

Summary of Discussion on Thailand's Current Political Situation
Discussion hosted by NTSC in association with the Royal Thai Embassy
Wednesday 22 August 2007
Led by Thai Embassy delegation

Delegation Head:

Mr Surapong Jayanama: former senior diplomat, currently Deputy Secretary to the Prime Minister

Delegation Members

Assistant Professor Surat Horachaikul: Lecturer in Political Science, Chulalongkorn University

Professor Charas Suwanmala: Dean, Faculty of Political Science, Chulalongkorn University

Mr Somchai Homlaor: human rights lawyer, formerly Secretary-General of Forum-Asia, currently Secretary-General of Human Rights and Development Foundation

Mr Kraisaak Choonhavan: human rights activist, former Senator.

NTSC Executive Director Dr John Funston welcomed the delegation. He noted that the NTSC was happy to provide a venue for the meeting, as it was to any group or individual who could make a contribution to an understanding of Thailand. He acknowledged that the seminar had been criticised by some, who viewed it as an endorsement of the current Thai government. However he emphasised that this was not the case, and that the NTSC never endorsed the views of any of its speakers.

Professor Surat Horachaikul

The full text of Professor Surat's speech is available at

<<http://www.anu.edu.au/thaionline/NTSC/Events/SeminarImages/SuratPaperANU.pdf>>

Professor Surat began his presentation by asserting that since last year's coup Thailand has been unfairly maligned and frequently misrepresented by the international media. The mission of the delegation was to provide factual information to defend and seek justice for their country. His presentation covered two main themes: democracy and Western hypocrisy.

Western response to the 19 September 2006 coup, he claimed, had paid too much attention to electoral mandate and too little to democratic reality. Democracy requires not only elections but also space for discussion, including press freedom, absence of corruption and protection of basic human rights. Under Thaksin these were lacking – corruption, cronyism and human rights abuses were rife, and Thaksin dominated both the press and parliament. Thailand was not democratic. Indeed after the fraudulent April 2006 election even an electoral mandate was lacking. When the courts ruled this invalid, Thaksin's government was a mere caretaker government with its mandate constitutionally limited to 90 days. Consequently it is 'mythological to say that the coup toppled a democratic regime.' He urged that coups must be assessed on their own merits, sometimes it is 'democratic to employ undemocratic means to rejuvenate democracy.'

In contrast to its leniency on democratic standards under Thaksin, since the coup the West has preached democracy to Thailand, criticizing the coup and even devaluing the popular mandate of the constitutional referendum by misstating its purpose and placing disproportionate emphasis on the margin. Such scrutiny, he claimed, was not directed to the EU constitutional referendum which achieved very narrow margins in France and the Netherlands, or to Bush's 2000 election. This however is hardly

surprising – there are no longer any solid norms in the international community. Rather than providing a pillar that can be leaned on to prevent *de-democratization* it merely looks after its own commercial interests. Perhaps the West should realize that sometimes not only can Thailand learn from it, but it can learn from Thailand.

Professor Charas Suwanmala

Professor Charas Suwanmala's powerpoint presentation is available at:
<http://www.anu.edu.au/thaionline/NTSC/Conferences/Conferences.htm>

Professor Charas Suwanmala's presentation focused on Thailand's new Constitution, which he helped draft. Despite Thailand's uneasy and volatile democratic record he believed that democracy in Thailand was still viable – it was a matter of finding the right formula, and he hoped the new 309 article constitution had achieved this.

He identified four main aims of the new constitution: to strengthen check-and-balance mechanisms, to enhance direct democracy, to reinforce and enhance civil rights, and to prevent political illusions and corruption. Consequently it prevents post-election party mergers, releases MP's from party control in parliament, lowers the threshold for moving motions of no confidence, seeks to enforce political ethics through the impeachment process, provides for fiscal democracy, and enhances judicial control. It also gives independent institutions capacity to propose budgets directly to parliament to alleviate their fiscal burdens, empowers the National Human Rights Commission to take cases directly to Court, removes legal pre-conditions to activation of civil rights, and allows groups of citizens to propose law and referenda by petition,

Mr Somchai Homlaor

Mr Somchai Homlaor, drawing on his experience as a member of a National Human Rights Commission subcommittee which investigated extrajudicial killings during the war on drugs, discussed human rights abuses under Thaksin. Concluding that in his opinion as a human rights lawyer, Thaksin, having had power to prevent abuses and failed to do so, should have been charged with crimes against humanity.

He focused primarily on abuses during the war on drugs between February and April 2003 from which Royal Thai Police statistics record 2225 deaths, but no arrests for murder. Although the government claimed the killings were the result of gangster activity, in his opinion the often very public nature of the killings suggests that the majority were at the very least police sanctioned. He cited a number of incidents he had investigated including one in which a victim was followed to and killed in hospital, and another where a victim was killed shortly after reporting to police to support this claim. In neither instance were proper investigations conducted or arrests made; police superiors ordered the cases closed. He also mentioned the human rights atrocities at Tak Bai in the south, and disappearances of noted human rights and environmental activists, including Muslim lawyer Somchai.

