

SUMMARY OF THAILAND GOVERNANCE ASSESSMENT

Thailand has been undergoing fundamental political changes since the 1932 revolution that replaced an absolute monarchy with a constitutional system. (This summary is based on ADB 1999b.)

Basic Parameters of Governance in Thailand

Historical Background

Although the beginnings of Thailand's centralized system of government can be traced back to the 13th century, King Chulalongkorn (1868–1910) is credited with establishing the basis of the modern Thai state by, for example, replacing local hereditary governors with appointed senior officials and enhancing the separation between personal and public property. In 1928 the Civil Service Act was passed, which created the modern Thai civil service and standardized administrative procedures and practices in all ministries.

In 1932 the Peoples' Party overthrew the absolute monarchy of King Rama VII in a bloodless coup. The first Thai constitution was drafted that year, and the first parliamentary elections were held in 1933. Reformers introduced the notion of guided democracy, in which a lower house of popularly elected representatives would be balanced by an upper house of appointed legislators. However, these early democratic reforms were short-

lived. In 1933 a military coup installed Colonel Phraya Phahol Pholphayuhasena as the new prime minister. Thailand subsequently oscillated between army and civilian leadership, mediated by the monarchy. The outcome was chronic political instability and administrative fragmentation: between 1932 and 1992, Thailand had 50 different governments. Unlike other countries in the region, Thailand was not colonized.

The bureaucracy enjoyed great power and status under both military and civilian regimes, and its supremacy over day-to-day administration was unchallenged. The normal trappings of democracy were weak and underdeveloped, and local government as such was nonexistent. Nevertheless, accomplishments in areas such as infrastructure development, education, and health laid the foundation for subsequent rapid economic growth.

From the 1930s, state intervention in the economy expanded markedly as new elites used an array of economic interventions to exercise state power and divert resources to support their individual bureaucratic fiefdoms (Klein 1998). By the 1960s state intervention in the economy had slowed and the Government was developing plans to privatize some SOEs. Following the upheavals of the early 1970s, economic interests and the political parties associated with them became more powerful as the economy developed, and business interests played an increasingly important role in the House of Representatives. New dynamics—such as the media, student protests, and the growth of civil society—were also growing factors in political and administrative life.

In May 1992 Chuan Leekpai, a leader of the Democratic Party, became Prime Minister. Chuan dissolved parliament in May 1995, and the Thai Nation Party won the largest number of parliamentary seats in subsequent elections. Party leader Banharn Silpa-archa became prime minister, but held the office for only a little more than a year. Following elections in November 1996, Chavalit Youngchaiyudh formed a coalition government and became prime minister. The onset of the Asian financial crisis caused a loss of confidence in the Chavalit government and forced him to hand over power to Chuan Leekpai in November 1997. Chuan formed a coalition government based on the themes of prudent economic management and the institution of political reforms mandated by Thailand's 1997 constitution. Following an election in January 2001, a new government was constituted led by Thaksin Shinawatra of the Thai Rak Thai Party.

The 1997 Constitution

The National Assembly overwhelmingly approved the new 1997 constitution, but the support belied deep divisions between reformers and conservatives. Several unique features of the new constitution set it apart from its predecessors, including strengthening the rule of law and human rights; enhancing accountability mechanisms and enforcing much stronger conflict of interest standards; and improving transparency, participation, and decentralization (the subsequent discussion draws heavily on Klein 1998). The constitution also provides one of Asia's most liberal codes of individual freedom, including both political rights (freedom of speech, religion, association, and assembly) and social rights (the right to receive health care and 12 years of education at the state's expense). To enhance transparency, the constitution also provides the right to access public information in possession of a state agency, enterprise, or local government organization.

The new constitution contains a number of provisions to strengthen accountability institutions and improve the delineation of conflict of interest. In 1999 the Counter Corruption Commission, created in 1975 and formerly located in the Prime Minister's Office, became the independent National Counter Corruption Commission (NCCC). The Office of the Auditor General (OAG) also became an independent

public agency in 1999 reporting directly to the parliament. In addition, the constitution includes a number of provisions regarding the declaration of assets by politicians and government officials and provides for the impeachment of government officials found guilty of corruption or "unusual wealth."

As concerns participation, 50,000 eligible voters can directly submit a petition to the president of the National Assembly to consider their draft of a bill. A similar number of voters can request the president of the Senate to remove senior officials suspected of corruption. Citizen control of local resources is enhanced through a number of measures that "promote and encourage public participation in the preservation, maintenance, and balanced exploitation of natural resources and biological diversity, and in the promotion, maintenance, and protection of the quality of the environment." Measures to enhance citizens' control of local resources include a requirement for conducting environmental impact studies (made available to the public on request) prior to implementing a major project, and for holding public hearings for any activity that may effect the quality of the environment, health or sanitary conditions, or the overall quality of life.

The constitution embraces decentralization while being vague about specifics, which are to be addressed later. It also seeks to end the practice of guided democracy at the local level by specifying that most local government bodies will be elected. This contrasts with the existing practice, whereby many local employees are appointed from Bangkok and owe their allegiance to their individual ministries. The power to transfer, promote, increase salaries, and punish local officials will be vested with local governments, although the approval of a local officials committee is required. This committee will consist of an equal number of representatives of relevant government agencies and local government organizations. Local governments are also responsible for conserving local arts, customs, knowledge, and culture; providing education and professional training; and managing and preserving natural resources and the environment.

The Public Sector

Structure of Government

Thailand is a constitutional monarchy under which the king wields considerable moral authority and has

a number of formal powers: he serves as the head of state, the upholder of religion, and the head of the armed forces; can issue decrees that are not contrary to law; declare martial law; declare war with the approval of two thirds of the National Assembly and conclude peace and other treaties; and plays an important role in nominating officials to fill senior state positions. In practice, the king exercises these powers only with the consent of the current political leadership.

