

RESEARCH ARTICLE

A Constitutional Ethnography of Monarchy: Buddhist Kingship, “Granted Constitutionalism,” and Royal State Ceremonies in Thailand

Eugénie Mériéau

Faculty of Law, University of Paris 1, Panthéon-Sorbonne, Paris

E-mail: eugenie.merieau@sciencespo.fr

Abstract

This paper defines constitutional ethnography as the cultural study of constitutionalism through its symbolic representations. By focusing on the materiality of constitutionalism as embodied in various state ceremonies such as ceremonies of “royal octroy” (constitution-granting ceremonies) as well as in state monuments honouring the Constitution, it strives to offer an ethnography of a polity’s constitutional identity. In this paper, I argue that in Thailand, Westernized Hindu-Buddhist state ceremonies and monuments using Westernized Hindu-Buddhist symbolism represent the Thai monarch as the ultimate law-giver holding permanent “constituent power” and therefore yielding extra-constitutional customary powers pre-existing the Constitution. This representation, in turn, informs Thai constitutional identity as defined incrementally by courts and jurists since the early twentieth century, which in turn informs present Thai constitutional interpretation. Therefore, this paper argues that the study of state ceremonies can be a useful entry point into the analysis of a “constitutional culture” shaping modes of constitutional interpretation.

Keywords: Thailand; monarchy; Buddhist kingship; state ceremonies; constitutional ethnography; constitutional culture

1. Introduction

If one quickly glances at the Thai Constitution, the powers of the Thai king read very much like that of the British monarch or any monarch in a parliamentary regime: all royal acts must be countersigned, the monarch can dissolve the House on the advice of the prime minister, and royal veto power over legislation is merely symbolic. This leaves the Thai king with only a role of influence, following Bagehot’s motto: the king can be consulted by, encourage, and warn the prime minister. Yet Thai and foreign scholars alike agree that the Thai king does have much broader powers than the British monarch. Law scholars tend to leave the investigation into the “why” to political scientists, historians, and anthropologists. Recent accounts of Thai constitutional law, such as Tom Ginsburg’s, Andrew Harding and Peter Leyland’s, or Kobkua Suwannathat-Pian’s, usually refer to the concept of “extra-constitutional,” “unwritten,” or “cultural” Constitution to explain why the practice of royal power in Thailand diverges so much from what could be expected when reading the text of the Constitution.¹

¹ Harding & Leyland (2011); Ginsburg (2008); Kobkua (2003).

These authors frequently quote the text by Thai intellectual Nidhi Eosewong on the “cultural Constitution” of Thailand, which argues that the Thai Constitution is unlike any Western Constitution, in that its main pillars are not the Parliament or the Cabinet, but rather the monarchy, the military, the Buddhist Church, and the bureaucracy, all of which derive their power not from the Constitution, but from elsewhere.² Echoing Nidhi’s thesis, Kobkua writes: “The Thai mindset reveals a strong preference for more tangible but extra-constitutional sources of power.”³ Harding and Leyland agree with this assessment: “the monarchy and the military [have] powers of their own ... an extra-constitutional power.”⁴ Thus, the foreignness or the otherness of Thai constitutional processes is explained away by mobilizing either culture/religion or plain politics—in any case, something “extra-constitutional.” All in all, they tend to leave the question of the king’s power out as some sort of mystical element, unexplained and unexplainable, that does not fall within the scope of any legal analysis—something outside of the law, something “extra-constitutional,” “informal,” or “cultural.”

Traditionally, three royal interventions are singled out as illustrative of the king’s “extra-constitutional” power. In 1973, as young people who had marched in the streets to call for an end to military rule and the adoption of a democratic Constitution were targeted by the police, King Bhumibol Adulyadej (r. 1946–2016) opened the gates of his palace to give shelter to the protesters. Then, outside of constitutional procedures laid out in the 1972 Constitution, he appointed a new prime minister of his own choosing and later dissolved Parliament, before selecting and nominating the members of an ad hoc constitution-drafting assembly. Constitution-drafters, reflecting popular opinions at the time, wrote the king an inflated role in the new Constitution—the monarch was for instance given the power to appoint the entire Senate at his own discretion. Bhumibol signed the Constitution, but requested Parliament to amend it in order to leave him with mostly ceremonial powers: this was done immediately.⁵ Even after the revision, the 1974 Constitution was nonetheless described by most analysts as being centred on the king.⁶ In any case, this sequence established a precedent of the king’s role in times of crisis as the guardian of democracy.

The second major intervention took place in 1992 on the occasion of yet another mass protest calling for resignation of the military government and the drafting of a new, democratic Constitution. As the military government of then Prime Minister Suchinda Krapayoon, who had come to power by a coup in 1991, cracked down on protesters, the king summoned the latter to a royal audience in the palace, together with the leader of protesters, Chamlong Srimuang. The audience was televised and broadcast live throughout the country as well as in Bangkok, as the crackdown was still unfolding—speaking in front of the camera to both men kneeled down before him, the king called on both parties to stop the escalation into violence. Suchinda resigned a few days later and the protests ceased. Once again, outside of constitutional procedures laid out in the 1991 Constitution, the king appointed a new prime minister for Thailand—while the Constitution was amended to prevent a non-elected premier (typically, a military leader) from leading the government.

Finally, in 2006, as Thailand had embarked on a democratization path with the adoption of a democratic Constitution in 1997, under which Thaksin Shinawatra was elected in 2001, re-elected in 2005—the first time in Thai history that a prime minister had ever managed to finish a mandate and be re-elected—and in 2006—but the results were challenged by

² Nidhi (1991), p. 266.

³ Kobkua *supra* note 1, p. 29.

⁴ Harding & Leyland, *supra* note 1, p. 255.

⁵ Mérieau (2021), pp. 105–129.

⁶ Hickling (1976), p. 102.

the opposition. King Bhumibol gathered the judges of the two supreme courts of Thailand and called on them to intervene in the crisis by cancelling the 2006 election altogether. Following a meeting among the Supreme Court, the Supreme Administrative Court, and the Constitutional Court in the following days, the latter cancelled the election nationwide.⁷ In summoning the courts, the king had unleashed a process of judicialization of politics that paved the way for the 2006 military coup;⁸ saw Thaksin's party twice dissolved, in 2007 and 2008; paved the way for the 2014 military coup; and saw two major opposition parties in the post-2014 election, held in 2019, dissolved as well. Dissolutions entailed banning executive members from politics for five or ten years. Over the course of 15 years, several hundreds of top opposition party leaders were thus banned from politics. Thaksin and his younger sister, Yingluck, elected prime minister in 2011, were additionally prosecuted for corruption and sentenced *in absentia* to jail terms of two and seven years, respectively—which neither of them served, as they both went into exile.

