

THAILAND'S 1997 CONSTITUTION AND ITS POLITICAL STABILITY

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Abstract

This article is a part of the research "The Leaders of Thailand and the Political Stability during the World War I and the World War II" which the finding shows that the stability of the political leader and system has been relevant to the level of democracy stated in the constitution: less democratized, more political stability. The Thai leader during WW II secured their stability by promoting nationalism and taking advantage from the 1932 Constitution which was lowly democratized, in contrast to the stage of political stability during the 1997 constitution which was ultimately democratized. Focusing on constitutions, this article evolutionally links the past to the present Thai politics.

Using qualitative method, this article illustrates the relations between democracy and political instability during the implementation of the most democratized Thai constitution, which later led to civil conflict and ended up with the military coup. Such instability was relatedly caused by the political modernization in the 1997 constitution; the first people participatory drafted constitution of Thailand.

Drafted by elected members and specialists, and opened for public participations, the 1997 constitution was designed to solve the bureaucratic system and corruption. Having been named as the most democratic constitution ever for Thailand, the principle applied in drafting process was the Western Political Modernization: promoting civil participation, creating social and institutional differentiations, and strengthening the political institutions. These have never significantly been stated in any previous Thai constitutions.

After the 1997 constitution was in active, the political party became stronger as designed and eventually able to intervene and dominate over other political institutions; this led to civil conflict and democracy disruption. The causes of such democracy instability, based on the principle of Political Modernization, are; 1) Lacking of Social Secularization 2) Domination over Independent institutions, and 3) Over-strengthen political parties.

To sustainably cope the political instability of Thailand, three concerns related to political modernization are proposed; these are 1) Improving educational quality and promoting rational socialization norms 2) Legitimizing political system by reinstalling trust, reliability and equal justice implementation, and 3) Developing Political Institutions focusing on autonomous and effective performances.

Keywords: Political Modernization, Political Stability, Thailand Constitution

Introduction

A constitution is the supreme legislative document determining the state authority and administration structure. Unable to be overwritten by other sources of power, the constitution is representing state's sovereignty. Insuring the rights and freedoms of the citizens of the country, the constitution also determines scope of administration power: legal permission to do things, or vice versa (Wisnu Krue-Ngam 1987). More importantly, the constitution is the projection of state's common wills in sharing values, goals and future together; these perform under the civil consensus or common acceptance of the law and regulations. By these means, the interrelations between state organizations- parliament, government, courts and independent organizations- and its people have formed up. Valued as the key factor to make political system either get stronger or decline, the constitution therefore is an essential part of political development process (Chanin Sunprasert 2004).

However, such political development needs to considerably stand on the natures and norms of the country. Comparing to the role of the leader of Thailand during the effectiveness of the first constitution which was concernedly designed in the accordance of its society, it was clearly seen that the political system was concretely secured and able to unite people together. In contrast to modern Thai political society, the 1997 constitution which was drafted by including all the good aspects of liberal political concepts around the world has attributed many good and bad impacts to the society.

First Constitution and Political stability

Thailand has been facing with various political disturbances and challenges, not only in absolute monarchy system but also during the democracy regime. Such the challenges includes the impact of the World War I and II, and the internal political constraints caused by the competition and struggling for state power (Thamsuk Noomnon 2005) . Focusing on the leader during world war I, Field Marshal Plaek Phibunsongkhram

had secured his position by taking advantage from the 1st constitution of Thailand which was described as very low democratized. Interestingly, in comparison with the 1997 fully democratized constitution, the political situation and the leader under the implementation of such democracy was different.

Field Marshal Plaek Phibunsongkhram was the leader of Thailand during the WW II and he was one of the key founders of Khana Ratsadon or People's Party driving the Siamese Revolution. Field Marshal Plaek Phibunsongkhram had taken advantage from the constitution by allowing him to appoint the members of house of representative and renew the parliament's term; this made him able to completely control over the parliament and could drive his policy effectively. By the complete control over cabinet and parliament, Field Marshal Plaek Phibunsongkhram, the prime minister, despite being forced by Japanese army during the war, was able to stabilize and secure his position and political stability. This indicated that constitution, which allowed administrative branch dominate over the others, was one of the essential factor attributing such a strength of Thai politics which the authoritarianism is seemed to be accepted.