The prime minister, typically the leader of the largest party in the ruling coalition, is responsible for the day-to-day running of government. Four to six deputy prime ministers look after specific policy areas. The Council of Ministers manages state affairs, and under the new constitution its membership will be reduced from 49 to 35. The Cabinet Secretariat under the Office of the Prime Minister coordinates the work of the Council of Ministers. Cabinet committees coordinate major policies.

Thailand is a unitary state that has traditionally employed a highly centralized form of government. Historically, subnational governments have comprised only about 5 percent of total civil service employment. Their share of government expenditure increased to about 14 percent by 2000, and current plans call for increasing their share to around 35 percent by 2006.

In terms of overall size, the Government is not excessive. For example, total government revenues are about 19 per cent of GDP, roughly the same as the Philippines, more than Indonesia (16 per cent), and less than Malaysia (24 per cent). In FY1998, the civil service and provincial administration employed about 1.5 million, local authorities about 140,000, and public enterprises 260,000. (World Bank, 2000e, Annex Tables A6 and A18).

Thailand is currently undergoing enormous political change as the Government faces the challenge of developing governance structures appropriate to a highly competitive and rapidly changing global environment. While the centralized ministry system has served Thailand relatively well, elected and appointed officials and the general public question whether the current system, in which ministry civil servants retain considerable power, can deliver responsive and responsible governance to meet this challenge.

The current system suffers from a number of weaknesses. The Government is viewed as overly centralized; unresponsive; and plagued by legal inadequacies, social inequity, and corruption. Regulatory frameworks are cumbersome, outdated, and provide ample opportunity for rent-seeking. Chulalongkorn University's Political Economy Center says that corruption imposes direct economic costs, distorts investment and policy decisions, and is integrally linked with the growth of money politics (Pasuk and Sungsidh 1999; Pasuk, Sungsidh, and Nualnoi 1999, pp. 259–62). A survey found that 79 percent of businesses claim they need to bribe officials to get results, and these bribes add 20 percent to the cost of contracts (Funston 2000, p. 103). NCCC officials estimate that some 30 percent of government procurement budgets are diverted to private pockets. Such corruption is systemic, and contributes to widespread public cynicism toward the Government. Addressing corruption and reversing its deleterious effects on growth and development is a critical issue.

The Legislature

The National Assembly consists of the Senate and the House of Representatives. The National Assembly is empowered to enact new laws, approve emergency decrees, and amend or repeal existing laws; can control state administration by initiating a vote of no confidence against government ministers; and is empowered to approve certain critical elements of legislation, such as the budget and appropriations, and to oversee nominations to various state organizations.

Under the old constitution, the 393-strong House of Representatives served as the popularly elected assembly. Under the new constitution, the House has increased to 500 representatives, of which 100 are elected on a party list basis and 400 on a single constituency, first-past-the-post basis.¹ Every province is entitled to at least one representative, and the more populated provinces have more.

The House is served by a secretariat that consists of approximately 20 separate organizations, such as

¹ Each voter can choose one of the lists of up to 100 candidates provided by each party. Candidates on the list receiving the most votes nationwide are elected. In addition, each voter can vote for one of the candidates seeking to represent his or her constituency, and the candidate receiving the most votes in each constituency is elected.

the Research and Legislative Service Center and the Radio Broadcasting Station. As of 1996, the House had 23 standing committees.

The 270-member Senate has historically played a watchdog function in reviewing legislation advanced by the House.

In the inaugural test of the 1997 constitutional reforms, on 5 March 2000, for the first time voters elected 200 senators through a nationwide ballot. Although marred by political patronage and fraud, the election ended the 68-year-old practice of appointing members to the upper house under a veil of political patronage that favored vested interests such as the bureaucracy and the armed forces. Reformists who drew up the constitutional changes envisaged a more transparent and accountable system of government, with the Senate evolving into a true watchdog over legislation. Retired civil servants and political affiliates account for more than half of all seats in the next Senate, and business associations for a further 10 percent. However, it is unlikely that any group will be able to dominate, as none gained an overwhelming mandate on its own and each is beset by internal rivalries. Reformists appear to hold the balance of power between these competing factions.

The Senate has 16 standing committees. Under the new constitution, candidates for both the House and Senate must meet detailed requirements on, among other things, nationality, residence, education, and integrity.

The Executive

The central Government currently consists of 15 ministries and 125 departments. Each ministry is headed by a minister appointed by the ruling coalition, but all other ministry staff are career officials protected by civil service legislation. The Government also consists of 10 independent public agencies such as the Bank of Thailand, the Bureau of Crown Property, and the Office of the Attorney General, and has a controlling interest in 59 SOEs.

The Civil Service

The 1928 Civil Service Act laid down the public personnel system and introduced uniform standards, including a pay scale and disciplinary codes. The 1975 Civil Service Act introduced a modern position classification system and required recruits to take an entry examination. The 1992 Civil Service Act estab-

lished the legal basis for the current civil service and outlined the role of the Civil Service Commission and its secretariat, the Office of the Civil Service Commission (OCSC), as the central personnel agency for civil servants. In addition to overseeing the personnel development of the public service, the OCSC also deals with such issues as ethics and enhancing public sector productivity. The civil service enjoys generally strong legal protection from political interference and manipulation, although ministers can find unofficial ways to exercise influence over staff.

As of 1995 the civil service consisted of approximately 1.24 million employees, excluding the military, SOE employees, and temporary or contract workers, divided into 11 separate services. Approximately 37 percent of the recurrent budget is spent on civil service staff costs, which is generally higher than ASEAN norms (Australian Public Service Commission and University of Canberra 1995, pp. 173–74). The Government would like to reduce this figure to 20 percent.

