

VIEWPOINT

The Thai Political Conundrum – Early 2014

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Like so many of us here in Thailand, Thai and foreigner alike, for the past several months I have been observing, listening, watching, and reading about the protests against the seated government of this country. As occurs elsewhere throughout this world of ours, Thai national and local politics are convoluted, complex, and not always what you see or think. What follows in this *Viewpoint* are the musings of its writer on the current Thai political stalemate. Acknowledging the plethora of various media news reports, editorials, opinions, and writings on what is happening in Thailand today, it is my wish that the reader will find something interesting in the following perspective.

Let's start off with a reality check – despite any impressions to the contrary you may have garnered from TV news snippets, let me reassure you that neither Bangkok nor Thailand is in chaos. There are no uncontrollable mobs raging through the cities or the countryside; the blood is not running in the streets; there is no destruction of buildings or homes; there is no rioting; the government, the courts, and the medical establishment are open for business and functioning adequately; telecommunications, the social media facilities, and the fourth estate are active and normal. Thailand is a country with a geographic area the size of France and a population of 67 million, some 10 million of whom live in Bangkok, a city of 1,563 sq.km. That is three times the size of Singapore or about the same size as Chicago. What you see on TV and read about in the press and in commentaries are protests, not widespread but confined to limited, though important, areas of the city. The rest of Bangkok and upcountry continues life as normal with some but only a few interruptions or disruptions. Bangkok's famed traffic is as horrific as usual.¹

Primarily targeted by the throngs of protestors pictured daily in the press are the Thaksin Shinawatra family, and their champions and cohorts, who have held the positions of prime minister, ministers, and other portfolios for half a generation. Having been duly elected by a majority of the voters in every election since 2001, the family have been leading their political parties and the government for most of that period. It is a mesmerizing enterprise to see how the current protests have developed and grown to now attracting the support and, often active participation, of literally millions of citizens from all walks of life. The middle class, including some of the elites, plus a wide swath of citizenry from across the country, both urban and rural, dominate the antigovernment masses clamoring for reforms in the Thai political system.

¹ There have long existed almost daily bombings and assassinations in the four southern provinces of the country. These relate to an independence movement separate and apart from the political protests to which this paper is addressed.

The very vocal and dynamic opposition want the divisive Thaksin Shinawatra clan gone from Thai politics. The “Thaksin regime” – using the parlance of the protestors – is characterized as being the root cause for the allegedly graft-ridden and incompetent government and its self-interested administration. What is publically and loudly sought is for government to be drastically reformed to be more transparent in its dealings, corruption free, efficient and, in deed rather than just in recitals, responsive to the needs of “the people” and their social and economic inequalities. Sought are legislative, administrative, and some constitutional reforms to protect the 2007 charter and the rule of law from abuse by any ruling party.

Such abuse was most recently manifested in the form of an all-encompassing, but flawed, amnesty bill passed by the ruling party at a 4:25 a.m. parliamentary session. In the face of overwhelming public opposition, on November 11, 2013, the Senate rejected the bill and the government promised not to try to resurrect it. That chicanery was followed by the attempted passage of a constitutional amendment to reconstitute the composition of the Senate to put it in the hands of the ruling political party. On November 20, 2013, after being rejected by the Constitutional Court as being unconstitutional, the bill, then awaiting the King’s signature, was withdrawn, under protest by the ruling party, which challenged the jurisdiction of the court.

Following again in this pursuit of folly, the government, via its majority in parliament, pushed through a new law to deprive the parliament of its constitutionally vested power to approve all treaties and international agreements. The new law would have vested this authority solely in the executive branch of government, which negotiates such agreements in the first place. On January 8, 2014, the Constitutional Court declared such a law to be unconstitutional – another blow against the outlandish actions of the government.

These events, coupled with countless other examples of ministers and other senior officials allegedly profiting handsomely from their positions by feeding at the trough of government spending, are what triggered pent-up resentment in a large segment of the population, thus leading to the current long-lasting antigovernment protests. The protestors seek the development of a Thai democracy in which the minority’s voice is not just heard but is listened to and accommodated in legislation and policy. And what seems to be a revamp of government is also demanded. How all that is to be accomplished has yet to be defined with any clarity. Hence the task is to be left to a new reform council to be created.

Conversely, the government is not lacking in supporters, particularly the so-called Red Shirts and the cadre of the ruling Pheu Thai political party followers whose power base centers among the heavily populated rural and urban north and northeastern parts of the country. Notably these loyalists to the government have, to date, remained relatively quiet – perhaps having been advised to avoid violent clashes with the protestors.

