



## **On the Coexistence of Democracy and Monarchy: A Constitutional Study and the Constitutional Strains in Thailand\***

Prinya Thaewanarumitkul\*\*

*Faculty of Law, Thammasat University;  
Dr. Juris University of Göttingen, Germany.*

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### **Abstract**

According to democracy rankings, half of the 20 highest-ranked democracies are monarchies, while 50 of 59 authoritarian regimes are republics. This suggests that a constitutional monarchy – a system that combines democratic governance with a monarch who holds no executive power – can sustain a high level of democracy. In such systems, the prime minister and cabinet govern, while the monarch remains immune from prosecution, with accountability resting on those who act in the monarch's name.

Thailand, which has experienced 13 coups and adopted 20 constitutions, illustrates how instability arises when coup leaders seek royal consent and the judiciary legitimizes their actions. The image of royal neutrality was weakened after the coups of 2006 and 2014, particularly under the new monarch, largely because the coup makers repeatedly invoked royal authority to justify their actions. For democracy to succeed in Thailand, strict adherence to the principle of “The King Can Do No Wrong” by all institutions is essential. The judiciary must cease legitimizing coups, the Constitutional Court must uphold the rule of law to safeguard both the monarchy and democracy, and the 2017 Constitution – with its undemocratic mechanisms, such as the Senate and the excessive power of the Constitutional Court – must be rewritten.

### **Keywords**

Democracy, Constitutions, The King Can Do No Wrong, Coup d'état, Judiciary

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\*\* Corresponding author: tprinya@tu.ac.th

## Introduction

Since the transition from absolute to constitutional monarchy in 1932, which placed the Thai monarchy under the constitution and introduced democracy to Thailand, the idea of democracy as “self-government of the people,”<sup>1</sup> in which the people are collectively sovereign and govern themselves<sup>2</sup>, has not been very successful. The country has experienced 13 coups and adopted 20 constitutions. While royal consent to coups has been questioned, the monarchy has often been invoked during political crises for “royal intervention,” and there had been no apparent demand for “monarchy reform” in Thailand until 10 August 2020, when a group of students publicly demanded reform and asked the monarch to remain above politics.<sup>3</sup>

The protest began as opposition to coup leader General Prayut Chan-o-cha, much like earlier demonstrations following the coup of 22 May 2014. But how did this youth-led movement against dictatorship evolve into a call for monarchy reform? And why protest an “absolute monarchy” that no longer legally exists? Similar demands were made in the United Kingdom centuries ago. On one hand, Thailand’s case offers a remarkable study in the interplay between monarchy and democracy. On the other hand, the experience of successful constitutional monarchies may provide valuable lessons for Thailand’s democratic future.

This article first examines modern constitutional monarchies – particularly those regarded as leading democracies in international rankings, such as many European Kingdoms, Commonwealth countries, and Japan – to explore how monarchy and democracy can successfully coexist. It highlights the practical importance of principles such as “The King Can Do No Wrong.” The article then analyzes Thailand’s challenges with the coexistence of monarchy and democracy, especially since – according to Section 255 of the 2017 Constitution – amendments altering the form of the state or the constitutional monarchy are prohibited. The study aims to provide both a case study and recommendations for countries, such as Thailand, that are still struggling to build strong constitutional democracies.

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<sup>1</sup> See Abraham Lincoln, “government of the people, by the people, for the people,” in *Gettysburg Address* (1863). Although Lincoln did not use the word “democracy” in this speech, it has become one of the most cited formulations of democracy.

<sup>2</sup> Robert A. Dahl, *Democracy and Its Critics*, (New Haven: Yale University Press, 1989), 1; David Held, *Models of Democracy*, 3<sup>rd</sup> ed. (Cambridge: Polity Press, 2006), 2-5; Jean-Jacques Rousseau mentioned “sovereignty of the people” as “the general will,” *The Social Contract*, ed. and trans. Victor Gourevitch (Cambridge: Cambridge University Press, 1997 [1762]), 49-55.

<sup>3</sup> See Thitinan Pongsudhirak, “*Democracy and Monarchy in Thailand: Reconciliation or Reckoning?*”, *SAIS Review* vol. 40 no. 2 (Johns Hopkins University, Summer-Fall 2020, 20221), 61-62.

## 1. How Can a Constitutional Monarchy Rank Among the World's Best Democracies?

According to the Democracy Index 2024 by the Economist Intelligence Unit (EIU), 10 out of the top 20 most democratic countries have a monarchy.<sup>4</sup> Similarly, the Democracy Report 2025 by the Varieties of Democracy Institute shows that 7 out of the 18 most democratic countries (top 10%) have a constitutional monarchy.<sup>5</sup> Additionally, according to the Democracy Ranking by International IDEA, 9 out of the top 20 most democratic countries in 2024 have a monarchy.<sup>6</sup> From these rankings, one could conclude that a republic is not necessarily the highest form of democratic government. In fact, a constitutional monarchy can rank among the world's most advanced democracies.<sup>7</sup> Developing democracy in a country with a monarchy – especially when a change in the form of the state is prohibited – requires focusing on strengthening democracy itself, rather than altering the form of the state; the question is how.

The key is that in all these democratic countries where monarchs are heads of state, they do not exercise executive or policymaking power. Instead, the actual powers of government are held by a prime minister and cabinet, who are politically accountable to parliament.<sup>8</sup> This explains how monarchies have survived by transforming into constitutional monarchies. In the modern world, monarchy and democracy can be complementary rather than contradictory, resulting in a hybrid form – constitutional monarchy – which can thrive among the best democratic systems.

In the last century, after the First and Second World Wars, European countries gradually ceased to be monarchies. Today, 21 out of 27 European Union member states are republics. Monarchies have survived in only seven EU countries: Norway, Sweden, Denmark, the Netherlands, Luxembourg, Belgium and Spain. Additionally, there are five more European countries with monarchs that are not EU members – of which only the United Kingdom qualifies as a democratic

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<sup>4</sup> Norway (1), New Zealand (2), Sweden (3), Denmark (7), the Netherlands (9), Luxembourg (10), Australia (11), Canada (14), Japan (16), and United Kingdom (17). The Economist Intelligence Unit (EIU), *Democracy Index 2024: What wrong with representative democracy?* 2025, Table 2, 15.

<sup>5</sup> Denmark (1), Sweden (4), Norway (5), New Zealand (8), Australia (9), Belgium (11) and Luxembourg (16). Varieties of Democracy Institute, *Democracy Report 2025, 25 Years of Autocratization – Democracy Trumped?*, 60.

<sup>6</sup> Sweden (3), Norway (4), Netherlands (6), Denmark (10), Belgium (12), Australia (13), New Zealand (16), Canada (17) and United Kingdom (20). The International Institute for Democracy and Electoral Assistance (International IDEA), *The Global State of Democracy 2023, Country Rankings*.

<sup>7</sup> Robert Hazell and Bob Morris, in *The Role of Monarchies in Modern Democracy: European Monarchies Compared*, edited by Robert Hazell and Bob Morris, (Oxford; New York: Hart, 2020), 4.

<sup>8</sup> Elliot Bulmer, *Constitutional Monarchs in Parliamentary Democracies*, *International IDEA Constitution-Building Primer* 7, (Stockholm: International IDEA, 2nd ed., 2017), 4; Robert Hazell and Bob Morris concluded that “modern monarchs have no political power” (Hazell and Morris, 271).

country.<sup>9</sup> Robert Hazell and Bob Morris concluded in their 2020 book *The Role of Monarchies in Modern Democracy, European Monarchies Compared* that “allowing their political power to shrink virtually to zero” was the secret of their survival.<sup>10</sup>

The transition to a constitutional monarchy can take hundreds of years, as it did in the United Kingdom – the world’s first constitutional monarchy. Today, it still exists in the 16 Commonwealth realms where the British monarch remains head of state.<sup>11</sup> The centuries-long struggle for power between the King of England and Parliament, beginning with the Magna Carta in 1205, led to a gradual transfer of governmental authority from the hereditary ruler to the prime minister and responsible ministers, whose positions were recognized by Parliament. The development of certain governing practices in the Middle Ages, which Martin Loughlin calls “medieval constitutionalism,” laid the foundation of “constitutional government,”<sup>12</sup> particularly during the period between Charles I and James II of England in the seventeenth century. It was during this time that the modern sense of the terms “constitution” and “fundamental law” began to emerge – first as “the most secure method of avoiding arbitrary rule,”<sup>13</sup> and later as a written text that “limits the power of government,”<sup>14</sup> culminating in the Bill of Rights of 1689 as a major milestone.<sup>15</sup> This long process, which later spread to the European continent, may be described as “evolution,”<sup>16</sup> in contrast to the “revolution” that occurred in France in 1789 and in Russia in 1917 – both of which led to the abolition of monarchy and the rise of republics. Monarchs who feared “revolution” and “republic” were compelled to compromise and accept constitutional rule, allowing elected parliaments to manage political affairs.<sup>17</sup> Conversely, in countries where monarchs failed to compromise – such as Germany, Austria and Finland – the monarchies no longer exist.

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<sup>9</sup> The other four European countries that have monarchies are Andorra, Liechtenstein, Monaco and the Vatican.

<sup>10</sup> Hazell and Morris, 269.

<sup>11</sup> See Bulmer, 3.

<sup>12</sup> Martin Loughlin, *Against Constitutionalism*, (Harvard University Press, 2022), 27-28.

<sup>13</sup> Martin Loughlin, *ibid.*

<sup>14</sup> Martin Loughlin, 32.

<sup>15</sup> On the constitutional struggles in seventeenth-century England, see Marie-France Fortin, *The King Can Do No Wrong*, (Oxford: Oxford University Press, 2024), 101 ff.

<sup>16</sup> See Fortin, *The King Can Do No Wrong*, 25, 39; Martin Loughlin analyzes several important works and thinkers from this period, such as Montesquieu’s *The Spirit of Laws* (Loughlin, 33 ff.).

<sup>17</sup> See analysis of this point in Tom Ginsburg, Dan Rodriguez and Barry Weingast, “The Functions of Constitutional Monarchy: Why Kings and Queens Survive in a World of Republics,” *University of Chicago Law School, Public Law and Legal Theory Research Paper No.831* (November 2023).

For a modern monarch in a democratic country, public popularity is essential for maintaining their role.<sup>18</sup> To gain and preserve this popularity, monarchs must stay out of politics and remain politically neutral.<sup>19</sup> The non-partisan head of state – unlike a president in a republic, who is usually affiliated with a political party and thus takes sides in conflicts – is a key reason why these European countries are considered among the most democratic in the world.<sup>20</sup>

Therefore, the term “kingdom” does not necessarily imply authoritarianism, nor does “republic” guarantee democracy. According to the EIU Democracy Index 2024, of the 59 authoritarian regimes worldwide, only 9 have monarchs: Jordan, Qatar, United Arab Emirates, Oman, Cambodia, Kuwait, Eswatini, Bahrain and Saudi Arabia (listed from higher to lower scores). The rest are authoritarian republics. Furthermore, among the 20 most authoritarian regimes, only one is a monarchy – Saudi Arabia.<sup>21</sup> Constitutional monarchy can form part of a highly democratic system, but the challenge lies in ensuring that democracy functions effectively.

