

Translation

**CONSTITUTION OF THE KINGDOM OF THAILAND
(INTERIM),
B.E. 2549 (2006)***

SOMDET PHRA PARAMINTHARAMAHA BHUMIBOL ADULYADEJ
SAYAMMINTHARATHIRAT BOROMMANATTHABOPHIT

Given on the 1st Day of October B.E. 2549;
Being the 61st Year of the Present Reign.

Phrabat Somdet Phra Paramintharamaha Bhumibol Adulyadej Mahitalathibet Ramathibodi Chakkri Narubodin Sayammintharathirat Borommanatthabophit is graciously pleased to proclaim that:

Whereas the Chairperson of the Council for Democratic Reform successfully seized control over the administration of the State on 19th September B.E. 2549 and respectfully informed the King that the grounds for seizure and the annulment of the Constitution of the Kingdom of Thailand represented a desire to ameliorate the deterioration of public faith in the administration of State affairs and the inefficient supervision of State administration and scrutiny over the exercise of State powers, which instigated wide scale corruption and misconduct, while failing to identify and punish the wrongdoers, resulting in a severe political and administrative crisis, as well as to heal conflicts within the mass population which was stirred into factional divisions to the extent of disintegrating national unity and constituting a severe social crisis. Many sectors have attempted to resolve this crisis but to no avail. Instead, there were signs of further aggravation to the point of physical violence leading to possible bloodshed and loss of life. This situation poses a serious threat to the national administration, economy and public order. It is therefore necessary to establish and apply an interim administrative mechanism that is suitable to the prevailing situation, taking into consideration the rule of law in accordance with Thailand's administrative conventions under the democratic form of government with the King as Head of State, the revival of a conscientious affection for national unity, the economic system and public order, the development of a strong corruption monitoring system and a virtuous ethical structure, the promotion and protection of rights and liberties of the people, compliance with the United Nations Charter, obligations under treaties or international agreements, the promotion of friendly relations with other countries, and subsistence under the principle of sufficient economy. At the same time, expeditious proceedings shall be undertaken to prepare a new draft

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Constitution with extensive public participation at all stages. So as to be in accordance with the statement respectfully informed by the Council for Democratic Reform, the King is graciously pleased to proclaim the following provisions as the Constitution of the Kingdom of Thailand (Interim) until the promulgation of a Constitution which is to be subsequently drafted and presented to the King.

Section 1. Thailand is one and indivisible Kingdom.

The King is Head of State and holds the position of Head of the Thai Armed Forces.

The King shall be enthroned in a position of revered worship and shall not be violated, accused or sued in any manner whatsoever.

Section 2. Sovereign power belongs to the Thai people. The King as Head of State shall exercise such power through the National Legislative Assembly, the Council of Ministers and the Courts in accordance with the provisions of this Constitution.

Section 3. Subject to the provisions of this Constitution, human dignity, rights, liberties and equality enjoyed by the Thai people under conventions pursuant to a democratic form of government with the King as Head of State and Thailand's existing international obligations shall be protected under this Constitution.

Section 4. The King selects and appoints the President of the Privy Council and not more than eighteen Privy Councillors to constitute the Privy Council.

The selection, appointment and removal of the President of the Privy Council and a Privy Councillor shall be at the King's pleasure.

The President of the National Legislative Assembly shall countersign the Royal Command appointing the President of the Privy Council, and the President of the Privy Council shall countersign the Royal Command appointing other Privy Councillors.

Section 5. There shall be a National Legislative Assembly consisting of not more than two hundred and fifty members to be appointed by the King from persons of Thai nationality by birth and having not less than thirty-five years of age.

The National Legislative Assembly shall act as the House of Representatives, the Senate and the National Assembly.

The selection of persons to be appointed as members of the National Legislative Assembly shall have regard to persons from various groups in the public, private, social and academic sectors and from all regions as appropriate.

In the case where there is a law which prohibits a person from holding political office, such law shall not apply to the appointment of a member of the National Legislative Assembly.

