

Thailand: Decentralization, or What Next?

Jeff Wong, May 2007

On the evening of 19 September 2006, while Prime Minister Thaksin Shinawatra was away at the United Nations in New York, one faction of the Thai military launched a military coup and seized absolute political control of the country. Led by Army Commander-in-Chief Sonthi Boonyaratglin, the coup group, calling itself the Council for Democratic Reform (CDR),¹ wasted little time in suspending the Constitution and declaring martial law. At first, the CDR's action appeared to close a tumultuous chapter in Thai political history, one dominated by the singular personality of Prime Minister (and former Police Lieutenant Colonel) Thaksin Shinawatra.

Yet as events began to unfold in the aftermath of the September coup, it soon became clear that Thaksin's expulsion from the Thai political arena was anything but a foregone conclusion. Moreover, by annulling the 1997 Constitution, commonly regarded as one of the most progressive the country has ever had, and replacing it with the hastily drafted 2006 interim Constitution, the CDR succeeded in creating much confusion regarding the future course of Thai politics and society.²

Using the current 2006 interim Constitution to specify the procedure by which the new 2007 Constitution would be drafted, the CDR, which subsequently renamed itself the Council for National Security (CNS), appeared to signal to Thai society its intent to rectify what it perceived to be the defective political mechanisms that enabled Prime Minister Thaksin to concentrate an overwhelming amount of power in his hands. It was this unchecked accumulation of power, they reasoned, which lay at the heart of the political impasse that overshadowed most of 2006. In turn, this political deadlock, and the insurmountable divisions within society that grew up around it, became part of the military's major justification for intervening in politics in the first place.

Regardless of the intent of the CNS, however, tearing up the 1997 Constitution has effectively called into question all of the progressive gains that had been fought for and institutionalized in that charter. Of particular relevance for this paper is the deepening of democracy, the establishment of community rights, and the empowerment of local communities associated with the principle and process of decentralization, which was clearly articulated in the 1997 Constitution.

In the sections that follow, this paper outlines the mechanisms for decentralization mandated by the 1997 Constitution, gives an overview of the administrative structure in Thailand, and contextualizes the political struggle over decentralization. It discusses attempts to implement

¹ Originally, the coup group referred to itself in English in a manner consistent with its Thai name, the Council for Democratic Reform under Constitutional Monarchy, but soon dropped the latter part of this designation out of concern that foreigners would identify its actions with the monarchy. Interestingly enough, it retained this complete name in Thai, reflecting perhaps the importance of linking its actions to the monarchy in order to gain legitimacy in the eyes of the domestic public.

² Additional confusion was initially stirred up in the economic realm as well when the coup makers proclaimed their intention to move Thailand in the direction of "sufficiency economy," ostensibly the economic "philosophy" advanced by the king. However, as if recognizing the need to regain the confidence of jittery investors, efforts were then quickly made to dispel any illusions that "sufficiency economy" might in any way be incompatible with Thailand's capitalist free market economy.

decentralization on the ground, focusing on the problems and obstacles actually encountered by local governance practitioners and others working on decentralization. In conclusion, this paper offers some tentative insights into the possible direction of decentralization under the 2007 Constitution which is currently being drafted.

The 1997 “People’s Constitution” and the Mandate for Decentralization

The 1997 Constitution, the country’s sixteenth since becoming a constitutional monarchy in 1932, was commonly touted as the “People’s Constitution” because of the unprecedented degree of popular input that was actively solicited in the drafting process (albeit within the confines of the parameters set by liberal elites). Indeed, the end product guaranteed Thai citizens more rights and liberties than they had ever enjoyed under any previous constitution. Particularly important for empowering communities, Article 46 of the 1997 Constitution expressly recognized and guaranteed communities’ rights to “participate in the management, maintenance, preservation and exploitation of natural resources and the environment.” Another key principle designed to foster greater democratization and bring decision making closer to the people was the provision for decentralization of power.

Compared to previous constitutions, the 1997 “People’s Constitution” placed much greater emphasis on decentralization and local government. In fact, only five of the previous 15 constitutions of Thailand contained any provisions for local government. (Nelson 2001: 228). In the 1997 Constitution, decentralization and local government are mentioned in two places. First, Article 78 in the chapter on “Directive Principles of Fundamental State Policies” mandates that

[t]he State shall decentralize powers to localities for the purpose of independence and self-determination of local affairs, develop local economics, public utilities and facilities systems and information infrastructure in the locality thoroughly and equally throughout the country as well as develop into a large-sized local government organization a province ready for such purpose, having regard to the will of the people in that province.

Later, an entire chapter, covering Articles 282-290, pertains directly to local government. The important features of each of these articles are as follows:

- Article 282 reaffirms that the state must give localities autonomy in accordance with the principle of self-government according to the people’s will.
- Article 283 states that localities meeting the conditions of self-government have the right to be formed as local government organizations.
- Article 284 guarantees local government organizations’ autonomy in making policy on governance, administration, personnel administration and finance. It specifies that legal provisions must be made, particularly with regard to the promotion of decentralization. These provisions should clarify the delineation of powers and duties between the state and local government organizations, as well as between local government organizations themselves.

In order to develop decentralization further, Article 284 stipulates that a law must be drawn up to determine the plans and process of decentralization. This law must address three specific issues: 1) delineating the powers and duties between the state and local government organizations, as well as those between local government organizations, in the management

of public services; 2) allocating taxes and duties between the state and local government organizations, taking into consideration the relative burdens of each; and 3) establishing a decentralization committee, to consist of equal numbers of representatives of the state, local governments, and qualified persons, that will carry out the tasks specified in points 1 and 2 above.

- Article 285 mandates that local government organizations must have assemblies and administrative committees (executives) with four-year terms, and that the former must be directly elected. It also bans state and government officials, as well as state enterprise officials, from serving as executives.

- Article 286 gives voters the right to recall local government organization officials, whether assembly members or members of the executive; however, a very high hurdle of 75 percent of voters in the constituency is required for the recall to be effective.

- Article 287 provides citizens the right to propose local ordinances to the local government organization executive for consideration; once again, however, the conditions are rather difficult to fulfill, since over one-half of the number of people eligible to vote in the locality are required to sign on in order to have the request fulfilled.³

- Article 288 calls for the creation of a new Local Officials Committee, to consist of equal numbers of representatives of the state, local government organizations, and qualified persons, to administer local civil servants.

- Article 289 specifies that local government organizations have the duty to conserve local arts, customs, knowledge and culture, as well as the right to provide education and training in accordance with the needs of the locality, and the right to participate with the state in providing education and training.

