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CIVIL SOCIETY, ACCOUNTABILITY AND GOVERNANCE IN THAILAND: A DIM CASE OF PARTICIPATORY DEMOCRACY

Surin Maisrikrod

INTRODUCTION: POLITICAL TRANSITION IN THAILAND¹

This chapter assesses the relationship between political-administrative accountability, civil society and a new form of governance in Thailand, following the implementation of the new constitution in 1997. The chapter begins with the historical context, especially the democratic transition and consolidation that has taken place in the country since 1973, within which the notion of accountability and transparency — or good governance — has emerged as a dominant political discourse in recent years. Secondly, the chapter assesses the extent to which the new system of governance has been developed in light of the government led by Prime Minister Thaksin Shinawatra since 2001. It is argued that the issue of creating a new system of governance — a more responsive, more transparent and more accountable governance — cannot be separated from the issue of democratic consolidation. Thirdly, it notes that globalization provides an impetus for the rhetoric of good governance and democracy in Thailand. But as globalization has at least two parts: firstly, market forces, or the material, with key beneficiaries being capitalists; and secondly, the ideational or “good governance” — accountability and transparency — which to a

considerable degree is a civil society-led counter-force to the increasing corporatization of Thai politics. In Thailand, the pro-market forces and businessmen-politicians are more dominant, resulting in the erosion of accountability and transparency. This chapter thus hypothesizes that the new system of governance in Thailand is not being achieved as envisaged by the constitution because the capitalist class (or rather a key section of it), in collaboration with more conservative/repressive state agencies, especially the police and the Interior Ministry officials — have captured the electoral process, the parliament, and thus the government. These new political forces are less interested in advancing democratic/participatory governance, but more in monopolistic capital accumulation and, at least rhetorically, the country's international competitiveness. At the same time, the Thaksin government has attempted to curtail the activity of the middle class-based civil society groups by, among other things, rallying its support from the rural areas based on the ruling party's populist policies. So, instead of participatory governance, Thailand is now developing a "corporatized governance". The issue of accountability and transparency is now therefore quite problematic, if not totally sidelined.

THE EMERGENCE OF THE NOTION OF ACCOUNTABILITY AND GOOD GOVERNANCE IN THAILAND

Although the democratic system was first introduced in Thailand in 1932 when a group of intellectuals and military officers staged a coup against King Rama VII and demanded a constitution, the first democratic change spearheaded by the larger public — intellectuals, bureaucrats, middle class, working class, members of the capitalist class — took place in 1973 when the student-led uprising toppled the military regime of Thanom-Prapat-Narong and ushered in a new era of political pluralism.

The 1973 event led to an era of great democratic euphoria, with people in all sections of the society demanding more political space not only at the national level, but also in their places of work and of studies. Freedom, liberty, equality, self-governing, human rights promotion, workers' rights and peasants' rights were all part of the day-to-day conversation during the time. Workers were pitted against their employers, peasants their landlords, students their teachers, children their parents, community members government officials. New ideologies proliferated, particularly those which called for equality, an end of exploitation and distribution of wealth. Socialism in particular was very popular. Radicals were calling for further change in society and the political system to bring about a better life for the people.

Strikes and demonstrations were daily events. Clashes between the pro- and anti-change groups were part of the scene between 1973 and 1976.

To many, the country was clearly ungovernable; elected government could not bring about political stability. The economy was turning from bad to worse. The business and the middle classes and the bureaucrats felt threatened by what was perceived as a turmoil, rather than a time of newly-found freedom and democracy.

The worsening instability paved the way for the eventual return of the military, after three years of democratic experiment, in a bloody coup in 1976, when scores of student demonstrators were killed. Thai politics once again entered the “vicious cycle”, with a military government taking over after a short period of parliamentary politics.

The progressive forces, including intellectuals and members of the middle class, were disillusioned with the euphoria of 1973, and the return of the military-led, bureaucratically dominated governance — the “bureaucratic polity” — ended hopes of developing democracy further. To a lot of them, radical revolution was the only option left. This led hundreds of them to join the then outlawed Communist Party of Thailand (CPT) in the jungle, using the strategy of “forest circling cities” to seize power through armed struggle. The country entered a period of great instability, with political suppression in the urban areas on the one hand, and the increasing threats and influence from the Communist Party in the rural areas on the other. But one benevolent military leader — General Prem Tinsulanonda, who was known for his integrity, honesty and incorruptibility — had a different idea. He was an unconventional anti-communist campaigner and advocated using political means instead of armed suppression against the insurgency, by attempting to tackle the root causes of the political discontent including corruption and abuses of power by government officials. Prem also put in place programmes for rural development as a means to gain support from the rural people. He further expanded his political support base by incorporating other non-bureaucratic, non-military forces in society into the policymaking process. Prem effectively presented himself as more open-minded and more democratic than his military predecessors. He brought under his leadership, as a military-backed prime minister, representatives of the business sector, intellectuals and technocrats to work for the good of the country. He did not lump progressive intellectuals and technocrats together with the radical communists, as previously done in the past. Instead he foresaw in these people great potential contributions to the country’s development, helping expanding his political support. This helped enable him to carry out many important programmes not only to

stabilize the country but also to advance the country in key areas, especially economic development.