## **2. “The King Can Do No Wrong” and the Constitutional Role of the Monarch in a Democracy**

Democracy means “self-government by the people,”<sup>22</sup> so what role does the monarch (emperor, king, queen or grand duke) play as the head of state in successful democratic countries with a monarchy? This section examines the role of the monarch in successful democracies, mostly European nations such as Norway, Sweden, Denmark, Netherlands, Luxembourg, the United Kingdom and Spain.<sup>23</sup> It also considers Commonwealth countries such as New Zealand, Canada and Australia, as well as Japan, which is the only Asian country in the top 20 best democracies.

### **Constitutional Roles of the Monarch in Democracies**

The constitutional roles of monarchs in above-mentioned democratic countries can generally be categorized into three groups, as follows:

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<sup>18</sup> Bulmer, 10; Robert Hazell and Bob Morris concluded that “monarchies depend on continuing support of government and the people” (Hazell and Morris, 273-276).

<sup>19</sup> Hazell and Morris, 271.

<sup>20</sup> Bulmer, *ibid.*

<sup>21</sup> The Economist Intelligence Unit (EIU), Table 2, 19-21.

<sup>22</sup> See footnotes 1 and 2.

<sup>23</sup> Spain ranks 21st in the EIU’s Democracy Index 2024.

### **(1) Formal Roles Performed with Government Advice and Countersignature**

First, in these democratic monarchies, the monarch does not engage in politics, leaving political decisions to the representative government. However, reading the constitutions regarding the powers of monarchs in these countries – especially in Europe – can give the impression that monarchs govern the country. This is because, except in Sweden, the constitutions of these European states<sup>24</sup> grant the monarch “a common set of constitutional functions and powers,”<sup>25</sup> such as appointing and dismissing the prime minister and ministers, summoning and dissolving parliament, and giving royal assent to laws and decrees. These provisions are written in almost identical terms in the constitutions of European countries, such as Norway (dating from 1814), Denmark (1815), the Netherlands (1815), Belgium (1831),<sup>26</sup> and Luxembourg (1868), due to “direct and indirect copying by those drafting or revising their constitutions.”<sup>27</sup>

In practice, however, the monarchs in these European countries act on the advice of the prime minister or the government, signing documents or performing actions as required by the ministers who countersign, a process known as “ministerial countersignature.”<sup>28</sup> Most of these countries have changed their conventions and political practices to reflect this. Only in Sweden were the constitution laws clearly amended in 1974 to match the political reality.<sup>29</sup>

In the United Kingdom, where constitutional law is uncoded, parliamentary sovereignty and the rule of law have evolved together as constitutional pillars over many centuries.<sup>30</sup> Parliamentary supremacy was consolidated by the Glorious Revolution of 1688-89, when King

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<sup>24</sup> The Constitutions of most European countries are codified in a single document, except in the cases of the United Kingdom and Sweden. Provisions regarding the English monarchy are found in various Acts of Parliament, which are not distinguished from ordinary law. The important constitutional conventions affecting the monarchy were codified in the “Cabinet Manual” in 2011. In Sweden, constitutional laws are contained in four fundamental laws, which are harder to amend than ordinary laws.

<sup>25</sup> Robert Hazell, “Monarchy in the Constitutional Texts,” in Hazell and Morris, 10-11 and 60.

<sup>26</sup> According to the EIU’s Democracy Index 2024 Belgium ranks 34th, the lowest among European constitutional monarchies. However, the Democracy Report 2025 by the Varieties of Democracy (V-Dem), ranks Belgium 11th.

<sup>27</sup> Hazell, “Monarchy in the Constitutional Texts,” 9.

<sup>28</sup> Fortin, *The King Can Do No Wrong*, 31; Artur Olechno, *The Constitutional Aspects of Countersignature in Central and Eastern European Countries* (Uniwersytet w Białymstoku, Poland), 3.

<sup>29</sup> Hazell and Morris, 6.

<sup>30</sup> A.V. Dicey (edited by J.W.F. Allison), *Lectures Introductory to the Study of the Law of the Constitution: The Oxford Edition of Dicey*, (Oxford: Oxford University Press, 2013), vol. I; Fortin, *The King Can Do No Wrong*, 5.

William and Queen Mary accepted the Bill of Rights and a limited royal role.<sup>31</sup> Since then, royal powers have steadily transferred to Parliament, and the monarch's discretion has greatly diminished. The 2011 *Cabinet Manual* removed royal discretion in appointing the prime minister,<sup>32</sup> while the *Fixed-Term Parliaments Act 2011* abolished the power to dissolve Parliament.<sup>33</sup> The Queen's 2019 prorogation of Parliament – made on the prime minister's advice – was later declared unlawful by the Supreme Court.<sup>34</sup> In 2022, however, the *Dissolution and Calling of Parliament Act 2022* restored the prime minister's ability to request dissolution of Parliament through the monarch,<sup>35</sup> returning the power to call a general election to the executive rather than reviving royal prerogative for its own sake.<sup>36</sup>

In strong Commonwealth democracies such as New Zealand, Australia, and Canada, the British monarch, King Charles III (since 2022), is the head of state and is represented by a governor-general, who acts on the monarch's behalf.<sup>37</sup> These countries, like many European constitutional monarchies, have often considered becoming republics, yet their constitutions still refer to the monarch as "sovereign," and the governor-general retains constitutional functions. However, by convention, both the British Crown and its representatives may act only on the advice of the Prime Minister, who is accountable to Parliament – making their role largely ceremonial.<sup>38</sup> In modern practice, the governors-general are still formally appointed by the British monarch, but only on the Prime Minister's advice.<sup>39</sup>

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<sup>31</sup> Iain Mclean and Scot Peterson, "Of Crises, Constitutionalism and Irresponsible Advisers", *The Political Quarterly* 92, no. 2 (April-June 2021): 331-332; Marie France Fortin, "Rule of Law, Parliamentary Sovereignty and Executive Accountability in English Legal Thinking, the Recent Revival of The King Can Do No Wrong", *Journal of Constitutional History*, Autumn 2022, 2.

<sup>32</sup> Hazell, "Constitutional Functions of the Monarchy in the UK," in Hazell and Morris, 23 and 26.

<sup>33</sup> Hazell, "Constitutional Functions of the Monarchy in the UK," 24.

<sup>34</sup> Fortin, "*The Recent Revival of The King Can Do No Wrong*," 16; Hazell, "Constitutional Functions of the Monarchy in the UK," 22.

<sup>35</sup> Dissolution and Calling of Parliament Act 2022, UK Public General Acts, 2022 c. 11.

<sup>36</sup> See Francesco Bromo, "Something old, something new? Votes of confidence, parliamentary dissolution, election timing, and judicial review under the Dissolution and Calling of Parliament Act 2022," *Parliaments, Estates and Representation* 43, no. 2 (2023).

<sup>37</sup> Bulmer, 3.

<sup>38</sup> For a case in Canada see Shan Ahmed, "A Royal Dilemma: Navigating the Constitutional Monarchist-Republican Divide in Canada," *Respublica* Vol. 6 (2023): 22-23; for a case in New Zealand see Noel Cox and Raymond Miller, "Monarchy or Republic?," in *New Zealand Government and Politics*, ed. Raymond Miller, (Oxford: Oxford University Press, 2010), 130 and 134; for a case in Australia see Shireen Morris, "Imagining an Affirmational Republic," *UNSW Law Journal* 44, no. 3 (2021): 1203-4.

<sup>39</sup> Cox and Miller, 133; Morris, 1204.

## **(2) Constitutional Monarchies Retaining Royal Assent Authority**

In some constitutional monarchies, the monarch may still have a veto, known as “royal assent,” except in Sweden (abolished in 1974) and Luxembourg (abolished in 2009). Royal assent exists in Belgium (Article 109), Denmark (Article 14), the Netherlands (Article 47-48), Spain (Article 62 a), and Norway (Article 77-78).<sup>40</sup> However, in modern practice, it is rare for the monarch to refuse to sign a bill. In the UK, Royal Assent was last refused in 1708 by Queen Anne.<sup>41</sup> Such a refusal could happen at the request of the prime minister of a minority government, who wants to prevent a bill passed by the majority in parliament, but “it would be very controversial.”<sup>42</sup>

In general, the constitutions of these countries contain no provision for what would happen if the monarch refused to sign a bill, with the notable exception of Norway. There, if the king vetoes a bill passed by the Storting (Norway’s House of Representatives), the veto can be overridden if the Storting passes the same bill after a general election (Article 79). But in most European countries there is no solution for such a case. Therefore, if the king denies signing a bill on his own, it would “without doubt create a political crisis.”<sup>43</sup> Such a crisis occurred in Belgium in 1990 when King Baudouin did not give his royal assent to a bill passed by parliament. Consequently, the king was declared incapable for two days so that the bill could be promulgated.<sup>44</sup> To avoid this, in Spain, the constitution does not allow the monarch to directly veto legislation. Instead, it states that “the King shall, within a period of fifteen days, give his assent to the laws passed by the Cortes Generales (the bicameral legislative chambers of Spain)” (Article 91).

## **(3) Symbolic Monarchies with Purely Ceremonial Functions**

As noted earlier, Sweden is the only European constitutional monarchy where the monarch’s functions are adapted to the political reality. Under constitutional laws since 1974 – specially the 1974 Instrument of Government – the Swedish King neither appoints the government nor signs laws, holding only a ceremonial and symbolic role.<sup>45</sup> This arrangement was a compromise:

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<sup>40</sup> See Hazell, “Constitutional Functions of the Monarchy: Introduction,” in Hazell and Morris, table 3.1, 20-21.

<sup>41</sup> On the advice of Queen’s ministers, royal assent to a bill to arm the Scottish militia was withheld. See Hazell, “Constitutional Functions of the Monarchy in the UK,” 25.

<sup>42</sup> Hazell, “Constitutional Functions of the Monarchy in the UK,” 22.

<sup>43</sup> Helle Krunke, “The Monarch’s Constitutional Functions in Denmark,” in Hazell and Morris, 28; Rudy Andeweg expresses the opinion that it would be “the nuclear option” in such a conflict, in his section “Constitutional Functions in the Netherlands,” in Hazell and Morris, 39.

<sup>44</sup> The bill decriminalized the practice of abortion. That is why King Baudouin, as a deeply Catholic monarch, was unwilling to sign it. See Quentin Pironnet, “Constitutional Functions in Belgium,” in Hazell and Morris, 46.

