



EXPERIENCES AND CHALLENGES OF EIA LITIGATION IN THAILAND

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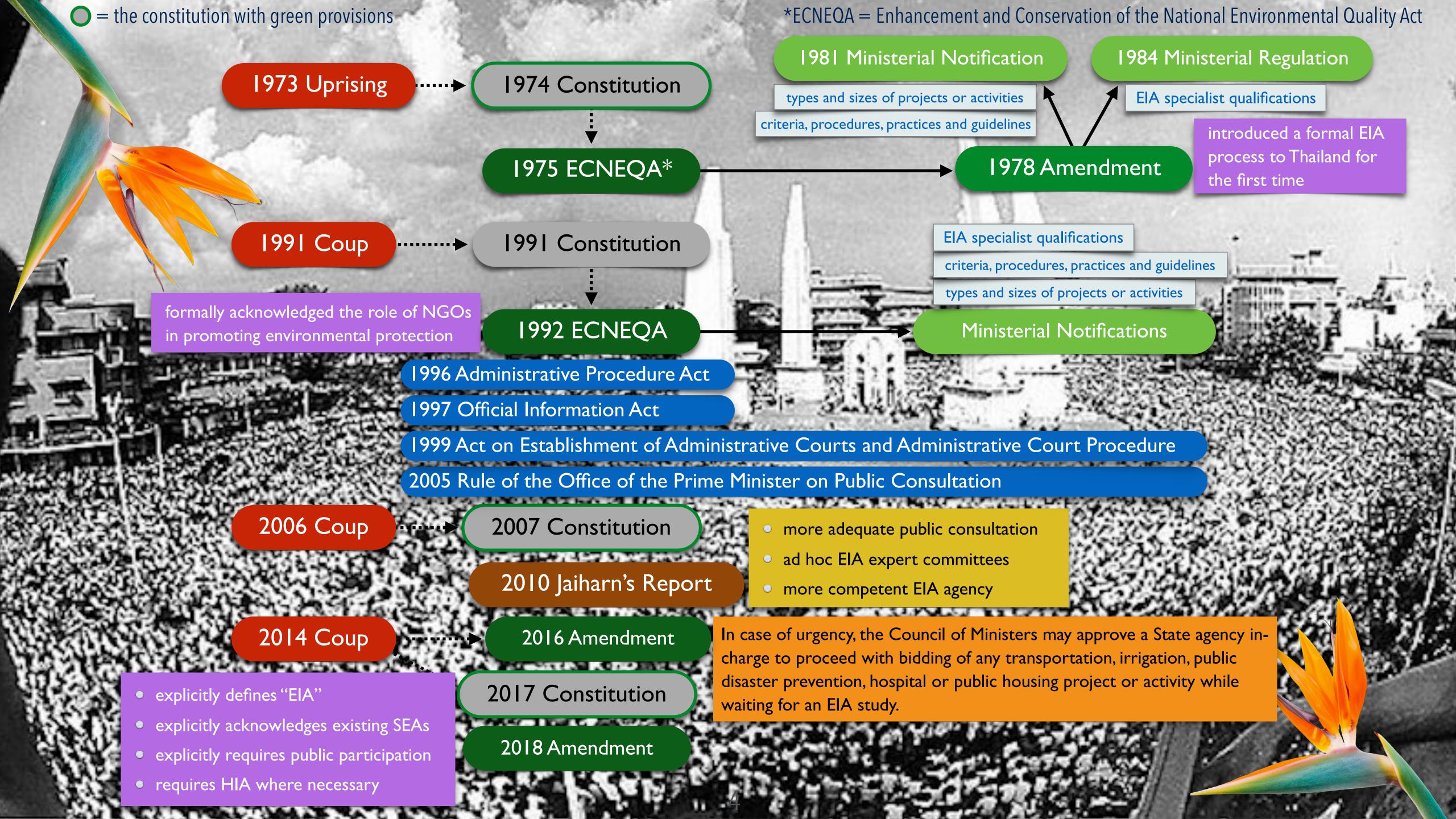