Scholars see in these three royal interventions the defining contours of the king's extra-constitutional role in times of crisis, derived from him being a Buddhist king or "Dharmaraja." As one of the most prominent Thai public law scholars wrote in 2009: "Because the King is a true Dharmaraja . . . once the King speaks, all sides will wholeheartedly act accordingly."⁹ This royal role, progressively conceptualized in constitutional law handbooks and doctrine since 1976,¹⁰ is encapsulated in the term "Democracy with the King as Head of State" (hereafter, DKHS), which now officially defines Thailand's constitutional identity, as will be detailed below.

In order to decipher the meanings ascribed to DKHS, normativist-positivist accounts of the role of the Thai king as written in the Constitution are insufficient and even misleading. Instead, there is a need to engage with religious worldviews informing state official narratives themselves informing established interpretations of the Thai Constitution. These can be grasped by studying Constitutions in their materiality, as they manifest in everyday life in the form of monuments, ceremonies, and official documents. Symbols, images, and language all tell a particular story related to Thai constitutional identity. This paper seeks to *interpret*, using the method of ethnographic description, the meaning of the rather enigmatic phrase of "Democracy with the King as Head of State." It will analyze DKHS as a specific king-Constitution relation based on Buddhist understandings of law and sovereignty, by examining and interpreting various types of material sources: the Constitution read in light of official state documents; state monuments such as the Democracy Monument and its "rival," the Safeguarding the Constitution Monument; and royal "constitution-granting" ceremonies. Before turning to these, the paper will first introduce the methodology of constitutional ethnography.

2. Constitutional ethnography: deciphering constitutional culture

Constitutional ethnography can be defined as the deciphering of the meanings produced in the various "layers" of constitutional activity: the making of Constitutions through constitution-drafting, the crafting of legal doctrines through scholarship and adjudication, and the production of constitutional practices through political activities. These three categories or layers correspond roughly to (constitutional) structure, (constitutional) ideas, and (political) agency, respectively, which in turn correspond to three major types of constitutional "formants"¹¹: constitutional law in books, constitutional law in minds,

⁷ Mérieau (2016).

⁸ Dressel (2010), p. 671.

⁹ Bowornsak (2006), p. 26.

¹⁰ Mérieau (2018), p. 283.

¹¹ Sacco (1991); Watson (1995).

and constitutional law in action. This method aims to uncover and make sense of a necessarily contested and evolving “constitutional culture” that informs constitutional interpretation. As Andrew Siegel puts it: “Constitutional Culture is the black box through which the Constitution’s words are transformed into concrete consequences.”¹²

2.1 What is “constitutional culture” and how to study it?

Discussing “legal culture” has long been the subject of heated debate between those who see it as useless or even harmful, due to its tendency to essentialism and ethnocentrism, such as Patrick Glenn,¹³ and those who see it as a useful, multidimensional concept, such as Sally Engle Merry.¹⁴ Lawrence Friedman,¹⁵ credited for having introduced the term in the field of the sociology of law, also at one point acknowledged that if he had to do it again, he would probably abstain.¹⁶ He nevertheless authoritatively defined two types of legal cultures: the “internal” and the “external,” to which Sally Engle Merry added the “legal mobilization” and “legal consciousness” dimensions. The concept of legal culture also has been used extensively in the legal transplants debate opposing Alan Watson’s view that transplants are independent of context and culture,¹⁷ to Pierre Legrand’s radical proposition that transplants are so fully dependent on them that they are nothing short of “impossible.”¹⁸

Legal cultures are understood, from a law and development approach, as explaining the “success” or “failure” of legal transplants. As the World Bank puts it:

Legal culture is often considered as a given feature of the local environment to which proposed legal reform projects must adapt; many argue that legal and judicial reform programmes must be tailored to fit local legal culture or they will fail. Other times, the prevailing legal culture itself may be the object of reform, rather than merely a constraint. Thus, understanding the arguments related to the concept of legal culture will become increasingly important for aspiring legal reformers. Does the legal system not work well because people distrust the courts, or do people distrust the courts because the legal system doesn’t work well? Is the introduction of a new contract law unlikely to have an effect because the business culture prefers informal deals with family and friends, or does the preference for informal dealing exist only because no one has yet passed an efficient contract law? These sorts of problems are not easy to resolve, especially because the causality clearly runs in both directions, and the interactions between beliefs and actions are extraordinarily complex.¹⁹

When these debates were “transplanted” in the field of comparative constitutional law, comparative constitutional law scholars chose to focus on the question of “success” or “failure” of constitutional transplants, replicating the traditional “law and development” approach but substituting “development” with “democracy.”²⁰ Yet if constitutional culture is sometimes used as a concept, comprehensive enquiries into its constitutive elements (such as “constitutional mobilization,” constitutional consciousness, internal and external constitutional cultures) have not been the focus of many studies yet. Paul Kahn, in his

¹² Siegel (2016), p. 1107.

¹³ Glenn (2014).

¹⁴ Merry (2010).

¹⁵ Friedman (1969).

¹⁶ Nelken (2014).

¹⁷ Watson (1993).

¹⁸ Legrand (1997).

¹⁹ World Bank (2005), quoted in Nelken (2012), p. 310.

²⁰ Perju (2012); Dixon & Landau (2019); for a critical view, see Frankenberg (2013).

investigation of the concept of constitutional culture, identifies three constitutive elements: first, history; second, religion; and third, “the science of law,” namely the established expert understanding of the Constitution as expressed in legal terms by the legal profession. He points out that “constitutional cultures” refer to the notion of constitutional identity guiding constitutional interpretation while setting particular “boundaries” to it.²¹

The concept of legal or constitutional culture carries with it a methodology inspired by the early works of sociology and anthropology, in particular a keen interest in studying rituals and ceremonies, inherited by Durkheimian sociology, and the Malinowskian practice of fieldwork and participant observation. It also has a specific epistemology—that of the “principle of charity,” cautioning against value judgments and advocating for scholars to always look for the “rationality” or the “logic” behind seemingly “nonsensical” or “strange” behaviours. In particular, Clifford Geertz has most contributed to legal anthropology—reaffirming the goal of interpreting cultures rather than judging them, and proposing the methodology of “thick description.” “Thick description,” also known as “layered description,” is the deciphering of the meanings produced at various “depths” of a cultural system (the cultural system being “read” like a text).²² Other “Geertzian” anthropologists, such as Jean and John Comaroff, have contributed to the debate on methodology, extending the ethnographic project to other objects, such as archives.²³

Yet in comparative constitutional law, the ethnographic method remains marginalized, as the “legal method” of analyzing textual sources of law is still dominant. The ethnographic method might suffer from being perceived as too particularistic, unable to produce systematic results. Ethnographic description, indeed, is characterized by detail and nuance. Yet, as anthropologists have convincingly argued, this level of details is “theory-producing.” For legal studies, this theoretical output often takes the form of challenging established assumptions (uncovering them as assumptions in the process), criticizing established categories of legal thought, raising new legal questions. As a result of a reluctance to engage with the ethnographic method, the comparative elements used in comparative constitutional law studies are often a source of misunderstandings, often in good faith, sometimes not.²⁴ Building on work by Bruno Latour, Kim Lane Scheppele, and Gunter Frankenberg,²⁵ I define constitutional ethnography as the use of the Geertzian method of “thick description”²⁶ to “read” constitutional orders and interpret constitutional cultures.

