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## **Under the Boot: Military-Civil Relations in Thailand since the 2014 Coup**

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# **Under the Boot: Military-Civil Relations in Thailand since the 2014 Coup**

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**Abstract:** Thailand's May 2014 military putsch has ushered in a period of authoritarian control not seen in the country for 40 years. A spiraling number of Thais suspected by the ruling junta of subversion have been arrested for "attitude adjustment" with the number of political prisoners soaring to over 1000 persons. Allegations of torture and sexual abuse of prisoners by soldiers have grown. Political rights and liberties have been quashed. Military courts have become the dominant judiciary of Thailand. Soldiers and junta leaders act with legal impunity. Finally, the junta has sought to enact a new constitution which enshrines a greater political role for the military across the country. In mid-2016 the junta has become even more repressive as opponents in Thai civil society increasingly test the limits of their resistance. How successful has the junta been in establishing mechanisms to ensure their perseverance in power? What are the internal and external challenges to the junta? What is the future of Thai military rule or the beginning of demilitarization? This study addresses these questions.

## **Introduction**

In 2016 Thailand has experienced the longest period of total military rule since the years 1958-1969. A ruling junta has used brute force, the imposition of laws expanding junta prerogatives, and monarchical endorsement to legitimize its hold on the country—all the while promising Thais that democracy will return as soon as a new constitution is enacted. That charter will enshrine greater military clout across Thailand's polity. Given the fact Thai people since 2014 have directly lived under the boot of military control, one might describe this vertical relationship as military-civil relations rather than civil-military relations—the latter existing in civilian-led regimes. But in Thailand, acquiescence to the junta by both civilians and even soldiers themselves has not been complete. Since the 2014 coup Thailand has witnessed sparks of active opposition. As military rule has persisted without end and economic conditions have worsened, resistance has grown among the lower and middle classes. Even some civilians who formerly supported the coup have turned their backs on the junta. Challenged by diminished political support and a tanking economy, the regime has begun using more intimidation and repression while making more promises that Thailand will most assuredly return to democracy in 2017. How successful has the junta been in persevering in power? What are the internal and external challenges to the junta? What is the future of Thai military rule or the beginning of demilitarization? This study addresses these questions.

## **Background up to the 2014 Coup**

Since 1870, Thailand has been influenced by two authoritarian institutions: monarchy and military. The armed forces originally expanded its power as the enforcer of monarchical dominion until a military faction's coup against the absolute monarchy in 1932. The military then became the dominant institution until 1944, when an initial, though brief period of elected civilian control was established. In 1947 the military (with the palace's endorsement) ousted this regime and then, together with the monarchy, dominated a charade democracy. In 1951, the military weakened the king's powers and by itself oversaw the quasi-elected government. However, since 1957 monarchy and armed forces have embraced each other in a mutual alliance of convenience, exerting enormous power outside the arena of formal politics. Given that eight of the nine coups carried out by the military since 1957 were actively endorsed by the monarchy (Chambers, 2013: 585-586), one could argue that these two institutions have been crucial to slowing down democratization in Thailand. In fact they function together as a sort of as a parallel state.

Borrowing from Briscoe (2008, 6–8, 12–16), a parallel state is herein defined as an entity which is organically connected to the state and exerts formal political authority. However, it possesses its own institutional interests outside those of civilian leaders—who must acquiesce to the autonomy of the informal power structure. In addition, a parallel state tends to function in informal opaqueness. But the linchpin of a parallel state is the informal structure's close relationship with “experts in violence”—such as the military—to maximise its interests, although the connection is mutually beneficial. The frailty of formally elected civilian governance benefits this shadowy nexus since it can often manipulate and subvert formal decision-making through influencing the judiciary, political parties, parliament and other institutions. Transactions between elected civilians and the informal structure, based upon context and institutional interest, determine the political equilibrium. The existence of parallel states tends to correlate with patronage networks, political fragmentation, neo-patrimonialism, the prevalence of personalism and stalled democratisation.

Thailand's parallel state can be conceptualized as “monarchised military,” in which an asymmetrical nexus exists among a powerful monarch, a palace Privy Council and a military leadership. The military guarantees the survival of monarchical interests while monarchy offers legitimacy to the armed forces. The association involves ideological dynamics, rituals

and processes as well as discursive symbols such as songs, emblems, flags, decorations, erudition, ideology and various royal projects (Chambers and Waitoolkiat, 2016:427-428).

Yet in the 59 years since 1957, how did monarchised military come to dominate Thailand? It is important to emphasize that this institutional entrenchment would most likely not have occurred without the initial support given it by Field Marshal Gen. Sarit Thanarat, who staged twin coups in 1957 and 1958, establishing the most repressive regime in modern Thai history. Sarit's level of brutality involved the constant purging of potentially disloyal officers and even public executions. He legitimized his dictates through Article 17<sup>1</sup> of his 1959 constitution. Variations on Article 17 have been enshrined into all six constitutions enacted by military coup groups in 1971, 1976, 1977, 1991, 2006 and 2014. Sarit also legitimized each of his coups by coup amnesty laws, following the tradition of three previous putsches in 1933, 1947 and 1951 (coups occurring in 1971, 1976, 1991, 2006 and 2014 would see similar amnesties written into law). Sarit's (and other coup leaders') interests in amnesty owed at least partly to the fact that Thailand's Criminal Code made overthrow of constitutions and seizures of power punishable by death or life imprisonment (Royal Thai Government, Chapter 2, Section 113, 1-3) (Preechasinlapakun, 2013). Finally, Sarit saw a need to legitimize his regime to the people by closely associating it with the palace. He thus gave the monarch an elevated role in Thai society (Thak, 2007, pp. 51-54, 181).