- Article 290 stipulates that local government organizations have powers and duties over the management, preservation and exploitation of natural resources in order to promote and maintain the quality of the environment. They have the right as well to participate in decision making on projects outside the area of their jurisdiction that will nevertheless impact the environment or health of people living in the locality.

In several cases, the provisions articulated in this chapter of the Constitution required subsequent passage of organic laws or the amendment and harmonization of existing laws in order to become meaningful and effective.⁴ The most significant of the new organic laws to facilitate decentralization was the Act Determining Plans and Process of Decentralization to Local Government Organization (1999) (hereafter referred to as Decentralization Act), stemming from Article 284 of the Constitution.

The Decentralization Act served as the foundation for the actual process of decentralization. It called for the creation of a Committee of Decentralization to Local Government Organization (hereafter referred to as Decentralization Committee), which would play the main role in formulating policy on decentralization, and draw up a Decentralization Plan and Implementation Plan. The Decentralization Committee was placed under the Office of the Permanent Secretary of the Prime Minister's Office. The prime minister was given the authority to determine the procedures by which the representatives of local government organizations and "qualified persons," who would together constitute two-thirds of the

³ Given the almost impossibly high thresholds set in terms of the number of signatures required for a recall or to propose a local ordinance (Articles 286 and 287), one cannot help but doubt the sincerity of the constitution drafters' stated desire to foster greater citizen participation in local governance.

⁴ In fact, the failure to bring existing laws and ministerial regulations into accord with the Constitution proved to be a major stumbling block to the genuine implementation of decentralization all the way up until the time of the 19 September 2006 coup, which, at least temporarily, rendered the issue moot.

committee members, were to be selected. The Decentralization Act also spelled out the powers and duties to provide public services for each type of local government organization, and stipulated the sources of income for local government organizations by clarifying the allocation of particular taxes and duties.

The Decentralization Plan eventually drafted by the committee and approved by the Chuan Leekpai government in October 2000 specified the timeframe for the transfer of responsibilities from the central government to local government organizations, addressed issues related to finance and local government organization personnel, and supervision of local governance.

But the Implementation Plan called for by the Decentralization Act was delayed by the change in government after the *Thai Rak Thai* Party's historically unprecedented resounding victory over the Democrat Party in the parliamentary elections of January 2001. This, despite the fact that Section 35 of the Decentralization Act required that both the Decentralization Plan and Implementation Plan had to be completed within one year after the Decentralization Committee began its work.

After revising the original plan, the Decentralization Committee under the new Thaksin government finally completed the Implementation Plan and submitted it to the Council of Ministers for approval in November 2001, almost one year behind schedule. This lack of regard for the legally mandated timeframe in matters pertaining to decentralization would continue to characterize the Thaksin administration's attitude toward carrying out the decentralization of power over the following five years.

The Implementation Plan as drafted by the Decentralization Committee under the Thaksin government specifies the details according to which a total of 245 different responsibilities carried out by fifty departments within eleven separate ministries are to be transferred to local government organizations. This long document also lists 64 laws that would need to be amended or written in order to be in accordance with the new reconfiguration of authority after decentralization.

Nelson summarizes the details as follows (2001: 237-8):

1. Infrastructure (87 responsibilities in 17 departments of seven ministries; 13 laws);
2. Quality of life, including the fields of education and public health (103 responsibilities in 26 departments of seven ministries; seven laws);
3. Communal and social order, keeping peace and order (17 responsibilities in nine departments of six ministries; interestingly, this includes supporting democracy and the participation of people in local development; 32 laws);
4. Planning, investment promotion, commerce and tourism (19 responsibilities in six departments of five ministries; six laws);

5. Management and protection of natural resources and the environment (17 responsibilities of nine departments in four ministries; four laws);
6. Art, culture, custom and tradition, local wisdom (two responsibilities in one department of one ministry; one law).

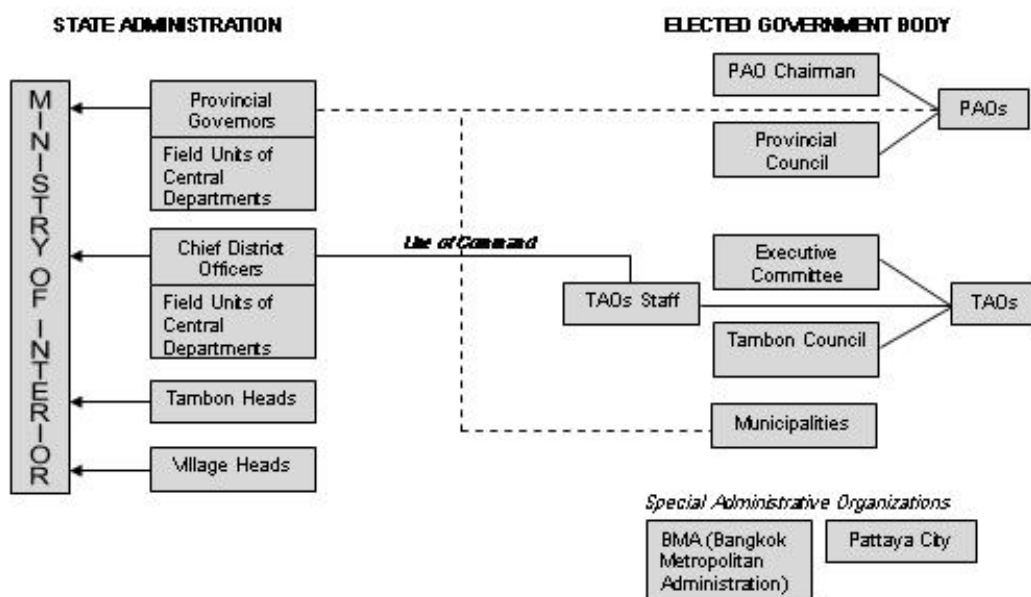
In general, the Implementation Plan provides some flexibility in the timeframe for transferring the responsibilities to local government organizations. It refers to two periods, the first being the years 2001 to 2004. During this period, the plan specifies that local government organizations that are ready can proceed with receiving and carrying out the new duties transferred from the central government. At the same time, local government organizations not yet ready are to use this time to prepare for these duties. The Implementation Plan also states that in this initial period, local government organizations' extent of preparedness would be considered, while in the following period up to 2010, responsibilities would be transferred.