Not to be trivialized is the historical fact that all Thai governments in living memory have been plagued, to one degree or another, with untrammled corruption. Corruption seems to have matured unabated in the recent decade or so. The most recent example of massive corruption is the rice-pledging scheme whereby Thai rice farmers are paid, by government subsidy, double the market price for their rice. The government is then to on-sell the rice to the market and foreign countries. The National Anti-Corruption Commission (NACC) has found the whole scheme to be riddled with graft, fortified with false claims about supposed government-to-government sales. And the scheme has cost taxpayers in the range of several hundred billions of Thai Baht.

The private sector and civil society are not blameless in this regard. In their favor, it is recognized that until the past year, they were never organized into active and funded anti-corruption coalitions.

It would be a misconception and misdirection to charge that any of the rival sides at odds here are either all wrong or all right in their political beliefs and practices. Like life, it is a matter of balancing the good achieved versus the damage done. Both groups in this historic collision of political goals profess that they are in favor of reform, democracy, and the constitution. The legion of adversarial parties, however, differs significantly in their definitions, interpretations, and applications thereof; of course.

What makes these particular enduring and expansive protests and demonstrations unique in Thai history is not only their size, attracting hundreds of thousands of supporters and followers, but also their scope, focus, and longevity. At this writing, this sustained exhibition of mass civil disobedience has continued almost non-stop for approaching three months. How much longer it can continue is a function of funding, life of popular support, commitment and dedication to the cause, levels of exhaustion, and imposed impediments to their success.

The government, while often being obtuse and heavy handed, seems to have recognized the constitutional right of the people to peacefully demonstrate as an expression of political dissent, and thus has been frustrated in how to abrogate the protests. Even the death penalty for protestors who “revolt against the government” was touted. Remarkably and to its credit, the government, in reaction to the generally peaceful and unarmed protests, has been overtly restrained in its use of the police to control, rather than quell, the marches and rallies.

As the protests continue, there is a mounting threat that an undercurrent of potential violence will make its way to the surface. The early days of the protests were marked by the inevitable scuffles between protestors and police. Tear gas, batons, water cannons, and rubber bullets have been employed, but only on relatively rare occasions considering the scale of these ever-increasing and expanding daily gatherings. Recently, though, there have been shootings and explosions near protest sites. People on both sides, and bystanders, have been injured, and a few, regrettably, have been killed. Control of the potential combatants is strained and being tested. For the most part, the protestors are unarmed, relying on discipline and the righteousness of their cause for crowd control. The bulk of the police facing the protestors are also not armed, but in the background and after-hours quite a few are. And then there are the ever-present armed and dangerous malcontents, of questionable affiliations, who exist to stir up trouble.

Tempers on both sides are becoming frayed. As yet there is no hint of mob rule. But the longer the protests last, anxieties prevail that a tempest may soon break out. Both groups are pushing the envelope of credulity to the limit. The possibility of and the scope and extent of such violence are the subjects of much speculation. Fortunately, and despite rumors to the contrary, this time around the military have taken a hands-off stance and the troops remain in their barracks. This position of observing neutrality could well emanate from the criticism the military have received for their roles in forcibly breaking up the camps and occupied zones in downtown Bangkok of the Red Shirt protestors in May 2010. The military appears to have accepted that military coups d'état are no longer tolerable domestically or internationally, that they rarely solve the problems for which they are initiated, and that generals are not trained for and hence do not make good civil administrators. They may know how to win military engagements, but winning the peace is quite another challenge.

The current ruling party, whose strings are surely still being pulled by Thaksin himself, has thus far remained intractable and uncompromising. Public pressure forced the dissolution of parliament on December 9, 2013, and the Pheu Thai government now stays on only in a caretaker role. To find a relief valve from the pressures boxing her in, the Prime Minister states that she wants to dialogue with the leader of the protestors, the contrarian-in-chief, a former Member of Parliament and former senior member of the leading opposition political party. He demurs, insisting that the Prime Minister and other members of her government must go before any further discussions can take place. Despite the mounting pressure, the Prime Minister has repeatedly stated that she will not resign. The caretaker government continues to function, though in a more limited capacity. It soldiers on despite the chorus of alarm and dissent against it, even now including that emanating from among the cadre of civil servants, academics, the organized business community, professionals, civil society, and a plethora of individual citizens.