Section 6. Membership of the National Legislative Assembly terminates upon:

- (1) death;
- (2) resignation;
- (3) being disqualified under section 5;
- (4) being a Minister;
- (5) the National Legislative Assembly passing a resolution under section 8 terminating the membership.

Section 7. The King, in accordance with a resolution of the National Legislative Assembly, appoints one member of the National Legislative Assembly as the President of the Assembly and one or several members as Vice-President of the Assembly.

The provisions of section 6 shall apply *mutatis mutandis* to the vacation from office of the President and Vice-President of the National Legislative Assembly.

The President of the National Security Council shall countersign the Royal Command appointing members of the National Legislative Assembly and President and Vice-President of the National Legislative Assembly.

Section 8. In the case where a member of the National Legislative Assembly commits an act which brings disgrace to the membership of the National Legislative Assembly or behaves in such a way to obstruct the performance of duty of a member of the National Legislative Assembly, members of the National Legislative Assembly of not less than twenty members have the right to present their petition to the President of the National Legislative Assembly to terminate the membership of such member.

A resolution of the National Legislative Assembly terminating the membership of a member under paragraph one shall be passed by votes of not less than two-thirds of the total number of existing members on the date thereof.

Section 9. At a sitting of the National Legislative Assembly, the presence of not less than one-half of the total number of members is required to constitute a quorum.

The National Legislative Assembly has the power to issue standing orders governing the election and performance of duties of the President of the Assembly, Vice-President of the Assembly and members of Committees, procedure for sittings, introduction and consideration of bills, introduction of motions, debates, passing of resolutions and interpellation,

maintenance of order, and other activities for the execution of its powers and duties.

Section 10. The King enacts an Act with the advice and consent of the National Legislative Assembly.

Subject to section 30 paragraph one, a bill may be introduced only by not less than twenty-five members of the National Legislative Assembly or the Council of Ministers, but a money bill may be introduced only by the Council of Ministers.

A money bill under paragraph two means a bill dealing with all or any of the following matters, *viz.* the imposition, repeal, reduction, alteration, modification, remission or regulation of taxes or duties, the allocation, receipt, custody, payment, transfer or establishment of any charge on State funds, the reduction of State revenues, the raising of loans, or guarantee or redemption of loans, or a currency bill.

In case of doubt as to whether a bill introduced by members of the National Legislative Assembly is a money bill, it shall be the power of the President of the National Legislative Assembly to make a decision thereon.

Section 11. At a sitting of the National Legislative Assembly, every member of the National Legislative Assembly has the right to interpellate a Minister on any matter within the scope of his or her authority, but the Minister has the right to refuse to reply if he or she is of opinion that the matter should not yet be disclosed on the grounds of security or vital interest of the State or such interpellation is prohibited under the standing order.

If there is an important problem, not less than one hundred members of the National Legislative Assembly may introduce a motion to interrogate for facts thereon from the Council of Ministers, but votes of confidence or no-confidence shall not be made.

Section 12. In the case where there is an important problem concerning the administration of State affairs in respect of which the Council of Ministers deems it is advisable to take the opinions of members of the National Legislative Assembly, the Prime Minister may give notice to the President of the National Legislative Assembly requesting that a general debate be held at a sitting of the National Legislative Assembly. In this case, the National Legislative Assembly shall not pass a resolution on the issue put in the debate.

Section 13. At a sitting of the National Legislative Assembly, words expressed in giving statements of fact or opinion or in casting a vote made by any person are absolutely privileged. No charge or action in any manner whatsoever shall be brought against such person.

The privilege as prescribed in paragraph one extends to members of Committees of the Assembly, printers and publishers of the minutes prepared pursuant to an order of the National Legislative Assembly or its Committees, and to persons permitted by the presiding member to give statements of facts or opinions at such sitting as well as to persons who broadcast a sitting through radio or television with the permission of the President of the National Legislative Assembly, but does not extend to a member of the National Legislative Assembly who expresses words at a sitting which is broadcasted through radio or television if such words appear outside the precinct of the National Legislative Assembly and the expression of such words constitute a criminal offence or a wrongful act against any other person who is not a Minister or member of the National Legislative Assembly.