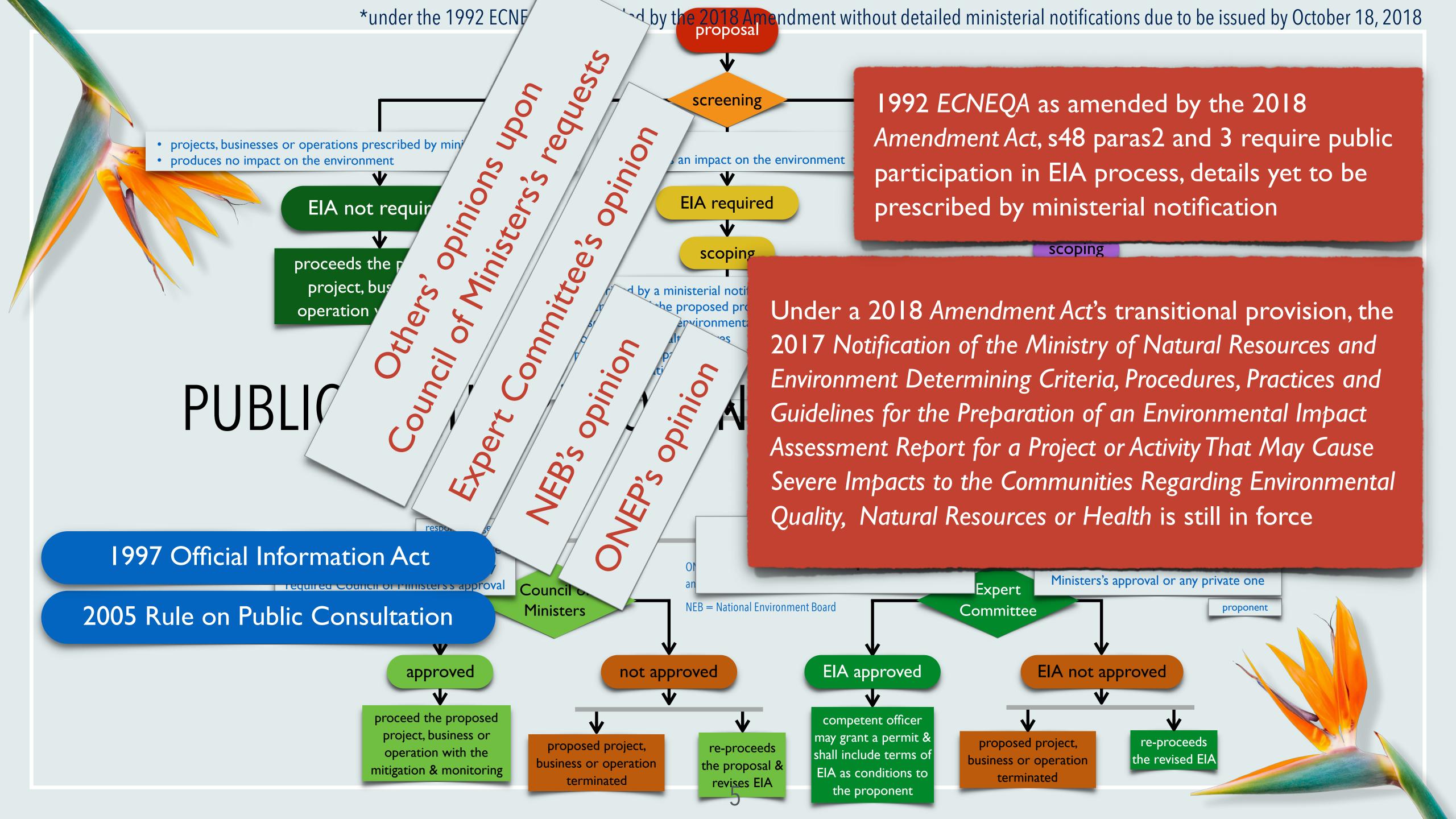


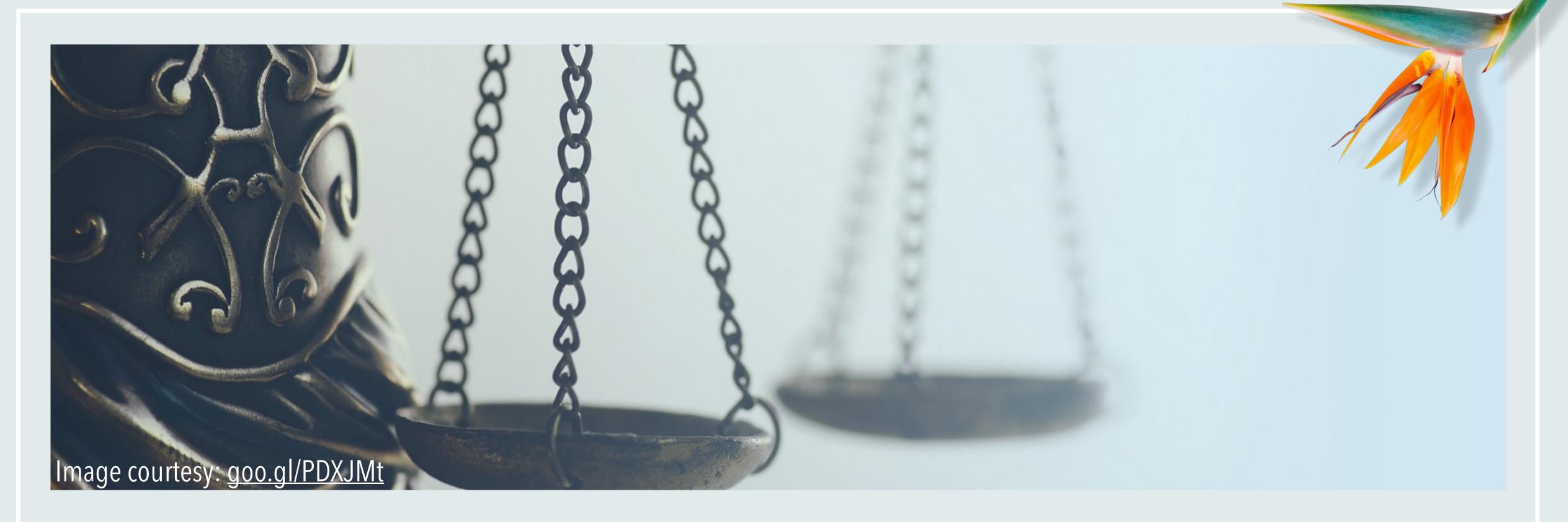
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PUBLIC PARTICIPATION