Thai politics under the first participatory constitution (1997)

To project the clearer picture of Thai politics and the relationship between political stability and constitution, the case of the 1997 constitution has been exemplified in this article. Requiring for political reformation to elevate the quality of political system, the new constitution has been participatory drafted. This constitution was said the most democratized ever for Thailand. However, the result of the fully-opened participatory politic was not impressive, and later led to the political collapse. Theoretically, the more system engages liberally participation, the more strength of the political system, nevertheless; this does not describe Thailand's politics. Undesirably, the 1997 constitution had opened for power domination. The political leader and system were illusively seen stable. In fact, however; it was just the political collapse catalyzer. Later, there was the emergence of political movement to fight against the government. The parliament system was unable to solve the conflict. Moreover; the refusal of political regular process was occurred: the boycott towards election was proceeded. Finally, the 2006 coup d'état had been launched to ease the crisis. In consequence, the number of voluntary and the organized groups of the masses had been settled up and confronted with each other, and the anarchical and violent strategies had been used. This led to another coup d'état launched by Gen. Prayut Chan-ocha in 2014. Being controlled by the junta, the peace and order are reinstalled to the country and new constitution is being drafted to suitably solve the overwhelming problems. Questionably, is such the absolute democratized constitution suitable for Thai political community? Should the political system with semi-democratized constitution and partial authoritarianism be used for the country? The answer has been conveyed via the result of the 2016 constitution referendum which the unelected Prime-minister and appointed senators are accepted by the majority of Thai people by 61.35% (Office of the Election Commission of Thailand 2016).

Drafting of Thailand's 1997 Constitution

Thailand has transformed from absolute monarchy to democracy for more than 8 decades. Within this period, Thailand's democracy has been interrupted by 13 times of coups and each coup had repealed the constitution. Normatively, when the democracy turbulence occurred and the elected government broke down, the new constitution, as a consequence of the coup, has been imposed to restructure its political systems in order to suitably function and response to the situation in a certain time (Likhit Dhiravegin 2007). However, the Thailand's 1997 constitution was not originated by such disruption, but the common consensus to cope corruption problem and bureaucratic system.

Having been used for a long time, criticized as half-democratized constitution – allowing for non-elected prime-minister and too focused on bureaucratic roles- and not be able to ease corruption especially during Gen.Chatchai Choonhawan's cabinet which the corruption widely perceived and eventually led to the coup and followed by the riot in 1992 causing many people deaths, the constitution had been asked for amendment seeking for political reformation. Effectively, during Bunhan's government, the constitution was amended and the drafting commission was appointed. In consequence, the drafting assembly comprising of 99 members, 76 participatory elected from each province around the country, and 23 experts, had been formed up (Sombat Chantornvong 2002).

During drafting process, it widely opened for public hearing discussions, and gathered comments and suggestions; these to make new constitution satisfied and able to liberally response to all sectors in the country. Considered as the only elected constitution of Thailand included all the modern political system and structures, the drafted constitution was legislatively approved by parliament in 11th October 1997.

Spirits of the 1997 constitution were based on three principles which were; 1) Promoting and insuring people's rights and freedoms 2) Promoting participation and transparency by allowing civil audits, and 3) Supporting political stability and efficiency. (Borwansak Uwanno 2002). Based on the constitution, people can practically participate in political activities, the decentralization process is more clearly effective, the independent organizations and political checking system have been established. In addition, the members of

parliament, both representatives and senators, must be elected. These made democracy of Thailand and political parties significantly grow and get stronger.

The 1997 Constitution by Political Modernization

The 1997 constitution of Thailand was drafted by applying political modernization concept. This concept is a part of country development theory proposed by theorists suggesting how under-developed and developing countries are developed. In political development aspect, based on the theory, the modernization process ought to be driven: these are described as “Westernization” and this is to focus on promoting industrialization and creating equal society through political development (Pye 1965). Applying such the theoretical concept to the drafting of the 1997 constitution, this article is only emphasizing on political development factor through modernization process which 3 variables are considered;

1) Differentiation which means the social parts or groups associated in the political community, as well as the state organizations function and perform their role in order to effectively response to the social complexities. This term is more focused on clear duty allocation without duplication.

2) Effectiveness is the ability of political organizations and institutes to well and promptly perform their jobs as it constructively designed without being intervened and dominated.

3) Universalistic or equal society which is the factor to enhance and support democratization: the equal right and freedom are playing the significant part in gathering political participations to level up the quality of democracy. However; this needs to lay on the rational society or secularization norms.

