

Legitimacy will mitigate the risk of tyranny in Thailand

By Pongsak Hoontrakul¹
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THE risk of tyranny by a majority and/or minority in the current Thai political context is a real and present danger. Last month in the Bangkok Post, Dr Thitinan Pongsudhirak, director of the Institute of Security & International Studies at Chulalongkorn University, analysed the current deadlocked political situation and the tyranny of a minority, namely the People's Alliance for Democracy².

This month in The Nation, Thanong Khanthong, provided more insights by comparing and contrasting the tyranny of the majority and the minority. This time the real tyranny seems to be from the majority, the incumbent pro-Thaksin government and its followers.³

This has generated more interest and discussion. Nevertheless, both articles offer no real strategic promise to solve our current political impasse. Hence, I wish to share some of my thoughts on this issue.

The basic social condition is that government exists because people disagree more often than not. Government in essence is supposed to enhance intellectual gain for long-term peace and prosperity, through its people exchanging ideas, concerns and wishes.

Discussion must be focused on the "margins" of variation in political institutions, not on the "totality" of such institutions. Pro-Thaksin versus Anti-Thaksin, democracy versus non-democracy and royalist versus republican are examples of the former that can lead to more violence and division.

The latter is concentrated more on what changes in the existing set of rules defining the political order that all citizens can agree upon. Should one consider an amendment of the current Constitution regarding the ministerial

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² See More details at <http://www.bangkokpost.com/topstories/topstories.php?id=130220>

³ See More Details at <http://blog.nationmultimedia.com/thanong/2008/10/08/entry-2>

qualification issue from Section 174 or modify Section 237 on the interpretation of abolishing any political parties whose executives commit wrongdoing (red card)?

Can we afford free universal healthcare and education? Or is a co-payment system more sustainable. Both may be subject to different interpretation for different political norms, or may be too impractical to follow for social welfare enhancement. Naturally, there are trade-offs to consider for all decision making.

What is just and fair depends on people, culture and the path of political and economic development. Governments should work for the public good, wherever that is possible and feasible, while the private sector and market drives the economy with "sufficient red tape and crucial oversight". What constitutes coherence and legitimacy then for rule changing? I want, you want, but really what do we want?

The unintended consequence of these questions is that we may be locked in a dilemma. The choice of rules creates a society that is defined by its constitution. The gist might actually be the choice of distribution of power, wealth and other resource allocations.

There are at least three sources of legitimacy and authority to govern the country. First and foremost is the political process and democracy. But the wishes of the majority may not be a full reflection of the whole of Thai society. Is there such a thing as the "majority," which our nation finds just occasionally through voting or some other political process?

Plato long warned that democracy might result in the tyranny of the majority. Aristotle claimed that rule might best be carried out by benevolent elites, while democracy is the least evil form of government.

A second source would be from experts and the bureaucracy. Without their skill, experience and intellect, mob rule and the average wit of the mob would eventually determine the fate of our nation.

The voices of the poor and needy should be heard to ensure equity of distribution, while some intellectual input from the elites must also be considered for efficient institutional reform policies. Without one or the other, peace and prosperity may not be attained in the long run.

Finally, it is the markets that foster economic growth and allow entrepreneurs to show their virtue and spirit. Markets are man-made and are not perfect. Still, imperfect markets may provide a self-adjusting process that is a useful social welfare enhancement mechanism, if operated effectively as well as efficiently.

Diverse preferences, different endowments, specialisation, division of labour and economies of scale are some of the major causes of gain from trade. Markets are typically operated under some authority to prevent individuals or

groups from manipulating the market for their own self-interest and benefit. When markets fail from time to time, government intervention is needed to fix them, not to replace them.

In a nutshell, the trinity sources of legitimacy (as summarised in the graphic chart, left) are interactively derived from information, tastes and the culture of society. In other words, the social-political-economic problem is a problem of the utilisation of knowledge that is not given to any mortal in its totality.

Democracy without constitutional liberalism (e.g. the rule of law, protection of property and liberty, and the jurisdiction of collective choice) is the most terrifying kind of tyranny.⁴

This is part one of a two-part series.