<sup>45</sup> Hazell and Morris, *ibid*; Henrik Wenander, “The King and Public Power in the Minimalist Monarchy of Sweden,” in Hazell and Morris, 33.

Sweden would remain a monarchy, but the King would be formally stripped off all constitutional powers.<sup>46</sup>

In contrast, Japan maintains a constitutional monarchy in which the Emperor holds a ceremonial role but still formally appoints the government and signs laws. Ranked 16th by the EIU's democracy index 2024,<sup>47</sup> Japan's 1947 Constitution clearly states in Article 3 that "the advice and approval of the Cabinet shall be required for all acts of the Emperor in matters of state, and the Cabinet shall be responsible therefor."<sup>48</sup> The Emperor's acts – such as promulgating amendments to the Constitution, laws, cabinet orders, and treaties; dissolving the House of Representatives; and proclaiming general elections – can only be performed "with the advice and approval of the Cabinet" (Article 7). The appointment of the Prime Minister is made "as designated by the parliament," and the appointment of the Chief Justice of the Supreme Court is made "as designated by the cabinet" (Article 6). Due to the Emperor's role in the Second World War, the 1947 Constitution removed all political power from the Emperor<sup>49</sup> and defined him as "the symbol of the State and of the unity of the People" (Article 1).

#### **No Political Power, but "Reserve Powers"?**

In conclusion, monarchs in democratic constitutional monarchies exercise no discretion in state affairs. They appoint the prime minister chosen by the parliamentary majority, appoint ministers nominated by the prime minister, and sign official documents at the government's request, including the promulgation of laws. Nonetheless, constitutional monarchs may retain limited powers, such as a royal veto or certain "reserve" or "discretionary" powers,<sup>50</sup> enabling them to act as "guardians of the constitution" in cases of constitutional breach.<sup>51</sup> This role is primarily protective – safeguarding democracy and the constitution in times of crisis. A notable example was Spain in 1981, when King Juan Carlos I resisted a coup d'état.<sup>52</sup>

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<sup>46</sup> Wenander, *ibid*.

<sup>47</sup> EIU's Democracy Index 2024, *ibid*; Japan, rank 16<sup>th</sup>, holds a higher position than the UK (17) and Spain (21). The Republic of South Korea is second most democratic country in Asia, ranking 32<sup>nd</sup>.

<sup>48</sup> The Constitution of Japan, from the website "Prime Minister of Japan and His Cabinet."

<sup>49</sup> See Susumu Annaka and Gento Kato, "Can a Constitutional Monarch Influence Democratic Preferences? Japanese emperor and the regulation of public expression," *Social Science Quarterly*, Volume 103, no. 3 (2022): 1, 12; Bulmer, 16.

<sup>50</sup> Bulmer, 6-7.

<sup>51</sup> Hazell and Morris, 270-271; Cox and Miller, 134.

<sup>52</sup> Charles Powell, "Spain: the Coup of February 1981," in Hazell and Morris, 57-59; Hazell, "Constitutional Functions of the Monarchy: Conclusion," in Hazell and Morris, 60.

Beyond this, a monarch in a democracy may also serve as a figure of “constitutional arbitration,” distinct from constitutional adjudication, which is carried out by judiciary institutions.<sup>53</sup> All such powers depend heavily on public support; excessive intervention risks damaging the monarch’s reputation for neutrality.<sup>54</sup>

In countries where a monarch rules under a constitution but still exercises significant power – while the people’s representatives merely share authority – this form of government, although not an absolute monarchy, cannot truly be considered a “constitutional monarchy.” Instead, it is referred to as a “semi-constitutional monarchy”<sup>55</sup> or “quasi-constitutional monarchy.”<sup>56</sup> Examples include the regimes of the Principality of Liechtenstein and the Principality of Monaco.<sup>57</sup>

### **The King Can Do No Wrong’ and the Immunity of the Monarch**

In constitutional monarchies, monarchs act solely on the advice of the government, signing official government documents presented by the prime minister, who then countersigns and assumes responsibility.<sup>58</sup> As a result, “The King Can Do No Wrong.” However, this principle – originated in England – has varied and sometimes contradictory meaning. It evolved alongside the transfer of sovereignty from the monarch to Parliament in the 17th century. In her 2024 book *The King Can Do No Wrong*, Marie-France Fortin identifies seven interpretations of the phrase, which, in my view, can be grouped into four core meanings:

(1) Absolute authority: In an absolute monarchy, the phrase meant the king could do anything – rooted in theocratic kingship – so “everything the king does is lawful.”<sup>59</sup>

(2) Ministerial responsibility: In a constitutional monarchy, even if a royal act is unlawful, the king “does no wrong” in either political or legal terms, as he acts on ministerial advice – or, in modern practice, at the minister’s request. Responsibility falls on the prime minister or the minister who gives or countersigns that advice or request.<sup>60</sup>

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<sup>53</sup> Bulmer, 6-7.

<sup>54</sup> Hazell and Morris, 270-271.

<sup>55</sup> Carsten Ankar, “Constitutional Monarchies and Semi-Constitutional Monarchies: A Global Historical Study, 1800-2017”, *Contemporary Politics* 27, no. 1 (6 October 2020): 23-40.

<sup>56</sup> Bulmer, 3.

<sup>57</sup> Liechtenstein and Monaco are often confusingly categorized as “constitution monarchies”; however, neither of them is ranked in the EIU’s Democracy Index.

<sup>58</sup> Olechno, 3.

<sup>59</sup> Fortin, *The King Can Do No Wrong*, 28.

<sup>60</sup> Fortin, *The King Can Do No Wrong*, 31-32.

(3) Ceremonial inactivity: As a consequence of ministerial responsibility, the king “can do no wrong” because he effectively “does nothing.”<sup>61</sup>

(4) Legal immunity: Since the monarch neither does nor can do wrong, he is immune from lawsuits or formal accountability.<sup>62</sup>

Which of these interpretations properly belong to a constitutional monarchy? The UK Supreme Court’s decision in the 2019 “Case of Prorogations” provides an insight. In August 2019, Prime Minister Boris Johnson advised Queen Elizabeth to prorogue Parliament for five weeks, aiming to prevent efforts to delay the UK’s departure from the EU, which was set for 1 November 2019.<sup>63</sup> The Supreme Court ruled that both the Prime Minister’s advice and the prorogation of Parliament were unlawful and void.<sup>64</sup> However, the Queen’s exercise of power was not addressed, reinforced the principle that legal and political responsibility lies with ministers – not the monarch.

Thus, in modern constitutional monarchies, the principle that “The King Can Do No Wrong” entails two key understandings: (1) the monarch is personally immune, and (2) those who act in the monarch’s name are accountable to both the courts and Parliament.<sup>65</sup> The notion that “whatever the king does is legal” is no longer accepted in modern constitutional monarchies. Conversely, the view that “The King Can Do No Wrong” because the king “does nothing” may be considered an extreme in the opposite direction, since in many constitutional monarchies, the monarch retains passive functions, such as royal veto. This interpretation would hold true only where no constitutional functions remain for the monarch, such as Sweden and Japan.

In conclusion, the second and fourth interpretations generally reflect the principles of “The King Can Do No Wrong” in a modern constitutional monarchy: the monarch is personally immune, but those who act in the monarch’s name are accountable to the courts and to parliament. In democracies, monarchs also remain above politics, leaving political affairs to representative governments. This is where the monarch and democracy coexist and complement each other.

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<sup>61</sup> Fortin, *The King Can Do No Wrong*, 32-33.

<sup>62</sup> Fortin, “The Recent Revival of The King Can Do No Wrong”, 17-18; Fortin, *The King Can Do No Wrong*, 26.

<sup>63</sup> See Hazell, “Constitutional Functions of the Monarchy in the UK,” 22 and 24-25; Fortin, “The Recent Revival of The King Can Do No Wrong”, 16.

<sup>64</sup> *R (Miller) v The Prime Minister; Cherry v Advocate General for Scotland* [2019] UKSC 41, [2020] AC 373 (UK Supreme Court decision on the lawfulness of proroguing Parliament).

<sup>65</sup> Fortin, “The Recent Revival of The King Can Do No Wrong”, 19.

### **3. The Thailand Case Study: Democracy, Monarchy, Reserve Power and Coup d'état**

Since becoming a constitutional monarchy in 1932, Thailand (ranked 63rd by EIU in 2024) has struggled to develop a stable democracy. This section explores why Thailand's constitutional monarchy has not evolved into a strong democratic system like those in Europe, analyses the monarch's roles in Thai democracy, and examines constitutional strains such as coup d'état.

#### **Constitutional Monarchy Since 1932: Power Transfer and Countersignature Principle**

In 1932, Siam (the name of Thailand before 1939) transitioned from an absolute to a constitutional monarchy through a bloodless revolution on 24 June, led by the "People's Party" – a group of military and civilian officers educated in Europe.<sup>66</sup> King Prajadhipok (Rama VII) decided to cooperate with the People's Party<sup>67</sup> and, on 26 June, issued an amnesty decree<sup>68</sup> to them. The preamble stated: "It is normal in every country that, no matter how developed, this cannot be avoided," referring to government under a constitution, "even though this is the first time in the world that this has been carried out smoothly and without bloodshed," and declared: "Governing through a constitution, I had already thought about it. The action of the People's Party was just in accordance with my own intention."<sup>69</sup>

However, he did not at first sign the constitution that the People's Party presented to him on 26 June, which had been drafted by Pridi Bhanomyong, the civilian leader of the People's Party. The following day, 27 June, he signed the constitution – which became the country's first

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<sup>66</sup> About the People's Party and the 1932 Revolution, see Chris Baker & Pasuk Phongpaichit, *A History of Thailand*, 4th ed. (Cambridge: Cambridge University Press, 2022), 128 ff.; see also Andrew Harding, and Peter Leyland, *The Constitutional System of Thailand: A Contextual Analysis* (London: Hart Publishing, 2011), 10-11.

<sup>67</sup> Baker & Phongpaichit, 131; James Wise, *Thailand: History, Politics and the Rule of Law* (Singapore: Marshall Cavendish Editions, 2019), 16.

<sup>68</sup> The Amnesty Decree Regarding the 1932 Regime Change, June 26, 1932, Government Gazette: Vol. 49, Part 0a, 163–165.

<sup>69</sup> Compare the translation by James Wise (Wise, 16) and by Eugénie Mérieau, *Constitutional Bricolage: Thailand's Sacred Monarchy vs. the Rule of Law* (Oxford: Hart Publishing 2022), 48. Mérieau opined that this was a "claim" of King Prajadhipok, *ibid.*

constitution. However, he added the word “interim” to its title<sup>70</sup> and requesting a new draft.<sup>71</sup> The preamble and Section 1 of Thailand’s first constitution, which thus became an interim one, stated:

*“Following the approach of the People’s Party to be under a constitution so that the country shall develop furthermore, and as the King endorsed this approach therefore this constitution is written with following sections:*  
*Section 1. Sovereignty of the state belongs to all of the people.”*

With this, sovereignty shifted from the King to the people – marking the formal beginning of democracy in Thailand. The King remained the head of state but, for the first time, became an institution under the constitution.