According to the political modernization and development variables above, they have been significantly applied into Thailand 1997 constitution. Being participated by public in the constructing process, the constitution was modernly designed by including all the good points of constitutions of many democracy countries around the world. This constitution has been said the most modernized and democratized ever for Thailand. Remarkably, the points in the constitutions which never been stated before are; 1) Participation and Right of people (equality) 2) Political Independents institutes and organizations (differentiation) and 3) Decentralization and Strengthening of Executive branch (effectiveness) (Parsons 1960). These are detailed as followings:

- 1) Equality: Innovatively, the constitution guaranteed the human right and opened for the rights of the public to propose law to parliament, the right of protest, the right of impeachment, the right of fair criticize, and etc.
- 2) Differentiation: The independent institutes have been established to response to the need in promoting transparency and good governance. These institutes include Ombudsman, Election Commission, Constitutional Court, Administrative Court, Office of the Auditor-General, National Counter Corruption Commission, and National Human Rights Commission.
- 3) Effectiveness: The constitution concerned with localization by allowing local communities to autonomously manage and administrate themselves through decentralization process. It also promoted the role of political parties in gathering and expressing people interests and put them in practical. Moreover, the sources of parliament members, the member of the house of senates are totally elected so that they could separately and freely perform their duties, and 80 % of the member of the house of representative were elected by first-past-the-post from single-member constituencies and another 20% were elected by proportional rule from party lists: this allowed political party to recruit and select high quality members to parliament.

Obviously indicated, the 1997 constitution was designed in accordance with the political development and modernization theory. This was due to the compulsory to strengthen political system, to solve corruption problem, and to promote liberal democracy. These can be marked as the political innovations of Thailand which subsequently led the greatest change, both negative and positive impacts, to the countries.

Problems Resulted by the 1997 Constitution to Thailand’s Political Stability

Even the constitution was mentioned as the political revolution of Thailand by granting public participation, creating check and balance system, and strengthening executive branch for effective administration, however it also created negative impacts to political stability of Thailand. This is evidenced by the consequence civil conflict, riot and coups.

Theoretically, considering the factors for political stability, there are 3 mains components involved with the stage of political stability which are legitimacy, system efficiency, and non-violence power transfer (Lipset 1964, Likhit Dheravagin 1990). By the legitimacy, it is the acceptance of people or society towards political players or systems: such acceptance is established by good practices politically or legislatively. Second variable is efficiency which the ability and competency of the government or political system are measured or assessed: poor performances definitely decline popular trusts and supports. Last factor is related to the peaceful power inheriting or transferring. Disrespecting to the common political regulations and norms, and struggling for power by utilizing violence movement decline and ruin political system. Based on these theoretical variables, the

persisting political instability of Thailand is caused by the results of the 1997 constitution. The political problems of Thailand are projected as;

1) *Domination over Political Institutions*

The constitution had strengthened political parties and distributed strong executive branch. The government, which the prime-ministry elected by the House of Representatives, was formed up by the major parties: later small parties merged into. The growth of major parties and executives allowed domination over other political institutions especially the house of senators who approved and appointed the members of other independent institutes. This distorted the political functional structures as it was supposed to be as per spirit of the constitution. By dominating over a half of members of house of senators, who were relatively related with the members of representatives, they possibly were able to dominate over independent institutes that designed to fairly balance and check towards government, e.g. the election commission, and Constitutional Court. Legislatively it was by the constitution. Nevertheless; legitimacy wise, it affected the social acceptance towards system and people involved.

2) *Opening for malfeasance*

The independent institutes were designed to autonomously,- not independently- perform some specific duty without domination by government, this was to promote check and balance system. However; being controlled by the executive branch or ruling party, some independent organization was witnessed to function their job without being checked; they freely did their duty responding to the interests of executives and political party controlling state power, for instance; the election commission aided Thai Rak Thai party in the 2006 general election and the member of the commission were jailed by the court for their guilty of malfeasance (Bangkok Post 2016). This problem is related with the legislative legitimacy and considered as one factor to attribute political instability.

3) *Violation Political Behavior*

Strengthening by the political mechanism in the 1997 constitution, the administrative branch gained more confidence in policy implementation; the government persuaded voters by offering the wide range of populism projects, and this had declined state finance disciplinary. As the result of new election regulations, the small parties, which were individually depended on the founder leaders and not representing real interests of their members were unable to compete and secure themselves within this circumstance; they merged into the major parties. These kinds of political behaviors had attributed “parliament dictatorship system” which the minority voices in parliament were neglected, and the democracy representative system was no longer functioning. Therefore; civil movement, especially the opposite site, had accelerated. The masses, both government supporters and against sides which purposely and voluntarily organized, had faced to each other; the conflict elevated to violence which unquestionably related to the level of political stability of Thailand.

As portrayed above, the political instability in Thailand clearly occurred in 2006 and persisted to presence was attributed by the subsequence of the 1997 constitution modernizing political system and structures. Positively, it promoted public participation and strengthened government, however; on the down turn of that it allowed the chance of domination which made the system distorted.