I argue that the study of state ceremonies related to the Constitution are useful entry points into the study of a constitutional culture. Political anthropology, often conducted by historians, has focused on the study of the symbolism of power and its performativity to analyze political culture, often to criticize its artificiality, such as in the case of “invented traditions”²⁷ for the purpose of unifying an “imagined community.”²⁸ This is most prominent if one examines state ceremonies that precisely aim to reaffirm a narrative, usually a

²¹ Kahn (2019).

²² “The concept of culture I espouse . . . is essentially a semiotic one. Believing, with Max Weber, that man is an animal suspended in webs of significance he himself has spun, I take culture to be those webs, and the analysis of it to be therefore not an experimental science in search of law but an interpretive one in search of meaning. It is explication I am after, construing social expressions on their surface enigmatical,” Geertz (1973), p. 5; see also Schneider (1987).

²³ Comaroff (1992); Comaroff & Comaroff (2003).

²⁴ See Hirschl (2014); Frankenberg (2018).

²⁵ Scheppele (2004); Latour (2010); Cheesman (2018); Frankenberg (2006).

²⁶ Geertz, *supra* note 22.

²⁷ Hobsbawm & Ranger (1983).

²⁸ Anderson (1983).

highly contested one, through symbolism. The power of monarchs, in particular, has long been analyzed through the lens of the symbolism displayed in various ceremonies.²⁹

2.2 Cultural understandings of law and sovereignty in Thailand: Buddhist kingship

In the Thai context, constitutional ethnography involving participant observation has traditionally not been the preferred methodology of legal scholars. In Thailand, three major studies of state ceremonies have been produced so far, all by anthropologists. Quaritch Wales and Stanley J. Tambiah studied coronation ceremonies in the 1930s and 1970s, respectively,³⁰ while Christine Gray wrote in the 1980s a study of the *kathin* ceremony of giving new robes to monks on behalf of the king.³¹ These pioneering studies all derived from their observation of the syncretic symbolism of the ceremonies (intertwining Hindu and Buddhist images) a theory about Thai kingship, as embedded into contradicting principles of Hindu and Buddhist kingship, which also carry with them contradicting understandings of what “law” is.

In his seminal work on “legal traditions,” Patrick Glenn writes:

Hindu theology is not “monarchical” in form, as are the religions which have so influenced Western thought. In Jewish, Christian, and Islamic religions, God is up there, a kind of prefiguration of the Austinian sovereign, and we are all down here.³²

In the Hindu tradition, *dharma*, “law” or “duty,” described by Geertz as “the animating idea” of Hindu law,³³ pre-exists and is binding on the king: “the king is necessarily, and forever, subordinate to the law.”³⁴ As such, it closely resembles the Western concept of natural law, in relation to which the modern, secular concept of positive law was constructed. However, Max Weber outright rejected the proposition that *dharma* was a form of religious natural law and therefore that it could lend itself to a process of differentiation from positive law as part of a wider secularization movement.³⁵

In the Thai context, the foundational claim, as articulated by Robert Lingat in the 1930s, suggested that before Westernization in the mid-nineteenth century, Siam had been heavily influenced by early Indian conceptions of kingship, the Hindu Code of Manu, and the concept of *dharma*.³⁶ In other words, *dharma*, which he, in contrast to Weber, understood as natural law (but also the cosmic order, duty, destiny, and a myriad of other meanings), was a major if not the main source of law in the Thai pre-modern legal order.³⁷ He cautioned:

Dharma is a concept difficult to define because it disowns—or transcends—distinctions that seem essential to us, and because it is based upon beliefs that are as strange to us as they are familiar to the Hindus . . . *dharma* signifies the eternal laws which maintain the world . . . the world is not the product of a fortuitous concourse of elements, but is ruled by certain norms and sustained by an order necessary to its

²⁹ Giesey (1960); Kuhn (1987); Kantorowicz (1997).

³⁰ Wales (1931); Tambiah (1976).

³¹ Gray (1986).

³² Glenn, *supra* note 13, p. 304.

³³ Geertz (1983), p. 195.

³⁴ Glenn, *supra* note 13, p. 300.

³⁵ Weber (1958), pp. 143–6.

³⁶ The Indianization thesis, formulated in the first half of the twentieth century, according to which Siam and other Southeast Asian mainland states have been heavily influenced by Indian civilization in terms of politics, religions, and the arts. See Cœdès (1968).

³⁷ Lingat (1941), p. 9.

preservation. This order is an objective one, inherent in the very nature of things; and the gods are only its guardians.³⁸

Deriving from this understanding of law as immanent to nature, the king's duty is to uphold the *dharma* that pre-exists to him and that he cannot alter. As a result, according to Lingat, before its encounter with the West, the principle of law as a royal act of will that in Europe traditionally mirrored the original God's will was unknown: law was not an act of authorship, nor was the king to act as a legislator – “if the king is allowed to interfere in this domain at all it is only to re-establish a rule of *dharma* which a custom, or even an ill-advised or perverse king has infringed.”³⁹ Therefore, according to Lingat, the king's duty is to uphold the *dharma* or natural justice when positive law (or the Constitution) contradicts it. This traditional understanding of the king's role derived from Hindu-Buddhism would explain why the three extra-constitutional interventions of the king described in the introduction gained wide social acceptance in Thai society.

