mr. Panupong Jadnok said in his speech that, "And another thing that was the good wish from one adorable, small child is that she wants to curtsy when he returns to Thailand. Or is it that Thailand is too hot? This is what I want to say, which is that we do not want to overthrow the monarchy in any way. But we want to say that today, if we want to pave a road, but there is a large tree in the way, are you going to dig up the tree and toss it aside, make the road into a circle around the tree, or move the tree out of the way? Let me put it simply, it is correct to say you would dig up the tree and toss it aside or make the road into a circle around the tree. But for me, I would choose to move the tree to an appropriate place and then construct a strong and complete road. We will have both the tree and the complete road together. It's like creating development in the country by having the institution of the monarchy in an appropriate place. We always say that our intentions are good and we want to be able to co-exist with the institution, for the institution to be our protector, to be glorious. But now if we want the glory of the institution, we have to fly to Munich. The latest news is that there was a plane from Munich that flew to Thailand to buy food from Isaan. Think about this without saying a word. Do

you see? The scale, the scale of Isaan food. You still have a chance, because every one of the people has to have the opportunity to be able to criticize. All of us pay taxes, we can be full of emotions. Therefore, with the taxes, we must be able to audit. Our taxes should be used to develop the country, should be used to develop where the brothers and sisters and all the people live. It would be better than using our taxes to fill up the gas tanks for airplanes to fly back and forth."

The aforementioned speeches at the times, dates, and locations contain content that gravely distorts, encroaches upon, ridicules, and defames the institution of the monarchy such as has never occurred. The actions of the aforementioned group of people have caused the Thai people who love the nation, religion, and king to be aware and see the images and actions of the overconfident daring of the protestors. They are gravely concerned and worried that this group of youth of the nation have these attitude and expression that is an overconfident ridiculing like this. It is action that has the intention to overthrow rule by democracy with the king as head of state.

As Constitutional Court Ruling No. 3/2562 from 7 March 2019 said in one part, "The king is the head of state according to the royal legal tradition of Thailand. The secure position and identity of the king since ancient times is that the ruler will rule the land with dharma for the benefit and contentedness of the masses of Siamese people. He is strictly above politics, no matter of what side, because if he is made to be involved in politics in any form, the political neutrality of the Thai institution of the monarchy will disappear. When the political neutrality is gone, he will be unable to preserve the throne and protect the institution of the monarchy, for him to be the center of the Thai people any longer. This will make Thailand's particular rule by democracy with the king as head of state deteriorate or decline or perish. We should not allow this to happen."

The words “overthrow” and “opponent” are not defined in law. But these two words are ordinary words in the Thai language that have commonly used and known meanings. Therefore the court itself knows that,

Overthrow refers to actions with the intention to destroy or devastate in order to cause to cease to exist, to not be preserved, or to no longer have.

Regarding the word opponent, it does not have to have to be violent to the degree of having the intention to overthrow and destroy until it no longer exists. It does not have to be to the degree of positioning oneself as the enemy or the opposite side only. It is simply action characterized by the characteristic of being obstructive or blocking to keep from progressing. Or actions that cause there to be the impact of erosion, sabotage until it falls into disrepair and decay, or becomes weaker. This falls within the category of acting as an opponent already.

In addition, Piyabutr Saengkanokkul, Parit Chiwarak, and Jatuporn Prompan have dared to speak of the institution of the monarchy that is respected and loved by the people as in Document No. 7.

The Petitioner, as a Thai person, feels very disappointed and uneasy about the aforementioned expression of this group of people, along with the students, professors, politicians, former politicians, as in Document No. 8 who claim that the aforementioned actions are the exercise of fundamental rights according to democracy and are not against the law. In addition, they claim that these demands are not a proposal to overthrow the institution of the monarchy, but are a proposal with good intentions so that the institution of the monarchy can continue to be idolized by the people under a democracy.

For the institution of the monarchy to endure securely in the modern world, it must be an institution of the monarchy that does not have any power or is involved with politics, that can be overseen and audited and criticized, and not a burden for the people, then it will be an institution of the monarchy that is dignified within the universal kind of democracy.

The claims of the aforementioned group of people demonstrate that they do not respect or admire rule by democracy with the king as head of state. They did not act in accordance with the articles of the 2017 Constitution, which is the highest law in the country.

In reality, the exercise of fundamental rights and freedoms in a democracy must be in line with the constitution and the law. Freedom comes with limits.

Article 25 of the 2017 Constitution stipulates that, "As regards the rights and liberties of the Thai people, in addition to the rights and liberties as guaranteed specifically by the provisions of the Constitution, a person shall enjoy the rights and liberties to perform any act which is not prohibited or restricted by the Constitution or other laws, and shall be protected by the Constitution, insofar as the exercise of such rights or liberties does not affect or endanger the security of the State or public order or good morals, and does not violate the rights or liberties of other persons."

Article 34 notes that, "A person shall enjoy the liberty to express opinions, make speeches, write, print, publicize and express by other means. The restriction of such liberty shall not be imposed, except by virtue of the provisions of law specifically enacted for the purpose of maintaining the security of the State, protecting the rights or liberties of other persons, maintaining public order or good morals, or pro-

protecting the health of the people. Academic freedom shall be protected. However, the exercise of such freedom shall not be contrary to the duties of the Thai people or good morals, and shall respect and not obstruct the different views of another person.”

Simultaneously, there have been the declarations of support from the students of Thammasat University and 105 faculty members from universities all around the country, who refer to the aforementioned actions as being correct within a democracy and with respect to Article 19 of the International Covenant on Civil and Political Rights. In reality, it is speech that is not completely correct or in line with the treaty. Article 19 guarantees the rights and freedom of individual expression of opinion, with the following limitations on exercise of freedom:

“1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

- (a) For respect of the rights or reputations of others;
- (b) For the protection of national security or of public order (ordre public), or of public health or morals.”

Therefore, the claiming of individual freedom of expression but ignoring the limitations on that exercise of freedom that are present in international conventions, and supporting the exercise of freedom without respecting the limitations, is gravely dangerous because it is the equivalent

of encouraging the exercise of freedom in illegal ways. As one ruling of the Constitutional Court said, one should put out a small fire in order to not let the fire spread and grow larger, so that it is then difficult to put out.

In addition, when the content of the announcement of the various proposals is examined, many of the proposals contravene the fundamental principles of the Constitution of the Kingdom of Thailand. On the issue of the protection of the institution of the monarchy and the royal prerogative of the king, who is under the Thai Constitution, and which is in line with universal principles of countries that rule with constitutional monarchy, and which has been guaranteed securely and continuously since the the first permanent constitution of Thailand, which was the 1932 Constitution, which was promulgated on 10 December 1932 until the present. It cannot be modified because it would contravene the principles of constitutional amendment, which could perhaps be interpreted that the proposal to amend Article 6 of the aforementioned group of people is an amendment that would destroy the fundamental principles of the Constitution of Thailand, and is related to the accusation according to Article 255 of the 2017 Constitution of Thailand.

In addition, the expression of the aforementioned group of people demonstrates that they do not correctly understand history and the origin of the Constitution of Thailand. The articles on the matter of the protection of the institution of the monarchy passed unanimous agreement between King Prajadhipok and the People's Party, who carried out the transformation of rule, with Luang Pradit Manutham (Mr. Pridi Banomyong), who was one of the subcommittee members who drafted the Constitution of 10 December 1932. He agreed with the stipulation of the guarantee of the articles on the position and the relation of the institution of the monarchy and other political institutions and the royal prerogative, also including the protection of the king in the

1932 Constitution of the Kingdom of Siam, which has served as the prototype for subsequent constitutions of Thailand up until the present.

In addition, the group of people claim that they want to reform the institution of the monarchy to be dignified in a democracy in a universal sense, but do not understand the role of the institution of the Thai monarchy which is deeply bound to Thai society. M.R. Kukrit Pramoj, the former prime minister of Thailand, and an important intellectual of Thai society, gave an interview to the BBC stating that the “institution of the monarchy is the soul of the Thai nation.”

Professors, politicians, and people who came out to support the actions of the aforementioned group of people have to warn them to be “mindful” and provide “wisdom” to the group of protestors and the people who support them to think about and consider their actions, and whether or not they are really correct and appropriate as they believe. They must not take on the thinking of people without examining it with reason and must not be full of prejudice in their heart with hatred and this much delusion. So, the reasons that I do not agree with the ten-point proposal of the aforementioned group of people, which in truth were proposals based on the thinking of Mr. Somsak Jeamteerasakul and former politicians of the Future Forward Party and people who do not wish the institution of the monarchy well, as I have submitted the petition to the Constitutional Court to rule to dissolve the Future Forward Party, are as follows:

Point No. 1: The proposal of the group of people to revoke Article 6 of the Constitution that notes that, “No person shall expose the King to any sort of accusation or action” and add an article to allow members of parliament to be able to examine the wrongdoing of the king, as had been stipulated in the People’s Party Constitution, is a proposal that overthrows the important, fundamental principle of the

Constitution of Thailand regarding the protection of the institution of the monarchy. This has been guaranteed completely and held to be an important constitutional legal principle since the Constitution of Siam of 10 December 1932, which was the first permanent constitution that was passed through drafting and discussion between the People's Party and Rama 7, and has articles that are correct and appropriate about the institution of the monarchy.

The Act on the Charter of the Rule of Siam (Interim) of 1932, of 27 June 1932 was the constitution of the People's Party, from which the group of university students has called for the use of Article 6. It is a constitution whose content is incomplete and not all-encompassing because it was drafted by only one side, that of the People's Party, by Luang Pradit. It was not a collective decision between different sides in the country in order to set up a structure for Siam that was appropriate for rule by democracy with constitutional monarchy. Professor Pridi Banomyong accepted the aforementioned defect and this led to the organizing of the first Constitution on 10 December 1932 to be promulgated as the first permanent Constitution of the Kingdom of Siam.

Point No. 2: The proposal to abolish Article 112 of the Criminal Code, including allowing the people to exercise their freedom of expression of opinion about the institution of the monarchy and giving an amnesty to all those who have been prosecuted for criticizing the institution of the monarchy. This is a proposal that does not understand the intention of Article 112, which is a provision about state security and for the head of state of the country to receive special protection. This same principle exists in foreign countries, whether there is rule by a king or by a president. But there may be some difference in the details of the provisions that protect and the penalty that is set, which depends on the history of each country.

In reality, at present, the Thai people have freedom of expression of opinion protected by the Constitution of the Kingdom of Thailand. But peoples' freedom of expression of opinion is a freedom that does not receive all-encompassing protection. There are limitations in accordance with the law by virtue of Article 25 of the Constitution and an amnesty for those who committed the aforementioned crimes would have to be agreed upon by Thai society to a certain degree.

Point No. 3: Regarding the other proposals of the group of demonstrators, as follows:

3. Revoke the Crown Property Act of 2018 and make a clear division between the assets of the king under the control of the Ministry of Finance and his personal assets.

4. Reduce the amount of the national budget allocated to the king to be in line with the economic conditions of the country.

5. Abolish the Royal Offices. Units with a clear duty, for example, the Royal Security Command, should be transferred and placed under other agencies. Unnecessary units, such as the Privy Council, should be disbanded.

6. Cease all giving and receiving of donations by royal charity funds in order for all of the assets of the monarchy to be auditable.

7. Cease the exercise of royal prerogative to express political opinions in public.

8. Cease all public relations and education that excessively and one-sidedly glorify the monarchy.

9. Search for the facts about the murder of those who criticized or had some kind of relation with the monarchy.

10. The king must not endorse any further coups.

The entirety of the various proposals above of the aforementioned group of people are those made without studying the history of the law in many areas, both in the area of assets and the management of the king's assets. After the transformation in 1932 and the reasons for changing

the principles in the administration and management in new law, and the examination of the allocation of budget for the expenses related to the institution of the monarchy, or the transferring of the state unit to be a royal unit, it is the authority of the parliament to examine according to appropriateness with respect to the situation of the country. The decision of the parliament, which performs the duty of representing the people, must be respected. If there is going to be a demand to amend, it should be raised by the legislative branch.

The matter of ceasing all giving and receiving of donations by royal charity funds is a proposal that does not take into account that donating or giving is a matter of freedom of expression of the free intention of each individual who have the freedom to choose to give or not give. How can there be limits placed or a prohibition on donations to a specific entity? Anyhow, donations to the institution of the monarchy or contributing to donate and make merit by contributing to a royal charity fund has been a belief held by a large number of Thai people for many decades. They believe that making merit with the king or contributing to the merit made by the king himself will cause them to gain more merit. It is not different from making merit with monks, because it is based on the principle that the king is a bodhisattva who practices wisdom in this life. Ceasing donations or contributions to royal donations therefore contravenes the fundamental freedom of universal democracy. The new generation of young people have perhaps not seen the news photographs of Thai people, old and young, when they watch royal processions in various places. They were willing to offer money as they were able to to King Rama 9 and the Queen. This is an image that is imprinted upon one's eyes and Thailand is the only place in this world where it arises.

Regarding the proposal to cease all public relations and education that excessively and one-sidedly glorifies the monarchy. This is a proposal that relies upon an assumption

that Thai people have been brainwashed in their loyalty to the institution of the monarchy by various media, which is a belief according to the theory of academics of the opposite side of the institution which lacks concepts according to the “Kalama Sutta,” which can be seen as not respecting the fundamental freedom in the thoughts and beliefs of individuals and the expression according to the thoughts and beliefs of individuals.²⁶ Also, covering one’s eyes and ears and closing one’s heart to not recognize the various royal duties that the Thai institution of the monarchy, from the past until the present, have performed for the Thai people. Simultaneously, perhaps they really do not know or pretend not to know that according to the principles of the media, the media normally ought to report news that the the people are interested in and want to know. The Royal Household Bureau news is news that the Thai people, from the generation of their parents and grandparents, want to know. They want to see pictures of Rama 9 and the royal family and want to hear the voice of the king which is like the voice of the nation with whom the people have been bound to for a long time.

As regards No. 9, Search for the facts about the murder of those who criticized or had some kind of relation with the monarchy. I greatly lament that this proposal has come from a group of students who claim themselves to be new generation people who do not easily believe anything, but turn out to believe rumors, false news in the online world and make vague accusations without accountability regarding the evidence that they believe in.

