

# PERSPECTIVE

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## **Protracted Period in Power Can Prove Perilous for Thailand's Military Government**

*By Puangthong Pawakapan\**

### **EXECUTIVE SUMMARY**

- The rejection of the draft constitution by the National Reform Council in September has effectively delayed the next general election. No doubt the prolongation of the military government's time in office provides an opportunity for it to consolidate power, but it also creates a challenge for the junta as well.
- Its endeavour to re-establish the old elite's domination over electoral politics by way of a new constitution is no easy task. Despite the military leaders' distrust of politicians, cooperation and negotiation with major political parties are vital to their pursuit.
- How soon the Thai people can have an election depends on how secure the old powers feel with the new political game and how well the royal succession goes.
- On observation, the longer the junta stays in power, the more serious missteps it tends to take. Its incompetence in handling complex issues, both domestically and internationally, has quickly eroded its credibility.
- But while the junta may be in a weak position, its opponents are showing themselves to be much weaker and more deeply divided.



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\* Puangthong Pawakapan was ISEAS Visiting Senior Fellow from 17 July 2014 to 14 January 2015. She is Associate Professor at the Department of International Relations, Faculty of Political Science, Chulalongkorn University. This issue appears under the auspices of ISEAS's Thailand Studies Programme.

## INTRODUCTION

Despite reiterating his disinclination to hold on to power, General Prayut Chan-ocha, Thailand's prime minister and the leader of the National Council for Peace and Order junta (NCPO), appears to be in no hurry to leave office. The rejection of the draft constitution by the junta-appointed National Reform Council (NRC) in early September of this year, has effectively delayed the next general election until mid-2017 at the earliest. The constitution fiasco was due to the junta's realization that the charter was unlikely to win approval in a referendum after two major political parties, the Phuea Thai Party and the Democrat Party, as well as pro-democracy critics, had voiced their strong opposition to its contents. It was better for the junta to have the charter failed at this stage now than to have it failed in a referendum.

While the prolongation of the NCPO's time in office provides an opportunity for it to consolidate the power of the elements that it represents, it also creates a challenge to the junta. The longer it holds on to power, the more missteps it will take, and these will add to the growing public discontent. For the junta and the old establishment, making the successful transition from a regime born of a coup to one founded on a constitution that will allow elite domination of a majoritarian electoral system with a degree of legitimacy, appears increasingly difficult.

## THE ABORTED DRAFT CONSTITUTION

Although military coups d'état have long been an effective mechanism for Thailand's elite to seize power, the elite nevertheless also realizes the lack of legitimacy that results from such seizures of power. The old powers deem it necessary to create a new political game that allows them to take control of and interfere in electoral politics with some degree of constitutional legitimacy. However, aggressive manipulation of the political system is not as easy a task as the junta leaders might have thought, and this led to the abortion of their own draft charter. On the one hand, the key features of the failed draft constitution reflected the old powers' aim to control politicians and the majoritarian electoral system. However, on the other, those key features were also obstacles to the old powers gaining cooperation from political parties. It is thus worth considering those features and their objectives since they are highly likely to re-emerge in the next draft constitution on which a junta-appointed committee is now at work.

- The most condemned section of the 2015 constitution was the creation of a National Strategic Reform and Reconciliation Committee (NSRRC), comprising of 23 members, including the chiefs of the armed forces and police. In times of crisis, this committee was to be authorized to take over executive and legislative power. This section evidently sought to constitutionalize military coups. In addition, the NSRRC was to be in charge of the vaguely defined reform process. Although the committee's term was to end after five years, it was to be extendable through a referendum.
- The aborted constitution allowed for a non-member of parliament to become prime minister. This would have allowed extra-parliamentary powers to pressure political parties to accept a non-politician or even a military leader for the top post, as happened in the 1980s.

- The new electoral system imagined in the rejected draft constitution was to prevent one single party, the target supposedly being a Thaksinite party, from winning a majority of seats in parliament by using a new system of proportional allocation of seats to party lists. If that had been adopted, Thailand would have ended up with a weak multi-party coalition government like those it had in the 1980s.
- A majority of the Senate was to have been appointed and to exercise greater powers to block legislation and scrutinize the cabinet.
- Punishments for politicians were harsher, and easier to exact. Politicians impeached for corruption or electoral fraud were prohibited from re-entering politics for life, instead of five years, after conviction by a simple majority of votes in the parliament.

