



# Office of the Constitutional Court

[www.constitutionalcourt.or.th](http://www.constitutionalcourt.or.th)

Line สำนักงานศาลรัฐธรรมนูญ : @occ\_th  
E-mail : [pr@constitutionalcourt.or.th](mailto:pr@constitutionalcourt.or.th)



Press Release No. 24/2021

Monday 15<sup>th</sup> November B.E. 2564 (A.D. 2021)

The Constitutional Court heard a case whereby Mr. Nattaporn Toprayoon (petitioner) requested the Constitutional Court to consider a ruling under section 49 of the Constitution (Case No. 19/2563).

Mr. Nattaporn Toprayoon (petitioner) submitted a petition to the Constitutional Court for a ruling under section 49 of the Constitution on whether or not the acts of Mr. Arnon Nampa, Mr. Panupong Jadnok, Miss Panusaya Sithijirawattanakul, Mr. Parit Chiwarak, Miss Jutatip Sirikhan, Miss Siripat Jungteerapanich, Mr. Somyot Pruksakasemsuk and Miss Arthitaya Pornprom, constituting eight persons, holding rallies proposing their demands, were deemed an abuse of their rights or liberties by having the motive to overthrow the democratic regime of the government with the King as Head of State under section 49 paragraph one of the Constitution. In accordance with the evidence provided, the Constitutional Court thereby accepted the case for consideration only on the basis of actions taken by Mr. Arnon Nampa (the first respondent), Mr. Panupong Jadnok (the second respondent) and Miss Panusaya Sithijirawattanakul (the third respondent) at the rally on 10<sup>th</sup> August B.E. 2563 (A.D. 2020), and directed the first, second and third respondents to submit their counter statements. The Constitutional Court conducted an inquisitorial proceeding by issuing letters of summons to the relevant parties. Subsequently, the respondents submitted their counter statements in writing as well as relevant evidence which were admitted by the Court as part of the proceedings. The Court conducted the proceedings in full recognition of ensuring that all parties concerned were given access to due process of law and fair opportunities to present their arguments in accordance with the constitution, relevant laws and the rule of law.

### **Ruling of the Constitutional Court**

The issue considered by the Constitutional Court was whether or not the acts of the first, second and third respondents constituted the abuse of their rights or liberties by having the motive to overthrow the democratic regime of the government with the King as Head of State under section 49 paragraph one of the Constitution.

Section 49 of the Constitution is intended to serve as a measure to preserve the democratic regime of the government with the King as Head of State. This provision also aims to involve all Thai people in the preservation and protection of the democratic regime of the government with the King as Head of State from any act of individuals or a group of individuals that shall lead to an overthrow of the democratic regime of the government with the King as Head of State. Any individual who has knowledge of such an act shall have the right to file a petition to the Attorney-General to review the facts before submitting the matter to the Constitutional Court. In the event that the Attorney-General dismisses the petition or does not proceed with any action within fifteen days from the date of receiving the petition, the Constitution, therefore, recognizes the right of the petitioner to submit a petition directly to the Constitutional Court so as to order the restraint of such an act.

The facts in the petition, counter statements, all the evidence and the audio recording of rallies of the first, second and third respondents can be concluded as follows:

Since 3<sup>rd</sup> August B.E. 2563 (A.D. 2020), the first, second and third respondents delivered their speeches in a variety of rallies staged in various places, continuously requesting a reform of the royal institution. At the rally held at Thammasat University, Rangsit Campus, on 10<sup>th</sup> August B.E. 2563 (A.D. 2020), the first, second and third respondents made speeches repeatedly calling for a reform of the royal institution by proposing ten demands, particularly the first demand to delete section 6 of the Constitution which reads, “The King shall be enthroned in a position of revered worship and shall not be violated.”

The Court is of the view that the King and the Thai nation have coexisted since the earliest days of existence of the country until today, and that such status must continue to prevail as this is fundamental to Thailand's nationhood and existence as a country. The reverence that the Thai people have for their King shall not be violated by any individual. The actions of the three respondents were ruled to have been gradually subverting the democratic regime of the government with the King as Head of State. Their approach and methods in publicly demanding reforms by claiming to exercise their rights or liberties as prescribed in the constitution were not only inappropriate but also wrong, as they had adopted vulgar language and hateful messages in their speeches and in their acts as well as violated the rights or liberties of other individuals who did not share the same view. The Constitution preserves and protects the right of liberty of the people to freedom of expression, as long as such freedom is exercised without causing harm or risk to national security or does not infringe upon the rights or liberties of other individuals. It was found from the evidence that the acts of the first, second and third respondents were also committed in systematic collaboration with others with a view to accomplishing specific objectives and goals to harm and infringe upon the rights of others.

Despite the fact that the petition against the three respondents was filed with the Constitutional Court after the rally on 10<sup>th</sup> August B.E. 2563 (A.D. 2020), "Thammasat will no longer endure", at the Rangsit campus, Thammasat University had already taken place, it was also evident that the three respondents continued to join activities and gatherings led by other groups of people subsequent to the rally, which shared the same motives. Even though such other gatherings used different tactics, formats, speakers, and the new ploy of not identifying any specific person as a leader, they shared the same specific goals and motives. The behaviour and actions of the three respondents were systematically repetitive, continuous and conspired to incite and divide by deliberately disseminating false information, causing chaos and violence and social divisiveness. Such social divide would eventually erode the principle of equality and unity of the nation. As such, it could lead to the undermining of democracy with the King as Head of State. These actions conspired to

ruin or diminish the royal institution, whether they be by speeches, writings or other deeds. They were carried out with the goal to undermine, tarnish, or weaken the royal institution and clearly reflect the true intention of abolishing the monarchical establishment.

Even though the incident in question in the petition had already been completed and was in the past, it was established that if the first, second and third respondents were allowed to continue conducting similar activities with their network of organizations, it would not be far from reality that their subsequent actions would cause an eventual overthrowing of the democratic regime of the government with the King as Head of State. Consequently, section 49 paragraph two of the Constitution grants the Constitutional Court the prerogative to order the restraint of such acts which could occur again in the future.

The Constitutional Court by a majority of vote held that actions of the first, second and third respondents, in exercising their rights or liberties by having the motive to overthrowing the democratic regime of the government with the King as Head of State constituted the abuse of rights or liberties as stipulated under section 49 paragraph one of the Constitution. The Court ruled unanimously that pursuant to section 49 paragraph two of the Constitution, these three respondents and other networks of organizations must immediately cease their aforementioned actions altogether as well as in the future.

---