

## Frequently Asked Questions about the Current Political Situation in Thailand

*1. The Red Shirts' protesters have contended that the Abhisit Vejjajiva Government is "unelected" and lacks legitimacy, or that it came to power through dubious means with manoeuvring by the military. Is this contention valid?*

- The present Government was formed through democratic, parliamentary means and in accordance with the Constitution of the Kingdom of Thailand.
- When the House of Representatives had to elect a new prime minister to form a new government in December 2008 after the previous one was disqualified due to electoral fraud, the majority decided to elect Mr. Abhisit – himself a seven-time elected Member of Parliament – prime minister in an open, roll-call vote, over the other contender, Police General Pracha Phromnok (rtd), who was nominated by the Pheu Thai Party.
- This was done by the exact same procedures and by exactly the same House of Representatives as in the cases of his two predecessors, to whom Mr. Abhisit had earlier lost the contests to lead in forming a government.
- In fact, the process is similar to the British system. It is not unusual in a democracy with a multi-party system, particularly when there is a hung parliament, that the House may decide to give a chance to form a government to a party other than the one which won the most seats but fell short of a clear majority, and that political parties may switch support from one party to another.

*2. Did the security forces use excessive forces, firing live bullets at unarmed protesters, shooting also at journalists and deploying snipers, thereby leading to casualties?*

- Since the protests started on 12 March, the Government has always exercised utmost restraint and caution, trying to avoid unnecessary violence and confrontation. It has done so despite a call for more forceful measures from some part of society, so much so that some had even questioned whether the Government was capable of handling the situation.
- From the beginning, the security officers have clearly stipulated rules of engagement in accordance with international standards, including strict instructions on the use of live bullets.
  - When the officers started to cordon the protest areas on 13 May, their instructions were clear. Use of live bullets was limited to three situations only, namely, 1) as warning shots, 2) for self-defence so as to protect the lives of officers and the public when absolutely necessary, and 3) to shoot at clearly identified individuals armed with weapons, who might otherwise cause harm to officers and members of the public.

- Also, to prevent repetition of the casualties suffered due to head-on confrontation between security officers and terrorist elements amongst the protesters on 10 April, the officers were authorised to use shotguns against armed groups and terrorist elements approaching security units, but they must only aim below the knee level.

- Under no circumstance would these weapons be used on women and children. There is thus no intention to take lives or cause unnecessary harm.

- Second, it was not the case that the officers were the first to use force. The latest security officers' operations, which started on 13 May, was to cordon off the protest areas at Ratchaprasong by setting up check points along the perimeter, with no intention of moving in. They were however attacked by armed elements, using war weapons, including M 79 grenades, hand grenades, live bullets and other weapons, and harming not only the officers but also innocent bystanders in the areas. The officers thus had to respond and they did so in accordance with the rules and instructions.

- After the protests ended, these armed elements continue to instigate incidents, including at Pathumwanaram Temple, by using weapons to attack those who tried to get out of there and obstruct officers from sending assistance to them.

- What took place at Pathumwanaram Temple was pre-meditated and reflects a well planned counter operation on the part of the armed group who knowingly took advantage of the temple's designation as a safe area for unarmed demonstrators, particularly, women, children and the elderly, and not least foreign journalists. This was made all the more evident by the large amount of weapons discovered in the protest area under the control of demonstrators.

- Be that as it may, the Prime Minister has reaffirmed that the Government is open to scrutiny and ready to be subject to the legal process in accordance with the law. In this regard, investigations are being conducted into the violent incidents and losses that occurred. The Cabinet has appointed Professor Dr. Kanit Na Nakorn, a former Attorney-General, as chair of an independent committee to investigate what actually transpired. The Government has given a mandate to this committee to consider all sides, including those sympathetic to the protesters, so that it would be able to produce impartial findings acceptable to all concerned and contribute to the reconciliation process.

- The National Human Rights Commission and the National Anti-Corruption Commission, which are independent constitutional bodies, are also conducting their own investigations. On 31 May – 1 June 2010, the House of Representatives held a censure debate against the Prime Minister and other members of the cabinet, during which the Government's actions during the UDD protests was the main issue, and the Government won the House's vote of confidence.

*3. Why does the Government not call early elections as these could help resolve the political crisis? Does the Prime Minister's earlier offer to hold early elections still stand?*

- The Prime Minister's initial offer to hold elections on 14 November 2010 – a bit over a year before his terms officially ends – is off the table given the refusal of the UDD to accept his reconciliation plan by ending their protests and joining the reconciliation process. Hence, while the Government will continue to proceed with the reconciliation plan, it is the prerogative of the Prime Minister to determine when the situation will be conducive to dissolving the House so that next general elections can be held.

- The Prime Minister has stated publicly on many occasions that he has not ruled out early elections as an option, if holding elections will contribute towards reconciliation. For elections to achieve such goal, three conditions should be met.