The constitution introduced the countersignature principle in Section 7: “Any act of the King must be signed by a member of the People’s Committee with the approval of the People’s Committee; otherwise, it shall be invalid.” Section 6 granted the monarch immunity from lawsuits – “The King shall not be accused in court” – though parliament retained discretionary authority. Under Section 8, if the King vetoed or failed to sign a bill within seven days, Parliament – unlike parliaments in many European constitutional monarchies, where constitutions provide no procedure in the event of royal refusal<sup>72</sup> – could reaffirm and enact the law without royal consent. The interim constitution clearly placed real power in the hand of parliament and the People’s Committee, reducing the monarch’s role largely to ceremonial functions.

Five and a half months later, a new constitution, “approved” and even receiving “great satisfaction” from the King,<sup>73</sup> was promulgated on 10 December 1932. It revived the powers of the monarch, shifting the role from being almost purely ceremonial under the interim constitution to one with constitutional functions.<sup>74</sup> First, the king was declared “to be respected and sacred”

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<sup>70</sup> See Harding and Leyland, 11; Mérieau, 95; Nattapoll Chaiching, “The Monarchy and the Royalist Movement in Modern Thai Politics, 1932-1957,” in *Saying the Unsayable, Monarch and democracy in Thailand*, ed. Søren Ivarsson and Lotte Isager (Copenhagen: NIAS Press, 2010), 153.

<sup>71</sup> The People’s Party “agreed to the king’s suggestion that the constitution was only provisional” (Baker & Phongpaichit, 132); see Chaiching, *ibid*; Eugénie Mérieau argues that it was a “skillful dilatory maneuver” of King Prajadhipok to buy himself “time to renegotiate the terms of a new constitution,” (Mérieau, 50).

<sup>72</sup> Sweden and Luxembourg abolished the royal veto in 1974 and 2009, respectively. Spain still formally retains royal assent, but the constitution does not grant the monarch a direct veto over legislation. Only Norway provides the monarch with a veto, allowing Parliament to reaffirm a law only after a general election. See above, (2) “Constitutional Monarchies Retaining Royal Assent Authority,” in the section “Constitutional Roles of the Monarch in Democracies.”

<sup>73</sup> Opening statement, Session 35/2475, 25 November 1932, House of Representatives.

<sup>74</sup> Harding and Leyland, 12; Eugénie Mérieau holds the opinion that “the Constitution of December 1932 clearly drew inspiration from the 1889 Meiji Constitution” (Mérieau, 52).

and “inviolable” (Section 3), which also implied legal immunity. The phrase “sovereignty of the state belongs to all of the people” in Section 1 of the interim constitution was revised to “state sovereignty comes from the people,” with the additional clause: “The King, as the head of state, exercises state sovereignty in accordance with this constitution” (Section 2). This raised the question of who truly holds sovereignty: the people or the King. Some Thai academics, led by Borwornsak Uwanno, have therefore argued that sovereignty belongs jointly to the people and the King.<sup>75</sup>

At first glance, it might appear that the King once again ruled the country, as the Constitution granted him significant powers – appointing the prime minister and ministers (Section 46), summoning and proroguing, and dissolving Parliament (Section 30 and 35), giving royal assent to laws (Section 38), and appointing half of Parliament’s members (Section 65).<sup>76</sup> However, these powers were limited: the King exercised legislative power with the advice and consent of Parliament (Section 6), executive power through the Cabinet (Section 7), and judicial power through the courts (Section 8). All royal acts required a ministerial countersignature (Section 57): “All laws, Royal Rescripts, and Royal Commands relating to state affairs must be countersigned by the minister in charge.” This upheld the principle that “The King Can Do No Wrong,” ensuring royal immunity while holding ministers accountable. Thailand’s first permanent constitution thus followed the model of European constitutional monarchies – a structure retained in subsequent Thai constitutions to the present day.

The transition to constitutional monarchy in Thailand appeared “smooth and without bloodshed,” as King Prajadhipok once declared. However, tensions between conservatives and progressives soon intensified, particularly after Pridi’s “outline economic plan,” which challenged elite economic interests.<sup>77</sup> In April 1933, Prime Minister Phraya Manopakorn Nitithada seized power by decree, signed by the King, to prorogue Parliament and appoint a new cabinet.<sup>78</sup> His rule ended two months later with a counter coup led by young military officers of the People’s Party.<sup>79</sup> On 11 October 1933, Prince Baworadej, the King’s cousin, launched an armed coup

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<sup>75</sup> Borwornsak Uwanno, *Public Law II* (Thai language), 4<sup>th</sup> ed., (Bangkok: Chulalongkorn University Press, 1994), 189.

<sup>76</sup> Section 65 was a transition provision, stating that half of the MPs were to be appointed by the King (countersigned by the prime minister), and that all members were to be elected when half of the nation had completed primary education, but in any case within ten years.

<sup>77</sup> See Baker & Phongpaichit, *ibid.*

<sup>78</sup> Decree for the Prorogation of the House of the Representatives and the Appointment of a New Cabinet, 1 April 1933.

<sup>79</sup> See Baker & Phongpaichit, 133.

against the government,<sup>80</sup> which failed and was regarded by some as having possible royal involvement.<sup>81</sup> Continued conflict between the monarchy and the People's Party culminated in King Prajadhipok's abdication on 2 March 1934, after which the underage King Ananda, elder brother of King Bhumibol, ascended the throne as Rama VIII.

After World War II, the 1932 Constitution was replaced by the 1946 Constitution, drafted by Pridi Banomyong – leader of the Free Thai movement against the Japanese occupation and postwar Prime Minister – and signed by King Ananda. While retaining the 1932 principles concerning the monarchy, the 1946 Constitution advanced democratization by abolishing the appointed members of the unicameral Parliament<sup>82</sup> and prohibiting state officials from holding political office. However, only one month later, King Ananda died mysteriously from a gunshot wound. The military used this as a pretext for a coup in 1947,<sup>83</sup> which abolished the 1946 Constitution and replaced it with an interim one. This marked the beginning of a cycle of coups and constitutional changes that has continued to the present day.

Afterwards, the 1949 Constitution, drafted by a Constitution Drafting Assembly, was promulgated. For the first time, it formally stated the form of government in Thailand. However, it did not use the term “Constitutional Monarchy.” Instead, Section 2 described the system as “a democratic regime with the King as the Head of State” – a phrase that has appeared consistently in Section 2 of every Thai constitution, though later versions include changes that are not visible in English translation.

Unlike English and other European languages, the Thai written language does not use spaces between words; spaces are only used between sentences or phrases. In the original 1949 version, there was a space separating the sentence “Thailand adopts a democratic regime of government” from the phrase “with the King as the Head of State.” This made it clear that there were two distinct elements in two sentences: democracy as the form of government, and the King as Head of State. However, since the Constitution of 1978, this separation has been removed, merging the two elements into a single sentence. Through this merging, the importance of the government from – democracy – has been diluted, and following a series of military coups, the second element – the monarchy – has come to outweigh the first.<sup>84</sup>

<sup>80</sup> See Wise, *ibid*; Baker & Phongpaichit, *ibid*.

<sup>81</sup> See Baker & Phongpaichit, *ibid*.

<sup>82</sup> See footnote 76.

<sup>83</sup> See Charnvit Kasetsiri, “King Bhumibol Adulyadej and the Neo-monarchy of Thailand,” in *Coup, King, Crisis, A Critical Interregnum in Thailand*, ed. Pavin Chachavalpongpun (New Haven, CT: Yale University Press, 2020), 100; Baker & Phongpaichit, 157-158; Harding and Leyland, 15.

<sup>84</sup> Thongchai Winichakul has called this “royal democracy,” in “Thailand's Royal Democracy in Crisis,” in *After the Coup*, ed. Michael J. Montesano, Terence Chong, Mark Heng (Singapore: ISEAS, 2019), 284-285.

## **Constitutional Roles of the Monarch**

Since the 1997 Constitution, “sovereign power” has once again “belonged to all Thai people.” This principle is consistently affirmed in Section 3, followed by a statement on the role of the monarch: “The King, as the head of the state, exercises this power through the Parliament, the Cabinet and the Judiciary in accordance with the constitution.” The roles of the monarch, according to Thailand’s constitutions – when compared to those in democratic countries – can be summarized in three main points:

### **(1) Principle of Countersignature**

“All laws, Royal Rescripts and Royal Commands relating to state affairs,” according to every Thai constitution since December 1932, have required the countersignature of a minister, usually the prime minister. In practice, the prime minister presents a bill, a Royal Rescript (such as the dissolution of the House of Representatives), or a Royal Command (particularly regarding the appointment of ministers, judges and high-ranking state officials) to the King. Specifically, the president of the House of Representatives presents the prime minister to the King (Section 158 of the 2017 Constitution); and since the 1997 Constitution, the president of the Senate presents judges of the Constitutional Court (Section 204 of the 2017 Constitution), as well as members of the independent bodies such as Election Commission and National Anti-Corruption Commission (Section 217).

After the King signs, the official who presented the document then countersigns it. The King’s role in state affairs is therefore passive, as the King only signs what is submitted to him. As a result, the King bears no political responsibility and thus “can do no wrong.”

However, the 2017 Constitution provides two exceptions. First, the appointment of members of the Privy Council is countersigned by the president of the Privy Council, with the Constitution granting the King discretion to select them himself (Section 11). Second, with regard to officials in the King’s own office, the Constitution allows the King to appoint them “at his sole discretion,” without specifying any countersignature (Section 15), which may constitute an exception to the principle of countersignature.

### **(2) Selection of State Authorities**

As mentioned above, only members of the Privy Council and officials in the royal office are selected by the King himself; for all other state authorities, the King simply appoints them. However, under three earlier constitutions – the interim Constitution of 1947, and the 1949 and 1974 Constitutions – the King held the power to “select” or “elect” senators, which could be considered a semi-constitutional monarchy. This authority was introduced in the 1947 interim

Constitution, which created an appointed Senate and allowed senators to be “elected by the King” (Section 33). In reality, however, these initial senators were neither elected or appointed by King Bhumibol, as he was still a minor at the time, but by the regents.<sup>85</sup>

The 1949 Constitution, drafted by a Constitution Drafting Assembly dominated by royalist,<sup>86</sup> changed the wording from “elected” to “selected and appointed” by the King (section 82). However, this provision was never implemented due to a military coup in 1951. The 1974 Constitution once again – and for the last time – granted the King the authority to “select and appoint” senators. On this occasion, the King exercised this power, which was the only time in Thai history. In contrast, under other constitutions, the senators were actually selected either by the prime minister or by coup makers, and the King merely formalized their appointment.