Prem became prime minister under a constitution that did not require a prime minister (PM) to be an elected member of parliament (MP) and allowed the appointed senate to participate in choosing the PM. Even so, Prem saw the virtue of allowing political parties and parliament to function. As the leader of the military, he also retained his power to appoint senior military officers and technocrats to key ministries and prime ministerial advisory positions, thereby bypassing the political parties that gave parliamentary support to him. The manner in which such power was shared was known as Thai “half fruit” or “semi-democracy”. The semi-democratic period nevertheless helped nurture democratic forces. Private sector representatives were allowed to participate at the level of policy formulation — in the form of corporatist structure. Some called what happened in Thailand then a liberal corporatism or a liberal corporatist governance.² After eight years as PM, Prem was able to achieve political stability and witnessed the end of the CPT — aided by regional and world politics — and promote steady economic growth.

The new-found stability weakened the justification for continued military-dominated governance. Many saw the country was ready for another democratic transition. Civil society groups — intellectuals, members of the media and the middle class — again became restless, and when Prem indicated that he would continue as PM after a general election, they put up strong resistance. By that time, it was clear that Thailand’s democratic discourse had become dominant: “democracy is the only game in town”. It was clear that while the radical path was abandoned, a military-dominated government was not welcomed either.

Prem stepped down, and when, in August 1988, an elected MP, Chatichai Choonhavan, who was a leader of a largest political party at that point, was chosen by parliament to be PM, it was hailed as the arrival of an era of full democracy. Chatichai became the first elected prime minister in more than a decade. But that proved to be a big disappointment. The Chatichai government was dominated by big businesses, which had bought their way into parliament and who now had the opportunity to break free from the bureaucrats and technocrats and to make their own policies. But conflicts of interests were rampant, which led to widespread corruption among members of the cabinet. Kick-backs involving the capitalists *cum* politicians, giving concessions to friends and receiving direct monetary benefits, were rampant. Politicians, bureaucrats, and businesspeople alike took advantage of the out-of-date and weak laws governing business practices compounded by the absence of accepted

norms of political behaviour. Although Chatichai was popular with his economic and foreign policies, his ministerial cabinet was sarcastically called a “buffet cabinet”, a take-what-you-like group of government ministers. There was a public outcry against the widespread corruption and abuses of power by politicians under the popularly elected government of Prime Minister Chatichai Choonhavan during 1988–91.

The legitimacy of the Chatichai government nosedived, and the military, with tacit support of reformist forces, staged a coup in 1991 to “clean up” the political mess. Thai politics was facing a great paradox: a military coup was staged to remove a democratically elected government in order to bring about good governance.

One of the major lessons the public learned from the elected government of Chatichai was that a popularly elected government did not automatically guarantee accountability, transparency and honest public policy making. In other words, a popularly elected government does not equal “good governance”. The understanding was that the coup was only a stop-gap measure — a break from an “abused democracy”, the kind of democracy that was dominated by vested business groups who used political power to advance their business interests. The public consensus was that there must be a kind of democracy that can bring about strong political and bureaucratic accountability, transparency and incorruptibility. But matters grew worse before they got better. There were general elections in March 1992. The military, despite its earlier promise not to get involved directly in politics, helped set up a political party — the Samakkhitham Party (STP) — which won the largest number of parliamentary seats. The STP formed a coalition government with four other conservative parties — Chart Thai, Social Action, Prachakorn Thai and Rassadorn — and asked General Suchinda Kraprayoon, then the army’s commander-in-chief who was not a MP, to be PM. The move triggered strong resentment among the public, particularly among the middle class — the mobile phone and Mercedes generation — against the military, which led to huge demonstrations in Bangkok in May 1992. The military responded by shooting at the demonstrators, killing some fifty people while injuring hundreds of others. King Bhumibol Adulyadej intervened to stop the violence and for the second time appointed Anand Panyarachun as an interim PM.

So, within the period of about four years (August 1988 – May 1992), the Thai learned many more lessons about their fledgling democracy. Firstly, they wanted an elected PM, as in the case of PM Chatichai Choonhavan, but detested his style of government, which was not transparent and accountable. Parliament was also full of politicians who bought their votes and sought government positions to make a “return on their

investment". The problems associated with the Chatichai government exposed to the Thais the many flaws in their democracy. The gradual withdrawal of the 'bureaucratic polity' and the rapid encroachment of business people into politics had brought about an enormous increase in corruption and abuses of power by politicians for their business gains. At the same time, the term "parliamentary dictatorship" was crafted to describe the situation where a coalition government formulated policy or acted blindly on the basis of its parliamentary majority, without regard to public opinion. The privilege of the parliamentary majority was greatly abused. It became a dictatorship. It was a dilemma that set in motion a political reform movement, aiming to achieve both democracy and good government.

