

[ADRN Issue Briefing]

## The Move Forward Party's Dissolution and Srettha Thavisin's Dismissal: Judicial Politics Unbridled

Napon Jatusripitak (ISEAS-Yusof Ishak Institute)

### Introduction

On August 7, 2024, the Constitutional Court of Thailand unanimously ruled to dissolve the Move Forward Party (MFP) and impose a ten-year prohibition on its executives, including its former leader and prime ministerial candidate, Pita Limjaroenrat. Just one week later, the same court dismissed Prime Minister Srettha Thavisin from office over a serious ethical violation. This article examines the context of these rulings and outlines their broader implications for Thailand. These decisions have contributed to democratic backsliding, not simply by directly undermining elected representatives across the legislative and executive branches, but also by establishing far-reaching legal precedents that further entrench the judiciary's influence over Thailand's political landscape. While the grand compromise between Thaksin Shinawatra and key figures in the royal-military conservative establishment appears to remain sufficiently intact to facilitate a smooth transition from Srettha to Paetongtarn Shinawatra as prime minister, the prevailing climate of judicial overreach will likely have the effect of constraining both the current and future governments, specifically in their capacity to carry out meaningful structural reforms.

### Move Forward's Dissolution and Judicial Overreach

The dissolution of the MFP is best understood as an aftershock of the Constitutional Court's ruling on January 31 (*BBC News Thai* 2024-01-31). In that decision, the Court found that the MFP and Pita Limjaroenrat had violated Section 49 of the 2017 Constitution, which prohibits any attempt to overthrow the democratic regime with the King as Head of State. This was due to their efforts to amend the *lèse majesté* law, Section 112 of the Thai Criminal Code. This law imposes a sentence of three to fifteen years of imprisonment per count for the crime of defamation, insult, or threats against the king, queen, heir-apparent, or regent.

In its verdict, the Court outlined a series of transgressions committed by the MFP and Pita, commencing with the bill proposed by 44 of its members of parliament to amend Section 112 in 2021. The Court found that the proposal to reclassify *lèse majesté* offenses—reclassifying them from national security threats to a new category focused solely on offenses related to the monarchy's revered status—was indicative of an intention to separate the monarchy from Thai nationhood, thereby posing a threat to national security. Additionally, the Court ruled that the establishment of

exceptions for honest criticism would inevitably result in the monarchy becoming embroiled in legal proceedings. Additionally, the Court concluded that allowing the Royal Household Bureau to act as the complainant in Section 112 cases would place the monarchy in direct conflict with the public, thereby violating the principle that it should remain above politics.

The Court also ruled that the MFP and Pita's involvement in advocating for the proposed amendment during the election campaign, as well as their role as bail guarantors for those charged under Section 112, demonstrated an intention to undermine the monarchy. The Court ordered the MFP and Pita to cease all actions that advocate for the repeal of Section 112 and prohibited any further attempts to amend Section 112 through means that contravene the established legislative process. On August 7, citing this ruling, the Constitutional Court ordered the dissolution of the MFP and banned its executives for ten years under Section 92 of the Organic Act on Political Parties B.E. 2560 (2017).

The dissolution of the MFP seemed almost inevitable, given that numerous political parties in Thailand have been dissolved for far less offenses. For instance, the MFP's predecessor, the Future Forward Party (FFP), was disbanded in 2020 due to its acceptance of an illegal loan from its founder, Thanathorn Juangroongruangkit. Both Thai Rak Thai and Palang Prachachon, predecessors of Thaksin Shinawatra's Pheu Thai Party, were dissolved for electoral fraud in 2006 and 2008, respectively. In most cases, however, the underlying issue was political. These parties opposed the royalist-military establishment, and the legal justifications provided were merely a pretext for their elimination. These moves often backfired, however, as angered supporters mobilized in even greater numbers to support the successors of these parties in subsequent elections.

