THE ACT ON THE ORGANIZATION OF MILITARY COURTS

B.E. 2498

BHUMIBOL ADULYADEJ, REX.

Given on the 6th of October B.E. 2498

Being the 10th year of the present Reign

His Majesty King Bhumibol Adulyadej has been graciously pleased to proclaim that:

Whereas it is expedient to revise the law on the organization of military courts;

Be it therefore, enacted an Act by the King, by and with the advice and consent of the

Assembly of the People's Representatives, as follows:

Section 1.- This Act shall be called the "Act on the Organization of Military Courts, B.E.

2498"

Section 2.- This Act shall come into force from the day following the date of its publication

in the Government Gazette.

Section 3.- The following are repealed:

(1) The Act on the Organization of Military Courts B.E. 2477;

(2) The Act on the Organization of Military Courts (No.2) B.E. 2487;

(3) The Emergency Decree Amending the Act on the Organization of Military Courts,

B.E. 2477, B.E. 2488, and the Act Approving the Emergency Decree Amending the Act on the Organization of Military Courts B.E. 2477, B.E. 2488;

(4) The Act on the Organization of Military Courts (No.4) B.E. 2490;

(5) The Act on the Organization of Military Courts (No.5) B.E. 2496;

(6) All other laws, rules and regulations, insofar as they deal with matters governed by this Act or are inconsistent with its provisions.

Section 4[1]. - The Minister of Defense shall be in charge of the execution of this Act and shall have the power to issue Ministerial Regulations for carrying out the provisions of this Act.

Issued regulations and rules shall come into force upon being published in the Government Gazette.

PART 1

MILITARY COURTS

CHAPTER 1

GENERAL PROVISIONS

[1] As amended by the Act on the Organization of Military Courts (No.8) B.E. 2558.

Section 5 . - All military courts under this Act shall be subject to the jurisdiction of the

Ministry of Defense.

The Minister of Defense shall be responsible for the orderly administrative operations of the military courts, but trials including orders of judgments shall remain within the discretion of the military courts exclusively.

With the approval of the Minister of Defense, the Judge Advocate General may issue rule:

governing the functioning and administration of the military courts and military prosecutors.

Rules regarding military courts and military prosecutors must be publicized in the Government Gazette.

Section 6. - Military courts under this Act shall be divided into three levels, namely;

(1) Military Courts of First Instance;

(2) Military Court of Appeals;

(3) Military Supreme Court.

Subject to Section 39, in time of fighting, war, or the enforcement of martial law, courts-martial may be constituted.

Section 7.- Military Courts of First Instance are:

(1) Military Changwat (province) Courts;

(2) Military Circle Courts;

(3) Bangkok Military Court; .

(4) Military Unit Courts.

Section 8.- There shall be one Military Changwat (province) Court in every military changwat (province) except in the military changwat (province) in which Military Circle Headquarters are established and there shall be one Military Circle Court in every military circle except in the military circle in which Bangkok Military Court is established.

The said courts may sit for trial anywhere within their jurisdiction as may be necessary.

Section 9.- A military Unit Court may be constituted when any military unit of not less than battalion strength is on duty abroad or travelling for duty abroad.

What military strength shall be deemed not less than that of a battalion shall be prescribed by the Ministry of Defense.

Section 10.- Appointments and removals of judges of the Military Supreme Court and Military Court of Appeals shall be made by Royal permission.

His Majesty the King may delegate the power to appoint and remove judges of other military courts to the commanding officer and the Minister of Defense under the provisions of this Act on

the Appointment of Judges.

Section 11.- The number of military judges, military prosecutors, legal officers and military court registrars or assistants to the said positions shall be determined by the Ministry of Defense. Qualifications, educational backgrounds,

powers and duties of the persons mentioned in the preceding paragraph shall be as prescribed by the Ministry of Defense.

Section 11/1 [2]. - Military judges and military prosecutors shall receive additional money for the position in comparison to conversation and position allowance of COJ or other courts' judges and of OAG's prosecutors, but all these, as rules designated by Ministry of defense with agreement of ministry of finance.

Section 12.- With the approval of the Minister of Defense, a person with a bachelor degree in law or with no less equivalent than a bachelor degree in law may be admitted to practice in a military court and as soon as the court is informed, such person may conduct cases just as military prosecutors.

