

NOREF Report

Thailand: contested politics and democracy

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Executive summary

This report assesses the current political situation in Thailand. It first explores the politics of contestation after the 2011 election, upcoming events on the electoral calendar and the 2007 constitutional amendment. It then examines the politics of change in Thailand's political landscape and the effect of political parties' policies on the country's socioeconomic conditions. Thereafter it discusses the country's democratic space and the limited freedom of expression, especially in terms of political issues and the lese-majesty law. Finally, it analyses possible scenarios for democratic change and conflict transformation in terms of the politics of succession.

The report argues that Thailand's politics of contestation can be seen as a set of

cross-class networks that have adopted a dual strategy: engaging in the issue-based politics of favour or against a particular person or subject matter, while at the same time forming a social grouping for the betterment of the people. Since there has been more agitation against the political role of the military, the idea of a judicial coup d'état has been increasing seen in Thai political society. By using such arguments, the contestation over the meaning of democracy of the abovementioned networks can be seen as a mechanism to unite ordinary people into a political force and is thus related to the issue of ordinary citizens' access to power.

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Introduction

Thailand has just chosen its first female prime minister, Yingluck Shinawatra, a Thai businesswoman-cum-politician and the youngest sister of former prime minister Thaksin Shinawatra, who is seen as a key player in contemporary Thai politics, even though he is still in self-imposed exile. Following the 2011 general election (which had more than a 60% turnout of voters) and with 265 seats in the 500-seat House of Representatives, Yingluck's political role as the 28th prime minister of Thailand is seen as heralding a new political era of contested political networks.

This report is an attempt to assess the current political situation in Thailand. It will first explore the politics of contestation after the 2011 election, upcoming events on the electoral calendar and the 2007 constitutional amendment. Secondly, it will examine the politics of change in the country's political landscape and the effect of political parties' policies on the country's socioeconomic conditions. Thirdly, it will examine the democratic space and its limited freedom of speech and expression. Finally, it will analyse possible scenarios for democratic change and conflict transformation in Thai society in terms of the politics of succession.

The politics of contestation in Thai society

In Thailand, the political system currently operates within the framework of a constitutional monarchy in terms of which the prime minister is the head of government and a hereditary monarch is head of state. The country has a political history of long periods of authoritarianism alternating with periods of "semi-democratic" government. Since 1932, the military has interrupted the constitutional order more than 18 times, with Thai citizens witnessing more than 20 changes of government and 18 written constitutions after the abolition of absolute monarchy. The most recent coup was in September 2006, when the elected government of Thaksin Shinawatra was overthrown by the military in the form of the so-called Council for Democratic Reform (CDR), which argued that it needed to seize power to unite the nation after

months of political turmoil and to protect the monarchy.¹ The military gave a commitment to restore democratic government within one year.

To understand the Thai military, we need to consider its rationale as a guardian of the country. According to the 1997 and 2007 constitutions, the role of the Thai military is to protect and uphold the country's independence, sovereignty, national security and the institution of the monarchy. Its duty is to protect the national interest and the democratic government, with the king as head of state.² Therefore, concerns over military intervention in Thai politics are certainly justified, especially when it is claimed that such interventions could adversely affect the institution of the monarchy and national security.³

It can also be argued that many political crises have demonstrated the persistent characters of Thai politics: a strong military, weak political parties, personalised leadership, lack of "democratic consciousness" on the part of civil society and the general public, and the important role of rumours and opinions put out by the press, including the role of the so-called "Monarchy Network" in Thailand's politics. This network played a dominant role between the September 2006 coup and the December 2007 election, in which the People Power party, a successor of the dissolved Thai Rak Thai party, won the first post-coup election.