These were the circumstances within which the new discourse on accountability and transparency and good governance emerged, and subsequently became accepted in Thailand. In other words, accountability — or good governance, for that matter — became an organizing language for the political reform movement, which culminated in the promulgation of the new constitution of 1997, the country's sixteenth since 1932.

The emergence of the discourse on good governance and accountability was also shaped by two very important events. First was the fact that the military did not rule the country directly after the 1991 coup. Instead, it handpicked a technocrat-turned business executive, Mr Anand Panyarachun, to lead the post-coup government. Anand was aware of the public sentiment and very familiar with the new language of good governance, which was well-publicized in the West by that time. It was part of an international phenomenon of the post-Cold War era. The United States, the International Monetary Fund (IMF), and the World Bank were also promoting the language of "good governance". Anand introduced the concept in Thailand during his prime ministership, first between March 1991 and April 1992, and again, further popularized it during his second stint as prime minister between June and September 1992. He was the first political leader who used the term "transparency" and often elaborated how important it was to gain public confidence in government affairs. Anand later explained that he deliberately relied on the concept of transparency — and good governance — as a means to gain political legitimacy in light of the fact that his prime ministership was made by the military.³ Anand defines 'transparency' as: 1. public access to information; 2. people being informed about the decision-making process; 3. the government being prepared to tell the people what they think; and 4. people being able to verify the government's assertions.⁴ The emphasis here for Anand was clearly to use the concept of transparency as a means to counter corruption and abuses of power by bureaucrats and politicians and to

achieve, in the end, better accountability, which formed the basis for the political legitimacy of his non-elected government.

What Anand did was in line with the notion of good governance as promoted by the World Bank at that time — neo-liberal ideology combined with the New Public Management and liberal democracy. In 1993, the people who first tried to articulate the notion of good governance were academics at the Thailand Development Research Institute (TDRI), a prestigious think-tank, which Anand himself once chaired. Two key authors of a research paper at the TDRI, Professor Ammar Siamwala and Scott Christensen, argued in their 1993 publication that the concept of “accountability” was absent from the Thai language.⁵ Anand had the good fortune of consolidating further what he propagated during his two stints as appointed prime minister when he was elected the chairman of the Constitutional Drafting Committee, which played a key role in putting together a complete draft of the 1997 constitution.

The second event that helped shape and strengthen the language of accountability and transparency was the country’s economic meltdown of July 1997. Corrupt politicians and corporate leaders, who colluded among themselves in granting and obtaining loans illegally from banks and financial institutions for unproductive investments and for political patronage purposes, such as vote-buying, were seen as big contributors to the collapse. In other words, corruption and the lack of accountability on the part of the politicians, bureaucrats and business leaders were the culprits. The economic crisis therefore presented an urgent need for new legal and institutional mechanisms to address those problems. And the proposed constitution, which until that point was attracting a lot of opposition from the conservative politicians, seemed to have provided all the answers to the country’s fundamental ills, political and economic.

After the July 1997 crisis, the concept of ‘transparency’, already understood as encompassing the whole idea of good governance, became the organizing language for political reform in Thailand. Theerayuth Boonmi was one of the first public intellectuals who articulated the term “good governance” in the post-1997 crisis as a means to get Thailand out of the crisis and to avoid future crises. In fact, many argue that good governance — of which accountability is a key part — was seen by many scholars and social activists as the means of stabilizing the country. The crisis of 1997 reinforced the term “good governance”, which had become a dominant discourse now, incorporating other terms such as transparency and accountability, participation, predictability and efficiency in government and public administration.

THE ROLE OF CIVIL SOCIETY IN ESTABLISHING NEW GOVERNANCE AND ACCOUNTABILITY

Thailand's phenomenal economic growth in the second half of the 1980s played a key role in entrenching Thai democracy in the 1990s, as the economic boom led to an expansion of the middle/managerial class, who were often suspicious of government restrictions in political, economic and social life. The middle class served as a core element of civil society. During the period of three years of the Chatichai administration, it was obvious that civil society became stronger. This happened on the back of blossoming of new business opportunities and industrial as well as government-owned infrastructure projects which among other things contributed to widespread corruption in government and private sector.

The best place to see the extent of the influence of civil society on the establishment of the new governance in Thailand is through an analysis of the drafting of the 1997 constitution, during 1996–97. Some middle class civil society activists tried relentlessly, between 1992 and 1995, to get a new charter written to achieve the agenda of “restructuring the state power, so that people will be able to genuinely have checks and balances...to prevent politicians from abusing their power, and to have a genuine political reform institutionalizing the people’s participation at every stage of political process and from people of different social strata”.⁶ The three main things that most concerned the drafters of the Thai constitution were: 1. people’s participation in the political and policy-making process; 2. people’s control of political office-holders; and 3. establishing institutions that scrutinize possible abuses of power by political office-holders or high-ranking government officials. The general belief was that politicians cannot be trusted and the system must involve the participation of people at all levels of policy-making. The corruption and abuses of power by the Chatichai government during 1988–91 left people strongly suspicious of political office-holders.