And regarding No. 10, The king must not endorse any further coups. This is a misunderstanding of the role of the

²⁶ The Kalama Sutta is a Buddhist text that is one part of the Tripitaka that relates to seeking truth and knowledge. Many free, open access translations can be found online, particularly the translation from the Pali completed by Soma Thera.—*trans.*

position of the king as being neutral in politics. The king is the protector but does not govern. The important point is that a coup is an action that in reality arises in politics from many factors. There have been many coups in Thailand in the past, but not once has the king endorsed the coup. This is a grave misunderstanding of the group of people. In reality, once a coup has been carried out, the junta who carried it out must seek an audience with the king as the head of the Kingdom of Thailand. The appointing of the members of the junta to various positions is not the endorsement of the coup, but is the action of making these individuals come to take on their roles and duties in politics, since they have already seized the ruling power of the country and are the sovereign state. "A coup is an action that in political reality does not have to be endorsed in any way."²⁷

Ultimately, No. 7, which is to cease the exercise of royal prerogative over expression of political opinions in public, is a proposal that contravenes universal principles. On the issue of the royal prerogative of the king under the constitution, it cannot be done, because royal speech about politics is present in every country that has rule with a king as head of state. As one British constitutional law scholar, Mr. Walter Bagehot, summarized regarding the issue of the royal prerogative of the British monarchy: "The monarch has three kinds of royal prerogative. The first is the right to be consulted, the second is the right to encourage, and the final is the right to warn." Thai political history demonstrates clearly that the country has escaped from grave political crises in the 14 October 1973 incident and May 1992 because of the royal prerogative of Rama 9.

Legal Provisions

No.2. The provisions of the 2017 Constitution of Thai-

²⁷ The Petitioner does not specify the source of this quote.--*trans.*

land and the Criminal Code that are related to the incidents in this petition are as follows:

Provisions of the 2017 Constitution of Thailand:

Article 6: "The person of the King shall be enthroned in a position of revered worship and shall not be violated. No person shall expose the King to any sort of accusation or action."

A provision of this characteristic was first formulated in Article 3 of the Constitution of the Kingdom of Siam and has been formulated in the same fashion in every constitution. The phrase "the person of the king" refers to both the king as the personal figure and the king as the head of the state.

Article 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."

A provision of this characteristic, especially the content of the first paragraph, was first formulated in Article 35 of the 1932 Constitution of the Kingdom of Siam, Amended. It has been formulated in the same fashion in every constitution and is a provision that lays down principles for the protection of rule by democracy with the king as head of state.

As for the provision that was first formulated in Article 63 of the 1997 Constitution of the Kingdom of Thailand, which is similarly formulated in Article 68 of the 2007 Constitution of the Kingdom of Thailand, this provision provides a person who has learned of the overthrow of rule by democracy with the king as head of state with the right to petition the attorney general to petition the Constitutional Court to

rule to cease such actions. However, the 2017 Constitution of the Kingdom of Thailand stipulates further and more clearly that in such a case, if the attorney general issues an order to not refer the case to the Constitutional Court or does not act within fifteen days from the date of the submission of the petition, the petitioner is able to directly petition the Constitutional Court. This does not impact the criminal case of the person who carries out the actions specified.

Article 50, "A person shall have the following duties: (1) to protect and uphold the Nation, religions, the King and the democratic regime of government with the King as Head of State."

The duties of the Thai people were first stipulated in Article 15 of the 1932 Constitution of the Kingdom of Siam and have been stipulated similarly in every subsequent constitution. Constitutions prior to 1997 stipulated only a few duties, such as the duty to protect the nation, religion and king, protect the democratic regime with the king as head of state, the duty to respect the law, the duty to protect the country, the duty to accept education and training, etc.

The Criminal Code

Article 112: "Whoever, defames, insults or threatens the king, the queen, the heir-apparent or the regent, shall be punished with imprisonment of three to fifteen years."

Upon examining Article 112 of the Criminal Code, it is a crime that is in the first section about the internal security of the kingdom. It is a crime against the king, queen, heir-apparent or regent. It can be observed that the law is similar to the law about defamation of ordinary people. In other words, the defamation of the king or the defamation of an ordinary person is defined the same way, which is to slander a person to a third person in a way that will damage the person. But

the defamation, insult or threat in Article 112 of the Criminal Code must be an action against the king, queen, heir-apparent or regent. It does not include other royals, as Article 112 aims to protect the individual who is the head of state, and those who are instruments of the institution.

Article 116: "Whoever makes an appearance to the public by words, writings or any other means which is not an act within the purpose of the constitution or for expressing an honest opinion or criticism in order:

1. To bring about a change in the laws of the country or the government by the use of force or violence;
2. To raise unrest and disaffection amongst the people in a manner likely to cause disturbance in the country; or
3. To cause the people to transgress the laws of the country, shall be punished with imprisonment not exceeding seven years."

Article 116 is written in the second section of the Criminal Code about the internal security of the kingdom. It is a law that aims to punish action that takes the form of written speech or other means in front of the people. This means that this law is a frame with which to control expression of opinion in public to not impact state security. If it is a sincere expression of opinion, whether it is criticism of the work of the government, criticism of an illegitimate law, or in the period in which there is a constitution, if it is the exercise of freedom of expression of opinion according to the fundamental rights in the constitution, it is not a violation of Article 116. Importantly, when this law is in the category of "security," the actions that are held to be crimes under Article 116, the person must have the intention to impact state security as well.

No. 3. In this case, the Petitioner submitted the petition to the attorney general on 18 August 2020 for the attorney general to petition the Constitutional Court to rule to cease the aforementioned actions. But the attorney general did not take any action at all within 15 days from when the

petition was received, according to the provision in Article 49, paragraph three, of the 2017 Constitution.

The Petitioner therefore submitted the petition to the Constitutional Court for the Constitutional Court to rule and order the group of people to cease the aforementioned actions according to Article 49.

From the facts, legal provisions, eyewitness evidence, and recordings included, I ask the Constitutional Court to please examine, rule and order to cease the problem of social conflict and division into two sides. It is the Constitutional Court alone that can rule in order to cease the actions of the aforementioned group of people on whether they are correct under the 2017 Constitution of the Kingdom of Thailand or not.

Counter Statement

Matter for Examination No. 19/2563

[State Emblem]

Constitutional Court

2 November 2020

Between

Mr. Nattaporn Toprayoon, Petitioner

And

Mr. Arnon Nampa, Respondent No. 1 and Co-Respondents

Re: Petition for the Constitutional Court to Rule in Accordance with Article 49 of the Constitution

Section 2.²⁸ The three Respondents would like to make a counter statement that the petition and the accusations of the Petitioner are unconstitutional with respect to Article 49 of the 2017 Constitution of the Kingdom of Thailand. The petition is ambiguous, unclear, and is not explained in terms of the constituent elements of Article 49 of the 2017 Constitution of the Kingdom of Thailand as follows:

2.1. The petition submitted by the Petitioner is ambiguous and unclear. That is, Article 49 of the 2017 Constitution of the Kingdom of Thailand stipulates that no person shall exercise their rights or freedoms to overthrow rule by democracy with the king as head of state. But the Petition-

²⁸ Section 1 pertains to the Respondents' authorization of lawyers to act on their behalf in this case and is not included in this translation.--*trans.*

er's petition does not clarify how the three Respondents exercised their rights or freedoms to overthrow rule. Namely:

From the content of the petition, the Petitioner does not describe the meaning, essence, and constituent elements of rule by democracy with the king as head of state. The facts and accusations that the Petitioner describes are vague and the Petitioner does not specify which rights or freedoms the three Respondents exercised, or what actions were the overthrow of rule by democracy with the king as head of state.

For example, the Petitioner describes the facts about the "Thammasat Won't Stand For It" demonstration on 10 August 2020 by recounting the event, but does not specify which actions or words of the the three Respondents are overthrow of democracy with the king as head of state. In addition, on page 22 of the petition, the Petitioner describes Constitutional Court Ruling No. 3/2562 that provides the meanings of the words "overthrow" and "opponent," which have different meanings. Then the Petitioner discusses the expression of opinions by Mr. Piyabutr Saengkanokkul, Mr. Parit Chiwarak, and Mr. Jatuporn Prompan in which they mentioned the institution of the monarchy. This is neither an action by the three Respondents nor related to the actions of the three Respondents in any way. In addition, the petition does not describe how the 10 proposed demands to address the problems about the institution of the monarchy are overthrow of rule by democracy with the king as head of state. The Petitioner merely describes his own feelings and opinions. For example, the Petitioner, as a Thai person, feels very disappointed and uneasy about the expression of this group of people. Or, I greatly lament that this proposal comes from people who claim themselves to be new generation people who do not easily believe anything, but turn out to believe rumors, etc. Upon reading the Petitioner's petition, the three Respondents view the facts and accusations in the Petitioner's petition and the accompanying documents as merely ex-

pression of concern about the institution of the monarchy and rule by democracy with the king as head of state. There are no clear arguments about how the actions of the three Respondents are overthrow of rule by democracy with the king as head of state.

The three Respondents would like to convey that the Petitioner's lack of clarity about how the three Respondents exercised their rights or freedoms to overthrow rule by democracy with the king as head of state has caused the three Respondents to be unable to understand the aspect of their actions that he alleges contravene Article 49 of the Constitution and are unable to fully fight the case.

2.2. The Petitioner's petition is not in line with the constituent elements of Article 49 of the 2017 Constitution of the Kingdom of Thailand as he does not allege that the three Respondents "exercised rights or freedoms to overthrow rule by democracy with the king as head of state." The Court therefore does not have the authority to accept and rule on the Petitioner's petition. That is to say, Article 49 of the 2007 Constitution of the Kingdom of Thailand is a measure in the form of providing authority to the court to limit the constitutional rights of individuals and the interpretation of this measure must therefore be narrowly interpreted. It cannot be broadly interpreted as in the accusation made by the Petitioner. If examination is according to the principle of Article 49, the Constitutional Court is provided with the authority to rule to order the cessation of activities that are "the exercise of rights or freedoms to overthrow the rule of democracy with the king as head of state," in which the object of the proceeding is an individual's exercise of rights or freedoms. The proceeding must examine whether or not that individual exercised their rights or freedoms with the intention to "overthrow rule by democracy with the king as head of state." But the Petitioner's petition does not allege how the three Respondents "overthrow" rule by democracy with the

king as head of state. In addition, according to the meanings that the Petitioner cited in his petition from Constitutional Court Ruling No. 3/2562, the Petitioner merely alleges that the three Respondents did not act in accordance with Article 6 and Article 50 of the 2017 Constitution of the Kingdom of Thailand and that the Respondents violated Article 112 and Article 116 of the Criminal Code, as well as objecting to the reasons in the 10-point proposal to reform the institution of the monarchy. This is a description that is completely outside the constituent elements of Article 49 of the 2017 Constitution of the Kingdom of Thailand. The Petitioner's objections to the Respondents' 10-point proposal to reform the institution of the monarchy are vague and incorrect, and lack constitutional law principles and supporting material.

The first point alleged by the Petitioner is that the three Respondents' exercise of rights and freedoms does not follow other articles in the Constitution. The Petitioner claims that the actions of the three Respondents contravene Article 6, which is a measure about the inviolability of the king as a constitutional organ; contravene Article 50, which is a measure about the the duties of the Thai people that notes that they have the duty to protect the nation, religion, king, and rule of democracy with the king as head of state; contravene Article 34 about the freedom of assembly (*versammlungs-freiheit*) and Article 25 about general freedoms (*allgemeines personlichkeitsrecht*). All of these allegations are beyond the spirit of Article 49 and are a different matter than ruling on whether or not the exercise of freedom of assembly and freedom of expression of opinion of the three Respondents was constitutional. The scope of Article 49 provides the Court with the authority to rule only on the matter of "the exercise of rights and freedoms to overthrow rule by democracy with the king as head of state." Therefore, the Court may not accept for examination the allegations of the Petitioner that the three Respondents' exercise of freedom was not in compliance with other articles.

The second point alleged by the Petitioner is that the three Respondents violated Article 112 and Article 116 of the Criminal Code. The three Respondents would like to inform [the Court] that the examination of whether a given action is a crime against security according to the Criminal Code, whether violation of Article 112 or Article 116, is a question of law that is a separate matter than the exercise of rights or freedoms to overthrow rule by democracy with the king as head of state. Actions that are violations of Article 112 or Article 116 of the Criminal Code are not the exercise of rights or freedoms to overthrow rule. According to legal principles, all those involved in criminal cases in the judicial process have to separate ruling following facts and the elements of the crime on a case by case basis. The criminal trial process is different from the process of examination according to Article 49 and the allegations have different elements than Article 49 of the 2017 Constitution of the Kingdom of Thailand, which has no legal relationship with Article 112 or Article 116 of the Criminal Code.

In addition, the three Respondents have not yet been judged to be guilty of Article 112 or Article 116. This means that the three Respondents are held to be innocent. The Petitioner's allegation that the three Respondents' exercise of freedom was a violation of criminal law is therefore not admissible and is outside the nature of a claim according to Article 49 of the 2017 Constitution of the Kingdom of Thailand, as it is an allegation that is not related to Article 49 in any way. The Court therefore may not accept it for examination.

The final point is that the Petitioner described the nature of the claim by objecting to the 10-point proposal to reform the institution of the monarchy and merely stating that the actions of the three Respondents indicated that they did not understand the matter of the protection of the institution of the monarchy, their thinking lacked the Kalama Sutta,

they were deluded or harbored hatred, and even claimed that some of the points of the proposals contravened universal principles of the royal prerogative of the king.²⁹ This is a description of the nature of the claim that is beyond Article 49 of the 2017 Constitution of the Kingdom of Thailand and is an objection based on the Petitioner's personal feelings and without academic justification. This is especially the case regarding the Petitioner's objection on the matter of the protection of the institution and the royal prerogative of the king under the constitution within rule by democracy with the king as head of state. Therefore, the Petitioner's petition does not have the constituent elements of Article 49 needed for the Constitutional Court to have the authority to accept it for examination and rule. [The Respondents] Request that the Court dismiss the Petitioner's petition as the Constitutional Court does not have the authority to accept it for examination and rule and it is not in line with the spirit and elements of Article 49.

Section 3. The Court does not have the authority to order the three Respondents to cease their activities or order the cessation of activities as the actions of the three Respondents have already stopped. Namely:

3.1. The actions of the three Respondents named in the Petitioner's petition have already stopped and they are actions that are too remote. The Court may not rule to order their cessation or to stop the actions according to Article 49.