In the last five years Thai society has faced various conflicts and violence resulting from political confrontation between two political networks: the People's Alliance for Democracy (PAD/the Yellowshirts) and the United Front for Democracy against Dictatorship (UDD/the Redshirts). Such

1 The CDR's statement argued that the Thaksin government had caused a serious rupture in Thai society, had resulted in widespread corruption and nepotism, and had interfered in the activities of independent agencies. The government was also accused of repeatedly insulting the king. Thus the CDR claimed that it needed to seize power to control the situation, to restore normalcy and to create unity as soon as possible. See Ukrist Pathmanand, "A different coup d'état?", *Journal of Contemporary Asia*, vol 38, no. 1, February 2008, pp. 124–142, <http://www.sameskybooks.org/wp-content/uploads/2008/02/j-of-contem-asia-2008-ukrist-pathmanand-a-different-coup-detat.pdf>.

2 See section 72 of the 1997 Constitution and section 77 of the 2007 Constitution.

3 According a military source, civilian violence between the two contending mass movements is seen as one of the most important national security problems, because it affects the unity of the country.

conflicts⁴ can be considered as a politics of contestation between the establishment and the emerging social classes over the meaning of democracy. While the establishment is more concerned with preserving the existing order, the emerging social groups are more interested in changing it. The 2011 general election was regarded as a way out of conflict and the start of a process that would lead to reconciliation in the country.

After the 2011 election, the Yingluck government was formed with 265 seats in the 500-seat parliament. Her coalition included Chart-Thai-Pattana, Chart-Pattana-Puea Pandin, Phalangchon, Mahachon and New Democracy. The first female prime minister of Thailand announced that the new government's priorities were peoples' livelihoods and national reconciliation. Since coalition parties control parliament, the government can implement its 2020 vision of eliminating poverty through its programmes of increasing the minimum wage to 300 baht per day for unskilled labourers and paying salaries of 15,000 baht per month to university graduates starting in April 2012. Due to the 2011 flood problem, the success of a government plan for a guaranteed rice price of 15,000 baht per ton was in question, while the implementation of a credit card for farmers' loan schemes was postponed. However, the government continued with the 2005 Thai Rak Thai policy of One Laptop Per Child (OLPC) by providing a tablet PC to every grade 1 schoolchild, which was implemented in May 2012.⁵

Even though Prime Minister Yingluck's leadership has been questioned, especially during the 2011 flood crisis, she has been able to draw sympathy

from her political networks and electoral bases. Ironically, most flood victims in the provinces of the central Chao Phraya River basin put the blame on the Bangkok governor and Bangkok residents, even if the idea of protecting Bangkok from the floods came from the government. The crisis of confidence came from the country's economic rather than political sector.

Regarding Thaksin Shinawatra, as one of the political factors in Thailand's crisis, the ex-prime minister still plays a key role in evaluating and supervising the current cabinet's performance and influencing cabinet appointments. An example is the cabinet reshuffle in early 2012 to increase loyalty to the head of government and as a reaction to discontent with the government's management of the 2011 flood disaster. Some new ministers are seen as having close connections with the ex-prime minister.⁶ Since Thaksin has publicly stated that he wants to come back to Thailand,⁷ without mentioning how this will happen, conflicts will likely intensify. The consequence of such an attempt to return may cause a new political crisis, on top of economic uncertainty and questions around government stability. Even though Prime Minister Yingluck has insisted that the government would concentrate on economics, not politics, some of her cabinet members and Pheu Thai MPs have introduced a political agenda by proposing an amnesty law that would pave the way for Thaksin to return to Thailand under an amnesty for his alleged illegal activities.⁸ Examples of divisive opinions on Thaksin's possible return can be seen in the debates and disagreements over granting a general amnesty to those who face criminal charges in the 2012 King Prajadhipok's Institute peace report.⁹

4 Examples included the 2008 PAD protests, which involved occupying Government House and closing down Bangkok's airports. The 2009 UDD protests involved storming the venue of the 2009 ASEAN Summit and attacking the prime minister's car at the Interior Ministry, while the 2010 UDD protest resulted in 92 dead, 1,489 injured and several provincial town halls in the north-east being burnt down.

