

## ABSTRACT

Thesis Title : The Procedures of Thai Constitutional  
Tribunals for the Prevention of  
Unconstitutional Laws

Student's Name : Mr. Suchai Jokkaew

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Adviser Committee :

1. Assoc. Prof. Dr. Somkit Lertpaithoon Chairperson
2. Assoc. Prof. Dr. Poonsak Waisamruad
3. Assoc. Prof. Dr. Boonsri Mewongukote

Constitutional law is the supreme law of the land in constitutional countries. That is, constitutional law has a higher status than any other law of that country, not being opposed by other laws. So states that have a written constitution must also have provisions to support the supremacy of constitutional law and protect it. One way of protecting the supremacy of constitutional law, is to have an organization to supervise and prevent other laws from violating constitutional law. Another very important way, is the provision of procedural law of the constitutional tribunal, relating to the supremacy of the constitutional decisions, which is the most important for

democratic countries. This is the best way to supervise and examine the exercise of power by the constitutional tribunal. Further more, there must be a legal procedure to rein in and supervise the powers of the constitutional tribunal in order to prevent the misuse of their powers.

Since the current constitution of Thailand does not have a special law covering the procedures of the constitutional tribunal, the provision for the procedures of the constitutional tribunal B.E. 2522 (1979) has been enforced. However, the procedures are not in accordance with the ones used in the courts, but in conformity with the ones used by the tribunal, and the exercise of power by the constitutional tribunal is through its judicial power. So we can see that the current legal procedure of the Thai constitutional tribunal does not go with the exercise of judicial power by the constitutional tribunal at all.

Because the procedure of the constitutional tribunal are by way of committee, the constitution and the provision must be modified or amended, in order to provide the legal procedures as used in the courts.

There are many problems of legal procedure in the current constitutional tribunal, for example, the rights of litigants to introduce the issue of the

unconstitutionality of laws directly to the constitutional tribunal is restricted, the litigants and participants have no rights of full defence, and the proceedings of constitutional tribunal are not conducted openly and verbally in the presence of the litigants. These problems must be modified or rectified in order to develop more standard legal procedures.

From the comparative analysis of the systems and procedures of constitutional tribunal in foreign countries, the methods and procedure of trial by the Thai constitutional tribunal should be modified to that of the form of a court of general jurisdiction, and there should be other modifications as follows : The injured persons or individuals or government officials should have rights to introduce issues of unconstitutionality directly to the constitutional tribunal, the litigants and participants should be fully eligible to defending themselves, the proceedings should be conducted openly and verbally in the presence of the litigants, there should be greater examination of evidence from witnesses by the constitutional tribunal, the decision making process of the constitutional tribunal should be modified in a practical way, the constitutional tribunal members opposed to the decision should be more open to discussion, and

the measures to be adopted to help those affected by the unconstitutional laws should also be added to their decision. These modifications and improvements should be made so as to uphold and protect the rights of the people according to the constitution, and just as importantly to obtain good decisions from the constitutional tribunal and prevent the missuse of their power.