Despite strong criticism that this draft constitution was a coup in disguise, the junta has shown no sign of changing its approach. The mission of drafting yet another new constitution is likely to have the same objectives as the failed one, to judge for example from comments made by Mr. Meechai Ruchuphan, a veteran conservative legal expert and the chairperson of the new Constitution Drafting Committee (CDC). Meechai revealed his thinking that the prime minister could be a non-elected outsider; the Senate would not need to be elected; a person charged with graft by the National Anti-Corruption Commission would be banned from politics for life; and the new constitution would be suitable to “Thai-style” democracy.<sup>1</sup>

The challenge for the NCPO and its legal servants lies in how they are to put old wine in a new bottle and how they are to gain cooperation from the major political parties. Ambiguity could be the key. Instead of setting up a politburo-style NSRRC, the new CDC may create an ambiguous clause for an extra-parliamentary power to interfere in times of crisis.

In addition, support from the Democrat Party alone may be sufficient for the new draft to pass a referendum. A compromise with the Democrats can therefore be crucial to the old powers’ effort to negotiate the path forward. As of now, the CDC appears to be focused on how to design an electoral system that will disadvantage the party that wins a majority of votes and that will favour the party that comes in second, implicitly a Thaksinite party and the Democrat Party respectively.<sup>2</sup> Though the hidden objectives in the new draft constitution are easily detectable, weariness with the incompetent and arrogant military government may tempt a significant number of voters to support the new draft with hopes for a more efficient and responsive government.

NCPO leaders will want the coup regime to wind down with some glory intact, and as soon as possible. However, their satisfaction and security are very subjective and not easy to achieve, especially in a time of deep societal polarization and the critical transition from the reign of King Bhumibol to that of the current Crown Prince Vachiralongkorn. Few would dare guarantee that the elections will not be delayed further.

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<sup>1</sup> “CDC chief hints at outsider PM”, *Bangkok Post*. 14 October 2015.

<sup>2</sup> “New electoral system may not reflect the majority”, *The Nation*. 29 November 2015.

<http://www.nationmultimedia.com/politics/New-electoral-system-may-not-reflect-the-majority-30271840.html>. Accessed on 8 November 2015.

## ECONOMIC GLOOM

Thailand's economic gloom is a huge challenge for Prayut's government. That and the Prayut government's poor economic performance will test the tolerance of the previously pro-coup middle class, as it begins to feel its effects every more.

Recently, the World Bank cut the country's economic growth forecast for this year from 3.5 per cent to 2.5 per cent. The forecast for 2016 is worse. It was slashed to 2.0 per cent from 4.0 per cent. This makes it the lowest in the East Asia and Pacific region.<sup>3</sup> The recent agreement among twelve nations on the Trans-Pacific Partnership (TPP) leaves the business sector ever more concerned that the country's exports are in dire straits. Although it will take at least a year for the TPP to be ratified and to come into effect, Thailand will lose export orders and competitive advantages to the pact's members, especially those in the region. Foreign direct investment funds are likely to flow out of the country.<sup>4</sup> Private enterprise has thus been urging the government to announce its intention to join the trade pact. However, Thailand will in any case not be able to join the TPP until after all the existing members have ratified it. Besides, Prayut's government does not appear enthusiastic about joining the pact.<sup>5</sup>

The nosedive in agricultural product prices since the NCPO seized power illustrates that the military government has been inept and indifferent to the conditions that rural people live under. PM Prayut's reactions to their problems have ranged from blaming the bad populist policies of the previous government of Yingluck Shinawatra, telling farmers to sell their products to Mars for a higher price, telling rice farmers to shift to alternate crops, all the way to asking rubber planters for understanding of the government's inability to keep subsidizing farmers forever.

Ironically, Prayut's cabinet recently resorted to populist policies reminiscent of those implemented by the Phuea Thai Party. It approved US\$1.3 billion to help rice farmers and USD\$365 million to help rubber farmers who had threatened to rally in defiance of a ban on political gatherings.<sup>6</sup> In addition, the government allocated US\$5.7 billion to help small- and medium-sized business.<sup>7</sup> It remains to be seen if these measures will be effective.

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<sup>3</sup> "World Bank cuts Thailand's growth to 2.5%", *Bangkok Post*, 5 October 2015.

<http://www.bangkokpost.com/business/news/718668/world-bank-cuts-thailand-growth-to-2-5> accessed on 6 October 2015

<sup>4</sup> "Thai exports in dire straits unless govt joins TPP, trade experts warn", *The Nation*. 13 October 2015.

<http://www.nationmultimedia.com/business/Thai-exports-in-dire-straits-unless-govt-joins-TPP-30270749.html> accessed on 5 November 2015.

