

Thailand's 2007 Constitution and Re-emerging Democracy: Will Political Polarization Continue?

Emeritus Professor Dr. Suchit Bunbongkarn

The draft constitution which won a majority vote in the referendum on August 19, 2007 has made one thing certain, that is, general elections will be held at the end of the year or early next year at the latest. This indicates that democracy will be brought back to Thailand. The new constitution is supposed to open a new chapter on democratic development in the country. More civil and political rights are recognized, the power and authorities of politicians and public officials will be more restricted, and the system of checks and balances will be more effective. It is hoped that political corruption and the abuse of power by political leaders will be less.

Nevertheless, a pessimistic view is still around. Most urban middle class voters believe that the new constitution cannot make political reforms a reality. Although a majority of them voted for the draft constitution, it cannot prevent those who are loyal to former Prime Minister Thaksin from coming back to power. This is indicated by the outcome of the votes in the referendum.

Results of the referendum

In Thailand's first ever referendum 57.81 percent of voters voted for the draft constitution, while 42.19 percent voted against. What is interesting is that the votes against the draft were very high and in the North, and the Northeast a majority of the voters rejected the draft. In the South, which is a strong base of the Democrat Party (a major adversary of Thaksin), a very large majority of the votes were for the draft. A majority of voters in Bangkok and in the central region were in favour of the new constitution.

What do these outcomes tell us? Most analysts believed that the results of the vote reflected the strong influence and popularity of former Prime Minister Thaksin and his Thai Rak Thai Party in the North and the Northeast. There have been quite a number of former politicians still loyal to him and working at the grass-roots level to

mobilize people not to accept the draft constitution and the military's political role. It worked out very well in the North and the Northeast where the people continue to support Thaksin's populist policies. The anti-military campaigners also tried to convince the people that the coup on September 19 last year was unjustified and illegitimate. In sum those who voted against the new constitution in the countryside still supported Thaksin and perhaps wanted him to come back. They were convinced that the former prime minister was the only leader who really helped the poor despite his corruption while others who were also corrupted never made efforts to help them.

As for those who voted in favour of the new constitution, it can be said that people in the South voted for the constitution because they rejected Thaksin and his political allies. If the new constitution were rejected, they believed, Thaksin's cliques would claim a victory and hence increase their chance of coming back to power. A number of Bangkok voters and other urban areas shared the same view with the Southerners. However, it is believed that there were many more who voted for the new constitution not because they were anti-Thaksin, but because they wanted a smooth transition to parliamentary rule.

Implications for general election

Another question that came out after the referendum was whether the result would be an indicator for the outcome of the next general election. No one can answer this with certainty, but what we know is that the referendum result has raised the confidence of the former Thai Rak Thai Party's leading members. It is now certain that they will run in the election under a party called the People's Power Party. Since the Thai Rak Thai Party was dissolved by the order of the constitutional tribunal in late May this year and is not allowed to be re-established within five years time, its leaders did not have any choice except to join one of the small parties and take control of it. The People's Power Party was a small party but now it has become a major party after a number of Thai Rak Thai members joined it. It is believed that Thaksin was behind this move with an intention to make this party the largest after the next elections.

Another party which stands a very good chance to win a large number of seats in the elections is the Democrat Party. After the dissolution of the Thai Rak Thai Party, the Democrat Party has become the largest. Known as an anti-Thaksin Party, the

Democrats have attracted many political aspirants and some former members of parliament. Its leader, Abhisit Vejjajiva, is tipped to be the next prime minister.

Given the possible strength of those two parties, political divisiveness among the Thai public may continue as the anti-Thaksin and pro-Thaksin sentiments will be intensified in the coming election campaigns. Definitely, there will be a number of political parties to project themselves as a third choice or parties of reconciliation. But they have not yet come out with a policy platform of how to tackle the political polarization. More importantly, most of politicians who formed those parties are former Thai Rak Thai members and therefore, their independence from former Prime Minister Thaksin is questionable.

In the light of the political developments mentioned above, political polarization will continue and it is difficult for the next government to resolve it. It is believed that the government after the next elections will be a coalition one with perhaps the Democrat Party as its core. The government will be a weak one and instability is very likely.

Nevertheless, we cannot underestimate the ability of Thaksin and his colleagues to fight back. It is expected that despite possibly tighter control by the election commission, vote-buying will continue. If the PPP or other pro-Thaksin parties get a majority in the election, the country will possibly have Samak Sundaravej or General Chavalit Yongchaiyudh as prime minister. Then we cannot expect any political reform at all.

Future role of the military

Now let us look at the military, will they continue to be in power, or do they want to stay out of politics? I would say that the military is no longer a strong political force. They might be able to launch a coup, but they are unable to rule. They cannot control the government, the National Assembly and the Constitutional Drafting Assembly. Due to the increasing political consciousness of the people both in the urban and rural areas, the military has to accept the fact that they are not able to get what they want. There will be some retired army officers working with some politicians to set up a party but this does not mean that it is a military party or a party that is backed by the

military. Thus I am convinced that the army has no other choice except to withdraw from the political scene after the next election.

