

Chapter 3

Court of justice

1. Introduction

The constitution of Thai Kingdom, B.E.2540 (1997) has made tremendous effects on the judiciary. The establishment of the Constitution Court, and the Administrative Court were resulted from the provisions of such constitution. Inevitably, the power of the Court of Justice, as a solely organization enjoying the judiciary power in the earlier period, has separated to new independent organizations. Moreover, the administrative system of courts has drastically changed, for example, the departure of the Ministry of Justice from the Courts of Justice. This chapter will be illustrated how the Courts of Justice perform their duties in the current times.

2. Structure

As regards the certain characteristics, the structure of courts of Justice is divided into two parts, administration and adjudication. Before August 20, 2000, the Ministry of Justice was responsible for the administration works of all courts. The main role of the Ministry of Justice was to provide supports, including personnel and office equipment, to courts in order that courts could operate theirs works efficiently. At present time, the Ministry of Justice is replaced by the Office of the Courts of Justice which an independent organization and a juristic person. Such office, consequently, obtains the duties of the Ministry of Justice. This change arose from the idea that the Ministry of Justice as a politician might interfere the judicial system. Therefore, to prevent the political intervention, the politicians should not involve in the administrative works of courts. In conclusion, the alteration of the administrative organization is one of

major parts of the judicial reform under the current constitution.

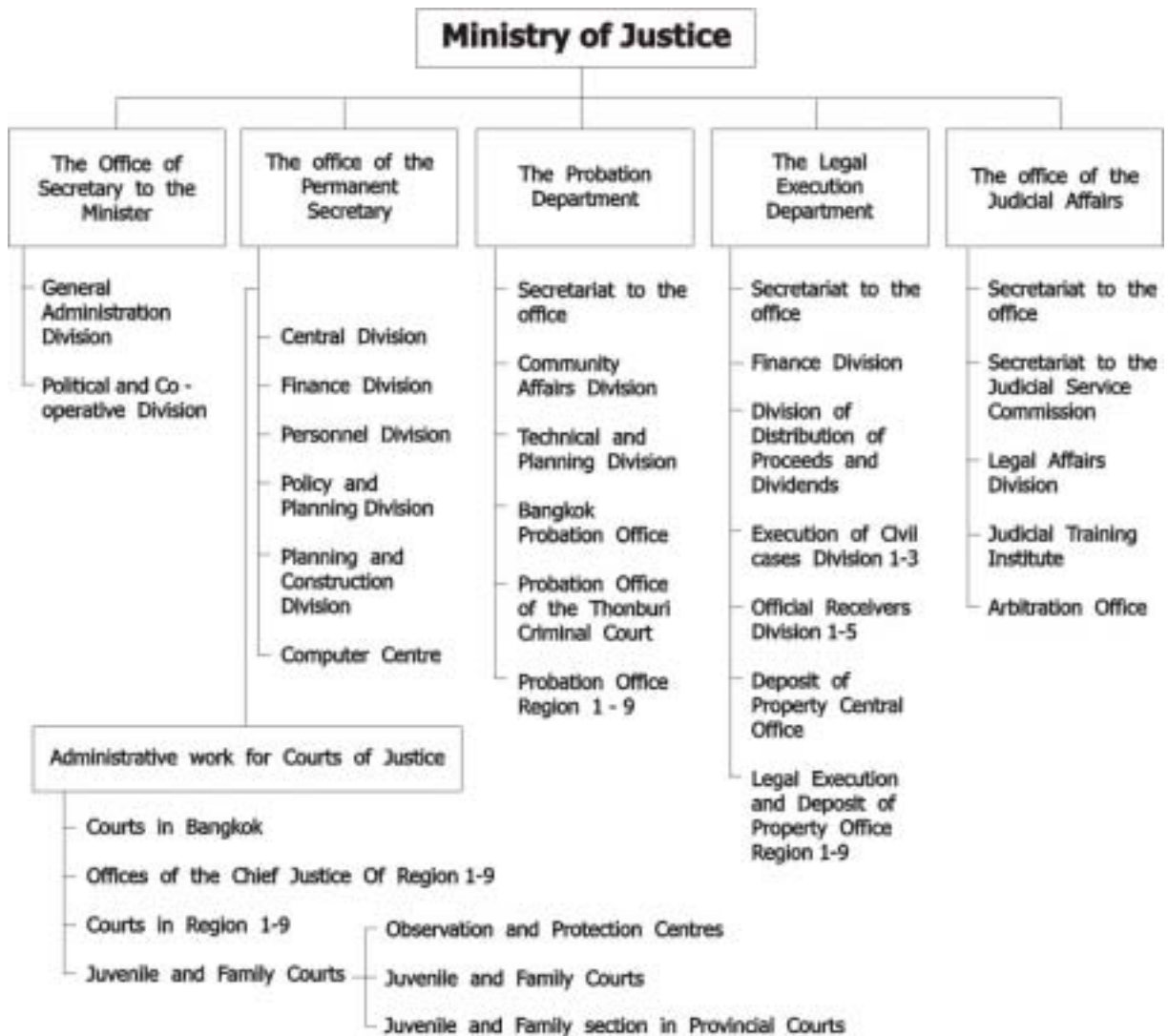


Chart 1. The structure of the Ministry of Justice prior to the current constitution

2.1 Administration

This part will show the administrative organization under both the Ministry of Justice and the Office of the Courts of Justice. The eminent change was that the works of the Probation Department, the Legal Execution Department, and the Observation and Protection Centre were brought to the new Ministry of Justice. However, the main duties, especially in transitional period, remains the same as the former system.