The three Respondents would like to inform the Court that according to the principles of Article 49, the facts must show that there were actions that were the exercise of rights or freedoms to overthrow rule by democracy with the king as head of state and those actions must be taking place. In Ruling No. 1/2563, the Constitutional Court set the principle

²⁹ See Footnote 26.

that actions that are the exercise of rights or freedoms to overthrow rule by democracy with the king as head of state must be actions that are taking place and not too remote. In the opinion on the ruling by Mr. Jaran Phakdithanakul, he explained further that "The examination that a given individual exercised their rights or freedoms to overthrow rule by democracy with the king as head of state according to Article 49, paragraph one, must sufficiently and clearly show demonstrate that the purpose or intentions of the actions to the degree that it would be reasonably foreseeable to a reasonable person that they would likely result in overthrowing rule by democracy with the king as head of state. Those actions must be taking place and not be too remote."

After examination of the Petitioner's petition, the three Respondents' exercise of freedom of expression about the institution of the monarchy or their peaceful, unarmed demonstration are all actions that have no relation in any way to the exercise of freedom for the overthrow of rule by democracy with the king as head of state. In every instance of the Respondents' expression in each demonstration, including the 10-point proposal for the reform of the institution of the monarchy, a reasonable person would not expect that it had the purpose or intention to overthrow rule by democracy with the king as head of state. Instead, the proposals and the expression of the three Respondents are in order to promote democracy with the king as head of state.

All of the facts cited by the Petitioner for the Court to order the cessation of activities — including the expression of opinions, the public demonstrations — have all ended. The aforementioned demonstrations were not continuous until they created an effect and do not remain ongoing in any way. If examination is according to the principles of exercising the right to assemble or the freedom of expression of opinion, if the Court is to order their cessation or discontinuation, they must still be taking place. For example, an extended demon-

stration with speeches aiming to have a transformation from democracy into dictatorship, or an entrenched demonstration pushing for a coup, etc. Therefore, when the situation is that the actions have already ceased and are not ongoing, the Court does not have the authority to order the cessation or discontinuation of the aforementioned activities according to Article 49 of the 2017 Constitution of the Kingdom of Thailand.

2.3. The Petitioner's petition does not present sufficiently clear facts about the intention and possible method by which the exercise of rights or freedoms will lead to overthrow of rule by democracy with the king as head of state.

As the Constitutional Court ruled in Ruling No. 1/2563, for the Court to have the authority to order the cessation or discontinuation of actions according to Article 49, the facts must sufficiently show that it is reasonable that the actions of the three Respondents are the exercise of rights or freedoms to overthrow rule by democracy with the king as head of state. Mr. Twekiat Menakanist further explained in his opinion that it must be a case in which the facts must sufficiently and clearly illustrate the intention and possible method by which the exercise of rights and freedoms will lead to the overthrow of rule. The facts in the petition of the Petitioner do not fulfill these two criteria.

First, the facts do not show that the exercise of the three petitioners is the exercise of freedom to express opinion that has the intention to overthrow rule by democracy with the king as head of state. The content of the expression and the assembling to demonstrate to make political demands is motivated by having no confidence in the administration of the government. The proposal to reform the institution of the monarchy is constitutionally-guaranteed and protected expression of opinion and assembly. The three Respondents do not have the intention to exercise their rights or freedoms to

overthrow rule by democracy with the king as head of state, such as making a demand for there to be a revolution or a coup, etc.

Second, the facts as alleged by the Petitioner in his petition are not sufficiently clear regarding the possible method by which the exercise of rights and freedoms will lead to overthrow of rule. The facts in the petition and accompanying documents are merely claims that rely on information from websites, print media, internet media and public documents that all interested people can find and read, without specifying how the three Respondents have the possibility or method of overthrowing rule by democracy with the king as head of state. In addition, if the speeches of the three Respondents are examined, the three Respondents sincerely expressed their opinions in good faith and with good intentions for rule by democracy with the king as head of state and the political system in the country to develop.

Section 4. The actions of the three Respondents are not the exercise of rights or freedom “to overthrow rule by democracy with the king as head of state” according to Article 49. The actions of the Respondents are the constitutional exercise of freedom to assemble or freedom of expression of opinion according to Article 34 and Article 44 and are constitutionally and legally-protected.

4.1. The exercise of rights or freedoms by the three Respondents is the exercise of rights or freedoms that is constitutionally-protected and is expression of opinion that is motivated by a lack of confidence in the government’s administration of the country and a constitution that is not in line with democracy with the king as head of state.

The demonstration of the three Respondents was the exercise of freedom and was action in the name of the people that is constitutionally-guaranteed and had a reason arising

from the structure of the Constitution that is not in line with democracy with the king as head of state and a lack of confidence in the government's administration of the country. The motivation for the exercise of rights and freedoms of the three Respondents is the expression of political opinion and is the demonstration of power with the support of a large number of the people. The actions of the three Respondents are merely the making of political demands for the government to dissolve parliament and amend the 2017 Constitution; according to Constitutional Court Order No. 59/2556, Constitutional Court Order No. 61/2556, and Constitutional Court Order No. 63/2556, the Court has always ruled that actions of this form are not "overthrow of rule by democracy with the king as head of state." The Court has used the aforementioned standard in ruling to always protect the people's freedom of assembly and freedom of expression of opinion.

The three Respondents would like to inform [the Court] that they have always exercised their rights and freedoms in line with the Constitution. The demonstration on 3 August 2020 at the Democracy Monument and the demonstration on 10 August 2020 at Thammasat University, Rangsit campus — the demonstrations in which the three Respondents expressed their political opinions — were all protected under Article 44 of the 2017 Constitution of the Kingdom of Thailand as they were peaceful, unarmed demonstrations. The three Respondents' expression of political opinion on stage was protected under Article 34 of the 2017 Constitution of the Kingdom of Thailand. The proposals for the reform of the institution of the monarchy did not have any phrasing that defamed or infringed in any way upon rule by democracy with the king as head of state. As the exercise of the rights of the three Respondents was the good faith expression of political opinion and was motivated by a lack of confidence in the administration of the country by the government and the Constitution that is not in line with democracy with the king as head of state, the aforementioned actions are not

the overthrow of rule by democracy with the king as head of state according to the trajectory of Constitutional Court rulings. [The Respondents] Request that the Court dismiss the Petitioner's petition.

4.2. The three Respondents' exercise of rights or freedoms is not the exercise of rights and freedoms to overthrow rule by democracy with the king as head of state according to Article 49 of the 2017 Constitution of the Kingdom of Thailand.

According to the principle of Article 49, the exercise of rights and freedoms to be prohibited by the Constitution must be actions to "overthrow" rule by democracy with the king as head of state. The Constitutional Court set a principle for the word "overthrow" in Ruling No. 3/2562 that it is action that has the intention to destroy or devastate until it dissolves and no longer exists. The aforementioned exercise of freedom by the three Respondents does not in any way have the intention to "overthrow" rule by democracy with the king as head of state. The actions to be prohibited according to Article 49 must have the intention for the elements of rule by democracy with the king as head of state to fully disappear and cease to exist. In other words, it must be action that has the intention or aim to destroy the fundamental principles of the Constitution and destroy the fundamental principles of democratic rule. For example, aiming to change from a democracy to a dictatorship of any form, including a return to absolute monarchy, etc.

In addition, constitutional provisions must serve the principles of the rule of law and principles of democracy, which are the fundamental principles of the constitution. The interpretation of the constitution must be in line with these principles. The interpretation of the meaning of the constitutional provisions must take into account the reason for the provision (*ratio legis*) and the aim of the provision (*telos*). The

ratio legis and *telos* of Article 49 are linked to the idea of the right to protect the constitution, which if the historical context of the emergence of the provision is examined, the right to protect the constitution in submitting a matter to a state unit began in Article 63 of the 1997 Constitution and Article 67 of the 2007 Constitution. The origin came from the exercise of the right to oppose the seizure of power, or coups, and came from the 1997 Constitution Drafting Committee. Many expressed the opinion that a frame should be set for this right especially and only in the case of opposing a revolution or coup, without the drafters having the intention for the meaning to be expanded beyond this. Therefore, in principle, actions that are the exercise of rights or freedoms to “overthrow rule by democracy with the king as head of state,” which Article 49 of the 2017 Constitution aims to protect against, are only those which hope to lead to a revolution or coup.

The three Respondents wish to inform [the Court] that the exercise of the right to assembly and freedom of expression about the institution of the monarchy in public during the demonstration on 3 August 2020 and the demonstration on 10 August 2020 do not correspond to the *ratio legis* and *telos* of Article 49 as the three Respondents did not aim to cause a revolution or coup, or even hope that any element of democracy with the king as head of state would cease to exist in any way. The exercise of rights or freedoms in their expression of opinion and assembly or the 10-point proposal for the reform of the institution of the monarchy are all in line with Constitutional Court Ruling No. 6/2543, which is in line with the principle that holds that the king “reigns but does not rule,” which is a constitutional principle in parliamentary democracies in civilized countries which have a king as head of state.

The three Respondents assert that the aforementioned expression of opinion was made with respect for the

institution of the monarchy. The three Respondents hope to see political reform, amendment of the constitution, and reform of the institution of the monarchy to be secure and function as a pair with democracy, as it is in civilized countries. The demonstrations or expressions of opinion of the three Respondents are not infringement upon or violation of the institution of the monarchy, but are demands for it to be in accordance with "democracy with the king as head of state" according to the constitution. Therefore, the demonstrations and the expression of opinions of the three Respondents are not actions that aim to lead to a revolution or a coup and are not actions that are a possible method of overthrowing and causing elements of rule by democracy with the king as head of state to vanish. Therefore, the three Respondents ask the Court to dismiss the Petitioner's petition.

Section 5. The three political demands of the three Respondents and the 10-point proposal for the reform of the institution of the monarchy "are not overthrow" of rule by democracy with the king as head of state, but are in order to "promote" democracy with the king as head of state.

The allegation of the Petitioner that the three political demands of the three Respondents and the 10-point proposal for the reform of the institution of the monarchy of the three Respondents are the overthrow rule by democracy with the king as head of state is not true. The three Respondents clarify and counter the allegation as follows:

5.1. The method of proceeding with the three political demands of the three Respondents or the method of proceeding with the 10-point set of demands to reform the institution of the monarchy can all be carried out according to methods set in the Constitution.

The three political demands of the three Respondents as the Petitioner alleged, whether the dissolution of parlia-

ment, the amendment of the constitution, and the cessation of threatening the people, are all political demands that can be carried out through legal and constitutional means. The first point, the dissolution of parliament, is a political instrument of the executive which be used to balance the power of the legislative branch via the political mechanism of the parliament. On the matter of amendment of the Constitution, Chapter 15 of the 2017 Constitution of the Kingdom of Thailand outlines how this may be done. And on the matter of the demand to cease threatening the people, for example, ceasing the criminal prosecution of people who engage in peaceful, unarmed demonstrations, this can be done via the law. State officials are able to use discretion appropriate to the situation and not act to unnecessarily violate the fundamental rights of the people.

Regarding the method of proceeding with the 10-point proposal to reform the institution of the monarchy. All of the points can be carried out through constitutional mechanisms. For example, the amendment of the Constitution, the amendment of related laws, and the use of processes or mechanisms of the legislative bodies. For example, the proposals related to the various assets of the king can be addressed via legislative processes. For example, the amendment of the Crown Property Act, the reduction of the budget via the Annual Budget Expenditure Act, etc. For the aforementioned reasons, none of the proposals of the three Respondents are the overthrow of rule by democracy with the king as head of state as they are proposals that can be accomplished in accordance with the law and Constitution.

5.2. The three Respondents would like to inform [the Court] that the 10-point proposal to reform the institution of the monarchy has the intention and is in keeping with the promotion and preservation of the security of rule by democracy with the king as head of state.

Regarding the ten-point proposal to reform the monarchy, the three Respondents would like to inform [the Court] that the content of the proposals and the wish of the three Respondents are all for the maintenance of the institution of the monarchy and preservation of democracy with the king as head of state to make it stronger and more secure. This is for the following reasons:

Proposal No. 1: The matter of the revocation of Article 6 of the Constitution that no one may make an accusation against the king and addition of an article to allow parliament to examine the wrongdoing of the king. This is an amendment of the Constitution that is in line with and in keeping with the spirit of rule by democracy with the king as head of state. In the sense of the general principle of rule by democracy with the king as head of state, the head of state does not easily become liable. In the Constitution, there must be a person who signs in the name of the king for the actions of the king in the position of head of state. Therefore, no one can bring an accusation against the king, but the person who signs in his name must be responsible. Regarding personal actions that may be crimes, bringing a case of accusation against the head of state by proceeding in the normal criminal justice process is not appropriate. The three Respondents therefore call for the king to be able to be prosecuted by the parliament if he commits a crime, which is in line with the principle there there is no one who is above the law. This principle is accepted and held in democracies in civilized countries. In addition, if history is examined, the aforementioned amendment proposal is in line with the Charter of the People's Party, which was the constitution that created rule by democracy with the king as head of state. Therefore, the allegation that Proposal No. 1 of the three Respondents is overthrow of rule by democracy with the king as head of state is not true.

Proposal No. 2: The matter of the revocation of Article 112 of the Criminal Code, as well as allowing the people

to exercise freedom of expression about the monarchy and giving an amnesty to all those prosecuted for criticizing the monarchy. This is not at all a proposal that overthrows rule by democracy with the king as head of state. According to democratic principles, freedom of expression of opinion is an extremely important thing in the development of society and the political system. Therefore, in principle, political figures or heads of state must be able to be criticized in democracies. Some countries provide special protection of the reputation of the heads of state who are kings by criminalizing criticism of them. However, these laws cannot punish individuals in excess of what is appropriate, such as Article 112 of Thailand which prescribes a maximum punishment of 15 years, which is a punishment which creates a burden or limits the rights of freedom of expression according to the constitution that is in excess of what is appropriate. Therefore, Proposal No. 2 to revoke Article 112 of the Criminal Code, as well as allowing the people to exercise freedom of expression about the monarchy and giving an amnesty to all those prosecuted for criticizing the monarchy is to promote freedom of expression of opinion, which is the core of democracy with the king as head of state. The allegation of the Petitioner that the aforementioned action is the overthrow of rule by democracy with the king as head of state is not true.