With Sarit's 1963 death, his subordinates Gen. Thanom Kittikachorn and Gen. Praphas Charusatien continued the dictatorship and kept close ties with the palace (Thak, 2007:217-218; Handley, 2006, 156-157). Elections were finally held again in 1969. But these only facilitated the ascension to office of a military-dominated charade democracy, which appointed Thanom as Prime Minister. By 1971, Thanom and Phraphas had become irritated with parliament and they staged an auto-coup. Two years later, in 1973, economic malaise and growing popular frustration with the dictatorship led to student demonstrations. After soldiers fired their guns into the protesters Army Commander Gen. Krit Srivara refused to continue backing the junta. The King's support for Krit forced junta leaders Thanom and Praphas into exile (Morrell and Chai-anan 1987, 141). Once again, military fissures brought political change.

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<sup>1</sup> Translated by Thak (2007) to read: „...[W]henver the Prime Minister deems it appropriate for the purpose of impressing or suppressing actions, whether of internal or external origin, which jeopardize the national security or the Throne or subvert or threaten law and order, the Prime Minister, by resolution of the Council of Ministers, is empowered to issue orders to take steps accordingly. Such orders or steps shall be considered legal.“

With the fall of Thanom and Praphas, the palace became a more powerful political player, though it maintained close relations to the military (Morrell and Chai-anan, 1981, pp.68, 148.). Such an atmosphere was especially conducive to monarchised military. Reacting to the mood of Thailand's populace, Gen. Krit backed elected civilian rule (under monarchy). However, his sudden and strange death in April 1976, the intensifying military factionalism which followed, as well as the King's growing frustration with parliamentary governance all brought about conditions ripe for another coup. (Wright, 1991, pp.250-252). On October 6 1976, on the evening of a bloody, army-supported massacre of student demonstrators, the military carried out yet another coup, once again overthrowing Thai democracy.

One of the king's most trusted Privy Councillors, Tanin Kravichien, was now appointed Prime Minister, the first time that had happened since 1933. The phenomenon signaled the continuing ascendance of monarchy over politics but in league with the military. Yet Tanin's regime brought more repression to Thailand and senior soldiers found him difficult to work with. They putshed him in 1977 and Supreme Commander Kriangsak Chomanand became Prime Minister. Kriangsak enacted a 1978 constitution which allowed for slow steps toward democracy: an appointed prime minister/cabinet, appointed Senate, and elected Lower House (Kamol, 1978:829, 832).

1980 saw the King intervene to appoint arch-royalist Gen. Prem Tinsulanond in place of Kriangsak in what might be considered a silent coup. From 1980 to 1988 Prem and the king dominated Thai politics while stabilizing their control over the armed forces, strengthening the economy and ending the communist insurgency (Neher, 1992, p.594). Nevertheless, there were three coup attempts.

Popular pressures for democratization contributed to Prem's decision to step down in 1988, though the King appointed him to the Privy Council. There he continued to exercise influence over the military—this time by advising the king on choices of military appointments and general military policy. At the same time, the appointed Senate continued to be filled by Prem's military loyalists. Ret. Gen. Chatchai Chunhavan)—whose Chart Thai party had won the 1988 election—became Prime Minister. Chatchai acquiesced to total military control in terms of internal security matters. Yet intensifying arguments between Chatchai and Army Commander Gen. Suchinda Kraprayoon eventually contributed to a coup on February 21, 1991 (Pasuk and Baker, 1995, p.354).

From 1991 until 1992, a military junta once again administered Thailand, though it did appoint a civilian Prime Minister. A military-dominated political party was created and it won multi-party elections in March 1992. When the prime ministerial candidate of that party

resigned in favor of Suchinda becoming Prime Minister, mass civilian protests erupted to expel him from office. On May 19, soldiers fired into the crowd, an event which tainted Suchinda's image to such a degree that the monarch forced him to resign (Surin, 1992, pp.32-33).

Thailand's post-1992 period witnessed the apparent beginnings of democratic entrenchment. The military, tarnished by "Black May" 1992, kept a low profile. Yet military influence remained in the Senate until 2000 with military appointees serving as 55.2% (1992-1996) and 18.2% (1996-2000) of the Upper House (Chambers, 2013:226, 238). Meanwhile, the Privy Council under Prem (he informally influenced it until his formal appointment as Privy Council Chair in 1998) ensured stability for monarch-dominated Thailand. One might think that Prem's clout as a former Army Commander and Army faction leader had greatly diminished since his retirement from the military in 1981. But his eight years as Prime Minister and then appointment to the Privy Council at the exact moment when the active duty military was suffering from an extremely negative public image guaranteed for Prem continuing sway over the military. Finally, given that the King endorsed military appointments based upon the Privy Council Chair's advice, Prem gained insurmountable influence over the armed forces. By 1997, he was already being dubbed the "surrogate strongman" of Thai politics (Chai-anan, 1997:56). In November of that year, he apparently intervened in parliamentary politics by pressuring 12 members of the Prajakorn Thai party to defect from the ruling coalition and join the opposition, thus enabling Democrat Chuan Leekpai to form a coalition government again (McCargo, 2005, 510). By 1998, however, a growing financial crisis in Thailand had made Chuan increasingly unpopular. In 2001, the tycoon-populist Thaksin Shinawatra became in Prime Minister in a landslide election and he immediately challenged Prem's influence over the military.