<sup>5</sup> "Prayut coy on plan to join TPP", *Bangkok Post*. 8 August 2015. <http://www.bangkokpost.com/archive/prayut-coy-on-plans-to-join-tpp/648584> accessed on 5 November 2015.

<sup>6</sup> "Junta turns to populist schemes to ease rural tensions", *Khaosod English*. 4 November 2015. <http://www.khaosodenglish.com/detail.php?newsid=1446630368> accessed on 5 November 2015.

<sup>7</sup> "More SME aid, tax cuts in the works", *Bangkok Post*. 12 September 2015, <http://www.bangkokpost.com/lite/topstories/690148/more-sme-aid-tax-cuts-in-the-works> accessed on 5 November 2015.

## MISSTEPS

The longer the junta stays in power, the more its lack of executive competency will become obvious, especially in its handling of complex issues and in international affairs. Missteps have not only eroded the junta's credibility. Some issues have also made people wonder if the government itself has not put Thai people in unnecessary danger. Added to this are Prayut's daily temperamental, rude and unintelligent statements—an international embarrassment for the country. His recent outburst about possibly shutting Thailand down if political problems continued caused the stock market index to plummet, which he then blamed on the media for reporting what he said.<sup>8</sup>

*The International Civil Aviation Organization*, a United Nations body, warned Thailand in March 2015 about the low safety standards of some airlines operating from Thailand. It gave the country 90 days to correct the problems. Immediately, General Prayut told the press that he would use Section 44 of the interim constitution, which gives him absolute power on all matters, to expedite safety improvements. Amazingly, he appeared sincerely to believe that the provision that he has been extensively using to suppress the freedom and rights of the coup's opponents can also solve other complex problems confronting the country. Unfortunately, such was not the case. Three months later, his government was unable to rescue Thailand-based airlines from being downgraded by the ICAO.<sup>9</sup>

*The Erawan shrine bomb blast* in the heart of Bangkok on 17 August was another blow to the military government's credibility and professionalism. The explosion killed twenty people, half of them foreigners. Immediately after the incident, NCPO spokesperson General Winthai Suvari said that it was the work of internal elements, implying that the Red Shirt movement supporting Thaksin was behind the attack.<sup>10</sup> As it is evident that the chief suspect is a foreigner and as the shrine is a popular attraction for Chinese tourists, Thai public and media raised the question whether the bombing was possible revenge for Thailand's forced repatriation of 109 Uighur refugees back to China in July this year. Even when more evidence indicated a link to foreign elements, Thai authorities continued denying any connection to global terrorism. However, about a month after the incident, the Police Chief, General Somyot Phumphanmuang, added to the confusion by admitting that the violence was likely linked to the Uighur issue. He retracted this statement the next day though, blaming the media for misreporting his words.<sup>11</sup> Thai authorities' confusing and contradictory messages about the blast raised question about whether the Thai public would ever know the truth about it. Besides, the possible link to Uighur refugees made Thais consider the military government's

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<sup>8</sup> "PM urges media to stop criticizing his country shutdown remark", *Thai PBS*. 3 November 2015.

<http://englishnews.thaipbs.or.th/pm-urges-media-to-stop-criticizing-his-country-shutdown-remark> accessed on 8 November 2015.

<sup>9</sup> "Thailand admits 'urgent' need to improve aviation safety", *Channel News Asia*. 31 March 2015.

<http://www.channelnewsasia.com/news/asiapacific/thailand-admits-urgent/1757644.html>; "Transport Minister confused by safety downgrade for Thai airlines", *Khaosod English*. 19 June 2015.

<http://www.khaosodenglish.com/detail.php?newsid=1434695910> accessed on 5 November 2015.

<sup>10</sup> Jonathan Head, "Bangkok bombing: Where is the investigation heading?", *BBC*. 20 August 2015.

<http://www.bbc.com/news/world-asia-33999401> accessed on 7 November 2015.

<sup>11</sup> "พ.ต.ช.ยอมรับ บิ๊กกรุงเอื้อชาวไทยส่งอุตุร์ 109 คน กลับจีน", *มติชน*. 15 กันยายน 2558.

[http://www.matichon.co.th/news\\_detail.php?newsid=1442294102](http://www.matichon.co.th/news_detail.php?newsid=1442294102), accessed on 7 November 2015.

incompetence in handling international affairs, and in pleasing China at the expense of principles of human rights. The military's inadequate expertise in diplomatic and security matters had made Thais a target for transnational terrorism.

