

## Abstract

This thesis intends to study on the effective problems of the Coup d' e'-tat Promulgation Number 337, Section 1 and The Nationality Act (2<sup>nd</sup> Version) B.E. 2535 in terms of restricting the right to acquire Thai nationality by Territorial Principle applied retrospectively to deprive of Thai nationality. In addition to, it concerns about the effect from restricting right to acquire nationality by Territorial Principle, according to the Promulgation, Section 2, and other loopholes in both laws. In order to explore the problems, it is a must to study the legal background. The laws above shall abide by the principle for protecting person's rights and liberties under a Constitution. This study tries to find out which versions of Thai constitutions shall be applied with, and which institute has authorities to review the constitutional legitimacy. That studying the related historical background of international law principles and the legal principles of the United States of America and Germany, leads to apply the related legal principles accurately and find out right solutions.

According to this study, it concludes as mentioned below,

1) Depriving of Thai Nationality and restricting the right to acquire Thai nationality by Territorial Principle under the Promulgation, Section 1,2 and The Nationality Act (2<sup>nd</sup> Version) B.E. 2535, is against the principle of protecting person's rights and liberties under constitutional ideal.

2) Some contents of section 7 bis, 3<sup>rd</sup> paragraph, amended according to the Nationality Act (2<sup>nd</sup> version) B.E.2535 and 4<sup>th</sup> version, B.E.2551 to limit the rights of a specific groups' descendants to acquire Thai Nationality by Territorial Principle, which is presumed that "a particular kind of persons born in the Kingdom of Thailand without Thai Nationality is an illegal immigrant", is not reasonable.

3) The Coup d' e'-tat Promulgation Number 337 shall be reviewed its constitutional legitimacy with the Thai Constitution (temporary version) B.E.2515, and the Nationality Act (2<sup>nd</sup> version) B.E.2535, Section 11, 1<sup>st</sup> paragraph, shall be reviewed its constitutional legitimacy with the Thai Constitution B.E.2535, as each constitution is the

first constitution enforceable during the laws issued. If it comes out that the laws are against the Thai Constitutional legitimacy, the laws can't be rechecked the constitutional legitimacy with other Thai constitution versions.

The Thai Constitution (temporary version) B.E.2515 does not specify which institute shall have authorities to consider whether a law is constitutional legitimacy. Therefore, The Court of Justice has the authorities to do so. Under the Thai Constitution B.E.2535, a group of the constitutional committee has authorities to consider whether a law is constitutional legitimacy. Since currently, the constitutional committee does not exist; the Court of Justice empowers to do so.

4) the legal background on nationality loss in Thailand and Germany during Adolf Hitler era is quite similar: namely, extending the causes of nationality loss broadly. Later it leads to take away nationality arbitrarily. After World War II, Germany issued the Basic Law respecting the right to acquire nationality. Under the Basic Law, Nazi victims stripped off German nationality entitle to reassume German nationality without any conditions, as if they have never been deprived of German nationality by Hitler's law. This provision abides by the worldwide legal international principle and the American legal principle. Unlike Germany, most of Thai lawyers accept that Thai nationality can be deprived arbitrarily, and Interior Minister empowers to consider whether to provide compensation. Currently, The Nationality Act (4<sup>th</sup> Version) B.E. 2551 provides that a group of people stripped off Thai Nationality by the Promulgation entitles to claim Thai Nationality under some particular conditions.

This study offers a number of suggestions as mentioned below,

- 1) the laws above which is against the constitution shall be repealed,
- 2) the principles for protecting person's rights shall be written in Thai Constitution,
- 3) some contents of Section 7 Bis 3<sup>rd</sup> paragraph should be amended accurately,
- 4) all of Thai Nationality laws should be bound into a single code for



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user's convenience, and to safeguard citizens' rights and liberties, the existing law should be amended that national shall lose by voluntarily performing acts with the intention of relinquishing Thai nationality.