In my study of Thai constitutional identity, I argued further that Thailand's constitutional culture was a bricolage not only of Hindu and Buddhist understandings of law and kingship, but also of Western notions of constitutional monarchy. Thai constitutional categories were creatively invented based on borrowings from Western countries (from both common-law and civil-law traditions), then hybridized with “reinvented” indigenous categories rooted in Hinduism and Buddhism. In particular, Thai scholars and jurists indigenized European legal categories by creating neologisms based on Pali, the sacred language of Theravāda Buddhist scriptures, and by fusing European doctrines with similar Hindu-Buddhist narratives. One of these foundational “mergers” included the hybridization of the European, monarchist, myth of the royal constitutional “octroy” (the king as the source of law, who benevolently grants the Constitution to his subjects) with the Thai Hindu-Buddhist myth of the *dharmarāja* king (the king is the upholder of the *dharma*/natural law, who turns the wheel of the law). This Hindu-Buddhist-Western bricolage was re-enacted in various state ceremonies using Hindu, Buddhist, and Western symbolism, in particular the ceremony of royal “constitution-granting.”⁴⁰

As a result, the king became, in Thai doctrine, both the granter and “turner” of the country's foundational law, the source of the Thai Constitutional order, and its upholder. The king's duty to uphold *dharma* against the Constitution also forms the core element of Thailand's constitutional identity or DKHS.

3. “Democracy with the King as Head of State”: the puzzle of Thailand's constitutional identity

“Thailand has been a Democracy with the King as Head of State for 90 years.” In English, this sentence sounds as enigmatic to the outsider as it is familiar to those acquainted with Thailand. This standardized formulation opens nearly all administrative official documents at the King Prajadhipok's Institute, a public research body under the supervision of the Thai Parliament, as well as other public administrations such as the Thai Council of State, and is also a standard opening sentence in the academic articles produced by members of the Constitutional Court for the Constitutional Court journal. Let us break it down.

³⁸ Lingat (1973), p. 3.

³⁹ *Ibid.*, p. 225.

⁴⁰ Mérieau, *supra* note 5; Mérieau (2023).

3.1 “90 Years of DKHS”: a state official narrative

The term “Democracy with the King as Head of State” is the translation, by the Council of State, of a Thai expression (*prachatipatai an mi phramahakasat song pen pramuk*) which could equally have been translated as “democratic constitutional monarchy” or even “constitutional monarchy”—but was not. The Council of State’s semi-official, authoritative translation suggests that Thailand’s political system is not a “regular” Constitutional monarchy but a unique system loaded with all sorts of exceptional qualities, first and foremost defined by the central role the Thai king plays in it. This is what the “Democratic System with the King as Head of State” refers to in the collective imagination of the Thai bureaucracy.

Now, “Thailand has been . . . for 90 years.” This refers to the entire period of Thai history since the adoption of Thailand’s first-ever Constitution, in 1932. Therefore, the phrase suggests that DKHS has been inaugurated with the 1932 Constitution and has consistently been applied ever since. It does not really matter that Thailand has been a military dictatorship for more than half of the period inaugurated in 1932, nor that it has been left without a Constitution on several occasions, for periods up to a year. Democracy, in fact, is conceived here as a rough equivalent to “constitutional politics” or even “politics” or “constitution” *tout-court*. What this phrase tells its national audience is that before 1932, in the age of the Chakri kings and their councillors, there was no need for politics, democracy, or a Constitution ; thereafter, politics, democracy, and Constitutions made an uneasy irruption in the kingdom, disrupting traditional benevolent Buddhist kingship, which transformed into a new system: “Democracy with the King as Head of State.”

DKHS epitomizes the Thai administration’s shared imagination of its political system, its constitutional history, and the peculiarity of its monarchy. The narrative is built on the romanticization of two reigns: the reign of the “founding father”- king, King Prajadhipok (1925–1932) who is both Thailand’s last absolute monarch and its first constitutional monarch, and the reign of the “philosopher”-king, King Bhumibol Adulyadej (1946–2016), who is Thailand’s longest-reigning monarch. The following will briefly summarize the myths about these two reigns and their monarchs that together undergird the grand DKHS state narrative.

First, the “founding father”-king, namely King Prajadhipok or Rama VII, is revered as the founding father of both democracy and constitutionalism.⁴¹ He is the one who benevolently “gave” democracy to the Thai people when he “granted” Thailand’s first-ever Constitution in 1932. Oblivious to the fact that this Constitution was in fact imposed on him on the threat of a republic by the 24 June Revolution,⁴² this “royal octroy” is celebrated as a great royal achievement: democracy is a royal gift. Unfortunately, according to the myth, the people were not ready for the gift and democracy was subverted by the communist People’s Party, who unleashed the Pandora’s Box of “politics” and its endless evils on the kingdom—this constitutes, accordingly, the reviled and horrendous legacy of the People’s Party. The king, true to his own democratic ideals, thus had no choice but to abdicate in 1935 with dignity, preferring quiet exile to royal honours. Yet, there was no break in the constitutional system of DKHS, as his successor, Ananda, was immediately made king. Following his death in mysterious circumstances in 1946, his younger brother, Bhumibol Adulyadej, was crowned as Rama IX.

Second, the “philosopher”-king, namely King Bhumibol Adulyadej, or Rama IX, is revered as the very embodiment of democracy.⁴³ Thanks to him, the country did not fall like its neighbours in the ambit of communism and the devastation that comes with it.

⁴¹ Ferrara (2012).

⁴² Mérieau (2019b).

⁴³ Grossman, Baker, & Faulder (2011).

Always working hard, King Bhumibol alleviated poverty throughout the kingdom with his royal projects. As a philosopher-king, he invented the self-sufficiency economic philosophy that built resilience and helped Thailand overcome the 1997 Asian financial crisis, for which he even won an award by the United Nations. Whenever a crisis arose and violence broke out, the king, by essence “above politics,” would reluctantly come “down” to intervene in the earthly affairs of the evil politicians and rescue the country from its path to self-destruction. The last occurrence of such a royal rescue, in 1992, set Thailand on its path towards democratic consolidation. According to the mythical construction of the ninth reign, Bhumibol was the most democracy-minded figure Thailand had ever had.

The King Prajadhipok’s Institute and the Council of State royalist, romanticized views of Thai constitutional history are not the by-product of a handful of overzealous imaginative jurists. They in fact reflect quite accurately the very official state narrative as enshrined in successive Thai Constitutions until now. The preamble of the current 20th Constitution of Thailand reads: “King Prajadhipok graciously granted the Constitution of the Kingdom of Siam, 1932,” and adds that Thailand has “continuously” had a democratic system with the king as head of state “even though [new] Constitutions have been annulled, amended, and promulgated on several occasions.”⁴⁴ The Constitution thus defines DKHS as Thailand’s permanent constitutional identity—a sort of *grundnorm* from which the various Constitutions of Thailand’s history have been successively derived.

