

Constitutional Court Ruling No. 3/2567 (2024)

Mr. Teerayut Suwankesorn	Applicant
Mr. Pita Limjaroenrat,	1 st Respondent
Leader of the Move Forward Party	
Move Forward Party	2 nd Respondent

Constitution, section 6 and section 49

Penal Code, section 112

Section 49 of the Constitution was a provision intended to safeguard and protect a democratic regime with the King as Head of State from threats arising from the exercise of rights or liberties under the Constitution. It aimed to prevent the use of such rights or liberties in a manner that would undermine or destroy the fundamental principles of the Constitution and destabilise the foundation of Thailand's coexisting democratic regime of government with the King as Head of State, leading to its deterioration or collapse.

It appeared from the facts that the first respondent and Members of the House of Representatives affiliated with the second respondent's political party jointly proposed a bill to remove section 112 of the Penal Code from Title I on Offences Relating to the Security of the Kingdom. Their intention was to separate the Monarchy from the Thai nationhood, which significantly constituted a threat to national security.

The proposal to introduce provisions allowing the offender to prove the grounds for exemption from criminal liability and punishment would result in court proceedings having to make reference to, or accusations involving, the Monarchy—an institution deserving of revered worship. Such proceedings would cause these statements to be publicly disseminated, thereby tarnishing the dignity of the Monarchy.

Furthermore, the proposal to render offences under section 112 of the Penal Code compoundable, with the Bureau of the Royal Household acting as the complainant or injured party, would cause the State no longer as the direct injured party. This would place the Monarchy in a position of conflict with the people, which was contrary to or inconsistent with section 6 of the Constitution.

In addition, the second respondent party also brought forward a policy advocating for the amendment or repeal of the section in a manner similar to the aforementioned bill as part of its election campaign, and this was consistently displayed on the second respondent party's website. Furthermore, members of the second respondent party's executive committee, its Members of the

House of Representatives, and both its former and current members had engaged in political activities aligned with various political groups through campaigning, incitement, and agitation in support of repealing section 112 of the Penal Code. Some of them had acted as bailors for the accused or defendants in such cases, or had themselves been the accused or defendants in offences related to this section.

All the conduct of both respondents demonstrated an intention to undermine the protection of the Monarchy through the proposed bill and by using the legislative process to create legitimacy. Their approach was concealed through parliamentary procedures, and the proposed actions were brought forward as part of political party policy in election campaigns, carried out with sustained and coordinated effort.

If the two respondents were allowed to continue such actions, it would not be unreasonable to conclude that this could lead to the subversion of the democratic regime of government with the King as Head of the State. Therefore, the actions of both respondents constituted the use of rights or liberties to subvert the democratic regime of government with the King as Head of the State, as provided in section 49 paragraph one of the Constitution.

The Court, therefore, ordered both respondents to cease expressing opinions, speaking, writing, printing, advertising, or communicating by any other means to repeal section 112 of the Penal Code. Moreover, any future attempt to amend section 112 of the Penal Code by means other than the legitimate legislative process was prohibited as provided in section 49 paragraph two of the Constitution and section 74 of the Organic Act on the Procedures of the Constitutional Court B.E. 2561 (2018).