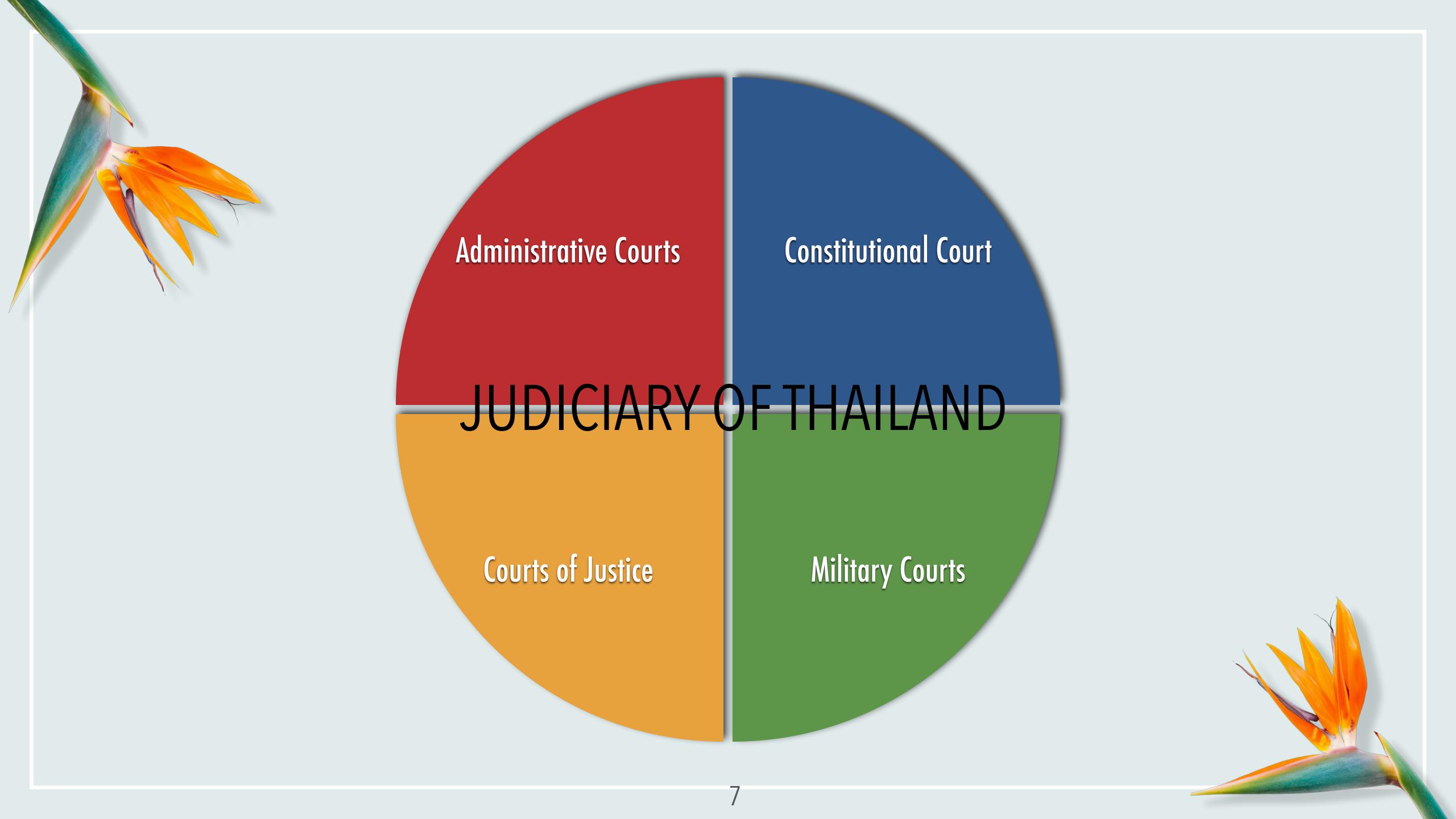


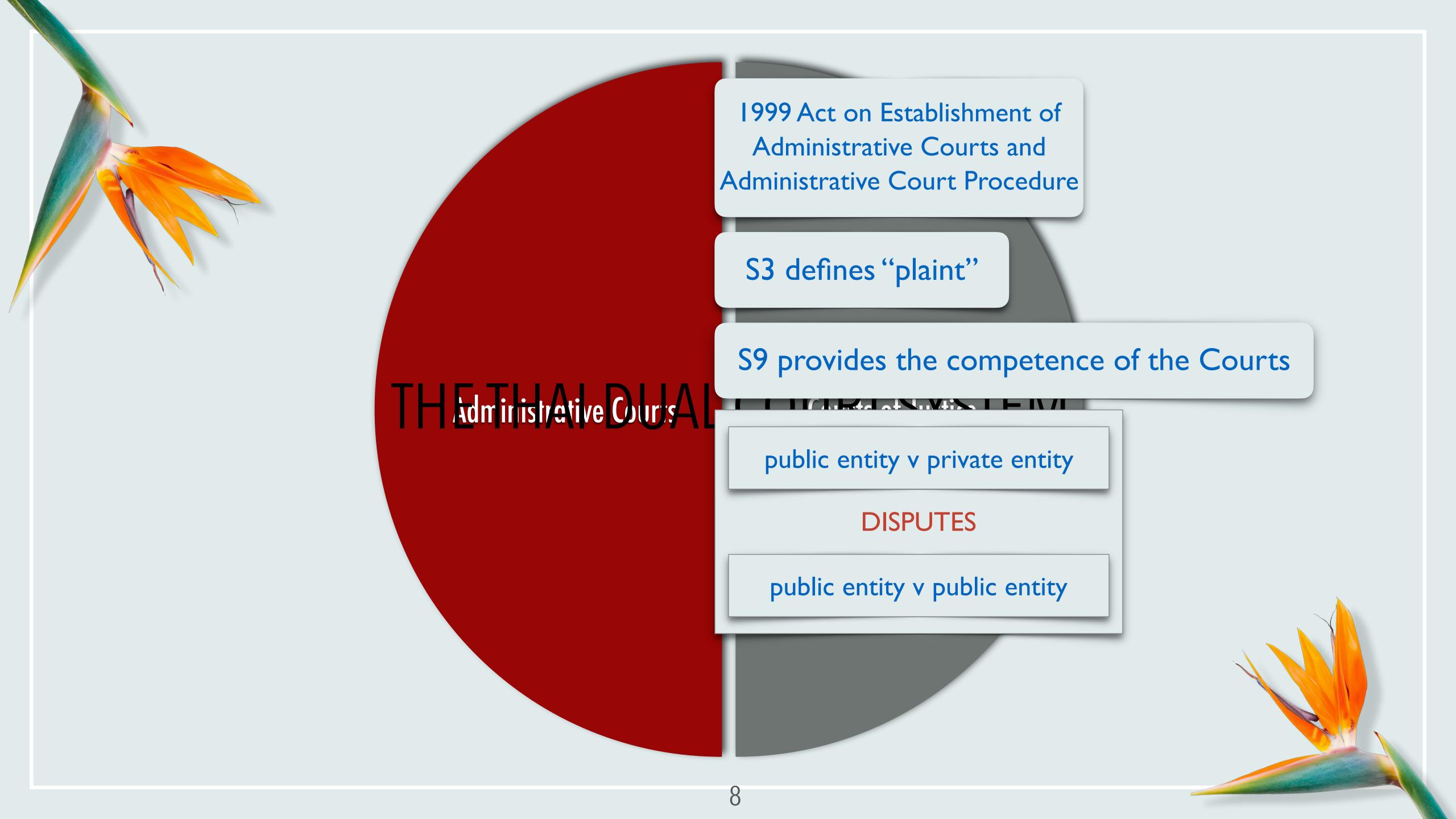


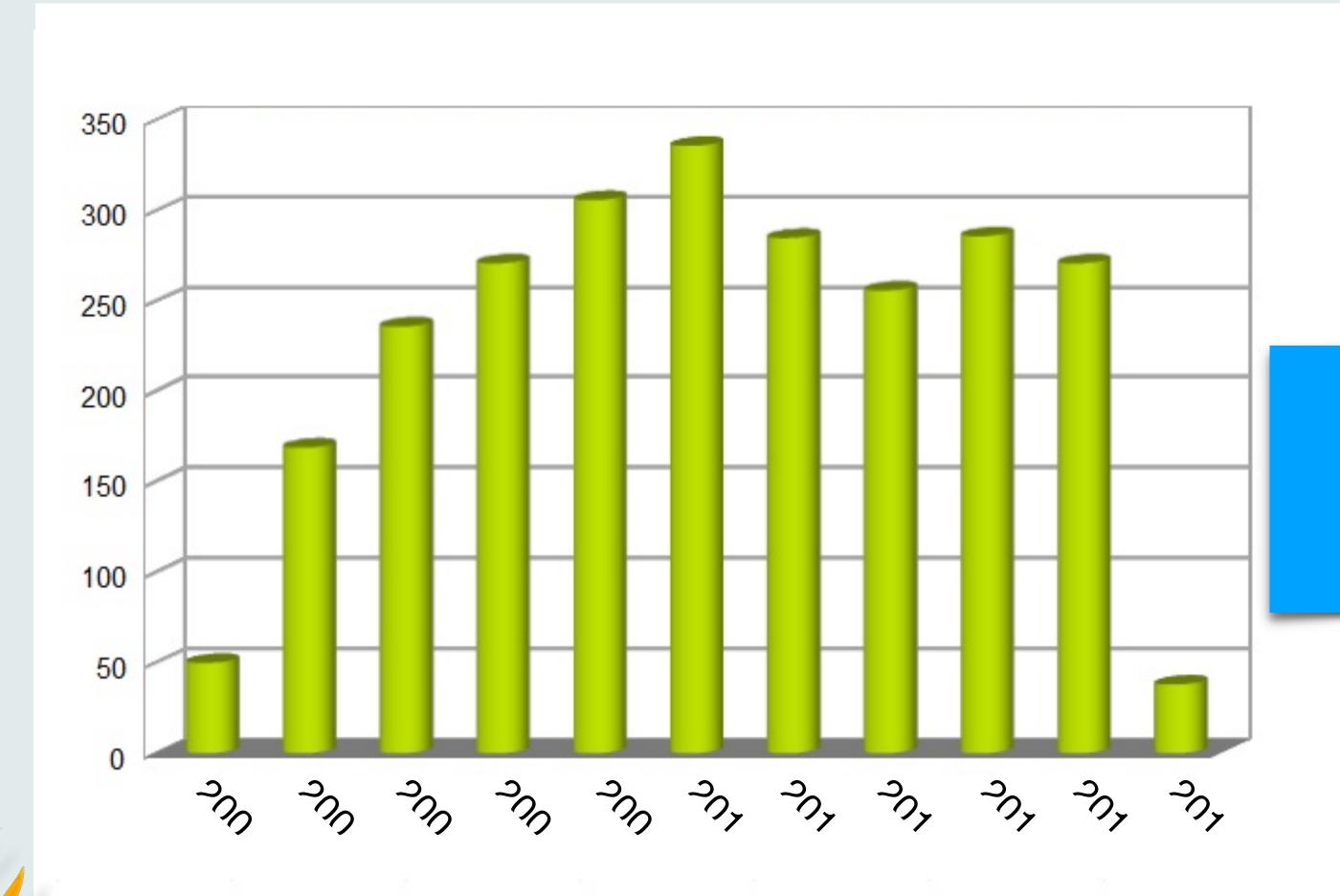




ACCESS TO JUSTICE



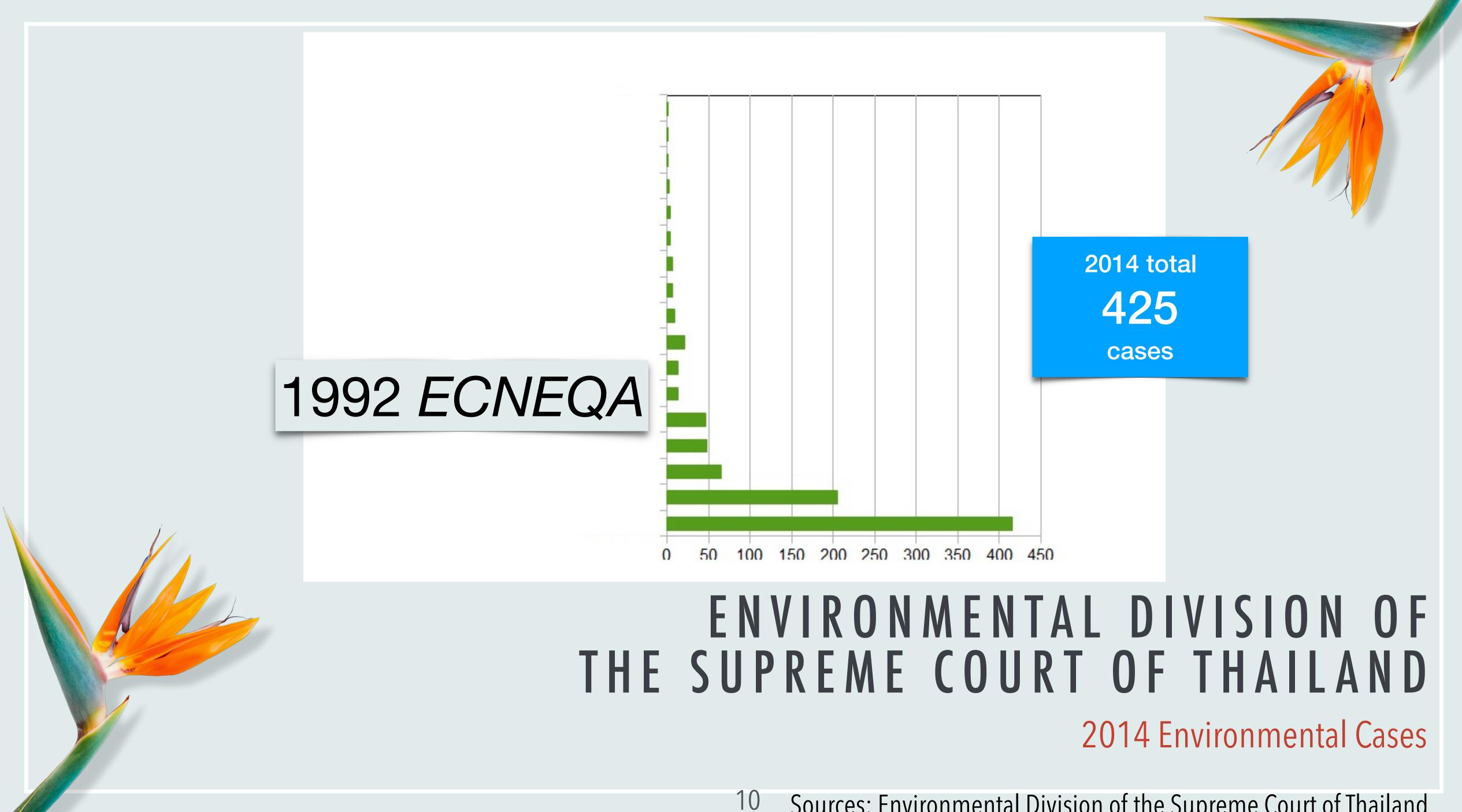




2005-2015
2,504
environmental cases

ENVIRONMENTAL DIVISION OF THE SUPREME COURT OF THAILAND

2005-2015 Environmental Cases



Building Control, Natural Resources and Environmental Cases

18,966

1999-July 2018

127,420

aggregated cases

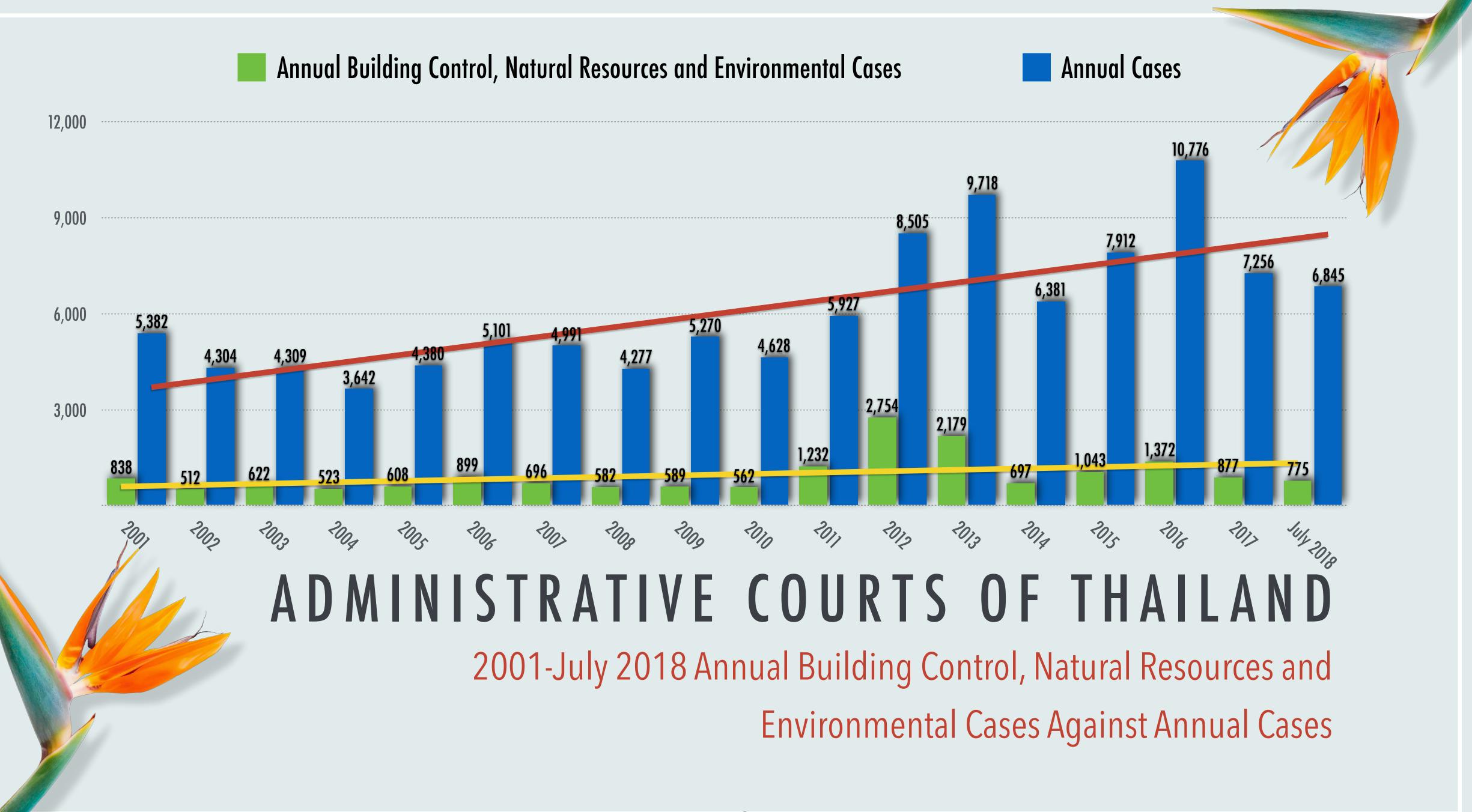