### **(3) Royal Veto Power**

Under all Thai Constitutions, the King is empowered to veto a bill passed by Parliament. However, Parliament can reaffirm the bill, and if the King still does not sign it, the bill can be promulgated “as if the King had already signed it.” The Constitution of December 1932 required only a simple majority and a secret ballot. However, beginning with the 1949 Constitution, a two-thirds majority became necessary to override a royal veto – a rule maintained on every constitution since.

In 1933 and 1934 King Prajadhipok vetoed four bills, but his objections were overridden by Parliament.<sup>87</sup> Under King Bhumibol, vetoes occurred again in 1992 and 2003, but Parliament did not exercise its authority to override them, and the bills were abandoned.<sup>88</sup> Since the accession of the current monarch in 2016, no veto has yet occurred.

Notably, while Thai constitutions include provisions for cases in which the King withholds assent to a bill, none specify what to do if the King refuses to sign a Royal Command for an appointment. Although rare, such a case occurred in 2005 during King Bhumibol’s reign, when the Senate approved a new State Auditor and presented the candidate to the King. After 100 days without a royal appointment, the candidate withdrew.<sup>89</sup> A similar situation arose again in 2023 under the current monarch, when a candidate for the National Anti-Corruption Commission,

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<sup>85</sup> Government Gazette: Vol. 64, Part 53, 9 November 1947.

Harding and Leyland, 16.

<sup>87</sup> Poonthep Sirinupong, *Royal Veto to Bills*, dissertation (Bangkok: Faculty of Law, Thammasat University, 2025), 144-150.

<sup>88</sup> Sirinupong, 157-162.

<sup>89</sup> Wisuth Montriwat, the candidate for State Auditor, was presented to the late King by the president of the Senate on June 10, 2005, and he stepped down from being a candidate on 9 September 2005. See Constitutional Court’s Ruling, Government Gazette: Vol. 123 Part 32a, 28 March 2006, 116.

endorsed by the Senate, was not appointed. Unlike in 2005, the candidate has not withdrawn and the appointment remains suspended to this day.<sup>90</sup>

In conclusion, under Thailand's constitutions – particularly the 2017 Constitution – the King's actual powers are limited. Apart from appointing members of the Privy Council and officials in his own office, his only constitutional authority is the power to veto legislation. In all other cases, the monarch acts passively, in accordance with the principle of ministerial countersignature.

### **The Real Power of the Monarch**

In practice, the actual power of the Thai monarch has not always aligned with what is written in the constitutions. This section analyses the role of the late King Bhumibol, while the practices of the current monarch are addressed in the next chapter.

#### **(1) The Coups and the King**

Since 1932, Thailand has experienced 13 coups,<sup>91</sup> and it has been common practice to legalize them using royal authority – such as by signing the coup makers' interim constitution or appointing the coup leader. This raises a fundamental question: was the monarch directly involved in these coups, or did the coup leaders merely seek royal endorsement to legitimize their actions? Or was it truly an “inextricable mixing” of monarchy and military power<sup>92</sup>, playing extra-constitutional roles in Thai politics, as some scholars have opined?<sup>93</sup>

While Thailand experienced two coups in 1933,<sup>94</sup> it was the third, in 1947, that decisively disrupted democratization and began a cycle of recurring coups. The coup makers replaced the 1946 Constitution with their own interim charter,<sup>95</sup> citing the King's declaration in its preamble:

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<sup>90</sup> The candidate, Possawaj Kanoknak, was endorsed by the Senate on August 7, 2023. Since he has not withdrawn, the selection process cannot restart. This matter will end in 2026, when he reaches the disqualifying age of 70.

<sup>91</sup> There are 8 coups that abolished the constitutions and 4 coups that did not abolish the constitutions. Since the coup of 1958, the coup makers have consistently abolished the constitutions. For further details on the coups, see Surachart Bumrungsuk, “Thailand's Zigzag Road to Democracy: Continuity and Change in Military Intervention,” in *After the Coup*, appendix 1, 185-186.

<sup>92</sup> Harding and Layland, 31; Jame Wise called it a “symbiosis between military and monarchy.” James Wise, *Thailand: History, Politics and the Rule of Law* (Singapore: Marshall Cavendish Editions, 2019), 45-46.

<sup>93</sup> Andrew Harding and Peter Layland argue that “there are not three branches of the State (Executive, Legislature and Judiciary) but five, if we regard both the monarch and military as having powers of their own” (Harding and Layland, 30); see also Wise, 2; Eugénie Mérieau calls this “Thai-Style Democracy” (Mérieau, 130 ff.).

<sup>94</sup> See Harding and Layland, 13.

<sup>95</sup> The interim Constitution of 1947 was prepared before the coup and countersigned on the day of the coup by the coup leader, Field Marshal Phibunsongkhram.

*“the current Constitution is terminated, and the new Constitution shall take effect.”*<sup>96</sup> This marked the first use of royal authority to justify the military’s abolition of a constitution, giving the impression of royal support.

However, at that time, King Bhumibol was still a minor studying in Switzerland. It was Prince Rangsit, acting as Regent, who signed the 1947 Interim Constitution, not the King.<sup>97</sup> Although the King was merely informed after the coup, his response – that he was “satisfied that the incident occurred without bloodshed”<sup>98</sup> – was interpreted by some scholars as signaling royal support.<sup>99</sup>

Following the 1947 coup, Field Marshal Phibunsongkhram – who had lost power after World War II due to his alliance with Japan and was acquitted of war crimes in 1946 – returned as Prime Minister. In 1951, he led another coup, referring to the junta as an “Interim Government” and announcing a return to the December 1932 Constitution.<sup>100</sup> This meant a reversion to a unicameral legislature, half of whose members were formally appointed by the King but nominated by the Prime Minister – Phibunsongkhram himself. To re-promulgate the 1932 Constitution, a royal command was again required. Although King Bhumibol had reached legal age, he initially remained silent. Only after repeated requests<sup>101</sup> did the coup makers obtain his signature, on 6 December 1951<sup>102</sup> – seven days after the coup. This marked the second and final time the military used royal authority to nullify a constitution; subsequent coups abolished constitutions solely through their own declarations.

Legal support for the coup came later in 1953 from the judiciary. The Supreme Court ruled that the 1947 coup was legitimate, stating that “the coup makers had successfully seized power and therefore had authority to change, annul and enact laws.”<sup>103</sup> This ruling legitimized not only the 1947 coup but also set a precedent for future coups, as long as the coup makers “seized power successfully.”

Another significant moment came with the 1957 coup, when Field Marshal Sarit Thanarat, after overthrowing Phibunsongkhram,<sup>104</sup> was appointed by King Bhumibol as “Military Protector

<sup>96</sup> Government Gazette: Vol. 64, Part 53, 9 November 1947.

<sup>97</sup> Ibid; see Baker & Phongpaichit, 158.

<sup>98</sup> King Bhumibol’s letter to Field Marshal Phibunsongkhram, 25 November 1947.

<sup>99</sup> Chaiching, 166.

<sup>100</sup> Declaration of the Interim Government no. 1, 29 November 1951, in: Government Gazette: Vol. 68, Part 71.

<sup>101</sup> Declaration of the Interim Government no.2, November 29, 1951; Declaration of the Interim Government no.3, 30 November 1951, in: Government Gazette: Vol. 68, Part 71.

<sup>102</sup> Government Gazette: Vol. 68, Part 73, 6 December 1951.

<sup>103</sup> Ruling of Supreme Court 45/1947. See Eugénie Mérieau, 133.

<sup>104</sup> Chris Baker & Pasuk Phongpaichit wrote in their book *A History of Thailand* that “Sarit announced that the king was satisfied with this coup” (Baker & Phongpaichit, 165); see also Harding and Leyland, 17.

of the Capital” without a countersignature<sup>105</sup> – resembling an absolute monarchy.<sup>106</sup> However, in the subsequent coups of 1958, 1971, 1976 and 1977, the coup makers did not seek royal command to appoint them. Instead, they issued their interim constitutions granting themselves unlimited power, which were then signed by the King.

Royal appointments resumed with the 1991 coup, when General Soonthorn Kongsompong was appointed coup leader by royal command, again without a countersignature.<sup>107</sup> As in 1957, the royal command was issued after the coup had been successfully carried out.<sup>108</sup> In the 2006 and 2014 coups, the royal appointments of General Sonthi Boonyaratglin and General Prayut Chan-o-cha were countersigned – by the coup leaders themselves – indicating that the King merely signed what was presented to him after the coups. The royal appointment in 2006 was published one day after the coup,<sup>109</sup> and in 2014, four days later.<sup>110</sup> The King did not appoint these coup leaders beforehand,<sup>111</sup> and it was the coup makers who countersigned their own appointments. Nevertheless, the appointments in 1957 and 1991 remain subject to interpretation, and the royal justification of the coups, though issued afterward, has led some to interpret them as implying royal support, thereby affecting the monarch’s political neutrality.

## **(2) Royal Intervention and the “Royal-Given Prime Minister”**

One of King Bhumibol’s most recognized actions was his intervention during the Black May event of 1992. When Prime Minister General Suchinda Kraprayoon – who had led the 1991 coup – violently suppressed a mass protest on 18 May 1992, the situation escalated into bloodshed in Bangkok, sparking nationwide unrest. On 20 May, the King intervened by summoning General Suchinda and protest leader Chamlong Srimuang for a televised meeting. In a brief two-minutes speech, he urged both men to engage in dialogue and restore peace.<sup>112</sup> The crisis, which threatened further bloodshed, ended abruptly, and General Suchinda resigned three days later.

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<sup>105</sup> Government Gazette: Vol. 74, Part 76, 16 September 1957.

<sup>106</sup> This was in line with Bavornsak Uwanno’s belief that the King and the people share sovereignty over the state together (see footnote 70). Therefore, after the annulment of the constitution, sovereignty returned to the monarch. See Bavornsak Uwanno, *Public Law II*, 190.

<sup>107</sup> Government Gazette: Vol. 108, Part 36, 26 February 1991.

<sup>108</sup> This royal command gave on 24 February 1991, but was published in Government Gazette on 26 February 1991, two days later.

<sup>109</sup> Government Gazette: Vol. 123 Part 95a, 20 September 2006, 1-2.

<sup>110</sup> Government Gazette: Vol. 131 Special Part 82d, 26 May 2014, 1.

<sup>111</sup> James Wise asserts that “the monarchy sanctioned the coup after the event” (James Wise, 88).

<sup>112</sup> However, Chris Baker & Pasuk Phongpaichit described that the king “ordered them to stop the violence” (Baker & Phongpaichit, 102); Andrew Harding and Peter Leyland mentioned their actions were “prostrating themselves before the King and apologizing for their actions in polarizing the country” (Harding and Leyland, 21); see also Winichakul, “Thailand’s Royal Democracy in Crisis,” 286.

