

ABSTRACT

Thesis Title : The Determination of Jurisdictional Conflict between the
Court of Justice and Administrative Court

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Judicial control by the court of administrative actions may be classified into two systems : the Unitary Court System where control is vested in the Court of Justice, and the Duality Court System where control is vested in the Administrative Court. The most serious problem of the Duality Court System is the conflict of jurisdiction between the Court of Justice and the Administrative Court. Many countries using the Duality Court System had to establish an organizing body to decide issues of conflict of jurisdiction.

Formerly judicial control in Thailand was arranged according to the Unitary Court System. The Court of Justice had jurisdiction over both general cases and administrative cases. Subsequently the Thai Constitution of 1991 [amended by the Thai Constitution (No.5), 1995] provided for the establishment of an Administrative Court in Thailand, independent of the Court of Justice, to decide administrative cases.

In the cases of conflict of jurisdiction between the Court of Justice and the Administrative Court, the Constitution specified that the Constitution Tribunal would resolve the jurisdiction issue. This system, however was not proper since the Constitution Tribunal did not retain experts in the cases of conflict of jurisdiction.

Subsequently, the provision was amended by the Thai Constitution of 1997 to provide that the Committee of Jurisdictional Conflict be composed of the President of the Supreme Court, the President of the Highest Administrative Court, the President of the other Court, and 4 qualified persons, who had the power for decide the conflict of jurisdiction. But the Constitution dose not specify what qualifications would be required of the 4 qualified persons. This situation may result in errors if the qualified persons are not experts in cases of conflict of jurisdiction.

Based on analytical study, this thesis recommends improvements to the Constitution such as amendments and the establishment of a special body to decide conflicts of jurisdiction which would include 11 Judges, composed of the President of Court, 5 Judges from the Supreme Court, and 5 Judges from Highest Administrative Court.