A member of the National Legislative Assembly who is in custody or subject to detention shall be released upon the request of the President of the National Legislative Assembly. If criminal prosecution is taken against such member, the Court shall continue the proceedings, unless a request to stay the proceedings is made by the President of the National Legislative Assembly.

Section 14. The King appoints the Prime Minister and not more than thirty-five other Ministers upon the advice of the Prime Minister to constitute the Council of Ministers having the duties to carry out the administration of State affairs.

The King has the prerogative of removing the Prime Minister from office upon the advice of the President of the National Security Council and of removing a Minister from office upon the advice of the Prime Minister.

The President of the National Security Council shall countersign the Royal Command appointing the Prime Minister and removing him or her from office.

The Prime Minister and Ministers shall not be members of the National Legislative Assembly or Constituent Assembly or members of the Constitution Drafting Commission simultaneously.

The Prime Minister and Ministers have the right to be present in order to give their opinions at a sitting of the National Legislative Assembly but are not entitled to vote.

Section 15. For the purpose of maintaining security of the Kingdom, national safety, national economic security or averting public calamity, or in case of necessity to have a law on taxation or currency which requires an urgent and confidential consideration, the King has the prerogative to enact an Emergency Decree which shall have the force of an Act.

After the promulgation of an Emergency Decree, the Council of Ministers shall, without delay, submit it to the National Legislative Assembly. If the National Legislative Assembly approves the Emergency Decree, it shall continue to have the force of an Act. If the National Legislative Assembly

disapproves the Emergency Decree, it shall lapse; provided that it shall not affect any act done during the enforcement of such Emergency Decree. In the case of an Emergency Decree having the effect of amending or repealing any provision of any law, the provision of law in force before the amendment or repeal shall continue to be in force as from the effective date of the disapproval of such Emergency Decree.

An approval or disapproval of the Emergency Decree shall be published in the Government Gazette. A disapproval shall be effective as from the date of its publication in the Government Gazette.

Section 16. The King has the prerogative to enact a Royal Decree which is not contrary to the law.

Section 17. All laws, Royal Prescripts and Royal Commands relating to State affairs shall be countersigned by the Prime Minister or Minister, provided that this Constitution does not provide otherwise.

Section 18. Judges are independent in the trial and adjudication of cases in the name of the King, which must proceed fairly in accordance with the laws and this Constitution.

Section 19. There shall be a Constituent Assembly to prepare a Draft Constitution consisting of one hundred members to be appointed by the King in accordance with the procedure prescribed in this Constitution.

The King appoints, in accordance with a resolution of the Constituent Assembly, a member of the Constituent Assembly as the President of the Constituent Assembly and not more than two members as Vice-President of the Constituent Assembly.

The President of the National Security Council shall countersign the Royal Command appointing the President and Vice-President of the Constituent Assembly.

A member of the Constituent Assembly shall not be or have been a member of a political party or hold any position in a political party within two years prior to the date which he or she is selected to be a member of the Constituent Assembly and shall not concurrently hold the position of member of the National Legislative Assembly.

All members of the Constituent Assembly, members of Committees of the Assembly, printers and publishers of minutes prepared pursuant to an order of the Constituent Assembly or its Committees, persons permitted by the presiding member to give statements of facts or opinions at a sitting of the Constituent Assembly, and persons who broadcast a sitting of the Constituent Assembly through radio or television with the permission of the President of the Constituent Assembly shall be entitled to privileges and immunities prescribed in section 13 in the same manner as a member of the National Legislative Assembly.

The provisions of section 9 paragraph one shall apply to the quorum of the Constituent Assembly and standing orders of the National Legislative Assembly shall apply *mutatis mutandis* to sittings of the Constituent Assembly.

