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The Thai Constitution-Making Process: A Constitutionalism Perspective

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Abstract:

This study examines the challenges in the Thai constitution-making process from a constitutionalism perspective. Employing a qualitative research approach, we analyzed 20 processes of drafting the Thai constitution from secondary documents, comparing past and present processes. Our analysis is grounded in the concept of constitutionalism, which comprises four key criteria: the legality of the constitution-making process, the constitution-making organization, the role of political representatives, and public participation. The findings indicate that the Thai constitution-making process is largely inconsistent with constitutionalism principles, with most processes originating from coups or their continuations. Although recent efforts have improved the process's form, only 3-5 processes meet the constitutionalism criteria. The lack of public participation in the constitution-making process has resulted in a constitution lacking political equity, negatively impacting Thailand's democratic system stability and contributing to ongoing political crises.

Keywords:

Constitutional process,
Thailand,
Constitutionalism,
Thailand's democratic system

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泰國的製憲過程：憲政視角

摘要：

本研究旨在從憲政視角研究泰國憲法制定過程中的問題。研究採用質性研究方法，從二手文獻中收集數據，然後分析比較泰國憲法從過去到現在的起草過程，總共20個過程。透過對憲政概念的檢驗，用4個標準來分析憲法的製定過程，即制憲過程的合法性，需要合法的法律來支持制憲過程，制憲組織必須涵蓋和製定憲法。人民政治代表要在製憲過程中發揮重要作用，人民參與制憲過程要發揮重要作用。雖然用上述標準來評價泰國憲法起草的整個過程，但我們發現，泰國憲法的起草過程與憲政概念非常不相符，因為大多數制憲過程都來自於政變或政變。儘管近一段時期的製憲進程在形式上做出了與憲政理念相一致的努力，但與制憲進程相媲美的製憲進程也只有3-5個。

关键词：制憲過程，泰國，憲政

1. Introduction

The process of constitution-making in Thailand since the change of government in 1932 has occurred under the dynamics of political history. The elite, who hold political power, together with civil servants who have turned to politics and some of the people, have jointly molded and created a constitution that adheres to self-governance under the participation of citizens, which has gradually increased. In the past decades, Thailand has had many constitution-making and constitutional amendments, but they have been created mainly in response to political changes. The creation of the constitution occurred in the middle of political turmoil, military intervention, and social conflicts that affected the constitution-making process and the result of the process.

Problems in the Thai Constitutional Process Kaew-Ngam (2024) conducted a preliminary survey and found that Thailand had 20 constitutions, but almost all were created by coups or were continuations. Thai constitutions are often revoked, and new constitutions are promulgated by coups or seizing powers. This has led to questions about the political legitimacy and legality of the Thai constitution-making process, and coups have played an important role in shaping Thailand's constitutional landscape. Current research on the Thai constitution-making process has focused mainly on historical, political, and social analysis, such as the role of the military in the constitution-drafting process by Rüländ and Srisang (2018), who emphasized that the military's influence undermines democratic principles. Watanabe (2019) saw that the mechanisms for public consultation in the Thai political process are still problematic, including the creation of constitutions as well as the participation of communities that have been neglected in the past. At the same time, the constitution-drafting committee is often composed of political elites with close ties to the military or established institutions, leaving little room for broader social participation (Baker & Phongpaichit, 2017). The creation of the Thai constitution, therefore, lacks inclusivity, causing the Thai

constitution-drafting process to be separated from reality and the people's desire for self-governance. The result is a constitution that often lacks the necessary checks and balances to hold those in power accountable, leading to continued abuse of power, the creation of political institutions that the people want to reform, and political institutions that are not connected to the people. The process of creating a constitution is influenced by military and conservative forces, leading to deep divisions in society and calls for democracy. There are constant calls for political reform and constitutional reform so that the Constitution truly reflects the diverse interests of the people (Pansak, 2021). All these problems arise from the process of creating a constitution.

The challenge of creating a Thai constitution is not only a historical and political perspective, but also extends to the legal dimension, especially the concept of constitutionalism, which is an important opportunity for people to stand up for their own voices and determine the principles that govern their own society. Therefore, the process of creating a constitution must be consistent with the concept of constitutionalism, which is an important factor that helps create legal legitimacy for the constitution-creating process.