Thaksin's Thai Rak Thai (TRT) party controlled the country for a full four-year term and then in 2005 was elected for another four years, something which had only once previously occurred in Thailand. Thaksin's victory brought to the premiership a person intent on personally achieving control over Thailand's military and police. The Senate which had been elected in 2000 was (under the rules of the new 1997 constitution) completely elected, and TRT exerted tremendous influence in the Upper House. He saw to it that a great many top seats on the state monitoring agencies (e.g. Constitutional Court, Election Commission) were filled by his own loyalists. Meanwhile, given that Thaksin was a former police official, he quickly established dominating control over the Thai police. As for the military, Thaksin

appointed ex-Army Chief and Prime Minister Chavalit Yongchaiyudh to be his Defense Minister. Using Chavalit's influence, Thaksin tried to establish his own clout, until finally, in 2003 he maneuvered his own cousin, Chaiyasit Shinawatra, into the position of Army Commander (McCargo and Ukrist, 2005:137). By 2004 it seemed as though Thaksin was well on his way to cutting Prem out of control over Thai security forces.

However, in January 2004, a previously-contained Malay-Muslim insurgency in Thailand's Deep South suddenly became extremely violent. Thaksin and Chaiyasit were perceived by arch-royalist opponents such as Prem as responsible. In October, Thaksin was forced to dismiss Chaiyasit and accept a new army commander who was not a proven loyalist—Gen. Prawit Wongsuwan. Though Prawit was to retire in 2005, he was able to appoint as successor one of his close associates (a selection Thaksin reluctantly approved)—Gen. Sonthi Boonyaratklin. Given their support for or role in the 2006 coup, both Prawit and Sonthi proved that they would not be beholden to Thaksin (Blake, October 1, 2014).

But the growing distance between Thaksin and the army leadership coincided with increasing political divisions in Thai society between Thaksin loyalists and opponents (the latter included royalist elites, businesspeople, civil libertarians, the parliamentary opposition (Democrats) and disaffected soldiers) that had begun at the end of 2005. Ultimately, Army Chief Sonthi led a successful coup against Thaksin on September 19, 2006, voided the 1997 constitution, and brought Thailand once again under military control for the first time in 14 years. The coup was backed by Prem and directed by arch-royalist Prem supporters in the armed forces (Ukrist, 2008:126, 129). Though his CNS (Council for National Security) junta was tasked with guaranteeing security, Privy Councilor and Prem stalwart Gen. Surayud Chulanond was appointed as interim Prime Minister, indicating once again the continuing power of monarchised military and Prem. The 2007 constitution which the NLA eventually produced created greater influence for the armed forces within the Senate, allowing for a half-appointed (74 members), half-elected (76 members) Upper House. Following senatorial elections in early 2008, 15.3% of the entire 76 directly elected/74 appointed Senate was now composed of retired military officials. Among the 74 appointed Senators, 14 were ex-soldiers for a 9.3% military reserved domain (based upon author's own calculations). Meanwhile, under Surayud, military spending soared. "The regime's first budget, for fiscal year 2007, contained a 60% rise in military spending. The following year, the defense budget rose 18%. (*Bangkok Post*, July 2, 2009)." Finally, the military gained greater control over



decision-making powers that had previously been reserved for elected civilians. For example, in early 2008 the Defence Act was modified to mandate that the reshuffling of high-ranking officers (the rank of brigadier general and higher) must be vetted by a committee composed of the commanders of the army, navy, air force, armed forces, as well as the permanent defense minister (a military official), civilian defense minister and (optionally) the latter's deputy. The higher number of the committee's military members (vis-à-vis civilians) could ensure that military reshuffle preferences always trump those of an elected government (Royal Thai Government, 2008).

Though the military-endorsed 2007 constitution was legitimized through a popular referendum, rumors circulated that soldiers had attempted to pressure rural Thais to vote in favor of it. A general election was scheduled for December 27. Yet information surfaced that the junta had sought to influence the election's outcome. The purported plan involved using state-run media to attack and discredit the pro-Thaksin People's Power Party (PPP)—in the name of national security (*The Nation*, October 26, 2007). Another alleged plot entailed military lobbying of political parties in a bid to prevent People's Power from forming a government after the election (*The Nation*, November 3, 2007).

