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**Apipol Sae-Tung**

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# Legality, Legitimacy, and Authoritarian Survival: A Case Study of Thai Politics from the 2014 Military Coup

Apipol Sae-Tung\*

This article examines the use of the law and legal mechanisms to secure authoritarian power and argues that an authoritarian regime with legitimacy problems relies on these tools for its survival. The study explores Thai politics after the military coup of 2014 as a case study, using content analysis on the Thai constitution and related laws. The findings show that the use of the law is a response to the monarchy's legitimacy problem: the monarchy uses the military as its agency and the law as a tool. This article concludes that the military government has successfully controlled Thai politics by establishing the National Strategy under the auspices of the 2017 constitution, which was promulgated under the military government for the monarchy's survival. The 2017 constitution and the political developments under the mechanisms set up in the constitution also resulted in a new form of monarchy-military-political party partnership in Thai politics.

**Keywords:** legality and legitimacy, authoritarian survival, military coup, Thailand

## 1 Introduction

Why does an authoritarian regime use laws and legal mechanisms for its survival over other methods? The phenomenon can be explained by examining the regime's legitimacy. This study, building on previous literature analyzing the use of laws and legal mechanisms in authoritarian regimes, argues that an authoritarian regime with legitimacy problems relies on laws and legal mechanisms for its survival. Tom Ginsburg and Tamir Moustafa (2008) proposed the concept of "rule by law," explaining the phenomenon in which an authoritarian regime maintains its existence by using mechanisms of the law, through courts, to control political adversaries. Steven Levitsky and Lucan Way (2010) proposed "authoritarian constitutionalism" as the manipulation of formal legal institutions to bolster a regime's stability, a stability that authoritarian regimes

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\* อภิพล แซ่ตุง, Graduate School of International Development, Nagoya University, Furo-cho, Chikusa-ku Nagoya 464-8601, Japan  
e-mail: apipol125@gmail.com

 <https://orcid.org/0000-0003-2207-9963>

can often create by maintaining a façade of legality and constitutionalism.

This study shows that the legitimacy factor has led the Thai authoritarian regime to use laws and legal mechanisms as a tool for its survival from the time of the military coup in 2014. It demonstrates the importance of the legitimacy factor in determining how an authoritarian regime acquires and maintains its power, a less discussed factor in understanding authoritarian survival strategies. To better understand the dynamics of Thai politics post-2014, this article adopts a context-specific definition of an “authoritarian regime.” Here, the term refers to a political system in which power is concentrated in non-elected institutions, primarily the monarchy and the military. The legitimation of laws and their making processes is, in a general sense, intended to reduce the suspicions of manipulation and arbitrariness that can negatively affect a monarchy that is an authoritarian power trying to survive in a democratic setting. This study examines a hybrid structure where the monarchy’s legitimacy issues are managed through military-led governance and the systematic development of legal mechanisms. Legal frameworks such as the 2017 constitution and the National Strategy were central to this process, as they institutionalized mechanisms to secure the monarchy’s influence and ensure compliance from future governments. In addition to exploring the monarchy-military dynamic, this paper argues that the 2017 constitution and related legal mechanisms institutionalized a new form of monarchy-military-political party partnership in Thailand. This partnership reflects the regime’s strategy to manage legitimacy deficits by integrating political parties into its authoritarian framework. By examining this development alongside the core focus on legality and legitimacy, this study aims to provide a comprehensive analysis of the evolving mechanisms underpinning authoritarian survival in Thailand.

The article contributes to the literature on authoritarian constitutionalism by centering the role of legitimacy as a condition that shapes legal strategies. The analysis proceeds in six sections: the first outlines the study’s scope; the second develops the theoretical framework; sections three to five apply the framework to Thailand’s political development since the 2014 coup; and the final section presents the conclusions.

## **2 Framework on Legitimacy and Authoritarian Regime Survival**

This article aims to clarify why an authoritarian regime depends on the law and legal mechanisms for its survival and hypothesizes that the legitimacy factor determines this choice. The legitimacy problem played an important role in the constitutional change after the 2014 military coup in Thailand. This article builds on the framework

that power comes with legitimacy, as authoritarian regimes seek political legitimacy for their survival since they cannot rely solely on repression to stay in power (Göbel 2010; Ginsburg and Simpser 2014). The Thai monarchy portrays its legitimacy through traditional, symbolic, and moral authority, often reinforced by royal ceremonies, developmental initiatives, and claims of divine or historical rights. However, these sources of legitimacy are not static and can become vulnerable when the monarchy tries to situate its power in a democratic regime, where the principles and processes of democracy pose challenges to authoritarian power as well as allow more actors to enter the political arena.