It was an uphill battle to implement political reform. Politicians were dragging their feet, until a hunger strike in front of the Parliament building in 1995 by a social critic and a former politician, Chalard Vorachat, heightened the public outcry and triggered a constitutional reform movement. The Committee for Democratic Development was set up, which culminated in the formation of the Constitutional Drafting Assembly (CDA) in 1996. The CDA was chaired by a former MP, Uthai Pimchaichon, who for years fought against the military dictatorship. Incumbent politicians, whose credibility had plummeted because of their alleged corrupt behaviour, were deliberately excluded from the drafting process for fear that they might hijack the new

charter. Instead, the assembly was composed of ninety-nine members, including one member each from the seventy-six provinces, eight experts in public law, eight experts in political science or public administration, and seven individuals with political or public or constitutional drafting experience. These ninety-nine men and women (but mostly men) could be broadly categorized as representing civil society.

The only role reserved for the sitting members of the National Assembly during the time was to vote on the pool of nominees for the ninety-nine seats in the CDA and to either approve or reject the draft constitution as a whole; they were not allowed to make amendments to the draft. In the event that the House of Representatives rejected the draft, a popular referendum would be called. This ground rule was laid by the CDA's predecessor, the Committee for Democratic Development, to guard against possible tampering with the draft constitution by politicians who were believed to have already done much damage to Thai democracy. To be consistent with this desire of civil society, the CDA, through its sub-committee, the Constitution Drafting Committee (CDC), chaired by Anand Panyarachun, ensured that the drafting process involved as many people as possible, representing various sections of civil society and professional groups from different parts of the country. According to the Public Relations Sub-committee of the CDC, all in all there were a total of 843,556 people directly participating in the drafting process: 629,232 in the public consultations stage; 122,585 in the public hearings stage throughout 76 provinces; 3,828 in public hearings at a regional level, and 87,912 responding to questionnaires.⁷ In addition, there were 300 organizations including business, industry, agriculture, mass media, various professional groups, educational institutions, political parties, democracy groups, environmental groups and other non-governmental organizations participating at one stage or another of the drafting process. As the Public Relations Sub-committee said of the drafting process: "It was a process that mobilized brains from all over the country to the extent that has never been done before in Thai political history."⁸

THE FOUR KEY ACCOUNTABILITY INSTITUTIONS: AN ASSESSMENT

The new constitution reflects public concerns over the failings of elected government and the root causes of the economic collapse in 1997. Politicians, for example, often colluded with the lowly-regulated private sector, such as banks and financial institutions in granting shady loans. Nine key independent accountability institutions were established to address these concerns.⁹ Of

these nine institutions, four are most crucial in terms of promoting political accountability, checking and balancing the use of powers by the political official holders: 1. Elections Commission of Thailand (ECT); 2. National Counter Corruption Commission (NCCC); 3. Constitutional Court (CC), and; 4. Administrative Court (AC). The Ombudsman, the National Human Rights Commission, the National Economic and Social Advisory Council all play largely advisory, mediating and monitoring roles, while the State Audit and the Auditor-General Offices are largely responsible for bureaucratic accountability. The other very important institution, the Broadcasting and Telecommunications Commissions, whose responsibilities include prescribing regulations, which would prevent the state from having undue power over the broadcasting media, has yet to be set up.

Elections Commission of Thailand

The Elections Commission of Thailand (ECT) is tasked with administering the electoral laws including the conducting of all elections for National Assembly elections (House of Representatives and Senate), local assemblies and local administrators, including voting in referendums, registration of parties and candidates, maintenance of the integrity of elections, deciding on disputed returns and challenges to elections and public funding provisions of the law. The establishment of ECT is another breakthrough in the area of electoral accountability. In the past the administration of elections was under the purview of the Ministry of the Interior, which gave an incumbent government an advantage. The minister of the interior could influence provincial governors, and officials in the ministry influenced election outcomes in favour of the government. This power to administer elections is now completely out of the hands of Interior Ministry officials. One of the major concerns of the reformists was the prevention of vote-buying, corruption and abuses of power by politicians. A number of provisions have been made to prevent or minimize such abuses:

Firstly, stricter control over expenditure by candidates. The new law on Election of the House of Representatives and Senators of 1998, an organic law of the new constitution, requires political parties to set up election accounts under supervision of qualified accountants, detailing how the money is received and spent and to be submitted to the Elections Commission within ninety days after the election results are announced (Article 43). The Elections Commission is to audit the accounts and make them public (Article 43, paragraph 2). These stipulations are supported further by a provision on donations to political parties of the Political Party Act of 1998. For the first

time in Thai parliamentary history, political parties are required to detail donations including the names of donors and amounts they donate (Articles 45, 48). Furthermore, the Political Party Act of 1998, again the first in Thai political history, requires the state to provide financial support to the political parties (Articles 56–64).