The constitutional enshrinement of the idea that the Constitution is given by the king’s octroy, at the king’s discretion, is not anecdotal—Prajadhipok had understood this deeply and that is why he made sure to write the 1932 Constitution preamble himself.⁴⁵ Indeed, the “royally granted constitutionalism” narrative is not without practical consequences. By locating constituent power in a monarch who pre-exists the law, it bears legal effects that are reflected throughout the entire constitutional text. Enshrining the origin of constitutionalism as the king’s royal octroy is perhaps the most legally efficient underlying narrative of DKHS.

3.2 DKHS as enforced by the Constitutional Court

Among the very tangible legal effects of locating constituent power in the monarch is the royal constitutional veto: derived from his power of assent to all pieces of legislation, the king can veto constitutional amendments as well as the very adoption of Constitutions. In 1932, Prajadhipok managed to get the Constitution of the People’s Party called “interim” and then entirely rewritten to restore some of his royal prerogatives; in 1951, one of the first actions of the young Bhumibol to assert his status as the newly crowned monarch was to refuse royal assent to the newly drafted Constitution and send his “recommendations” to the prime minister on the drafting of a new document; in 1974, he even demanded a constitutional revision on the day he himself had promulgated it. More recently, in 2016, King Vajiralongkorn vetoed the draft Constitution after it had been adopted by referendum and directly requested amendments regarding his powers, ranging from procedures of regency to ministerial countersignature on royal acts. In these various examples, royal requests were immediately obliged to by the executive and Parliament.

DKHS, as the constitutional shibboleth referring to the narrative of “royally granted constitutionalism” described above, first appeared in the 1949 Constitution, which marked the victory of the royalists over the People’s Party.⁴⁶ It then appeared in various forms in the 1950s and 1960s, before being theorized in doctrine in 1976, and finally

⁴⁴ Preamble, 2017 Constitution.

⁴⁵ Mériéau, *supra* note 42; see also Mériéau, *supra* note 5, pp. 35–56.

⁴⁶ Art. 2, 1949 Constitution.

constitutionalized in its present form in the 1991 Constitution.⁴⁷ In the 2017 Constitution, a dozen articles refer to DKHS—most notably: as part of the unamendable constitutional provisions, as defining a constitutional custom applicable in case of crisis, and as the principle to be defended by the Constitutional Court through tools associated with militant democracy such as the dissolution of political parties. The powerful Thai Constitutional Court, created in 1997, was, from inception, mandated by the Constitution to police compliance to DKHS.

First, the Constitution prohibits changing the “democratic system of government with the king as Head of State.” It reads: “An amendment to the Constitution which amounts to changing the democratic system of government with the King as Head of State or changing the form of the State shall be prohibited.”⁴⁸ In 2013, a constitutional revision attempt to make the Senate a fully elected body was stopped by the Constitutional Court for it was considered an attempt to undermine and even “nullify” DKHS.⁴⁹ Even the organization of elections can be deemed a threat to DKHS, as was the case with Thaksin’s 2006 re-election attempt—the Constitutional Court cancelled the election results and the election altogether.⁵⁰

Second, the Constitutional Court has the power and even the duty to dissolve parties “deemed a threat” to DKHS—this vague wording leaves extremely wide a margin of interpretation. The Constitutional Court dissolved dozens of political parties to date, including the major opposition parties—in most cases, at least indirectly for the threat they were deemed to pose to DKHS.⁵¹ In early 2020, a case was filed against Future Forward Party for it had used the phrase “the democratic system” tout court in its official registration documents. The adequate term, according to the claimants, was the “Democratic System with the King as Head of State.” This omission was highly suspicious and warranted dissolution based on the Political Party Act that expressly prohibited political parties not adhering to DKHS and subjected these parties to dissolution by the Constitutional Court. The Constitutional Court eventually dissolved the party on other legal grounds in February 2020⁵²—but not without suggesting that the Election Commission issue a notice to the party on the matter.⁵³

Third, in case of crisis, DKHS is the *praeter constitutionem* custom. The Constitution states:

Whenever no provision under this Constitution is applicable to any case, an act shall be performed or a decision shall be made in accordance with the constitutional conventions of Thailand under the democratic regime of government with the King as Head of State.⁵⁴

In practice, this “custom” has been understood as allowing the king to intervene extra-constitutionally in times of crisis as King Bhumibol did in 1973 and 1992, namely by dismissing prime ministers at will and replacing them at his own discretion. Whenever a political crisis breaks out, political actors and society at large call on the king to intervene “according to the customs of DKHS.”

⁴⁷ Art. 2, 1991 Constitution.

⁴⁸ Art. 255, 2017 Constitution.

⁴⁹ Constitutional Court Decisions 15–18/2556, 20 November 2013.

⁵⁰ Constitutional Court Decision 9/2549, 8 May 2006.

⁵¹ The most emblematic case is the 2019 dissolution of the Thai Raksa Chat Party: see Constitutional Court Decision 3/2562, 9 March 2019.

⁵² Constitutional Court Decision 5/2563, 21 February 2020.

⁵³ Constitutional Court Decision 1/2563, 21 January 2020.

⁵⁴ Art. 5, 2017 Constitution.

Finally, DKHS is a general principle guiding constitutional interpretation. For instance, when the constitutionality of Article 112 or the *lèse-majesté* law was challenged, the Court invoked DKHS to state that the *lèse-majesté* law was constitutional,⁵⁵ when democracy activists protested against the monarchy, the Constitutional Court ruled their activities to be “an attempt to overthrow” DKHS, warranting the enforcement of harshest sanctions by the penal courts.⁵⁶

Thus, to summarize, the DKHS “fairytale” was constitutionalized in progressive “waves” of constitutionalizing, the normativity of DKHS being gradually affirmed. First, “royally granted constitutionalism” was written into the preamble, as some symbolic element with much potential, then DKHS made its way into the Constitution, as a phrase defining Thailand’s constitutional identity, then as an ambiguous clause referring to “customs” being applicable *praeter constitutionem*, acquiring there some contested normativity, and finally it was enshrined into legally binding clauses aggressively enforced by the Constitutional Court, leading to political party dissolutions, annulment of elections, and invalidation of constitutional amendments.

Yet, in spite of its constitutionalizing, the official “plot” of Thai constitutional history,⁵⁷ actively held and reproduced by the Council of State and the King Prajadhipok’s Institute, remains extremely contested.⁵⁸ This high level of contestation is precisely why it needs periodic reaffirmation in official documents such as those referred to above, routinely produced and reproduced by the Thai state, but also in royal state ceremonies and monuments.

4. Interpreting DKHS through constitutional symbolism: state ceremonies and monuments

State ceremonies and monuments precisely aim to perform DKHS: to intertwine royalism and constitutionalism by making constitutionalism a royal gift, therefore placing the king above the Constitution. The meanings associated with various state ceremonies and monuments have evolved together with the progressive construction of DKHS as Thailand’s constitutional identity.