Proposal No. 3: The matter of revocation of the 2018 Crown Property Act and making a clear division between the assets of the king under the control of the Ministry of Finance and his personal assets. The reform of the assets that are related to the institution of the monarch will not result in the overthrow or destruction of democracy with the king as head of state. The aforementioned proposal is about the revocation of a law that was passed in 2018 to return to use the original law that promoted democracy with the king as head of state more than the current law.

The revocation of the Crown Property Act and dividing

the assets into those under the control of the Ministry of Finance and the king's actual personal assets is a measure that is in line with the standard of civilized countries with rule by democracy with the king as head of state. This is in order to divide the responsibility for the aforementioned assets clearly and for thereto be no ambiguity about the country's public assets and the assets that the king may use as he pleases. This aforementioned proposal does not have the effect of overthrowing or destroying democracy with the king as head of state in any way.

Proposal No. 4: The matter of reducing the amount of the national budget allocated to the king to be in line with the economic conditions of the country is a proposal that does not have any intention in any way to overthrow rule by democracy with the king as head of state. The setting of the annual budget expenditure is truly at the discretion of the parliament. The institution of the monarchy, which is a unit of the state, receives a budget to use for expenditure in various undertakings. The reduction of the budget, for whatever state unit, to be in line with the economic conditions is a normal matter in the administration of the country so that the funds that come from the taxes of the people can be used properly in the administration of the country. At present, the portion of the budget that is related to the institution of the monarchy is an immense amount and is not in line with the economic situation of the country. This proposal therefore is in order to make it possible for the budget to be used to administer the country with greater efficiency. The three Respondents would like to inform [the Court] that the reduction of the national budget in a parliamentary political system does not have any intention in any way to overthrow rule by democracy with the king as head of state.

Proposal No. 5: The matter of abolishing the Royal Offices. Units with a clear duty, for example the Royal Security Command, should be transferred and placed under other agencies. Unnecessary units, such as the Privy Council,

should be disbanded. This proposal will not have the effect of overthrowing rule by democracy with the king as head of state. This is only a proposal to systematize state units and organs. The three Respondents wish to create transparency and the ability to audit and protect the aforementioned units from being pulled to be an instrument in illegitimate benefit-seeking.

Proposal No. 6: The matter of the cessation of giving and receiving donations by royal charity funds so that all of the assets of the monarchy to be auditable. This is in order to promote democracy with the king as head of state and the three Respondents proposed it with good intentions for the institution of the monarchy, to protect individuals from citing the institution of the monarchy to gain benefit from accepting donations to give to royal charity funds and to protect against the institution of the monarchy from being pulled to be an instrument in illegitimate benefit-seeking.

Proposal No. 7: The matter of the cessation of the royal prerogative to express political opinions in public. The institution of the monarchy as a constitutional organ must be politically neutral. Therefore, there should not be a royal order given without there being a person who signs as the responsible figure because doing otherwise may cause the institution of the monarchy to lose its political neutrality. The aforementioned proposal is made with good wishes toward the institution of the monarchy for the king to truly reign but not rule.

Proposal No. 8: The matter of ceasing all public relations and education that excessively and one-sidedly glorifies the monarchy. The three Respondents made the aforementioned proposal with good wishes toward the institution of the monarchy. If there is only one-sided public relations about the institution of the monarchy until it comes to seem to be too good to be true, it may cause the institution of the

monarchy to be pulled to be a political instrument. This is a proposal to protect against the seeking of illegitimate benefit from the institution of the monarchy.

Proposal No. 9: The matter of searching for the facts about the murder of those who criticized or had some kind of relation with the monarchy. At present, there are allegations of many accounts related to this matter, therefore the three Respondents would like to inform [the Court] that the search for the truth is in order to protect the institution of the monarchy from becoming stained, tarnished, and to clear up the various accounts about the institution of the monarchy alleged in public opinion.

And Proposal No. 10: The matter that the king must not endorse any further coups. This is because coups are an action that overthrows rule by democracy with the king as head of state, which must be prohibited according to Article 49 of the Constitution of the Kingdom of Thailand. In principle, the king in a democracy is a constitutional organ who has the duty to preserve democracy with the king as head of state is prohibited from signing to endorse a coup. This proposal is in order to promote democracy with the king as head of state and is in line with every constitutional principle.

The three Respondents would like to inform [the Court] that all ten proposals are with good wishes for the institution of the monarchy and have the intention to promote and make secure democracy with the king as head of state. They are not in any way overthrow of rule by democracy with the king as head of state according to Article 49. The three Respondents have prepared scholars [to provide testimony] and detailed evidence about each proposal to provide facts during witness hearings.

The three Respondents would like to inform [the Court] that according to the legal principles of case examina-

tion, the court must respect the right of the parties to fight the case, and especially respect the “principle of listening to the parties in the case” (*audi alteram partem*) in order to create justice. In France, the Court of Cassation had a judgment guaranteeing that “Fighting the case is one natural legal principle. No individual should be judged without being questioned or without the having the opportunity to fight his case.” The French Constitutional Court guarantees the right to protect oneself (*droit de la defense*). For this reason, if this court finds that the facts in this counter statement of the three Respondents is insufficient with regards to demonstration of the intention of the three Respondents and the method by which they would exercise their rights or freedoms to overthrow rule, the three Respondents request that witness hearings be held so they may be able to provide additional facts and rule to dismiss the Petitioner’s petition.

Section 6. Upon examination of the petition and the request of the Petitioner for the Court to examine and rule on this matter, the request of the Petitioner is for the Constitutional Court to rule on the first point that the actions of the three Respondents and their affiliates were not in line with the 2017 Constitution of the Kingdom of Thailand. The view of the three Respondents is that the 2018 Organic Act on the Procedures of the Constitutional Court provides the Constitutional Court with the duty and authority to examine and rule on cases according to Article 7 (1) to (13) only. Therefore, the Constitutional Court does not have the authority to rule on whether or not the actions of the three Respondents and their affiliates are constitutional. Regarding the second request of the Petitioner for the Constitutional Court to order the cessation of activities according to Article 49 of the Constitution, the three Respondents would like to inform the Court that the actions that the Petitioner specified in the petition have already ended. The Court therefore may not rule for the three Respondents to again end their actions.

Based on all the facts and laws that the three Respondents have informed the Court of above, it can be seen that the Petitioner's petition is not in line with Article 49 of the 2017 Constitution of the Kingdom of Thailand. The Court may not rule to order the cessation of the activities as they are too remote and sufficient facts have not been demonstrated about the intention and method by which they could be the possible exercise of rights or freedoms for the overthrow of rule. The exercise of rights and freedoms of the three Respondents has already ceased and is not ongoing. In addition, the actions of the three Respondents are not actions that are the exercise of rights or freedoms in order to overthrow rule by democracy with the king as head of state. The three Respondents ask that the Court use and interpret the constitutional measures in line with the principles of the rule of law and democracy and rule to dismiss the petition of the Petitioner.

[State Emblem]

In the Name of His Majesty the King

The Constitutional Court

Ruling No. 19/2564³⁰

Matter for Examination No. 19/2563

10 November 2021

Between

Mr. Nattaporn Toprayoon, Petitioner

And

Mr. Arnon Nampha, Respondent No. 1

Mr. Panupong Jadnok, Respondent No. 2

Miss Panusaya Sithijirawattanakul, Respondent No. 3

Mr. Parit Chiwarak, Respondent No. 4

Miss Juthathip Sirikhan, Respondent No. 5

Miss Siripatchara Chungthirapanich, Respondent No. 6

Mr. Somyot Prueksakasemsuk, Respondent No. 7

Miss Athitiya Pornphrom, Respondent No. 8

Re: Petition for the Constitutional Court to Rule in Accordance with Article 49 of the Constitution

Mr. Nattaporn Toprayoon (Petitioner) submitted a petition for the Constitutional Court to rule in accordance with

³⁰ This Constitutional Court ruling was disseminated in the *Royal Thai Government Gazette* and can be found in its original form here: [ราชกิจจานุเบกษา, เล่ม 138, ตอนที่ 80 ก, 29 พฤศจิกายน 2564, หน้า 22-49.--trans.](#)

Article 49 of the Constitution. The facts in the petition and accompanying documents can be summarized as follows:

The Petitioner claimed that a group of people, including activist groups of Thammasat University, the Student Union of Thailand, Mahasarakham University Democracy Front, and Seri Thai Plus, used various venues to organize demonstrations which included criminal actions according to Article 6 of the Constitution, Article 112 and Article 116 of the Criminal Code, and related laws. The violation of the institution of the monarchy, which is beloved and respected by the Thai people, is an action that is the overthrow of rule by democracy with the king as head of state and creates division, disorder, and insubordination among the people. In particular, the eight individuals who gave speeches about the institution of the monarchy, namely Mr. Arnon Nampha (Respondent No. 1), Mr. Panupong Jadnok (Respondent No. 2), Miss Panusaya Sithijirawattanakul (Respondent No. 3), Mr. Parit Chiwarak (Respondent No. 4), Miss Juthathip Sirikhan (Respondent No. 5), Miss Siripatchara Chungthirapanich (Respondent No. 6), Mr. Somyot Prueksakasemsuk (Respondent No. 7), and Miss Athitiya Pornphrom (Respondent No. 8), who acted as a movement and brought ideas from a former political party, Future Forward, which provided backup support.³¹ The three-finger salute was manifest and they rejected rule by democracy with the king as head of state.³² This included the giving of speeches in public places including the following:

On 3 August 2020, at the Cast A Spell To Protect Democracy event at the Democracy Monument and on 9 August 2020 at the Chiang Mai Won't Stand For It event in Chiang Mai province, Respondent No. 1 gave a speech that can be

³¹ See Footnote 14.--*trans.*

³² See Footnote 15.--*trans.*

summarized as that one of the reasons that university students and the people have assembled to make demands is because they want to raise questions about the institution of the monarchy. At present, we are facing an important problem which is that there is a process to make the institution of the monarchy grow more and more distant from democracy. In other words, the design of the structure of the constitution facilitated the expansion of the royal prerogative. Article 15, second paragraph, of the Constitution stipulates the organization and personnel administration of Royal Household shall be at the King's pleasure. The intervention in the promulgation of the Constitution by the institution of the monarchy; the legislation of many laws to expand the royal prerogative of the institution of the monarchy; to have the units directly related to the king and the assets which once belonged to the public belong to the king; to transfer a portion of the armed forces and budget to the Royal Security Command, including the drafting of a law related to the national budget in relation to the institution of the monarchy. There is a proposal to amend portions of the Constitution about the institution of the monarchy with regard to appointing a regent when the king is abroad and amending the law regarding the management of the king's assets to return to be the public assets of the country that belong to the brothers and sisters, all of the people.

On 10 August 2020, at the Thammasat Won't Stand For It event at Thammasat University, Rangsit campus, in Pathumthani province, Respondent No. 1 gave a speech that can be summarized as we assembled here today in order to assert that in addition to the three proposals that we talk about at every demonstration, in truth, there is a proposal between the lines that is the most important of them all. This is to solve the problem of the expansion of the royal prerogative of the institution of the monarchy. And I assert, once again, that this is not a mob to topple the monarchy. It is not a mob to impinge upon the monarchy. It is a mob that is

speaking the truth about the problems of the country. Thammasat University was established by Professor Pridi [Banomyong]. Today, we, each one of us, have taken the baton from the People's Party. We have taken the baton from our ancestors to clear up all of the problems. We, each of us, are the offspring of the People's Party who have come to act in their place. The important point that I have come to speak about today is our demand between the lines. A democracy with the king as head of state means that the king must be above politics and under the constitution. Whatever royal duties cause the king to become involved in politics must be loudly questioned in public. We want to see the institution of the monarchy adjust itself to approach the people, rather than us having to adjust ourselves to approach the institution of the monarchy. Being under the constitution is a key part of the kind of rule we have. But problems arose when the institution of the monarchy attempted to expand the royal prerogative through the junta in 2014. The king, if the king remains a king in a democracy with the king as head of state, must not sign to endorse a coup. If a coup takes place, the institution of the monarchy must stand only on the side of democracy. Respondent No. 2 gave a speech that can be summarized as as today I am going to talk about the absolute monarchy that has not died. Absolute monarchy is the centralization of the power of nobles and bureaucrats in the service of the king. The king has absolute power. Absolute monarchy existed during the reigns of Rama 5, Rama 6, and Rama 7. But on 24 June 1932, the People's Party, led by Professor Pridi Banomyong and Phraya Phahonphayusena, carried out a revolution to change Siam from an absolute monarchy to a democracy and the king was placed under the constitution. I think that absolute monarchy has extended into the present reign because the king is above the sovereign power of all three branches: judiciary, executive, legislative. Let me ask, why do we have to speak like this? Are you aware that in the second chapter of the Constitution, the second paragraph of Article 6, it says that no person shall expose the king to any

sort of accusation or action. This is as if to demonstrate that the king is above the sovereign power that belongs to the people. My intention in speaking this time is that I want the king to be placed in an appropriate location where he is able to co-exist with the Thai people. And when I say that he is above the sovereign power, it is that he is above the power of the people. The people are unable to touch him. Anyone who does will be hit with an Article 112 charge. What is most important is for the king to be able to adjust himself to co-exist with the people and return to Thailand to be their protector. I want him to return to Thailand in order to not waste the people's taxes. Respondent No. 3 read Declaration Number 1 of the United Front of Thammasat and Democracy, which can be summarized as since the People's Party fomented a revolutionary transformation, all the people have hoped that our country would be a democracy with the king as head of state who is truly above politics. But it has not been as such since the king has exercised power to intervene in politics. For example, whenever a coup overthrows a government that has come from a democratic process, the king has signed to appoint the head of the junta. This constitutes the endorsement of each and every coup as legal. Moreover, the king moved troops and also transferred a significant amount of the national budget to belong to the king himself personally. In addition, the king exercised extralegal royal authority to amend the constitution, which had already passed a referendum, to allow him to reside outside the country without having to appoint a regent. This could be done because the dictatorship government bowed down under the shadow of the king and continues to claim the monarchy for its own benefit. It can be seen that they mutually benefit. Such a situation constitutes an enemy to the principles of democracy with the king as head of state. There is no democratic country in which such actions take place. The people ought to know that the king of our country is not above politics. This has consistently been the root of political problems. He has neglected his duties of being the head of state that

binds him to the hearts of the people and uses the people's taxes to seek pleasure and reside outside the country. This takes place while the people are experiencing hardship from the economic downturn. He also has close relationships with the rebels who foment coups to topple democratic rule. It is therefore evidence that if there are no adjustments made for the monarchy to co-exist with the institution of the people, the people will necessarily lose faith in the monarchy. The United Front of Thammasat and Demonstration therefore makes the following demands in order to resolve the problems with the monarchy:

1) Revoke Article 6 of the 2017 Constitution that does not allow anyone to make any accusation against the king. And add an article to allow parliament to examine the wrongdoing of the king, as had been stipulated in the constitution promulgated by the People's Party.