Besides specifying the details by which the transfer of duties would take place, the Implementation Plan also elaborates on a provision in the Decentralization Act, which states that an appropriate level of revenue must be provided to local government organizations in line with their assuming greater responsibilities under decentralization. Concretely, for the fiscal year 2001, a target was set by which local government organizations' revenue had to amount to 20 percent of total government revenue. This target was to be steadily raised, so that by fiscal year 2006, local government organizations were to be allotted at least 35 percent of total government revenue.

Thailand's Administrative Structure

In order to make better sense of the decentralization mandated by the 1997 Constitution, it is necessary to understand exactly what is meant by the term "local government organization." This section therefore provides an overview of the rather complex and confusing administrative structure of Thailand.

Figure 1: State Administration and Local Government Structure *(adapted from Orlandini, 2003)*



Thais are very proud of the fact that Thailand is the only state in Southeast Asia that officially avoided colonization. As a result of this unique historical condition, parts of the administrative structure and, in particular, the relationship between center and locality that exists today, is quite similar to that which was originally established by the reforms carried out by King Chulalongkorn (r. 1868-1910).⁵ Shortly after the revolution of 1932 that brought about a change in the form of government from absolute to constitutional monarchy, the civilian government passed an Administrative Law (1933) aimed at modernizing the bureaucracy. However, the law substantially left intact the three-tiered structure of administration originally established by King Chulalongkorn, consisting of national, regional, and local administration (Mutebi 2004: 37). In spite of subsequent amendments to this law, the original basic framework for center-local relations remained virtually unchanged until the adoption of the 1999 Decentralization Act.

According to the Administrative Law, regional administration refers to both provincial and district level administration, neither of which is elected. In practice, both provincial and district level administrations in Thailand are mere geographical extensions of the central government, with no actual autonomy. While the central ministries and departments are responsible for formulating policy and implementing it at the national level, regional and local implementation of policy is carried out by the provincial and district level offices of the same ministries or departments. The provincial governor, a senior representative of the Ministry of Interior, traditionally coordinates the plans and programs of the various ministries and departments at the provincial level, since there is otherwise no horizontal coordination between the different agencies; the district officer, also a ranking official of the Ministry of Interior, carries out an analogous function at the district level. In sum, the administrative apparatus at the regional level is simply subordinated to the central administrative agencies, and is intended to function as part of a top-down command mechanism.

In contrast, local administrations, which have evolved slowly since 1932, refer to various types of local government organizations that, for the most part, have been elected, directly or indirectly, by local residents. Yet, by and large, and in spite of their being a closer reflection of the electoral will of the people, local government bodies remained very much under the control of the central government via its regional level representatives. This only began to change after the 1997 Constitution, containing the mandate to decentralize, was promulgated.

Municipalities (in Thai, *thesaban*) were historically the first type of local administration recognized by law from 1933 onward. In 1935, there were a total of 33 municipalities throughout the country. This number increased to 115 in 1945, and finally to 149 in 1998. In 1952, sanitary districts were created as another kind of local administration for semi-rural areas outside of municipalities. In accordance with the Act to Upgrade Sanitary Districts to Municipalities (1999), however, sanitary districts were all simultaneously converted into *thesaban tambon*, the smallest of what are now three official categories of municipalities. As a result, the total number of municipalities in the country jumped immediately to 1,129 in 1999 (Nagai 2001: 44). This number has subsequently risen and, as of January 2007,

⁵ These reforms, known to historians as the Chakri Reformation, were designed to provide Siam (the name of Thailand at that time) with a modern-looking administrative structure so as to deprive European imperialists of the pretext of needing to carry out a “civilizing mission” through colonization.

Thailand officially has 1,162 municipalities (*Samnak patthana rabob rupbaeb lae kongsang* [Bureau of System and Organizational Structure Development] 19 January 2007).⁶

In 1955, Provincial Councils were established as local government organizations, with partially elected members (Orapin 2001: 2; Mutebi 2004: 38). Provincial Councils were originally foreseen as local administrative bodies for rural areas, since there were no equivalents to municipalities or sanitary districts in these areas. However, the appointed provincial governor served as the chief executive of each Provincial Council, and councils generally relied on regional level bureaucrats to carry out most of their work (Nagai 2001: 44). After passage of the 1997 Constitution, Provincial Councils were reconfigured as Provincial Administrative Organizations (PAOs) with a greater degree of electoral accountability and a new mandate. Today there are 75 PAOs in Thailand, or one for each province of the country, except the capital, Bangkok.

In 1956, *Tambon* (Sub-district) Councils were established as another form of local government organization for rural areas, with partly-elected members (Orapin 2001: 2; Mutebi 2004: 38). As in the case with all other local level government bodies, however, these councils remained, *de facto*, subordinated to the provincial governors and lacked the financial capacity to carry out work autonomously. Then, as a result of an upswing in interest in pursuing decentralization in the early 1990s, the Tambon Council and Tambon Administrative Authority Act (1994) was passed by the Chuan Leekpai government, enabling Tambon Councils to transform themselves into Tambon Administrative Organizations (TAOs), which are juristic persons and enjoy significantly greater authority. TAOs became the primary beneficiaries of decentralization as called for by the 1997 Constitution and subsequent Decentralization Act. Indeed, most of the debate surrounding decentralization in Thailand today centers on the TAOs which, as of January 2007, numbered 6,616 (*Samnak patthana rabob rupbaeb lae kongsang* [Bureau of System and Organizational Structure Development] 19 January 2007).

Aside from municipalities, PAOs and TAOs, two other forms of local administration officially exist. They are the Bangkok Metropolitan Administration (BMA) and Pattaya City.⁷ The BMA is clearly the best example of a fully functional local government organization in Thailand. But its exceptional status as the country's capital, the largest and wealthiest city, limits its usefulness as a model for other local government organizations. Of all five types of local government organizations, the BMA has been least affected by the 1997 mandate to decentralize. This fact attests to the extent to which decentralization had already been implemented in Bangkok.

Contextualizing the Political Struggle over Decentralization

The most recent push for decentralization that resulted in its extensive inclusion in the 1997 Constitution had its origins in the early 1990s. In 1991, a military coup ousted the elected government of Prime Minister Chatchai Choonhavan. When the junta reneged on its promise to restore power to a civilian government the following year, a mass uprising succeeded in

⁶ Of the total number 1,162 municipalities, 1,020 fell into the smallest category of municipality, *thesaban tambon*, while 120 are classified in the intermediate category of municipality, *thesaban muang*, and only 22 are in the largest category of municipality, known as *thesaban nakhon*.

⁷ Pattaya's status as a unique local government entity based in law derives from its long-standing economic importance to the country as a major source of tourist revenue.

toppling it, but at a high cost in human lives when the military opened fire on unarmed, peaceful demonstrators on the streets of Bangkok. In the aftermath of the massacre, the military withdrew from overt political domination, giving rise to popular sentiment in favor of political reform, including demands to deepen democracy and implement decentralization.