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Civil disobedience against elected Govt

By Pongsak Hoontrakul
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We are now observing civil disobedience against an elected government that in turn is killing its own people on the streets in order to deliver its speech on time. These must be the works of the two evils, surely not by democracy advocates.

The cybernationalism in social networking and the war of words in the traditional media are furthermore booming and easily propagating more hatred and lies. These are tearing people apart. Censorship can be abused and manipulated. Creating transaction cost by taxing and penalised wrongdoing with fines based on its traffic volume may fund social mentors, credible rating and truth tracking volunteers in all media space. Let's market for information and trinity sources of legitimacy works.

⁴ More discussion at "Social Choice: An Overview" presentation by Prof. Michael Munger, Duke University, May 2006.

Even in the US, there were a few silent "coups" and a civil war. In 1787, for example, after emptying its Treasury and the increasing threat of a social revolution caused by the power struggle between states, their founding fathers met behind closed doors in Philadelphia and came up with a consensus of a more effective central government from what type of democratic representation. To avoid the tyranny of the majority is to avoid permanent fixed majorities. To avoid the tyranny of the minority is to empower them to stop or slow down things. The aim is the effective government to guard one part of society against the injustice of the others.⁵

After many years of civil wars and power struggle in the UK political system, for another instance, the House of Lords (or Senate) is still partly appointed by the Queen and by hereditary peers modelled from the ancient monarchy council⁶.

As a matter of fact, the UK constitutional Reform Act 2005 provides for a Supreme Court of the UK to take over some existing roles of the Law Lords and others for political oversight. In both the US and UK cases, compromises have to be made along the way and its political society has to be developed organically to gain acceptance over hundreds of years.

A simple separation of power like the US presidential system is not effective in the parliamentary system because most of the ministers come from the majority side of the elected members of the parliament. A few independent agencies that have been selected and approved by elected MPs are ineffectively looking after the minority side interest and corruption allegations. The opposition, by design as a minority, has no power. So people take their grief to the streets.

In essence, both executive branch ministers and legislators are more or less from the same group of people. The remedy may be to decentralise the power selectively into different branches in different modes of election and different principles of action, but to maintain many authorities and issues to uphold national unity, monarchy and interest at the centre.

On the structure, the national government should take care of defence, monetary and fiscal policy, information and communication and natural resources for national interest. The provincial level government and councils may look after schools, public transport, parks, hospital, welfare, roads, food and drug inspections, corrections and liquor control. The shared power and responsibilities should have public participation and be administratively implemented with the ability to raise tax and funding at its level, at least in its limited sense.

⁵ More discussion at "Foundation of the US Government" presentation by Prof. Gail Johnson, The Evergreen State College, WA, Fall 2003.

⁶ See more details at <http://www.parliament.uk/faq/faq2.cfm> and current breakdown at http://www.parliament.uk/directories/house_of_lords_information_office/analysis_by_composition.cfm for the UK House of Lords.

The provinces that are unable to be selfgoverned for whatever reasons may remain at the national government. On the legislative branch, elected officers in each institution (eg MP, senate, kamnans, etc) may be rotated to retire in different intervals every 2 to 5 years in an arbitrary manner. Frequent minielections may prove to be effective and provide regular checks and balances to our political parties, because different voices of people will be heard in many parts of the country at different times. After all, the only thing that our politicians and lawmakers fear the most is the election.

The upper house or senate should remain as in the UK model with partly appointed officials for the voices of experts and bureaucrats, while elected senators may serve for different terms (two to five years) as the watchdog of the big and longterm picture and corruption. If the parliamentary system is regularly rotated in the flow concept, the executive branch would be more responsive to different voices of diverse people.

In conclusion, democracy works fine if everyone agrees on the rule of engagement. Since some choices have to be made, we should not leave it to either imposed (tyranny) or arbitrary (random of procedure-driven). Institutions designed should be humanly devised rules that shape and direct human interactions.

The actual choice of institutions is hard to choose with countless ways to shape and form. I have provided some examples of a parliamentary flow system and thoughts on sharing power and responsibility. It is a start to think in terms of compromising and rule changing to be accepted by all rather than confrontation because at the end of the day we need to coexist for peace and prosperity, especially in the midst of global financial crisis.

(End of a twopart series. The first part was published on Thursday.)

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