Secondly, prohibition of giving promises of rewards to woo voters. Article 44 of the same law prohibits candidates to propose rewards in any forms, either to individuals or to organizations, or to intimidate voters.

Thirdly, vote counting is done at one location, such as the district office (there are about 850 districts in Thailand, of 76 provinces), instead of at polling stations at the village level as previously done. This measure under Article 69 of the 1998 Election Law is designed to prevent vote-buying. By previously counting votes at polling stations, which cover a small area, vote-buyers can more or less verify whether voters actually voted as instructed. In the event that the latter did not, some form of retribution could then be applied. Under the new system, it is not possible for candidates to check whether their canvassers actually deliver what they promise because all the ballots are mixed together.

The change in the election administration also allows for greater participation by the citizenry through the Elections Commission. Civil society organizations and the public in general — in the form of volunteers — have been playing a key role in not only monitoring elections but also disseminating information about elections, educating the electorate since 2000, the first following the promulgation of the new constitution. NGOs, for the purpose of elections accountability, form themselves into Provincial Election Commissions (PEC). Apart from the PEC, there are NGOs throughout the country that help monitor elections. According to the ECT, there are currently 165 provincial NGOs and 12 national NGOs registered with the PEC. The NGOs also form during election times an Election Monitoring Centre. The People's Network for Election in Thailand (P-Net) is another strong network of NGOs monitoring elections. PEC and NGOs report cases of electoral wrong-doings to ECT, which, in turn investigates. In the 2000 senatorial elections, the ECT disqualified some 78 winning candidates on charges of electoral wrong-doings, including buying votes, donating for charity, creating misunderstanding about his/her qualifications or achievements, impeding their employees from using their right, providing transport to voters in exchange for votes, and rigging the vote-counting. During the 2001 lower house elections, 30 candidates were summoned to answer charges of electoral frauds. In the same elections, the ECT suspended results of 65 constituencies (out of 400) for vote rigging. Since the new charter has been in operation

until the end of 2003, the ECT has organized 20 parliamentary elections, 11 senatorial elections and 49 municipal elections and one tambon (sub-district) administrative election. So far, six criminal lawsuits and four civil suits had been filed against senate candidates, and criminal law suits against 13 candidates for the house of representatives.

These actions carried out by both the new ECT and the NGOs are unprecedented, although critics continue to doubt the effectiveness of the organizations in preventing electoral wrong-doings.

National Counter-Corruption Commission and Constitutional Court

The National Counter-Corruption Commission (NCCC) investigates, provides opinions and commences actions in the courts concerning the accuracy of declarations of assets and liabilities, and allegations of corruption or gross misconduct in office of public officials (including members of the National Assembly, Council of Ministers and the judiciary) and candidates for office (National Assembly, judges, the military, police and local government officials). The Constitutional Court (CC) determines whether Thai laws and draft laws, resolutions of political parties, status of membership of the house of representatives, senate, cabinet and ECT, actions of the government and its agencies, and questions referred by other courts are consistent with the constitution. The CC may deliberate on impeachment proceedings concerning the PM, other ministers, members of the National Assembly, the president of the Supreme Court of Justice, the president and judges of the CC itself, the president of the Supreme Administrative Court, the prosecutor-general, election commissioners, the ombudsman, members of the State Audit commission, the chief of the Military Judicial Office, other judges, public prosecutors, and high ranking officials covered by the organic laws on counter corruption.

Since 2000, the NCCC has investigated and brought charges against a number of high-profile politicians, one of which was against Thaksin, who was in the end acquitted by the CC of falsely declaring his assets when he was deputy PM in 1997. Successful cases in the CC included the one against the then secretary-general of the Democrat Party and interior minister, Sanan Kachornprasart for lying in his asset declaration; a former adviser to a health minister for colluding in taking bribes from a drug company; an MP for falsely declaring his assets; a deputy minister for false asset declaration; and a former minister for health, Rakkiat Suthana, for taking bribes from a drug company. These politicians have been barred from running for political office

for five years by the CC. In the case of the former health minister, because the bribery is a criminal case, he was also prosecuted by the Supreme Court's criminal tribunal for political office-holders. He was sentenced to fifteen years in jail and some 300 million baht (US\$ 8 million) was confiscated. He, however, jumped bailed.

The Administrative Court

The Administrative Court (AC) hears and determines disputes between government agencies (including local government organizations) and private individuals and also disputes between or among government agencies. During its two-year operation, there have been some 3,000 complaints being brought to the court, but it has been able to deliberate on only a few hundred cases. However, there were two cases from which the court can be judged as playing a crucial role in blunting power abuses by the government of the day. The first one was in 2002 when the government's Anti-Money Laundering Office (AMLO), a body created to investigate drug dealers and other criminals, asked for the financial records of journalists from *The Nation* and another critical daily, the *Thai Post* following a series of their critical reports on government. The journalists filed their complaints with the AC, which quickly issued an injunction calling the probe illegal and ordering the AMLO to suspend the investigations.