The authoritarian regime needs to secure and justify its right to rule for its survival and compensate for the lack of legitimacy in accessing power. Scholars generally agree with the definition of legitimacy as the right to govern and present the idea of power relations between the governor and the governed in a particular society. Legitimacy may include justifying factors such as the consent or the recognition of the governor's right to govern (Coicaud 2002, 10), the moral authority to balance off the *de facto* power (Beetham 2003, 57), or the legality factor to justify a regime's power (Coicaud 2002; Beetham 2003; Schmitt 2004). Legitimacy in authoritarian regimes has been treated as the opposite of legitimacy in their democratic counterparts. David Beetham (2003) proposed that the legitimacy of a political regime consists of three factors: the source of authority, the capacity of the government, and a mechanism for regular consent expression. An authoritarian government, such as a military coup government, can manage only the capacity factor as it is not the representative of the people, nor does it offer a channel for consent expression. An authoritarian regime faces a fundamental weakness in securing its legitimacy in accessing power and offering channels for consent expression and usually emphasizes enhancing government performance to compensate for the lack of legitimate access to power (Beetham 2003, 231–235).

An authoritarian regime with low political legitimacy needs to secure its political power in a way that has the least negative effect on the regime's already diminished legitimacy. Low legitimacy, or a legitimacy gap, could result from illegitimate access to political power, poor economic performance, or low public support due to sociopolitical factors. While authoritarian regimes can rely on various means to secure their power, such as the use of force or political repression, regimes with low legitimacy rely on legal measures to fill the legitimacy gap, which is a weakness of the regime. Authoritarian regimes seek to fulfill political power and legitimacy according to their performance and the political situations that affect their survival (Turner 1990).

This article focuses on the role of laws and how they are created rather than focusing on agencies that enforce the law, such as the courts, as the courts are

expected merely to act or make decisions according to the law. Previous literature shows how the law and legal mechanisms have been used as tools to secure authoritarian power. In addition to rule by law and authoritarian constitutionalism, notable frameworks include the judicialization of politics and judicial review. Scholars define the judicialization of politics as an increase in the judiciary's role in addressing political issues (Ferejohn 2002, 41–42; Hirschl 2011, 253–254; Dressel 2012, 6) or the transfer of decision-making rights from the executive and legislative branches of government to the judiciary (Vallinder 1994, 91). The concept of abusive judicial review by David Landau and Rosalind Dixon (2019, 1313) argues that courts play an important role in strengthening authoritarian rule, in contrast to their general character of preserving democratic order. This concept focuses on the role of the courts in intervening in politics under an illiberal regime where “judges intentionally take aim at the democratic minimum core” (Landau and Dixon 2019, 1326). The two concepts—judicialization of politics and judicial review—discuss a critical actor from a legal perspective: the court adjudicates political issues in accordance with the law. However, the court's decisions are derived from existing laws or laws created by the legislature in a particular regime. Hence, understanding the foundation of the law that the judges use will better help in understanding the significance of the law's role in securing authoritarian power.

An authoritarian regime needs a way to secure and justify its power. It uses the constitution as the main tool for initiating legal control to secure its power and as a reference point for its actions. While authoritarian regimes may rely on the use of force or political repression to secure their power, regimes with legitimacy problems generally rely on legal measures. Although there is no guarantee that an authoritarian government will strictly adhere to the constitution—those in power may at any time break their promises to those who do not have the power (Acemoglu and Robinson 2006, 133)—if such a government has a written constitution it can help us understand how it operates.

