

Abstract

This thesis studies the Internal Security Act, B.E. 2551 (2008) on how it affect rights and freedom of people by using foreign laws on security, the Legal State (Rechtsstaat) principle and the Constitution of the Kingdom of Thailand B.E. 2550 (2007) as tools of the study. The results are as follows.

1. There is a problem on bestowing power to the executive branch in the prescription of law on security without clear condition in Section 15 thereof. This conflicts with the legal certainty principle. Hence, it should provide a condition on prescribing the law. Moreover, such condition should be particularly mentioned so as to protect right and freedom of people.

2. Another problem is the conflict with principle of proportionality and may conflict with provisions in the Constitution. Granting power to the executive branch to solve the issue regarding internal security in a normal situation as same as granting power in an emergency situation according to Sections 16(4) and 18 (2), (3), (4), (5) and (6). Moreover, the provision excludes any regulation, notification, order, or action under the 2nd Chapter of the Internal Security Act, B.E. 2551 (2008) from being subject to the law on administrative procedures. Any court case arising from a regulation, notification, order or action under this provision shall fall within the power of the courts of justice. This thesis, thus, proposes repealing these provisions.

3. There is intervention in the administration of the civilian by the military due to the structure of the Internal Security Operations Command. It casts doubt on whether it is necessary to let the Commander of the Regional Army be the Regional Director of Internal Security because regional government system of Thailand does not have any regional governor. This structure may have a concealed purpose, that is, to use the said organization as to tool for any operation. Therefore, it is a legislation establishing organization more than necessity and it should cancel the Regional Internal Security Operations Command.

4. It should guarantee a legal procedure which is appropriate with the content of the case by imposing in the Constitution. In addition, the Martial Law Declaration Act B.E.2457 (1914) has enforced for almost 100 years; as a result, it should be reviewed and revised to be in line with the present social situation.