Other Cases 108,454

15%



ADMINISTRATIVE COURTS OF THAILAND

1999-July 2018 Aggregated Building Control, Natural Resources and Environmental Cases Against Other Aggregated Cases



details yet to be prescribed by ministerial notification



1992 ECNEQA as amended by the 2018 Amendment Act, s48 paras 2 and 3

September 19, 2018: 2018 Notification of the Ministry of Natural Resources and Environment Determining Criteria, Procedures, Practices and Guidelines for the Preparation of an Initial Environmental Evaluation or an Environmental Impact Assessment Report in the Environmental Protection Areas in Ban Laem District, Muang Petchaburi District, Cha-am District, Ptechaburi Province, and Hua Hin District and Pranburi District, Prachuab Khiri Khan Province

scoping

reviewing draft EIS

public participation

2017 Notification of the Ministry of Natural Resources and Environment Determining Rules, Procedures, Practices and Guidelines for the Preparation of an Environmental Impact Assessment Report for a Project or Activity That May Cause Severe Impacts to the Communities Regarding Environmental Quality, Natural Resources or Health



scoping

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public participation

Al consist or his or her superior may revoke an administrative act under the rules specified in section 51, section 52 and section 53 irrespectively of whether the period of appeal or dispute under this Act or any other laws has lapsed.

• The revocation of an administrative act giving rise to a right or an advantage (beneficial administrative act) shall be made within ninety days as from the date the official or his or her superior knows the ground for revocation of such administrative act, except in the case where the administrative act was issued with the assertion of a falsehood or the concealment of a fact which should be revealed or by threat or bribery.

