The Monarchy in Brief

The institution of the monarchy in Thailand is in many ways unique, often difficult for outsiders to fully comprehend. Not only does it have a history going back more than seven hundred years, but it has also managed to preserve its relevance and vitality in the contemporary world. Even though the monarchy in its absolute form ended in 1932, the institution today continues to command deep, universal respect and serves as a unifying element for the country.

The love and reverence the Thai people have for their King is rooted in attitudes that can be traced to the earliest days of Thailand as a nation and in some of the past rulers who continue to serve as models of kingship.

The Thai monarchy has been a pillar of stability in Thailand. The Thai sense of identity is closely linked to the monarchy, an institution that dates back more than 700 years. The institution, to this day, continues to play a unifying role and symbolizes the unity of the Thai communities.

The fact is that the monarchy has been and always remains above politics. It is the core spiritual pillar of Thai society, a unifying force binding all Thais together, no matter their political beliefs. As such, it cannot afford to take sides in any political conflict. Therefore, to argue that the King himself or the Thai royal family have been interfering with politics is clearly misleading and highly inappropriate. In a constitutional monarchy, His Majesty the King has a pro forma power and responsibilities as prescribed by the Constitution. Hence, in exercising this function, he is ever conscious of his non-political role. For instance, in royally appointing the country’s administrators, there requires a counter – signee for such proclamations. All in all, it should be highlighted that His Majesty has always exercised his prerogatives under three discretionary powers comprising “the right to be consulted, the right to encourage, and the right to warn” while adhering strictly to the letter and spirit of the Constitution.

However, during the political conflict of recent years, various political players have attempted to exploit the monarchy for political gain. Some have used their purported devotion to the monarchy as a rallying cry and to justify legally questionable tactics against their opponents. Others, unfortunately, seem to believe that the claims are true. These attempts to politicize the monarchy must be resisted, especially if one side or another tries to drag the monarchy into the political fray. One should also resist the temptation to cherry-pick anecdotes, or to present views that comfortably fit certain narratives or one’s
own preconceptions. Doing so would not only give an inaccurate picture, but risks further inflaming tensions in Thailand.

**Background to a Modern Kingship**

Thai concepts of monarchy have their origins in Sukhothai, founded in the early part of the 13th century and generally regarded as the first truly independent Thai kingdom. Here, particularly under the reign of King Ramkhamhaeng the Great (1275-1317), was born the ideal of a paternalistic ruler alert to the needs of his people and aware of the fact that his duty was to guide them, a view markedly different from the divine kingship practiced by the Khmers.

The paternalistic ideal was at times lost during the long Ayutthaya period, when Khmer influence regarding kingship reappeared and the monarch became a lofty, inaccessible figure, rarely seen by most citizens. Nevertheless, the four-century era witnessed the reigns of some remarkable rulers whose achievements were far reaching.

With the founding of the Chakri dynasty in 1782 and the establishment of Bangkok as the capital, kingship was based primarily on adherence to Buddhist concepts of virtue. The Bangkok period has produced a succession of unusually able rulers, capable of meeting a variety of challenges both to the country and to the monarchy itself.

Presently, Thailand is a constitutional monarchy with a democratic form of government. Since 1932, kings of Thailand have exercised their constitutional legislative powers through a bicameral National Assembly. Thai kings exercise executive powers through the cabinet headed by a prime minister, and judicial powers through the law courts. While not directly involved in Thailand's political life, the King exerts a strong moral influence on carefully selected issues.

**Lèse-majesté law**

While Thailand supports and highly values freedom of expression, there is a certain degree of restriction in order to protect the rights or reputations of others and to uphold national security and public order. The lèse-majesté law is part of Thailand's Criminal Code. It gives protection to the rights or reputations of the King, the Queen, the Heir-apparent, or the Regent in a
similar way libel law does for commoners. It is not aimed at curbing people's rights to freedom of expression nor the legitimate exercise of academic freedom including debates about the monarchy as an institution. The law is also put in place to protect the institution as its noblesse oblige prevents it from seeking legal redress against its subjects for defamatory remarks. Nevertheless, Thailand's lèse-majesté law, like any law in every legal system of the world, is open to the process of accommodating itself to the ever-changing social conditions.

In his 2005 birthday address to the nation, His Majesty King Bhumibol Adulyadej made it amply clear that he was not averse to criticism. He expressed his discomfort with the lèse majesté law and his disagreement with the notion that “the King can do no wrong”. However, despite his dissatisfaction with the law, the King is not in a position to change it, as legislative power lies entirely with the Parliament. As a matter of fact, the law was approved by the Parliament, which reflected the wills of the Thai people who would not tolerate any criticism against His Majesty.

As with other criminal offences, proceedings on lèse-majesté cases are conducted in accordance with due legal process. Under the Thai Criminal Procedure Code, a person who finds a suspected lèse-majesté act may, on his or her own, set in motion legal prosecution by lodging a formal complaint. Facts and evidence must then be gathered and investigated first by the police to establish the case before it can be submitted to and be screened by the public prosecutor. Only thereafter may the public prosecutor bring the case before the court. Here it should be noted that complaints are dropped if the police find no ground to proceed. Throughout the legal process, the defendant has the right to contest the charges and the right to a fair trial, as well as assistance from a legal counsel, if the case is brought before the court. The court may decide to hold a trial on a lèse-majesté case on camera. Thai law provides that the judge may use discretion to hold closed trials in certain cases if they are deemed to involve sensitive matters in the interest of public order, good morals or national security, which is consistent with international law (Article 14 of the ICCPR) and not dissimilar to the practice in other countries. As for those found guilty, they have the right to appeal with higher courts, and once their cases become final, they may request royal pardons. It is not uncommon for royal pardons to be granted in such cases. Since the seizure of power by the National Council for Peace and Order (NCPO) on 22 May 2014, there have been claims that the number of those prosecuted under Section 112 of the Criminal Code has increased immensely. However, it should be taken into consideration that a number of cases which are currently
being pursued by the concerned authorities and reported regularly by the media are actually ongoing cases from previous governments.