Recruitment into the civil service is by competitive examination. Benefits include retirement benefits and housing, medical, and hardship allowances. All staff receive at least five days of training per year. However, a survey of entry-level civil service salaries indicates that they have not been able to keep pace with the private sector, especially in the more skilled areas. Thus it is not surprising that the civil service is finding it increasingly difficult to recruit and retain talented personnel. Issues of pay and employment will be further complicated by the emergence of independent and quasi-public agencies set up under the new constitution, such as the administrative courts and the NCCC. These agencies will be able to set up their own salary scales, which are likely to be considerably more generous than those in the civil service, thus internal equity is likely to become an increasingly important issue.

Public Financial Management

The task of efficient and effective utilization of financial resources has historically been highly centralized. The national budget has traditionally accounted for approximately 95 percent of government revenues, with the remainder coming from a variety of local taxes.

Nationally, four institutions play an important role in public expenditure management: the Bank of

Thailand, the Ministry of Finance and its Fiscal Policy Office, the Bureau of Budget, and the National Economic and Social Development Board (NESDB). Other organizations, such as the Ministry of Interior and the OAG, are also engaged at some level. The Bank of Thailand, the Central Bank, is responsible for formulating monetary policy, maintaining monetary stability, supervising financial institutions, and making recommendations on economic policy. The Ministry of Finance collects government revenue; oversees the Customs, Excise, and Revenue departments; manages government finances and macroeconomic policy; and oversees the operation of 11 SOEs. The ministry's Fiscal Policy Office plays a particularly important role in fiscal, financial, and economic policy formulation. The Bureau of Budget formulates the annual recurrent budget, oversees budget preparation, and monitors and evaluates programs and projects implemented by all government agencies and state enterprises. The NESDB is essentially a central planning agency that undertakes continuing study of the economy and draws up plans for its development. Finally, the Ministry of Interior plays an important role in authorizing expenditure at subnational levels of government.

Legal and Judicial System

Thailand has a sophisticated hybrid legal system based on the civil and common law systems. The judiciary is comprised of three levels of courts; the highest is the Supreme Court. There is also a Court of Appeal and eight lower courts usually referred to as Courts of First Instance. Other important legal institutions are the Ministry of Justice, the Council of State, the Law Reform Commission, and the Attorney General's Office. The ministry is responsible for all matters pertaining to the courts, including the enforcement of judgments. The Council of State drafts legislation and provides legal advice to the government. The Attorney General's Office handles government litigation. The police have their own administration, and the Department of Corrections is under the Ministry of Interior. This institutional fragmentation is complicating legal and judicial reform.

Judges decide all cases and there is no provision for trial by jury. The public generally believes that the judiciary is independent, although extremely conservative, and according to some, slow to adapt the

law to the requirements of a modern economy. Allegations of corruption are not widespread, which may be because most cases are heard by a panel of three judges rather than a single judge, thereby making the negotiation of bribes difficult.

Unlike previous constitutions, the new constitution firmly establishes the principle of constitutional supremacy, thus any law, act, or decree that is contrary to or inconsistent with the constitution will be unenforceable. A new Constitutional Court will ensure the constitutionality of all legislation and the functioning of state organs in accordance with the constitution. The constitution also creates ombudsmen who can refer any case in violation of the constitution to either the Administrative Court or the Constitutional Court. The new constitution also provides for the courts to be self-administered rather than by the Ministry of Justice. New administrative courts will be able to adjudicate disputes between state entities or officials and private citizens. Finally, the constitution provides for a Supreme Administrative Court and administrative tribunals, plus the creation of an Appellate Administrative Court if necessary. An independent Judicial Commission of Administrative Courts will regulate their activities.

The constitution only lays down general principles for the new bodies, leaving the details to be addressed in substantive laws. In particular, it does not spell out the details for the transition from the existing institutions to the new constitutional institutions. As a result, institutional uncertainty abounds.

As part of their assistance for the financial crisis, IMF and the World Bank stipulated a number of conditionalities in relation to legal reforms in the financial sector, especially laws relating to bankruptcy and foreclosure, and parliament is currently considering changes to these laws. The Government has also requested World Bank assistance in systemic legal reform that would focus on broader issues of institutional capacity relating to the implementation of new laws and the medium- and long-term issues affecting the legal sector.

Many Thais believe that several of the reforms serve the interests of foreign creditors and investors rather than economic recovery. Similarly, not all judges welcome the constitutional changes relating to the judiciary and view the setting up of separate courts as

weakening the judicial function. While the lack of support for legal reform among some judges poses a challenge, other powerful constituencies are pressing for such changes, including the Prime Minister's Office and supporters in the Council of State and among the judiciary, law schools, and NGOs.

Subnational Government

Thailand is divided into 76 provinces. Bangkok has an elected governor; other provinces are headed by governors appointed by the Ministry of Interior. Provinces are organized into 745 districts, each administered by a chief district officer appointed by the Ministry of Interior. The districts are divided into 7,252 subdistricts, and subdistricts are divided into approximately 66,130 villages, with both levels traditionally headed by local chiefs and village headmen. In addition to the provincial structure, a number of special municipal or local authorities operate semi-autonomously. Policy making and major policy execution functions are centralized in Bangkok, but some responsibilities are decentralized to provincial levels and below. Under the new constitution, each locality elects a local assembly and local administrative committee, each serving a four-year term. Local governments are allowed to obtain revenues from a limited number of sources, primarily property taxes. Some functions are the joint responsibility of local and central government, while others are either provided by the central Government or are monitored and controlled by the central Government.

Rapid economic growth and its attendant problems have placed a heavy burden on the policy and administrative capacity of the highly centralized local administration system. Although some progress has been made in increasing responsibility at the local level, broader efforts to provide local governments with greater resources and responsibilities have not taken hold. Nevertheless, the constitution seeks to decentralize significant responsibility to subnational governments and to ensure that local administrations are governed by directly elected assemblies and local official committees. The Government has created the National Decentralization Policy Committee to oversee decentralization.

The sweeping transformation envisioned in the constitution will not be easy to implement. There is

considerable resistance, confusion, and lack of consensus. In addition, several fundamental questions remain, including the functions, staff, and financial resources to be devolved to the local level; the establishment of effective coordination mechanisms; the development of appropriate controls; and the need to make local representative institutions more accountable to the public and to strengthen channels for popular participation in the policy making process.