It should be noted that, regarding to the administration of the court, each courts

has a registrar, the highest official of the office of the court, who takes responsible for administrative and secretarial works of the court, including controlling clerks and court staffs.

The Ministry of Justice consisted of the Office of the Secretary to the Ministry, the Office of the Permanent Secretary, the Probation Department, the Legal Execution Department, and the office of the Judicial Affairs.

The Office of the Secretary to the Ministry had duties to assist the Minister as a head of the Ministry in term of supplying information for political responsibilities. The Office of the Permanent Secretary, under directed by the Permanent Secretary, played an important role in administrative works. This office dealt with personnel matters, facilities, and budget for all courts.

The Probation Department provides the investigation reports of offenders and rehabilitative programs ordered by courts. The Legal Execution Department, is responsible for the enforcement of court judgements and the court orders in civil cases and bankruptcy cases. The management of reorganization under the Bankruptcy Act amended in B.E. 2541 (1998) is the new duty of this department.

The office of the judicial affairs, headed by the Secretary-General of the judicial affairs, handles all matters involving appointment, promotion, transfer, and removal of judges, which would be submitted to the Judicial Service Commission for consideration. In addition, this office both supplies legal information, texts, and periodicals of Supreme Court' decisions for judges, and provides training for judges and judge - trainees.

Apart from the Minister of Justice, the important person in the Ministry of Justice was the Permanent Secretary, the highest civil servant in this Ministry. In practice, however, he was transferred from a judge. He, as a superior of the office of the judicial affairs, also dealt with all matter of appointments, promotions, transfers, removal and disciplinary actions of judges. He was one of ex-officio members of the Judicial Service Commission.

The new structure of the administration of the Courts of Justice involves the three organizations, i.e., the Office of the Courts of Justice, the Judicial Administration Commission, and the Commission of Officials of the Office of the Courts of Justice.

The new structure

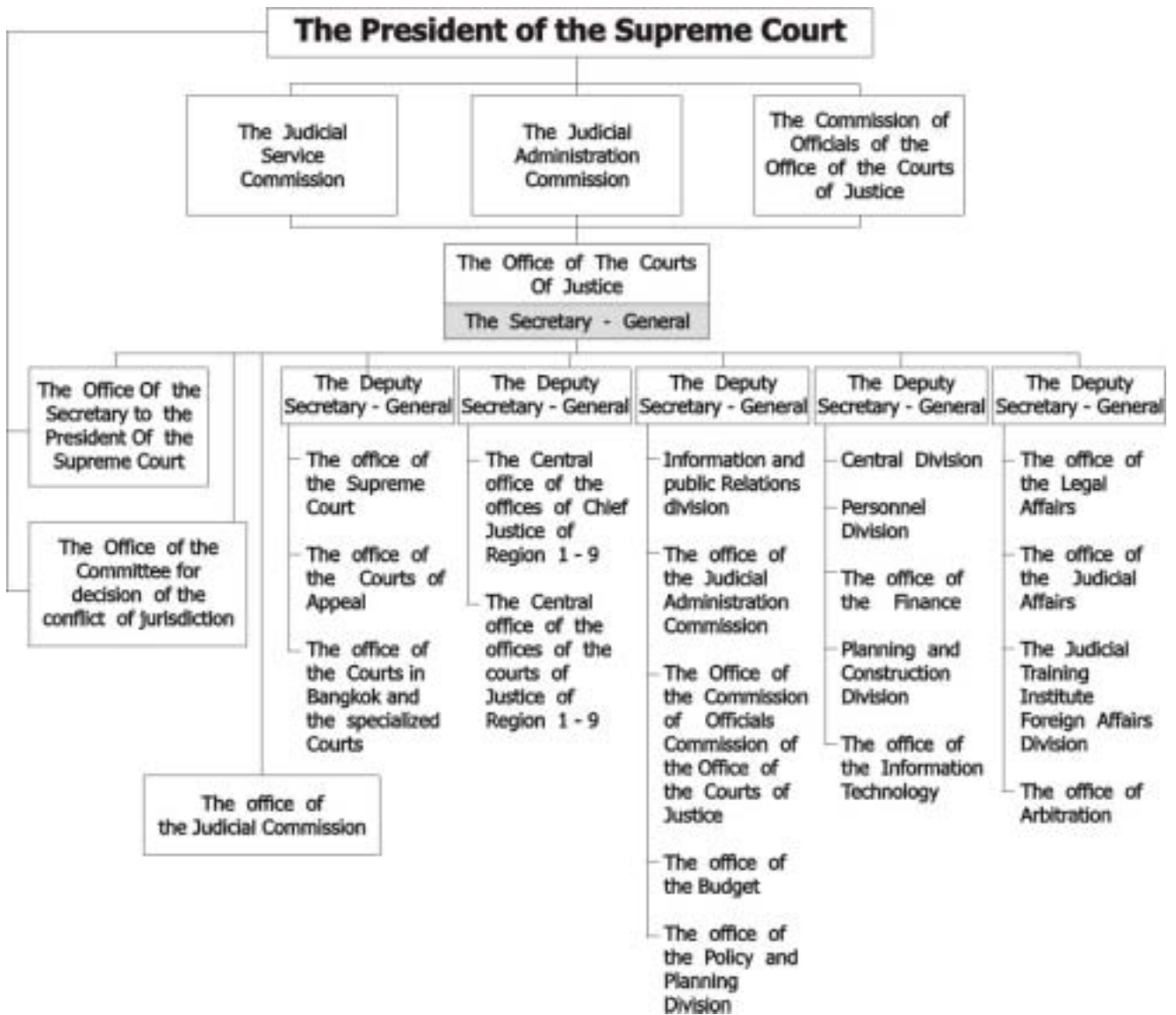


Chart 2. The administrative structure of the Courts of Justice proposed in the public hearing on August 17, 2000