Thailand Political Instability: Solutions

Thailand 1997 participatory-drafted constitution had included a number of political innovations which gave the influential impacts to the country, however in consequence it brought the social breakdown and democracy collapsed by the coup eventually. This is not created by such innovations and political modernization only, but also the readiness of people, as the key component to promptly response to the new things. Identically, the causes of persisting democracy disruption and turbulence are identified as lacking in; political legitimacy, legislative legitimacy, and education and quality Democratization. Thus, to sustainably cope the political instability of Thailand, three concerns related to political modernization are proposed; these are 1) Improving educational quality and promoting rational socialization norms 2) Legitimizing political system by reinstalling trust, reliability and equal justice implementation, and 3) Developing Political Institutions focusing on autonomous and effective performances.

1) *Improving educational quality and promoting rational socialization norms*

Using the theoretical concept of political modernization to cope the political instability of Thailand, the education and rational society must be created. When the political system and institutions have been advanced, the rational society needs to be simultaneously developed, otherwise; the political system cannot properly function. Thai society is still relying on animism, believing in improvable and irrational beings. Despites, there are a number of educational institutes in Thailand; they still struggle for educational quality and this is evidenced by the educational ranking (World Economic Forum 2014) and the indecisive educational reformation. The non-simultaneous development in politics and education has collapsed the system. To politically socialize people to fit the democratized system, they need to create the rational or logical norms, as well as to focus on qualitative, not quantitative education so that the people will perform the right judgment towards situation without being

purposely led by political groups. In addition, attributing by qualitative education, the political members will respect the other's right, even though they have the difference opinions towards things.

2) *Legitimizing political system by reinstalling trust, reliability and equal justice implementation*

Unquestionably, the legitimacy plays the significant part to prolong and secure the system. If people do not rely on the system perceiving that the system and regulation are not able to deliver fairness and justice, this might be caused by the abuse or distortion of the system by some certain group; the system definitely cannot function any longer. To strengthen the system, therefore; the implementation of law, regulation, and policy must be done fairly and equally to every parts, not by specific purpose. In addition, to get legitimized, the political institutions needs to perform their duty as they are designed, not to serve particular political group. Having stated that, the amendment of supreme law absolutely needs to be proceeded as per situation of country norms and culture, this means that the total imitation of other country's system doesn't work well: the law, as well as the political system, ought to be in accordance with the nature of country (Montesquieu 2008).

3) *Developing Political Institutions focusing on autonomous and effective performances*

Being differentiated to increase the efficiency and effectiveness, political institutions need to properly perform their duty effectually and not allow domination by other institutes. The 1997 constitution has intentionally to construct the structure as such the principle. Nevertheless, it left the opportunity of distortion which made the designed institutions could not perform their job in the responsive to country, but for some specific group. To strengthen and increase competency of such institutes, the regulations, check and balance system need to be tighten; the social conditions, not only liberalism, ought to be considered. This means that the political institutions are promoted to work autonomously - not independently. The tighten regulation, as well as the implementation of impeachment towards regulation offenders must be fairly and strictly put into place.

As having been stated above, it illustrates the solutions to Thai political instability concerning the improvement and development according to political development theory. These solutions are proposed to accelerate competence of political system, to create political culture suiting to the system via rational political socialization, and to enhance and install the trust or reliability on political system. Notably, the political development which is done through constitution ought to be concerned with the liberal concept, however nature and specific conditions of the country also need to be integrated.

Conclusion

The constitution is the supreme law determining the country's structure and inter-relation between people and leader. The former Thai leader, especially during the most critical period: the World War II had utilized the constitution to secure his position and unite the people together. Such successful utilization, it was partially contributed by the traditional culture and norms which the authoritarian character was accepted. Once the country has developed to absolute democracy system and the norms of the people are not simultaneously developed, this appeared as the misinterpretation of democracy and lacking of true understanding of its concepts, the political system was immobilized. The example of the 1997 constitution, the first participatory and the innovative constitution, has been raised to project the clearer picture of the prolonged problem in Thai politics. Developing very fast without social readiness and lacking of consideration on nation's norms, the 1997 constitution had attributed problems and conflicts to the nation, and eventually the constitution was repealed and the country has returned to semi-democratic system; this is to stabilize the system and to ease the conflicts. According to the concept of political modernization, the 1997 constitution was to promote equality, differentiation, and effectiveness. The consequences after the implementation of such constitution were in negative outcome; domination over political Institutions, opening for malfeasance, and violation political behavior which contributed the political stability to Thailand. To cope the problem, the revise of constitution by considering the fact, nature and culture of the country must be included. The system must be based on the characteristic of the people and country; it is just not only imitation, but compatible adjustment to their own.

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