Therefore, this study analyzes the process of creating a constitution by using the concept of constitutionalism. In addition to the historical, political, and social and cultural dynamics that influence the constitution-drafting process in Thailand, this study provides a picture of the process of creating a constitution in the legal dimension, as it is currently being studied. While the creation of a constitution according to the concept of constitutionalism focuses on the provisions of the constitution, which must have the principles of separation of powers, checks, and balances, and the recognition of people's rights and freedoms, this research uses the concept of constitutionalism to measure the process of creating a constitution, not the constitution itself, as is commonly studied.

This research aims to provide a detailed understanding of how the constitution-making process in Thailand is affected by an analysis of constitutionalism. The rationale behind this research is the need to understand the constitution-making process in a country facing political instability and public disappointment. This study will be conducted within the framework of constitutionalism throughout the history of Thai constitution-making. This study will help determine the legitimacy and comprehensiveness of attempts to create a Thai constitution using the concept of public law theory in the process of creating a constitution that is appropriate for Thai society in the future.

2. Literature Review

The Constitution is the center of the core values of that society and must be the core values accepted by society. The constitution must be created from the will of society or the will of the people in society to create state and state institutions, define the scope of power and duties of all political institutions, guarantee the rights and freedoms of the people, and define the relationship between political institutions and the people, using a legal tool called a "constitution," which must have a process of creation that is accepted by the people because the constitution that is created must be consistent with the conditions of society. Therefore, a constitution may be created with different intentions for each society. However, the more the constitution is created in accordance with society, the more it is accepted by society.

2.1 *Constitutional Drafting Process: Legal Considerations*

The constitution-making process often takes a long time and may occur before the drafting of the constitution. Constitution-making, therefore, refers to the entire process, from before the drafting process, which requires gathering ideas and ideologies in society until they are agreed upon, leading to the drafting process, which determines the content and provisions of the constitution, and the process after the drafting of the constitution in order for the constitution to be effective.

The important pre-drafting process involves organizing a transitional or interim constitution and setting a timeframe for drafting a new constitution. Therefore, an interim constitution is similar to a preliminary social agreement in the principles and processes leading to the process of creating a permanent constitution (Berghof Foundation and the United Nations Department of Political and Peacebuilding Affairs, 2020, p. 29-35). An interim constitution should have a legitimate origin and come from an agreement among society to advance the agenda of constitutional change. An interim constitution must come from the elite and civil society, as well as national negotiations during political transitions, which have different formats and objectives to achieve their goals. These processes are

usually large-scale and involve gatherings with the aim of being a forum for open and inclusive debate and to exchange ideas at the national level, with the aim of creating a "consensus" about the shape and vision of society and the values of the constitution to be created (Bazergan, 2019).

The process of drafting the constitution, the most important component of which is the constitution-making body (CMB), which must draft the constitution in accordance with the consensus of the people in the process before drafting the constitution. In terms of form, the constitution-making body must have a form and origin linked to the people, demonstrating the legitimacy of such a link. The constitution-making organization can be classified into many forms depending on the criteria of the classifier. It can be classified into six forms (Fülscher and Bisarya, 2018, p. 9–12): 1. Constitutional conventions and assemblies, 2. Constituent legislatures are mandated to perform legislative functions. 3. legislative assemblies that function to create the constitution themselves; 4. Constituent assemblies that later perform legislative functions have the power and duty to draft the constitution. The elected assembly was later mandated to become legislature. 5. Indirect organizational forms: Some parts are not elected according to the constitution; however, most are appointed by the authorities (executive-led processes). and 6. The form in which the president or the executive branch drafts and implements the new constitutional framework, or may appoint a committee to conduct the actual drafting and then amend and approve the resulting text. The important problem is that the constitutional drafting body must be able to comprehensively represent various groups in society, especially large groups. It must allow minorities and other related groups to be able to speak and participate in a broad format, such as by directly submitting to the drafters of the constitution and responding to the draft constitution.