However, NGOs, people's organizations and democracy activists found themselves joined by mainstream political parties in calling for decentralization.⁸ In fact, in the run up to the September 1992 elections that returned power to a civilian government, the democratic parties (i.e., those that had not earlier sided with the military), made campaign pledges to support popular elections for governors in major provinces.⁹ After becoming prime minister, Chuan Leekpai also expressed his commitment to decentralization by declaring, "Decentralization should be achieved through the implementation of public elections for the heads of local governments and executive bodies at any level" (Nagai 2001: 42). Passage of the Tambon Council and Tambon Administrative Authority Act (1994) by the Chuan government should be understood in light of his position on decentralization at the time.

It is no surprise that the Ministry of Interior, which enjoyed the right to appoint provincial governors, who came to symbolize the central government's control over the localities, was not particularly enthusiastic about relinquishing this prerogative and allowing governors to be elected. Because of its opposition to popular elections for governors, the Ministry of Interior purposely established PAOs and TAOs as alternatives, argues Nagai (2001: 42-3). He also suggests that the current Ministry of Interior's support for decentralization policies is based entirely on self-serving motives. Quoting another scholar, Nagai points out that TAOs are not suited to meeting the needs of local residents; rather, they "appear to represent decentralization," but the "real objective" may be to strengthen the authority of the Ministry of Interior by establishing government offices at the *tambon* level (2001: 45 and 70-1 note 18).

Regardless of the motives of the Ministry of Interior, Tambon Administrative Organizations were established and soon became the hope of democracy proponents, who felt that bringing government closer to the people while empowering communities to participate in governance, would lead to more democratic outcomes. Initially, established local politicians, namely village chiefs and *kamnan* (sub-district heads),¹⁰ opposed the new bodies, since they represented a challenge to their own authority. Understanding this situation, the Ministry of Interior was able to overcome their opposition by co-opting them. In the initial four-year term of the newly created TAOs, *kamnan* and village chiefs were incorporated into these units as appointed members. In fact, *kamnan* were automatically designated to serve as the chair of the TAO executive. While appointed TAO members eventually gave way to an entirely elected membership, some *kamnan* and village chiefs adapted during the initial four-year transition period to ensure their continuing domination over local politics. However, many

⁸ I do not wish to imply here that mainstream political parties became champions of decentralization because they recognized its potential importance for realizing a deepening of democracy and genuinely supported this goal. Instead, widespread popular hatred against the military dictatorship and a corollary support for democracy simply left politicians of all stripes with little choice other than to cater to the electorate by endorsing decentralization.

⁹ Mutebi notes that the *Phalang Dharma* and Solidarity Parties actually endorsed local elections for provincial governors without reservation, while the Democrat and New Aspiration Parties pledged support for decentralization programs that were slightly less ambitious (2005: 25 note 7).

¹⁰ Although elected, the positions of village chief and *kamnan*, which predate the establishment of TAOs, traditionally functioned as the interface between the Ministry of Interior and local communities within the context of the ministry's top-down command structure.

did not adapt, choosing instead to leave the TAOs after this transition period. To this day, much opposition to TAOs comes from these *kamnan* and village chiefs, who view the TAOs as their competitors for control over local politics. Nevertheless, once the budget allocation for local government organizations according to the Decentralization Plan became clear, many traditional local politicians seemed quite eager to embrace the new system.

Since decentralization entails not only transferring responsibilities and budget from the central government to local governments, but also transferring civil service personnel to carry out local government functions, the bureaucrats who would be required to move out to the localities to assume new job responsibilities have put up a good deal of resistance. For one, they believe that turning into a local administration civil servant reduces their prestige. But their resistance is based as well on legitimate concerns about relatively worse prospects for career advancement and possibly losing other material benefits. Because of these concerns by working civil servants, several ministries have sought to postpone the transfer of administrative work by arguing that TAOs and other local government organizations lack the capacity to take on their new responsibilities (Nagai 2001: 48). There is some truth to this claim, of course. But it must be recognized that if civil servants are not transferred to local governments, these can never gain the capacity needed to carry out new responsibilities effectively.

Although political parties were originally among the proponents of decentralization, their support seems to have waned in recent years. As for the big newcomer, *Thai Rak Thai*, it never seemed to be interested in decentralization from the start. Indicative of this initial indifference, shortly after being elected prime minister in 2001, Thaksin delivered a policy statement to parliament containing nine policy priorities of the new government, none of which dealt with decentralization (Nelson 2001: 248). Over time a clearer picture of Thaksin's attitude towards decentralization emerged: worse than indifferent, it appeared that Thaksin actually opposed decentralization

Originally floated as an idea at a government workshop in 2001, Thaksin proposed turning provincial governors into "CEOs" with enhanced executive power over the budgeting, personnel, and organization of all state agencies at the provincial level. In theory, greater efficiency was supposed to be achieved in solving problems in the provinces by using this business-like approach, as in the private sector. After a trial period in which the initiative was piloted, all provincial governors in the country were "upgraded" to become "CEO" governors in 2003. The move entailed a fundamental change in the traditional role of the provincial governor who, up until that time, did not have direct authority over personnel from agencies outside the Ministry of Interior and who performed primarily a coordinating function.

Moreover, the "CEO" governors were made directly responsible to the prime minister rather than to the Minister of Interior. With the added authority also came a significantly enhanced budget to facilitate the "CEO" governor's more interventionist role. For Thaksin, whose initial popular appeal rested on his image as a successful and decisive businessman, the move was an attempt to spread this approach to the provinces via similar, executive-type personnel directly connected to himself. However by re-concentrating power in the hands of newly created provincial level chief executives, Thaksin was moving in a direction contrary to that mandated by the 1997 Constitution (Nelson 2001: 253-7; Mutebi 2004: 45-8). Many politicians pointed out that creating "CEO" governors was at odds with the laws on decentralization, but Thaksin simply did not seem to care.

Proponents of decentralization, and those who hoped to capitalize on the new opportunities it offered, were not just annoyed by the re-concentration of power during the Thaksin administration. They also found themselves thwarted by the populist policies implemented by the *Thai Rak Thai* government. For example, one of the most well-known policies involved creating a one-million-baht revolving village fund for each of Thailand's 71,102 administrative villages and 2,339 urban communities (Pasuk and Baker 2004: 93). This money could theoretically be loaned out for use in income generating projects that would help promote local development. Yet, because the purpose of the policy was to gain electoral support for *Thai Rak Thai*, the program entirely bypassed local governments such as TAOs and instead targeted individual voters in villages. At the same time, the actual money for the fund was channeled through the central bureaucracy, and the committees that had been set up to oversee the program locally were often heavily influenced by officials of the Ministry of Interior (Nelson 2001: 248).