5 The Thai Rak Thai's 2005 OLPC policy was cancelled by the military government after the 2006 coup. The Pheu Thai government revised this policy by changing computer technology from desktop PC with keyboard to a portable, wi-fi-connected tablet PC. For more details, see Tom Kruesophon, "One tablet PC per child: this tablet is for whom?", *The Manager*, August 27th 2011, <http://www.manager.co.th/cyberbiz/ViewNews.aspx?NewsID=9540000107892>; and Suchart Thada-Thamrongvech, Thai minister of education, "Policies of Ministry of Education", January 25th 2012, http://www.moe.go.th/moe/upload/File/Policies%20of%20Ministry%20of%20Education_24Jan12edit3.

6 Example included Naline Thaweasin, Niwatthamrong Boonsongpaisan and Natthawuth Saikua.

7 Thaksin spoke via video-link to the Redshirts rally at Bonanza KhaoYai resort in Nakorn Ratchasima on February 26th 2012. The rally was called to support the amendment of the 2007 Constitution and oppose any attempt at a military coup.

8 Thaksin and his supporters argued that all of his court cases were not fair trials as a special unit was set up by the 2006 coup to investigate his business dealings and those of his close associates. Many members of the special unit also publicly opposed the former prime minister. See more details of the reconciliation and amnesty proposal in the report of the King Prajadhipok's Institute on national reconciliation for the House Subcommittee on National Reconciliation (King Prajadhipok's Institute, "Executive summary of research on reconciliation", March 21st 2012, <http://www.prachatai.com/english/node/3119>).

9 King Prajadhipok's Institute, "Executive summary of research on reconciliation", 2012.

Political landscape and socioeconomic conditions

While the Thai political system has been characterised by either military or semi-democratic government, the country's economic and social policy has been continually driven by the need for industrial development since the 1961 national economic plan with the hope that the positive effects of growth would “trickle down” to the traditional (rural-agricultural) sector through job creation and technology transfer. In implementing this programme, successive Thai governments turned rural agriculture from a largely self-sufficient sector into a manufacturing sector producing export crops to earn foreign currency.¹⁰ The intensifying conflicts over natural resources management, such as water governance and land rights,¹¹ also forced people to organise to increase their bargaining power with the state. Their demands included greater participation in economic policymaking and further local empowerment at the community level.

In the last ten years populist economic schemes set up by politicians and state policymakers have benefited the rural poor, especially those living in the non-farming sector. These schemes have redefined the concept of social justice to show how electoral participation is intertwined with political conditions and public policy. In other words, the populist economic platform was seen as a legitimate way to gain votes through governmental projects using public funds, which represents the power of the poor to have a say in public policy decisions.

In the case of conflicts between the PAD and UDD in particular, international media and/or popular discourse have often portrayed such divisions as a fight between the conservative/urban/establishment bloc and a democratic/rural/pro-poor movement. Some analysis describes this conflict in terms of “movements and counter-

movements”. However, the Redshirts themselves offered alternative narratives of their movement as part of an emerging set of new economic forces. According to interviews, Redshirt protestors often engaged in seasonal, market-oriented farming, such as commercial flower growing or lotus production, as well as having income from non-agricultural sectors, such as remittances from family members. Many of the provincial Redshirts' leaders have been involved with local politicians and radio presenters, and have been seen as community organisers and vote canvassers (*hua khanaen*) for those higher up the political food chain, such as members of provincial administrative organisations or the national parliament.¹²

The differences between the PAD and UDD in their interpretation of Thai democratic politics have created polarisation among civil society groups, which has been clearly seen in various arguments, political discourses and different interpretations of the meaning of democratic legitimacy. For example, PAD supporters argue that the priority of the country is to repair the damage done by political corruption and money politics. In comparison, even if the UDD acknowledges corruption issues surrounding Thaksin's premiership, it considers Thaksin's time in office as a unique period when the central government was accountable to its people, and especially to rural people's needs and concerns. The UDD's decision to treat electoral contests as a political marketplace can be seen as a response to its supporters' demands for governmental economic plans and fiscal policies aimed at boosting consumption and hence the domestic economy. Due to the deficiencies of the country's democratic institutional mechanisms and the two blocs' diverging interpretations of democratic politics, clashes between PAD and UDD groups have occurred from time to time.