The Office of the Courts of Justice

According to the constitution, the Courts of Justice have an independent secretariat, with the Secretary-General of the Office of the Courts of Justice as the superior responsible directly to the President of the Supreme Court. The Secretary-General has to transfer from a judicial official, or a person, in the past, has served as a judicial official. The appointment of the Secretary-General must be approved by the Judicial Service Commission.

The Office of the Courts of Justice has autonomy in personnel administration, budget, and other activities as provided by law. So far, the arrangement of the structure of the Office of the Courts of Justice has not been completed yet. However, the works of the Office of the Courts of Justice should be categorized into three groups; namely, the main line works, the auxiliary works, and directorial assistance works.

The mission of the Office of the Courts of Justice, illustrated in the document of the Office of the Courts of Justice in the public hearing on August, 17, 2000 are as follows:

- (1) Laying down policies concerning personnel, budget, and development plan in compliance with the principle of the good governance.
- (2) Serving as a secretary of the Judicial Service Commission, the Judicial Administration Commission, and the Commission of Officials of the Office of the Courts of Justice.
- (3) Providing posts for judges and court officials, and developing the potential of those person systematically and continuously.
- (4) Promoting researches for the development of laws and system of the Courts of Justice.
- (5) Monitoring and evaluating the output of works, defining the effective indicators and unit cost.
- (6) Co-ordinating with other agencies in judiciary process for the purpose of the human right protections.

The Judicial Administration Commission

This Commission consists of persons as follows:

- (1) The President of the Supreme Court, as a chairman

- (2) Twelve judicial officials of all levels of Courts, four persons from each level, who are judges of each level of Courts and elected by judicial officials of all levels of Courts.
- (3) Qualified members, not less than two persons but not exceed four persons, concerning budget, organization development, or the executive and management who are not or were not judicial officials and who are selected by the chairman and member in (2).

The Secretary-General is the secretary of this commission and Deputy Secretary-General who is entrusted from the Secretary-General is an assistant secretary.

This Commission is responsible for controlling the administration of the Courts of Justice in regard to the administration and secretarial works of the Office of the Courts of Justice prescribed by laws, regulations, formalities and tradition of the judicial services and has power in respect of the following matters:

- (1) the issue of regulations, notifications, resolutions concerning the administrative and secretarial works of the Office of the Courts of Justice in compliance with the policies of the President of the Supreme Court, including the restraint of the administration of the Courts of Justice, or the Office of the Courts of Justice being inconsistent with such regulations, notifications, resolutions;
- (2) the approval of the submission of bills to the council of Ministers, concerning the administration of the Courts of Justice and the bestowal of justice to the people;
- (3) the approval of the budget plan for the administration of the Courts of Justice and the Office of the Courts of Justice;
- (4) the approval of the administration and management of budgets and procurement of the Courts of Justice and the Office of the Courts of Justice;
- (5) the prescription of working days, traditional public holidays, annual public holidays and leave of absence of officials and employees of the Office of the Courts of Justice;
- (6) the prescription of seal, emblem or sign for the administration of the Courts of Justice, including the prescription of rules and procedure of using such seal, emblem or sign;

- (7) the appointment of persons or groups of persons for performing any act as entrusted;
- (8) the supervision of the administration of the Courts of Justice prescribed by laws;
- (9) the performance of other acts within the powers and duties of the Judicial Administration Commission prescribed by laws.

The Commission of Officials of the Office of the Courts of Justice

This Commission consists of persons as follows:

- (1) The first Vice- President of the Supreme Court , as a chairman, The President of the Appeal Court, the Secretary-General of the Civil Service Commission and the Secretary-General of the Office of the Courts of Justice, as ex- officio members.
- (2) Three judicial officials, appointed by the Judicial Service Commission from judges of each level of Courts.
- (3) Five officials of the Office of the Courts of Justice, of the level not lower than level eight, elected by officials of the Office of the Courts of Justice, of the level not lower than level six.
- (4) Qualified members, not exceed three persons, concerning organization development, personnel management, executive and management, who are not or were not judicial officials or officials of the Office of the Courts of Justice; who possess the qualifications and are not under any of the prohibitions prescribed by the Commission of Officials of the Courts of Justice; and who are elected by members in (1) - (3).

The Commission of Officials of the Courts of Justice will appoint officials of the Office of the Courts of Justice as secretary and assistant secretaries.

This Commission has power in respect of the following matters

- (1) the prescription of qualifications, selection, recruitment, appointment, trial – performance of official duties, development, transfer, promotion, vacation from office, suspension of official service, instruction for temporary resignation, discipline, inquiry and imposition of disciplinary penalty, complaint and appeal against the imposition of penalty on officials of the Office of the Courts of Justice.