Even though decentralization ran into many obstacles during the Thaksin regime, the situation today is not necessarily any better. Since assuming office, the current, military-appointed government of General Surayud Chulanont and its sponsor, the Council for National Security, have shown little inclination to proceed with implementing decentralization, or even to ensure that decentralization remains on the agenda in the event that they actually withdraw from power and restore the country to civilian rule.¹¹

Experiences with Decentralization on the Ground

Although less than eight years have elapsed since passage of the Decentralization Act, local governance practitioners and others involved with decentralization have had more than enough time to observe, gather experiences, and formulate impressions about its implementation. From the point of view of those hoping that decentralization would be implemented as mandated by law, leading to the emergence of democratic local government organizations genuinely responsive to the will of local residents, the overall assessment is far from optimistic. Many of the negative experiences of those working in areas related to local governance were likely a direct result of Thaksin's concerted efforts to consolidate absolute power in his hands. Nevertheless, problems in implementing genuine decentralization can be attributed to many other factors as well, including those that stem from technical and political issues.

Two different types of problems can be identified with technical issues: problems concerning the structure and procedure of decentralization, and those related to financial issues. One of the early major concerns raised particularly by technocrats was the viability of Tambon Administrative Organizations as providers of public services. There are thousands of TAOs, and being in rural areas, the population in each TAO is relatively small. In some cases, the low population does not even meet the threshold level for the provision of the most basic services. Of the 6,745 TAOs that existed in 2001, the vast majority (5,545) fell into category

¹¹ To be fair, one cannot conclude definitively that the CNS and the interim government it installed are actively intent on halting decentralization as such. Instead, it appears more likely that the interim government is simply inept or ineffective at accomplishing much of anything. Indeed, using an automotive analogy, many critics of the Surayud government (who may in fact be supporters of the CNS and the coup that ousted Thaksin) have accused various ministers in the government of "going into neutral" rather than aggressively pursuing the government's most important agenda, which they perceive to be the investigation and prosecution of Thaksin, his family and cronies on charges of corruption.

5, meaning they were the smallest class of TAO. The annual budget of each of the category 5 TAOs was less than three million baht, and the number of local civil service personnel working in each of them was limited to three persons.¹² In other words, the capacity of these TAOs has been quite narrow. Some have argued that decentralization could be better and more efficiently advanced if its scale were changed, focusing on units larger than TAOs (Webster 2004: 474-5; Wegelin 2002: 8-10). However, this proposal seems to be politically unfeasible today, as the resistance of already established TAO officials reluctant to relinquish their authority would most likely be insurmountable.

Another complaint of some local governance practitioners is that the entire process of decentralization is being carried out mechanistically. Emphasis is laid on the transfer of 245 responsibilities according to various schedules.¹³ Yet only a few measures are being undertaken to build the capacity of TAOs so that they can more effectively fulfill their duty to provide these services (*Ponlamuang Neua*, 6 January 2007). Furthermore, because of the lack of capacity to take on more complex social service functions,¹⁴ local governments have tended to focus on public works (Webster 2004: 484), which, in the Thai context, are traditionally prone to corruption.

Issues of finance constitute a major source of discontent for many TAOs. The revenue structure for local government organizations as laid out in the Decentralization Act is quite complex, but to simplify the matter, TAOs generally have four sources of income:

1. Tax levied locally (including house and building tax, land development tax, sign tax, and animal slaughter tax)
2. Surcharge and shared taxes, which are collected by PAOs or the central government for the TAOs (including excise taxes, VAT, specific business taxes, land registration fees, and vehicle tax)
3. Non-tax revenue from fees and fines
4. Grants/subsidies from the central government

Theoretically, TAOs also have the authority to borrow money but, so far, have been reluctant to do so. This matter is complicated by the fact that although Article 28 of the Decentralization Act specifically authorizes municipalities and TAOs to borrow money, the previously existing regulations of the Department of Local Administration (DoLA) permit only municipalities to borrow; and even then, only with the approval of the provincial governor (Sutapa 2004: 8).

According to the Decentralization Act, local government organizations were to be allocated revenue in an amount equal to at least 20 percent of all government revenue in 2001, with the

¹² As mandated by law, these three local administrative civil servants consist of a general clerk [*palad*], a person responsible for overseeing public works projects, and a person responsible for finance.

¹³ To date, 180 of these 245 responsibilities have been transferred. Those which have not are related mostly to the provision of education and health services, which are proving to be major sticking points. The transfer of education to local governments in particular has been strongly opposed by teachers across the country, largely for what appear to be self-serving reasons.

¹⁴ A primary obstacle in this regard is the fact that the great majority of TAOs are constrained by the lack of civil service personnel with any particular expertise beyond elementary finance or construction oversight.

sum rising to 35 percent of all government revenue in 2006. These targets were quite ambitious, considering that in 2000, the actual figure was only 12.63 percent. The first target for 2001 was reached,¹⁵ with the boost in revenue for local governments coming from increased allocations of centrally collected shared taxes and subsidies. Between 2001 and 2006, however, little progress was made toward reaching the 35 percent final target. Actual performance was as follows: 20.68% in 2001, 21.88% in 2002, 22.19% in 2003, 22.5% in 2004, 23.5% in 2005, and 24.1% in 2006 (Choopol 2004; Olarn 2006).

By failing to provide the legally mandated financial support to local government organizations, the Thaksin government effectively undermined their capacity and stunted their development. Although Thaksin is no longer in power, one senior Ministry of Interior official in the DoLA privately admitted that while the figure would gradually rise, local government revenues would probably never exceed 30 percent of total government revenues.¹⁶

Political obstacles encountered by practitioners trying to implement decentralization on the ground were probably more serious than the technical problems. In general, the overarching political problem, not surprisingly, is that traditional holders of power are reluctant to relinquish their privileges.

Although the intention of the 1997 Constitution was to grant real autonomy to local government organizations under a framework of decentralization, there has, for the most part, never been any genuine desire on the part of civil servants to realize this goal. This is especially true of civil servants in the Ministry of Interior, which has been historically charged with overseeing the administration of the country. In part because of conflicting legal provisions,¹⁷ but also because of a deeply engrained cultural acceptance of a highly centralized administrative system, TAOs have not been able to break free of the grip of provincial governors and district officers.

