

## Thailand's Search for Legitimate Authority

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As the crisis in Thailand enters its fourth month, the political unrest continues taking its toll on the Thai economy, despite a scaling down of the protests, after the leader of the People's Democratic Reform Committee, Suthep Thaugsuban, urged protesters to assemble at Lumpini park. Meanwhile, Commander in Chief of the Royal Thai Army Prayuth chan-ocha has stated that he cannot promise that there will or will not be a coup in response to the country's stalemate. The search for legitimate authority in Thailand is further complicated by the decreasing trust in the institutions designed to act as neutral referee, such as the Constitutional Court, the Election Commission and the National Anti-Corruption Commission. Hence, several unresolved questions of legitimacy and inclusive political order remain.

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*This paper expresses the view of the authors and not the European Institute for Asian Studies*

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General Prayuth Chan-ocha, the head of the Thai Army, having just three days earlier urged all parties to act within constitutional limits, on Saturday 28 February hinted at the possibility of resorting to “a special method” to resolve the political crisis in Thailand now in its fourth month. He declared that “one can envisage that the situation might end up with a coup... I admit it would not be legal. But every coup is meant to end a crisis.”<sup>2</sup> General Prayuth’s declaration is doubly significant. On the one hand, it makes clear that the Army, or more specifically its upper echelons, still envisages their role as a central force in Thai politics and like their counterparts in Myanmar and, previously, in Indonesia as the custodians of national unity. On the other hand, it once again, demonstrates that there is scant regard on all sides in Thailand for constitutional rule and thus the foundations of the Rule of Law, as opposed to Rule by Law. Both of these factors have been permanent features of the modern Thai political system.

One way at looking at the evolution of Thailand since the end of the absolute monarchy in 1932 is to see the last eighty years or so as a constant search for a political framework (and social contract) capable of ensuring Thailand’s sustainability as a unitary state. Eighty years to a century is a similar time frame to that required after the French Revolution of 1789 for a stable (republican) system to be put in a place, or for Britain to establish a parliamentary system based on universal suffrage. In Thailand, the absolute monarchy was shoved aside in a bloodless military coup in 1932. After the reigns of the great modernizers, Mongkut and Chulalongkorn, who ensured the country’s independence, the monarchs of the first decades of the twentieth century were seen variously as quixotic, weak or decadent. Since then, Thailand has experienced at least another ten such coups, the last being in September 2006 which saw the overthrow, six months after its reelection, of the government of Thaksin Shinawatra, elder brother of the present caretaker Prime Minister, Yingluck Shinawatra. Successful military coups (i.e. those with the blessing of the Monarchy), have become the circuit breakers in Thai political life allowing one part of the elite to take over from another while preserving the class interests of the Bangkok establishment.

Barrington Moore’s famous formula, “no middle class, no democracy”, based on the European and American experience, appears somewhat inapplicable in the Thai case, as indeed elsewhere in parts of Asia. Good governance becomes an end in itself, and if the discarding of representative democracy can achieve this, then so be it. In a largely Buddhist society impregnated with the notion of merit and that of the custodians of merit, then government by the virtuous in itself is legitimate. And since Popular elections offer no guarantee that the virtuous will triumph (as recent Australian experience demonstrates), the discarding of representative democracy is tolerated if it achieves good governance. If such a view appears overly culturalist, recall that in 2012 Italy too appointed an interim government of respected technocrats to help rid the country of its Thaksin equivalent, Silvio Berlusconi).

Suthep Thaugsuban, leader of the People’s Democratic Reform Committee, announced in his speech on Sunday 3 March before his supporters, the shutting down of three demonstration sites in Bangkok and the regrouping of the anti-government protestors in Lumpini Park, and declared that he was a “medium who incarnated the people’s aspirations”. Suthep’s sense of his own virtuous self-importance has grown over the last four months in inverse proportion to the fall in the number of anti-government

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<sup>2</sup> Bangkok Post (2014, 28 February). ‘Army Chief hints crisis end on way’. Retrieved from <http://www.bangkokpost.com/news/politics/397584/army-chief-hints-crisis-end-on-way>

demonstrators and of decline in the funding provided by some members of the Bangkok business community.

Government by self-appointed virtuous leaders without a stable legal framework and the consent of the governed is, at the least problematical, and at the worst prone to abuse. Since the end of the absolute monarchy in 1932, Thailand has had nineteen constitutions. If the anti-government protestors achieve their aims through provoking, once again, a military or judicial coup, then one would expect a twentieth (interim) and then a twenty-first constitution to be put in place. One does not have to be a Tea Party nutter who believes that the US Constitution was dictated by God, to feel that changing constitutions as if they were nappies is neither conducive to effective rule by those who govern nor, more importantly, to obtaining the consent of the governed.

Thai constitutions have been drafted, discarded and redrafted to serve the interests of competing political elites. This was not always the case. I remember vividly in Bangkok and in Chiang Mai in 1997 sensing the excitement of electing a Constituent Assembly and then the enthusiasm with which the People's Constitution of that year was greeted. With its multiple safeguard clauses, the 1997 Constitution was designed to encourage programmatic party politics, as opposed to the clan-based neo-patrimonial politics of the past, and put in place an elected Senate to reduce the power of Bangkok. Alas it led to a populist political party, that of Thaksin Shinawatra with its power base in the north and northeast receiving in 2001 an absolute majority in the Lower House of Parliament, for the first time in Thai history.

When there can be no agreement on a fundamental constitutional document and, above all, the social contract it expresses, then the parameters of political action and political debate are lacking. In contrast, in neighbouring Malaysia there is an arduous debate taking place at this time on the question of Malay supremacy, but at least the various protagonists in this debate agree that there is a need to look at both the letter and the spirit of the *Merdaka* constitution.

This lack of agreement on the 'rules of the game' has been exacerbated by decreasing trust in the institutions designed to act as the neutral referees, such as the Constitutional Court, the Election Commission and the National Anti-Corruption Commission. They are seen to have been co-opted by both Thaksin and his opponents to pursue their own elite interests. For example, charges in the Anti-Corruption Commission against Yingluck Shinawatra for dereliction of duty in the rice-buying scheme have been fast-tracked, with her needing to answer those charges before mid-March, while charges against members of the previous Democrat led government have been held in abeyance since 2010. In September 2008 the Constitutional Court famously dismissed Samak Sundaravej, a member of Thaksin's party, for hosting a TV cooking show.

One final point needs to be made. The anti-government protestors and, indeed the Military, claim to be ardent defenders of the Thai monarchy, yet with the constant debasing of the constitutional Rule of Law side of the constitutional monarchy equation they run the risk of weakening the very institution they claim to protect. In 1932 the monarchy was in disrepute and for almost a decade afterwards the throne remained physically, if not technically, vacant. Today it is clear that the cult of the monarchy built around King Bhumiphol and the Royal Family began after World War II by the then military leadership with some prompting from the Central Intelligence Agency (CIA),



could be ultimately counterproductive. Making the monarch the ultimate source of legitimacy has been successful because King Bhumiphol has been astute, respected and credible in playing the role of the paternal authority figure above the fray. But if a future successor is incapable of performing that role, then the unresolved questions of legitimacy and an inclusive political order will once again be posed.



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