The second case was in early 2003 when the court upheld a ruling by a lower court that nullified the selection of fourteen nominees to the National Telecommunications Commission (NTC). The main contention was that the nominees were not true representatives of the industry but cronies of the government. As Thaksin owned the country's largest telecommunications company, the Shin Corp. PLC, the PM was alleged to have manipulated the selection of members for the commission, who would play a key role in such issues as conversion of state concessions and the privatization of state telecommunications agencies.

WEAKENING ACCOUNTABILITY MECHANISMS IN THAILAND?

Public expectations of the new constitution to enhance both political and bureaucratic accountability and transparency were understandably high. The new accountability institutions have now been largely operational and, so far, the results have been mixed. In the area of electoral politics, vote buying and other forms of abuses and frauds persist. Allegations of corruption against

politicians continue, but only a handful of cases have resulted in prosecutions. This has led to the perception that these institutions are not effective enough in cleaning up Thai politics or preventing abuses of power by politicians.

However, the fact that these institutions have been vigorous in their pursuits of political wrongdoings demonstrate, among other things, how far Thailand has come in terms of promoting political and bureaucratic accountability. Equally significant is the fact that these proceedings against political office holders are great contributions to public education. The media interest in each case has been enormous. Furthermore, these organizations need more time to strengthen themselves in terms of personnel and expertise. For example, the NCCC has a staff of about 500 but it has to deal each year with about 10,000 financial reports and thousands of complaints about politicians and bureaucrats at all levels. Most of these accountability institutions are currently relying on officials on secondment from other government agencies. Obviously, there is no balance between the public expectation and the reality and capacity of these institutions. Moreover, the attitude of the government of the day is crucial to the promotion of accountability and transparency, or good governance. During the Chuan Leekpai government between 1997 and 2001, there was much vibrancy in the business of promoting accountability, particularly in the area of corruption suppression. This reflected the kind of political leadership on the part of Chuan Leekpai, known as one of Thailand's "Mr Clean", and a persistent democratic fighter over the past thirty years.

Under Prime Minister Thaksin Shinawatra, who was elected in January 2001 and formed the first government under the new charter, the atmosphere has changed dramatically, as far as the promotion of accountability is concerned. Thaksin, a telecom business tycoon and one of the country's richest persons, has been perceived as lacking an interest in promoting political transparency and accountability. Thaksin is not able to shake off — or to prove beyond doubt — the public perception that he uses political power to serve his business interests and those of his political colleagues. In fact, as mentioned earlier, Thaksin brought with him to the high office of PM the stain of fighting against a National Counter-Corruption Commission charge of falsely declaring his assets. He won the case by a very slim margin of 8–7 in the Constitutional Court but with great controversy. Thaksin's popularity and strong electoral mandate, based on his populist policies, have made it possible for him to dodge accusations over conflict of interests or lack of transparency and accountability. Under Thaksin, the language of accountability seems to be going through a rough time competing with the language of economic growth, nationalism and international competitiveness. Thaksin pays little

attention to, if not having total contempt of, promoting accountability and transparency in government. He especially ignores the kind of accountability as envisioned by the new constitution, which is horizontal accountability.¹⁰ There have been numerous incidents to substantiate this.

Firstly, Thaksin, with an overwhelming majority and being popular, is alleged to have tried to influence the accountability institutions, including the Constitutional Court, the Elections Commission and the Senate. Somkiat Onwimon, one of the senators who are critical of Thaksin says,

The parliament is weak. The House of Representatives is under the control of political parties. The Senate is very fragmented. In fact, the Senate is increasingly encroached on by the government. This is evidenced in the way the Senate votes. It is clear that the number of Senators who vote in favour of government keeps increasing between 50 and 80 (out of 200), especially when the government is determined to pass a bill which is favourable to the telecommunications businesses (owned by Thaksin and his cronies).¹¹

Secondly, the National Broadcasting and Telecommunication Commissions have not yet been set up by this government as required by the constitution. The agencies are to regulate the allocation of frequencies and other telecommunications operations. Thaksin, being the largest owner of the telecommunications business, is clearly seen as blocking the creation of commissioners who might go against his business interests. In the later part of 2003, the government decided — through an Emergency Decree, not by an act of parliament — to change the arrangement between the state telecom agencies and private concessionaire from concession fees to excise tax. Excise tax is fixed at a particular rate whereas concession fees would be determined by the rate of profits. The arrangement benefits Thaksin's mobile phone companies.

Thirdly, another conflict of interest was the case of a concession Thaksin's family received from the state to run a television station, iTV. In fact, the PM's Office, the concession granting agency, decided to reduce concession fees to the television station, thus handing huge business benefits to Thaksin's family.