The Prime Minister and other members of the caretaker government say that they want to do “the right thing” for the country, first and foremost, while also pointing to their electoral mandate and the need for reform through existing constitutional processes. What “the right thing” is has been and will remain to be debated throughout the reform process. The business community is pushing for all sides to come together to forge a path forward out of the current mire. Some sectors of the economy are already suffering from the prolonged confrontations. Is time working to the detriment of the nation?

New elections are scheduled to occur on February 2, 2014. Whether or not they take place on that date is one of the key current pressure and resistance points in the confrontation between the government and the protestors.

Without going into a further detailed account of the events, activities, arguments, players, and personalities, and the whys and wherefores, all being well covered by the local press, newspaper, TV, and social media opinion makers and thinkers, the obvious questions are “So what?” and “Okay. Now what?” Further questions are:

- ❖ What are the mutually acceptable compromise solutions and where do they come from?
- ❖ When and how and by whom will the solutions be implemented?
- ❖ Will the parliamentary elections now scheduled for February 2, 2014 be held?
- ❖ With the boycott of the elections by the principal opposition party, will the election turn out to be just a farce?
- ❖ Will the elections, assuming that they will be tested in the courts, be declared unconstitutional?
- ❖ Who will form the new government?
- ❖ Will the new government just be more of the same of what we have today?
- ❖ In the meantime, what will be done to keep the economy from tanking?
- ❖ Does anybody in positions of power or influence really care?

As a lawyer dedicated to respect and protect the “rule of law”, rather than “rule by law”, I have pondered on the direction of democracy and constitutional law in Thailand. They are in a state of flux. The current constitution may have its flaws, ambiguities, and weaknesses, but it is the one we have and, to the extent possible, its provisions should be followed and upheld. (Note that Thailand’s 2007 constitution – the current one and one of the best drafted – is its 18th since 1932 when Thailand, then Siam, became a constitutional monarchy.)

The practices of the various courts charged with upholding the law, dispensing justice, and interpreting the constitution have been criticized as not being responsive to the fast pace of today’s world. Note that without the courts, the actions of and reactions to the political turmoil could descend into anarchy, devolving into the plague of violence which anarchy naturally generates. Hence the Constitutional Court is under particular scrutiny. It is seen by most as the haven of last resort for good sense, balancing the practices, both good and bad, of the executive branch of government and its parliament against the rule of law and the constitution. It is seen to be, and must remain, free of and above local politics and political pressures so that the court may judge the legal issues before it according to accepted legal principles and the wording and spirit of the constitution.

As I was finishing this piece, the Cabinet just stirred the brewing cauldron of turmoil by declaring a state of emergency of 60 days’ duration. This emergency decree is applicable to Bangkok and some of the surrounding provinces. Under its terms the state authorities are granted broad and comprehensive powers to impose security and other peacekeeping measures to control and eliminate the alleged violence being suffered by some of the protestors. Examples of the powers granted are: civil rights can be suspended; arrests can be made without warrants or bail; searches and seizures can be conducted; and curfews can be ordered. Thus far, no measures have been imposed nor has the use of force been authorized. How this latest development will play out is still unknown. We wait.

As you can imagine, the future possibilities of Thai politics run the gamut between extremes. On the one hand, the parties could sit down to talk rationally and resolve their differences peacefully and quickly. On the other hand, fractures of the peace could happen with the conflicts between the political opponents dragging on long into the future. There is a Buddhist tradition of seeking the middle way. I predict that that sensible solutions will be found. Compromise is the Thai way.

Am I deluding myself by idealism? Probably, but if progress is to be made then we must keep thinking positively. While taking responsibility for their actions and decisions, and for telling the truth, would be a rare commodity these days among government ministers and some senior civil and police officials, Thailand does not lack for wise and competent people, on all sides of the controversy. I am relying on them to pull the nation through its current dilemma.

Applicable to the current Thai political impasse, I close this report by citing the views of the highly respected Pulitzer Prize-winning American historian, Barbara W. Tuchman, as found in following extract from the opening chapter of her 1984 book, *The March of Folly*:



A phenomenon noticeable throughout history regardless of place or period is the pursuit by governments of policies contrary to their own interests. Mankind, it seems, makes a poorer performance of government than almost any other human activity. In this sphere, wisdom, which may be defined as the exercise of judgment acting on experience, common sense and available information, is less operative and more frustrated than it should be. Why do the holders of high office so often act contrary to the way reason points and enlightened self-interest suggests? Why does intelligent mental process seem so often not to function?



Thais are known to be very pragmatic people. In time, after trying and surviving everything else, this pragmatism will surface to find workable and acceptable solutions to the current discord. When? Time, hopefully, is on our side.

Respectfully submitted,

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