Such power is not formally written in the constitution. However, “royal intervention” during political crises came to be seen as an exercise of “reserve power,” or a form of “constitutional arbitration role”<sup>113</sup> or “crisis insurance”<sup>114</sup> – roles that expanded significantly during King Bhumibol’s reign,<sup>115</sup> especially after the military’s temporary downfall following the October 1973 student uprising.<sup>116</sup>

The October 1973 and May 1992 crises both gave rise to the idea of a “royal-given prime minister.” The first was Sanya Dharmasakti, a former Supreme Court President and rector of Thammasat University, who was appointed after Field Marshal Thanom Kittikachorn’s resignation. Although the royal command naming him was countersigned by the vice president of the National Legislative Assembly,<sup>117</sup> his appointment was widely seen as driven by royal will.

In June 1992, after Suchinda’s resignation, Anand Panyarachun – a former prime minister – was reappointed. Although the pro-Suchinda coalition held a majority in the House and had nominated another candidate, the president of the House of Representatives essentially unilaterally changed the nomination and submitted Anand’s name to the King.<sup>118</sup> While essentially the president insisted he acted on his own initiative,<sup>119</sup> Anand Panyarachun also came to be regarded as a “royal-given” prime minister.

Following Black May, the 1991 Constitution underwent several amendments and was ultimately replaced by the 1997 Constitution, drafted by a Constitutional Drafting Assembly and endorsed by the parliament.<sup>120</sup> At that time, many believed that democracy in Thailand finally taken root and that coups were a thing of the past.<sup>121</sup> However, in September 2006, another coup took place – defying those expectations.

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<sup>113</sup> See Bulmer, 6-7.

<sup>114</sup> Ginsburg, Rodriguez and Weingast, 1 and 34.

<sup>115</sup> Charnvit Kasetsiri described King Bhumibol as “a symbol of stability and a balancing force for the nation” (Kasetsiri, 109); Thongchai Winichakul described this as “a form of guided democracy,” (Winichakul, 285); David Streckfuss opined that King Bhumipol was “establishing his role as final arbiter in times of crisis,” in “The Future of the Monarchy in Thailand,” *Kyoto Review of Southeast Asia*, no. 13 (March 2013) “Monarchies in Southeast Asia.”

<sup>116</sup> For an analysis of the role of October 1973 Uprising, see Pongsudhirak, 61; Harding and Leyland, 17-18.

<sup>117</sup> Government Gazette: Vol. 90 Part 132 Special Edition, 1, 15 October 1973.

<sup>118</sup> Government Gazette: Vol. 109 Part 68, 1, 10 June 1992.

<sup>119</sup> See Supaluk Ganjanakhundee, “Anand Panyarachun and Royal Intervention in Thai Politics,” *ISEAS Perspective*, ISEAS – Yusof Ishak Institute, November 2019.

<sup>120</sup> See Harding and Leyland, 22 ff.

<sup>121</sup> See Winichakul, 282; Bamrungsuk, 179.

### **(3) Coups of 2006 and 2014 and Their Impact on “The King Can Do No Wrong”**

Thailand’s recent political turbulence began in early 2006<sup>122</sup> with mass protests against Prime Minister Thaksin Shinawatra after he sold his company shares without paying taxes. He responded by dissolving the House, but the opposition boycotted the April 2006 election, preventing the formation of a full Parliament. Protesters then appealed to the King to appoint a “royal-given prime minister,” invoking Section 7 of the 1997 Constitution, which stated that when no constitutional provision applies, the issue should be resolved according to the constitutional conventions under a democratic regime with the King as Head of State.<sup>123</sup>

The protesters cited the 1973 uprising as a precedent, when the King had appointed Sanya Dharmasakti as prime minister, viewing it as a valid constitutional convention. However, the late King did not follow their request. In two speeches delivered in April 2006 to newly appointed judges of the Administrative and Supreme Courts,<sup>124</sup> King Bhumibol rejected this interpretation, stating: “Section 7 cannot be used for that. No, a royal-given prime minister is not democracy.” He emphasized that Section 7 pertains to constitutional monarchy and “does not give the King the power to act arbitrarily.” Referring to the 1973 case, he clarified: “Mentioning Professor Sanya Dharmasakti in the past is not correct; at that time there was a countersignature,” and therefore it was “in conformity with the constitution.”<sup>125</sup>

This speech reflected the King’s understanding of the principle of “The King Can Do No Wrong”: the monarch must act within the Constitution and through ministerial countersignature. However, while affirming that “the King does not have such competence” and “do not ask the King for judgment,” he urged the courts to “consider and consult with other courts” to address the crisis following the election that has failed to produce a full parliament, as “the judiciary is the body that makes democracy function” and must act “to make the parliament able to work,” otherwise “the country would fail.”<sup>126</sup>

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<sup>122</sup> Andrew Harding and Peter Leyland concluded that it was “a period of great turbulence in Thai politics” (Harding and Leyland, 24 ff.).

<sup>123</sup> Initially, this obscure provision was only present in the interim constitution imposed by military coup makers, however, it was included in the 1997 Constitution for the first time as a permanent feature.

<sup>124</sup> The two speeches were delivered on the same day, 25 April 2006: first to the newly appointed judges and the president of the Administrative Court, and then to the newly appointed judges and the president of the Supreme Court. For a different translation with the same meaning, see Han Krittian “Post-Coup Royalist Groups: Re-inventing Military and Ideological Power,” in *Saying the Unsayable*, 212; James Wise concluded that “monarchy speaks, judiciary listens,” see James Wise, *Thailand: History, Politics and the Rule of Law*, 74-75.

<sup>125</sup> Speech to the newly appointed judges and the presidents of the Administrative Court, 25 April 2006.

<sup>126</sup> Speech to the newly appointed judges and the presidents of the Supreme Court, 25 April 2006.

Some scholars viewed this as encouraging judicial intervention,<sup>127</sup> as the Constitutional and Administrative Courts later annulled the 2006 election,<sup>128</sup> despite the King having merely suggested that the courts ensure Parliament had a full membership to function. As the rulings rested on a weak constitutional basis, they were described by some as a “judicial coup.”<sup>129</sup> When no new election could be held, the real coup followed as the military seized power on 19 September 2006.

The coup leaders, calling themselves the “Council for Democratic Reform under Constitutional Monarchy,” displayed large portraits of the King and Queen behind them, and a photograph of the coup leader appearing before the King and Queen was published – creating the impression of royal support. Following the precedent set by the 1957 and 1991 coups, General Sonthi Boonyaratglin used a royal command to appoint himself as coup leader to legitimize the coup – an act that damaged the perceived neutrality of the monarch and marked the beginning of a problem that continues to this day.

On 22 May 2014, the army once again seized power. As in 2006, a general election – held after Prime Minister Yingluck Shinawatra dissolved the House – was annulled by the Constitutional Court.<sup>130</sup> General Prayut Chan-o-cha, leader of the coup under the name “National Council for Peace and Order” (NCPO), again used a royal command to name himself as leader of the coup. Three months later, under the 2014 Interim Constitution, he was elected prime minister by the National Legislative Assembly, which he had himself handpicked.

Prayut remained in power for nine years, supported by mechanisms embedded in the 2017 Constitution and the appointed Senate. During his rule, the monarchy became increasingly entangled in politics, undermining the principle of “The King Can Do No Wrong” more than ever before, as will be examined in the following chapter.

#### **4. The Current Situation and Problems under the 2017 Constitution**

From the promulgation of the 2017 Constitution until Thailand’s appointment of a new prime minister in September 2025, the political situation and the new era of Thailand’s constitutional monarchy of Thailand can be described in two parts as follows:

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<sup>127</sup> Andrew Harding and Peter Leyland opine that the “King’s intervention” was even “to ensure that the election of April 2006 was ruled invalid” (Harding and Leyland, 30). For the active role of the judiciary since 2006, see Thongchai Winichakul, 295-297; Sarah Bishop, “Challenging the Judicial Coup Myth: Thai Constitutional Courts and Political Crises,” in *Coup, King, Crisis: A Critical Interregnum in Thailand*, 199-224.

<sup>128</sup> The Constitutional Court’s ruling 9/2549, 8 May 2006; Administrative Court News 31/2006, 16 May 2006.

<sup>129</sup> Surachart Bamrungsuk described it as a “judicial coup” and “another means by which to overthrow an elected government” (Bamrungsuk, 182).

<sup>130</sup> Constitutional Court’s ruling 5/2557, 21 March 2014.

### **The 2017 Constitution, the New Monarch and the 2019 Election**

In August 2016, a controversial referendum approved a draft constitution designed to entrench the coup-makers' power.<sup>131</sup> A central mechanism was the Senate, the first of which consisted of 250 senators formally appointed by the King but in fact selected by the NCPO. The Senate was granted sweeping powers, including co-selecting the prime minister with the lower house and holding the sole authority to endorse Constitutional Court judges and members of independent bodies such as the National Anti-Corruption Commission and the Election Commission.<sup>132</sup> This meant that the coup-makers themselves had significant influence over the Constitutional Court and these "independent" bodies.

The second central mechanism was the expansion of the Constitutional Court's power to remove the prime minister, ministers, members of parliament, and senators. Even prior to the 2017 Constitution, the Constitutional Court of Thailand had already been one of the most powerful courts worldwide, having removed three prime ministers, annulled two general elections, and dissolved more than one hundred political parties.<sup>133</sup> The 2017 Constitution further extended this authority by permitting the disqualification of political officeholders for a "lack of evident integrity" (Section 160(4)) or a "serious violation of the ethical standard," (Section 160(5)), the latter authorizing the Court to codify and interpret the ethical standard itself, thereby granting the Court broad discretion to override both the executive and the legislative branches.

In October 2016, following the passing of King Bhumibol, Crown Prince Vajiralongkorn acceded to the throne, marking a new era of constitutional monarchy in Thailand. The draft constitution, which had already passed the referendum, was accompanied by royal observations requesting amendments prior to royal assent.<sup>134</sup> To authorize these changes to the post-referendum draft, the 2014 interim Constitution was then amended, with Prayut's countersignature.

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<sup>131</sup> Tactically, they added an "additional question" to the referendum, asking whether the voters agreed that for the first five years, the selection of the prime minister should be done in the "parliament", which included the Senate selected by NCPO. Most of the voters were unaware that this meant allowing the Senators of the coup makers to elect the prime minister. About the "firmly controlled" referendum, see Duncan McCargo, Saowanee T. Alexander and Petra Desatova, "Ordering Palace: Thailand's 2016 Constitutional Referendum," *Contemporary Southeast Asia* 39, no. 1 (2017): 65-95.

<sup>132</sup> See Wise, 95.

<sup>133</sup> Thai PBS World's Political Desk, "Explainer: Why Thailand's Constitutional Court has dissolved 111 parties since 1997", *Thai PBS World*, 22 August 2024.