In practice, these Ministry of Interior representatives have managed to retain veto rights and are able to exert a great deal of influence over the decisions made by TAOs. For example, one of the primary functions of TAOs is to draft and execute local development plans. While these plans, in theory, are supposed to address the needs of local residents, they in fact tend to adhere more closely to the strategic development plans of the provincial governor, which are developed in accordance with central government policy. Whenever TAOs exhibit too much independence, they even run the risk of being dismissed from office by the provincial governor (Mutebi 2004: 51 note 16). As one former TAO member explained, when the district officer “invites” a TAO to contribute financial support to an activity unrelated to the TAO itself, the TAO understands quite well that declining the “invitation” is really not an

¹⁵ Actually, Wegelin argues that the 2001 target was only nominally reached and, due to problems in timely disbursement, the actual amount available to local government organizations for use in the 2001 fiscal year was only around 14 percent (2002: 6).

¹⁶ This official, who agreed to be interviewed on the condition that he not be named, stated that an unpublished Ministry of Finance report has recommended that if responsibilities for health and education are not transferred to local government organizations, the figure should be capped at 26-27 percent. He also indicated that officials at the Ministry of Finance who oversee fiscal transfers have little understanding of decentralization and are generally disinclined toward transferring any more money to local government organizations (Interview with senior civil servant in Department of Local Administration, Ministry of Interior, Bangkok, 13 January 2007).

¹⁷ The failure to carry through with the revision of existing laws and ministerial regulations to bring them into conformity with the decentralization provisions contained in the 1997 Constitution has, at the structural level, permitted the Ministry of Interior to perpetuate its domination over local government organizations.

option.¹⁸ Yet viewing the situation from the opposite angle, the head of the Suthep TAO in Chiang Mai has asserted that the biggest problem with leaders in local government is that they do not exercise their legally granted powers. They accept too many decisions and directions from the district officer instead of listening to their constituents (Garden et al. 2006: 8).

Lacking the political will to implement decentralization, the Ministry of Interior has done little to inform the public or the bureaucracy about decentralization. Consequently, few people in society are even aware of the issue. One senior DoLA official estimates that only a handful of civil servants have any real knowledge about decentralization or understand local governance. Even fewer politicians know anything of these issues.¹⁹ Local governance practitioners themselves lack understanding and information about decentralization, and this invariably impacts their work (Wegelin 2002: 10). One cannot help but wonder if this knowledge/information deficiency has been a factor in preventing TAOs from playing a more constructive role in fostering popular participation in local governance.

As greater amounts of revenue (and, potentially, power) are transferred to local government organizations, more incentive is created for involvement and intervention by parties from outside the localities. Over the last several years, national level politicians with links to big business have begun to cultivate closer relations with TAOs, whether by having their own representatives run for local office, or by building up patronage networks that incorporate TAO members. Although predictable, this trend is nevertheless alarming, since it renders even more difficult the task of developing TAOs into democratic local governance bodies that genuinely respond to the needs of local inhabitants.

Another indication of the perceived importance of TAOs is that in some areas, vote buying has been observed during elections.²⁰ This practice raises concerns about the potential of Tambon Administrative Organizations to function as elected political bodies that adhere to a fundamentally different set of rules than those which dominate at the jaded, corruption-prone national level. In a sense, these concerns highlight one of the major political problems with decentralization as it has unfolded since 1997, namely, the failure of proponents of genuine substantive decentralization to seize the initiative and propel the issue forward.

Overall, decentralization in the recent Thai context has overemphasized form while neglecting content. Decentralization should theoretically be about bringing government closer to the people and opening opportunities for citizens to participate in the decisions that affect their daily lives. If decentralization is not a tool used to achieve popular or community empowerment and a deeper level of democracy, then what purpose does it serve? Progressives in Thailand have failed to convince society that the real issue of decentralization lies with these political concerns about democracy. Thus, bureaucrats at the Ministry of Interior have been allowed to set the decentralization agenda in terms of depoliticized transfers of responsibilities and revenue. Engagement with the issue on these more technical

¹⁸ This comment was made as a personal communication to the author by Olarn Ongla, 30 January 2007.

¹⁹ Interestingly, this source regarded both present and past prime ministers as politicians who had little understanding or knowledge about local governance and decentralization.

²⁰ However, since votes for TAO positions are relatively cheap and the number of people whose votes are potentially worth buying in a village is relatively low, candidates' pockets fortunately need not be very deep. This can be viewed as a positive factor, since vote buyers who win do not need to be preoccupied with finding ways to recover massive amounts of money, as is the routine for national level elected officials.

terms rather than in a more overtly political fashion has resulted in conceding too much territory from the very beginning.

What has been missing from decentralization so far is a coordinated and sustained effort by community-based organizations, NGOs and progressive social activists to demand accountability by TAOs and to pressure them into accepting and incorporating people's participation in their own processes. Even if decentralization were implemented according to plan, if communities are not prepared to demand their rights, and local citizens are unwilling to use these new mechanisms to improve their conditions, then TAOs and other local government organizations will remain substantially no different from any other elected political body in the country. In sum, civil society organizations in Thailand must share part of the blame for failing to "advance the decentralization agenda" in a way that would make it directly relevant and genuinely beneficial for people living in local communities around the country.

Thailand Post-19 September: Whither Decentralization?

In the immediate aftermath of the 19 September 2006 coup, many Thais heaved a sigh of relief, believing that the authoritarian era of Thaksin had finally ended. They turned a blind eye to the fact that it was the use of military coercive force that achieved this end, and simply hoped that the soldiers would be kind enough to bow out of politics quickly and restore power to a freely elected civilian government.²¹ Moreover, Thaksin has proven to be a much more formidable opponent than anyone could have guessed, and the possibility of his returning to Thailand and resuming a political role continues to torment the Council for National Security and the military-appointed government even today, several months after the coup.

The coup group and the traditional elite that supported it argue that it was a fundamentally flawed political framework that gave rise to "Thaksinomics," the term used by Thais in referring to the populist project that built up Thaksin's authoritarian rule to advance the interests of the new elite business families that united around him. Suspending the 1997 "People's Constitution" was a key first step towards dismantling the post-1997 political order.

The interim 2006 Constitution lays out the process for drafting a new constitution, which is to be completed by the middle of 2007. This new constitution, in turn, will establish the ground rules by which Thai politics from this year forward will be played (barring a subsequent military coup). Significantly, the constitution drafting process specified by the current interim Constitution virtually ensures CNS control over the final product. Moreover, it seems clear that the CNS, the military-appointed government, and their elite backers tend to regard local government officials with much suspicion. During the Thaksin era, many of these local officials in fact, were successfully co-opted by *Thai Rak Thai*.²² From the viewpoint of those interested in advancing decentralization, these are not good starting conditions.