Despite military manipulations, the Thaksin-backed People's Power Party (PPP) won the election of 2007, as officially led by Thaksin ally Samak Sundaravej. Yet upon the inauguration of the PPP government in February 2008, the palace, Privy Council and military leadership became increasingly determined to oust him. By March pro-royalist "Yellow Shirt" demonstrators belonging to the People's Alliance for Democracy (PAD) and Democrat party politicians were attempting to whip up opposition to the government on a variety of issues, including compromising Thai sovereignty to Cambodia, corruption and parliamentary dictatorship. When Thailand's arch-royalist judiciary issued decisions unfavorable to the Shinawatras as well as the Samak government, the PAD demonstrations became more chaotic. However, the Army, led by Gen. Anupong Paochinda, refused to carry out Samak's order to disperse the increasingly disruptive PAD protests (*Reuters*, September 2, 2008). By October, Thailand's judiciary had dismissed Samak from office. However, his successor as Prime Minister, Somchai Wongsawat, was immediately confronted with PAD occupations of state offices and Thailand's international airports while security forces refused to guarantee security. On December 2, the Constitutional Court ruled to dissolve the PPP party, forcing the collapse of the Somchai administration, and facilitating the rise to office of an anti-Thaksin government, cobbled together through the influence of the palace, Privy Council and arch-Royalist military

officers (Pravit, December 24, 2008). Anupong and retired Army Chief Prawit were instrumental in this oblique manipulation by monarchised military.

From late 2008 until mid-2011, the anti-Thaksin Democrat party (under Prime Minister Abhisit Vechachiwa) led a coalition which sought to build inroads in rural areas by promoting diluted populist policies while portraying Thaksin as a threat to the kingdom and a pro-Cambodian collaborator. Abhisit granted the military an enhanced budget and full sway over reshuffles. Prawit became Defense Minister, Anupong remained Army Commander and his Deputy Gen. Prayuth Chan-ocha succeeded him in 2010. Abhisit and Prawit also sought to diminish Thaksin's influence in the Royal Thai Police. To this end, Abhisit vetoed the elevation of Prieupan Damapong (brother of Thaksin's ex-wife Pojaman) to become Police Chief in 2009 (Wassana, August 5, 2009). Two massive demonstrations by the pro-Thaksin United front for Democracy Against Dictatorship (UDD) or "Red Shirts" in 2009 and 2010 were violently quelled by the army, the latter suppression leaving at least 90 people dead and over 2000 injured (*Associated Press*, May 19, 2012).

However, the repression of the "Red Shirts" tarnished the image of the military, the government, the Privy Council and to some extent even Thailand's royal institution. In the July 2011 general election, the pro-Thaksin Puea Thai Party won a landslide victory, propelling Thaksin's younger sister Yingluck to the office of Prime Minister.

Her 2011-2014 government was never able to exert control over the Thai military. It came to office astride a military the senior brass of which detested her family. Initially, she attempted to mimic Samak and simply appease the military. Indeed, during the 2011 military reshuffle, Yingluck agreed to almost every appointment favored by Army Chief Prayuth (Wassana, October 6, 2011). In 2012, her government threatened to use its majority of seats in the lower house of parliament to modify defence laws to increase civilian control over the armed forces (*Komchadluek*, January 8, 2012). However, this threat was not translated into action. By 2013 Yingluck, suspicious of Prayuth, increasingly relied upon police (most of whom were pro-Thaksin) to guarantee security for her government. Meanwhile, Yingluck gave police an expanded role in her southern counter-insurgency policy (*The Nation*, September 23, 2011). At the Defence Ministry, she employed pro-Thaksin security officials to manage security affairs—keeping distance from Prayuth.

In October 2013, anti-government demonstrations suddenly increased in Bangkok in reaction partly to attempts by Yingluck's Puea Thai Party (PT) to gain parliamentary passage of a blanket amnesty covering Thaksin who had been a fugitive from Thai law since a court conviction against him in 2008. The principal protest group—the People's Democratic

Reform Committee (PDRC)—was led by anti-Thaksin Democrat Suthep Thaugsuban, who had close connections with Prawit, Anupong and Prayuth, given that he had worked with them as Deputy Prime Minister during the 2008-2011 Abhisit administration. According to Suthep, he and Prayuth had colluded to oust pro-Thaksin governments since 2010 (Nauvarat, 2014). Meanwhile, Prayuth refused to call out the army to defend the elected government. To counter the protestors, Yingluck used police to guard various areas of Bangkok and also dissolved parliament looking to gain a fresh mandate following what she expected would be a landslide re-election. The protesters, however, succeeded in disrupting polling during the February 2014 election and the Constitution Court voided the outcome. By May, PDRC demonstrations in Bangkok and parts of southern Thailand had become increasingly unruly, involving growing occupations of government facilities, injuries and fatalities. In March 2014, the Army Commander publicly changed his previous stance that the army would be neutral in the crisis, now announcing that he could not promise that there would not be a coup (*Bangkok Post*, March 1, 2014). Meanwhile, reports emerged that both active-duty and retired Navy and Army officials as well as individuals who had received training from professional soldiers were providing protection for the PDRC (*Bangkok Post*, February 22, 2014; Pollard, February 25, 2014).

In early May, the Constitutional Court found Yingluck guilty of abuse of power and compelled her to leave office, though she was replaced by Thaksin loyalist Niwatthamrong Boonsongpaisan. Three weeks later, on May 20, following a refusal by the Senate to appoint an unelected Prime Minister, Prayuth declared the instatement of the Martial Law Act of 1914. He claimed that martial law was necessary to stop the violence and allow the army to bring peace back to Thailand (Phoonphongphiphat, 2014). As his first two acts in the role of martial law enforcer, Prayuth immediately established an army-controlled Peace-Keeping Command Centre (PKCC) and dissolved the government's Centre for the Administration of Peace and Order (CAPO) which Yingluck had set up under the Internal Security Act. Given that she had staffed CAPO with police (generally deemed as loyal to the Shinawatras), their replacement with pro-Prayuth soldiers was crucial to any plan Prayuth might have to hatch a coup (*Bangkok Post*, May 20, 2014).