- (2) delegation of powers of officials of the Office of the Courts of Justice, be it for the purpose of acting for or acting as holders of such positions;
- (3) the prescription of the uniform and dresses of officials of the Office of the Courts of Justice;
- (4) the employment and appointment of persons as expert or specialists on specific fields beneficial to the performance of duties of the Courts of Justice and the rate of remuneration for the employment;
- (5) the appointment of persons or groups of persons for performing any act as entrusted;
- (6) the provisions of welfare or other assistance to officials of the Office of the Courts of Justice;
- (7) the maintenance of personnel record and the control of retirement of officials of the Office of the Courts of Justice;
- (8) the prescription of procedure and conditions for the employment of employees of the Office of the Courts of Justice including the prescription of uniform and dresses, and the provision of welfare or other assistance to employees of the Office of the Courts of Justice;
- (9) the prescription of other acts for the benefit of personnel management.

2.2 adjudication

The Courts of Justice have power to try and adjudicate the criminal, civil, bankruptcy, and all cases not being within the jurisdiction of other courts. Meanwhile, the Administrative Courts or the Military Courts deal with the administrative cases and the military criminal cases respectively. This part will show the jurisdiction of the Administrative Court to compare with the Courts of Justice; the Committee for decision of the conflict of jurisdiction; and the power of the Constitutional Court.

The cases falling within the jurisdiction of the Administrative Courts provided by the Act on Establishment of the Administrative Courts and Administrative Court Procedure, B.E. 2542 (1999) are as follows:

- (1) the case involving a dispute in relation to an unlawful act by an administrative agency or State official, whether in connection with the issuance of a by-law or order or in connection with other act, by reason of acting without or beyond the scope of the powers and duties or

inconsistently with the law or the form, process or procedure which is the material requirement for such act or in bad faith or in a manner indicating unfair discrimination or causing unnecessary process or excessive burden to the public or amounting to undue exercise of discretion;

- (2) the case involving a dispute in relation to an administrative agency or State official neglecting official duties required by the law to be performed or performing such duties with unreasonable delay;
- (3) the case involving a dispute in relation to a wrongful act or other liability of an administrative agency or State official arising from the exercise of power under the law or from a by-law, administrative order or other order, or from the neglect of official duties required by the law to be performed or the performance of such duties with unreasonable delay;
- (4) the case involving a dispute in relation to an administrative contract;
- (5) the case prescribed by law to be submitted to the Court by an administrative agency or State official for mandating a person to do a particular act or refraining therefrom;
- (6) the case involving a dispute in relation to the matters prescribed by the law to be under the jurisdiction of Administrative Courts.

Although the power of each court distinguished by laws, the problem of the overlap of power still remains. Where there is a dispute on the competent jurisdiction among the Courts of Justice, the Administrative Court, the Military Court or any other court, it will be decided by a committee.

This committee consists of the President of the Supreme Court of Justice as a chairman, the President of the Supreme Administrative Court, the Chief of the office of the Military Court and not more than four qualified persons as members. Such qualified members are as followed;

- (1) a person having knowledge and experience in the trial and adjudication of the Courts of Justice, and elected by the plenary session of the Supreme Court of Justice;
- (2) a person having knowledge and experience in the trial and adjudication of the Administrative Court, and elected by the plenary session of the Supreme Administrative Court;
- (3) a person having knowledge and experience in the trial and adjudication of

the Military Court, and are elected by the plenary session of the Supreme Military Court;

- (4) a person having knowledge and experience in laws, not being judge, and elected by the ex- officio members and the qualified members in (1)- (3).

In respect of the Constitutional Court, this court has power to decide whether the provisions of law or bill; or draft rules of the House of Representatives or Senate or the National Assembly are contrary to or inconsistent with the constitution. It, also, has power to decide a dispute concerning the powers and duties of organs under the constitution. The decision of the Constitutional Court will bind on the National Assembly, Council of Minister, other state organ including Courts. Yet, the decision will not affect the final judgment of the Courts.

3. Judicial System

This part on Judicial System will focus only on the Courts of Justice. The Courts of Justice are classified into three levels consisting of the Courts of First Instance, the Courts of Appeal and the Supreme Court. The current system can be traced back to the court system in the reign of King Rama V. Nevertheless, the Courts of Justice have occasionally developed its efficiency in handling cases. It is found that the developments fall into three types; the increase of the number of courts, the emerging of the division and the branch of courts, and the establishment of the specialized courts.