4.1 Royal coronation ceremonies

The origin of coronation ceremonies cannot be ascertained with certainty. However, the modern coronation ceremony, as we know it today, traces its history back to the reign of King Mongkut, later known as Rama IV. In the mid-nineteenth century, King Mongkut had endeavoured to move away from the traditions interpreted as markers of cultural backwardness and in particular to distance himself from the *devaraja* and *bodhisattva* beliefs, which both established the sacredness of the king, either as an avatar of a Hindu god or as a Buddha-to-be. At the time of the death of Rama III, Mongkut, who had spent his 27 years as a monk studying both Buddhism and European science, religion, and administration, was crowned king. In 1851, his coronation ceremony displayed a shift towards both “Buddhization” and Westernization. Departing from the Siamese tradition, he made the actual coronation the pinnacle of the ceremony, following the European model, whereas previously it had been the royal bath or *aphisek* that granted royal power to the new king.⁵⁹ He also invited Buddhist monks to recite sermons. His coronation

⁵⁵ Constitutional Court Decision 28–29/2555, 10 October 2012. For a detailed analysis, see Mérieau (2019a).

⁵⁶ Constitutional Court Decision 19/2564, 10 November 2020.

⁵⁷ Reynolds (1993).

⁵⁸ For instance by critical law professors; see McCargo and Peeradej (2015).

⁵⁹ Dabphet (2009), pp. 18–9.

ceremony ended with a royal procession around the capital city, which symbolized the power seizure of the king over both the kingdom and the universe, as a *chakravatin*, a universal sovereign.⁶⁰

During his coronation, he was granted his royal titles by the *brahmins* following the Hindu-Buddhist traditions. Yet he was the first Chakri king who chose not to bear the *bodhisattva* status in his official title; nevertheless, he kept the “Great Elected” title, a reference more compatible with Western ideas of social contract and “popular kingship.” This double movement of Buddhization and Westernization, which departed from the traditional *brahmanical* Siamese ways, was to be the very mark of Mongkut’s reign. He engaged in a notable effort of *de-brahmanization*, blaming practices considered by Western powers to be barbaric and despotic on the foreign Hindu influence derived from the Khmer. Instead, he proposed returning to a purer form of traditional Siamese kingship. Following Mongkut’s death, Chulalongkorn, then aged 15, succeeded as king. As he was crowned when he reached the age of 21, he followed in Mongkut’s footsteps and was crowned king in a Hindu-Buddhist ceremony convoking the gods Vishnu and Rama, which finally established his power to issue royal commands. He later used this power to the maximum, accelerating the “de-Hinduization” process initiated by his father. The animating idea of the coronation was that of the king’s “election,” until the 1932 Constitution.

For instance, in 1926, in his letter to his adviser, Francis B. Sayre, King Prajadhipok stated:

[Regarding] the Constitution: The Kings of Siam are supposed to be elected by the people. In former days a Ceremony of election was performed. At the death of the King, a Council consisting of Royal Princes, Ministers of State and High Dignitaries of the Church was held. The Senior Prince or Minister then proposes that such and such a Prince should be elevated to the Throne and asks if anybody has any objection. There is generally no answer to this question, but sometimes an answer in the affirmative is given by saluting with the hands or an inclination of the head. The King is then formally proclaimed, and the words “elected by the people” are added to his titles. This custom has been continued until the Fifth Reign.⁶¹

Likewise, in 1932, during the debate on the 1932 Constitution, then Prime Minister Phraya Manopakorn Nithithada explained how the Mahasammata doctrine was tied to the king’s coronation ceremony:

In reality, the first part of the article [on sovereignty] is simply a reaffirmation of our ancient traditions (*phrapheni boran*). Indeed, if we open ancient books, it is said in the very name of the king that he has been elected; in the coronation ceremony, there are brahmins and high civil servants who give the crown jewels, representing the fact that the king ascends the throne at the invitation of the people and not by Heaven’s Will, what some foreign countries cannot understand.⁶²

Since then, constitution-granting ceremonies have progressively replaced coronation ceremonies. Both serve the same purpose: to associate the king and the people, to re-enact the idea of the “elected king” and of the king as “law-giver.” The Coronation ceremony, from Rama IV onwards, were indeed designed to represent the king’s “election.”

⁶⁰ Wales, *supra* note 30, p. 82.

⁶¹ Batson (1974), p. 13.

⁶² Phraya Manopakorn Nithithada, quoted in Noranit (2007), p. 19.

4.2 Constitution-granting ceremonies

Constitution-granting ceremonies were imported to the Siamese kingdom at the same time as the very first Constitution, in 1932. As the 24 June Revolution had overthrown the absolute monarchy and seriously curtailed the powers of the king, the rewriting of the Constitution and in particular its preamble, followed by a ceremony of “royal octroy,” was the means used by then King Prajadhipok to maintain his royal status during these troubled times. Since then, all Thai kings have engaged in the activity of “granting Constitutions” immediately upon ascending to the throne. Since then, constitution-granting ceremonies have acquired much more centrality to Thai kingship than coronation ceremonies.

The promulgation of Siam’s first permanent charter was celebrated in an elaborate “constitution-granting ceremony” marrying Hindu-Buddhist rites with Western practices overseen by King Prajadhipok. Seated on his throne overlooked by a nine-tier umbrella, he performed the symbolic act of “granting the Constitution” to the Siamese people. Photographs of the “granting ceremony” were printed in the newspapers and widely distributed. Even though the times were troubled, the 1932 Constitution was the most durable Constitution Thailand ever had. It lasted almost 15 years. Even more remarkably, it was the only Constitution in Thai history to have been abrogated not by a military coup, but by following the procedures laid out in the 1932 Constitution itself. In 1946, it was amended in a democratic, more parliamentary direction. A new king had just been named: King Ananda. In one of his first public appearances, he supervised the 1946 constitution-granting ceremony: the request had been made by then prime minister Pridi Banomyong, who did not imagine “his” “chef-d’oeuvre,” the 1946 Constitution, not to be made sacred by the king in a constitution-granting ceremony.

The aim was to have the king ritually re-enact the myth of the “royal octroy” in order to make the 1946 Constitution as “sacred” as its predecessor, the 1932 Constitution—hopefully, this would make the 1946 Constitution as successful and durable as the 1932 Constitution. That is how, on 9 May 1946, Ananda presided over the promulgation of the 1946 Constitution in a royal ceremony held in the Ananda Throne Hall. The event was modelled on Prajadhipok’s 1932 “Granting the Constitution” ceremony and imbued with Buddhist symbolism: Pridi, then “at the zenith of political power,”⁶³ knelt down to present the Constitution, on its golden tray, to King Ananda seated on his throne flanked by the umbrellas of sovereignty. The new Constitution was presented in the form of a golden *samutthai* placed on top of a *phanwenfa*; Ananda signed it into law and Pridi countersigned it.