As a result of the repeated dissolution of parties opposing the establishment, both the successor parties and their supporters have become well-prepared to move forward without resorting to street protests, as they did after the dissolution of the FFP. The MFP's successor, the People Party, was swiftly organized following its dissolution. In the days following its launch, the party witnessed a rapid influx of new members and amassed over 20 million baht (approximately 600 thousand USD) in donations (*Bangkok Post* 2024-08-10).

Nevertheless, despite the seamless transition and the pervasive anticipation that the People Party will bounce back even stronger, it is important to acknowledge that the MFP's dissolution is distinct in its nature from past cases.

The issue is not merely that the court has effectively nullified an opposition party and disenfranchised over 14 million voters who propelled the MFP to victory in the 2023 general elections—after the junta-appointed Senate had already blocked the party from power during the selection of the prime minister in August 2023. Furthermore, the issue does not pertain to the perceived lack of independence of the Constitutional Court, which has been taken for granted given that it is composed of judges endorsed by bodies with members appointed directly or indirectly by the junta. The real concern now is the establishment of new judicial norms and precedents that could further entrench the judiciary's role in checking the power of elected governments and constraining the scope of possible reforms in the future.

In contrast to its predecessors, the MFP was not merely dissolved; it was made an example for attempting to amend the *lèse majesté* law through means that the Court deemed to be outside the bounds of legislative due process. The implications of this are twofold. Firstly, it directly affects the separation of powers, as the court has now positioned itself as the ultimate arbiter of what constitutes

legitimate legislative due process. Consequently, it has established criteria for amending laws that are not open to public debate but are instead subject to the discretion of court judges.

Secondly, this narrowing of legislative space is accompanied by strict, and possibly selective, enforcement that will serve as a deterrent. It is possible that future parties and lawmakers may avoid proposing amendments or bills that could be construed as undermining the monarchy, for fear of facing legal repercussions similar to those faced by the MFP. One potential consequence is that parliament and political parties may become unable to address issues concerning the monarchy's role and status or to advance reform agendas, particularly in sensitive areas such as royal assets, budgets, and military control. This is occurring at a time when societal divisions over these matters appear to be intensifying. It is even conceivable that parties may hesitate before offering assistance to protesters facing *lèse majesté* charges, fearful that they themselves may be subjected to the same treatment the MFP was. Therefore, beyond the visible backsliding of democracy through the dismantling of a party organization lies an even more alarming reality: the systemic use of judicial mechanisms to overrule the legislative branch, impose red lines that parties dare not cross, and suppress freedom of expression and assembly.

### **Srettha's Dismissal and the Resurgence of Moral Politics**

Just a week after the Court curtailed the legislative branch by removing the leader of the Opposition, it also dismissed the head of the executive branch. In a ruling on a petition filed by a group of junta-appointed senators, the Court decided by a vote of 5-4 that Srettha Thavisin had breached ethical standards and lacked the integrity required of a minister in his attempt to appoint Pichit Chuenban as the Prime Minister's Office minister (*BBC News Thai* 2024-08-14). Pichit, a former lawyer for Thaksin, had previously served six months in jail in 2008 and had been delisted by the Lawyers Council of Thailand for contempt of court due to his involvement in an attempt to bribe Supreme Court officials.

Pichit's previous imprisonment in 2008 did not automatically disqualify him from a cabinet appointment. This was because he met, and passed a legal review based on, two crucial conditions under Section 160 (6) and (7) of the Constitution: over ten years had passed since his release, and his imprisonment was for contempt of court, not a criminal offence. Nevertheless, the Court determined that Srettha was culpable of knowingly proposing, or should have been aware that he was proposing, an individual who did not meet the moral and ethical standards stipulated in Section 160 (4) and (5) for appointment as a cabinet minister. In doing so, the Court also rejected Srettha's argument that his limited political experience and legal knowledge excused him from recognizing Pichit's qualifications or lack thereof, and that issues of integrity and ethical standards should be left to the Constitutional Court's interpretation. Instead, the Court ruled that public awareness of societal standards is sufficient for the assessment of whether a candidate meets the requisite moral and ethical criteria for office.