Judicial System in Thailand

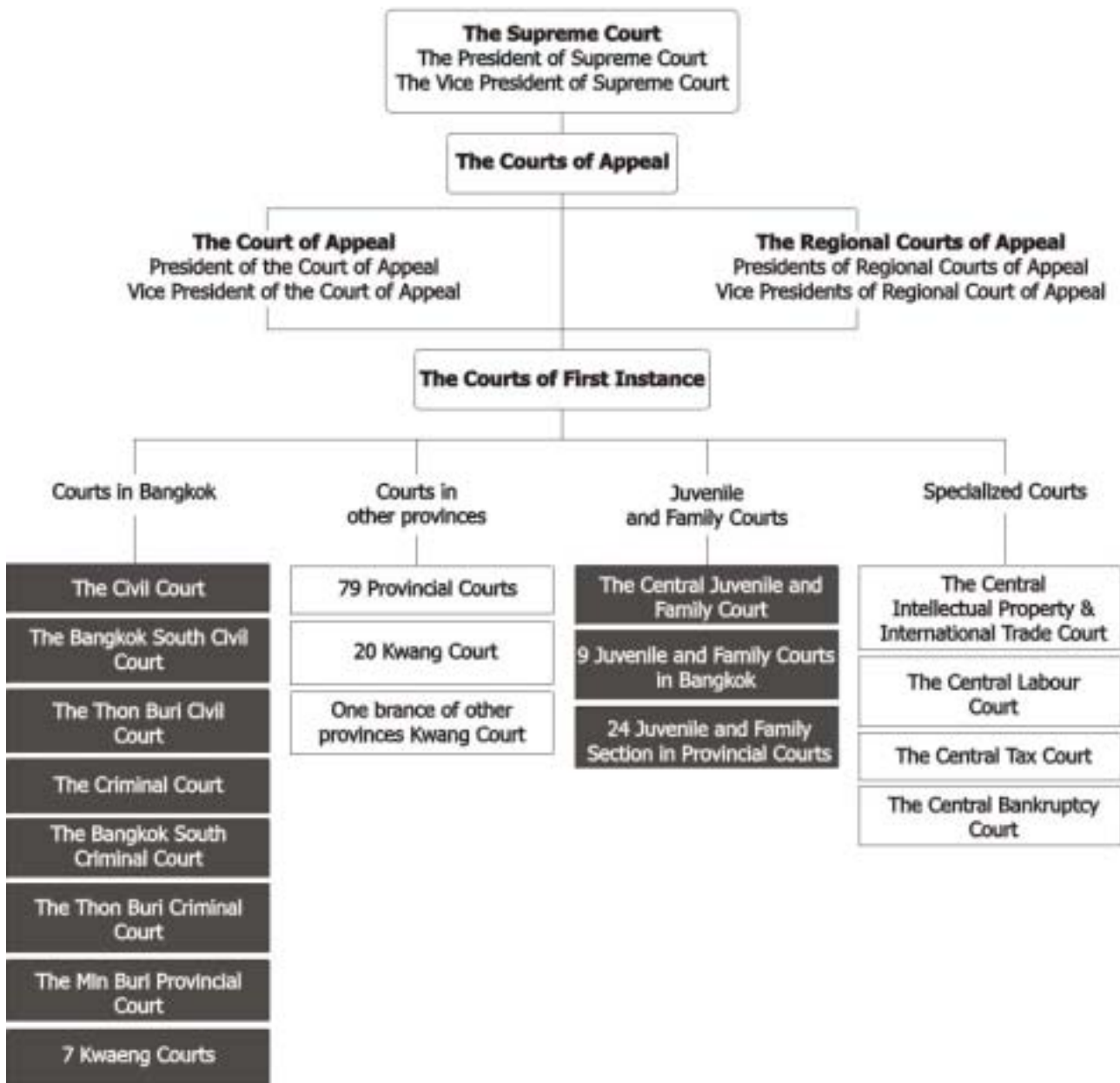


Chart No.3 The structure of the Courts of Justice

3.1 The Courts of First Instance

This part will cover all types of the Courts of Justice consisting general courts,

juvenile and family courts and specialized courts. The general courts is an ordinary court which has duties to try and adjudicate criminal and civil cases, namely, Civil Courts, Criminal Courts, Provincial Courts and Kwaeng Courts. Among these courts, it should be separated between courts of First Instance in Bangkok, which has particular feature, and the other provinces.

3.1.1 General Courts

In the general courts, except the Kwaeng Courts, at least two judges form a quorum. However, a judge attached to the court, or a judge at the first level, does not exceed one person in such quorum.

An appeal against a judgment or an order of the general courts will be delivered to the Courts of Appeal.

As regards the administration of the Provincial Courts and Kwaeng Courts, the Office of Chief Justice of Region, presided over by the Chief Justice of the Region, is responsible for the courts in the Region in some extents.



President of the Supreme Court will appoint a judge to perform duties of such Chief Justice.

The Chief Justice of the Region is deemed to be a judge of any court in his region and he has power to try and adjudicate in particular cases, i.e. case regarding offence against the public security, popular case, serious criminal case, the high amount claimed case and case regarding contempt of court. In the case of necessity, the Chief Justice of the Region has power to order a judge of the court in his region to work temporarily, not more than three month, in other court with the consent of that judge, and he has to inform the President of the Supreme Court immediately.

3.1.1.1 In Bangkok

Civil Courts

In principle, the plaintiff has to bring the civil case to the court where the causes of action arise or where the defendant is domiciled. Where the immovable property involved, the plaintiff has to bring the case to the court where such property is situated, or where the defendant is domiciled. In Bangkok, Courts of First Instance dealing with civil cases are the Civil Court, the Civil Court of Southern Bangkok, the Thon Buri Civil Court and the Min Buri Provincial Court depending on the district where the causes of action arise or the defendant is domiciled. Before 1977, the Civil Court was merely court dealing with civil cases in Bangkok; yet the highly increasing of caseload of the Civil Court led to the setting up of the other civil courts in Bangkok.

The Civil Court has a discretion to try and adjudicate the cases brought before it, which arose outside its territorial jurisdiction, or to order to transfer such case to the court owning jurisdiction. In addition, according to the Counter Money Laundering Act B.E.2542 (1999), the Civil Court has power to decide whether the property is confiscated to the state and the Civil Procedure Code applies *mutatis mutandis*.