Meanwhile, it was necessary for Prayuth to establish a rationale for a coup if he was going to carry one out. Thus, only hours after martial law was proclaimed, the military forcibly brought representatives from the two conflicting sides together for talks to resolve the crisis (including Puea Thai and Democrat politicians). But after two days, Army Chief Prayuth bitterly declared: “The talk knows no end because you all only speak about law. [...]

The government insists that it won't resign, right? [...] Sorry, I must seize power (*Matichon*, May 23, 2014).”

### **The 2014 Coup and Military Rule Since**

On the evening of May 22, Prayuth appeared on television to announce the putsch. Although Prayuth and his new National Council for Peace and Order (NCPO) junta had come to power by force, and indeed he announced the accession of NCPO rule on televisions, Prayuth refused to use the word “coup”. The NCPO junta directorate was composed of the leaders of the Army (Prayuth), Navy, Air Force, Supreme Command, and Police. A 10-member junta advisory team was headed by Prawit Wongsuwan and Deputy Chief Advisor Anupong Paochinda. As night fell on May 22, the NCPO voided the 2007 constitution except the articles dealing with the King; dissolved the civilian government; and two days later dissolved the Senate. The NCPO assumed control of all state agencies. It detained many politicians (mostly from Puea Thai party), including Yingluck and Niwatthamrong, as well as several “Red Shirt” members. The junta immediately banned all political demonstrations, closed all educational institutions for two consecutive days, and issued a 10pm-5am curfew for two weeks. The media was placed under strict military censorship and some media programmers were detained (Taylor, May 22, 2014).

Officially, the military seized power to safeguard monarchy, help “the country [...] return to normality quickly, [...] for society to love and be at peace again;” to “push through political reform,” “stop violence,” and seek “a way out of [the country’s] crisis (Witthaya, 2014).” Yet there were several informal rationales which seemed more suited to the coup leaders’ objectives. These included but were not limited to a) ensuring arch-royalist order amidst an impending monarchical succession; b) re-asserting monarchical-military domination over Thailand amidst perceived threats from civilians; c) consolidating the domination over the armed forces and police by the junta leaders’ military faction; and d) enhancing military corporate interests, particularly those of the senior brass. On the day of the putsch, the NCPO claimed that it had received a royal endorsement of it. However, the King was not publicly seen with the junta leader until he received from a groveling Prayuth a copy of the 2014 interim constitution on July 22, 2014 (MCOT, July 23 2014). Nevertheless, such an endorsement, however late, represented once again how in Thailand a palace endorsement was necessary to legitimize the actions of a monarchised military.

Since the coup, the NCPO has collaborated with the palace and Prem's Privy Council to ensure that Thailand's parallel state of monarchy undergirded by monarchised military remains unhindered. Yet the relationship has sometimes involved friction given that there have sometimes been differences of opinion between junta leaders Prayuth and Prawit on one side and Prem and Deputy Privy Councilor Surayud Chulanond on the other (Chambers and Waitoolkiat, 2016).

To establish popular support, the junta has sought to implement diluted populist policies which it calls *pracha rat* or "state populism (Audjarint, 2015)." It has also veiled itself in the ideology of nationalist and monarchical guardianship. Indeed, Prayuth, shortly after the 2014 coup, initiated a weekly Friday evening address on television and radio which was itself called "Returning Happiness to the People." The idea was to bring Prayuth closer to Thai people, criticize the previous regime and laud the expected accomplishments of the new dictatorship itself. A favorite topic of discussion was Prayuth's expression of loyalty to the king and reconciliation under monarchy (Associated Press, September 12, 2014). Meanwhile, the junta embarked on a broader, psychological "Returning Happiness" campaign, which included various forms of entertainment, discounts, nationalistic rhetoric, and twelve, pseudo-fascist, educational reforms that were required to be taught in schools (Jitsiri, 20 July 2014).

In addition to these ideological "carrots," however, the junta has used "sticks": arbitrarily imposing law across the country (backed up by a military court system with no appeals) to rationalize the use of force. These methods helped to establish the NCPO's control over Thailand in 2014 but have also sustained it over time.

First, the regime established a Peace Maintaining Force (PMF) tasked with stifling any dissent, arresting any person who defied the junta's orders. It would physically target anti-coup protest leaders perceived by the junta as insurgents, repress armed groups, and search out potential caches of war weapons. The force would also attempt to connect with rural people to convey to them the junta's policies and ideas. Most bluntly, however, the PMF acts as the enforcer of junta decrees and military court decisions. The PMF itself is composed of soldiers from all across Thailand (the 1st, 2nd, 3rd and 4th Region Armies) as well as the Special Warfare Command and the Army Air Defense Command. Its commander could also mobilize troops from the air force, navy and police (Wassana, May 28, 2014). By mid-2015, the PMF had summoned, arrested or detained approximately 1,222 people (United States, 2015, p.7).