CHAPTER 2

JURISDICTION OF MILITARY COURTS.

Section 13.- A military court shall be competent to try and adjudicate and inflict punishment to any person who violates military law or other laws of criminal nature in the case which the offender is under the jurisdiction of the military court at the time of committing of offence, and the court shall be competent to give order inflicting punishment to any person who commits contempt of court as provided in the Civil Procedure Code.

Section 14.- Cases which are not within the jurisdiction of military courts are:

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[2] As amended by the Act on the Organization of Military Courts (No.8) B.E. 2558.

(1) Cases of joint-wrongdoing by persons under the jurisdiction of military courts and persons not under the jurisdiction of military courts;

(2) Cases connected with cases within the jurisdiction of civilian courts;

*(3)[3] Cases which must be conducted in the Juvenile and Family Court;

(4) Cases held by the military courts to be outside their jurisdiction.

Section 15.- Cases which are not within the jurisdiction of military courts shall be conducted in civilian courts.

After a civilian court has accepted a charge, even though later on it appears in the trial to be a case within the jurisdiction of a military court, the civilian court shall still be competent to try and adjudicate the case.

PART 2

MILITARY COURTS IN NORMAL PERIODS

CHAPTER 1

TERRITORIAL JURISDICTION AND COMPETENCY OF COURTS

Section 16.- Persons subject to the competency of military courts are:

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[3] * As amended by the Act on the Organization of Military Courts (No.8) B.E. 2558.

(1) Commissioned officers in the regular service;

(2) Commissioned officers out of service only when they fail to comply with any order or regulations under Military Criminal Code;

(3) Non-commissioned officers and servicemen in active service or in the regular forces, or other persons in military service under the military service law;

(4) Military cadets as designated by the Ministry of Defense;

(5) Conscripts placed in active service and received by the military authorities for the

purpose of transferring to active duty in a military unit;

(6) Civilians in military service when they commit an offence relating to their military duties, or other offences in or within the precincts of any building, site of military unit, bivouac, camp, vessel, aircraft or any other vehicle under the control of military authorities;

(7) Persons lawfully detained or kept in the custody of military authorities;

(8) Prisoners of war or enemy aliens in the custody of military authorities.

Section 17[4].- The territorial jurisdiction of Military Courts of First Instance shall be as follows:

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[4] As amended by Section 3 of the Act on the Organization of Military Courts (No.6) B.E, 2526.

(1) Military Changwat (province) Courts and Military Circle Courts shall have jurisdiction as prescribed by a Royal Decree;

(2) The Bangkok Military Court' shall have unlimited territorial jurisdiction, but ordinarily, if an offence occurs in a locality where there is a military court the trial shall be held in the military court of that locality;

(3) Unit Military Courts shall have jurisdiction over persons in their respective military

units without limitation as to territory.

Section 18.- On motion by a military prosecutor or an accused, the Minister of Defense shall have the power to order the accused to be sent for trial to the military court requested.

**** Section 19[5].-** Military Changwat (province) Courts shall have competency to try and adjudicate all criminal cases except cases in which the accused has the rank of commissioned officer.

Section 20.- The Minister of Defense shall have the power to order one judge of the Judge

or inflicting punishment on the accused of not exceeding one year imprisonment for each count

Section 21.- Military Circle and Military Unit Courts shall have competency to try and adjudicate all criminal cases

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[5] **As amended by the Announcement of the Revolutionary Party No.302 dated December 13, B.E. 2515 and As amended by the Act on the Organization of Military Courts (No.8) B.E. 2558.

except cases in which the accused has the rank of general or its equivalent.

Section 22.- The Bangkok Military Court shall have competency to try and adjudicate all criminal cases notwithstanding the rank of the accused.

Section 23.- The Military Court of Appeals shall have competency to try and adjudicate all appeals against judgments or orders of the Military Courts of First Instance.

Section 24[6].- The Military Supreme Court shall have competency to try and adjudicate all appeals against judgments or orders of the Military Court of Appeals and appeals against judgements or orders of the Military Courts of First Instance that to be submitted directly to the Military Supreme Court, according to the provisions governing appeals and dika appeals of this Act.

Judgments or orders of the Military Supreme Court shall be final.