The success of efforts to decentralize decision-making authority will ultimately depend on securing the cooperation of many parties, thus careful consideration must be given to new incentive frameworks as decentralization moves forward. Both community participation and formal accountability mechanisms have roles to play in this context.

Issues

Public resources and international donor assistance will be insufficient to fund the enormous amount of local investment needed in the next 10–20 years; however, legal and policy restrictions prevent local authorities from accessing private capital markets. While the central Government or state enterprises currently undertake virtually all financing of local development projects (Kaothien, Webster, and Vorathanyakit 1996), decentralization efforts will be rendered useless if local governments are not given sufficient fiscal power to acquire and manage their own finances.

Coordinated planning of service delivery among local governments is underdeveloped. By and large, the relationship among the various government organizations depends to a great extent on personal contacts. Local governments are also encumbered by the limited knowledge of elected representatives about financial regulations and their own legal status as representatives of the people, because local government regulations have never been fully clarified. For the most part, local representatives rely on the knowledge of central Government officials. As a result, active and progressive forces at the grassroots level have found their best allies in the various NGOs.

In general, local governments attract the least qualified public sector staff. Moreover, limited opportunities for advancement, lower average salaries, and low prestige make careers in local government less attractive than other public sector jobs. Not

surprisingly, levels of professionalism and productivity are usually low.

Constraints to Further Decentralization

The predominant constraint to further decentralization is a problematic institutional arrangement that is characterized by an overcontrolled or perversely regulated local sector (for more details see World Bank 1994). The central Government collects and redistributes a high proportion of earmarked revenue. While the objective is to avoid abuses of power at the local level, this approach can fail because it emphasizes regulation to such an extent that local autonomy and accountability are seriously compromised.

In addition, ministries and state enterprises take on much of the responsibility for municipal capital works, leaving local government with only operations and maintenance. As a result, not only do residents have difficulty holding local governments accountable for any specific function, but disputes about roles and responsibilities and refusals to assume maintenance obligations for new assets are common. Resource allocation tends to be more responsive to the political interests of the central Government than to local demand.

Political Parties

Political parties are new and relatively underdeveloped. They do not fit easily within a traditional left-right ideological spectrum. Rather, they represent shifting coalitions of interest groups, bound together by some perceived affinity and mutual advantage, but prone to defections and shifting alliances. These dynamics are changing, however, and recently more intellectuals and academics are being recruited into new think tanks associated with various parties to sharpen their policy focus.

Mr. Thaksin's Thai Rak Thai (TRT) party and its coalition partners (the Chart Thai Party and the New Aspiration Party) effectively control around 340 seats in the House of Representatives, providing an unusual degree of stability, and more than the 300 seats required to protect the administration from any vote of no confidence. The constitution has established a threshold of 5 percent of the popular vote for parties to be recognized, which should eliminate a number of the smaller parties from contention in the

future; however, coalition politics are likely to continue to dominate political life for the foreseeable future.

Civil Society

Thailand has about 14,000 NGOs and private foundations, most established as memorial foundations by the children of wealthy Thai aristocrats or business people in honor of their parents. Unfortunately, NGOs working in Thailand often face significant obstacles, including a legacy of mistrust in which any independent organization not affiliated with the Government is viewed with suspicion; the formidable bureaucratic hurdles involved in obtaining the requisite permits; and the lack of recognition locally. Thus despite a long and rich heritage, philanthropy and volunteerism are still in their infancy.

The 1997 Constitution recognizes the critical role of civil society in ensuring government accountability. Citizens can, *inter alia*, initiate through petition an investigation by the NCCC with the intent of impeaching an official, and inspect and ascertain anomalies of the asset and liability statements of the Council of Ministers. Among the areas for investigation are new ethical standards provided in the NCCC Act of 1999 which prohibit officials from engaging in a conflict of interest. No single organization or group of citizens can develop expertise to provide effective oversight of the vast array of government policies and programs.

The civil society has emerged over recent decades as nongovernment organizations (NGOs) addressing development issues and social justice, business, and professional associations have developed stronger advocacy and other roles. Academics are sometimes linked with these efforts through research or social commitment. Associations can play an important political role in building coalitions of individuals with shared interests. During the 1980s, the Joint Public-Private Sector Consultative Committee served a crucial role in working with the government on behalf of collective concerns of the business community. Governments in the 1990s allowed the mechanism to wither, leaving the door open for abuses as large businesses with strong access conducted their own deals with the Government. This points out

that working with civil society organizations has risks that need to be carefully managed.

Civil society can also play a critical role in communicating through the media to a broader public. Their understanding of issues often exceeds that of the press in regard to specialized issues. Civil society provides an important counter to the perspective of government. Some associations and NGOs have independent capacity to undertake research on issues of concern to their membership. It is thus essential to develop a network of civil society organizations which specialize in various aspects of governance, that can provide effective, accountable oversight to supplement the efforts of the NCCC. These organizations must be perceived by the general public and officials as non-partisan. They should develop a non-adversarial, partnership relationship with government agencies for which they provide oversight, as well as with the NCCC.

Civil society can also help to ensure transparency and accountability of donor assisted projects. For example, an independent review is, at the request of Thai NGOs, assessing the Samut Prakarn Wastewater Management Project of ADB and the Government of Thailand. The independent review is focusing on the environmental, ecological and public health aspects of the project, and addressing the main concerns expressed by civil society on its likely impact on the local community. The terms of reference for the review were finalized following a two-month public consultation.

Relationship between the Public and Private Sectors

One of the state's critical roles is to foster an enabling environment for private sector growth. Such an environment typically includes the provision of a legal and regulatory framework that is at least moderately transparent and predictable, the reduction of direct state intervention in the economy to the minimum level necessary, and the efficient and cost-effective delivery of critical goods and services.