Section 20. There shall be a National Council consisting of not more than two thousand members to be appointed by the King from persons of Thai nationality by birth and having not less than eighteen years of age.

The President of the National Security Council shall countersign the Royal Command appointing members of the National Council under paragraph one.

The provisions of section 5 paragraph three and paragraph four shall apply *mutatis mutandis* to the selection of persons to be appointed as members of the National Council.

Section 21. At a sitting of the National Council, the President of the National Legislative Assembly shall act as Chairperson of the National Council and the Vice-President of the National Legislative Assembly shall act as Vice-Chairperson of the National Council.

A sitting of the National Council and the selection of members of the Constituent Assembly shall be in accordance with a determination of the person acting as Chairperson of the National Council.

Section 22. The National Council shall have the duty to select among its members for the purpose of preparing a list of two hundred members suitable for appointment by the King as members of the Constituent Assembly within seven days as from the date of its first sitting. Upon the completion of the selection of members of the Constituent Assembly or upon failure to complete the selection after the expiration of the prescribed time, the National Council shall be dissolved.

In the selection under paragraph one, each member of the National Council shall have the right to cast a vote for not more than three persons and the persons receiving the highest number of votes in respective order up to two hundred shall be deemed to be selected. In the case of a tie of votes in any order which results in more than two hundred selected persons, a draw of lots shall be made.

Section 23. The National Security Council shall, after receiving the list of selected persons from the National Council, select one hundred persons therefrom to be presented to the King for appointment as members of the Constituent Assembly.

In the case where the National Council is unable to complete its duty within the period prescribed in section 22 paragraph one, the National Security Council shall select one hundred members of the National Council to be presented to the King for appointment as members of the Constituent Assembly.

The President of the National Security Council shall countersign the Royal Command appointing members of the Constituent Assembly.

The provisions of section 5 paragraph four shall apply *mutatis mutandis* to the appointment of a member of the Constituent Assembly and the Commission under section 25.

Section 24. Before the completion of duty of the Constituent Assembly, if a member of the Constituent Assembly vacates office for any reason, the President of the National Security Council shall, within thirty days as from the date of such vacancy, select a person from persons remaining in the list under section 22 or a person who has been a member of the National Legislative Assembly, as the case may be, to be presented to the King for appointment as a member of the Constituent Assembly to fill the vacancy.

During the period prior to the appointment of a member of the Constituent Assembly to fill the vacancy, the Constituent Assembly shall consist of the existing members.

Section 25. In preparing the Draft Constitution, the Constituent Assembly shall, in accordance with the rules and procedure as prescribed by Royal Decree, appoint a Constitution Drafting Commission consisting of twenty-five qualified members who are or are not members of the Constituent Assembly elected by a resolution of the Assembly and ten qualified members who are or are not members of the Constituent Assembly as recommended by the President of the National Security Council.

Section 26. After the completion of a Draft Constitution, the Constitution Drafting Commission shall prepare and submit an explanatory memorandum to clarify the differences between the Draft Constitution and the Constitution of the Kingdom of Thailand, B.E. 2540 (1997), together with reasons of amendment thereon, to the Constituent Assembly and the following organisations and persons for consideration and recommendation:

- (1) National Security Council;
- (2) National Legislative Assembly;
- (3) Council of Ministers;
- (4) Supreme Court;
- (5) Supreme Administrative Court;
- (6) Election Commission;
- (7) National Counter Corruption Commission;
- (8) Auditor-General of the State Audit;
- (9) Ombudsmen;

- (10) National Human Rights Commission;
- (11) National Economic and Social Advisory Council;
- (12) higher education institutions.

The Constitution Drafting Commission shall disseminate the Draft Constitution and its explanatory memorandum under paragraph one as information to general public and also to enhance and organize public consultation thereto.