In this case study, the Thai monarchy relies on laws and legal mechanisms to legitimately secure its political power. There is a mutually beneficial relationship between the monarchy and the military: the former can manipulate power and resources more easily when a military coup government is in power, while the latter establishes a process to create laws and legal mechanisms that help secure the monarchy. The fact that the monarchy and military care very much about legitimizing their power through laws shows that they are concerned about the legitimacy issue. It has become normal for King Rama X to use the law, through royal proclamations, as a tool to control political elements in what Pavin Chachavalpongpun (2022) has argued to be fear-based

royal governance. Royal proclamations that promote or punish people are not made arbitrarily but reference the royal power stated within the relevant laws. The following sections demonstrate how the legitimacy factor affects the politics of authoritarian power and the outcomes of laws and legal mechanisms to secure political power.

### 3 The 2014 Military Coup

This article views the goal of the 2014 military coup as the military's attempt to secure political power for the monarchy. To Thai scholars, the military-monarchy partnership is nothing new: the two actors accommodate each other in maintaining their political existence through a cycle of military coups. However, the 2014 coup was different from previous military coups in that it tried to set up a mechanism to establish a long-term military presence in civilian matters vis-à-vis politics through systematic legal mechanisms. This was reflected in the creation of two laws: the 2017 constitution and Thailand's National Strategy, where the latter is mandated in the former and the former can hardly be amended while National Council for Peace and Order (NCPO)-appointed senators are in power. Attempts to amend the constitution to remove the National Strategy have failed, while other attempts that may favor NCPO-related political parties have gained support from the senators.

It may be argued that Thailand's two most recent military coups—in 2006 and 2014—were different from previous coups in that the monarchy was the main reason for these coups, compared to traditional military coups that were for the military's benefit or caused by power struggles between military factions (Ukrist 2008, 125–126). The 2006 and 2014 military coups were efforts to eliminate Thaksin Shinawatra's domination in Thai politics (Thitinan 2015, 46–48; Baker 2016, 388; Kitti 2016, 171; Thongchai 2016, 27). Ukrist Pathmanand (2008, 130) argued that the 2006 coup was caused by the royalist military, who perceived Thaksin as a threat to the monarchy that needed to be eliminated from politics. Thaksin was popular among the poor for his progressive development policies, which improved people's quality of life faster than did the preferred gradual development path of King Rama IX (King Bhumibol Adulyadej) (Grossman and Faulder 2012, 141). Thaksin's overstepping into the base of the masses, who were the source of legitimacy for keeping the monarchy relevant in modern politics, may have instilled fear into the conservatives and the monarchy. His political domination directly threatened the monarchy's survival (Hewison and Kitirianglarp 2011, 196).

The duration and intensity of the military's political control reflect its commit-

ment to securing the monarchy's power. After the 2006 coup the military stayed in power until 2008, with a military-appointed government that completed the process of drafting and promulgating the new constitution by 2007. However, the coup was unsuccessful in eliminating Thaksin's influence in politics, as the new constitution could not prevent his successive political parties from winning general elections (Thongchai 2016, 27). The series of general election successes by the Thaksin camp was due largely to Thaksin's populist policies, which gained significant support from the grassroots (Pasuk and Baker 2008, 65–67). The military learned from its past failures, and after the 2014 coup it stayed in power longer—it remained until 2019, when the general elections took place.

One significant role of the 2014 military coup was to prepare for the upcoming reign transition (Thitinan 2015, 48; Thongchai 2016, 30). Since King Rama IX was the core of the Thai political order (Kasian 2017), his presence or absence from politics would affect political stability, which in turn would affect the survival of the monarchy during a changing time. The monarchy as an institution relied heavily on King Rama IX's royal authority, which had been central to its legitimacy. After the passing of King Rama IX in October 2016, the military regime stated that the country's return to democracy could begin only after the royal cremation ceremony followed by the coronation of King Rama X (*Post Today* 2017). The reign transition was an important and politically challenging event as the monarchy, whose survival relied on the people's faith, was transitioning from a popular and most revered leader to a less popular one.

As this article views the goal of the 2014 military coup as an attempt to secure political power for the monarchy, the next section offers an empirical analysis of the monarchy's legitimacy. The legitimacy gap affecting the monarchy's survival prompted the military to establish political control in order to secure the monarchy's power.