CHAPTER 2

QUORUM IN COURTS

Section 25.- In the conduct of judicial proceedings, a single judge shall have the power to

(1) issue summonses, criminal warrants, orders for persons to be sent from or to another province;

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[6] As amended by the Act on the Organization of Military Courts (No.8) B.E. 2558.

(2) issue any order which does not tend to dispose of the matter in dispute in the Caber

If such judge is one of the Judge Advocate General's Staff, he shall also have the powers to conduct inquiries or examine witnesses.

*** Section 26[7].-** In Military Changwat (province) Courts, there shall be three judges to form a quorum for trial and adjudication, to wit:

Two commissioned officers;

One judge of the Judge Advocate General's Staff.

Section 27.- In a Military Circle Court, the Bangkok Military Court or a Military Unit Court, there shall be three judges to form a quorum for trial and adjudication:

Two commissioned officers;

One judge of the Judge Advocate General's Staff

Section 28.- In the Military Court of Appeals, there shall be five judges to form a quorum for trial and adjudication:

One or two general grade officers;

One or two field grade officers, lieutenant commanders, squadron leaders or upwards;

Two judges of the Judge Advocate General's Staff.

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[7] * Amended by the Announcement of the Revolutionary Party No.302 dated December 13, B.E. 2515.

Section 29.- In the Military Supreme Court, there shall be five judges to form a quorum

for trial and adjudication:

Two general grade officers;

Three judges of the Judge Advocate General's Staff.

CHAPTER 3

APPOINTMENT OF JUDGES

Section 30. Subject to Section 10, persons who shall have the power to appoint judges are:

(1) A person empowered to command a military changwat (province) shall have the power to appoint commissioned officers in regular service within that military changwat (province) to be judges of the Military Changwat (province) Court;

(2) A person empowered to command a military circle shall have the power to appoint

commissioned officers in regular service within that military circle to be judges of the Military Circle Court;

(3) A person empowered to command a military unit shall have the power to appoint

commissioned officers in regular service within that military unit to be judges of the Military Unit Court;

(4) The Minister of Defense shall have the power to appoint judges of the Bangkok

Military Court.

Persons empowered to appoint judges as provided in this section shall have the power to appoint officers out of service to be judges.

***Section 31[8].-** Judges of the judge Advocate General's Staff my be judges of any military courts provided that they have military ranks in accordance with the levels of courts as follows:

(1) Military Courts of First Instance: company grade officers, sub-lieutenants, or pilot

officers or upwards;

(2) Military Court of Appeals: field grade officers, lieutenant commanders or squadron-

leaders or upwards;

(3) Military Supreme Court:

a. colonel, captain or group captain who receives the salary of the grade of senior

colonel, senior captain or senior group captain; or

b. general-class officers.

****** **Section 32.-** In a Military Court of First Instance, judges who are not judges of the Judge

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[8] * As amended by Section 3 of the Act on the Organization of Military Courts (No.3) B.E. 2506.

Advocate General's Staff, must be of the same or higher rank of the accused who have the highest rank.

The rank of the accused shall be judged at the time the charge is instituted.

Section 33[9].- In a Military Court of First Instance, if there are not enough officers of proper

rank to be judges to fill the quorum, persons empowered to appoint judges under Section 30 may appoint an officer or officers who they deem fit to be a judge or judges.

Section 34.- Persons empowered to appoint judges under Section 30, may appoint reserve judges.

Reserve judges shall have the qualifications as provided in the provisions of this Act on the Appointment of Judges.

When a quorum of judges cannot be obtained for the trial of a case, a reserve judge may sit in order to complete the quorum and shall have the same powers and duties as a regular judge.

Section 35.- The judge who possesses the highest seniority shall preside at the trial and

adjudication.

PART 3

9** As amended by Section 3 of the Act on the Organization of Military Courts (No.2) B.E. 2503.

MILITARY COURTS IN ABNORMAL PERIODS

*** Section 36[10].-** In abnormal periods, that is, in periods of fighting or war or during the enforcement of martial law, military courts shall have their normal jurisdiction to try and adjudicate all criminal cases, but if the person authorized to proclaim the martial law has proclaimed it, or the Supreme Commander has issued an order under the law on martial law, authorizing military courts to have jurisdiction to try and adjudicate any other criminal cases, military courts shall also have jurisdiction to try and adjudicate criminal cases under such proclamation or order.

