

THESIS TITLE	PROBLEMS ON CONSTITUTIONALITY OF THE MARTIAL LAW ACT BUDDHIST ERA 2457 (1914): ASE STUDY OF USING THE POWER OF MILITARY PERSONNEL AND LIABILITY EXEMPTIONS
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ABSTRACT

This thesis is aimed at studying the Martial Law Act Buddhist Era 2457 or the Martial Law B.E. 2457 in connection with constitutionality and studying the exercise of power of military officials and exemption to liability provided by such law. Some legal issues are included in the study i.e. partial statutes of the Martial Law B.E. 2457 may be contrary to or inconsistent with the Constitution of Kingdom of Thailand B.E. 2560, legal problems arisen by lack of definition and mechanism to control the exercise of military officials' power therein and statutes of the Martial Law B.E. 2457 may not comply with current circumstances.

The Martial Law B.E. 2457, a significant national security of Thailand has its effect to ensure security of the country where external perils and internal perils occur such as events of necessities, war or insurgence to which ordinary laws cannot be applied to resolve efficiently and promptly those situations. As the martial law is not effective in normal state, the martial law is a law more impacting to rights and liberties of the people than any other laws of Thailand. The martial law is applied in abnormal necessity state as a result of the royal proclamation in order to have its effects in any specific area of the country or nationwide, or otherwise. When a war or insurgence arises in any area, the military commander in charge of such area having military force not less than one battalion or the commander of any military fortress or base is authorized to

proclaim the martial law for its effect in specific area under military authorities. As a result, other laws being contrary to any provision of the martial law shall be restrained and such provision shall be applied instead. In addition, the military officials are superior to the civil officials in sections of warfare, control, suppression or maintenance of orderliness. By effects of this law, the military officials have full power to search person, vehicle, house in any place and any time, to conscript people, vehicle and food rations, to prohibit dissemination of books, publications and newspapers, to prohibit transmission of radio signal or television, to prohibit use of public ways by land, water and air, to prohibit people to leave their house, to confiscate people's property, to dwell in place, to burn, destroy or change place, to expel people, to detain people and any people who are damaged by actions of the military officials are not entitled to claim for any damages or any fine to the military officials at all.

Under the fact that the Martial Law Act Buddhist Era 2457 having been in force since 27th August 1914 and for over one century prior to promulgation of the Constitution of Kingdom of Thailand B.E. 2560 which is the supreme law of the country and have statutes of protecting rights and liberties of the people. Accordingly, the exercise of powers of the military officials and legislation to provide certain exemptions to the liability of those military officials under the Martial Law Act Buddhist Era 2457 being contrary to or in consistent with the Constitution of Kingdom of Thailand Buddhist Era 2560 are unconstitutional and ineffective under the principle of constitutionality.