Mr Kraisaak Choonhavan

Mr Kraisaak commenced by commenting on controversy surrounding the ANU hosting the discussion, emphasising that delegation members were present voluntarily and expressing their own views. They were not coup sympathizers or apologists.

Mr Kraissak's presentation focused primarily on the South, an area he regarded as 'a real test case for Thai Democracy.' The latest uprising was essentially a response to power abuse, which reached its zenith in the war on drugs. The South, with a strong tradition of separatism, was not prepared to accept this. Thaksin's dismantling of the southern security network (the Southern Border Provinces Administrative Centre and related security institutions) that had at least brought extended, if not total, peace, was irresponsible. And Thaksin had also refused to engage in meaningful negotiations. In particular he cited an occasion on which he arranged a meeting between Patani United Liberation Organization (PULO) representatives and the Prime Minister's office – instead of extending an amnesty in exchange for a ceasefire the Prime Minister's negotiator threatened to kill the representatives on the spot.

As for future prospects, Mr Kraissak saw little prospect for progress under negotiations arranged by Malaysia. In his opinion what is needed is a decentralization approach in which democracy is provided for at every level. He cited the success of such a strategy in Indonesia and regretted that in Thai society, which remains centrally minded and 'almost chauvinistically Thai,' it has not even be considered. Even so he hopes that the constitutional mechanism allowing 20,000 people to propose a law may remedy this in the future.

Mr Kraissak also commented more generally on the silencing, intimidation and disappearances of active opposition senators and environmental and civil society activists under Thaksin, and the dominance of patronage networks.

Questions

Dr Andrew Walker

Dr Walker began by asserting that the discussion was a 'good model of semi/sufficiency democracy,' and part of an 'international public relations initiative.' The entire speaker list was nominated by the Prime Ministers office, had vetoed a proposal for additional speakers, and had already visited Germany and England. There were also had plans for them to go to New Zealand.

Regarding Thaksin's human rights abuses, he stated that the claim that the coup was in any way motivated by these was fanciful. Even if it was so motivated, national rule by the gun is not an appropriate response to local rule by the gun. He questioned the accuracy of the speakers' comments on the silence of the international community, and asked them to comment on the silence, and perhaps tacit approval, of another important party which they had failed to mention – the Thai monarch.

Turning to the recent referendum on Thailand's new constitution, he noted that voter turnout was lower than at the 2006 boycotted elections, and that the 'royal wrapped' constitution was in fact endorsed by a lesser absolute number than Thaksin at the height of his unpopularity. He dismissed vote buying as a factor in this claiming all parties engage in it and drawing attention to a number of incentives offered in the lead up to the constitutional referendum also. Even so, given the problem of vote buying and intimidation, he asked why referendum votes were counted at booth not electorate level.

Response

Professor Surat questioned Dr Walker's claim that the King had in anyway supported the war on drugs. It was perhaps unfortunate that the King did not comment on every issue but at least the King, unlike the West, does not display hypocrisy in preaching one approach and adopting another. It was wrong to try and link the monarchy with every issue and he asked rhetorically why it was necessary to do so in relation to this – a comment greeted by audience applause.

As for vote counting he asserted that evidence as to whether booth or electoral level counting is more prone to abuse is ambiguous. The main reason votes were counted at booth level in the referendum was the significant problems experienced with ballot stuffing at the electorate level in the 2006 election.

In response to Dr Walker's criticism of the delegation he emphasized that his views were his own and he was present on his own behalf for his county, which had been the target of internationally bullying.

Mr Somchai added that as one of the first people to come out against the war on drugs he could not recall any occasion on which the King offered his endorsement of it. Indeed the King threw doubt on Thaksin's declaration of victory in the war by publicly asking him to explain why so many people were killed.

He acknowledged that the coup was conducted because of division in the country not extra-judicial killings. Perhaps they were considered, but certainly they were not a priority issue. For him, however, they are a priority issue and he will work to bring the perpetrators to justice whenever the opportunity to do so arises. His presence was not as a royalist, or coup supporter but as an activist wishing to draw attention to issues which the international community had wrongly ignored.

Question: Professor Peter Warr

Professor Warr drew attention to a *Nation* editorial predicting that the referendum would only confirm Thailand was a divided nation blindly struggling for democracy and asserted that in his opinion one thing that had to be addressed in this struggle was the culture of corruption. As Thaksin had shown constitutions are administered by humans and fallible as long as humans can be bought. He asked the delegation to comment on this.

Response

Professor Charas responded agreeing that corruption is a problem and cannot be wholly solved by the constitution. But the constitution could be a valuable tool against it, providing a set of guiding rules, and hopefully ensuring space for civil society to work to counter it. He asserted further that even if it could be said that there is a culture of accepting corruption, this cannot provide cultural justification for a leader exploiting his people.