Regardless of whether there are valid legal grounds on which to fault Srettha for his nomination of Pichit, the broader issue is that the Court has now asserted itself in defining the moral and ethical standards for public office on behalf of the general public. The Thai judiciary has historically assumed the role of a counter-majoritarian lynchpin, exercising 'rule by good people' and intervening in the political process in the name of upholding the rule of law (Tonsakulrungruang

2022). However, its role in interpreting and enforcing moral and ethical norms has expanded beyond its traditional functions, taking on a more direct and assertive form than ever before.

To some extent, the political landscape has already adjusted to the Court's rhythm and its newly defined authority in ruling on moral and ethical standards. During the formation of the new cabinet under Paetongtarn Shinawatra, three prospective ministers recused themselves to avoid the same fate as Pichit and to spare Paetongtarn from facing similar court allegations for nominating individuals who might potentially be deemed unfit for office.<sup>1</sup> Yet, this did not lead to their replacement with those who demonstrated greater ethical and moral rectitude. Instead, members of their own families were selected.

Ultimately, the Court's ruling has set a precedent that not only grants it ultimate power to bar politicians from office on grounds of ethical violations—while also serving as the final arbiter in such matters—but also paradoxically accelerates dynastic succession, or the transfer of power within political families. While it is too early to ascertain the full consequences of this ruling, in the short term, it has created a potential avenue for those with ulterior motives to exploit ethical complaints for political ends, at the expense of the rule of law and political stability.

At the time of writing, Paetongtarn Shinawatra is the subject of multiple formal complaints, many of which concern alleged ethical violations. Four complaints relate to the appointment of cabinet ministers who are alleged to have failed to meet the requisite ethical standards. These include Tawee Sodsong, Phumtham Wechayachai, Surapong Piyachote, Chalermchai Sri-on, and Dech-it Khaothong. Another complaint involves her alleged use of a “mini-heart gesture” while wearing a civil service uniform. While some of these allegations may appear implausible, the precedent set by the ruling on Srettha has created a tangible risk that they could, as in Srettha's case, lead to the dismissal of a prime minister and the downfall of the government.

## Conclusion

Beyond the obvious assault on Thai democracy that both cases represent, the dissolution of the MFP and Srettha's dismissal have paved the way for an already interventionist court to become even more emboldened in shaping political outcomes. Through decisions that are rooted in arbitrary interpretations of legislative due processes and ethical standards, the court has now come to play a central role in defining the boundaries of political contestation and scrutinizing the conduct of office holders. This has undermined the mandate of Thai voters and further eroded democratic checks and balances in Thailand.

The Pheu Thai Party previously declared its intention to address the problems of judicial overreach in cases pertaining to party dissolution and ethical violations, through both piecemeal constitutional amendments and a comprehensive rewrite of the constitution (*Thairath* 2024-09-21).

---

<sup>1</sup> For example, Chada Thaised, who was arrested in 2003 on charges related to the homicide of a former Pheu Thai MP's secretary (though he was acquitted two years later), withdrew himself from the list proposed by Bhumjaithai and instead nominated his daughter, Sabeeda. Similarly, Thammanat Prompao, former minister of agriculture who was arrested in Australia in 1993 on charges of involvement in a heroin smuggling case, served four years in prison, and subsequently deported upon release. He was succeeded by his younger brother, Akkara Prompao, who currently serves as the deputy minister of agriculture. In 2021, the Constitutional Court dismissed a complaint challenging Thammanat's fitness for office, ruling that his Australian conviction was not recognized under Thai law. Furthermore, the Palang Pracharath Party (PPRP)'s Atthakorn Sirilatthayakorn, the former deputy agriculture minister, was replaced by his father, Itthi, following Pheu Thai's exclusion of the PPRP and rejection of its nominations.