While the democratic deficit at the national level mainly comes from the failure of formal

¹⁰ Jaturong Boonyaratanasootorn, “Globalisation and Thai NGOs' strategies”, in Jaturong Boonyaratanasootorn, ed., *Thai NGOs: The Continuing Struggle for Democracy*, Bangkok, Thai NGO Support Project, 1995.

¹¹ Examples include the Thailand Land Reform Network, the Assembly of the Poor and the Anti-dam Movement. The significant role of these movements can be examined in the context of marginal groups' struggle for greater participation in the political and economic policy process. See Thailand Land Reform Network, <http://www.landreformthai.net>, accessed June 18th 2012.

¹² Examples of these dynamics are offered by the 2012 electoral contests for the Provincial Administrative Organisation in Udon Thani and Ubon Ratchathani, where local Redshirts who were former election canvassers and village core leaders have sought to contest local elections themselves or were supporting their own candidates against those nominated by Pheu Thai MPs. For more details, see *Bangkok Post*, “Disgruntled red shirts fight for themselves”, May 8th 2012, <http://www.bangkokpost.com/news/politics/292267/disgruntled-red-shirts-fight-for-themselves>.

democracy and the closing of the space for public participation, the possibility of achieving greater democracy at the local level is also limited because of the inadequate process of transferring decision-making power to the grassroots and the low quality of local democracy. As the agenda of the rural-popular class of Thailand, which had undergone changes in its relations to the state,¹³ is different from that of the incumbent politicians, these disagreements have created further tensions and conflicts, not only between different networks, but also among members of the same network. Eventually, local networks of the rural and urban poor may oppose their leaders on several issues that affect their livelihoods, since their definition of social justice goes beyond personal politics to the issues of the redistribution of land and income, and progressive taxation.

Thailand's democratic space and freedom of expression

Since the September 19th 2006 military coup, freedom of information has been mere rhetoric, since most newspapers have imposed self-censorship and refrained from printing any news that might offend the authorities. Similarly, freedom of expression is seriously under threat because of the harsh treatment and severe penalties being meted out for peaceful expression, especially on the role of the monarchy in modern Thai politics.

Although there appears to be no crackdown on journalists, and foreign and local reporters seem free to interview and report on the military and other sensitive issues, according to the Southeast Asian Press Alliance (SEAPA), self-censorship has certainly been practised by Thai newspapers and free television channels.¹⁴ According to the Law Society of Thailand, legal

proceedings have been filed against academics, NGO workers, community leaders and editors of newspapers who have dared to comment on the activities of notorious politicians or their related business activities since 2005. Even after the July 2011 election, according to SEAPA reports, the country's freedom of expression and opinion was still limited.¹⁵ Most media find themselves vulnerable to threats from state censorship, political conflict, capital and online social media pressure.

At the root of the controversy is Article 112 of the Thai Criminal Code, which states: "Whoever defames, insults or threatens the King, Queen, the Heir-apparent or the Regent, shall be punished with imprisonment of three to fifteen years." However, this law contains no definition of what constitutes "defame" or "insult", and charges can be filed by anyone who believes another party has insulted royalty. The 2007 Computer-related Crime Act has also been used to enforce censorship and persecute critics of the monarchy.

According to police information, at least 32 such cases are pending with the police. In 2011 alone, 11 of the lese-majesty cases were pursued by the courts, with four convictions and seven cases still pending.¹⁶ In response to recommendations by the Truth for Reconciliation Commission of Thailand, the Department of Rights and Liberties Protection used its budget from the Justice Fund to guarantee bail applications for those being held on **lese-majesty** charges, as well as supporters of the UDD facing other charges in connection with political protests in 2010. However, the new government of Prime Minister Yingluck Shinawatra has shown little interest in ending **lese-majesty** crackdowns. Moreover, while the courts have allowed bail for other charges, they have refused bail for lese-majesty offences. One example was the case of Amphon Tangnoppakul, a 61-year-old man who was given a 20-year sentence after being convicted of a lese-majesty

13 Rural villagers and farmers had become entrepreneurs and agents of the state at the local level; the agricultural sector has been changed from a largely self-sufficient sector into a manufacturing sector producing export crops to earn foreign currency, which has affected the political landscape of the country.