Fourthly, controlling the media. Through advertising money from Thaksin's business empire and his colleagues and the huge budget various ministries allocate for public relations work, there is great financial gain for the media to be on the side of the government. Self-censorship in the Thai media community is quite commonplace now. Owning a television station is, of course, a form of media control.

Fifthly, Thaksin's concept of CEO-governors, who are keys to the country's regional administration (there are seventy-six provinces), to promote efficiency and the country's international competitiveness, goes against the participation and promotion of horizontal accountability. This undermines the efforts to decentralize powers and responsibilities from central — and regional — bureaucracies to local people. Decentralization is seen as an integral part of promoting accountability and transparency, in the sense that local people are empowered to participate more directly in policy-making affecting them.

Sixth, the Thaksin government has a low level of tolerance for criticism. Thaksin tends to dismiss criticisms as damaging and irresponsible and to promote his views as the only right ones. He has said that democracy is not his goal. His main concern is to produce prosperity for the people. This is not about their participation in political or policy-making.

Lastly, there is an over-emphasis on economic growth. There is no balance between democratic development and economic development. Evidence of new economic governance includes the creation of the SME bank, the People's Bank, the Office of Capitalization, the transforming of underground businesses — illegal lotteries — into mainstream business, taking money into the government coffers. Thaksin is a strong believer in economic performance as a basis for political legitimacy. And to some degree, he has been successful in using economic growth to pacify middle class discontent.

LEAVING PARTICIPATORY GOVERNANCE, RETURNING TO AUTHORITARIANISM

The Thaksin government is dominated by seven large corporate empires, which accounted for about 20 per cent of all the share value in the Thai stock market in 2002.¹² This is a government that is formed and run by big businesses. In addition, with a background as a former police officer who still maintains strong links with former classmates in the police force and the military, Thaksin occupies a very strong and enviable political position. Furthermore, he also enjoys the backing of more conservative bureaucratic force of the Ministry of the Interior that maintains strong bureaucratic network countrywide. Even more significantly, the two most politically influential pillars of big businesses and conservative bureaucratic forces are brought together under Thaksin's CEO-style of management — a top-down, quick and decisive administration. Thaksin is therefore unavoidably perceived as more authoritarian than democratic.

The flip side of this governance style under Thaksin is the fact that civil society organizations (some 17,000) are more or less stifled. They are not able to play a more significant role in the furthering consolidation of democracy in the post-1997 period. Simply put, they have lost out to the above-mentioned coalition of capitalists and conservative bureaucratic/repressive forces. The main vehicle for the new political coalition in capturing the power of the Thai state is the electoral process. Civil society groups have become bystanders in the politics of electioneering, the very thing that matters the most in a parliamentary system. Civil society groups have been brushed aside by the PM as troublemakers. At the same time, the role of technocrats — particularly in planning agencies — has been reduced.

The Emergence of a One-party Government

The Thaksin government is overwhelmingly strong. Thaksin's Thai Rak Thai Party has an absolute majority in the house of representatives, the first such majority in the political history of Thailand. But Thaksin is attempting to make his party even bigger and stronger through mergers with and acquisition of other political parties. The PM has already absorbed a few political parties into his Thai Rak Thai Party since taking over power, with 337 of the 500 seats in the lower house. He expelled a coalition partner who refused to amalgamate with his party. As the constitution requires a minimum of 200 votes in the parliament to launch a no-confidence motion against the PM, the opposition is effectively powerless. Thaksin's position as PM is unassailable. This has contributed to strong executive and weaker legislative, rendering ineffective the system of checks and balances in government. For Thaksin, this is a kind of "still politics" that he wants in order to forge ahead with economic growth, and any political opposition is branded "unconstructive" or "unpatriotic".

Heavy Reliance on Repressive State Apparatuses

Thaksin's one-man, top-down and decisive style of administration goes well with repressive state apparatuses, such as the police force. This has led to a major problem in terms of public accountability. For example, the case of the government campaign against drug trafficking in the early part of 2003 that led to some 2,500 suspects being killed by extra-judicial means. Thaksin brushed aside protests from the National and Human Rights Commission and an international one.

Deepening Marketization and Commercialization of the rural areas

Thaksin, through village funds and easy credits from the People's Bank and the Bank for Agriculture, has also been able to incorporate the rural areas and their people into one whole national market and, in fact, the global market. Effectively, the rural areas have now been re-organized into supporting or helping expand capitalist production. The ideology of consumerism is replacing democratic/participatory ideology. The marketization or globalization of the rural areas is also a very effective means to isolate NGOs who would traditionally rely on the rural people for their legitimacy. As NGOs are key players in checks and balances against government actions, the isolation of NGOs from the grassroots people has weakened political accountability.