2) Revoke Article 112 of the Criminal Code, as well as allowing the people to exercise freedom of expression about the monarchy and giving an amnesty to all those prosecuted for criticizing the monarchy.

3) Revoke the Crown Property Act of 2018 and make a clear division between the assets of the king under the control of the Ministry of Finance and his personal assets.

4) Reduce the amount of the national budget allocated to the king to be in line with the economic conditions of the country.

5) Abolish the Royal Offices. Units with a clear duty, for example, the Royal Security Command, should be transferred and placed under other agencies. Unnecessary units, such as the Privy Council, should be disbanded.

6) Cease all giving and receiving of donations by royal charity funds in order for all of the assets of the monarchy to be auditable.

7) Cease the exercise of royal prerogative to express political opinions in public.

8) Cease all public relations and education that excessively and one-sidedly glorify the monarchy.

- 9) Search for the facts about the murder of those who criticized or had some kind of relation with the monarchy.
- 10) The king must not endorse any further coups.

These demands are not a proposal to overthrow the monarchy. But they are a good-faith proposal made for the monarchy to be able to continue to be esteemed by the people within a democracy. Therefore, for the monarchy to be secure in the present-day world, it must not hold power related to politics. It should be able to be controlled, audited, and criticized, and it should not be a burden on the people. Then it will be able to be held as a monarchy that is dignified in line with the universal meaning of democracy.

On 20 August 2020 at the Khon Kaen Has Had Enough event in Khon Kaen province and on 21 August at the Democracy Has Not Ended in Ayutthaya in Ayutthaya province, Respondent No. 4 gave speeches that can be summarized as rule by democracy with the king as head of state means that he does not get involved in politics. Appointing a junta is the legal endorsement of a coup. At present, the institution of the monarchy has placed itself above the constitution and the people. Demand that the institution of the monarchy be urgently reformed. If not, the institution of the monarchy, the institution of the people, and the institution of democracy, will be unable to co-exist.

On 30 August 2020, at the Snap Your Fingers to Drive Out Dictators event in Samut Prakan province, Respondent No. 5 gave a speech that can be summarized as the budget of the institution of the monarchy is the king's portion of the government's budget that was discussed in committee. The total amount for 2020 was 7,685 million baht. For 2021, the amount for the institution of the monarchy was increased to 8,980 million baht without any explanation of the budget. It cannot be audited, and what is important is that it is the taxes of the people. This amount of money could be used to create

a good quality of life for the people. Respondent No. 6 gave a speech that can be summed up as for those who follow the news on Twitter, there was a hashtag #ClosePhuketIsland and that "What can I do? We cannot choose to be born" and "The roads were closed for those who live from hand to mouth, taxi drivers, hawkers, who do not have any social security. The street is their workplace and where they make a living. But the city of Bangkok claimed they closed the roads to create order. And the people who close the roads and make it so ordinary people cannot walk, cannot makes living, traffic is stopped for hours, why are they not subject to order being created?" Respondent No. 7 gave a speech that can be summarized as we used to be the country with the third greatest inequality between the poor and the rich. The king is the richest person in the world. If we took the money of the 50 richest families in Thailand and put it together, we would enough to give all 65 million Thai people [money] for their entire lives. Respondent No. 8 gave a speech that can be summarized as the taxes for governing the country must be apportioned to all of the people in the country. Why are they given to one person alone, and the feudal capitalists and children of nobles and royals? Respondent No. 4 gave a speech that can be summarized up as the seizure of governing power by soldiers is a violation of Article 113 of the Criminal Code, overthrow of rule. If the king does not sign to endorse the soldiers' actions, then they must be punished. Therefore, Article 6 of the Constitution must be revoked. Whether one is a king, an elite, or a serf, we must all be under the same law. Respondent No. 2 gave a speech that can be summarized as we do not want to overthrow in any way. If we want to pave a road, but there is a large tree in the way, are you going to dig up the tree and toss it aside, will you make the road circle around it, or will you move the tree out of the way? I think that moving the tree to be in an appropriate location and building a strong road, we will have both a tree and a road that are complete. It is like creating development in the country by having the institution of the monarchy in an

appropriate location. We have good intentions and we want to co-exist with the institution of the monarchy, for the institution to be our protector, to be glorious. The people are able to criticize [the monarchy]. We pay taxes to him, we must be able to audit those taxes.

The Petitioner viewed the speeches at the specified times, dates, and venues by the aforementioned speakers as containing content that gravely distorts, encroaches upon, ridicules and defames the institution of the monarchy. It is action that has the intention to overthrow rule by democracy with the king as head of state as in Constitutional Court Ruling No. 3/2562. The claims of the aforementioned group of people demonstrate that they do not respect or admire rule by democracy with the king as head of state and they have not acted in line with the Constitution. The exercise of fundamental rights and freedoms in a democracy must be constitutional. Article 25 and Article 34 [stipulate that] claiming individual freedom of expression but ignoring the limitations on that exercise of freedom that are present in international conventions and supporting the exercise of freedom without respecting the limitations, is gravely dangerous because it is the promotion of the exercise of freedom in illegal ways. In addition, upon examining the various announcements and proposals, it is found that many proposals contravene the fundamental principles of the protection of the institution of the monarchy and the royal prerogative of the king in the constitution, which have been securely guaranteed continuously from the 1932 Constitution of the Kingdom of Siam until the present. It is unable to be amended because it will contravene the principles of the amendment of the constitution, and it could perhaps be interpreted that the proposal to amend Article 6 of the Constitution is the destruction of the fundamental constitutional principles that is related to the prohibition according to Article 255 of the Constitution.

The Petitioner submitted the petition to the attorney

general on 18 August 2020, for the attorney general to request the Constitutional Court to rule to order to cease the aforementioned actions. But the Petitioner found that the attorney general did not take any action within 15 days from the date that he submitted his petition according to Article 49, paragraph three. The Petitioner therefore submitted the petition to the Constitutional Court to request that the Constitutional Court rule and order the group of individuals to cease the aforementioned activities according to Article 49.

The initial point which the Constitutional Court must examine is whether or not the Constitutional Court has the authority to accept the petition to examine and rule under Article 49. Although the Petitioner requested that the Constitutional Court examine if the actions of various groups of people in holding demonstrations and speeches six times were the exercise of rights or freedoms to overthrow rule by democracy with the king as head of state and order the aforementioned group of people to cease their actions according to Article 49 of the Constitution, the facts of the petition show that on 18 August 2020, the Petitioner submitted a petition to the attorney general to request that the Constitutional Court rule according to Article 49, second paragraph, about the holding of the demonstration and speeches of the group of people on 10 August 2020 at Thammasat University, Rangsit campus, Pathumthani province. The petition specified that the demonstration and speeches on the aforementioned day by three speakers who had actions as the Petitioner claimed. They were Respondents No. 1, No. 2, and No. 3, and are an instance in which the Petitioner can submit a petition directly to the Constitutional Court according to Article 49, paragraph three, of the Constitution. The Petitioner did not submit a petition to the attorney general according to Article 49, paragraph three, of the Constitution, about the speeches in other demonstrations. The Constitutional Court therefore has an order to accept only the petition about the actions during the demonstrations and speeches of Respondents No. 1, No.

2, and No. 3 on 10 August 2020 for examination and rule. Respondents No. 1, No. 2, and No. 3 were asked to submit counter statements in response to the accusation, and in the interest of the examination, the Constitutional Court asked the attorney general to inform them of their actions and to send related documentary evidence.

The attorney general provided a summary of their actions that the Office of the Attorney General issued an order to appoint a working group to examine the matter and were in the process of compiling additional facts and evidence to submit to the attorney general to examine according to Article 49 of the Constitution along with sending related documents. In sum, the Petitioner saw or learned of the actions via online social networks and thought that the speeches of the aforementioned group of people to propose to abolish the expression of political opinion [by the king], to abolish the glorification of the institution of the monarchy, to revoke Article 112 of the Criminal Code and Article 6 of the Constitution had the intention to destroy, overthrow and devastate the institution of the monarchy so that it no longer exists and is an opponent of the institution of the monarchy. This was action in order to erode and destroy in order to cause [the institution of the monarchy to become] decayed and weakened, and is in contravention of the fundamental principles of rule by democracy with the king as head of state.

Respondent No.1, No. 2, and No. 3 submitted a counter statement in response to the allegations and accompanying documents that can be summarized as follows:

1. The petition and the allegations are not in line with Article 49 of the Constitution. They are ambiguous and unclear with regards to how Respondents No. 1, No. 2, and No. 3 exercised their rights or freedoms to overthrow rule. The facts in the petition are vague allegations and the petition does not specify how Respondents No. 1, No. 2, and No.

3 exercised their rights or freedoms or which actions were overthrow of rule by democracy with the king as head of state. The Respondents do not understand how the actions of which they are accused [are in violation of Article 49 of the Constitution]. [The Petitioner] Did not describe how the basic elements of Article 49 [were met], as the aforementioned measure gives the Constitutional Court the authority to rule to order the cessation of actions that are "The exercise of rights or freedoms to topple rule by democracy with the king as head of state." The object under examination in the case is the exercise of rights or freedoms by individuals, and must examine whether or not those individuals exercised their rights or freedoms with the intention to overthrow rule by democracy with the king as head of state. But the petition does not make an allegation about how Respondents No. 1, No. 2, and No. 3 "overthrow" rule. The Petitioner merely claims that the actions of Respondents No. 1, No. 2 and No. 3 contravene Article 6, Article 25, Article 34, and Article 50 of the Constitution, and rebuts the reasons for the 10-point proposal for the reform of the monarchy. The description in the petition is outside the basic elements and the character of the allegation is outside the intention of Article 49 of the Constitution. And it is a different point than examining whether or not the exercise of the freedom of assembly and the freedom of expression of Respondents No. 1, No. 2, and No. 3 were constitutional. Regarding the claim that the actions of Respondents No. 1, No. 2, and No. 3 were in violation of Article 112 and Article 116 of the Criminal Code, the examination of if a given action is a crime against security under the Criminal Code is a legal matter that is separate from the exercise of rights or freedom to overthrow rule by democracy with the king as head of state. The Constitutional Court therefore does not have the authority to accept and rule on the petition of the Petitioner under Article 49 of the Constitution.

2. The Constitutional Court does not have the author-

ity to order Respondents No. 1, No. 2, and No. 3 to cease their actions as they have already done so. These actions are too remote. According to the principles of Article 49 of the Constitution, the facts must show how the actions are an exercise of rights or freedoms that overthrow rule by democracy with the king as head of state, and that the actions are taking place according to the principle established in Constitutional Court Ruling No. 1/2563. The exercise of freedoms by Respondents No. 1, No. 2, and No. 3 in the expression of opinion about the institution of the monarchy and the peaceful, unarmed demonstration are all actions that are unrelated to the exercise of freedom to overthrow rule by democracy with the king as head of state. Each demonstration and expression of opinion, including the 10-point proposal to reform the institution of the monarchy, a reasonable person would not expect that this could have the intention or wish to overthrow rule by democracy with the king as head of state. But the aforementioned actions were to promote rule by democracy with the king as head of state. In addition, the petition did not include clear facts sufficient to demonstrate the possible aim and method of how they were exercising their rights or freedoms to overthrow rule by democracy with the king as head of state. As a result of the content of the expression of opinion or assembling to make political demands being motivated by a lack of confidence in the administration by the government and the proposal to reform the institution of the monarchy being expression and a demonstration that the constitution provides for and guarantees, Respondents No. 1, No. 2, and No. 3 did not aim to overthrow rule by democracy with the king as head of state. In addition, the facts according to the petition and accompanying documents are only claims that rely on information from websites, printed materials, and internet media, which did not specify how Respondents No. 1, No. 2, and No. 3 could possibly or use what method to overthrow rule by democracy with the king as head of state. Respondents No. 1, No. 2, and No. 3 expressed their opinions sincerely and with good intentions

for rule by democracy with the king as head of state and the political system in the country to develop.

3. The demonstration of Respondents No. 1, No. 2, and No. 3 are the exercise of freedom of assembly and freedom of expression that is constitutional, in line with Article 34 and Article 44 and the motivation was a lack of confidence in the administration by the government and the structure of the Constitution that is not in line with rule by democracy with the king as head of state. The actions of Respondents No. 1, No. 2, and No. 3 are merely political demands for the government to dissolve parliament and to amend the Constitution, which according to the rulings in Constitutional Court Order No. 59/2556, No. 61/2556, and No. 63/2556, actions with the aforementioned characteristics are not overthrow of rule by democracy with the king as head of state. The proposal to reform the institution of the monarchy does not contain any defamatory wording and does not encroach upon rule by democracy with the king as head of state in any way. The prohibition on exercising rights or freedoms accounting to Article 49 of the Constitution must be actions to “overthrow” rule by democracy with the king as head of state. The word “overthrow” is an action that has the intention to destroy or devastate the system of rule until it completely dissolves and no longer exists. In other words, there must be an intention or goal to destroy the fundamental principles of the constitution and the fundamental principles of democratic rule. For example, transformation from a democracy to a dictatorship. The exercise of freedoms by Respondent No. 1, No. 2, and No. 3 do not have the intention to overthrow rule by democracy with the king as head of state in any way. As a result, the interpretation of this constitutional measure must take into account the reasons and spirit of the Constitution. Article 49 of the Constitution is related to the idea of the right to protect the Constitution and the exercise of this right to oppose the seizure of power, or coups. Therefore, actions that are the exercise of rights or freedoms to overthrow rule

by democracy with the king as head of state as in Article 49 of the Constitution have the spirit of protecting against the exercise of rights or freedoms under the Constitution in order to lead to a coup only. The exercise of the right to assemble and the freedom to express opinions about the institution of the monarchy on 3 August 2020 and 10 August 2020 do not meet the reasons and spirit of Article 49 of the Constitution, as Respondent No. 1, No. 2, and No. 3 did not wish to cause a coup. In addition, the exercise of rights or freedoms to express opinions through a demonstration or proposing the 10-point proposal to reform the institution of the monarchy is in line with Constitutional Court Ruling No. 6/2543, according to the principle that the king "reigns but does not rule." This is a constitutional principle in a parliamentary democracy as in civilized countries that have monarchs as head of state. The aforementioned expression of opinion was expressed with respect for the institution of the monarchy with the hope of seeing political reform, amendment of the constitution, and reform of the institution of the monarchy to make it secure and exist side-by-side with rule by democracy as it is in many civilized countries. They did not intend to foment a coup or hope for the elements of rule by democracy with the king as head of state to disappear.