14 The SEAPA issued a statement on "the Right to Freedom of Opinion and Expression in ASEAN" to the ASEAN Intergovernmental Commission on Human Rights to voice its concern. It also issued a report on Thailand's situation: SEAPA (Southeast Asian Press Alliance), *Thailand (2012): New Government with Old Problems for the Media*, May 3rd 2012, <http://www.seapabkk.org/component/content/article/22-seapa-reports/100583-thailand-new-government-with-old-problems-for-the-media.html>.

15 SEAPA (Southeast Asian Press Alliance), *Thailand (2011): Journalists Caught in Crossfire, Fallout from Political Crisis Continues*, May 3rd 2011, <http://www.seapabkk.org/seapa-reports/press-freedom-on-southeast-asian-countries/100602-thailand-2011-journalists-caught-in-crossfire-fallout-from-political-crisis-continues.html>; SEAPA, Thailand (2012): *New Government with Old Problems for the Media*, 2012.

16 See the link for lese-majesty cases at <http://www.seapabkk.org/component/content/article/100583-thailand-new-government-with-old-problems-for-the-media.html?start=1>.

charge and later died in custody from stomach cancer.¹⁷

Due to deep divisions and conflicts among activists and civil society organisations because of their positions on electoral capitalist democracy, clean politics, freedom of expression and the right to demonstrate, Thai civil society has become weak, fragmented and less capable of having an impact on policy changes. The bloody 2010 crackdown on the UDD demonstrations further deepened the conflict and brought to the fore issues of injustice and the impunity of state violence. Local interests have also been firmly subordinated to the national interest, especially in the areas of infrastructure development and economic recovery.

The politics of succession

In Thailand, the political role of the royal family, largely created since the 1958 coup, has continued to be influential in politics. The king himself is seen as an important actor for political change. The interventionist role of the so-called “Monarchy Network” in electoral politics has become apparent from time to time and has clearly been seen in the last five year. Therefore, the issue of the future succession of the new monarch is seen as one of the political factors affecting the country’s stability and democracy.

In the Thai case, the Palace Law of Succession, which was issued in 1924 by King Vajiravudh during the period of absolute monarchy, remains on the statute books. The law is based on the principle of male primogeniture, with the eldest son of the previous monarch as the first in line, following by the next-oldest son as the second in line, and so forth.¹⁸ According to Article 13 of this law, women and children of commoner wives or foreign wives were not considered eligible to ascend the throne.¹⁹

After 1932 Thai constitutions continued to rely on the 1924 Palace Law on the issue of succession

17 On November 23rd 2011 Amphon was convicted under Article 112 of the Thai Criminal Code and the 2007 Computer Crimes Act in Black Case No. 311/2554 for allegedly sending four SMS messages to a personal secretary of the former prime minister, Abhisit Vejjajiva. The messages allegedly contained vulgar language defaming the Thai queen and insulting the honour of the monarchy.

18 1924 Palace Law, arts. 8 & 9.

19 1924 Palace Law, art. 13.

until the 1997 Constitution, which stated that the amendment of this law is the prerogative of the king, meaning that the king can appoint his son or any of his daughters to the throne if he wishes.²⁰ In the absence of an heir apparent, the 2007 Constitutions allow the Privy Council²¹ to propose a princess as successor, with the approval of parliament. According to the 2007 Constitution the Privy Council of Thailand is a body of 18 appointed advisors to the monarch handpicked by the king. The roles and power of the Privy Council are associated with the issues of the head of state and the monarchy. Its duties include being the regent pro tempore, announcing any amendment to the Palace Law of Succession, and submitting the name of the successor to the throne. Because of the popularity of Princess Sirindhorn, some writers on constitutional matters and a few public figures have argued for the possibility for a princess succeeding to the throne. In terms of the law, however, Crown Prince Maha Vajiralongkorn, the eldest child and only son of the present monarch, was appointed heir apparent to the Thai throne in 1972, while the next in line is Vajiralongkorn’s son, Prince Dipangkorn Rasmijoti.²²