Financial Market Regulation

The financial sector suffers from problems of undercapitalization, lack of disclosure, inadequate

accounting systems, poor procedures, unsound lending practices, and an ineffective supervisory framework. The resulting situation is such that 20–35 percent of Thai bank loans may be nonperforming.

A number of agencies supervise financial institutions, including the Bank of Thailand, the Securities and Exchange Commission, the Ministry of Commerce, and the Ministry of Agriculture. ADB and other donors have been working to improve the quality of financial market regulation by providing assistance to help reform and recapitalize the banking sector and improve the supervisory and legal and regulatory frameworks. ADB is focusing on the development of capital markets as an alternative means for intermediating funds within the economy, with an emphasis on strengthening market regulation and supervision.

Privatization, Commercialization, and State Enterprise Reform

Currently Thailand has 59 state enterprises in a variety of different sectors that play a major role in the economy. Between 1995 and 1997, the sector consumed about \$2.9 billion in subsidies while remitting some \$6.3 billion to the Government. In 1997 the state enterprise sector employed some 319,000 people, accounting for a little more than 1 percent of total employment. The laws and regulations governing SOEs differ from those for commercial enterprises. In addition to legal and functional differences, employees of state enterprises enjoy benefits not typically provided in commercial enterprises.

Thailand has a long history of private sector participation in the economy, with privatization efforts dating back to 1961. Opinion makers agree that the state should play a significantly reduced role in the economy in the future, serving primarily as a policymaker and regulator. The state will pull back from activities that the private sector can perform more efficiently and will maintain an operating role only in enterprises whose operations are strategic, socially obligatory, or noncommercial in nature, but considered necessary for the quality of life of Thai citizens.

Accountability Institutions

In the past, Thais had limited recourse to protest unjust, arbitrary, or capricious actions by the bureau-

cracy, and corruption in political and economic life was perceived as widespread. Former Prime Minister Chuan Leekpai identified the lack of clean politics and elections as one of the most fundamental problems confronting democracy and a major cause of the recent economic crisis (*Asia '99* 1998). Annual rankings by Transparency International and other organizations have consistently placed Thailand in the bottom quartile of countries grappling with corruption.

Under the new constitution, four sets of institutions will play an important role in advancing accountability and integrity at all levels of government: the NCCC, the OAG, the administrative courts (discussed earlier), and the ombudsmen.

National Counter Corruption Commission

Prior to 1975, anticorruption activities fell under police jurisdiction. Although the law provided for heavy punishment if officials were convicted, loopholes made detecting and prosecuting corruption difficult, and regulations hampered police investigations. To strengthen the effort to combat corruption, the Counter Corruption Commission was established in 1975. Its activities were divided into three areas: suppression (complaint investigation), prevention, and public relations.

There is broad consensus that the commission was only modestly effective in combating corruption in the public sector. Several reasons account for this. First, the commission was located under the Prime Minister's Office and commissioners served only a two-year term at the discretion of the Government. Critics argued that this led to the politicization of the fight against corruption and use of the commission as a weapon against political opponents. Second, the commission lacked prosecutorial authority, and could only refer cases for disciplinary action. Third, many civil servants found guilty of corruption were allowed to retire early with full benefits, transferred to another position, or simply not sanctioned, and in other cases, the police did not follow up on evidence provided by the commission. Fourth, the commission could not investigate any members of parliament who were not ministers or higher, and any such investigations had to be initiated while they were in office.

The NCCC is a new constitutional body with powers to address corruption and reverse its deleterious effects on growth and development. It is separate from the Executive, and has the power to request asset and liability statements from politicians and senior bureaucrats and to remove them from office if a statement is deemed false. The NCCC can also investigate and prosecute cases of corruption, abuse of power, and malfeasance. With about 500 staff, the NCCC has had some early successes, including the forced resignation of a senior minister for allegations of corruption.

Office of the Auditor General

The OAG became an independent public agency in 1999. It is responsible for conducting compliance, financial, and performance audits of ministries, government agencies and departments, SOEs, and subnational government units.

New legislation has strengthened the OAG's independence. It is now also required to send its audit findings on to parliament and to make them public. In addition, the OAG's role has changed considerably: it is implementing global standards on government auditing and emphasizing performance auditing and the development of adequate internal controls in the belief that the monitoring and evaluation of government programs is the weakest link in public sector management. The OAG has considerable international exposure, and a number of senior auditors have traveled abroad and observed the operations of other audit agencies. The OAG has a comparative advantage in audit training, and has been engaged to train auditors from other Southeast Asian countries.

Despite these accomplishments, the OAG faces a number of challenges. In an independent evaluation conducted by Cowater International, on a scale of 1 to 10 (with 1 being the best), the OAG was ranked at 4 globally and at 6 compared with other Asian audit institutions.

The Ombudsmen

According to the new constitution, a maximum of three ombudsmen will be appointed for a single six-year term. They will inquire into complaints when a government ministry or agency, an SOE, or a local government entity stands accused of failure to comply with the law or to perform its duties effectively,

and has caused injury to the public or to the individual originating the complaint. The ombudsmen will also be empowered to refer cases to the constitutional and administrative courts.

Present Reform Prospects

Civil Service Reform

Compared with many other Asian countries, the Thai public sector is relatively small. Thus its current problems stem not from overstaffing, but from overcentralization, poor coordination, and functional overlap; lagging productivity; antiquated work processes; inadequate transparency and integrity; pay and employment conditions that are leading to staff losses to the private sector; and a lack of responsiveness and accountability.

The OCSC is currently pursuing a number of initiatives to improve the efficiency of the civil service, including rapid promotion and executive career management projects to attract and retain talented staff, improved manpower planning, and delegation and decentralization. The OCSC is also supporting the Thailand International Public Sector Standard Management System and Outcomes program, which seeks to enhance the performance of government agencies, and has launched an award program that seeks to enhance service delivery and quality by recognizing outstanding provinces and government agencies.