An unlawful administrative act may be revoked, whether in whole or in part, either retroactively or prospectively or with effect for the future as prescribed. In case of a beneficial administrative act, the revocation shall be in accordance with the provisions of section 51 and section 52.



a dispute in relation to an unlawful act by an Idn instrative agency or a State official, whether in connection with the issuance of a by-law or an order or in connection with any other act, by reason of acting without or beyond the scope of powers and duties or inconsistently with the law or the form, process or procedure which the material requirement for such act or in bad faith or in a manner indicating unfair discrimination or causing an unnecessary process or an excessive burden to the public or amounting to an undue exercise of discretion

- the case involving a dispute in relation to an administrative agency or a State official neglecting official duties required by the law to be performed or performing such duties with unreasonable delay
- the case involving a dispute in relation to a wrongful act or any other liability of an administrative agency or a State official arising from the exercise of power under the law or from a by-law, an administrative order or any 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
- the case involving a dispute in relation to an administrative contract



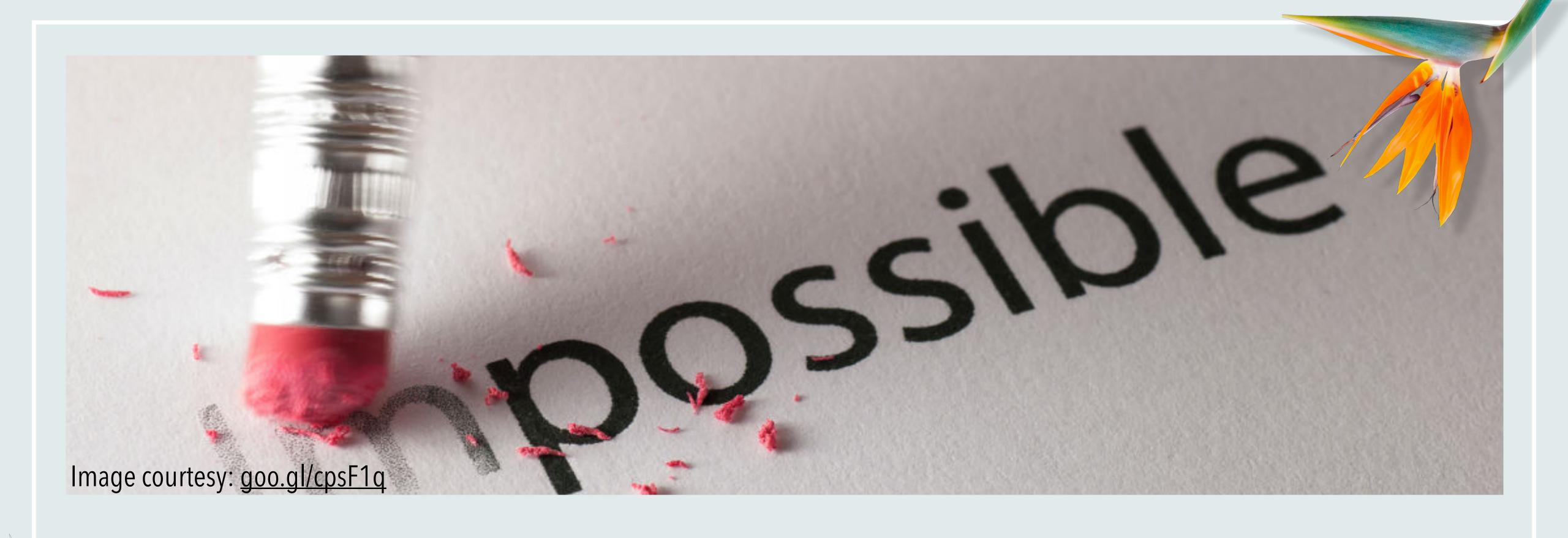
Revocation of Expert Committee's resolution to disapprove the EIS of the Baiyok Sky Project

Supreme Administrative Court Judgment No A244/2010

Screening and public participation criteria of the municipal solid waste project

Supreme Administrative Court Judgment No A963/2013

Revocation of the EIS and permit of the Thai-Malaysia Pipeline Project



SELECTED EXPERIENCES AND CHALLENGES

Same Administrative Court A218/2009

Expert Committee's resolution is an 'administrative act,' hence can be challenged in the Administrative Courts

Supreme Administrative Court Judgment No A244/2010

Screening and public participation criteria are 'rules,' hence can be challenged in the Administrative Courts

Supreme Administrative Court Judgment No A963/2013

EIS approval and permit issuance are 'administrative acts,' hence can be challenged in the Administrative Courts



WHERE THERE IS LITTLE OR NO PUBLIC OPINION, THERE IS LIKELY TO BE BAD GOVERNMENT, WHICH SOONER OR LATER BECOMES AUTOCRATIC GOVERNMENT.

-WILLIAM LYON MACKENZIE KING