When the state of fighting, state of war or the enforcement of martial law comes to an end, military courts shall continue to have jurisdiction to try and adjudicate all pending cases or cases the charges of which have not been instituted yet. But the persons empowered to appoint judges or the Minister of Defense shall have the power to transfer cases or to send alleged offenders to military courts elsewhere for trial and the military courts conducting such cases shall have the same powers and duties as the military courts in abnormal periods.

Section 37.- Persons empowered to appoint judges under Section 30 shall have the power to appoint judges of civilian courts to be military judges and may appoint public prosecutors, registrars of civilian courts or appropriate qualified persons to be military prosecutors and military court registrars.

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[10] * As amended by Section 4 of the Act on the Organization of Military Courts (No.2) B.E. 2503.

Section 38.- The provisions on Military Courts in Normal Periods shall apply mutatis mutandis to military courts in abnormal periods.

PART 4

COURTS MARTIAL

Section 39.- When a military unit or warship is located in the area of battle, a court-martial

may be constituted.

Subject to Section 10, the supreme commander at that place who has under his command military strength not less than a battalion, or the officer in command of a warship, fortress or any other military stronghold, or person acting in his stead, shall have the power to appoint judge for the court-martial to try criminal cases which arise only within the jurisdiction of that military unit.

When members of the Army, Navy and Air Force are operating jointly, the supreme

commander at that place shall have the power to appoint judges of the court-martial.

Section 40.- Persons empowered to appoint judges of a court-martial shall have the power to send the accused to any military court elsewhere for trial and adjudication and such court shall have the same powers and duties of the court-martial,

Section 41.- Courts-martial shall have three judges to form a quorum for trial and adjudication. The judge shall be commissioned officers.

Section 42.- Courts-martial are competent to try and adjudicate all criminal cases where

the offences occur within their territorial jurisdiction under every provision of the law and without limitation as to persons.

***Section 43[11].-** When the state of fighting, state of war or the enforcement of martial law comes to an end, courts-martial shall continue to have competency to try and adjudicate the pending cases, but the persons empowered to appoint judges of courts-martial or the Minister of Defense shall have the power to order the cases to be transferred to any military court elsewhere for trial and adjudication. Cases within the jurisdiction of the courts but the charges of which have not been entered yet, shall be instituted in military courts elsewhere, and the courts trying and adjudicating such cases shall have the power and duties as the courts-martial.

Section 44.- The provisions on Military Courts in Abnormal Periods shall apply mutatis

mutandis to courts-martial.

PART 5

MILITARY CRIMINAL PROCEDURE

[11] * As amended by Section 5 of the Act on the Organization of Military Courts (No.2) B.E. 2503.

CHAPTER 1

GENERAL PROVISIONS

Section 45.- Military criminal procedure shall be governed by the laws, rules and regulations issued under military law. If there are no such military laws, rules and regulations, the Criminal Procedure Code shall apply mutatis mutandis. If there is any point of procedure not provided for in the Criminal Procedure Code, the Civil Procedure Code shall apply as far as possible.

Section 45/1[12].- In case the Criminal Procedure Code stipulates to pay rewards, compensation, opportunity cost, transportation cost, rent and other expenses to attorneys, interpreters, witnesses, psychologists, social workers, dispatchers, or any other person, paying shall comply with the rule designated by Ministry of Defense with agreement of Ministry of Finance.

CHAPTER 2 :

CUSTODY IN A SPECIAL CIRCUMSTANCE

****Section 46[13].-** In case of force majeure and extremely necessary cause that impede requesting a custody warrant from

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[12] As amended by the Act on the Organization of Military Courts (No.8) B.E. 2558.

[13] ** As amended by the Announcement of the Revolutionary Party No.302 dated December 13, B.E. 2515, and by Section 3 of the Act on the Organization of Military Courts (No.5) B.E. 2520,

a military court that has power to detain the alleged offender who is under the competency of military court by section 16, officers who hold the position of naval division commander shall have power to order custody. In case no officers of the position of naval division commander are available or if the alleged offender is in a locality different from that of military commander of the position of division commander or upwards, the highest-rank commanding officer at that place shall have power to order custody in respect to necessity and legal timeframes of custodial provisions of the Criminal Procedure Code.