*The Single Internet Gateway project* is another episode that has brought humiliation to Prayut's government. The project is an attempt by the junta to control domestic and international internet traffic in Thailand. The idea, similar to the Great Firewall of China, sparked outrage from Thai netizens and from the business sector, who feared that their privacy would be compromised, and who have little trust in the technological security of Thai state agencies. They consider the forcing of the existing nine internet gateways into a single one which is to be kept under the control of the Ministry of Information and Communication Technology (ICT) too risky an undertaking. Netizens first showed their orchestrated opposition by bombarding several government and military websites, by repeatedly pressing F5 or the "refresh" button. The websites crashed in a couple of hours, causing public ridicule of the weak defense of state websites. Soon after the attacks, Prayut denied the government's attempt to control internet traffic and said that the project was still under study. People remained skeptical, however, as official documents leaked onto the internet revealed the project's intentions and plans for its development. Then, a week later, Prayut himself said the government would go ahead with the plan after all. Now it is facing tougher opposition, having gained the attention of the Anonymous, the loosely coordinated group of international hacktivists. On 23 October, the website of the ICT's premier telecommunication company, CAT Telecom, was hacked. Images posted to Anonymous accounts showed what was purported to be login data, passwords and associated national ID numbers stolen from CAT Telecom.<sup>12</sup>

## TURNING AN ALLY INTO AN ENEMY

In mid-October, the junta turned against one of the junta's important civil society allies. It threatened executives of the Thai Health Promotion Foundation (Thai Health) with legal action if it was found that they had misused their budget, which is above US\$300 million for the year 2015. Thai Health is funded by earmarked taxes from liquor and cigarette sales. Its objective is to promote public awareness of health issues. It is also known that Thai Health is under the influence of the royalist Dr. Prawes Wasi, and his public health network. Prawes's network has been a significant force in anti-Thaksin movements. Many of its members were appointed onto the now defunct National Reform Council by the NCPO. One major recipient of Thai Health funding for many years is the anti-Thaksin online media source, Isaranews Agency. Isaranews has always focused its investigations on Thaksin's faction. However, after the coup, it produced two investigative reports on alleged financial mishandling on the part of General Preecha Chanocha, Prayut's younger brother, and on Prayut's sale of family land, worth several million baht, to a nominee company linked to Thailand's biggest conglomerate.<sup>13</sup>

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<sup>12</sup> Vijay Prabhu, "Anonymous hack Thailand's premier telecommunications website and expose data", *TechWorm*. 23 October 2015. <http://www.techworm.net/2015/10/anonymous-hack-thailands-premier-telecommunications-website-and-expose-data.html>, accessed on 7 November 2015.

<sup>13</sup> "เจาะบัญชีปริศนา บริษัท จันทร์โอชา เงินส่วนต่าง 47 ล้าน ยังไม่เคลียร์", *Isranews Agency*. 9 October 2014;

[http://www.isranews.org/isranews-scoop/item/33482-ppp02\\_33482.htm](http://www.isranews.org/isranews-scoop/item/33482-ppp02_33482.htm); "The farce of Thailand's corruption

## CONCLUSION

The attempt by those behind the 2014 coup to establish their domination over electoral politics through a new constitution did not go smoothly despite their military might. Their distrust of politicians notwithstanding, they have not been able to entirely ignore political parties, the key player in electoral politics. Cooperation and negotiation with some major political parties are vital to the pursuit of their goals. When Thailand can have an election depends on how well the old powers feel secure with the new political game as well as on how well the royal succession proceeds. The latter issue is beyond prediction.

Meanwhile, the longer the junta is in power, the more obvious its lack of capability to run a complex society and to conduct international affairs will become. Its credibility has been eroding quickly. Besides, the NCPO's attempt to expand its surveillance of people's lives via internet technology reveals its extreme distrust of a free and open society. Such a society represents a threat to national security in the eyes of the military leaders. In turn, its dictatorial tendency has resulted in growing popular distrust of the military regime. However, this does not mean that the NCPO and the old powers that it represents will be defeated anytime soon. Despite growing public unhappiness with the regime, the junta's opponents are much weaker and also polarized.

We are likely to see more protests and gatherings by students, civic groups, and farmers, but their power will remain limited. Many mainstream media and a big section of the Yellow Shirt middle class remain supportive of the military regime and see Thaksin as their biggest enemy. The junta continues to survive, partly thanks to the weakness of its opponents.

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cleanup", *Asia Sentinel*, 11 October 2014. <http://www.asiasentinel.com/politics/thailand-corruption-cleanup/>, accessed on 7 November 2015.