#### **4 The Legitimacy Gap: The Monarchy and Thailand's Political Order**

Thailand's political order and the monarchy's survival during the reign of King Rama IX relied on the monarchy's political legitimacy and moral authority, which came from the hegemony established through political interventions and the monarchy's role in developmental activities. However, the transition to a new reign with lower legitimacy could lead to political challenges and threaten the monarchy's survival. Thus, the current monarchy was led to seek a new source of legitimacy or justification for its political power using a series of laws. These laws serve to avoid any change in political structure and accommodate the monarchy's political survival by increasing its

political power.

During the reign of King Rama IX, the monarchy's legitimacy rested on a combination of moral authority, symbolic leadership, and active involvement in national development. The king's public persona, crafted through carefully mediated interventions in political crises and extensive rural development initiatives, positioned him as the moral center of the Thai political order. This "Bhumibol Consensus" (Kasian 2017) relied on a delicate balance between democratic institutions and royal supremacy, with the king acting as the final arbiter during moments of national crisis. The monarchy's extensive development programs also contributed to the king's increase in political legitimacy and his position in Thai politics (Chanida 2007). Royal initiatives were portrayed as complementary to US-backed state-building efforts in rural areas, positioning the monarch as a modernizing force and protector against Communism (Randolph 1979, 244–247) as well as an indispensable national resource for improving the people's quality of life (Grossman and Faulder 2012, 148–152). Royal projects, along with the symbolic and spiritual narratives surrounding King Rama IX, created a strong foundation for public loyalty and political legitimacy.

This legitimacy, however, did not automatically transfer to King Rama IX's successor. The current reign began with significantly lower public approval. King Rama X, during his time as crown prince, was embroiled in repeated scandals that damaged his credibility. At some point, the frequent crises once worthy of public attention became regular news (Hewison 2020, 118). Propaganda schemes that were used to bolster the image of the monarchy do not work with King Rama X, as he is not loved and lacks the legitimacy to justify his power (Pavin 2020, 165). Therefore, to fast-track its legitimacy, the current reign strategically bases its public image on the legacy of the previous king. This strategy is evident in several key actions: the new king's first royal address mirrored his father's, popular agricultural development programs were continued, and other royal speeches frequently referenced King Rama IX's accomplishments. The effort to maintain continuity is a reflection of the current reign's struggle to build adequate legitimacy through its own tangible accomplishments. A lack of legitimacy is dangerous to the monarchy's survival, as it risks the ceding of power and popular support to rival political groups. This situation mirrors the dynamic that led to the 2006 military coup, when popular politicians were ousted for becoming too influential.

Hence, it was sensible to suggest that the new reign needed a new source of power to survive and to firmly reestablish the monarchy at the core of Thai politics in order to protect the status quo and political order. The 2017 constitution and the National Strategy initiated by the 2014 military coup served this purpose.

## 5 Patching the Legitimacy Gap: The Law as a Tool and Its Outcome

It has been argued above that an authoritarian regime with legitimacy problems tends to rely on the law and legal mechanisms to secure its power rather than using other means such as violence or repression, which would further weaken the regime. This case study shows that the Thai monarchy has relied on laws and legal measures to secure its power and maintain political legitimacy rather than depending on direct military power. It is not very likely that Thailand will again experience the political conditions that justified the 2006 and 2014 military coups, as public approval of the military has declined significantly since the 2014 coup (Table 1). This declining approval means that the military can no longer be an effective agent to intervene in politics and secure authoritarian power in the near future.

The following descriptive analysis demonstrates how the creation of Thailand's 2017 constitution and National Strategy reflects the military's attempt to secure political power and political legitimacy for itself and the monarchy.

### 5.1 *The 2017 Constitution*

While the NCPO could arbitrarily promulgate a new constitution and various laws, as had been done after some previous military coups in Thailand, it did not do so. Rather, it created mechanisms for formulating the 2017 constitution, which appeared as separate entities from the NCPO. However, the mechanisms set up to draft the constitution and national reform plans did not serve any practical purpose: they just established legitimacy for the laws—that is, the laws were not created by the NCPO but by these other entities. By carefully including civilians in military-controlled mechanisms, the

**Table 1** Declining Public Approval of the Military from the 2014 Military Coup to the End of the Military's Term

Variables	Percentage		Changes from 2014 to 2019
	August–October 2014	December 2018–February 2019	
How satisfied are you with the current president/government?			
Satisfied	80.6%	56%	–24.6%
Dissatisfied	8.8%	33.2%	24.4%
The army (military) should come in to govern the country			
Agree	47.9%	10.5%	–37.4%
Disagree	40.4%	69.5%	29.1%

Source: Asian Barometer (2013–16, 2018–21)

military could safely claim that the laws were not created solely for itself, while in fact it was completely in control. This shows that the NCPO is aware that laws created by a military coup could be perceived as illegitimate, which may lead to the military's future actions being considered illegitimate. Without established mechanisms, any actions in accordance with the laws arbitrarily promulgated by the NCPO can be open to political challenges, which would further weaken the power the NCPO is trying to capture.