CONCLUSION

The new constitution of 1997 aimed to establish a stronger participatory democracy and hence strong accountability and transparency in government. But the charter seems to have failed to produce the desired outcome because capitalists and corporate elites have captured the means by which state power is achieved, that is the electoral process. And because the basis of political legitimacy in Thailand has now been based to very large degree on electoral process, elections are often used as a means to justify the actions of the Thaksin government. Because of its electoral dominance, the Thaksin government tends to ignore claims from civil society that the government is in fact undermining accountability and transparency, and in fact condoning actions that go against the principles of good governance. Thaksin's government emphasizes on conforming to international market forces at the expense of the principles of good governance such as transparency and accountability. This, in turn, generates political resistance and opposition from traditionalists and civil society groups, which could lead political instability in Thailand, yet again.

Notes

- ¹ The chapter was written before the coup that toppled the government of Prime Minister Thaksin Shinawatra on the 19 September 2006. The military group, called the Council for Democratic Reform (CDR), gave a number of reasons for the takeover. First, the coup was to restore democracy and accountability, which will entails investigations of cases of corruption and abuses of power allegedly committed by Thaksin and former members of his cabinet. Secondly, the coup

was claimed to help prevent possible violent clashes between pro- and anti-Thaksin groups, something that had gradually fermented for over ten months prior to the coup. Whether one believes the rhetoric of the coup leaders or not, it was clear that the military seizure of power did help break a political stalemate between Thaksin government and his opponents prior to 19 September.

This stalemate had cost the Thaksin government political legitimacy and, if prolonged, would have damaged Thailand even more. The key source of the political stalemate is in fact central to my argument in the chapter: 1). Thaksin's capture of the electoral process that had resulted in his domination of the parliamentary politics, and; 2). The system of accountability was to a large degree undermined by the deposed prime minister.

The junta's appointment of a former army commander-in-chief, General Surayud Chulanont, signals a clear departure from the image of a corrupt government under Thaksin. Surayud is known for his professionalism, integrity, honesty and incorruptibility. But this may not be enough for the military leaders to convince Thais that they did not intend to cling on to power. Even though there was popular support for the coup, it would be wrong to assume that Thais equate support for the takeover with support for long-term military involvement in politics. Some might argue that a clean government appointed by a military would still be more credible than the electoral politics that elects a corrupt government. In the meantime, Thaksin's electoral mandate — the main criterion on which a government's legitimacy is judged, particularly by the West — can never be totally discredited, even if one questions the ways he won it. Thaksin is a friend of globalizers, not only in Thailand but also abroad. He may be down, but by no means is he out.

- ² Laothamatas Anek, *Business Associations and the New Political Economy of Thailand: From Bureaucratic Polity to Liberal Corporatism* (Boulder: Westview Press, 1992).
- ³ Anand Panyarachun, "Sitthi seri parp kong prachachon kab krabuan karn yuthitham tam rattathamnoon chabbab patchuban" [Rights and Liberties of the People and the Justice Process under the New Constitution], in *Tit tan krabuan karn yuthitham thai nai satawat mai* [Directions of Thai Justice Process in the New Century], edited by Kittipong Kittayarak (Bangkok: Thailand Research Fund, 2000), pp. 50–62.
- ⁴ Prasarn Maruekkapitak et al., *Anand Panyarachun: Chewit khwamkit lae gnan kong ardeet nayok rattamontri song samai* [Anand Panyarachun: Life, Thoughts, and Achievements of the Twice Prime Minister], 4th edition (Bangkok: Amarin Press, 1999), p. 172.
- ⁵ Michael Connors, "Framing the People's Constitution", in *Reforming Thai Politics*, edited by Duncan McCargo (Copenhagen: Nordic Institute of Asian Studies), p. 45.
- ⁶ Public Relations Subcommittee of Constitutional Drafting Assembly, *Draft, Constitution for the Kingdom of Thailand: People's Version* (Bangkok: Bangchak Plc, 1997), p. 163.

- ⁷ Ibid., p. 170.
- ⁸ Ibid.
- ⁹ These nine institutions are 1. Elections Commission of Thailand (ECT); 2. National Counter Corruption Commission (NCCC); 3. Constitutional Court (CC); 4. Administrative Court (AC); 5. The Office of Parliamentary Ombudsman (OPO); 6. National Human Rights Commission (NHRC); 7. State Audit Commission and Office of the Auditor-General (SAC/OAG); 8. The National Economic and Social Advisory Council (NESAC); 9. Independent Broadcasting and Telecommunications Commissions (NBC and NTC).
- ¹⁰ See Guillermo O'Donnell, "Horizontal Accountability in New Democracies", in *Comparative Politics: Notes and Readings*, edited by Bernard E. Brown, 9th edition (Fort Worth: Hartcourt College Publishers, 1998).
- ¹¹ Somkiat Onwimon, "A One-Party Government: Feasibility, Implications on Thai Politics, and Some Concerns", *Sor Sor Ror Newsletter of the Club for the Former Members of the Constitutional Drafting Assembly* (First Volume, 2004): 9.
- ¹² Rattapong Sornsuparb and Prachak Namprasarnthai, *The Economic System under Thaksin's Model* (Bangkok: U-Express, 2003), pp. 91–93.