In this respect, the constitution is of course not an answer for everything. It simply lays out the rules of the game, and recognizes peoples' rights to liberty and freedom. But this constitution does place strict limits on the political role of the military. If you look at every single clause there is none that sanctions a political role for the military. This is unlike many constitutions in the past enacted after coups, where the military were able to insert clauses that allowed them a role, such as being appointed as senators or as cabinet members.

Some have questioned whether nonetheless the military may be able to exert influence under this constitution. Well, like any other arm of the bureaucracy they can exert some sort of influence over the government. But that is not necessarily illegitimate. They can ask for an increase in the budget for defence spending, or an increase in personnel, or request that troops be sent overseas to fight in countries such as Iraq. But in the end it will be up to the elected parliament to decide whether it will endorse this or not.

Polarisation – not all negative

One area where the situation was extremely dire under Thaksin, and has continued to be, is in the South. The situation has not improved; violence, bombing attacks, killings of both Moslem Thais and Buddhist Thais, government officials, military and police officers as well school teachers remain a regular daily event. What the current government has been doing is to try and contain the violence and build trust with local people. It has been trying to isolate militant terrorists and to win the support of the local people, but it is not easy to achieve.

Nonetheless not all developments during the Thaksin period were negative. Thaksin's populist policies, and his party's effort to rally rural mass support for his leadership, have increased the political consciousness and the efficacy of the rural people. They know how to articulate their interests, although parochial in nature, and they will continue to vote for parties which respond effectively to their demands.

Rural voters do not care much about corruption or political ethics. In saying that I do not mean that they like corruption and do not like political ethics. But when it comes to casting a vote they make their own calculations. If you talk to taxi drivers in Bangkok, many of whom are from the North East, they will often say they love Thaksin because of the 30 baht health care scheme. Drivers speak of relatives who go to hospital for neurosurgery or eye surgery, the real cost of which would be around 10,000 baht, but have had to pay only 30 baht. Such news quickly spread to the whole village, and people were grateful to Thaksin because of this. Rural people do not disregard political ethics, or corruption, but have to weigh this against what politicians do for them – and in the past many promises were not kept. Some taxi drivers even say openly that although there are many more good people, many more honest people to contest in the election, they still prefer to vote for Thaksin, because he had helped the rural poor.

In contrast, urban middle class people are more concerned with corruption among politicians and government officials. What they want is not just a democracy but a democracy with transparency, efficiency, and quality. They believe that good governance and political ethics are needed urgently as a major part of political reform and democratic development.

This polarization can be seen as a natural development of democracy but it should not lead to political instability and violence. A democracy must be able to reconcile political stifes and in the case of Thailand, the new constitution alone cannot resolve that problem. Political institutionalization of the political system and major political organizations, especially the party system, is also necessary. Thai political parties are usually weak and uninstitutionalized. Only the Democrat Party may stand a better chance to become institutionalized than others as it is the oldest party and has been able to survive several crises in the past 60 years but it has to work harder to win the support of the rural masses in the North and Northeast. The new constitution does not have much to say much about political parties. The relevant articles are more or less the same as in the previous constitutions, except that if parties commit wrongdoing like vote-buying, giving money to the people in exchange for votes, this would result in severe punishment. There is no positive attempt to foster parties, but if vote-buying could be reduced this would be positive for developing democracy.

Thailand will have a period of political instability and a weak government for some time in the future before its political system is institutionalized. In fact, the country has experienced weak and unstable governments before and it was able to muddle through. Thus, if we are going to have another one again, it should not be too much of a problem.

I was one of the members of the drafting committee for the 1997 constitution, and in retrospect, that went too far in entrenching executive power. Prior to 1997 we had experienced weak government and political instability for so long that we sought to design a constitution that gave more power to the executive. We made it more difficult for the national assembly to carry a vote of no confidence against the government. We made the executive so strong that other so called checking institutions, like the Constitutional Court, the National Counter Corruption Commission and so on were powerless. The cabinet controlled parliament, to the point that parliament could not say anything at all, and acted as a rubber stamp for government decisions. The design of the present constitution is to make the government more dependant on parliament. For instance previously you needed to have the support of forty percent of members to table a motion of no confidence against Prime Minister, and twenty percent to table a motion of no confidence against other ministers. That is why in the past five years Prime Minister Thaksin never faced any no confidence debate or vote, only his ministers. The new constitution has reduced the number of members required to initiate a no confidence motion against the prime minister and cabinet members to twenty percent. This has wide popular support because the people want parliament to have more effective over cabinet.

The role of the monarchy is spelt out in similar terms to earlier constitutions. Thailand is a constitutional monarchy, so the role of the monarch is like that of the Queen of England; there is no substantial difference. But our political situation always fluctuates – sometimes governments are too weak and sometimes too strong. In practice this sometimes means that the monarch has to look into such matters.

Democracy has a cost but no one wants the cost to be too high. We do hope that our future democracy will not be too costly. Our democracy will be fragile again but do not worry, we will survive and another coup will not happen again.