Based on concerns over the succession, King Prajadhipok, who was the last absolute and the first constitutional monarch, argued for establishing institutions that could control an unwise king rather than depending solely on the personality of individual kings.²³ Following this principle, the Privy Council can be assumed to take on an important role in the current transitional period of Thai democracy in terms of the politics of succession. Although there is no vibrant perception by the public, people who follow the politics of succession still express anxiety over the political impact of the succession

20 1997 Constitution, chap. 2, arts. 22 & 23.

21 2007 Constitution, chap. 2, arts. 23 & 24. See <http://www.asianlii.org/th/legis/const/2007/1.html#C02>, accessed July 2nd 2012.

22 See Wikisources, “Palace Law on Succession, Buddhist Era 2467 (1924)”, n.d., accessed June 2012, [http://en.wikisource.org/wiki/Palace_Law_on_Succession,_Buddhist_Era_2467_\(1924\)](http://en.wikisource.org/wiki/Palace_Law_on_Succession,_Buddhist_Era_2467_(1924)).

23 King Prajadhipok was the first king under the constitutional monarchy in 1932 and abdicated the throne in 1935 due to conflict with the people’s party that controlled government at the time. For more details, see “Memorandum to Dr Sayre”, Bangkok, July 23rd 1926, cited in Benjamin A. Batson, *The End of the Absolute Monarchy in Siam*, Oxford, Oxford University Press, 1984, p 287, cited in Gothom Aryan, “Thai monarchy”, n.d., accessed April 17th 2012, <http://www.idea.int/news/upload/Nepal%20-%20Thai%20monarchy%20paper%20-%20Gothom%20Aryan.pdf>.

process. This could take the form of a challenge to the designated successor, a military coup, or a succession crisis involving various members of the royal family. Concern is now focused on institutional reform and the expansion of support for the constitutional monarchy by way of involving royal liberalists, academia and intellectuals in the debate. It is very important to broaden alliances in the monarchy network that could help the new monarch to become close to and win the hearts of the general population, rather than depending on the establishment and the armed forces.

Conclusion

To understand the possibility of conflict transformation, we need to look at the structural design of the country's democracy. While some elitists argue that the architecture of Thai political reform needs to resolve three main structural problems: corruption, inefficiency and lack of political leadership, others argue that electoral politics alone cannot defuse the conflicts over the management of both natural and fiscal resources that set the state against the people.

Thailand's politics of contestation can be seen as series of cross-class networks that have adopted a dual strategy: engaging in issue-based politics in favour of or against a particular representative, and simultaneously embracing a specific social

group, for the betterment of its members. The politics of networking is clearly seen in the process of mobilising a particular network's members in order to create a political identity for this network. Members who participate in the networks' struggles also share the same perspective and are committed to be more engaged in political struggles because of reciprocal perceptions deriving from direct experience of the power relations between them and the authorities.

Since there has been growing anxiety over the political role of the military, the idea of a judicial coup d'état has been increasingly discussed in Thai society. Examples of judicial politicisation in Thailand and the modification of the Constitution through adjudication both by interpretations and application of the Constitutional Court can effectively be seen as a juridical coup d'état, since this constitutes a particular type of law-making that alters society's basic norms. This new phenomenon will require further discussion.

Ultimately, critics argue that Thai political contestation consists of the politics of interest groups, invoking political constructs such as "moral politics", "the new politics" and "the politics of the serf vs. the aristocrat" in order to advance their interests. By using such arguments, both key networks will be able to unify their members and turn them into a political force, since the issue is one of access to power by ordinary citizens.