The World Bank is providing support for a major public sector reform program with and through the OCSC that focuses on core business processes and key performance indicators in four government ministries. The project supports reform of the civil service compensation package and a civil service “rightsizing” exercise. UNDP is supporting decentralization and is also helping the Government implement a results-based management system.

Public Finance Reform

The current system of public expenditure management faces a number of problems: policy coordina-

tion is hampered by administrative fragmentation; expenditure administration is overly centralized and often fragmented among different agencies, frequently resulting in lengthy delays; the recurrent and capital budget process does not fully reflect policy priorities; mechanisms for ex post evaluation are weak; and procurement procedures are often vulnerable to corruption. Some senior Thai officials have advocated merging the Bureau of Budget into the Ministry of Finance to re-establish the ministry’s primary role in resource allocation and improve the bureau’s accountability.

The World Bank’s Economic Management Assistance Project is supporting work to develop fiscal strategy; establish a multiyear budget framework and support budget reform; and improve expenditure control and cash management, procurement, and financial information flows. IMF is working on tax policy, and the New Zealand Government and the World Bank are supporting work on debt management and monitoring, the internal audit function, and accounting system reform (for a detailed update, see World Bank 2000e).

Reform of Service Delivery in Line Ministries and Departments

The Government’s perception of key development issues is reflected in the 9th Plan, under preparation by the NESDB. Following Cabinet consideration in October 2001, the 9th Plan will serve to establish the guiding principles for various ministries and departments when formulating development policies and priorities, and identifying investment projects. The major goals of the draft 9th Plan are poverty reduction, improved income distribution, and enhancing international competitiveness. In line with these goals, strategies are being formulated covering human resource development, social protection, sustainable urban and rural development, management of natural resources and the environment, macroeconomic management, national competitiveness, science and technology, and governance.

There is scope for a number of improvements in productivity within individual ministries, agencies, and departments. First, in the area of strategic management, redundancies and duplication of effort

often occur both within and between various ministries. Second, many officials complain that bureaucratic procedures are often cumbersome, antiquated, and nonresponsive. Organizational structures are frequently laid out along functional lines, whereas work crosses functional boundaries. Some government ministries are developing new organizational structures laid out along program lines to improve coordination and service delivery, although such measures are also not without their problems. Various experiments to re-engineer business processes and improve monitoring mechanisms in areas such as the land title office and automobile licensing have yielded striking increases in efficiency and customer service. Such process-oriented approaches, combined with judicious restructuring efforts, are likely to yield significant productivity gains. Third, in many departments reallocating staff could improve employee productivity, for example, moving staff from headquarters locations to the provincial level, and thereby closer to the points of actual service delivery.

Decentralization

Opportunities

The Government has developed a sound national policy approach as articulated in the new constitution and the Eighth Five-Year Plan. The latter envisions a more participatory approach to development with enhanced interaction between central Government officials and local communities. Nevertheless, major work remains in implementing that policy guidance, namely, developing some form of financial intermediary to help shift the responsibility for financing and administering public services from the central Government to lower levels and to service beneficiaries; redesigning the system of intergovernmental transfers to better address community development priorities and improve the performance of local government officials; continuing work to provide local governments with additional revenue enhancement instruments, especially property taxes; and building the institutional base for local government policy research and analysis by promoting the development of high-level Thai expertise and by combining existing resources bases rather than by creating new capabilities.

Recommendations

To effectively support the decentralization effort in Thailand, progress needs to be made along several dimensions, namely, improving resource mobilization, strengthening institutional development, improving public sector management at the subnational government level, and strengthening performance monitoring.

Property taxes could have a major impact on municipal capacity to raise revenues, and draft property tax legislation has been circulating in the Government for many years. However, particular aspects of the local property tax system must be addressed, including the omission of owner-occupied residences from the tax base; the absence of municipal discretion in setting tax rates; and the existence of inefficient, separate tax systems for vacant and developed property.

Intergovernmental transfers need to be streamlined and linked to some combination of national development priorities, municipal performance, and local needs. For instance, government support could be contingent upon measurable improvements at the local level. Elected officials might overcome their reluctance to collect more taxes, fines, and fees if any gains would be highly leveraged to matching grants.

Much more attention needs to be given to replacing grant financing with loan financing. By allocating funds on the basis of beneficiaries' willingness to incur debt, lending would force potential beneficiaries to reveal their degree of commitment to specific projects. Lending would also help depoliticize the allocation process by placing a price on finance rather than requiring the Government to attempt to ration a free good. With the private capital market unwilling to lend and the central Government less than insistent on timely repayment, consideration should be given to attempts to combine the commercial incentives of private lenders with the financial backing of the central Government.

Strengthening local resource mobilization should be made both a condition for receiving loans from capital financing facilities and a demonstration by a local government of its capacity to generate sufficient resources to service its debts. In many instances local governments are charging less than the maximum rate allowed by law for fees and taxes and cannot recover the costs of providing service.

Current government plans call for transferring an unspecified number of civil servants from the central Government to local levels and for transferring certain critical human resource management functions from the Ministry of Interior and other line agencies to the elected local officials committees. In certain areas such as agriculture, health, and infrastructure, some senior Thai officials envision that the central Government will retain responsibility for policy formulation and technology transfer, but will decentralize the responsibility for administering programs to various subnational units. To facilitate this shift from central to local administration, establishing a central unit to monitor job and personnel transfers may be necessary and the capacity of subnational governments to manage their staff effectively will need to be enhanced.

A distinct process of capital investment budgeting and programming as practiced in industrial countries is not yet used in Thailand. Such a process provides a sound framework for assessing needs, prioritizing capital projects, analyzing tradeoff opportunities, and considering financing options. As far as local governments are concerned, the greatest emphasis should be on debt management. The techniques of project financing are not well established in Thailand. Local officials should be aware of how to “mix and match” available resources, stagger debt issuance for expensive projects, and find the best combination of debt repayment structures.