After establishing its power through the interim constitution, the military strengthened its political control by drafting a new constitution, with total control throughout the process. The military government initiated the national reform scheme, with five actors: the NCPO, the National Legislative Assembly, the government, the National Reform Council, and the Constitution Drafting Committee (Kitti 2015, 203–204). These actors were under the direct control of the military government and helped execute the constitution and laws accommodating the military's influence in post-coup politics. The NCPO and the government, both chaired by Prayuth Chan-o-cha, appointed the National Reform Council members to prepare the national reform plans, which were later developed as the National Strategy. The National Reform Council members then selected the Constitutional Drafting Committee members to prepare a new constitution (Thailand, Office of the Council of State 2017a, 5). The new constitution passed through a tightly controlled referendum as required by Section 5 of the 2014 Interim Constitution (First Amendment 2015) (Thailand, Office of the Council of State 2015, 2), legitimizing it as the constitution accepted by the people. The new constitution was promulgated as Thailand's latest constitution in April 2017.

The 2017 constitution is important to the military regime as it serves to secure the regime's political power, which can potentially allow it to secure the monarchy's political power. A constitutional provision facilitates the military's return to power by allowing 250 appointed senators to vote for the prime minister, which means that military-backed parties need to win only 125 of the 500 elected seats to secure a governing majority (Thailand, Office of the Council of State 2017a, 112). The constitution also opened a channel for the parliament to vote for an "appropriate person" to become the prime minister without being a member of the House of Representatives (Thailand, Office of the Council of State 2017a, 112). This constitution was the source of political power for the military regime, and it was designed to be almost impossible to amend while the military or NCPO-appointed senators remained in politics. A motion to amend the constitution requires approval from the majority of parliament, with one-third approval from the senators, as stated in Section 256 Clause 3 (Thailand, Office of the Council of State 2017a, 97).



Fig. 1 The Flow of Legal Mechanisms under the NCPO’s Control and Related Laws as the Output  
Source: Apipol Sae-Tung

The 2017 constitution served the military coup’s goal of securing and enhancing the monarchy’s political power and legitimacy by uplifting and enhancing the monarchy’s status, as will be shown in the next section. It also gave the monarch the authority to manage a wide range of affairs, such as the appointment or removal of persons from the military, Royal Office, and privy council (Thailand, Office of the Council of State 2017a, 5–6). The power given to the current monarch has been exercised on many occasions according to the legal structures shown in Fig. 1.

Section 172 of the constitution brought units of the armed forces directly under the king’s control and gave the monarch full authority to summon military units to serve under him, along with complete control over security personnel (Thailand, Royal Gazette 2019a). Under the Royal Office Management Act, based on the power stated in Section 15 of the constitution, monarchy-related government agencies were restructured to become the Royal Office under the king’s direct control, giving the monarch full control over its human resources (Thailand, Royal Gazette 2017). The Crown Property Act merged public assets and made them the monarch’s property, giving the monarch full ownership of various assets and the freedom to manage them.

The monarch’s power was also imprinted in the 2017 constitution. After the constitution passed the referendum, the king, through the Royal Office, requested that some contents relating to the king’s power be amended (Reuters 2017). The military government had to amend the 2014 interim constitution to accommodate the king’s request that if he did not approve the constitution after the referendum, the government had to amend it and resubmit a new draft for his approval (Thailand, Office of the Council of State 2017a, 3). The increased royal power may be interpreted as a political message that the king’s power does not need public approval and that it is

legal since it was made possible under the auspices of the 2014 interim constitution.