The process of drafting the constitution is the process of making it effective. Currently, "referenda are often used in the process of drafting and changing a constitution. It has become a worldwide trend in the past decade, especially in the establishment of new states (Tierney, 2016, p.99-118). The referendum theory is based on at least three important theoretical foundations: the principle of governance in which sovereignty belongs to the people, the principle of democratic legitimacy, and the principle of participatory democracy. Therefore, a referendum reflects the principle of sovereignty belonging to the people in creating a constitution for self-governance.

2.2 *Constitutional Formation Based on the Concept of Constitutionalism*

Constitutionalism often refers to a constitution that limits state power. It was influenced by the establishment of the constitutions of the United States and France, which required separation of powers. Political

institutions can check and balance the use of power to protect people's rights and freedoms. In this research, the principles of legal and social sciences are used as the primary principles because the drafting of a constitution is an important political activity. The concept of constitutionalism is used to study the constitution-making process as its main principle. In the present era, a new constitution is an important component in creating the foundation of a new state, introducing democracy, and adjusting democratic balance during or after political crises. Therefore, constitution making has become an important part of the process of overcoming social conflict. The criteria to be used to consider the process of creating a constitution that is appropriate for society may use various criteria depending on the person who will use the principles in the evaluation. Here, we consider using the criteria of constitutionalism, the four principles that are often used for comparison in the process of creating a constitution (Negretto, 2016, p.8):

1. The legitimacy of the constitution-making process, which is the basis for constitution-making, must be legitimate, especially the origin of the process of creating from the interim constitution. The important problem is who has the authority to draft the legal framework to create the constitution and how will it be accepted by society? It is the person who determines the role and authority of the constitution-making process whose product is the constitution. The person who sets the law to create this constitution is like an indirect creator. Therefore, the origin of the constitution-making process should be accepted. Otherwise, it will become the use of the law as a tool to force people to create a constitution, even though the creation of a constitution under political philosophy must be the consent of society, and the law will create continuity in the transition to democracy, which is a strategy to build trust and consensus among participants after a long conflict. While creating the Thai constitution, Chaiyanukij (2019) observed that the cycle of military intervention and constitutional reform emphasized the instability of the constitution in Thailand. Political turmoil often hinders the creation of stable constitutions.

2. The constitutional drafting body must have a relationship with the people. The selection of the constitutional drafting body must include as many people as possible. Although Negretto points out that these issues may be minor in a democracy, there has been no study on the use of the legislature to perform two functions compared to the drafting of the Constitution from the Constitutional Drafting Assembly. In terms of the issue of disagreement affecting the drafting of the constitution in a fragile environment affected by conflict (Negretto, 2018, p. 254-279), the method of obtaining a constitutional drafting body may indicate the relationship and coverage.

3. The role of the people's representatives in the constitution-making process and the process of examining the people's will in drafting the constitution

through the constitution-making body. By using the principle of the majority vote at various levels of the organization in the constitution-making process, the content must be consistent with the people's will (Wolfrum & et. al., 2021). The creation of a general constitution, therefore, requires the participation of public representatives because they are important players and are affected by the creation of the constitution.

4. Channels for public participation in constitution-making: citizen participation may occur before the creation of a constitution or during the constitution-making process. It often takes the form of public consultations in open meetings, participatory forums, or public deliberations that cover various activities. However, channels for public participation in constitution-making in Thailand have gaps in public participation (Watanabe, 2019). Meanwhile, in the 21st century, with many constitution-making processes around the world, constitution-making was found to require public participation. It is necessary to build trust that requires citizens to lead constitution-making. The drafting of constitutions in Western Europe developed a new model using consultation methods, seeking full democratic legitimacy by requiring citizens to deliberate systematically and as a group in a small public space. While Saichol (2021) surveyed Thai civic society during the drafting of the 2017 Constitution, he found that civic participation was limited, with significant obstacles to participation in constitution-making. Affecting the legitimacy of constitutional outcomes, Ginsburg and Elkins (2020) opined that a successful constitution-making process requires inclusive participation to ensure that the created constitution is legitimate. Pongsak (2020) opined that despite efforts to incorporate Thai people's opinions into the Thai constitution-making process, they had little impact on drafting the constitution.