However, it is unclear whether significant progress will be achieved, given the inherent challenges of the constitutional reform process and the difficulty in building consensus among coalition partners. The power to dissolve political parties has long been a reliable instrument for checking elected forces. It is therefore unlikely that the conservative establishment, which forms part of the alliance that underpins the current coalition government, will relinquish it, especially in the face of reformist threats that have become more pronounced in the aftermath of the pro-democracy reforms in 2020-2021. Meanwhile, ethical violations have emerged as a convenient instrument for undermining political opponents, bypassing traditional channels of political competition, such as elections or policy debates. These developments indicate that judicial politics in Thailand will likely persist, or even intensify, as the key battleground in the broader power struggle between progressive, Thaksin-affiliated, and conservative forces, potentially undermining democracy and the rule of law in the process. ■

## References

- Bangkok Post*. 2024. “People’s Party Gets an Early Boost.” August 10.  
<https://www.bangkokpost.com/thailand/politics/2845026/peoples-party-gets-an-early-boost>  
(Accessed September 23, 2024)
- BBC News Thai*. 2024. “สรุปคำวินิจฉัยศาลรัฐธรรมนูญโดยละเอียด ชี้พิธา-ก้าวไกล แก้ม.112 ‘ล้มล้างการปกครอง’ [Detailed Summary of the Constitutional Court’s Ruling: Pita and Move Forward’s Call to Amend Section 112 Tamount to Overthrowing the Constitutional Monarchy].” January 31. <https://www.bbc.com/thai/articles/cw0rq4x2ke7o> (Accessed September 23, 2024)
- \_\_\_\_\_. 2024. “มติศาลรัฐธรรมนูญ 5:4 สั่ง เศรษฐา ทวีสิน พ้นเก้าอ้นายกฯ ส่งผลให้ ครม. ไปทั้งหมด [Constitutional Court Votes 5:4 to Remove Srettha Thavisin from Premiership, Leading to the Entire Cabinet's Dismissal].” August 14.  
<https://www.bbc.com/thai/articles/c2dg4xx5w0eo> (Accessed September 23, 2024)
- Thairath*. 2024. “ภูมิธรรม เร่งหารือพรรคร่วมรัฐบาล แก้ม รธน. ายมาตรา-ทั้งฉบับ ก่อน 27 ก.ย. [Phumtham Urges Coalition Partners to Discuss Constitutional Amendments—Article by Article and Full Rewrite—Before Sept 27].” September 21.  
<https://www.thairath.co.th/news/politic/2815614> (Accessed September 23, 2024)
- Tonsakulrungruang, Khemthong. 2022. “Thai Constitutions as a Battle Ground for Political Authority: Barami versus Vox Populi.” In Tom Ginsburg and Benjamin Schonthal, eds. *Buddhism and Comparative Constitutional Law*, 161–180. Comparative Constitutional Law and Policy. Cambridge: Cambridge University Press.

- **Napon Jatusripitak** is a Visiting Fellow and Acting Coordinator of the Thailand Studies Programme at the ISEAS-Yusof Ishak Institute.

The East Asia Institute takes no institutional position on policy issues and has no affiliation with the Korean government. All statements of fact and expressions of opinion contained in its publications are the sole responsibility of the author or authors.

This program was funded in part by the National Endowment for Democracy (NED).

“The Move Forward Party’s Dissolution and Srettha Thavasin’s Dismissal: Judicial Politics Unbridled”

979-11-6617-807-8 95340

Date of Issue: 26 September 2024

Edited by Hansu Park

For inquiries:

Hansu Park, Research Associate

Tel. 82 2 2277 1683 (ext. 204)      [hspark@eai.or.kr](mailto:hspark@eai.or.kr)

The East Asia Institute  
1, Sajik-ro 7-gil, Jongno-gu, Seoul 03028, Republic of Korea  
Phone 82 2 2277 1683 Fax 82 2 2277 1684  
Email [eai@eai.or.kr](mailto:eai@eai.or.kr) Website [www.eai.or.kr](http://www.eai.or.kr)