### 5.2 *Thailand's National Strategy*

One of the laws enabling the military regime to achieve its goal of securing the monarchy's survival is the National Strategy. Thailand's National Strategy is the first national development law, and its existence was mandated in Section 65 of the 2017 constitution (Thailand, Office of the Council of State 2017a, 21). It was first drafted by the NCPO-appointed National Reform Council, whose duties were to examine the draft of the new constitution and create the national reform plans. The National Reform Council was dissolved after its main function of approving the constitution draft was completed in 2015, but the national reform plans were carried forward by a new military-appointed committee called the National Reform Steering Assembly. The reform plans later became Thailand's National Strategy, promulgated under the 2017 constitution and claimed by the regime to have been approved by the public. Given the heavy emphasis on national reform, it can be argued that the military planned all along to use the National Strategy to gain long-term political control.

The National Strategy was formulated under many laws, which helped secure its legal status, but mainly the following three: the 2017 constitution, the National Strategies Preparation Act 2017 ("Preparation Act"), and the National Strategy itself. The National Strategy gets its legal status from the Preparation Act, which was promulgated as part of the mandate to create the National Strategy in the 2017 constitution; Section 5 of the constitution states that the National Strategy must be promulgated as a royal command (Thailand, Office of the Council of State 2017b, 2). This requirement seems to have been based on symbolic political rather than practical reasons, as it had the same hierarchical position as an act (Sarawut 2006, 12). The Preparation Act also stated in Section 25 that any government agency that failed to comply with the National Strategy would be considered as intentionally committing an offense and may be subject to suspension or temporary or permanent discharge from public office (Thailand, Office of the Council of State 2017b, 11). The compliance of government agencies is examined by the National Strategy Committee, whose members consist of the prime minister, the speakers of the House of Representatives and the Senate, representatives from economy-related sectors, and the commanders-in-chief of the armed forces and the police (Thailand, Office of the Council of State 2017a, 5). Security personnel make up seven of the 17 committees. The large number of security personnel along with the National Strategy's legal status and punitive powers help the military to maintain its existence and control in post-coup politics, giving it a channel to legally influence politics despite not winning the 2019 general election.

The National Strategy is the first legal framework to systematically force the government administration to safeguard and uplift the monarchy; this may give the monarchy a sense of security as all future governments must adhere to the framework regardless of political ideology. Although it had been stated in many Thai constitutions that Thais must preserve the divine trinity of Nation, Religion, King, there was never a law that laid out strategic plans to preserve and uphold the monarchy, with punishment for noncompliance. Such a law first appeared in the National Strategy. The *lèse-majesté* law helps to protect the monarchy from insults and public criticism and thus partly protects the monarch's reputation. However, it does not equate to the setting up of a new process under the National Strategy and forcing government agencies and their policies to secure the monarchy. Pavin's (2020) observation of fear-based royal governance through the announcement in the Royal Gazette and Kevin Hewison's (2020, 133) observation of King Rama X's tendency toward a legalistic approach to repression confirm that the current monarch prefers official actions through what seems to be a legal and legitimate process.

There are several laws and legal statements that maintain the monarch's place in politics, though they are implemented passively in contrast to the more active National Strategy. One notable example of active implementation is the *lèse-majesté* law in Thailand's penal code Section 112. It states that whoever defames, insults, or threatens the king, the queen, the heir-apparent, or the regent shall be punished with imprisonment of three to 15 years (Thailand, Office of the Council of State 2022, 35). In order for *lèse-majesté* to be enforced, an act must occur before the law can be triggered; this is in contrast to the active protection mandated in the National Strategy. The frequent use of the "112" backfired as the monarchy fell under heavy criticism, and King Rama IX at one point warned the government to be careful when using the law as it was troublesome for the monarch to come under criticism both at home and abroad (Golden Jubilee Network 2005).