Second, military courts ascended to the apex of Thailand's judiciary, corresponding with the May 20, 2014 imposition of the 1914 Martial Law Act. Post-coup military decree

37/2557 mandates that all national security and politics-oriented cases be tried in military courts although the legal definition of “national security” has been ambiguous. Procedures in these courts tend to be longer, mostly lack transparency, and the judges are all military officers. Since the May 22 coup (until September, 2015), 700 civilians were tried in military courts (including 144 political cases). Political cases included lese-majeste (insults to monarchy), sedition, violations of the junta’s ban on speech and public assembly (*Bangkok Post*, September 11, 2015). Unlike civilian courts, in military courts defendants are presumed guilty at the outset of trials and there is no appeal to a higher civilian court. Moreover, military court judges act in accordance with the orders of senior military commanders. Furthermore, a 2015 amendment to the Military Court Act of 1955 allows military commanders to detain persons for up to 84 days without any charge even before the military trial begins. This bypasses judicial oversight guarantees provided under Thailand’s Criminal Procedure Code. There have been numerous allegations of torture by the Thai military of persons held incommunicado during detention. Finally, only in May 2015 did military courts begin to offer a right to counsel for civilian defendants (Lawyers Rights Watch Canada, 2015). As the NCPO junta continues to entrench military influence across Thailand, there is a possibility that military courts will remain insulated from civilian jurisprudence even after the return to democracy.

Military courts have especially targeted Thais perceived to have violated Thailand’s *lese majeste* (insults against monarchy) law. Under Section 112 of Thailand’s Criminal Code, anyone found guilty of defaming, insulting or threatening the king, queen, heir-apparent or regent can be imprisoned for up to 15 years. Though the law treads across free speech, the junta and its allies appear to have used Section 112 to go after those Thais seen as opposing monarchical and military vested interests. Since the 2014 coup, the military has investigated at least 53 individuals for insulting royalty with the far majority of cases ending in conviction (*Reuters*, September 4, 2015). Lese majeste trials are handled by military courts and the sentences meted out by them have been harsher and disproportionate than sentences of civilian courts. Ultimately, since the coup, lese majeste cases have been fast-tracked by the junta, which has also zealously sought to have foreign countries extradite those suspected of violating 112 back to Thailand to face trial and imprisonment.

Beyond courts, the NCPO has imposed a series of laws to establish the perception of legal legitimacy and thus spearhead Thailand’s move toward a diluted democracy. From May 2014 until March 2015, the country was administered under the Martial Law Act of 1914. Section 6 of that law stated that “civilian authority shall act in compliance with the

requirements of the military authority.” Indeed, this Act gave the army commander and military courts veto power over civilians (Royal Thai Government, 1914). July 22, 2014 witnessed the enactment of a military-drawn up interim constitution. Section 48 amnestied all junta leaders or persons serving them from any legal punishments or liabilities for carrying out the coup or enforcing the dictatorship. Meanwhile, Sections, 6, 10, 28, 30 and 32 allowed the junta to basically choose most of the appointed members of new political institutions which would oversee the writing of a new constitution and prepare Thailand for a new democracy. Finally, as with previous junta constitutions (e.g. 1959, 1971, 1977, 1991, 2006), it contained a law giving the junta leader complete power. Thus, Section 44 stated that whenever the junta leader believed it was necessary to deal with “any act,” he could issue “any order...regardless of the legislative, executive or judicial force of that order. Section 47 stated that all junta Acts would be “legal, constitutional and conclusive (Royal Thai Government, July 22, 2014).” On March 20, 2015, the NCPO suspended the use of the Martial Law Act and began to apply the new constitution, particularly Section 44.

The junta established four institutions formally designed to make law and make ready for Thailand a new constitution. These included the National Legislative Assembly (NLA), a National Reform Council (NRC) and a Constitutional Drafting Committee (CDC). The first body contained 220 members, including 9 police, 80 active-duty military officers and 32 retired soldiers.<sup>2</sup> The NLA acted as an apparent legislature for the junta, though it rubber-stamped junta decisions. It chose Prayuth as Prime Minister in August 2014. The second body was Prayuth’s cabinet, composed of retired military officers and allied aristocrats. Third, a 250-member NRC, was responsible for putting forward general recommendations for a new constitution. NRC membership consisted of security officials, ex-politicians, bureaucrats, businesspeople and academics (National Reform Council). Finally, a 36-member Constitutional Drafting Committee was actually charged with putting together a draft constitution. Members of CDC included conservative academics, civilian bureaucrats and five military officers.

In September 2015, the first draft of the new constitution was rejected by the NRC. Most NRC members rejecting it were military and police. Allegations emerged that the NCPO itself had ordered security officials who were members of the NRC to vote down the charter so that the military could remain in power longer. Following the constitutional

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<sup>2</sup> Authors calculations, based upon Parliament of Thailand (Senate), “Members of the National Legislative Assembly,” [http://www.senate.go.th/w3c/senate/senator.php?url=home&term\\_id=18](http://www.senate.go.th/w3c/senate/senator.php?url=home&term_id=18).

draft's rejection, the junta replaced the NRC with a new appointed National Reform Steering Assembly, which was half-filled with military appointees. A new CDC was appointed as well (Lefevre and Panarat, October 5, 2015).