3. Methodology

3.1 Research Design

The study of the problem of the Thai constitution-making process from a constitutionalism perspective will use a descriptive research model by collecting data to study the behavior, patterns, and relationships between people, organizations, and political institutions in the constitution-making process at various stages, according to the constitutionalist concept. Four criteria are used as indicators to test the extent to which the constitution-making process is consistent with the constitutionalist concept: the legality of the establishment of the constitution-making process, the constitution-making organization, the role of political representatives of the people, and the participation of the people in the constitution-making process.

3.2 Data Collection

Data collection from secondary data, especially from

the meeting reports of the parliament, constitution-drafting organizations, and various committees involved in the constitution-making process of Thailand, both before the constitution-drafting process, during the constitution-drafting process, and after the constitution-drafting process, will show the extent to which the Thai constitution-making process is consistent with the constitutionalist concept.

3.3. Research hypothesis

The research hypothesis is that the process of creating the Thai constitution may not be in accordance with the principles of constitutionalism; namely, the law of the constitution-making process lacks legitimacy, the organization that created the constitution is not representative of the people, political representatives from the people have no role in creating the constitution, and people lack participation in the constitution-making process. To answer these hypotheses, this study used qualitative research methods based on document analysis.

3.4 Data analysis method

The data were analyzed using data collected from the process of creating all 20 Thai constitutions and analyzed using four criteria: the legal legitimacy of the constitution-making process, the organization that created the constitution, and the relationship as a representative of the people; political representatives from the people have a role in creating the constitution; and the people participate in the constitution-making process. The obtained data were compared to determine how consistent they were with the theoretical concepts that were collected. The research was then presented in a descriptive format, as shown in Figure 1.

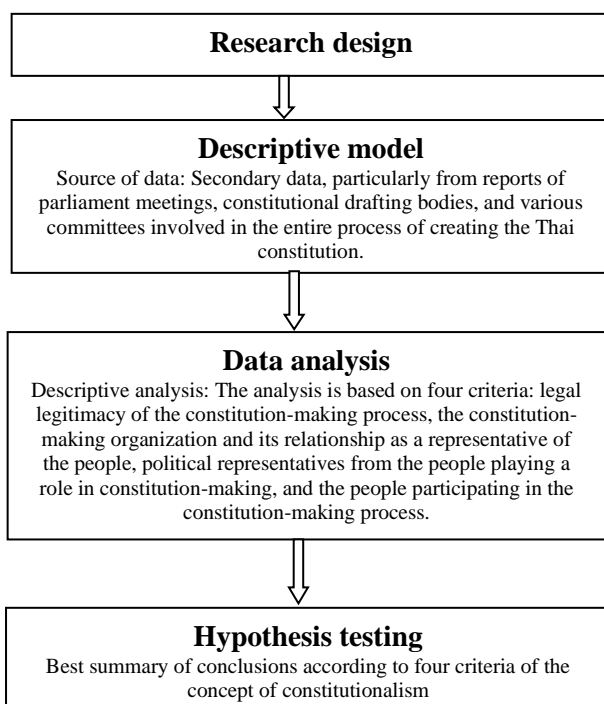


Figure 1. Research methodology flowchart

4. Results

4.1. Thai constitutional drafting processes

The creation of a constitution is a crucial process that shapes the foundation of a country's governance and protects citizens' rights. In Thailand, the process of drafting constitutions has been complex and is often influenced by political struggles. This study examines the Thai constitutional drafting process through the lens of constitutionalism, which emphasizes the importance of public participation and the limitations of government authority.

We studied the creation of 20 Thai constitutions from the first to the present, using the criteria of constitutionalism to evaluate the legitimacy and legality of the drafting process. We analyzed the methods used to establish the constitution-making process, including the roles of coups, laws, and public participation. Our study revealed that the majority of Thai constitutional drafting processes (14 out of 20) were either politically illegitimate or unlawful because of the use of force from the coups. In some cases, laws establishing the constitution-making process were also politically illegitimate, but legal, totaling six processes. Only five processes were based on politically legitimate and legal laws. We highlight two significant exceptions: the 1946 and 1997 constitutional drafting procedures, which were conducted in ordinary settings without the influence of coups. These processes were notable for their emphasis on public participation and the creation of new constitutions by rewriting the existing ones. The majority of the country's constitutions were created under conditions of political illegitimacy or unlawfulness, which undermined the legitimacy of the government and the protection of citizens' rights.