The National Strategy's importance in safeguarding and uplifting the monarchy may be seen in normative and descriptive terms. In normative terms, the National Strategy is imprinted with the monarchical ideology of the Sufficiency Economy Philosophy (SEP), one of the widely praised development initiatives introduced by King Rama IX; Section 7 of the Preparation Act required that it be designed under this initiative. Future government policies and activities will also be subject to this ideology, as deviating from it might be considered noncompliance with the National Strategy. In descriptive terms, the strategy campaigns to enhance Thais' loyalty to key national institutions and patriotism through various activities, such as promoting King Rama IX's SEP and royal initiatives. King Rama IX's teaching of "understand,

reach out, and develop” was applied as a strategy for resolving the long-standing conflict in Thailand’s deep south. It also aimed to extend the monarchical ideology beyond the nation by introducing SEP and royal initiatives in ASEAN member countries to promote regional security (NSSO 2018, 12–16). The monarchical ideology was enforced by law to be used as the framework for constructing the National Strategy as well as future laws and policies that would serve to safeguard and strengthen the monarchy in ideological and practical terms.

### 5.3 *The Outcome: The 2017 Constitution, the National Strategy, and the Monarchy-Military-Political Party Partnership*

From its inception, the 2017 constitution was designed to entrench the military’s dominance during the transition of power. This was evident in the outcome of the 2019 general election, which marked Thailand’s return to an “elected” government. However, the election process itself was heavily influenced by the military, with NCPO-appointed senators playing decisive roles in securing Prayuth’s continuation as prime minister. Moreover, the constitution guarantees that security personnel serve in the National Strategy Committee, ensuring that the government’s activities and programs after the military government exits from power conform to the law. These conditions highlight the regime’s reliance on legal mechanisms to institutionalize its political power while projecting an image of legitimacy to domestic and international audiences. Legal mechanisms have been instrumental in creating a façade of constitutional governance, enabling the regime to suppress opposition while maintaining its grip on power.

These laws have been employed against civilian political protesters, particularly students in youth movements. The 2020 youth protests commenced in July in response to the dissolution of the Future Forward Party (FFP) by the constitutional court. The protesters presented three demands: the establishment of a new democratic government, the creation of a new democratic constitution, and the cessation of excessive judicial prosecution and extrajudicial intimidation. In August 2020 an additional demand was introduced: a ten-point proposal for monarchical reform (Haberkorn 2021, 1). The United Front of Thammasat and Demonstration proposed a ten-point plan aimed directly at reducing the king’s power. The plan included abolishing the lèse-majesté law, abolishing the Crown Property Act B.E. 2561, delineating the assets belonging to the monarchy and those belonging to the monarch, putting the Royal Office under regular government agencies, eliminating monarchy-related agencies deemed unnecessary (such as the Office of the Privy Council), and prohibiting the king from endorsing future military coups, among other proposals. The government cracked down and

apprehended protesters through available legal mechanisms but failed to compel protesters to reduce their demands (Pavin 2020, 170). However, the group subsequently ceased their activities following a constitutional court ruling that their demands for monarchical reform were considered an act to overthrow democracy with the king as the head of state (Haberkorn 2021, 5).

On July 18, 2021, the Free Youth movement and 15 other student protest groups marched to the Government House to submit a petition to the prime minister. They were met with police barricades consisting of large freight containers and barbed wire as well as kinetic impact projectiles, water cannon, and tear gas. The police announced their intention to arrest all individuals involved in the protest, in addition to at least 99 people they had apprehended since the beginning of July (BBC 2021). In August, another group named Thalugas (Breaking through [Tear] Gas) began holding daily demonstrations that persisted for over two months. Although there were no significant open crackdowns comparable to the July protest, approximately four hundred individuals were arrested on various charges, of whom 192 were under the age of 18 (Kanokrat 2021). By the end of October 2021 there were a total of nine hundred known political arrest cases; 1,636 individuals had been arrested, of whom 258 were under the age of 18 (TLHR 2021).

In political terms, the legal mechanisms established under the 2017 constitution facilitated the emergence of a new form of political partnership between the monarchy, the military, and political parties. This partnership was not a departure from the monarchy-military dynamic but rather an extension, strategically incorporating political parties to enhance regime stability. A popularly elected government is still a threat to the monarchy, with loyalty to the monarchy as an additional factor. By leveraging constitutional provisions, such as the appointment of NCPO-aligned senators and the requirement of National Strategy compliance, the regime institutionalized loyalty to the monarchy across political factions. In the 2023 general election the Move Forward Party (MFP), despite its electoral popularity, was unable to secure sufficient parliamentary votes from the elected members of parliament and senators due to its stance on amending the *lèse-majesté* law. The elected members of parliament and senators would have offered their votes if the MFP dropped the motion (*Bangkok Post* 2023). Later, in 2024, the Election Commission filed a case with the constitutional court for the dissolution of the MFP on the grounds that the party advocated for *lèse-majesté* reform. The constitutional court ruled that the MFP's intention to amend the *lèse-majesté* law would weaken the monarchy and fundamentally undermine the democratic system with the king as head of state, and that the MFP had utilized the monarchy for political purposes. The court unanimously ruled to dissolve the MFP and barred its

executives from political participation for ten years (Constitutional Court of Thailand 2024).