Criminal Courts

As regards the criminal case, the court having power to handling the case is the court where an accused dwells, or an accused is arrested, or an inquiry official makes an inquiry. In Bangkok, Courts of First Instance dealing with criminal cases are the Criminal Court, the Criminal Court of Southern Bangkok, the Thon Buri Criminal Court and the Min Buri Provincial Court depending on the district where an accused dwells, or

an accused is arrested, or an inquiry official makes an inquiry. Like the Civil court, the reason to establish other criminal courts in Bangkok was to alleviate the overloaded works of the Criminal Court.

The Criminal Court has a discretion to try and adjudicate the cases brought before it, which arose outside its territorial jurisdiction, or order to transfer such case to the court owning jurisdiction. Furthermore, the Criminal Court has power to deal with a criminal offence arising outside the Kingdom of Thailand.

The Min Buri Provincial Court

The Min Buri Provincial Court, the only provincial court in Bangkok, deals with the case arising in the northern part of Bangkok. The character of this court is the same as the general provincial court explained later on.

Kwaeng Courts

Although, its jurisdiction is limited, but it covers both criminal and civil cases. It tries the criminal offence punishable with a maximum of three years' imprisonment, or fine not exceeding 60,000 Baht or both, and the civil case where the amount of claims does not exceed 300,000 Baht. Kwaeng Court deals with small matters and the judge sits alone with the limited power to impose the imprisonment not exceeding six months or fine not exceeding 10,000 Baht or both. Where at least two judges constitute a quorum, Kwaeng Court has power to impose three years' imprisonment, or fine not exceed 60,000 Baht or both.

The proceedings of Kwaeng Courts is emphasized on the speedy trial, therefore, the case is tried summarily and adjudicated by oral judgment, or summarized judgment. Moreover, for the same reason, petty case with specific procedure provided by the Civil Procedure Code is dealt by Kwaeng Courts.

3.1.1.2 In other Provinces

Provincial Courts

The Provincial Courts, presided over by the Chief Justice, try both criminal case and civil case. For the purpose of the expanse of services of the court to the distance area, some provinces may have more than one provincial court. For example, in Nakhon Ratchasima Province, there are three Provincial Courts, i.e. Nakhon

Ratchasima Provincial Court, Sekew Provincial Court and Buayai Provincial Court. Where a case within the jurisdiction of Kwaeng Court brought to the Provincial court, the Provincial Court has to transfer the case to the Kwaeng Court.

Kwaeng Courts

The detail of Kwaeng Courts in other provinces is the same as Kwaeng Courts in Bangkok explained above. It should be noticed that, now, there is a branch of Kwaeng Court, namely, the branch of the Nakhon Ratchasima Kwaeng Court situated in Pimay District.

3.1.2 The Juvenile and Family Courts

The Juvenile and Family Courts consist of the Central Juvenile and Family Court, the Provincial Juvenile and Family Courts, and the Division of Juvenile and Family Court in the Provincial Courts. These courts, presided over by the Chief Justice of the Juvenile and Family Courts, deal with following cases:

- (1) a criminal case which a child, whose age is over 7 but does not exceed 14, or a young person, whose age is over 14 but under 18, is alleged to have committed a criminal offence;
- (2) a criminal case transferred from the general court;
- (3) a family case; the family case is a civil case concerning a minor or family which is filed, requested, required to act in court and enforced by the Civil and Commercial Code;
- (4) a case, which the court has to decide or order relating a child or a young person, is provided by law as power and duties of the Juvenile and Family

Courts.

A child or a young person arrested for a criminal offence will be brought to the Observation and Protection Centre within 24 hours after the arrest. The detention of the child or the young person with the adult is prohibited.

One of the duties of the Observation and Protection Centre is to investigate the child or the young person accused of committing an offence with regard to the age, pass record, behavior, intelligence, education and training, health, condition of the mind, habit, occupation and status of the child or young person, the parents, the guardian, and the householder of such child or young person. These include environment of the child or the young person and the cause of the offence. Later on, the Director of the

Observation and Protection Centre will make a report of fact with his opinion concerning the cause and the punishment. This report will be submitted to the court for consideration.

In addition, the welfare and the future of a child or a young person will be taken into consideration of the court in order that the training, instruction, or assistance to reform such child or young person prevail over sentencing. The characteristic, health and condition of mind of a child or a young person are taken into consideration as well. The punishment is on the individual basis, therefore, many children or young persons committed together in the one offence, each child or young person may obtain the different punishment.

In the trial of a family case, the court will attempt to settle dispute, regardless the step of proceedings is passed. The principle of the peace and unity of the family will be taken into account of such conciliation.

Two career judges and two associate judges, one of which must be a woman, constitute a quorum. An appeal against a judgment or order of the Juvenile and Family courts lies to the Courts of Appeal.

3.1.3 Specialized Courts

Nowadays, there are four types of specialized courts, namely, the Labour Court, the Tax Court, the Intellectual Property and International Trade Court, and the Bankruptcy Court. A judge who possess competent knowledge of the specific matters is appointed to work in the specialized courts. The specialized court, therefore, ensure that the specific or technical problems will be solved by an appropriate judge, which, of course, benefits to the litigants and the judiciary. It should be noted that the each specialized court has only the central court, except the Labour Court which now has branches situated in the other provinces.