In March, the new CDC submitted a new draft which was then slightly modified by the NCPO. In general, the proposed charter turns Thailand's clock back to 1991 when the military was able to exert more direct influence across Thai constitutions. The new constitution attempts to achieve this goal in four major ways. First, the draft allows the military five years of enshrined influence in the first five years after the next election. Second, the Senate, previously fully elected per the 1997 constitution and then half-elected per the 2007 constitution now becomes a completely appointed body with 244 selected by an NCPO-appointed committee and the remaining six composed of the military supreme commander, the army, navy, air force, and police chiefs, as well as the permanent secretary of defense. The Senate can veto laws from the elected Lower House and initiate no-confidence debates against a Prime Minister. Third, the charter establishes that before each election, all political parties must nominate three candidates to be prime minister, including unelected persons such as junta leaders or military personnel. Fourth, a new electoral system will be used whereby a 500-member lower house is chosen through mixed-member apportionment (MMA) which is meant to weaken large political parties and produce a greater number of smaller parties (*Deutsche Welle*, March 29, 2016). In this way the no large party (potentially challenging to aristocrats and soldiers) can ever again come from Thailand's election system. On August 7, 2016, a referendum on the constitution was put to the people and it passed by a margin of 61.4 % though turn-out was only 50% (*Aljazeera*, August 8, 2016). For the junta, the success of the referendum offered popular legitimacy and it could now proceed with enshrining greater military prerogatives into law.

Meanwhile, as the military proceeds down its self-proclaimed "path back to democracy," it entrenching control over areas which have previously been under civilian control, such as the economy, Deep South insurgency and local administration. In terms of the economy, in June 2014, the NCPO established a "super-board," chaired by junta leader Prayuth, which was charged with overseeing and reforming all 56 of the country's state enterprises. The junta pressured several state enterprise board members to resign, and these were replaced by individuals more considered by the junta to be more amenable to its interests (Sucheera, August 15, 2014). At the same time, Prayuth became chair of Thailand's Board of Investment (BOI). To help him oversee the economy, Prayuth promoted Air Chief Marshal Prajin Jintong as junta economics czar and then to the post of Minister of Transport.



Assisting Prajin has been Gen.Chatchai Sareekayala as Commerce Minister and General Dapong Rattanasuban, as Minister of Natural Resources and Environment. The junta has also increased the number of military officials sitting on the boards of state corporations. In 2015, each of the state enterprises has at least two such officers sitting on its board of directors.<sup>3</sup>

Second, regarding Thailand's Deep South counter-insurgency (in which Malay-Muslim rebels have for years clashed with Thai security forces), the military since the coup has quickly reasserted its complete control over policy in the troubled region. On May 30, 2014, the junta proclaimed Announcement 34/2557. The decree invalidated the Abhisit administration's 2010 law that had removed the Southern Border Provinces Administration Center (SBPAC) from under the control of the armed forces-dominated Internal Security Operations Command (ISOC), and made the SBPAC and ISOC separate entities. Thus, beginning in late May 2014, SBPAC would once again be under the control of ISOC and hence the military. In July Announcement 98/2557 formalized a three-level structure to confront the insurgency. At all three levels, the military was firmly in charge while there was no policy input by elected civilians or officials chosen by elected civilians (International Crisis Group, 2015:16-17).

Third, local administration across Thailand, which in 1994 was placed under decentralized democracy (at the village, sub-district, city, and (partially) provincial levels) has, under the NCPO been snuffed out in favor a junta preference for appointed local officials. On July 10, 2014, the NCPO suspended all local elections and issued two announcements stipulating guidelines for a new structure of appointed decentralization. Sitting local government council members would, upon the expiration of their terms, be replaced by a new system whereby provincial selection committees (whose members would be bureaucrats selected by the junta) would select the members of each local governing body. Two-thirds of the members of each body were required to be active or retired bureaucrats. Then, on May 4, 2016, the NCPO issued Order No. 22/2016 which permanently enshrines Ministry of Interior control over local governance. The junta's purpose in altering the local governance system was to improve effectiveness and delivery of resources to local people. (Grichawat, October 2014; Kamuansilp and Draper, 2016). Yet it is much more likely that the junta has changed the model of local governance precisely to intensify military control

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<sup>3</sup> Author's calculations based on examinations of the lists of members of Boards of Executives of each of Thailand's 56 state enterprises.

over local people, a policy that would remain unchanged even after the return to Thai democracy.

To pay for its expanded influence across Thai society, the junta has increased the size of the defense budget year by year since the 2014 coup. The national budget for fiscal year 2015 allocated US\$6.07 billion or 5% for defense (Saksith, August 19, 2014). Thailand's proposed 2016 national budget anticipates an allocation to defense of US\$6.3 billion, representing a nominal increase of 7% over military spending in 2015, amounting to almost 8% of the total state expenditure for that year and about 1.5% of the country's GDP. According to *Jane's Defense Budgets*, the Royal Thai Army generally receives 50% of defense expenditures while the Air Force and Navy receive 22% (Grevatt, et al., April 28, 2015). The junta justifies the growing military budget on security needs. As junta leader Prayuth has said: "If we don't increase the budget and purchase new weapons, then nobody will fear us (Lafevre, August 18, 2015)."

By late 2016, Thailand's junta could clap itself on the back given that it had succeeded in driving the popularly elected Puea Thai government from office and imposing itself—legitimized as a monarchised military—across Thailand. In addition, the NCPO was well on its way to preparing for elections in 2017 which were based on a military-backed constitution that enshrined enhanced powers for the armed forces into law.