This paved the way for the Pheu Thai Party, which vowed to pledge allegiance to the monarchy, to partner with the military-backed political parties from 2019 to 2023 and secure the vote from senators who had been appointed by the military coup to eventually gain the necessary votes from parliament to form a government. Pheu Thai's electoral campaign to "Switch 3Ps Off" (Prayuth Chan-o-cha, Prawit Wongsuwan, and Anupong "Pok" Paochinda) vanished. It was the Prayuth administration, the Pheu Thai Party's enemy, that facilitated: a) Thaksin's return to Thailand in 2023 after years of exile; and b) the king's pardon for Thaksin's perceived loyalty to the monarchy, among other propositions (Thailand, Royal Gazette 2023). Thaksin's return may be viewed as an attempt to prevent the MFP from gaining political momentum. Despite being led by the popular Thaksin, the Pheu Thai Party provides the monarchy with a sense of political security that the MFP did not. Thaksin's return does not mean political stability for Pheu Thai either. The king's pardon in 2023 was for Thaksin's political misconduct, but his *lèse-majesté* cases are still pending. Thaksin will remain a practical tool for the monarchy as long as he and Pheu Thai do not return to the position they were in in 2006. What proved that the MFP is an important factor that constitutes this new political partnership is that this was once proposed and rejected. In the 2019 general election the Thai Raksa Chart Party—one of Thaksin's political parties—nominated Ubolrat, the king's elder sister, as its prime ministerial candidate, and she accepted. The same night the king issued a statement barring Ubolrat from running for public office, stating that while she held no royal title, she was still considered a royal family member and that the monarchy should be above politics (Thailand, Royal Gazette 2019b). This shows that the monarchy and military had faith in the effectiveness of the legal mechanism they had set up to suppress political opposition in 2019. However, as seen in the rebirth of FFP as MFP, the military and monarchy needed extra tools to support their power; however, everything was done under the aegis of the constitution in order to maintain a veneer of democracy.

## 6 Conclusion

This study examines the importance of legitimacy in explaining the survival of authoritarian regimes. It argues that an authoritarian regime with a legitimacy problem relies on the use of the law and legal mechanisms to establish and secure its power and gain favor. Without adequate political legitimacy, an authoritarian regime

cannot rely solely on force but needs to depend on legality to survive.

Within a broad context, this case study shows the significance of legitimacy, an under-discussed issue in understanding authoritarian survival strategies, in the establishment of authoritarian power using laws and legal mechanisms as a tool. In the Thai context, it offers a more theoretical approach to explaining military coups beyond the traditional view of a power struggle among military factions (Ukrist 2008, 125–126), military interests (Prajak and Veerayooth 2018, 281), or the military's political control and intervention (Montesano 2009, 21; McCargo 2015, 337; Kasian 2017, 232; Pavin 2020, 163). This article analyzes the legitimacy factor in Thai politics to explain how and why the post-2014 military government established control by drafting a new constitution as well as the subsequent laws that would legitimately sustain its authoritarian power.

The findings show that these laws function not only as instruments of military power but also as legal frameworks that secure the monarchy's place in politics. They serve to formalize protections, enforce ideological compliance, and insulate the monarchy from popular challenges; the laws serve as a defensive strategy to maintain political centrality and deter opposition. The mechanisms in the 2017 constitution shifted the core of the Thai political landscape from the cult of personality under the Bhumibol Consensus to a military-monarchy partnership, with Thaksin as the tool for eliminating potential challenges to the monarchy. The monarchy remained an important factor in forming a democratically elected government under the 2017 constitution. This shows the effectiveness of the 2017 constitution in controlling politics and ensuring that future governments conform to the National Strategy's goals for securing the monarchy.

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