4. The three political demands and the 10-point proposal for the reform of the institution of the monarchy are not overthrow of democracy with the king as head of state, but are in order to promote rule by democracy with the king as head of state. This can be carried out through methods stipulated by the Constitution. The three political demands are to dissolve parliament, to amend the Constitution, and to stop threatening the people. They are all political demands that have methods of being carried out that can be done legally and constitutionally. In other words, the dissolution of parliament is a political instrument of the executive, which is used to balance the power of the legislative branch in a parliamentary political system. The amendment of the Con-

stitution is an operation according to Chapter 15 of the Constitution. And stopping threatening the people, for example, stopping criminal prosecution of people who exercise their right to peacefully demonstrate without weapons, can be done legally, as the state officials are able to use their discretion as appropriate to the situation and to not do that which unnecessarily violates the fundamental rights of the people. Regarding the 10-point proposal to reform the institution of the monarchy, all the methods for reform are according to constitutional mechanisms. It is not the overthrow of democracy with the king as head of state for the following reasons:

1) It is an amendment of the Constitution that is in line with and according to the spirit of rule by democracy with the king as head of state. If the king commits a crime, he must be examined by the parliament, which is in accordance with the principle that no one is above the law. This principle is accepted and exists in democracies in civilized countries.

2) Freedom of expression of opinion is fundamentally important to the development of society and the political system under democratic rule. Political figures or the head of state have to be able to be criticized. Even though in some countries there is special protections of the reputation of the head of state who is a king by legislating it [criticism] to be a crime. But the laws do not disproportionately punish people the way that Article 112 of the Criminal Code does, which is a punishment that creates a disproportionate burden and limits the constitutional rights to expression of opinion.

3) It is a criteria that is in line with the standards of civilized countries that have rule by democracy with a king as head of state to divide the responsibility of the aforementioned assets clearly and for there to be no ambiguity on the matter of the public property and the assets that the king uses according to his pleasure.

4) In order for the national budget that comes from the peoples' taxes to be able to be used to administer the country successfully.

5) In order to be a proposal to organize the units of the

state and various organs of the state.

6) In order to protect and not have people claim [the monarch] and seek a profit from receiving donations to give to royal charity funds and to be protection against the institution of the monarchy being pulled in to be an instrument of illegitimate benefit-seeking.

7) The institution of the monarchy, as a constitutional organ, must be politically neutral. Therefore, there may not be royal orders given without being countersigned, because it may impact political neutrality.

8) If there are only one-sided public relations about the institution of the monarchy, it may cause the institution of the monarchy to become a political instrument. This proposal is a measure to protect [people from] illegitimate benefit-seeking from the institution of the monarchy.

9) This is in order to protect the institution of the monarchy from becoming tarnished.

10) As coups are actions that are the overthrow of rule by democracy with the king as head of state, they must be prohibited in line with Article 49 of the Constitution. In principle, the king in a democracy is a constitutional organ who has a duty to protect rule by democracy with the king as head of state. Prohibiting the king from signing to endorse coups is in order to promote rule by democracy with the king as head of state and is in line with all constitutional principles.

For the aforementioned reasons, [the Respondents] view that the petition of the Petitioner is not in line with Article 49 of the Constitution. The Court may not rule to order the cessation of activities, as they are too remote and the facts are insufficient to demonstrate the intention and method of how it could be a possible exercise of rights or freedoms in order to overthrow rule by democracy with the king as head of state. And the exercise of rights and freedoms of Respondents No. 1, No. 2, and No. 3 have ceased. The actions of Respondents No. 1, No. 2, and No. 3 are not actions that are the exercise of rights or freedoms in order to over-

throw rule by democracy with the king as head of state. [The Respondents] Request that the Constitutional Court dismiss the Petitioner's petition.

The Constitutional Court carried out the process of examination by having the Petitioner and Respondents No. 1, No. 2, and No. 3 demonstrate the reason of the allegation and counter statements in response to the allegation and submit accompanying evidence in order to listen to both sides. Article 27, paragraph one, of the 2018 Organic Act on the Procedures of the Constitutional Court allows for the examination of a case to be conducted on the basis of the inquisitorial system, whereby the Court shall have the power to find facts whether they are favorable or prejudicial to any party and, in deciding questions of fact, the Court may admit all types of evidence. In addition, in this case, which is a case about state security and the safety of the people, which, according to the Constitution, law and principles of the rule of law, for the benefit of the examination relying on the authority according to Article 27, paragraph three of the 2018 Organic Act on the Procedures of the Constitutional Court, the Constitutional Court sent a letter asking the the Superintendent of the Khlong Luang Police Station in Pathumthani Province, the Commissioner-General of the Royal Thai Police, Secretary-General of the National Security Council, and the Director of the National Intelligence Agency to send all related information and evidence, and for the Rector of Thammasat University to send a copy of the file of the investigation of the facts about the demonstration about the 10-point proposal about the institution of the monarchy on 10 August 2020 at Thammasat University, Rangsit campus, Pathumthani province, to the Court.

The Superintendent of the Khlong Luang Police Station, Pathumthani province, sent the document "The Day the Sky Trembled, 10 August, 10 Demands about the Institution of the Monarchy," which included the speeches and the ten-

point proposal of 10 August 2020 at Thammasat University, Rangsit campus, Pathumthani province, of Respondents No. 1, No. 2, No. 3 and No. 4, and Declaration No. 1 of the United Front of Thammasat and Demonstration.³³

The Secretary-General of the National Security Council sent related information and evidence that can be summarized as the United Front of Thammasat and Demonstration organized the Thammasat Won't Stand For It event at Phaya Nak field at Thammasat University, Rangsit campus, Pathumthani province. Respondent No. 1 and leaders gave speeches calling for the amendment of the Constitution.

The Director of the National Intelligence Agency sent related information and evidence that can be summarized as on 10 August 2020, the Thammasat University Student Union and the United Front of Thammasat and Demonstration organized the Thammasat Won't Stand For It event at Phaya Nak field at Thammasat University, Rangsit campus, Pathumthani Province, under the idea of "We don't want reform, but we want revolution." Respondents No. 1, No. 2. and No. 3 gave speeches about the institution of the monarchy and spoke directly about amending the royal prerogative, the impact of absolute monarchy, and the use of the national budget. They proposed for the issue of the king to be able to be spoken about in public without [those speaking] being threatened. Respondent No. 3 read Declaration No. 1 of the United Front of Thammasat and Demonstration, which contained the 10-point proposal. That proposal subsequently appeared in online social media. The content was taken to be used in political speeches at events all over the country. The proposal was repeated in official contexts, including the submission of

³³ An English translation of this booklet has been disseminated by PEN International and can be downloaded here: <https://pen-international.org/app/uploads/The-Day-the-Sky-Trembled-complete-r18-August-2021.pdf>—trans.

the 10-point proposal of the United Front of Thammasat and Demonstration to the Parliamentary Subcommittee on Political Development, Mass Communications, and Public Participation on 26 August 2020. The proposal was submitted to the chair of the Privy Council through Police Lieutenant General Phukphong Phongphetra, Commissioner of the Metropolitan Police Bureau, on 20 September 2020.

The Rector of Thammasat University sent a copy of the file of the investigation of the facts, which can be summarized as the group of students responsible for organizing the event on 10 August 2020 asked for permission to use space at Thammasat University to hold an event to propose the three demands, which were the dissolution of parliament, drafting a new constitution, and the cessation of the threatening of the people. Thammasat University granted permission for the students to carry out the activity in line with the aforementioned purpose. The group of students did not inform the administrators and officials of the university with the responsible duty about the points of other demands, including the demands about the institution of the monarchy. In addition, the university administrators, police, and security officials did not know ahead of time about the demands other than the 3 for which the students asked for permission.

The Commissioner-General of the Royal Thai Police sent related information and evidence that can be summarized as on 10 August 2020, the United Front of Thammasat and Demonstration organized a demonstration at Thammasat University, Rangsit campus, Pathumthani Province. Respondents No. 1, No. 2. and No. 3 gave speeches which had content about the reform of the institution of the monarchy. There were speeches severely attacking the institution of the monarchy. Respondent No. 3 read Declaration No. 1 of the United Front of Thammasat and Demonstration, proposing the 10 demands.

The Petitioner submitted a petition to submit addi-

tional documentary evidence and an index of documents. In sum, on 10 December 2020, Respondent No. 3 gave a speech at the 14 October Memorial emphasizing the necessity of revoking Article 112 because if we say that our country is a democracy, then is it not correct that everyone should be able to express their opinions freely? Many people would not have to seek asylum or be deprived of their freedom through being imprisoned. Therefore, Article 112 should not exist. But the same law used with the people should be used. The masses yelled "Down with feudalism! Long live the people!" On 12 December 2020, the Khana Ratsadorn 2563, which is a network of various groups of the people, for example the United Front of Thammasat and Demonstration, Free People, Free Youth, and Bad Student, began demonstrations that took place continuously. On 14 January 2021, Respondents No. 1, No. 2 and No. 3 engaged in symbolic expression. They raised a red flag with the numbers "112" in yellow up the flagpole at the Khlong Luang police station. On 9 February 2021, Respondent No. 3 and the Khana Ratsadorn 2563 announced a demonstration at the Pathumwan Skywalk in order to demonstrate their power to call to revoke Article 112 of the Criminal Code and to push for the temporary release of the leaders who were facing criminal accusations of Article 112 and Article 116. On 10 February 2021, demonstrators from the Khana Ratsadorn 2563 marched from the area of the plaza in front of the Bangkok Art and Culture Center at Pathumwan Intersection to the Pathumwan Police Station. Respondent No. 2 proposed the condition to the police officials that if they did not release the demonstrators whom they were holding, they would force their way inside the Pathumwan Police Station. On 13 February 2021, Respondent No. 2, one of the leaders of the Khana Ratsadorn 2563, organized the activity Count From 1 to a Million to Return Power to the People in the area of the Democracy Monument. There were calls to revoke Article 112 and the 3 demands, which are that General Prayuth Chan-ocha, the prime minister, and his cabinet must resign; Parliament must immediately hold a

special meeting in order to accept the drafts of the amendments to the Constitution; and reform of the institution of the monarchy. There was the setting off of firecrackers and flares in the demonstration. There was the sound of a bomb from the line of fighting and the throwing of water bottles. On 20 February 2021, there was a demonstration in front of Parliament at Kiakkai Intersection. Respondent No. 3, along with the masses, assembled in front of the entrance gate and held up signs and the symbolic three fingers. After that, the Khana Ratsadorn 2563 read a declaration of the United Front of Thammasat and Demonstration on "Marking Our Next Struggle," the core of which can be summarized as at this time it is clear that we are unable to place our hope in parliamentary politics. It shows the interrelation of the feudal system and interest groups. This causes us to maintain our 3 demands. Various groups of the masses continued the movement and did activism continuously. For example, the erasure of the dark blue stripe from the three-colored flag; the destruction of the fence of the Criminal Court; bringing various things, including images of the king, to burn; and forcing their way into various government places. Therefore, the Constitutional Court sent a copy of the petition to submit additional documentary evidence and the index of the documentary evidence to Respondents No. 1, No. 2, and No. 3, but Respondents No. 1, No. 2, and No. 3 did not counter or oppose it.

The Constitutional Court examined the petition, the additional petition, the counter statements in response to the allegations, the evidence of the related agencies, and the related documents. The opinion [of the Court] is that this case has questions of fact and questions of law. There is sufficient evidence on which to examine and rule on the questions of facts. The Constitutional Court can rule on the questions of law without needing to have witnesses provide testimony. Therefore, the Constitutional Court ended the inquiry according to Article 58, paragraph one, of the 2018

Organic Act on the Procedures of the Constitutional Court. The matter which must be examined and ruled on is whether or not the actions of Respondents No. 1, No. 2, and No. 3 are the exercise of rights or freedoms in order to overthrow rule by democracy with the king as head of state according to Article 49, paragraph one, of the Constitution.

The admissible facts according to the petition, the counter statements and various pieces of evidence, including audio files of the speeches by Respondents No. 1, No. 2 and No. 3 are that Respondents No. 1, No. 2 and No. 3 gave speeches in public many times at many locations beginning on 3 August 2020. At the demonstration at Thammasat University, Rangsit campus, Pathumthani Province, on 10 August 2020, Respondents No. 1, No. 2 and No.3 called for the transformation of the institution of the monarchy through 10 demands, which were:

1) Revoke Article 6 of the 2017 Constitution that does not allow anyone to make any accusation against the king. And add an article to allow parliament to examine the wrongdoing of the king, as had been stipulated in the constitution promulgated by the People's Party.

2) Revoke Article 112 of the Criminal Code, as well as allowing the people to exercise freedom of expression about the monarchy and giving an amnesty to all those prosecuted for criticizing the monarchy.

3) Revoke the Crown Property Act of 2018 and make a clear division between the assets of the king under the control of the Ministry of Finance and his personal assets.

4) Reduce the amount of the national budget allocated to the king to be in line with the economic conditions of the country.

5) Abolish the Royal Offices. Units with a clear duty, for example, the Royal Security Command, should be transferred and placed under other agencies. Unnecessary units, such as the Privy Council, should be disbanded.

6) Cease all giving and receiving of donations by royal

charity funds in order for all of the assets of the monarchy to be auditable.

7) Cease the exercise of royal prerogative to express political opinions in public.

8) Cease all public relations and education that excessively and one-sidedly glorify the monarchy.

9) Search for the facts about the murder of those who criticized or had some kind of relation with the monarchy.

10) The king must not endorse any further coups.