However, a few days later, King Ananda died from a bullet wound in the head in his palace bedchamber. Amidst the state of general shock and confusion, his younger brother, Bhumibol Adulyadej, was named king. He was crowned in May 1950 in a traditional Hindu-Buddhist ceremony. The ceremony was held over three days from 5 to 8 May 1950 and was broadcast live on television. The ceremony followed elaborate Hindu-Buddhist rituals while incorporating Western elements: a Brahmin priest presented the king with the nine-tier umbrella, the symbol of sovereignty whose possession empowered him to issue royal commands, and other items of royal regalia, such as the golden sacred crown. Fully crowned, the king appeared on the balcony of his palace to wave at the cheering crowds. In his extremely short accession speech, he made no reference to the upholding of the Constitution or democracy. Instead, he cryptically swore to rule “in accordance with the *dharma*, for the happiness of the Thai people.”⁶⁴ Prior to his coronation, he participated in two other ceremonies: the cremation of his brother Ananda and the wedding to his

⁶³ Pombhejara (1982), p. 189.

⁶⁴ Bangkok Post (1950).

queen, whom he had met in Europe. The three ceremonies were held within a little over a month and attracted massive attention within the entire kingdom.

Less than two years later, he presided over his first constitution-granting ceremony. On 8 March 1952, he reproduced the same ceremony as Prajadhipok and Ananda before him. In 1968, for his second constitution-granting ceremony, he made it even more “splendid” and “pompous” than what he had done in 1952.⁶⁵ As the king was seated on his throne, he signed the three copies of the Constitution on a *phanwenfa* tray. This time, the ceremony was televised. As in 1932 and 1946, it was photographed, but this time copies were distributed all over the kingdom for people to worship. According to Frank Darling, the “colourful ceremony” included “a proclamation by the King and the sound of temple gongs, conch shells, and a twenty-one gun salute,”⁶⁶ for all to rejoice at the birth of the new Constitution, as if a royal son had been born.

As for King Vajiralongkorn, the emphasis was clearly put on the constitution-granting ceremony as opposed to the coronation ceremony. He granted the 2017 Constitution only a few months after acceding to the throne, but waited until 2019 to organize his own coronation ceremony in a rather low-key fashion. Only members of his immediate family were gathered at the palace and there was no crowd cheering. His marriage to Queen Suthida also was low-key. Both ceremonies were quickly held on 3 and 4 May 2019, respectively, not lasting longer than a few hours. This marked shift suggests that constitution-granting ceremonies have now replaced coronation ceremonies as the symbolic locus of royal power.

King Vajiralongkorn’s “granting the Constitution” ceremony was held on 6 April 2017, on the anniversary of the founding of the Chakri Dynasty, which, in the late eighteenth century, established the foundations of modern Thailand.⁶⁷ The ritual depicted the king, in full royal regalia, seated on his golden throne, in front of civil and military bureaucrats as well as ambassadors in their Western costumes, signing the book of the Constitution in three copies to a kneeling then leader of the military junta, Gen. Prayuth Chan-ocha (now elected prime minister), following the tradition of the ancient code of Thai law, the Three Seals Code, which was only available in three copies throughout the kingdom.

The Constitution, in the form of a folded golden book called *samutthai*, was handed back and forth between the king and the leader of the military junta on a golden tray used to pass sacred objects and/or to pass objects from/to sacred people, called a *phanwenfa*. The ceremony presented the Constitution as rooted in an ancient tradition of Thai law drawing on Hindu and Buddhist ideas and images. Echoing the tripartite nature of the Buddhist canon (Pali: Tipiṭaka, literally three baskets), the *samutthai* was kept in three thrice-folded copies. The golden tray symbolized the royal gift of a sacred constitution: the king was here performing the ritual of “constitutional octroy” according to which the Constitution is a sacred grant by the king onto his people.

The ceremony featured the reading-out-loud of the constitutional preamble, which stated how democracy had been granted to the Thai people by King Prajadhipok in 1932 in the form of a Constitution. The king signed three copies of the Constitution, following the tradition of the ancient code of Thai law, the Three Seals Code, which was only available in three copies throughout the kingdom. Following the precedents set by Prajadhipok and Bhumibol, the promulgation ceremony of the 2017 Constitution re-enacted the myth of a “royally granted” Constitution, establishing Vajiralongkorn as the ultimate law-giver. The “granting the Constitution” ceremony was broadcast live on Facebook, commentated upon by specialists, and uploaded to YouTube for people to comment on: “*Song phra charoen*” (“Long live the king”).

⁶⁵ Darling (1977); Neher (1970), p. 241.

⁶⁶ Darling (1969), p. 117.

⁶⁷ Wyatt (1982).

4.3 A tale of two monuments: Democracy Monument and Safeguarding the Democracy Monument

On the night of the constitution-granting ceremony, monuments commemorating the 1932 Revolution started disappearing in Bangkok. On 7 April 2017, the plaque commemorating the 24 June 1932 Revolution was mysteriously replaced overnight, with many suspecting this to have been a direct royal order. The disappeared plaque had read “Here, at dawn on 24 June 1932, the People’s Party introduced a Constitution for the prosperity of the Thai nation,” while the new plaque replied “Loyalty to Buddhism and the King is the key to the prosperity of the Thai nation.” Not long after, the 14-metre-high, *stupa*-like Safeguarding the Constitution Monument, which had celebrated the 24 June Revolution against King Prajadhipok and the victory of the People’s Party against an attempted counter-revolution supported, actively or passively, by then King Prajadhipok, located in northern Bangkok, also disappeared overnight.⁶⁸ The memory of the 24 June 1932 Revolution and its win against royalist forces in the direct aftermath of the revolution was being suppressed. The Democracy Monument, however, which also initially celebrated the 24 June 1932 Revolution, was however left untouched.

At stake in this war of monuments was a dispute over worship and supremacy between the competing ideologies of royalism and constitutionalism. To understand this series of events, let us look at both monuments in detail and the context of their enactments.

Both were commissioned by the People’s Party in the late 1930s, after both the 1932 Revolution and Prajadhipok’s abdication in 1935. At the time, members of the People’s Party were trying to create some “constitutional consciousness” in the hearts of the people; as this was proving difficult, they relied on royalist sentiment to do so: they framed the Constitution as “sacred” (*rattathammanun saksith*)⁶⁹ invoking the fact that it had been a “king’s octroy” (*rattathammanun phrarachathan*). Even though they had fought for the recognition of parliamentary sovereignty at the expense of royal sovereignty, they nevertheless resorted to the idea of the “royally granted Constitution” to gain people’s faith in it. Symbolically, they worked towards replacing royal supremacy with constitutional supremacy, even while drawing the Constitution’s legitimacy from the monarchy.