When the above-mentioned force majeure or extremely necessary cause ends, if there is a need for further custody and past custody has not passed the legal timeframes of custodial provisions of the Criminal Procedure Code, The inquiry official must request the military court that has jurisdiction for further custody.

Provisions of this section's first and second paragraphs shall be applied mutatis mutandis to any person under section 16 who is the alleged offender in a case that is not within the jurisdiction of military courts according to section 14.

Such keeping in custody shall be regarded as keeping in custody as defined in the Criminal

Procedure Code.

CHAPTER 3

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and by the Act on the Organization of Military Courts (No.8) B.E. 2558.

: **INQUIRY**

Section 47.- A legal officer or military prosecutor shall have the power to conduct inquiry of all criminal cases which are within the jurisdiction of military courts, but if there is reasonable ground, the commander may order a commissioned officer to conduct the inquiry, this shall not infringe on the power of the inquiry officials under the Criminal Procedure Code.

Inquiry referred in the preceding paragraph shall be regarded as inquiry under The Criminal Procedure Code. For the sake of inquiry, the responsible inquiring officer shall have the power to issue summonses to any persons to give testimony or to submit anything which may be used as evidence.

Section 48.- Military prosecutors shall have the power to conduct supplementary inquiry

or may order the persons whose duties are to conduct inquiries to conduct supplementary inquiries.

CHAPTER 4

ENTRY OF A CRIMINAL PROSECUTION

AND

ENTRY OF A CIVIL CLAIM IN CONNECTION WITH AN OFFENCE

Section 49.- In a military court in a normal period, a military prosecutor or an injured person who is under the competency of military courts shall be entitled to institute a criminal prosecution. If the injured person is not under the

competency of military courts, he shall have to turn the case over to a military prosecutor for action.

In a military court in an abnormal period, or in a court-martial or in a court conducting in place of a court-martial under Section 40 and Section 43 only a military prosecutor shall be entitled to institute the charge. Whether or not he is under the jurisdiction of the military court, the injured person shall have to turn the case over to a military prosecutor for action.

Section 50.- When a military prosecutor is of the opinion that the case is not within the jurisdiction of the military court, he shall send the inquiry file to the public prosecutor in order that consideration be made for action in pursuance of the Criminal Procedure Code. In such case the public prosecutor may not send back the inquiry file to the military prosecutor to conduct the case.

Section 51.- The military court has the power to give judgment for the accused to return the property or pay the value or compensation therefor to the Government in the case where the accused is convicted, provided that the application therefor has been made by the military prosecutor.

Section 52.- If the prosecutor has applied for the seizure of the accused's property, the person empowered to appoint judges shall forward the case to the civilian court of the locality where such property is situated in order to give order for the seizure of the property in the case to be made in accordance with the law without requiring another action to be brought and the duty of the military prosecutor shall be entrusted to the public prosecutor for taking further proceedings in the civilian court in connection with the seizure.

Section 53.- The injured person is not entitled to claim in the military court for the return

of the property, or the value or compensation therefor.

Section 54.- In giving judgment in the civil case, the civilian court shall be bound by the

facts as found by the judgment in the criminal case of the military court.

CHAPTER 5

TRIAL

***Section 55[14].-** In a military court in a normal period, the injured person who is entitled to institute a criminal prosecution under the first paragraph of Section 49 or the accused may appoint a counsel.

In a military court in an abnormal period, the accused may appoint counsel.

Counsels must be lawyers under the law on lawyers or such counsels as designated by the

Ministry of Defense. On being admitted by the court, a counsel may represent a party in legal proceedings.

There shall be no appointment of counsels in a court-martial or a court adjudicating cases

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[14] * As amended by the Announcement of the Revolutionary Party No. 25 dated November 8, B.E. 2520.

in place of a court-martial under Sections 40 and 43.

**** Section 56[15].-** Subject to Section 55,

(1) In any case of the punishment rate of death, before commencing the trial, the court shall ask the accused whether he has a counsel or not; if he has none, the court shall appoint one for him;

(2) In any case of the rate of imprisonment, before commencing the trial, the court shall ask the accused whether he has a counsel or not; if he has none and requires one, the court shall appoint one for him;

The court shall pay the counsel appointed by the court under this section by taking into consideration of case-condition and economic-condition, but all these, as rule designated by Ministry of Defense with agreement of Ministry of Finance.