²¹ To be more precise, they placed their hopes in non free elections, since it was generally understood that if free elections were indeed actually held, Thaksin and his *Thai Rak Thai* Party would once again emerge victorious.

²² Some local government officials are alleged to be key figures in the "undercurrent," a term used to refer to hardcore Thaksin loyalists (or at least those who are purportedly continuing to benefit from the former prime minister's financial largesse) who are supposedly launching rear guard resistance actions to undermine the stability and legitimacy of the current government in order to help Thaksin return to power. A spate of arson

Nevertheless, the Council for National Security and the interim government claim that the constitution drafting process will be open to public input, and that the 35-member Constitution Drafting Committee (CDC) will take into consideration views expressed by the people. In fact, a 300-million-baht budget supplied by the Prime Minister's Office has been allocated to civil society organizations that wish to engage in the process by fostering civic discussion, gathering public opinion and submitting it to the CDC. Yet many critics have pointed out that it is entirely unrealistic to expect open, public debate on political issues while parts of the country are still under martial law. Perhaps because it fears Thaksin's return, the CNS has continued to repress civil liberties and stifle freedom of expression. Several websites containing information considered critical of the coup and coup makers have been blocked, movements of people, especially in rural areas, have been monitored and prevented, and instances of military intimidation of villagers are known.

In spite of the repression, many civil society organizations (i.e., those that are not boycotting the military-appointed government and the CNS) have been eager to engage with the interim government and are taking a role in the constitution drafting process by assisting in generating public input. For the most part, these civil society organizations are organizing various public forums around the country, soliciting the participants' views. Then they will pass on the recommendations on constitutional reform to the CDC, and lobby for their inclusion in the 2007 Constitution.

Some initiatives are also underway, apart from the official constitution drafting process, that aim to draft a people's version of the constitution. These initiatives will most likely feed into a lobbying process for substantive inclusion in the official constitution. To a large extent, the various efforts to form public opinion and channel it into pressuring the CDC are moving parallel to each other, rather than in coordination. None of the current initiatives is aimed specifically at advancing the decentralization agenda (or even simply defending past gains already made) in the 2007 Constitution. However, one common principle apparently accepted by most of the civil society organizations sponsoring these parallel processes is that the power of the state should be reduced and the power of the people boosted. To some degree, this underlying principle conforms to the goals of the progressive decentralization agenda, so one can expect that "popular demands" for continuing decentralization to local government organizations will be included in the issues that will be submitted to the CDC in the name of the people's sector.

Recently, however, some disconcerting signals have been sent out by the Constitution Drafting Committee, suggesting that mobilization by civil society on constitutional reform may turn out to be a wasted effort. Prasong Soonsri, the arch-conservative former spymaster who was virtually appointed by the CNS to chair the Committee, announced that the public should reduce its expectations and understand that while the CDC would listen to public input, it would not be obligated to incorporate it into the constitution. The 35 charter drafters, he insisted, would ultimately write the constitution as they felt was best (*Nation*, 9 February 2007).

attacks targeting schools in the northern and northeastern regions of the country, the New Year's Eve bombings in Bangkok, and a recent rocket-propelled grenade attack on the office of one of the biggest mass circulation daily newspapers in Thailand have all been mentioned in connection with the "undercurrent." However, what local government officials have to do with any of these events remains quite unclear.

If civil society's demands on the CDC, including those for a continuation or even intensification of decentralization, end up falling on deaf ears, then what hope is left for those who wish to see the establishment of autonomous local government organizations as expressions of the local people's self-determination? Looking to other signs from the current wielders of power, one cannot help but feel concerned about the future direction of Thai politics.

The interim prime minister, General Surayud Chulanont, has floated the idea that in the future, the prime minister need not be chosen from parliament, meaning that the next prime minister could conceivably be non-elected.²³ There has also been much debate about the future of the Senate, and proposals that the Senate could just as well be appointed or perhaps even eliminated entirely. A key indication that the Senate will no longer be elected, as under the previous constitution, comes from the chairman of the subcommittee responsible for drafting the part of the new constitution dealing with political institutions. He has stated that his subcommittee agreed to the idea of selecting Senators from professional groups rather than having them elected (*Nation*, 2 February 2007).

The head of the CNS has also suggested that *kamnan* and village chiefs, traditionally close to the Ministry of Interior, and now often the local competitors of TAOs, should be permitted to double the length of their term from five years to ten years (*Nation*, 26 December 2006). This point is particularly relevant for decentralization. Ever since TAOs were first established, there was an implicit understanding that the positions of *kamnan* (and perhaps village chiefs) would eventually be phased out.

Another potential route to political change apparently has also been blocked. A CDC subcommittee recently announced that the 2007 draft constitution would probably do away with the party-list system and alter the single-member constituency system used under the 1997 Constitution in favor of creating larger, multiple-member constituencies (*Nation*, 9 February 2007). This change in electoral systems, of course, would reduce the likelihood that an alternative progressive political party favorably inclined toward genuine decentralization and popular empowerment would have a chance to gain entry into parliament.

For its part, the military-appointed interim National Legislative Assembly (NLA) seems to have no interest in decentralization at all. According to one member, almost all of his colleagues know nothing about the issue and are like a "blank slate."²⁴ Instead, they are much more preoccupied with going after Thaksin for the corruption and other offenses he committed before being removed from office. Nevertheless, when the Decentralization Act (1999) came up for amendment in December 2006 because the state was unable to meet its obligation under the act to transfer 35 percent of all government revenue to local government organizations in that year, only a handful of members voted against the amendment to reduce the target downward to 24 percent. Realistically, the NLA had little choice other than to

²³ Preference for a non-elected prime minister was also recently echoed by the deputy chairman of the CNS, who, nevertheless, denied that the proposal was part of an attempt by the coup group to hold onto power after the next elections are held (*Nation*, 15 December 2006).

²⁴ This National Legislative Assembly member, who wished to remain anonymous, interestingly enough indicated the belief that the interim government is genuinely willing to listen to the public and permit itself to be lobbied on the issue of decentralization. He stated that the government will have to not only listen, but also follow what the public demands, since it is worried about maintaining its own legitimacy. In his view, it is therefore essential that civil society waste no time in mobilizing on the issue of decentralization and other important issues now, before they are officially decided one way or the other (Interview with member of National Legislative Assembly, Bangkok, 15 January 2007).

approve the amendment, since the target had already been missed and the state would otherwise be in violation of the law. According to the same NLA member mentioned above, many members went along with the government in supporting the amendment with the understanding that there would be an opportunity to revisit the issue in a few months when the amendment of several laws pertaining to decentralization would be introduced at once.