The Thai government should prioritize public participation and the limitations of government authority in the constitution-making process.

Our research also highlights the importance of creating constitutions in ordinary settings free from the influence of coups and other forms of political coercion. By doing so, the government can ensure that the Constitution reflects the will of the people and protects their rights and freedoms.

The Thai constitutional drafting process through the lens of constitutionalism. The Thai government prioritized public participation and the limitations of government authority in the constitution-making process. By doing so, the government can create a legitimate and effective constitution that protects the rights and freedoms of its citizens.

4.2. Thai constitution-making and constitution-drafting organizations

Considering the relationship between the constitution-making organization and the people, it was found that the constitution-making organization and constitution-drafting organization under various names that came directly from the coup d'état were the most numerous,

with 13 processes of creating the constitution. The constitution-making and constitution-drafting organizations that came indirectly from the coup group comprised four processes. While the constitution-making organization and the constitution-drafting organization that came directly from parliament, the legitimate political representatives of the people, were the only three processes of creating the constitution.

Only five constitutions stand out when examining the parliament's political role. A committee established by the government to design the Constitution drafted the 1932 document. Parliament selected by a popular vote drafted the 1946 Constitution. In accordance with the modified 1932 Constitution, the people elected parliament for the 1949 Constitution. However, by 1952, a coup had replaced it, thereby decreasing the legitimate function of those who drafted the constitution. Lastly, the most evident example of political representatives participating in the parliamentary process was the creation of the 1997 Constitution.

Thus, coup leaders have an important influence on the institutions that write Thai constitutions, and they may shape the organizations that select members of constitution-drafting bodies. This section also covers the selection of committees that are important in the constitution-writing process.

4.3. The role of the people's political representatives

While considering the role of people's political representatives in the 20 constitution-making processes, it was found that there were 13 constitutional processes in which the role of people's political representatives was not found, or it could be said that they had the least role. The other four constitution-making processes played the role of people's representatives in the constitution-making process, but their role was small because they were influenced by the military and the military's administration. There were only three constitution-making processes in which politicians played the role of people's representatives.

All of this clarifies that groups that originated with coups have had a major impact on the constitution-drafting process in Thailand, largely influencing the process. Although the process was carried out as an assembly representing the people, it still included the appointment of numerous committees that were essential to the design of the constitution.

4.4. Channels for public participation in the constitution-making process

Channels for public participation in the constitution-making process, both before the constitution was drafted, during the constitution was drafted, and after the constitution was drafted, using the participation criteria of the International Association for Participation, which was divided into five levels according to the format, it was found that the people did not participate in the constitution-making process in all nine processes, had

low participation in acknowledging the constitution-making process in three processes, had participation at a level of three or moderate in another five processes, and had the highest level of participation in the referendum in three processes.

Coups have frequently influenced or impacted public participation in the creation of Thai constitutions, producing a final constitution-drafting body without true ties to or representation of people. Consequently, public participation in the drafting process usually remained at Level 1 or, at most, Level 3. This is mainly because radio and television broadcasts have been the primary sources of information regarding the specifics of the Constitution.

The only constitutions with processes for public referendums that could be regarded as Level 5 participation were those drafted in 1997, 2007, and 2017. Nevertheless, the methods adopted to hold these referendums are not consistent with the principles of democracy.

Unelected power groups continue to control the Thai constitution-drafting process, which may undermine the document's legitimacy and raise the possibility of it being amended or revoked in the future. This is a result of undemocratic constitutions that are not designed to reflect popular will and safeguard fundamental civil liberties but rather to maintain the power of the elite.

Undemocratic constitutions, like those in Thailand, have long-term political ramifications, especially if they are drafted to favor the military or political elites. These constitutions frequently assign power to unelected entities such as independent agencies, coup-installed bodies, or an unelected senate. This has encouraged prolonged political strife and dissatisfaction. For example, rather than establishing a true democracy, the constitutions of 2007 and 2017 have been condemned as instruments to maintain the power of the military and the elite (Hewison, 2019).