Section 57.- When there is any reason of possible obstruction, inconvenience or inability to conduct the trial in the locality, the prosecutor or the accused may submit a petition to the Military Supreme Court requesting that the case be transferred to another military court. If the Military Supreme Court grants the request, it shall order the case to be transferred to a court designated by it.

Such order of the Military Supreme Court shall be final.

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[15] * As amended by Section 3 of the Act on the Organization of Military Courts (No.7) B.E. 2526 and by the Act on the Organization of Military Courts (No.8) B.E. 2558. No.8 B.E.2558.

*** **Section 58[16].-** A military court shall be entitled to send issues to another military court or a civilian court for the taking of evidence. The court receiving the issues shall have the same powers and duties as the former court and shall be entitled to send the issues to another different court.

As regards the sending of issues to the civilian court mentioned in the above paragraph, if the military prosecutor does not go to conduct the case by himself, the public prosecutor shall conduct the case in his stead.

Section 59.- The trial and the taking of evidence in a military court, if the accused pleads guilty or consents, need not be held in his presence.

Section 60 [17] .- No judgment or order shall be pronounced for anything in excess of, or not included in, the charge.

If the Court is of opinion that the facts as appeared in the trial differ from the facts as stated in the charge, the Court shall dismiss the case, except such differences are not the essential elements, and the accused has not been actually misted in defense, the Court may inflict punishment on the accused upon the facts as found in the trial. In case of such differences to be only the particulars, such as concerning the time or place of commission of offence, or differences between the commission of theft, extortion, blackmail, cheating and fraud, cheating

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[16] *** As amended by Section 6 of the Act on the Organization of Military Courts (No.2) B.E. 2503.

[17] As amended by the Act on the Organization of Military Courts (No.8) B.E. 2558.

against creditors, misappropriation, receiving stolen property and mischief, or differences between the offences committed by intention and negligence, it shall not be regarded that such differences are the essential elements and shall not be regarded that the facts, as found in the trial, shall be the subject in excess of the application or shall be the subjects on which the prosecutor does not seek conviction, unless it appears the Court that such erroneous charge causes the accused to mist actually in defense, but the Court shall not inflict punishment the accused in excess of the rate of punishment as determined by the law for such offences to be charged by the prosecutor."

If the Court is of opinion that some facts as stated in the charge and as appeared in the trial are not the subject on which the prosecution seeks conviction, the Court shall not punish the accused upon those facts.

If the Court is of opinion that the facts as stated in the charge have been proved by the prosecution, but the prosecution mentioned a wrong offence or quoted wrong provisions of law, the Court has the power to inflict punishment on the accused according to the actual offence committed.

If the offence as charged consists of many acts, each of which may constitute an offence by itself, the Court may inflict punishment on the accused upon any of the acts as found in the trial."

CHAPTER 6

APPEAL AND DIKA APPEAL

*Section 61 [18] .- Subject to provisions governing appeals and dika appeals of this Act, the plaintiff, the defendant, persons empowered to appoint judges or persons empowered to give punishment orders may lodge an appeal or dika appeal against a judgment or order of the normal-period military court within thirty days, started from the date the judgment or order has been read or has been regarded as having been read to the accused.

Neither appeal nor dika appeal shall be lodged against judgments or orders of military court in an abnormal period, a court-martial or court adjudicating cases in place of a court-martial under Sections 40 and 43.

Section 61/1[19].- Lodging a problem-of-law appeal shall be submitted directly to the Military Supreme Court. However, if another party who can appeal lodges a problem-of-fact appeal as well, this Act assumes the problem-of-law appellant lodges his appeal to the Military Court of Appeals.

Lodging an appeal by the first paragraph shall be directed a Military Court of First Instance and the said court shall consider and issue an order whether the appeal is only a problem-of-law appeal to the Military Supreme Court or not.

In case the Military Court of First Instance decides it to be a problem-of-fact appeal, the court shall send the appeal

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[18] *As amended by the Announcement of the Revolutionary Party No.25 dated November 8, B.E. 2520 and by the Act on the Organization of Military Courts (No.8) B.E. 2558.