Section 27. After receiving the Draft Constitution and its explanatory memorandum under section 26, if a member of the Constituent Assembly desires to introduce a motion to make an amendment thereto, such motion shall be endorsed by not less than one-tenths of the existing members of the Constituent Assembly and the motion shall be introduced, together with reasons thereon, prior to the date of Constituent Assembly sitting under section 28.

A member who has introduced a motion or endorsed a motion of another member shall not introduce another motion or endorse a motion of any other member.

Section 28. After the expiration of thirty days as from the date of submission of documents under section 26, the Constitution Drafting Commission shall consider recommendations received under section 26 and motions under section 27, prepare and disseminate the report of its amendment or non-amendment, together with reasons thereon, to the public and submit the Draft Constitution to the Constituent Assembly for consideration.

The consideration of the Constituent Assembly under paragraph one is for the purpose of approving or disapproving the entire Draft Constitution and the specific provisions stipulated in the motions introduced by members under section 27 or proposed by the Constitution Drafting Commission. No member of the Constituent Assembly shall introduce a motion to make an amendment other than a motion as prescribed in section 27, unless the Constitution Drafting Commission so approves or not less than three-fifths of members of the Constituent Assembly approves such amendment.

Section 29. The Constituent Assembly shall complete the Draft Constitution and consideration under section 28 within one hundred and eighty days as from the date of its first sitting.

Upon the completion of the Draft Constitution, it shall be disseminated as information to the general public, and a referendum on whether to approve or disapprove the entire Draft Constitution shall be held after fifteen days but not more than thirty days as from the date of dissemination of the Draft Constitution in accordance with the rules and procedure as notified by the Constituent Assembly.

A referendum shall be made on the same day throughout the Kingdom.

Section 30. Upon the completion of the Draft Constitution under section 29 paragraph one, the Constitution Drafting Commission shall, within forty-five days as from the date of completion of the Draft Constitution, prepare organic bills only as is necessary for an election for the purpose of submitting to the National Legislative Assembly for further consideration. In this regard, the National Legislative Assembly shall finish its consideration thereon within forty-five days as from the date of receiving the bills from the Constitution Drafting Commission.

In order to eliminate conflicts of interests, no member of the Constitution Drafting Commission shall be a candidate in an election of members of the House of Representatives or senators within two years as from the date he or she vacates from office of member of the Constitution Drafting Commission.

Section 31. In a referendum, if the persons having the right to vote in an election, comprising a majority of people voting in the referendum, approve the Draft Constitution, the President of the National Legislative Assembly shall present the Draft Constitution to the King. Upon Royal Signature, the Constitution shall be published in the Government Gazette for promulgation.

Upon the promulgation of the Constitution and the Constituent Assembly's completion of organic bills under section 30 or upon the expiration of the period prescribed in section 30, whichever is the earlier, the Constituent Assembly shall be dissolved.

Section 32. In the case where the Constituent Assembly is unable to complete the Draft Constitution within the period prescribed in section 29 paragraph one, or the Constituent Assembly disapproves the Draft Constitution under section 28 paragraph two, or in a referendum under section 31, the people by a majority of the people voting in the referendum disapprove the Draft Constitution, the Constituent Assembly shall be dissolved and the National Security Council shall hold a joint meeting with the Council of Ministers within thirty days as from the date of such referendum in order to consider the revision of a Constitution of the Kingdom of Thailand which had once been promulgated and present such Draft Constitution to the King for Royal Signature and subsequent promulgation as the Constitution.

The President of the National Security Council shall preside over the joint meeting under paragraph one.

The Prime Minister shall countersign the Royal Command promulgating the Constitution under this section.

Section 33. Emoluments and other remunerations of the President and Vice-President of the National Legislative Assembly and the Constituent Assembly, persons holding offices in the National Security Council, members of the National Legislative Assembly, members of the Constituent Assembly, members of the Constitution Drafting Commission and persons holding offices in the Constitutional Tribunal shall be prescribed by Royal Decree.