Accordingly, requests for constitutional amendments or even nullification of the constitution through coups frequently result from elections held under undemocratic constitutions that fail to resolve crises of government legitimacy (Croissant & Haynes, 2020). Therefore, the process of establishing new constitutions never ended.

5. Discussion

From the study of the process of creating the Thai constitution from the first to the present, totaling 20 constitutions, using the criteria of constitutionalism, when considering the legality of the constitution-creating process, which must have legitimate laws as a basis for the entire process of creation, there were only 5 constitution-creating processes, or 1 in 4 of the entire constitution-creating process, that were legitimate and legal. Even the most recent constitution-creating process, with another three in four constitution-creating processes

coming directly from the coup d'état or resulting from the coup d'état, is similar to what Suksakorn (2015) analyzed. The Thai constitution-creating process falls within historical norms.

From 1932 to the present, the process of creating the Thai constitution stemmed from important political causes, namely, coups and protests, with the military frequently intervening in politics to claim restoring peace, order, and protecting the monarchy. The process of creating the 2017 Constitution, which was drafted under military rule, aimed to expand the military's power and limit freedom in a democratic regime (Worachet, 2019), supporting centralized power. This undermines the principles of representativeness and responsibility in democratic regimes.

Political parties suffer from weaknesses because of the undemocratic constitution established by Thailand. This supports Hewison's (2018) finding that political parties' authority has been limited by the implementation of legislative channels. However, because of the unelected senate's growing role in filtering the government, the current analysis shows that the impact of the 2017 Constitution on political parties was more severe than that of the 2007 Constitution. Furthermore, as stated in the 2017 Constitution, this system can result in the judiciary becoming increasingly involved in political issues (Dressel & Tonsakulrungruang, 2019).

In the concept of constitutionalism, the constitution must originate from people based on the concept of a social contract. Therefore, the organization responsible for creating or drafting the constitution must be representative of the people. There were only three processes for creating the Constitution through parliament or the legislature. The remaining 17 processes were initiated by organizations that resulted from coups or continued from coups. This led to a lack of connection with the people, prompting Rüländ and Srisang (2018) to observe that the military played a significant political role in drafting the Thai Constitution. The military's influence affected civil society during the constitution drafting process, often compromising democratic principles.

The undemocratic constitution established through Thailand's constitution-drafting process is likely to intensify political instability. This supports Diamond's (1999) claim that people's liberties may be eroded in democracies with weaknesses. Thailand's social and cultural background, which has a history of authoritarian politics, may have an impact on this, but despite its recent development, the Constitution continues to have a significant influence on the stability of the democratic system, which is continually called for reform.

While political representatives should play an important role in the constitution-making process, they found that they only played a significant role in three of the Thai constitution-making processes. The rest were mainly controlled by military elites. Therefore, the constitution-making process lacked comprehensive

coverage. Watanabe (2019) assessed the public consultation mechanism during the Thai constitution-drafting process, which should have provided an opportunity for arguments to be more thorough. The absence of political representatives creates gaps in public participation.

Public participation in the Thai constitution-making process. When considering only the form, almost half of the constitution-making process did not involve the public and involved a low level of participation. This was because the constitution-making body used its power under the law only to "listen to public opinion" and did not affect the content of the drafting of the constitution. It only developed participation by relying on the referendum law to create the last three permanent constitutions: the 1997, 2007, and 2017 constitutions. The referendum was debated for its problematic legitimacy, which was inconsistent with the referendum principle, as McCargo (2020) believed that public participation, especially through protests, should be considered an argument in the Thai constitutional process because of its participation. Linking social movements to constitutional change demonstrates the dynamic nature of true constitutions. Phongpaichit and Baker (2017) suggested that public participation can enhance and deepen our understanding of cultural influences on the legal framework, particularly the significant impact of Buddhism and the monarchy on constitutional principles and values.

One important element that influences the constitution's validity and sustainability is public participation in its drafting (Tonsakulrungruang, 2022). However, Thailand's experience demonstrates that the type and level of public participation varies based on the political environment and the particulars of each constitution-drafting procedure. Thailand's constitution had different levels of public engagement in the drafting process. The Constitution Drafting Assembly (CDA), which was elected and resulted in widespread acceptance, offered the most significant public input under the 1997 Constitution.