However, given all the other signs that have emerged from the present holders of power, it is not at all certain that the outcome of the consideration will be favorable toward advancing decentralization. At least equally likely is the prospect that the opportunity will be used to modify existing laws dealing with decentralization to reduce the authority of local government organizations and re-concentrate power in the hands of the central bureaucracy.

For the civil servants working on decentralization within the Department of Local Administration, almost nothing has changed since the latest military coup. According to the previously mentioned DoLA official, no clear directives on decentralization have been issued by the interim government, most likely because it simply has no plan or direction for decentralization. In turn, the absence of new instructions leaves the DoLA to carry on just as before, that is, in a half-hearted manner with little real concern for establishing citizen-responsive local government organizations genuinely open to participation.

*Postscript*²⁵

The Constitution Drafting Committee unveiled its initial draft of the 2007 Constitution for public scrutiny on 19 April 2007. In the short time that has elapsed since then, a deluge of suggestions for amendments has come pouring in from the public. Some, such as what on the surface appears to be an apolitical demand that Buddhism be declared as the official state religion, hold the potential to make or break the draft constitution, not to mention causing tremendous disruption in society.

According to the timetable stipulated in the interim 2006 Constitution, Thailand is currently in a 30-day period in which recommendations and motions to amend the draft can be made. After this 30-day period, the CDC will consider the recommendations it receives and decide for itself which, if any, to include in its final draft of the 2007 Constitution. At that point, a larger 100-person body called the Constitution Drafting Assembly (CDA) has the right under certain conditions to make and consider additional amendments, as well as either approve or disapprove the CDC's final version of the 2007 draft Constitution. In the event that the CDA approves the draft, it must be submitted for a popular referendum between 15 and 30 days after its approval. If the draft is approved in the popular referendum, it will effectively be adopted as the new constitution.

However, in the event that the draft fails to pass in the popular referendum or, if prior to the referendum, the CDA votes the draft down, the interim 2006 Constitution authorizes the Council for National Security, together with the Council of Ministers, to choose any of the country's past constitutions, revise it, and promulgate it as Thailand's official eighteenth

²⁵ A slightly different version of this chapter was originally presented as a paper at a workshop in Yogyakarta on decentralization in Southeast Asia sponsored by LogoLink in February 2007. At the time, the CDC had not yet completed its initial draft of the 2007 Constitution, hence the speculative nature of many of the observations in the preceding section. This postscript was written as an addition at the end of April 2007, just a few days after publication of the CDC's initial draft constitution.

constitution. In short, even though the CDC has completed its initial draft of a new constitution, many issues are still outstanding, and the final content of the charter remains uncertain.

Nevertheless, even though changes in content may occur and the draft might be rejected entirely, the chapter of the CDC's draft constitution dealing with local governance is still worth examining. Compared to the 1997 Constitution, no incredibly major changes have been made, and all the articles seem to be much within the same general framework of the last constitution. From the point of view of deepening popular participation, it even looks as if some improvements have been made this time around. For example, in draft constitution Article 278, local residents are explicitly granted the right to express their views and hold popular referenda on important cases wherein the actions of local government organizations affect their lives. This same article also fosters greater accountability by requiring local government to report annually to the public regarding budget, expenditures, and performance, thereby enabling people to monitor these. Furthermore, Articles 276 and 277 eliminate the high hurdles that existed in the 1997 Constitution on the number of signatures of eligible voters required to recall a local political office holder or propose a local ordinance.²⁶

Unfortunately, while the draft constitution appears not to backpedal on decentralization and local governance, the same cannot be said for its provisions on governance at higher levels. The most striking change that represents a move away from the democratic ideal is the reintroduction of a non-elected Senate. In the same vein, the authority to select members of the independent agencies, which was formerly vested in the Senate under the 1997 Constitution, has now been taken away from the Senate and placed in the hands of a committee. This committee is composed of the presidents of the Constitutional Court, the Supreme Court and the Supreme Administrative Court, along with the President of the House of Representatives and the Opposition Leader. Significantly, the majority on this committee are the justices, none of whom are elected by the people. Additional concern has been raised about Article 68, paragraph 2 in the draft constitution, which apparently provides for a kind of 11-member national crisis committee composed mostly of non-elected officials (i.e., presidents of the same three courts mentioned above and the heads of the four independent agencies that are chosen by committees on which these same three justices hold a majority) who will have special authority to resolve political crises.

In spite of what appears to be an official commitment to decentralization in the continuing mandate for local governance, and perhaps even to increased public participation at the local level, the draft constitution's provisions to transfer authority from elected politicians to non-elected officials reveals a deep seated mistrust of Thai voters' judgment and ability to choose their own political leadership. This mistrust in turn certainly reflects the fact that the CNS and its elite backers equate democracy with support for Thaksin, *Thai Rak Thai*, and greedy, corrupt politicians. Apparently, the main thrust of the corrective being proposed in the draft constitution is to reduce the power of the politicians in favor of the bureaucracy. From the perspective of proponents of decentralization and its potential for popular empowerment, this

²⁶ These two articles themselves do not specify the number or signatures required to accomplish these ends, but in an English language press release dated 19 April 2007, the CDC/CDA explain that the actual intent of the articles is to reduce the number of signatures required, thereby representing a boost in potential popular participation. This same press release, written in Thai, constitutes the first part of a document published by the CDC/CDA that also contains a table comparing each article of the 2007 draft Constitution with the 1997 Constitution, and explains officially the significance (from the point of view of the drafters) of the changes proposed.

means that efforts must be redoubled to take advantage of the few spaces and opportunities still available to push for greater gains at the local level, while at the same time working to prevent a total reversion to the era of the bureaucratic polity.

In theory, not only are bureaucracies conservative and averse to change, but the real-life experience on the ground in Thailand over the last decade has shown that a major obstacle to genuine implementation of decentralization has been resistance on the part of the bureaucrats, particularly those in the Ministry of Interior. Indeed, while the future remains uncertain with regard to the country's next constitution, decentralization will clearly continue to face many challenges, whether imposed by national-level politicians, or by bureaucrats answering upward to the center. In the final analysis, whether or not genuine decentralization and substantive popular participation in politics are ever realized in Thailand will depend in no small measure on the strength and determination of the people's sector. As long as there are organized and conscious groups of progressives pushing for change, hope will always remain.

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