Section 34. For the purposes of maintaining public order and national security, there shall be a National Security Council consisting of persons under the Announcement of the Council for Democratic Reform No. 24 dated 29th September B.E. 2549 (2006).

The President of the National Security Council may make additional appointments of not more than fifteen other persons as members of the National Security Council.

The Chairperson, Vice-Chairperson, members, Secretary-General and Assistant Secretary-General of the Council for Democratic Reform shall be President, Vice-President, members, Secretary-General and Assistant Secretary-General of the National Security Council respectively.

In the case where the President of the National Security Council is not present or is unable to perform duties, the Vice-President of the National Security Council in the order determined by the President of the National Security Council shall perform the duties of the President of the National Security Council, and in the case where the President and Vice-President of the National Security Council are not present or are unable to perform duties, the members of the National Security Council shall elect one among themselves a person to perform the duties of the President of the National Security Council.

In the case where it is considered expedient, the President of the National Security Council or the Prime Minister may request a joint meeting to consider or resolve any problem pertaining to the maintenance of public order and national security, including consultations on any other matter from time to time.

Section 35. All matters prescribed by laws as the powers of the Constitutional Court or when a problem arises as to whether a law is inconsistent with the Constitution, such matters shall become the powers of the Constitutional Tribunal consisting of the President of the Supreme Court of Justice as Chairperson, president of the Supreme Administrative Court as Vice-Chairperson, five judges of the Supreme Court of Justice holding a position of not lower than judges of the Supreme Court of Justice elected at a general meeting of the Supreme Court of Justice by secret ballot and two judges of the Supreme Administrative Court elected at a general meeting of the Supreme Administrative Court by secret ballot as Constitutional judges.

The Office of the Constitutional Court under the law on the Office of the Constitutional Court shall be responsible for secretarial work and other matters as entrusted by the Chairperson of the Constitutional Tribunal.

The quorum for hearing, trial procedure and preparation of rulings shall be determined by the Constitutional Tribunal and published in the Government Gazette.

All cases or matters pending in the proceedings of the Constitutional Court prior to 19th September B.E. 2549 (2006) shall be transferred as powers and responsibilities of the Constitutional Tribunal.

Section 36. All announcements and orders of the Council for Democratic Reform or order of the Chairperson of the Council for Democratic Reform which had been announced or made on 19th September B.E. 2549 (2009) until the promulgation date of this Constitution, irrespective of their manner or form and irrespective of their legislative, executive or judicial force, shall continue to be in force, and those announcements or orders, including the acts performed in compliance therewith, whether before or after the promulgation date of this Constitution, shall be considered lawful and constitutional.

Section 37. All acts performed on account of the seizure and control of State governing power on 19th September B.E. 2549 (2006) of the Chairperson of the Council for Democratic Reform, including all acts of persons incidental to such performance or of persons entrusted by the Chairperson or the Council for Democratic Reform or of persons ordered by persons entrusted by the Chairperson or the Council for Democratic Reform whereby such acts have been done for the benefit of the above mentioned performance; irrespective of their legislative, executive or judicial force as well as punishments and other official administrative acts and irrespective of whether those acts have been done as a principal, abettor, agent provocateur or commission agent and whether those acts have been done on, before or after the aforesaid date, if those acts are offenses under the laws, the persons who commit those acts shall be entirely discharged from such offenses and liabilities.

Section 38. When no provision of this Constitution is applicable to a case, it shall be decided in accordance with Thailand's administrative conventions under the democratic form of government with the King as Head of State.

In the case where a question arises concerning a decision of any case under paragraph one within the scope of functions of the National Legislative Assembly or in the case where the Council of Ministers requests the National Legislative Assembly for a decision, such question shall be decided by the National Legislative Assembly.

Section 39. Before the Council of Ministers takes office, the President of the National Security Council shall act as the Prime Minister and the Council of Ministers.

Countersigned by
General Sonthi Boonyaratkalin
Chairperson of the Council for Democratic Reform

Certified Translation



(Mr. Chukiert Ratanachaichan)
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