A universally approved constitution with clauses that supported democracy and civil rights resulted from this transparent and highly participatory process. However, the 2017 Constitution was drafted by a government that was destroyed in a coup, and the 2007 Constitution did not include public input. The 2017 Constitution was particularly attacked because of its lack of legitimacy and restrictions on public participation. Referendums were held under both constitutions, although the state strictly controlled the proceedings.

The results indicate that, although low levels of engagement eventually result in calls for constitutional changes, high levels of participation strengthen the legitimacy of the constitution and add to Thailand's political instability (Hudson, 2021). Therefore, popular participation in the constitution-drafting process is vital for the long-term viability of Thai democracy. This is

consistent with the findings of Phongpaichit and Baker's (2017) study, which showed that public participation enhances comprehension of how culture shapes legal frameworks, especially the significant influence of Buddhism and the monarchy on the constitution's tenets and values (Mérieau, 2021).

6. Conclusion

The process of creating a constitution in Thailand, when tested by the concept of constitutionalism, uses four criteria: the legality of the process of creating a constitution, which must have legitimate laws to support the origin of the process; the organization of creating a constitution, which must symbolize all people, especially the method of obtaining it; political representatives from the people should play an important role in the process; and the people who have sovereign power or the power to establish the constitution should participate.

When using the criteria to evaluate the entire process of creating a constitution in Thailand, we found that most of the process originated from a coup or continued through it. Although recent efforts have been made to align with the concept of constitutionalism, three processes were fairly consistent and two processes were partially consistent, while the remaining processes were not in line with constitutionalism.

The degree of public engagement in building the Thai constitution, which varies among versions, is an aspect of the process that is contrary to the standards of constitutionalism. Coup-installed administrations have drafted, carried out, or indirectly defined the Constitution, limiting the public's participation and producing an unjust document that undermines the stability of democracy. This study offers an extensive evaluation of the degree of public involvement throughout the Thai constitution-drafting process, a topic that has not yet been sufficiently studied in the literature. Over time, Thailand's democratic system stability and political legitimacy have been seriously affected by differences in public participation in the constitution-making process. This is a crucial issue for the future reform of Thailand's Constitution.

7. Recommendations

When compared to the idea of constitutionalism, the findings of the study on Thailand's constitution-making process revealed that because the majority of it took place during a military coup, it hardly adhered to the ideals of constitutionalism. It would be helpful to compare Thailand's constitution-making process with those of other nations that have effectively developed and put into effect a constitution-making process within a true constitutionalist framework, despite some attempts to connect specific processes with constitutionalism. Examples include Chile's

creation of a new constitution and South Africa's following apartheid.

Understanding how each country created its own procedures to ensure legal validity and widespread public participation would be made easier with the aid of this comparison. Furthermore, it is essential to consider the institutional and structural barriers that prevent Thailand from drafting a democratic constitution. Proposals for changes in the constitution-making process, such as the creation of autonomous bodies that accurately reflect popular will, may result from this. Future studies that focus on these topics will help to clarify the shortcomings of Thailand's constitution-making procedure and offer ways to make it more constitutional.

The study's conclusions show that enhancing legitimacy and lowering political conflict are two advantages of a constitution-drafting process that includes public participation at every level. To guarantee that the Constitution truly reflects the requirements of society, it is recommended that future constitution-making procedures in Thailand establish an elected constitution-drafting assembly and encourage participation in civil society. Further studies on the institutions and legal frameworks that may improve public engagement are needed.

Data Availability Statement

The data presented in this study are available upon request from the corresponding author.

Institutional Review Board Statement

This research was approved by the Western University Review Board (Ethics Committee) and was not applicable to studies that did not involve humans or animals, as per Certificate WTU2567-0032 dated April 30, 2024.

Informed Consent Statement

This research paper does not apply to human research.

Conflicts of Interest

The authors declare no conflicts of interest regarding the publication of this manuscript. In addition, ethical issues, including plagiarism, informed consent, misconduct, data fabrication and falsification, double publication and submission, and redundancies, were completely observed by the authors.

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