Both public and private institutions need to gather their extensive knowledge on local government development issues under one roof. While a number of university and government organizations conduct research and provide training in community and urban development, the resources are so scattered that no critical mass of expertise is available at any one place; the database on local government issues is fragmented; the lack of any guiding focus has resulted in duplication and gaps in the coverage; and the work has tended to focus on documenting local problems, with relatively little attention to policy analysis.

The capabilities of private consulting entities—especially in engineering and accounting firms and universities—are growing largely because of the demands of donor-funded local development projects. However, the ad hoc nature of much of the work has

made it difficult to assemble research findings into a coherent body of knowledge. The problem is likely one of organization and backing rather than of resource availability.

To remedy these problems, some senior Thai officials have proposed establishing a center to train local government officials that would include both technical education as well as training in ethics and accountability.

Performance indicators in local government are generally measures of economy, efficiency, and effectiveness. They could be used in four main ways to promote improvements: by publicizing the performance indicators and the improvements made by local governments, by linking grant or loan approval to performance, by relaxing central Government control over local governments or specific services meeting the performance targets, and by rewarding good management. The regular publication of performance indicators by an independent body is an effective way to enhance the accountability of local governments to their citizenry. Over time, local residents could see that the promotion of local government officials depends on the achievement of certain performance indicators rather than the officials’ lobbying efforts (this would, however, require a change in government regulations).

Even if given an increased opportunity to borrow, local governments may still find securing credit difficult. Their credit may be weak, they may not be well known, their security may be suspect, or the borrowing may be structured in a complicated way that is difficult to explain to potential investors. Potential investors cannot personally investigate the creditworthiness of each borrower. They need and look for an accepted shorthand notation of creditworthiness, and they find it in the debt instrument rating. As a result, there is a direct correlation between ratings and interest rates. The better the rating, the lower the rate. To respond to this need an independent, privately-managed rating agency should assign credit risk to local governments based on a standardized set of evaluative criteria. The credit rating agency will need to be able to revise ratings if new situations develop not only because of long-term credit deterioration, but also because of short-term liquidity risk, litigation risk, political risk, and so on.

Successful decentralization strategies must be based on awareness that local problems and assets are best known to local residents and organizations. Local NGOs are in an excellent position to assess neighborhood needs, establish development priorities, and design workable solutions. Only the collective wisdom of local government, business, labor, and neighborhoods can bring about a healthy local economy. These networks are best able to identify emerging development needs and strategic opportunities and assess the performance of existing development efforts. Local governments must not only incorporate this collective wisdom into their decision making, but must also help the various entities participate more effectively by increasing their access to and understanding of public information.

Accountability Institutions

National Counter Corruption Commission

The constitutional provisions to prevent corruption, protect human rights, and transform the court system require the development of new institutions and the transformation of existing ones. It is crucial to Thailand's future development and its international credibility that the mechanisms that can identify, address, and prevent official misuse of office be brought fully to bear. Among these institutions, the NCCC is now empowered to investigate corrupt practices, arrest suspects, and confiscate assets. The NCCC faces the challenges of transforming itself from a branch of the Office of the Prime Minister to an autonomous public organization and developing new and more flexible practices in management, personnel administration, and budget and financial management.²

New capabilities are needed in many areas for the NCCC to carry out its ambitious mission. For example, the 1997 constitution separates the impeachment process from the criminal prosecution process, and thereby creates a higher standard of behavior for holders of political and judicial office. Although the Criminal Code has always provided penalties for corruption and abuse of political and judicial power, conviction is difficult and delayed through appeals

processes. Accused officials can continue in office and continue their illegal acts as long as the court's final decision is held at bay. In the interim, critical evidence or witnesses may be lost naturally or through the official's own interference.

To address this problem, the constitution provides for the immediate impeachment of an official who is indicted for corruption, malfeasance in office, or abuse of power, and prohibits the official from holding any public office for five years. The NCCC has the power to impeach a civil servant, while the Senate is empowered to impeach political or judicial officials. Urgent work is needed to map out and provide the legal and resource requirements for the NCCC to conduct impeachment investigations fully and fairly.

In addition, concerning the NCCC's increased mandate to monitor officials' asset disclosure based on statements of assets and liabilities for both themselves and their immediate families, the organization lacks trained staff to perform this function in any but the most perfunctory fashion for the foreseeable future. The NCCC also needs the capacity to prevent, investigate, and deter corruption at the local level. Its predecessor was plagued by an antiquated organizational structure and inadequate staffing, funding, and equipment, and these problems will be exacerbated as greater control over resources is devolved to subnational levels. The NCCC's organizational structure should be rationalized and the current breakdown of responsibility between investigative divisions should be revisited. Furthermore, its presence at the subnational level should be strengthened by creating provincial offices. Additional training in appropriate investigative techniques and the recruitment of staff in disciplines such as money laundering and forensic accounting are top priorities, along with revision of the salary structure to enhance recruitment and retention. New equipment, such as secure computer links between central and branch offices and surveillance equipment, will also be necessary.

Office of the Auditor General

The OAG currently lacks teeth to enforce its findings. Few of the cases of potential criminal misconduct the OAG uncovers are forwarded to the proper

² For a brief agency review as of February 2000 see ADB (2000c, annex B).

authorities for prosecution or other disciplinary action. At a minimum, the OAG's efforts to track the disposition of cases should be strengthened and given greater transparency and publicity. In addition, methods of improving systems, procedures, and internal controls must be enhanced. Greater attention must also be devoted to strengthening interagency cooperation in response to audit findings.

Another major issue confronting the OAG is its ability to ensure that proper controls and monitoring arrangements are in place to prevent the misuse of resources under decentralization. OAG staff are concerned that their ability to monitor resource use at local levels may not be adequate and argue that decentralization must be done gradually.

Senior OAG management believe that they currently have enough staff to adequately fulfill their new mandate, although some redeployment may be necessary. However, the training budget is insufficient for government auditing to move to global standards. In this connection, in addition to training, a goal is to recruit a core group of people with advanced degrees in economics, management, and finance to provide policy guidance.