3.1.3.1 The Central Labour Court

It is obvious that labour disputes, being different nature from ordinary criminal or civil matters, should be tried before judge whose special concern is with labour laws, and associate judges who represent employer and employee. The court will try to keep a good relation between both parties.

The Act for the Establishment of Labour Courts and Procedure for Labour Cases B.E. 2522 (1979) provides that there shall be three kinds of Labour Courts, namely, the Central Labour Court situated in Bangkok with jurisdiction covering Samut Prakan, Samut Sakhon, Nakhon Prathom , Nonthaburi and Pathumthani ; the Regional Labour Court; and the Provincial Labour Court. But so far the Regional Labour Court and the Provincial Labour Court does not exist, thus, the territorial jurisdiction of the Central Labour Court extends to the whole country. The head of the Central Labour court is the Chief Justice of the Central Labour Court. However, for the administrative purpose, the branches of the Central Labour Court are set up. Such branches, at present, are available in eleven provinces.

The Central Labour Court deal with matters as follows;

- (1) a dispute involving rights and duties under employment contract or conditions of employment;
- (2) a dispute involving labour laws; i.e. laws on employment protection and laws on labour relation;
- (3) a case provided by labour laws to proceed before the Labour Courts;
- (4) an appeal made against a decision of an official or a committee prescribed by labour laws;
- (5) a case between employer and employee on the ground of tort, as a result of labour dispute or working complied with employment contract;
- (6) a labour dispute submitted by the Minister of Labour and Social Welfare according to laws on labour relation.

The litigation in the Labour Courts is on free of charge basis. For example, the plaintiff brings the case without any costs, or the pleading and documents are served to the other party by the court official.

For the consideration of the court, a qualified person or an expert may be summoned for opinion, and, for the fairness between parties, the court also considers the state of working, the cost of living, the trouble of employee, the level of wages, the rights and other benefits of employee working in the same enterprise, including the status of the employer's enterprise.

A career judge, an associate judge representing employer, and associate judge represent employee form a quorum. An appeal against the judgment or order of the Labour Court is approached directly to the Supreme Court.

3.1.3.2 The Central Tax Court

The establishment of the Central Tax Court is complied with the Act for the Establishment of the Tax Courts and Procedure for Tax Cases B.E. 2529 (1986). This act provides two kinds of Tax Court; the Central Tax Court, and the Provincial Tax Court. The territorial jurisdiction of the Central Tax Court covers Bangkok and five province; namely, Samut Prakan, Samut Sakhon, Nakhon Prathom, Nonthaburi and Pathumthani. Yet, so far the Provincial Tax Court does not set up, the jurisdiction of the Central Tax Court, hence, covers throughout the kingdom.

The Central Tax Court, presided over by the Chief Justice of the Central Tax Court, deals with the civil cases in relation to tax disputes as follows:

- (1) an appeal made against a decision of an official or a committee prescribed by tax laws;
- (2) a dispute involving a claim of state on tax debt;
- (3) a dispute involving tax refund;
- (4) a dispute involving rights and duties under an obligation provided for the benefit of tax collection;
- (5) a dispute concerning the matters prescribed by the law to be under the jurisdiction of the Tax Court.

In practice, judges of the Central Tax Court are selected from those who specialize in tax laws. Besides, a qualified person or an expert may be summoned by the court for opinion.

In the Central Tax Court, there are at least two judges forming a quorum for trial and adjudication. An appeal against the judgment and order of the court lies directly to the Supreme Court.

3.1.3.3 The Central Intellectual Property and International Trade Court

The territorial jurisdiction of the Central Intellectual Property and International Trade Court covers Bangkok, Samut Prakan, Nakhon Pathom, Nonthaburi, and Pathum Thani Provinces. At present, the Regional Intellectual Property and International Trade Court has not been established, consequently, the territorial jurisdiction of the Central Intellectual Property and International Trade Court extends throughout the Kingdom.

The court has power to adjudicate both civil and criminal cases regarding intellectual property and civil cases regarding international trade which are as follows:

- (1) Offences against trademark, copyright, and patent infringement under the Trademark, the Copyright, the Patent Acts
- (2) Offences relating to trade provided in Section 271-275 of the Criminal Code
- (3) Civil cases regarding trademark, copyright and patent, and regarding technology transfer or licensing agreements
- (4) Civil cases arising from the offences provided in Section 271-275 of the Criminal Code
- (5) Civil cases regarding international sale, exchange of goods or financial instruments, international services, international carriage, insurance and other related transactions.
- (6) Civil cases regarding letter of credit, trust receipt
- (7) Civil cases regarding arrest of ships
- (8) Civil cases regarding dumping and subsidization of goods or services from abroad
- (9) Civil and Criminal cases regarding disputes over layout-designs of integrated-circuits, scientific discoveries, trade names, geographical indications, trade secrets, and plant varieties protection
- (10) Any other matters, if subsequent legislation prescribe to be under the jurisdiction of the Central Intellectual Property and International Trade Court
- (11) Civil cases regarding arbitration to settle dispute stated above.

However, cases falling under the jurisdiction of juvenile and family courts shall not be under the jurisdiction of intellectual property and international trade courts.

Where there is a dispute as to jurisdiction, whether the dispute arises in the Central Intellectual Property and International Trade Court or in any other courts, the dispute must be submitted to the President of the Supreme Court for his ruling.