From 1934 onwards, as a way to consolidate the revolution, the government under the leadership of Pridi as Minister of the Interior, worked even harder to shift the locus of sacredness from the monarchy to the Constitution. A government-sponsored “Association for the Constitution” (*samakhom khana rattathammanoon*) with branches all over the country organized celebrations and marches in the honour of the Constitution, mimicking past ceremonies in the honour of the king.⁷⁰ Ecstatic festivals dedicated to the celebration of the Constitution were held on Constitution Day.⁷¹ Being a “royal gift,” the Constitution was worshipped—which angered then King Prajadhipok. In his last words before abdication, he wrote to the members of the People’s Party: “The Constitution should not be sacred, it should be revisable. It is not right to venerate it with scented candles as you do, venerating the Constitution is a joke!”⁷² Following Prajadhipok’s abdication in March 1935, the People’s Party aimed to fill the void left by the disappearance of the figure of the king by relying even more on the cult of the Constitution. Firmly in power, without a king, the People’s Party commissioned two monuments to honour the new cult of the Constitution: the Democracy Monument and the Safeguarding the Constitution Monument.

⁶⁸ Strangio (2020).

⁶⁹ Nattapol (2013), pp. 18–19; Bandit (2007).

⁷⁰ Fuwongcharoen (2018).

⁷¹ Pridi (2012).

⁷² Mérieau, *supra* note 5, p. 99.

First, the Democracy Monument, Thailand's most emblematic monument, located in the middle of Bangkok, portrays Thai democracy as being made up of five elements: the four branches of the Thai security forces (the Army, the Navy, the Air Force, and the Thai police) at the periphery and the Constitution at its core. The Constitution is represented in a Buddhist-scripture-like longitudinal book made of golden palm leaves (the *samutthai*) placed on top of two golden trays (the *phanwenfa*), which are traditionally used in Thailand as a medium to make offerings to monks or to the king—in other words, to intermediate between the profane and the sacred.⁷³ The security forces are represented by four erect, obelisk-like 24-metre-high wings surrounding and overlooking the Constitution. Commissioned in 1939 to commemorate the 24 June 1932 Revolution that imposed the first Constitution on King Prajadhipok (Rama VII), the monument portrays the Constitution as a Buddhist, sacred book placed on top of a *phanwenfa*, the official representation of the Constitution since 1933.

Second, the “Safeguard the Democracy” Monument, the disappeared monument, erected three years prior in 1936, was a celebration of the victory of the People's Party over a royalist revolt, the 1933 “Boworadet Revolution,” supported by King Prajadhipok, as the burial site of the remains of those who “fought and died for the Constitution.”⁷⁴ The failed royalist attempt at counter-revolution assisted in discrediting King Prajadhipok, which eventually led to his abdication in 1935. The monument glorifies working Thai people as well as citizen-soldiers who fought against the royalists to “save the Constitution.” There is no royal symbolism whatsoever, and it is clearly the Constitution and the common people who are there the object of worship.

In both these monuments, the People's Party had aimed to make the Constitution—rather than the king—the sacred centre and rallying symbol of the nation. This memorial policy was accompanied by several like-minded policies. A law to safeguard the Constitution (a kind of “lèse-constitution” law) was passed, competing with the lèse-majesté law.⁷⁵ The date of 24 June, when the revolutionaries overthrew the absolute monarchy of King Prajadhipok, was made National Day in 1938 and was named “Constitution Petition Day,”⁷⁶ competing with the date of 10 December, the day Prajadhipok presided over the promulgation of a more royalist version of the 1932 Constitution, called the “Day the King Granted the Constitution” (*wan phrarachathan rattathammanun*); years later, the lèse-constitution law was repealed and National Day was eventually moved from 24 June to 5 December, the birthday of King Bhumibol (Rama IX), while 24 June's “rival” Constitution Day, 10 December, was maintained as a public holiday, increasingly emphasizing the king over the Constitution.

The rivalry between royalism and constitutionalism that has manifested itself in the shifting national/constitution days also manifests itself in the competing interpretations of the Democracy Monument that have emerged after the defeat of the People's Party in 1947–48, when DKHS first appeared in the Constitution.

The Democracy Monument, which glorified the “royally granted Constitution,” could be interpreted as ultimately glorifying the king or the Constitution. In 2017, unlike the Safeguarding the Constitution Monument, it survived, showing that the symbolism of the Democracy Monument had shifted from glorification of the Constitution to glorification of the king; this monument now refers to 10 December, not 24 June, in accordance with the DKHS narrative it has now come to represent, intertwining secular notions of constitutionalism with Buddhist notions of kingship in an unequal relationship, where the king remains on top.

⁷³ Nidhi (2004), p. 106.

⁷⁴ Chotpradit (2018), p. 235.

⁷⁵ Streckfuss (2010).

⁷⁶ Somsak (2004), p. 95.

5. Concluding remarks

Rather than being “extra-constitutional,” the king’s status and role in the constitutional order—that is, his broad powers that seem at first glance to be *contra-constitutionem*—build on specific worldviews associated with and derived from the Constitution, in particular the various provisions related to “Democracy with the king as Head of State,” mentioned 15 times in the 2017 Constitution. To interpret the meaning of DKHS, I have engaged in ethnographic description or “constitutional ethnography” of various material elements constitutive of constitutional culture, namely official documents, monuments, and state ceremonies.

State ceremonies not only re-enact, but also constructively produce specific readings of the Constitution, and thus participate in the production of legal meanings—one could even say that they do produce very tangible legal effects. In the case of Thailand, Thai state ceremonies, by re-enacting the Hindu-Buddhist tale of origin of the “king as first law-giver,” promote a reading of the Thai Constitution that establishes the king as the source of constituent power.

Yet the imagery was a bricolage mixing the European idea of law as a gift from the king and the Hindu-Buddhist idea of the king as the upholder and turner of the sacred law, the dharma. In this construction, the king is not only the source of the positive legal order, but also the upholder of the natural (cosmic) legal order. This doctrinal bricolage, as performed in the “constitution-granting” ritual, undoubtedly aims to consolidate the king’s authority and legitimacy. Yet this ritual, monuments, and official state documents do not prove fully efficient as the narrative of the king as the source of the Constitution is being increasingly challenged—as the 2020 anti-royalist protests have shown.

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