An objection that must be ruled on first is whether or not the petition is ambiguous, unclear and does not fulfill the elements of Article 49 of the constitution. Upon examining the petition and accompanying documents, the view of the court is that this is a case in which the Petitioner claimed that the speeches of Respondents No. 1, No. 2, and No. 3 on 10 August 2020 at the Thammasat Won't Stand For It demonstration, at Thammasat University, Rangsit campus, Pathumthani Province, contained content that distorted, encroached upon, mocked and defamed the institution of the monarchy and were actions with the intention to overthrow rule of democracy with the king as head of state according to Article 49 of the Constitution. The Petitioner cited various documents including transcripts of audio files which illustrated the actions of Respondents No. 1, No. 2, No. 3, and those like them, which were appended to and included as part of the petition. The petition is therefore sufficiently clear for Respondents No. 1, No. 2, and No. 3 to understand the conditions of the actions for which they are accused and to fight the case. The objection of Respondents No. 1, No. 2, and No. 3 is therefore not tenable.

The point which must be examined and ruled on is whether or not the actions of Respondents No. 1, No. 2, and No. 3 were the exercise of rights or freedoms to overthrow rule by democracy with king as head of state according to Article 49, paragraph one, of the Constitution.

The Constitutional Court has examined and found that the constitutional principles lay a foundation for rule by democracy with the king as head of state. The constitutional values, which are the kernel of rule by democracy with the king as head of state, include important values such as the protection of rights and freedoms of Thai people. The protection of rights and freedoms of the people was first provided for in the 1932 Constitution of Kingdom of Siam (10 December 1932 version) in Chapter 2, Rights and Duties of the Siamese People, and have been continuously provided for in every constitution up until the present. Article 25, paragraph one, of the 2017 Constitution of the Kingdom of Thailand stipulates that, "As regards the rights and liberties of the Thai people, in addition to the rights and liberties as guaranteed specifically by the provisions of the Constitution, a person shall enjoy the rights and liberties to perform any act which is not prohibited or restricted by the Constitution or other laws, and shall be protected by the Constitution, insofar as the exercise of such rights or liberties does not affect or endanger the security of the State or public order or good morals, and does not violate the rights or liberties of other persons." The aforementioned measure defines the guarantee of rights and freedoms of the people, which can be divided into two portions as follows: those that are stipulated specifically in the Constitution and those that are not prohibited by the Constitution or other laws. Thai people have the aforementioned constitutionally-protected rights and freedoms. Therefore, the Constitution then provides protection of the exercise of rights and freedoms in every case as specifically stipulated and that are not prohibited or limited by the Constitution and other laws, with the condition that constitutionally-protected exercise of rights or freedoms must not impact state security, contravene peace and order or good morals of the people, or violate the rights and freedoms of other people.

When an individual has rights and freedoms, they also

have accompanying duties and responsibility. This clearly appears in Chapter 4, Duties of All Thai People, of the Constitution. Article 50 (1) (3) (6) stipulates that the people have the duty to protect and preserve the nation, religion, king, and rule by democracy with the king as head of state, to strictly follow the law, respect and not violate the rights and freedoms of other people, and not do anything that might create division or hatred in society.

Article 49, paragraph one, of the Constitution stipulates that, "No person shall exercise the rights or liberties to overthrow the democratic regime of government with the King as Head of State." Paragraph two stipulates that, "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." Paragraph three stipulates that, "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." And paragraph four stipulates that, "The action under this section shall not prejudice the criminal prosecution against the person committing an act under paragraph one." The spirit of the aforementioned article is to protect rule of the country and for it to be rule by democracy with the king as head of state, and for people to know that they have the right to petition the attorney general if there are actions that are the exercise of rights and freedoms to overthrow rule by democracy with the king as head of state, and that in cases in which the attorney general issues an order not to proceed as petitioned, or does not proceed within fifteen days from receipt of the petition, the petitioner is able to submit the petition directly to the Constitutional Court. In addition, it stipulates for the proceedings under this article to not impact criminal cases against those who act to overthrow rule by democracy with the king as head of state. Therefore, Article

49 of the Constitution aims for all Thai people to participate in protecting and preserving rule by democracy with the king as head of state and provides for the Constitutional Court to be the organization with the authority to perform the duty of monitoring, ruling and ordering the cessation of actions that overthrow rule by democracy with the king as head of state. The principle of Article 49, paragraph one, was first stipulated in Article 35 of the 1932 Constitution (1952 Revision), and stipulated in the same manner in every subsequent constitution. It is a principle to protect rule by democracy with the king as head of state from threats arising from the exercise of constitutional rights and freedoms. It aims for the constitutional principles and constitutional values that support the maintenance of rule by democracy with the king as head of state to not be abnegated or lost. The principle according to Article 49, paragraph two, was stipulated for the first time in Article 63 of the 1997 Constitution, and similarly stipulated in Article 68 of the 2007 Constitution. It is an article that aims to define that if anyone knows of actions that are the overthrow of rule by democracy with the king as head of state, that person has the right to petition the attorney general to send the matter to the Constitutional Court to rule to cease the aforementioned actions. However, to create greater clarity, the 2017 Constitution further stipulates that if the attorney general has an order to not proceed as petitioned or does not proceed within fifteen days from the receipt of the petition, the petitioner is able to submit the petition directly to the Constitutional Court. This aforementioned article is a guarantee of the rights of citizens to protect the constitution from actions of persons or groups of persons who exercise their rights or freedoms under the constitution in a way that may lead to the overthrow of democracy with the king as head of state. Therefore, the exercise of rights to preserve and protect the constitution is a mechanism of the constitutional judicial process. People who exercise their right in preserving and protecting the constitution must submit a petition to the attorney general to examine and audit the facts

in the petition before proposing the matter of the petition to ask the Constitutional Court to examine and rule to order the cessation of the aforementioned activities. Even if the attorney general orders to not accept to proceed as requested or does not proceed within fifteen days from the day the petition is received, the Constitution guarantees the right of the petitioner to submit the petition directly to the Constitutional Court. The guarantee of the rights of the petitioner in the aforementioned situation is the creation of a guarantee of the preservation whose principle is an important aspect of rule by democracy with the king as head of state. Whenever there are actions that are within the scope of the exercise of rights or freedoms to overthrow rule by democracy with the king as head of state, actions of the aforementioned characteristic can be brought for allegation in a case in the Constitutional Court.

The facts in the petition, the additional petition, the counter statements, the documents accompanying the petition and all evidence that the Attorney General, the Superintendent of Khlong Luang Police Station, Pathumthani Province, the Secretary-General of the National Security Council, the Director of the National Intelligence Agency, the Rector of Thammasat University, and the Commissioner-General of the Royal Thai Police submitted to the court can be summarized as that on 10 August 2020, Respondents No. 1, No. 2, and No. 3 organized a demonstration and speeches at the Thammasat Won't Stand For It event at Thammasat University, Rangsit campus, Pathumthani Province. In the speech of Respondent No. 1, he spoke about the institution of the monarchy. The important content can be summarized as that we have assembled here today to assert that in addition to the three proposals that we talk about at every demonstration, in truth there is a proposal between the lines which is the most important of them all. This proposal is to solve the problem of the expansion of the royal prerogative of the institution of the monarchy. And I assert, once again, that this is not a mob

to topple the monarchy. It is not a mob to impinge upon the monarchy. But it is a mob that is speaking the truth about the problems of the country. The important point that I have come to speak about is our demand between the lines. A democracy with the king as head of state is one in which the king is above politics and under the constitution. From now on, whatever royal duties cause the monarchy to become involved in politics will be loudly questioned in public. We want to see the institution of the monarchy adjust itself to meet with the people, rather than us having to adjust ourselves to meet with the monarchy. Being under the constitution is a key aspect of the kind of rule we have. But problems arose when the monarchy attempted to expand the royal prerogative through the junta in 2014. If the king remains a king in a democracy with the king as head of state, he must not sign to endorse a coup. If a coup takes place, the institution must stand only on the side of the democracy. Respondent No. 2 spoke about the institution of the monarchy, with the important content summarized as from the time of the People's Party, led by Pridi Banomyong and Phraya Phahonphayusena, a revolution changed Siam from an absolute monarchy into a democracy and the king was placed under a constitution. I think that absolute monarchy has extended into the present reign because the king is above the sovereign power of all three branches: judiciary, executive and legislative. Let me ask, why do we have to speak like this? Are you aware of what is at the end of Article 6, in the second chapter of the 2017 Constitution? It says that no person shall expose the king to any sort of accusation. This is as if to demonstrate that the king is above the sovereign power that belongs to the people. My intention in speaking this time is that I want the king to be in an appropriate location and able to co-exist with the Thai people. And when I say that he is above the sovereign power, it means that he is above the power of the people. The people are unable to touch him. And if anyone does, they will be hit with an Article 112 charge. Respondent No. 3 read Declaration 1 of the United Front of Thammasat and

Demonstration, of which the important content can be summarized as since the People's Party fomented a revolutionary transformation, [the people] have hoped that [our] country would be a democracy with the king as head of state in which the king is truly above politics. But it has not been as such as the king has exercised power to intervene in politics from above. Whenever a coup takes place, the king has signed to appoint the head of the junta. The king has moved troops and transferred the national budget to belong to the king personally. He has exercised extralegal royal authority to amend the constitution, which had already passed a referendum, to allow him to reside outside the kingdom without having to appoint a regent. The dictatorship government bowed down under the shadow of the king and claimed the monarchy for its own benefit. It can be seen that they mutually benefit. It is a threat to rule by democracy with the king as head of state. The people ought to know that the king of our country is not above politics. This has consistently been the root of political problems. In addition, he has neglected his duties of being the head of state that binds him to the hearts of people and used the people's taxes to seek pleasure and reside outside the country. This takes place while the people are experiencing hardship. He also has close relationships with the rebels who foment coups to overthrow democratic rule. The United Front of Thammasat and Demonstration therefore makes the 10 demands to resolve problems with the monarchy.

The Constitution has articles to prohibit the exercise of rights and freedoms to overthrow rule by democracy with the king as head of state. Such articles appear in Article 63 of the 1997 Constitution, Article 68 of the 2007 Constitution, and Article 49 of the 2017 Constitution. Constitutional Court Ruling No. 18-22/2555 and Ruling No. 3/2562 formulate that the word "overthrow" denotes a grave threat to the constitution and the system of rule that is impossible to rectify. In addition, it is action to destroy or devastate the system of rule until it completely dissolves and no longer exists.

Exercising one's rights and freedoms to call for the amendment of the constitution to change the royal status of the king, who is under the constitution and above political responsibility according to the constitutional legal principle that the king can do no wrong and to revoke the law prohibiting the violation and defamation of the institution of the king, in which the aforementioned amendment of the constitution and law would cause the king to not be in a position of being respected and worshipped. It creates turbulence and insubordination among the people. It is the exercise of rights and freedoms in excess of what is appropriate. It has dangerous repercussions for the security of the state, peace and order and the good morals of the people. It will undermine rule by democracy with the king as head of state. The king and the Thai nation have been indivisible from the past until the present, and will exist together in the future. Even though Thailand is a democracy, the Thai people remain in agreement to invite the king to be head of state, to be the primary institution paired with the Thai nation, and pay homage to his inviolability in order to maintain Thai nation-ness. This was stipulated in Article 1 of the 1932 (Interim) Charter on the Administration of Siam, that stipulated that the supreme power in this country belongs to the people. Article 2 stipulated that the following persons and groups of persons shall exercise this power on behalf of the people as is specified further in this chapter, namely 1. The king, 2. Parliament, 3. The People's Committee, 4. The courts. Article 3 stipulated that the king is the supreme head of the country. Acts, judicial decisions, and other actions which are to be specifically designated by legal provisions must be done in the name of the king. Subsequently, there was the promulgation of the Constitution of the Kingdom of Siam on 10 December 1932. In the Chapter on General Provisions, Article 2 stipulated that the sovereign power emanates from the Siamese nation. The king, who is the head of the nation, exercises it in conformity with the provisions of this constitution. In the second chapter,

on the king, Article 3 stipulated that the person of the king is sacred and inviolable. Article 5 stipulated that the king is the head of the Siamese forces. Article 6 stipulated that the king exercises legislative power by and with the advice and consent of the Assembly of the People's Representatives. Article 7 stipulated that the king exercises executive power through the cabinet. Article 8 stipulated that the king exercises judicial power through the courts duly established by law. From the aforementioned provisions of the 1932 (Interim) Charter of the Administration of Siam and the 1932 Constitution of the Kingdom of Siam (10 December 1932 version), it can be seen that from the Sukhothai period through the Ayutthaya period and up to the Rattanakosin period, in Thai rule, the governing power has belonged to the king. The king has the gravely important mission to preserve the survival of the country and the people, by holding the position of the Supreme Commander of the Thai Army and leading the military to fight to always protect and expand the kingdom in previous eras. Along with ruling in adherence to Buddhist principles, which is rule according to the Ten Perfections. The king therefore has been respected and the spiritual center inseparable from all Thai people for many hundreds of years. Therefore, even with the transformation of rule in 1932, which gave the ruling power to the people or coming from all Siamese people, the People's Party who fomented the transformation and the Thai people were in agreement to invite the king, who is the primary institution, to co-exist with democratic rule, and the king would exercise the sovereign power according to constitutional provisions. This form of rule is called rule by democracy with the king as head of state and the Thai kingdom has maintained this system continuously. [Thailand is] The same as various other countries, which have different histories of nationhood and independence, but what is the same is that there are laws to prohibit the identity, symbolism, and national treasures from becoming stained or damaged. The demand to revoke Article 6 of the Constitution, which is the provision that guarantees the

royal status of the king as the head of state who is not subject to accusation and is inviolable, is an action with a clear intention to destroy the institution of the monarchy. The actions of Respondents No. 1, No. 2 and No. 3 are the erosion and subversion of rule by democracy with the king as head of state. The making of demands that attack in public and claiming that they are exercising their constitutionally-provided rights and freedoms is incorrect. In addition, they use profanity and violate the rights and freedoms of other people who have different views. They are setting an example for other people to follow. Further, Respondents No. 1, No. 2 and No. 3 have acted as a movement to reach their purpose and goals. Even though the speeches of Respondents No. 1, No. 2 and No. 3 on 10 August 2020 at the Thammasat Won't Stand For It demonstration at Thammasat University, Rangsit campus, Pathumthani Province, had passed, Respondents No. 1, No. 2 and No. 3 still joined in demonstrations with various people and groups after the Petitioner submitted his petition to the court. They used different tactics, formats, speakers, and the new ploy of not identifying any specific persons as leaders. But the form of the actions were continuous by a group of people who share the same ideas. The movement of Respondents No. 1, No. 2, and No. 3 and their networks is a movement that has had the same intention from the beginning. Respondents No. 1, No. 2 and No. 3 have repeated their actions continuously, with these actions characterized by agitation and using false information to foment chaos and the use of violence in society.