## **Conclusion**

It should come as no surprise that, although military coups and juntas are generally anachronistic in the 21<sup>st</sup> Century, Thailand continues to be plagued by a persistent, vicious cycle of coups. The reason for this phenomenon is that Thai democratization has been lost in transition since the military coup that overthrew the country's first period of elected civilian control in 1947. The periods of Thailand's elected civilian governance (1946-1947, 1975-1976, 1988-1991, 1992-2006 and 2008-2014) demonstrate that though democracy has gained traction over time vis-à-vis authoritarian forces, it has either not moved toward consolidation or has been putsched from power precisely because of Thailand's inability to dislodge from its path the overshadowing influences of monarchy and military. The parallel state of monarchised military has simply been too powerfully resistant of change for democracy to take root and place these authoritarian institutions at bay. In many cases elected civilian governments (e.g. Kukrit Pramoj) have shown an unwillingness to resist this parallel state; in other cases (e.g. Thaksin Shinawatra), they have lacked the capabilities. At times, elected

civilian conservatives (e.g. Abhisit Vechachiwa) have preferred to support the status quo rather than make changes for greater democracy.

The advent of Thaksin Shinawatra produced a growing realization by Thailand's "awakened" rural poor constituency that their voice and vote mattered. The result was the continuing re-election of populist governments willing to challenge vested interests which frightened the country's entrenched aristocracy. The failures of the 2006 putsch and 2008 "silent" coup to stamp out this democratic challenge exactly at the time when the monarch and Privy Council Chair Prem were nearing the ends of their lives were among the principal ingredients that precipitated the 2014 coup. This latest putsch also offered a chance for the leading military faction to consolidate its power over the country. Based upon its ability to remain in power longer than any junta since 1968, one can convincingly argue that the NCPO has established an extremely effective strategy for ensuring its hold over Thailand. In terms of ensuring its perseverance of power over the long term, junta leaders appear to have learned from the mistakes of the 2006-2008 regime (and the errors of the Myanmar military in its 2008 constitution) in terms of enacting a constitution which will weaken political parties and dilute the electoral system to such an extent that super-majority political parties (by numbers of MPs) such as Thaksin's Thai Rak Thai, Yingluck's Puea Thai or Aung San Suu Kyi's National League for Democracy cannot effectively come to office. At the same time, the new constitution's provision that that Prime Ministers can be unelected individuals will give military and coup leaders opportunities to serve as leaders in this new regressive democracy. Moreover, given that the Senate is to be completely appointed and can censor the Prime Minister, the military can guarantee for itself a veto power over any potentially recalcitrant elected civilian Prime Minister. By 2017 the NCPO hopes to pass new Organic Laws covering Political Parties, Elections and other related subjects. However, there will be no referendum for such legislation, and it could thus be written in a way to further weaken parties and produce a more long-lasting elevation of military clout.

In 2016, the junta does possess internal and external challenges. These come from the Thai people in general as well as the Privy Council, military, monarchy and international community. Taking these groups one by one, the NCPO must first ensure acquiescence by the Thai people to its continuing tyranny, a strategy involving the careful use of both "carrots" and "sticks." Second, the regime needs to effectively prop up the Thai economy so that urban middle and upper classes do not turn against the regime. Third, it must sufficiently curry favor with Privy Council Chair Prem Tinsulanond guarantee his continued support. Fourth, it

needs to balance the various factions of the Thai military—offering perks but also penalties—to prevent any potential counter-coup. Fifth, regarding the palace, junta leaders must be extremely careful how they manage this relationship, especially as royal succession is close to occurring. Finally, by placing Thailand on a path to elections in 2017 and carrying out a referendum on the constitutional draft, Thailand's junta will likely enjoy greater relations with countries such as the United States which want proof of the NCPO's commitment to greater democratization (and human rights) in the country.

For the future, it is likely that military rule will continue until military-held elections (occurring in 2017 at the earliest) although the military will probably remain a dominant actor for many years to come. Demilitarization will only come when the military's image becomes severely tainted in the public's eyes or economic necessity demands it. Ultimately, three scenarios may await Thailand. First, this junta's new guided democracy will continue unabated and only slow and incremental moves toward any political progress occur after 2017 elections. In this situation, current NCPO leaders might assume Prem's mantle of power upon his nearing exit from the political scene and come to dominate the country as a sort of *éminence grise*. Second, the royal successor, refusing to be pliant to this junta, establishes guiding control over the Thai polity and either supports the continuing system or lends support for regime change. Third, as the economy continues to weaken and Thai people become exhausted by a military-dominated system, enormous demonstrations followed by military shootings (echoes of "Black May" 1992) again tarnish the military's image and force constitutional changes toward greater political space.

The current junta represents only the latest chapter in Thailand's vicious cycle of military coups. The legacy of Thai history tells us that putsches have been the only means of effecting immediate political change—with the interests of military or monarchy and military benefiting. Though the country is under the boot of military dictatorship in 2016, it is probable that Thailand will experience democratic ouster by khaki boots again in the future. Perhaps only another extreme political crisis which accompanies divisions or weaknesses in the two authoritarian institutions (as in 1944) will finally open the doors to the entrenchment of elected civilian rule. But until such a point in time, authoritarianism—explicit or cloaked—looks set to persevere in Thailand.

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