A Standoff Between the Monarchy and the People

On the Ban of Thailand's Move Forward Party

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On 7 August 2024, Thailand's Constitutional Court ordered the dissolution of the Move Forward Party (MFP), the country's most popular political party. The dissolution follows a decision in January, when the Constitutional Court ruled that the MFP's campaign to amend section 112 of the Penal Code (the lèse-majesté law) constituted an attempt to overthrow the democratic regime with the king as head of state (DRKH), which is considered a fundamental principle of the Thai state. The decision is another chapter in a long-standing conflict over the scope of the criminal offense of lèse-majesté, the extent of freedom of expression, and ultimately, the character of the Thai state.

The conflict over lèse-majesté

The main conflict concerns the MFP's position on the lèse-majesté law, which criminalizes insult, defamation, or threat against the king, queen, heir-apparent, or regent, with a minimum imprisonment of three years. The MFP had long advocated amending or abolishing this law, arguing it infringes on freedom of expression. The MFP had proposed a motion to amend the law, which later became a key element of the MFP's 2023 election campaign. The MFP aimed to (1) reclassify lèse-majesté as a crime against a person rather than the state, (2) remove the minimum sentence, (3) limit the right to file a complaint to the palace, and (4) allow truth and fair criticism as a defence.

In January 2024, the Constitutional Court found that the MFP's proposal to amend the lèse-majesté law could potentially undermine the monarchy. According to the Court, lèse-majesté symbolizes the monarchy's place in Thai politics, and reclassifying it would show disrespect towards the monarchy. Lighter punishment would allow people to insult the king under the guise of fair criticism, ultimately desecrating the sacred nature of kingship.

Moreover, the Court is convinced that the MFP secretly supports the 2020-2021 youth protest movement, which advocated for monarchical reform. Some MFP MPs helped bail out youths charged with lèse-majesté, and a few MPs were themselves charged under the law. The Court's description of crimes committed by MFP members in its January judgment suggests an underlying fear that there is a movement to turn Thailand into a republic. The Court declared the MFP's actions an attempt to overthrow the DRKH and barred the party from promoting such policies in the future. Following this, the Election Commission (EC) then filed a petition to dissolve MFP since it tried to overthrow the regime.

The Party ban

Thailand's law on party dissolution has long been notorious for its low threshold. Over the past two decades, seven major parties have been dissolved for even smallest violations of party and election laws, such as receiving a loan from a party leader. A single member's crime is considered a collective responsibility, resulting in the dissolution of the whole party and a 5- or 10-year ban from politics for party executives.

Two issues lie at the heart of the Court's most recent decision, the August 2024 ruling. First, the Constitutional Court and the MFP have fundamentally different understandings of the concept of DRKH. The MFP insisted that their proposal could never abolish the monarch. The Constitutional Court, on the other hand, maintained a very rigid interpretation. According to the Court, Thailand must remain in its current form, e.g. be democratic and remain a kingdom. Even small changes to the institutional status quo are not

permitted. Altering the king's legal protection would irrevocably diminish his sacred and revered status.

The second issue is the current political situation. The Court describes the MFP's actions as creating a standoff between the king and his subjects. The MFP, however, contends that such a standoff already exists. Since 2006, many believe that the monarchy was behind the 2006 and 2014 coups, as well as countless other interventions. Growing discontent could only be silenced through the harsh application of the lèse-majesté law, a very effective tool of censorship often used alongside coups to imprison dissidents and force many into exile. The law's draconian use has led to calls for its abolition, but the royalists insist the law is necessary to protect the monarchy. The MFP's proposal aimed to offer a sensible compromise, but the Constitutional Court distrusted the MFP's intentions. While the MFP believes they are doing great service to the monarchy by de-escalating the tension, the Court is convinced that the MFP is trying to escalate the conflict.

Abusive borrowing

The Court claimed it was invoking the militant democracy principle. However, this is rather an example of abusive borrowing, using the term in a different context and for an opposite purpose. The Court never considered if the MFP's legislative proposal posed a serious and imminent danger to DRKH. The more parties are dissolved for minor infractions, the weaker democracy becomes.

In addition to the dissolution, the Court imposed a 10-year ban on party executives. The ban itself is problematic as the law does not specify the length of the ban. But the Court insisted that a decade is a proportional response to such crime. More concerning is the ethical misconduct investigation against 44 MPs who signed a proposal to amend the lèse-majesté law. Unlike criminal trials, these misconduct trials require a lower standard of proof but impose harsher punishments. The Special Criminal Division in the Supreme Court of Justice has handed down lifetime bans to MPs for various infractions, including disrespect to the king. These bans threaten the MFP's efforts to build a new party.

Public reaction has been one of outrage but not surprise. The MFP was outspoken against powerful oligarchs, including the monarchy, military, and business conglomerates, making its dissolution simply a matter of time. Despite this, the MFP remained resilient. It received the most votes in the 2023 election, and it was the top recipient of taxpayer donations. At the time of dissolution, the MFP had 100,000 members. Within 72 hours after the dissolution, membership applications to the People's Party, the heir of the MFP, reached 50,000. The party quickly raised 25 million THB. Thais have learned to vote with their wallets. During the 2020-2021 youth protest, supporters raised over 10 million THB in three hours to bail out protest leaders. These numbers reflect widespread public anger over the dissolution. However, the public appears more inclined to wait for the next election than to stage protests.

But will the People's Party last until 2027, when the next general election is scheduled? Their enemies are already gathering evidence of even the smallest mistake to try dissolving them again at their earliest convenience. The Constitutional Court remains hostile, the royalists feel increasingly insecure, political prisoners remain jailed, and the People's Party feels compelled to advocate for their release. Under such immense pressure, any party to the conflict can miscalculate and make an unwise move that sparks a huge public outrage. An attempt to avoid the standoff may have brought the monarch and the people into a very dangerous confrontation.

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