There are three principles of democracy. They are "liberty," which means everyone has the right to think, say and do anything not prohibited by law; "equality," which means everyone is equal; and "fraternity," which means all people are united and support their brothers and sisters.

The Thai system of democracy with the king as head of state is one in which the Thai people and the king have

been bound together for many hundreds of years. The king is the head of state and therefore receives consent from the Thai people to exercise sovereignty according to the constitution through the parliament, prime minister, and courts. The Thai institution of the monarchy is an important pillar that is essential to rule by democracy with the king as head of state. Therefore, the various actions with the intention to destroy or cause the institution of the monarchy to cease to exist, whether it is speech, writing, or other actions in order to undermine, make insignificant, or weaken the institution, are those that demonstrate an intention to overthrow the institution of the monarchy.

The exercise of rights and freedoms of Respondents No. 1, No. 2, and No. 3 is not in line with the principles of democracy. The actions of Respondents No. 1, No. 2, and No. 3 are the claiming of rights and freedoms without taking equality and fraternity into consideration. Respondents No. 1, No. 2, and No. 3 exercised their freedom of expression and did not listen to the opinions of other people. They did not accept views that were different and violated the rights of other people by reviling them, invading their personal space, and agitating and inciting using facts that distorted reality. Facts and eyewitness evidence show that Respondents No. 1, No. 2, and No. 3 have organized groups in the form of a network to use violence continuously. In some instances, Respondents No. 1, No. 2, and No. 3 have used provocative parts of their speeches to stir up violence and create disharmony among the people in the nation. This has created division among the people in the nation and is the destruction of the principles of equality and fraternity. The effect of the actions of Respondents No. 1, No. 2, and No. 3 will be to ultimately overthrow democracy. In addition, the facts show that in many demonstrations there was destruction of portraits of the king. There was the removal of the blue sections from the national flag, which means the removal of the institution of the monarchy from the national flag. The ten demands of

Respondents No. 1, No. 2, and No. 3, such as the revoking of Article 6 of the Constitution, the abolishing of the giving and receiving of donations by royal charity funds, the abolishing of the royal prerogative to express political opinions in public, are demands to cause the status of the institution of the monarchy to not be as it is in the tradition of democratic rule to which the Thai nation has always adhered. The continuous conduct and actions of Respondents No. 1, No. 2, and No. 3 illustrate that Respondents No. 1, No. 2, and No. 3 had the ulterior motive to exercise their rights and freedoms to overthrow rule by democracy with the king as head of state. It is not reform.

The exercise of rights and freedoms by Respondents No. 1, No. 2 and No. 3 are the expression of opinion that is not sincere. It is the violation of law. It has the motive to overthrow rule by democracy with the king as head of state as stipulated in Article 49, paragraph one, of the Constitution. Even though the incident according to the petition has passed, Respondents No. 1, No. 2, and No. 3, including their network of organizations, still continue the aforementioned acts. It is not distant from leading to the overthrow of rule by democracy with the king as head of state. Article 49, paragraph two, of the Constitution provides the Constitutional Court with the authority to order the cessation of the aforementioned activities from arising in the future.

On the basis of the aforementioned reasons, the Constitutional Court therefore rules that the actions of Respondents No. 1, No. 2, and No. 3 are the exercise of rights and freedoms to overthrow rule by democracy with the king as head of state according to Article 49, paragraph one, of the Constitution. The Constitutional Court orders Respondents No. 1, 2, and 3, including related organizations and networks, to cease the aforementioned actions in the future as well, according to Article 49, paragraph two, of the Constitution.

Mr. Warawit Kangsasitiam
President of the Constitutional Court

Mr. Tweekiat Menakanist
Constitutional Court Judge

Mr. Punya Udchachon
Constitutional Court Judge

Mr. Wiroon Sangtian
Constitutional Court Judge

Mr. Noppadon Theppitak
Constitutional Court Judge

Mr. Nakharin Mektrirat
Constitutional Court Judge

Mr. Udom Sittiwirattham
Constitutional Court Judge

Mr. Chiranit Havanond
Constitutional Court Judge

Mr. Bunjongsak Wongprachaya
Constitutional Court Judge

Appendix

Relevant Laws

1932 (Interim) Charter for the Administration of Siam

Article 6:

The king cannot be charged with a criminal case in court. It is the duty of the House of Representatives to rule [in such cases].

1932 Constitution of the Kingdom of Siam

Article 3:

The person of the king is sacred and inviolable.

Article 15:

It is the duty of every person to respect the law, to defend the country and to assist the Government by the payment of taxes and in other ways, under the conditions and in the manner prescribed by law.

Article 35:

It is the King's prerogative to dissolve the Assembly of the People's Representatives in order that new elections may be held.

The decree for such dissolution shall provide for the new elections to be held within a period of 90 days.

1997 Constitution of the Kingdom of Thailand³⁴

³⁴ These extracts are from the English-language translation completed by the Office of the Council of State, which can be downloaded in full here:

Article 63:

No person shall exercise the rights and liberties prescribed in the Constitution to overthrow the democratic regime of government with the king as head of state under this Constitution or to acquire the power to rule the country by any means which is not in accordance with the modes provided in this Constitution.

In the case where a person or a political party has committed the act under paragraph one, the person knowing of such act shall have the right to request the attorney general to investigate its facts and submit a motion to the Constitutional Court for ordering cessation of such act without, however, prejudice to the institution of a criminal action against such person.

In the case where the Constitutional Court makes a decision compelling the political party to cease to commit the act under paragraph two, the Constitutional Court may order the dissolution of such political party.

2007 Constitution of the Kingdom of Thailand³⁵

Article 68:

No person shall exercise the rights and liberties prescribed in the Constitution to overthrow the democratic regime of government with the king as head of state under this Constitution or to acquire the power to rule the country by any means which is not in accordance with the modes provided in this Constitution.

In the case where a person or a political party has com-

<http://www.asianlii.org/th/legis/const/1997/1.html>.

³⁵ These extracts are from the English-language translation completed by the Office of the Council of State, which can be downloaded in full here: http://web.krisdika.go.th/data/outsitedata/outside21/file/Constitution_of_the_Kingdom_of_Thailand.pdf.

mitted an act under paragraph one, the person knowing of such act shall have the right to request the attorney general to investigate facts and submit a motion to the Constitutional Court for an order to restrain such act without prejudice to the institution of a criminal action against such person.

In the case where the Constitutional Court passes a ruling which compels the political party to cease the act under paragraph two, the Constitutional Court may order the dissolution of such political party.

In the case where the Constitutional Court issues a dissolution order under paragraph three, the right to vote in an election of the President and the executive committee of the dissolved political party at the time the act under paragraph one has been committed shall be suspended for a period of five years as from the date of such Constitutional Court order.

2017 Constitution of the Kingdom of Thailand³⁶

Article 6:

The king shall be enthroned in a position of revered worship and shall not be violated. No person shall expose the king to any sort of accusation or action.

Article 15:

The appointment and removal of officials of the royal household shall be at the king's pleasure.

The organization and personnel administration of the royal household shall be at the king's pleasure as provided by royal decree.

Article 25:

As regards the rights and liberties of the Thai people,

³⁶ These extracts are from the English-language translation completed by the Office of the Council of State, which can be downloaded in full here: http://web.krisdika.go.th/data/document/ext849/849061_0001.pdf

in addition to the rights and liberties as guaranteed specifically by the provisions of the Constitution, a person shall enjoy the rights and liberties to perform any act which is not prohibited or restricted by the Constitution or other laws, and shall be protected by the Constitution, insofar as the exercise of such rights or liberties does not affect or endanger the security of the State or public order or good morals, and does not violate the rights or liberties of other persons.

Any right or liberty stipulated by the Constitution to be as provided by law, or to be in accordance with the rules and procedures prescribed by law, can be exercised by a person or community, despite the absence of such law, in accordance with the spirit of the Constitution.

Any person whose rights or liberties protected under the Constitution are violated, can invoke the provisions of the Constitution to exercise his or her right to bring a lawsuit or to defend himself or herself in the Court.

Any person injured from the violation of his or her rights or liberties or from the commission of a criminal offence by another person, shall have the right to remedy or assistance from the State, as prescribed by law.

Article 34:

A person shall enjoy the liberty to express opinions, make speeches, write, print, publicize and express by other means. The restriction of such liberty shall not be imposed, except by virtue of the provisions of law specifically enacted for the purpose of maintaining the security of the State, protecting the rights or liberties of other persons, maintaining public order or good morals, or protecting the health of the people.

Academic freedom shall be protected. However, the exercise of such freedom shall not be contrary to the duties of the Thai people or good morals, and shall respect and not obstruct the different views of another person.

Article 44:

A person shall enjoy the liberty to assemble peacefully and without arms.

The restriction of such liberty under paragraph one shall not be imposed except by virtue of a provision of law enacted for the purpose of maintaining security of the State, public safety, public order or good morals, or for protecting the rights or liberties of other persons.

Article 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.

Article 50:

A person shall have the following duties:

(1) to protect and uphold the nation, religions, the king and the democratic regime of government with the king as head of state;

(2) to defend the country, to protect and uphold honor and interests of the nation, and public domain of state, as well as to cooperate in preventing and mitigating disasters;

(3) to strictly observe the law;

(4) to enroll in compulsory education;

(5) to serve in armed forces as provided by law;

(6) to respect and not to violate the rights and liberties of other persons and not to commit any act which may cause disharmony or hatred in society;

(7) to freely exercise his or her right to vote in an election or referendum, taking into account the common interests of the country as a prime concern;

(8) to cooperate and support the conservation and protection of the environment, natural resources, biodiversity, and cultural heritage;

(9) to pay taxes and duties as prescribed by law;

(10) not to participate in or support all forms of dishonest act and wrongful conduct.

Article 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.

2018 Organic Act on the Procedures of the Constitutional Court³⁷

Article 7:

The Court shall have the duties and powers to try and adjudicate cases as follows:

(1) a case involving constitutionality of any law or law bill;

(2) a case involving duties and powers of the House of Representatives, the Senate, the National Assembly, the Council of Ministers or an independent organ;

(3) a case involving a request for discontinuance of an act overthrowing the democratic regime of government with

³⁷ These extracts are from the English-language translation completed by the Office of the Council of State, which can be downloaded in full here: http://web.krisdika.go.th/data/document/ext838/838095_0001.pdf.

the king as head of the state;

(4) a case in which a citizen or a community brings an action against a State agency for acquiring the benefits under Chapter V, Duties of the State, of the Constitution;

(5) a case involving termination of membership of a member of the House of Representatives or a senator;

(6) a case involving the introduction of a law bill which has principles identical or similar to those of the suspended law bill;

(7) a case involving any proposal, submission of a motion or act howsoever resulting in direct or indirect involvement by members of the House of Representatives, senators or members of a committee in the use of budgetary appropriations;

(8) a case involving constitutionality of draft Rules of Procedure of the House of Representatives, draft Rules of Procedure of the Senate and draft Rules of Procedure of the National Assembly;

(9) a case involving termination of a ministerial status;

(10) a case involving a treaty required to be approved by the National Assembly;

(11) a case in which a person suffering violation of a right or liberty constitutionally protected alleges that the conduct concerned is contrary to or inconsistent with the Constitution;

(12) a case involving constitutionality of draft Constitution Amendment;

(13) any other case provided by the Constitution, an Organic Act or any law to be within the jurisdiction of the Court.

Article 58:

If the Court is of the opinion that a case in question involves a question of law or is supported by such sufficient evidence as to enable adjudication, the Court may meet and hold discussions for consideration and rendering a decision

without conducting inquiries or with inquiries being discontinued.

When the Court is of the opinion that any evidence has occurred or has been acquired unlawfully or bears no relevance to the matter under trial and adjudication or is unnecessary for trial and adjudication or will cause the case to be unreasonably delayed, the Court may issue an order for discontinuance of the inquiry thereof or for inadmissibility thereof.

Judges, by votes of not less than two-thirds of the total existing judges, may pass a resolution disallowing the use of documents or evidence which may affect national security in the case.

Criminal Code of Thailand

Article 112:

Whoever, defames, insults or threatens the king, the queen, the heir-apparent or the regent, shall be punished with imprisonment of three to fifteen years.

Article 113:

Whoever, commits an act of violence or threatens to commit an act of violence in order to:

1. Overthrow or change the Constitution;
2. Overthrow the legislative power, the executive power or the judicial power of the Constitution, or nullify such power; or
3. Separate the Kingdom or seize the power of administration in any part of the Kingdom, is said to commit insurrection, and shall be punished with death or imprisonment for life.

Article 116:

Whoever makes an appearance to the public by words, writings or any other means which is not an act within the purpose of the Constitution or for expressing an honest

opinion or criticism in order:

1. To bring about a change in the Laws of the Country or the Government by the use of force or violence;

2. To raise unrest and disaffection amongst the people in a manner likely to cause disturbance in the country; or

3. To cause the people to transgress the laws of the Country, shall be punished with imprisonment not exceeding seven years.

About the Translator

Tyrell Haberkorn is Professor of Southeast Asian Studies at the Department of Asian Languages and Cultures at the University of Wisconsin. She researches and writes about state violence and dissident cultural politics in Thailand from the end of the absolute monarchy in 1932 until the present. She is the author of *Revolution Interrupted: Farmers, Students, Law and Violence* (University of Wisconsin Press, 2011) and *In Plain Sight: Impunity and Human Rights in Thailand* (University of Wisconsin Press, 2018). She is currently writing a microhistory of law and injustice during the coup years under the National Council for Peace and Order (NCPO), the military junta that took power in the 22 May 2014 coup, and translating Prontip Mankhong's prison memoir, *All They Could Do To Us* [มันทำร้ายเราได้แค่นี้แหละ]. Tyrell also writes and translates frequently about Southeast Asia for a public audience, including *Dissent*, *Foreign Affairs*, *Mekong Review*, *Los Angeles Review of Books*, *openDemocracy*, and *Prachatai*. She has received fellowships from Fulbright, Fulbright-Hays, Association for Asian Studies, Australian Research Council, Einstein Forum, the Radcliffe Institute for Advanced Study, the Institute for Advanced Study at Central European University, the John Simon Guggenheim Foundation, and the National Endowment for the Arts. She is editor of the Justice in Translation series and can be reached at tyrell.haberkorn@wisc.edu.