The proceedings in the Central Intellectual Property and International Trade Court must be continuous without adjournment until the hearing is over.

The Chief Justice of the Central Intellectual Property and International Trade Court, with the approval of the president of the Supreme Court, is empowered to issue

Rules of the Court on matters concerning proceedings and hearing evidence, provided that such provisions must not impair the right of defence of an accused in a criminal case. The Rules of the Court contain special procedure such as interim injunction, the Anton Piller Order type of procedure, pre-trial conference, submission of written statements in the hearing of witnesses, hearing by means of video conference and admission of computer record.

Quorum of the Bench consists of at least two career judges and one associate judge. Judgment or order of the court is by a majority vote. An appeal against any judgement or order of the Central Intellectual Property and International Trade Court lies directly with the Supreme Court.

3.1.3.4 The Central Bankruptcy Court

The Central Bankruptcy Court, headed by the Chief Justice of the Central Bankruptcy Court, was established by the Act for setting up of the Bankruptcy Court and Procedure for Bankruptcy Cases B.E.2542 (1999). Once this court was inaugurated, other courts of First Instance cannot accept a case falling into the jurisdiction of the Bankruptcy Court.

As regards the Act, there are two kinds of the Bankruptcy Court, the Central Bankruptcy Court, whose the territorial jurisdiction covers Bangkok, and the Regional Bankruptcy Court. The former is the only court so far, therefore, the jurisdiction of the Central Bankruptcy Court extends throughout the country.

The bankruptcy case is a civil case under the Bankruptcy Law and civil case related to such case. The Bankruptcy Court also deal with the reorganization case. The qualified person or an expert may be called to give opinion for the consideration of the court.

Like the Central Intellectual Property and International Trade Court, the Chief Justice of the Central Bankruptcy Court has power, subject to the approval of the President of the Supreme Court, to issue rules of the court on proceedings and hearing of evidence.

It should be mentioned that the issuing of such rules is the method to improve the proceedings to be more convenient and more flexible, instead of amending of the Civil Procedure Code which is complicated and a time-consuming process.

Judges of the Central Bankruptcy Court are appointed from those who has competent knowledge of the matter relating the Bankruptcy Law and at least two of

them constitutes a quorum. An appeal against any judgment or order of the Bankruptcy Court in regarding to a reorganization case, including a civil case related to such case will submitted to the Supreme Court. Apart from that, an appeal is subject to the Bankruptcy Law.

3.2 The Courts of Appeal

The Courts of Appeal are headed by the Presidents of the Courts of Appeal, whom called the Chief Justices in the early times. The Court of Appeal handle an appeal against the judgment or order of the Civil Courts and the Criminal Courts. Meanwhile, the Regional Courts of Appeal handle an appeal against the judgment or order of the other Courts of First Instance. The divide of cases among the Regional Courts of Appeal is consistent with the jurisdictions of the Courts of First Instance Region 1-9.

The Court of Appeal and the Courts of Appeal Region 1-9, except the Court of Appeal Region 2 which has just been moved to Rayong Province in September, 2000, are situated in Bangkok. It is likely that the other Regional Courts of Appeal will be moved out of Bangkok to facilitate the communication between the Courts of First Instance and the Regional Courts of Appeal.

The Courts of Appeal has not only power to try and adjudicate an appeal against the judgment or order of the Courts of First Instance, but also the following powers:

1. to affirm, correct, reverse or dismiss the judgment, imposing the death penalty or life imprisonment, of the Courts of the First Instance which is submitted to the Courts of Appeal prescribed by the Criminal Procedure Code;
2. to decide a motion or a request submitted to the Courts of Appeal according to the laws;
3. to decide a case which the Courts of Appeal have power prescribed by other laws.

The quorum of the Courts of Appeal consists of at least three justices.

3.3 The Supreme Court

The Supreme Court is the final court to try and adjudicate an appeal against a judgment or a order against the Courts of Appeal or, in the particular case, the Courts of

First Instance. The President of the Supreme Court is the head of the Supreme Court and Courts of Justice. In the new system of the Courts of Justice, the President of the Supreme Court plays a great role in judicial and administrative works.

At least three justices of the Supreme Court form a quorum. Moreover, the plenary session of the Supreme Court justices will be held, normally, where there is inconsistent with any issue of laws.

The Supreme Court is divided into divisions for handle the specific case. Furthermore, there is, as a result of the constitution, a Criminal Division for Persons Holding Political Positions in the Supreme Court.

Where the Prime Minister, a minister, member of the House of Representatives, senator or other political official is accused of becoming unusually wealthy, or of the commission of malfeasance in office according to the Criminal Code or a dishonest act in the performance of duties, or corruption according to other laws, this division has the jurisdiction to try and adjudicate the case.

In trial, the member of the House of Representatives or senator is unable to claim the immunity provided in the constitution. However, the Criminal Division for Persons Holding Political Positions in the Supreme Court has to rely on the file of the National Counter Corruption Commission and may investigate to receive additional facts and evidence as it thinks fit.

The quorum consists of nine justices of the Supreme Court who hold position of not lower than justice of the Supreme Court, and are elected by a plenary session of the Supreme Court justices on a case by case basis. The judgment will be made by a majority of votes; provided that each justice constituting the quorum will prepare the written opinion and make oral statements to the meeting before making decision. Orders and decisions of the Criminal Division for Persons Holding Political Positions in the Supreme Court will be disclosed and final.