

# Seeking more power, Thailand's new king is moving the country away from being a constitutional monarchy

Friday 3 February 2017, by [MERIEAU Eugénie](#) (Date first published: 3 February 2017).

Since the death of King Bhumibol on October 13 2016, his son King Maha Vajiralongkorn Bodindradebayavarangkun or Rama X has disregarded the provisions of the Thai constitution and its conventions to an extent unprecedented in the modern history of the nation.

First, he declined to accede to the throne immediately at the death of his father, asking for some time to grieve. As a result, Thailand had no king for 47 days.

In the meantime, Prime Minister Prayuth Chan-ocha, the military dictator who seized power in a coup in 2014, ruled by decree using article 44 of the 2014 interim constitution granting him all legislative, executive and judicial power.

Vajiralongkorn has also refused to put into effect the new constitution adopted by referendum on August 7 2016 [\[1\]](#). It replaces the 2014 interim constitution granting all powers to the head of the military.

This move might have been welcomed by pro-democracy supporters, who rejected the draft as empowering the army and the constitutional court at the expense of the rights of the Thai people. But the articles the king didn't like do not, in the words of the prime minister, "involve people's rights and freedom at all", rather they are about "His Majesty's authority". [\[2\]](#)

The new king has interfered in the constitution-making process to demand changes aimed at expanding his own powers in three key areas.

First, he insisted on reforming the provisions on regency to allow him to spend time abroad without appointing a regent to represent him *pro tempore* (in his absence). This would allow him to reign from Munich in Germany, where he's been living for the last couple of years.

The change was approved on January 13 by the junta-appointed National Legislative Assembly in an unanimous vote.

Second, he asked to end the need for a countersignature on all royal acts. Details are not yet known but this means that the king alone will be able - in specific matters - to sign executive orders and decrees. The move is reminiscent of absolute monarchy, and a ten-member panel has been appointed to make the requested change [\[3\]](#).

Finally, Vajiralongkorn wants to recover royal crisis powers that the current constitutional draft had transferred away from the king to the constitutional court (article five). The junta-appointed officials who drafted the 2016 constitution to allow this transfer did so because they feared the erratic and improper use of nominal powers granted by the constitution by the new king [\[4\]](#). These include executive and legislative veto powers and the right to dissolve the legislative assembly.

It is also highly likely that they feared that the use of the crisis powers themselves would lead to further crises. Indeed, crisis powers as defined in article five are indefinite and uncircumscribed; they are founded on customary law, a reasonable interpretation of which is the only limit to the scope of powers granted to “solve a crisis”.

They were exercised rarely and with caution by King Bhumibol during his 70-year reign, allowing the monarch to build his own reputation through major political crises.

In 1973, 1976, and 1992, he put an end to confrontations between protesters and security forces and appointed prime ministers of his choice [5]. But nothing suggested – at the time of the drafting of the 2016 constitution – that the new king would act as carefully as his father had in the past.

For these reasons, the constitutional court was endowed with general powers to manage crises instead of the king. Now the king wants these powers back, most likely through the addition of privy councillors to the crisis committee, so that they can participate in the selection of a “neutral” non-elected prime minister in case the crisis procedure is triggered.

By directly requesting specific articles of the constitution to be removed or modified - or both - and going way beyond his constitutional role, King Rama X shows that the fears that had guided the drafting of the 2016 constitution were well founded.

## **Royal meddling in the constitution**

In Thailand, constitution-drafting has always been a negotiating process involving the king. But this process is hidden behind a facade of consensus, as Thai constitutions are said in their preambles to have been “benevolently granted by the King to the Thai people”.

In 1951 [6], one of the first actions of the young Bhumibol to reassert the role of the monarchy against a rising military was to refuse royal assent to the new constitution and send his “recommendations” to the prime minister on the drafting of a new document. In 1974 [7], he even demanded a revision of the constitution after its promulgation. Both requests were acceded to.

It’s natural that someone who has a legislative or constitutional veto is involved, albeit secretly, in the legislative or constitutional decision-making process. And when it remains secret – as it was under King Bhumipol – the king wears the clothes of “constitutional monarchy”. But Thailand has almost never been a functioning constitutional monarchy as most of its political history is that of military rule.

After the promulgation of the 1997 constitution [8], the country appeared to have finally become a perfect constitutional monarchy. All acts of the monarch were to be countersigned by the prime minister; legislative veto was never used (or so it seemed); the judiciary showed strong independence; and the army was seemingly under civilian control.

The Thai monarch was then seen as little more powerful than the British queen, mainly due to informal characteristics, such as his personal charisma. The only apparent difference with the British parliamentary monarchy was the existence of a powerful privy council whose access was denied to cabinet members and the prime minister.

But if Rama X’s demand that his royal acts be valid without a countersignature by the prime minister, a minister or the president of parliament is met, the Thai constitutional framework will have nothing left in common with constitutional monarchy or the Westminster model. The new king

will be able to reign and govern through his personal privy council.

As Vajiralongkorn transforms the nominal powers granted by the constitution into real powers to be exercised at his own discretion - something article five was precisely designed to avert - a restoration of a hybrid form of monarchical rule is now underway in the Land of Smiles.

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### **P.S.**

\* The Conversation. 3 février 2017, 08:46 CET:

<https://theconversation.com/seeking-more-power-thailands-new-king-is-moving-the-country-away-from-being-a-constitutional-monarchy-71637?utm>

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### **Footnotes**

[1] [http://www.constitutionnet.org/files/thailand-draft-constitution\\_englishtranslation\\_june\\_2016.pdf](http://www.constitutionnet.org/files/thailand-draft-constitution_englishtranslation_june_2016.pdf)

[2] <http://www.khaosodenglish.com/politics/2017/01/10/prayuth-change-constitution-kings-request/>

[3] <http://www.nationmultimedia.com/news/national/30303940>

[4] <https://kyotoreview.org/yav/constitutional-court-2016-thailand-post-bhumibol/>

[5] Idem.

[6] [https://books.google.co.th/books/about/Kings\\_Country\\_and\\_Constitutions.html?id=oz-n2xw4KzsC&redir\\_esc=y](https://books.google.co.th/books/about/Kings_Country_and_Constitutions.html?id=oz-n2xw4KzsC&redir_esc=y)

[7] Idem.

[8] <http://aceproject.org/ero-en/regions/asia/TH/AsiaFoundationThailand.pdf>