<sup>134</sup> The royal observations consisted of seven points. The most important concerned *Chapter 2: The King*, particularly the provisions on the appointment of one or more regents in the event that the King does not reside in the country. This provision, dating back to the Constitution of December 1932, was revised to state that it is the King's discretion whether to appoint a regent.

After revision, the draft constitution was signed by the new King and promulgated in April 2017. Although the amendment was questionable, it did not directly undermine the principle of “The King Can Do No Wrong,” as responsibility rested with Prayut.

The first general election under the 2017 Constitution was held in March 2019. A major challenge to constitutional monarchy under the new monarch arose on 8 February 2019, when Thai Raksa Chart Party, a Thaksin-aligned party, nominated Princess Ubolratana as its prime-ministerial candidate.<sup>135</sup> Although she had renounced her royal status, she remained the King’s sister. The nomination raised the question of whether a member of the royal family could run for political office. In response, the King issued an uncountersigned royal command stating that the princess “remained part of the royal family” and that “the monarch must remain above politics.”<sup>136</sup> The Constitutional Court later dissolved the party, citing an attempt to undermine the constitutional monarchy.<sup>137</sup> Though intended to preserve neutrality, the command unintentionally drew the monarchy into political controversy.

After the 2019 election, Prayut Chan-o-cha retained power with Senate support, despite his party winning only 116 of 500 seats. His limited understanding of constitutional monarchy led to repeated involvement of the monarch in political matters. One instance was his omission of the required pledge to uphold the Constitution during the oath before the King (Section 161).<sup>138</sup> Instead of addressing the breach, the Constitution Court – with most judges having been endorsed by the National Legislative Assembly Prayut had selected between 2014-2019 – declined to rule, framing it as a “political issue” and a matter of “special relationship” between the King and the cabinet.<sup>139</sup> This decision appeared to protect the monarch but, in effect, protected Prayut, as if the King allowed him to do so.

In February 2020, a youth-led protest erupted after the Constitutional Court dissolved the opposition Future Forward Party, which had gained 81 seats and strongly appealed to younger

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<sup>135</sup> On 8 February 2019, the last day of nomination; According to the Constitution 2017, who would be selected to be PM must be “PM candidate” from a party that has got MPs more than 5% of total 500 MPs or 25 MPs.

<sup>136</sup> Government Gazette: Vol. 136, Special Edition Part 37, 8 February 2019.

<sup>137</sup> Ruling of Constitutional Court 3/2019, 7 March 2019.

<sup>138</sup> Section 161: Before taking office, a Minister must make a solemn declaration to the King in the following words: “I, (name of the declarer), do solemnly declare that I will be loyal to the King and will faithfully perform my duties in the interests of the country and of the people. I will also uphold and observe the Constitution of the Kingdom of Thailand in every respect.” The omission by Prayut was the final sentence: “I will uphold and observe the Constitution of the Kingdom of Thailand in every respect.”

<sup>139</sup> In Constitutional Court Order 35/2019, dated 11 September 2019, the term “political issue” was used by the Constitutional Court in brackets in English following the Thai words.

voters.<sup>140</sup> The party was dissolved because its leader, Thanathorn Juangroongruangkit, had lent money to the party without charging interest.<sup>141</sup> The decision sparked broader criticism of the monarchy and later triggered a call for reform. Although Prayut said in June that *lèse-majesté* would not be enforced due to “the King’s mercy,”<sup>142</sup> he reversed course after the 10 August protest at Thammasat University calling for “monarchy reform,”<sup>143</sup> vowing to “enforce all laws.”<sup>144</sup> Over 100 *lèse-majesté* cases followed, raising concern about the King’s role, even though law enforcement is formally the prime minister’s responsibility.<sup>145</sup> Protest leaders were later charged, and the Constitutional Court ruled that their actions “could lead to the undermining of democracy with the King as Head of State” and ordered them and related groups to cease their activity.<sup>146</sup>

Moreover, royal commands have increasingly been published without a countersignature.<sup>147</sup> Some are clearly not matters of “state affairs,” but others are questionable and may relate to state affairs, thereby contravening Section 182 of the Constitution. Responsibility was vested in Prayut, as prime minister overseeing the Government Gazette Department – the body responsible for returning documents requiring correction before publication. Even the royal command appointing Prayut to the Privy Council in 2023, after his tenure as prime minister had ended, was published without the countersignature of the president of the Privy Council,<sup>148</sup> as required by Section 16 of the constitution.

### **The 2023 Election: Three prime ministers in three years, Thaksin in jail, and the upcoming election in 2026**

In the May 2023 election, opposition parties Move Forward and Pheu Thai won a clear majority, securing 151 and 141 seats respectively, while Prayut’s United Thai Nation Party and

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<sup>140</sup> About the Future Forward Party and the protest of the youth generation, see Pongsudhirak, 59-60.

<sup>141</sup> Constitutional Court’s Ruling 5/2020, 11 February 2020.

<sup>142</sup> Wassana Nanuam, “Prayut, Prawit warn ‘movement’ against palace: King asks them not to use lese majeste law,” *Bangkok Post*, 15 June 2020.

<sup>143</sup> See Pongsudhirak, 62-63; at that time the author was the Vice Rector for Administration of Thammasat University. However, the topic the students requested to assembly for was not monarchy reform.

<sup>144</sup> He spoke on 19 September 2020, after students held a rally at Thammasat University’s Tha Prachan Campus to mark the 14th anniversary of the 19 September 2006 coup. See Post Reporters, “Prayut threatens protesters,” *Bangkok Post*, 20 November 2020.

<sup>145</sup> According to section 6 of National Police Office Act, the National Police Office is under command of prime minister.

<sup>146</sup> Constitution Court’s Ruling 19/2021, 10 November 2021.

<sup>147</sup> Until 2024, there have been more than one hundred royal commands published in Government Gazette without countersignature.

<sup>148</sup> Government Gazette: Vol 140 Special Part 300d, 1, 29 November 2023. The royal appointments of the two Privy Council members by the new king prior to him were likewise issued without countersign.

Prawit's Palang Pracharath won only 36 and 40 seats. Under the mechanisms of the 2017 Constitution, particularly the Senates, Move Forward could not obtain Senate support and therefore failed to form a government. Pheu Thai then allied with pro-Prayut parties, enabling Srettha Thavisin to become prime minister on 22 August 2023, with the backing of Prayut-aligned senators. On the same day, just before the parliamentary vote for the new prime minister, Thaksin returned from 15 years in exile – suggesting a “deal” with Prayut,<sup>149</sup> who later countersigned a royal command reducing Thaksin's eight-year sentence to one.<sup>150</sup> Thaksin was transferred to the Police Hospital on his first night in custody, never returned to prison, and was granted parole on 17 February 2024 without serving any actual prison time.<sup>151</sup>

On 31 January 2024, the Constitutional Court ruled that Move Forward's campaign to amend Section 112 of the Criminal Code (*lèse-majesté*) constituted “a gradual act of overthrowing the democratic regime with the King as the Head of State,” violating Section 49 of the 2017 Constitution, and ordered the party to halt any attempt to amend the law through any “unauthorized legislative process.”<sup>152</sup> On 7 August, the Court dissolved the party and banned 11 board members from politics for 10 years,<sup>153</sup> arguing that its campaign to reform Section 112 fostered a “confrontation between the monarch and the people,”<sup>154</sup> despite having been approved by the Election Commission. The ruling also placed at risk 44 MPs at the time – 25 of whom are serving in the current period – who supported the amendment, as they too could be subject to disqualification from political office.

On 9 August 2024, former Move Forward MPs formed the “People's Party” – a name that, in English, echoes the 1932 revolutionaries who transformed Thailand into a constitutional monarchy.<sup>155</sup> All 143 remaining MPs joined the new party, forming a smaller executive board that excluded prominent figures to avoid another dissolution. A week later, the Constitutional Court dismissed Prime Minister Srettha<sup>156</sup> for appointing a convicted lawyer linked to Thaksin, violating

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<sup>149</sup> Napon Jatusripitak and Mathis Lohatepanont opined that it was a “deal” to “block the MFP from power,” in *After the Grand Compromise: Voter Profiles in Thai Politics, ISEAS Perspective*, no. 25 (2025): 3; see also Thitinan Pongsudhirak's opinion in Helen Regan, Jessie Yeung and Kocha Olarn, “Former PM Thaksin Shinawatra returns to a politically divided Thailand after 15 years of self-exile,” *CNN*, 22 August 2023.

<sup>150</sup> Government Gazette: Vol. 140 Part 40b, 1, 1 September 2023.

<sup>151</sup> See “Former Thai PM Thaksin Shinawatra released on parole from police hospital,” *The Guardian*, 17 February 2024.

<sup>152</sup> Constitutional Court's Ruling 3/2024, 31 January 2024, 32-33.

<sup>153</sup> Constitutional Court's Ruling 10/2024, 7 August 2024.

<sup>154</sup> *Ibid.*

<sup>155</sup> Thai name of People's Party in 1932 was คณะราษฎร (*ka na rat sa don*) while the Thai name of the new party formed by the Move Forward Party is พรรคประชาชน (*pak pra cha chon*).

<sup>156</sup> Constitutional Court's Ruling 17/2024, 14 August 2024.

ethical standards under Section 160 of the Constitution.<sup>157</sup> Thaksin swiftly rebuilt the coalition, and his daughter, Paetongtarn, was elected prime minister on 18 August 2024<sup>158</sup> – unchallenged by the opposition, as Move Forward's Pita Limjaroenrat had just been banned.

After his daughter became prime minister, Thaksin did not stay behind the scenes but frequently spoke in public, as if he were the prime minister himself. Like Prayut and other coup makers, he often invoked royal authority to justify his actions, claiming that he had received His Majesty's pardon "to use capabilities and experience to help and do for the good of the country, society and people,"<sup>159</sup> as stated in the royal command granting his pardon. This statement undermined the principle of "The King Can Do No Wrong," since it was Prayut who bore responsibility for the pardon. After 10 months in office, following the leaked telephone call between her and Hun Sen of Cambodia, the Constitutional Court suspended Paetongtarn from office on 1 July 2025 for "lack of evident integrity" and "serious violation of ethical standard."<sup>160</sup> The fallout from the leaked call escalated into a border clash between Thailand and Cambodia.<sup>161</sup> On 29 August 2025, the Court removed her from office.<sup>162</sup>

As a further consequence of the leaked call, the third-largest party, Bhumjaithai, withdrew from the coalition, leaving Pheu Thai with only a slim majority. After Paetongtarn's dismissal, several MPs and one party also left, preventing Pheu Thai from forming a new government. The People's Party, which had no prime-ministerial candidate,<sup>163</sup> declared it would support any candidate who pledged to dissolve the House within four months and cooperate in rewriting the Constitution. Anutin Charnvirakul, Bhumjaithai's leader and prime-ministerial candidate, accepted these terms and signed an agreement with the People's Party. To avoid becoming opposition, Pheu Thai, through the deputy prime minister acting as caretaker, submitted a decree to dissolve the House to the King. This posed a constitutional question: whether a caretaker prime minister, while Parliament was about to elect a new prime minister, could constitutionally advise the King

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<sup>157</sup> See Online Reporters, "Srettha dismissed as PM after court ruling," *Bangkok Post*, 14 August 2024.