Question: Dr Helen James

Dr James asked, given that the South is traditionally a strong Democrat stronghold, whether the Democrat boycott of the 2006 elections was a mistake. She suggested that even if they had lost they may have been able to help head off the coup and enhance development of more robust electoral institutions.

Response:

Mr Kraissak responded stating that he considered the boycott successful as it had made Thaksin's victory farcical. It was the result of almost national consensus, and a response to the lengths that Thaksin was prepared to go to quell discussion citing an incident in which a bomb was found at a rally at which he was scheduled to speak.

Question: Roland Rich

Roland Rich observed that when he first heard of the coup he was pleased that Thaksin had been overthrown, but on reflection felt the coup and the 'anti-Thaksin constitution' were not the answer. He expressed concern about the culture of violence and impunity spoken of, but suggested that it comes from having had a series of coups and from the Thai police and army's perception of their role as much as from politician's abuse. If this is so the King's endorsement of coups only strengthens the culture. He agreed that of course democracy is about more than voting, it is about deliberation and consultation, and in his opinion the problem of democracy in Thailand could not be solved without discussion of the monarchy. He suggested that Thailand needs to consider if its 1932 move from absolute to constitutional monarchy was a reality. At present everyone is pretending that Thailand has constitutionality but in effect it is still in 1931.

Response

Professor Charas defended the new constitution stating it is not merely an anti-Thaksin constitution but an effort to establish democracy based more on the concept of direct, rather than representative, democracy. Thai democratization cannot look for models from other countries but must learn from its own experiences.

Mr Somchai, whilst acknowledging that in Thailand there is a saying that the new constitution is like getting rid of a cockroach by burning a house, refuted the truth of such claims. Thaksinism reflected problems with the past constitution, and these have been amended. However other aspects, such as community rights, have also been given attention. As for the King's blessing of the coup, all coups in Thailand have been so blessed. In a way it is the King's job to provide such blessings. Whilst not refuting that there is need for discussion of the King's role he urged that such discussion must be undertaken in a civilized manner on the basis of solid evidence and with due respect being paid to the beliefs and sensitivities of Thai people.

Professor Surat stated that even if not discussed openly the monarchy is an issue discussed in every Thai household and that its approval is conditional on it maintaining a good record. Whilst his Western friends speak of the three balancing branches of government as legislature, executive and judiciary, at present he believes the Thai branches are monarchy, people and capitalists. It will take some time for this to fit neatly with the system of parliamentary democracy. In recent years the people have had little power, consequently it has been necessary for power to be balanced between the other two. Hopefully the balance will be more appropriate in the future. The constitution strengthens civil society, thus the people, and weakens political parties which are really groups of capitalist-controlled politicians.

Mr Kraissak asserted that often much more is made of the Thai King's political role than is deserved. He also stressed that what discussion there is should take note of the

important roles he has played in the past, especially in 1991, in restoring peace. Mr Kraisaak stressed that his argument had not been that the constitution would solve all Thailand's problems. Rather the goal of the delegation had been to try and explain the complexity of these problems, mainly rooted in social injustice, which had reached a zenith under a very popular, elected, internationally well-received Prime Minister who paradoxically still commands significant popularity.

Question: Aphiradee Jansaeng

Aphiradee thought that whichever side was speaking it was a good time for people interested in Thailand to come together and listen to each other. She asked for the delegations views on Article 309 of the constitution, and why pension provisions were reduced for parliamentarians and senators but not for Privy Councillors.

Response

Professor Charas responded that Article 309 does not rectify or legalize the coup – that was done by the interim constitution. Instead it operates to protect those things done by the government since the coup depending on public law authority such as investigations into corruption claims against Thaksin.

Question: Gavin Butler (From University of Sydney)

Gavin Butler asked the delegation how optimistic they were that the referendum would be successful in establishing a degree of willingness for exchange in the next several months given that only 14 million people voted for it. He also commented that he was alarmed to see the *Bangkok Post* quote Surayut saying that whether there would be another coup would depend on the standard of governance of the government that results from this constitution.

Response

Professor Charas asserted that low voter turnout at the referendum was largely attributable to voluntary voting, and was thus not a serious problem. It is sufficient that the majority who did vote, voted yes. Mr Somchai responded that in all honesty there was no way to predict if there would be another coup.

Question: Professor Adrian Sleigh

Professor Sleigh observed that in China one of the positives of Mao's leadership was the introduction of rural health insurance, but that this was unfortunately reversed in 1985. He feared that the same may occur in Thailand with respect to the 30 baht healthcare scheme, which despite being the result of debate since 1974, has come to be strongly associated with Thaksin. He asked for reassurance that this would not occur and also inquired whether the Constitution, like those of South Africa and Brazil, included an explicit guarantee of basic health care for Thai citizens.

Response

Professor Charas gave assurances that the new constitution mandates free basic health care for all.