[19] * As amended by the Act on the Organization of Military Courts (No.8) B.E. 2558.

to the Military Court of Appeals and the appellant shall have the right to appeal the issued order of the Military Court of First Instance to the Military Supreme Court within 15 days since the date of hearing an order of the Military Court of First Instance. If the Military Supreme Court decides that an appeal according to paragraph 1 is a problem-of-fact appeal, the court shall send the appeal to the Military Court of Appeals for trial and adjudication.

Section 62.- In the case which the Military Court of Appeals has confirmed the judgment of the Military Court of First Instance in its dismissal of the charge on question of fact, or enters judgment sustaining the sentence of the lower court or make minor amendments and sentences the accused to imprisonment not exceeding 5 years, or in the case where the Military Court of First Instance has sentenced the accused to imprisonment for a term not exceeding one year or fine not exceeding one thousand baht or both, although the Military Court of Appeals has materially amended the Judgment but has not passed a sentence exceeding the said limits, no dika appeal on question of fact shall be lodged against the judgment to the Military Supreme Court. And in such case, the provision of Section 221 of the criminal Procedure Code shall not apply.

Section 63.- Neither appeal nor dika appeal shall be lodged against any judgment on points of law which have not been raised in the Military Court of First Instance except on points of law which involve public order or which relate to non-compliance with the provisions governing appeals and dika appeals.

CHAPTER 7

ENFORCEMENT OF JUDGMENTS

***Section 64[20].-** Subject to Sections 246 to 248 of the Criminal Procedure Code and Section 2 of the Military Prison Act B.E. 2479 as amended by the Military Prison Act (No.2) B.E. 2500, a judgment of a military court except that of a court-martial or a court adjudicating cases in place of a court-martial under Section 40, when the case becomes final, shall be enforced by the person empowered to give punishment orders, but a judgment of a military court which tried the case in the office of a civilian court and judges of which have been civilian judges under Section 37 shall be enforced under Section 245, paragraph one, of the Criminal Procedure Code.

A judgment of a court-martial or a court adjudicating cases in place of a court-martial under Section 40 shall be enforced directly by the person empowered to give punishment orders except when a person who is sentenced to death is a pregnant woman, execution of the sentence shall be waited for three years after her giving birth to a child and reduce the punishment of death to life imprisonment, except that such a child dies before the expiration of the said period of time. In the period of three years after giving birth to a child, let such a lady take care of her child as reasonable condition in the place suitable for taking care of a child within the penitentiary.

In the case where according to this Act, appeal can be made, the Military Court of First Instance has the duty to send to

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[20] * As amended by Section 6 of the Act on the Organization of Military Courts (No.4) B.E, 2511 and paragraph 1 and 2 amended by the Act on the Organization of Military Courts (No.8) B.E. 2558.

the Military Court of Appeals the file of the judgment inflicting punishment of death or imprisonment for life, where no appeal has been lodged against such judgment. Such judgment shall not become final until sustained by the Military Court of Appeals.

Section 65.- Persons empowered to give punishment orders are as follows:

(1) The commanding officer of the accused whose position is division commander or upwards, or battalion commander or upwards if stationed in different locality from that of the commander whose position is division commander or upwards shall be empowered to give punishment orders in accordance with judgments of Military Changwat (province) Courts, Military Circle Courts or the Bangkok Military Court;

(2) Persons empowered to appoint judges of Military Courts of First Instance shall be empowered to give punishment orders in cases where the accused in different locality from that of the commanding officer or are not subject to military command;

(3) Persons empowered to appoint judges of Military Unit Courts or courts-martial shall be empowered to give punishment orders in accordance with the judgments of such courts.

TRANSITORY PROVISIONS

Section 66.- All cases before the Dika Court prior to the coming into force of this Act shall be subject to the laws in force prior to the coming into force of this Act until they become final.

Countersigned by

Field Marshal P. Pibulsongkram

Prime Minister

Comments :- The reasons for issuing this Act are that the current act on the organization of military courts has been in force for over 20 years and has been amended continuously, including five amendments, inconvenient to use and inappropriate to the military's demands that the military trial need be completed quickly due to military activities have been drastically changed. Therefore, there is a need to amend the current act on the organization of military courts in order to make it easier to use and military cases be decided quickly in accordance with to the military's demands.