Finally, equipment upgrades are needed for the OAG to bring all the regional offices and new provincial offices on-line (for a detailed update, see World Bank 2000e)..

Relationship between the Public and Private Sectors

The current state enterprise reform program evolved as a result of the economic downturn. The privatization program subsequently assumed prominence as a key initiative to help restore Thailand's economic vitality. In its first letter of intent with IMF, the Government agreed to increase private participation in key commercial and infrastructure sectors. The Government also agreed to review and improve the legal framework for private sector participation. To achieve these objectives, the cabinet approved the Master Plan for State Enterprise Sector Reform in 1998.

State Enterprise Sector Reform

The Master Plan is an action plan for reforming or privatizing all 59 state enterprises. While some SOEs

are profitable, the Government believes that increased private sector participation will improve efficiency by decreasing production costs and/or prices; reduce the burden on the Government; and enhance service quality, coverage, and reliability by, for example, increasing consumer choices, completing needed infrastructure, and attracting innovative technology and management systems. In terms of financial objectives, the program's aims include reducing subsidies and loan guarantees to enterprises, reinvesting the proceeds from the sale of enterprises in the economy and the social sector; and boosting investor confidence in Thailand.

For the privatization program to be effective, it must have clear and transparent procedures and well-defined roles and responsibilities for all participants. To this end, in 1998 the Government created a new committee, the State Enterprise Reform Committee, which combines the functions of a corporatization committee with those of the State Enterprise Policy Committee. The State Enterprise Reform Committee is tasked with reviewing and approving all privatization proposals, all proposals for increased private sector participation in existing SOEs, and all regulatory reform initiatives before forwarding them on to the cabinet for approval.

The Legal and Regulatory Environment

A number of legislative changes will be required for the privatization program to succeed. Foremost is the need to improve the legal basis for independent regulatory bodies in critical infrastructure sectors. Changes are also needed to many other laws, for example, those regulating land, competition, taxation, and corporations. The 1999 State-Owned Enterprise Reform Act incorporated most of these changes. Currently the roles of those involved in policy making, regulation, and operation overlap in many sectors and state enterprises. Clear separation of these functions is an essential component of the reform program and a requirement for the development of transparent, competitive markets.

The Master Plan lays out the policies and provides a framework and direction for long-term SOE reform. Work on defining a regulatory framework to increase competition in key sectors is now well advanced. In addition, the cabinet has cleared the draft Corporatization Law for enactment.

Forms and Methods of Privatization

A wide variety of privatization methods are available, including divestiture, deregulation, and licensing of private sector participants. Both SOEs and private entities can submit privatization plans. In addition to raising capital, the Government will seek to balance this objective with other objectives, such as the need to secure technical or managerial expertise or to recapitalize an SOE.

The State Enterprise Reform Committee is responsible for overseeing a transparent and timely privatization process. A May 1998 cabinet resolution stipulates that 50 percent of proceeds earned directly by the Government are to be used to fund needed social services and the other 50 percent will be allocated to the Financial Institutions Development Fund, which provides insurance coverage to depositors in Thai financial institutions

Corporate Governance and Performance Monitoring

The existing system of corporate governance for SOEs does not provide sufficient accountability and enterprise control. For enterprises that remain majority state owned, a similar board structure is proposed to that mandated under the Public Companies Act. In addition, the two performance evaluation systems for SOEs will be upgraded to streamline decision-making and evaluation procedures through the adoption of a balanced scorecard system, which uses comparative performance indicators for key enterprise stakeholders and operations similar to those employed in many commercial enterprises worldwide. The Office of State Enterprises in the Ministry of Finance will manage this system. An improved management information system will permit more effective supervision and monitoring of enterprise performance. Currently, the OAG undertakes all audits of SOEs in accordance with international standards.

Social, Labor, and Environmental Concerns

All privatization proposals must include discussion of the likely impact on the environment, on the company's social obligations, and on employment. The Government will also evaluate the tariff and other social aspects of greater private sector participation. Programs that benefit state employees—including stock distribution schemes and retraining—will be encouraged. The

Government will also enforce requirements for providing employees terminated because of privatization with certain benefits and adopt additional measures, such as establishing a fund for severance pay.

Public Information and Education

In recognition of employees' need to be kept informed about the objectives, benefits, and timetable of privatization, the privatization program will be accompanied by a public awareness campaign. Immediate efforts to be pursued include an interactive State Enterprise Reform Committee web site, a bimonthly newsletter, and public forums.

Conclusion

The emergence of a professional military less inclined to become involved in politics and the growing strength of civil society are among the positive political developments of the past decade. However, the legacy of past authoritarian regimes can only be overcome by greater popular participation and community mobilization. Civil society and NGOs must ensure that the state does not exceed its authority. Major challenges also remain in combating political and other corruption, which some argue has become worse in recent years (Larsson 1998).

The 1997 constitution includes a formal role for civil society in shaping national policy. Town meetings held across the country helped generate inputs for the Ninth Plan. The Government has also approved a National Economic and Social Council whose members will provide informal feedback on proposed policy and legal reforms, proposed legislation to establish a Community Organization Development Institute, drafted a bill to improve the enabling environment for civil society organizations involved in social safety net issues, frequently calls on civil society organizations to monitor government-funded projects, and has shown its commitment to building a pro-poor state by transferring a number of powers to local levels of government.

However, these benefits will only be realized with a major strengthening of capacities at the central and local levels. At the central level, the mechanics of how to channel and monitor the increased transfers to local governments have not been fully worked out, and legislation to determine what

functions will be financed at local levels through increased local resources has not yet been passed. The National Decentralization Committee needs to tackle overregulation and jurisdictional

conflicts. Finally, specialists are needed to help implement new regulatory laws to avoid leaving the new regulatory bodies prey to manipulation by vested interests.