<sup>158</sup> See Helen Regan and Kocha Olarn, "Paetongtarn Shinawatra to become Thailand's youngest prime minister in new political shake-up," *CNN*, 16 August 2024.

<sup>159</sup> It is the last sentence in this royal command; however, it functions more as a standard formula than a specification for Thaksin.

<sup>160</sup> See Thitnan Pongsudhirak, "Thai Politics Back at the Brink (again)," *Bangkok Post*, July 4, 2025.

<sup>161</sup> See Security Council Report, "Cambodia-Thailand Border Clashes: Urgent Private Meeting," 25 July 2025.

<sup>162</sup> Constitutional Court's Ruling 18/2025, 29 August 2025.

<sup>163</sup> According to the 2017 Constitution, a prime ministerial candidate must be declared to the voters prior to the general election. Only candidates from parties that have secured at least 5 percent of the 500 seats in the House are eligible. The People's Party, formed by MPs from the dissolved Move Forward Party, therefore has no prime ministerial candidate.

to dissolve the House.<sup>164</sup> The Privy Council, seeking to shield the monarch from this discretion, returned the document to the caretaker government, thereby raising further question as to whether it possessed such authority.<sup>165</sup>

One day before the parliamentary vote, Pheu Thai played its last card by declaring it would accept all the conditions of the People's Party and would dissolve the House immediately if the People's Party support its candidate. However, that evening Thaksin flew to Dubai on his private Jet, weakening Pheu Thai's position. On 5 September 2025, Anutin, with the support of 143 MPs from the People's Party,<sup>166</sup> became prime minister.

Thaksin unexpectedly returned to Thailand on 8 September, one day before he was scheduled to appear before the Supreme Court to receive its ruling. On 9 September 2025, after a three-month investigation involving 31 officers and witnesses, the Court found that his stay at the Police Hospital was unlawful and accordingly ordered that, because Thaksin "knew or could perceive that he was not in a critical or emergency condition," he serve one year in prison – the remaining sentence following his pardon.<sup>167</sup> Collectively, these developments have weakened Pheu Thai, now in opposition, as well as Thaksin's mission to prevail over the People's Party, even to the extent of keeping Pheu Thai as the second-largest party in the forthcoming general election, which is expected to take place in March 2026.

Apart from that, further complicating matters are the 200 new senators, selected through a problematic process that allowed candidates to vote for one another.<sup>168</sup> Allegations of backroom deals and financial incentives surround the selection, and 138 senators – widely believed to be aligned with Bhumjaithai<sup>169</sup> – are under suspicion of wrongdoing and could face removal from

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<sup>164</sup> See Online Reporters, "Can a caretaker PM dissolve the House of Reps? The two sides," *Bangkok Post*, 3 September 2025; in the UK, under the Lascelles Principles – a constitutional convention – the monarch could refuse a request from the prime minister to dissolve Parliament only if Parliament remains "vital, viable, and capable of doing its job," if an election would be detrimental to the national economy, or if the monarch could find another prime minister who could "govern for a reasonable period with a working majority in the House of Commons," see David Torrance, "The King and the dissolution of Parliament for a general election Insight," *House of Commons Library*, 22 May 2024.

<sup>165</sup> The King can do no wrong, but the Privy Council can. Under Section 210(2), the caretaker prime minister could have submitted the matter to the Constitutional Court to seek a ruling on the scope of the Privy Council's authority, but Pheu Thai chose not to do so.

<sup>166</sup> Thanathorn Juangroongruangkit explained this as a "grand compromise" with the conservatives to make constitutional amendment possible.

<sup>167</sup> Supreme Court, Criminal Case Division for Holders of Political Positions, Order on the Enforcement of Thaksin's penalty, 9 September 2025.

<sup>168</sup> See Emma Kenny, "Explainer: How Thailand's Senate Elections Work," *International IDEA*, 8 May 2024.

<sup>169</sup> See Patpicha Tanakasempipat, "Thai Conservatives Retain Senate Control in Blow to Pro-Democracy Groups," *Bloomberg*, 11 July, 2024.

office. This matters because the Senate holds the power to endorse judges of the Constitutional Court and members of the Election Commission and the National Anti-Corruption Commission. Whoever controls the Senate can influence the Constitutional Court and the so-called “independent” bodies – a power that Prayut exercised during his nine years in office, and which has now simply been transferred from him to political parties, who can best exploit the rules of the game governing the selection of senators.

The Senate and the Constitutional Court, together with their powers, require amendment. However, Section 256 demands not only an absolute majority of both houses but also the support of one-third of the senators, thereby effectively obstructing reform. With Anutin of Bhumjaithai now serving as prime minister under an agreement with the People’s party to amend the Constitution, the possibility of change has reopened. Nevertheless, Article 255 prohibits amendments that alter the form of the state or the form of government. Democratization can therefore proceed only by reinforcing democracy within this framework and by preventing actions that undermine the constitutional principle of “The King Can Do No Wrong.” This structural constraint is central to understanding the challenges addressed in the conclusion.

## **5. Conclusion**

Since both republics and kingdoms can be authoritarian, the development of democracy must focus on strengthening the rule of law, the separation of powers, and democratic principles. When practiced effectively, constitutional monarchy can rank among the most democratic systems, as seen in most European Kingdoms, Commonwealth countries such as New Zealand, Canada, and Australia, and in Asia (i.e., Japan). This is possible only when the monarchy remains above politics, with the head of state acting as non-partisan and leaving political decisions to the representative government. Although the constitutions of these states – except Sweden – grant the monarch powers such as appointing the prime minister and ministers, dissolving parliament, and giving royal assent, these are exercised solely on the advice of the prime minister or relevant minister, who then countersign. In practice, “acting on the advice of the prime minister” means acting as required by the prime minister. Thus, “The King Can Do No Wrong”: the monarch is immune from both Parliament and the courts, while responsibility rests with the countersigning minister, who is accountable to the citizens. This principle is essential to the success of democracy in a constitutional monarchy.

This does not mean that the monarch must have only a ceremonial role, as in Sweden or Japan. In many constitutional monarchies, the monarch retains a passive role, such as a legislative veto. In most cases, however, no procedure exists for exercising such a veto, which

could create a constitutional difficulty if the royal assent were withheld. In times of political conflict, a non-partisan head of state may also serve as a figure of “constitutional arbitration.” However, any “royal intervention” though so-called reserve powers must strictly follow the rule of law and occur only in exceptional circumstances, such as constitutional breaches – when the head of state may act as a “guardian of the constitution,” as King Juan Carlos I of Spain did in resisting the 1981 coup.

In Thailand, as in most constitutional monarchies, the King merely signs what is presented by the prime minister, and all royal commands involving state affairs require ministerial countersignature. Under the 2017 Constitution, apart from appointing members of the Privy Council and royal household officials, the King’s only substantive power – as in earlier constitutions – is to veto legislation, which Parliament can reaffirm. These provisions are meant to keep the monarch above politics, leaving political decisions to democracy, or the “self-government of the people.” In practice, however, in Thailand the monarchy has outweighed democracy because of repeated coups invoking royal authority and a judiciary that safeguarded the monarchy rather than democracy.

Beyond the text of the constitution lies the real power of the Thai monarch, which has played a significant role since the reign of King Bhumibol. His most recognized role was that of “constitutional arbitrator” in 1973 and 1992, which thereafter prompted repeated calls for “royal intervention.” Although he affirmed in 2006 that the King must follow the constitution, some still regarded him as consenting to coups. In practice, coup leaders were appointed only after seizing power, with coup makers appropriating royal authority and the judiciary having accepted the legality of coups since 1953. These practices weakened royal neutrality, particularly after the 2006 coup and were further eroded by the 2014 coup. The current monarch initially declared neutrality, but General Prayut – the coup leader who ruled for nine years – repeatedly invoked royal authority, which contributed to calls for monarchy reform by the younger generation in 2020 and to the unprecedented use of *lèse-majesté*. The role of the current monarch has been perceived as differing from that of the preceding reign, while certain royal commands on state affairs have been issued without the required countersignature, such as the appointment of General Prayut to the Privy Council. Together, these developments may undermine the image of royal neutrality.

To strengthen democracy in Thailand’s constitutional monarchy, restoring the principle of “The King Can Do No Wrong” and the rule of law is therefore essential. The following measures are suggested:

First, the cycle of coups must be brought to an end. Since 1947, coup makers have used royal commands to legitimize their unconstitutional power grabs – a pattern reinforced by the 1957

and 1991 coups, and repeated by Prayut Chan-o-cha in 2014. Although such royal commands are issued only post facto, they risk creating the perception that the monarch endorses coups. Ending this cycle must be a priority for Thailand's democratic development.

Second, the judiciary – especially the Supreme Court – must stop legitimizing coups. The Constitutional Court must strictly adhere to the rule of law and function as an impartial and independent judicial body that upholds justice, provides genuine checks and balances in line with the principle of separation of powers, and must safeguard the monarchy and democracy alike.

Third, *lèse-majesté* cases must be considered and adjudicated with great caution. Excessive use of the law risks deepening dissatisfaction, especially among the younger generation. It is therefore imperative to relax its application in order to protect both the monarchy and democratic stability.

Fourth, all royal commands relating to state affairs must be strictly countersigned. It is the responsibility of the prime minister, through the Office of the Government Gazette, to ensure that governmental documents comply with the Constitution and law, and to return any document for correction before publication if necessary.

Fifth, the 2017 Constitution – which entrenched the outcomes of the 2014 coup, particularly the powers of the Senate to endorse judges of the Constitutional Court and members of independent bodies such as the National Anti-Corruption Commission and the Election Commission, the problematic process for selecting Senators, and the excessive powers of the Constitutional – most notably the power to dismiss the prime minister – must therefore be amended or rewritten.

Ultimately, adherence to the principle of “The King Can Do No Wrong” by all institutions is essential for Thailand to become a stable democratic kingdom, where democracy as “self-government of the people” and monarchy as “head of state” coexist successfully. This is vital not only for the future of Thailand's democracy but also as a model for constitutional monarchies elsewhere.

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**Coordinator:** Sararath Paothai  
**Office:** Research Administration Division  
Office of the Rector Building,  
Thammasat University (Rangsit Campus),  
Pathumthani, 12120 THAILAND  
Telephone: 66 2564 4440 ext 1811  
Fax: 66 2564 3151  
Email: [thammasatreview@tu.ac.th](mailto:thammasatreview@tu.ac.th)  
Website: <https://www.tci-thaijo.org/index.php/tureview>