- In addition to the first condition, which is economic recovery, it is important that the rules governing the elections should be agreed upon by all sides to ensure that once elections are held, the results would be accepted and not lead to further protests or a refusal of the Court's ruling if a party is punished for electoral fraud. This issue is related to constitutional amendments and the fifth of the five-point reconciliation plan. In this regard, the Prime Minister intends to set up a panel of academics to look at the issue. The panel will use as their basis of work the recommendations proposed last year by a parliamentary committee set up specifically to study constitutional amendments.

- The third condition is that the environment should be conducive with no risk of violence. Elections should be held in a peaceful environment as well as in a free and fair manner. Hence, there should be a period of stability in which politicians from all parties can work and campaign freely without fear of threats, and the Government and the Parliament can carry out their duties smoothly.

*4. Why had the Government curbed freedom of the press, including blocking websites and banning community radios?*

- The Government has attached great importance to freedom of the press, and the sheer size of the Foreign Correspondents' Club of Thailand alone should reflect the ease with which the media can carry out their work in the Kingdom. Also, during the UDD protests, the media, Thai and foreign, have been able to report on operations by security officers.

- That certain TV channels, community radios and websites have been blocked or suspended is due to the fact that these have been used to manipulate and incite hatred among people by disseminating false or distorted information.

- This is why the Prime Minister has proposed as one element in his reconciliation plan the need to ensure that the media can operate freely and constructively without being used as political tools, as had happened in recent years, including by establishing an independent regulatory body for the media. From the discussion that the Prime Minister has with the representative from media organisations, there is general consensus about the problem.

*5. On what grounds does the Government have in alleging that former prime minister Thaksin Shinawatra played a role in inciting and providing support for the protests and acts of violence?*

- It is clear to the Government that the former prime minister has played a pivotal role in the demonstrations not only by inciting people to carry out a “people’s revolution”, but also by instructing UDD leaders to reject the Prime Minister’s reconciliation plan, which they had earlier agreed to in principle. As the latest events have unfolded, there are strong suspicions that Mr. Thaksin may be involved with the acts of widespread terrorist acts that have occurred in Bangkok and some other provinces. The authorities are gathering evidence that would lead to further prosecution against him in accordance with the law.

- In this regard, the Criminal Court –having considered evidence and witnesses from both the authorities’ and Mr. Thaksin’s sides – has found sufficient evidence to approve an arrest warrant against the former prime minister on a charge related to terrorism in accordance with the Thai Criminal Code. Whether he is guilty as charged, has to be proven in the court of law.

- It is now also public knowledge that he has hired an international lawyer – Robert Amsterdam of Amsterdam & Peroff – who has been going around giving interviews to discredit the government and defend Mr. Thaksin’s interests.

- Nevertheless, the fact remains that the former prime minister is a fugitive of the law. Unlike other Thais, he has refused to serve his sentence, while continuing to use the justice system, which he himself criticised as unjust, against others.

*6. Is the crisis in Thailand a reflection of deeply rooted divisions between the urban rich and rural poor, with the red-shirt movement representing discontentment of the general Thai public over the current state of play?*

- While economic disparities exist, it is not accurate to portray Thailand’s political problem as an urban rich versus rural poor conflict, or a “class struggle”. Such rhetoric has been employed by the protest leaders to create group emotion, playing on people’s grievances and sense of injustice.

- The Government well recognises the need to address the social grievances. It has been doing so through its first and second stimulus packages and other initiatives, including the income guarantee for farmers, monthly allowance for the elderly and for

public health volunteers, free education and universal health care schemes, as well as capacity building programmes for the unemployed.

- The Prime Minister's proposed reconciliation plan also includes a participatory reform process to address people's grievances such as disparities, poverty and other social injustices in a systematic and sustainable manner. Some progress has already been made on this issue. Government officials, including the Prime Minister himself, have met with representatives of civil society. Eventually, it is envisaged that a special mechanism, working independently from the Government but supported by the government agencies concerned, would be established to carry on the work on a long term basis.

#### *7. How serious is the problem of income disparity in Thailand?*

- Income disparity is a common challenge that both developing and developed countries face. In relative terms, the level of income disparity in Thailand is comparable to that in other developing countries, especially ASEAN, as measured by the Gini coefficient and by the ratio of the income or expenditure share of the richest 10% to that of the poorest 10% of the population according to the UN Development Programme (UNDP). In fact, the latest statistics indicate that the gap between the richest 10% and the poorest 10% of the population in certain developed countries, such as the US and the UK, is greater than that in Thailand.

- Successive Thai governments have been addressing the issue of disparities as a matter of priority. Poverty incidence declined from 34% in 1990 to 21% in 2000 and further to 8.5% in 2007. Thailand has achieved most of its Millennium Development Goals (MDGs) well in advance of the global 2015 targets and has set a timeline for additional ambitious targets that go beyond the original goals (MDG-plus).

- Be that as it may, the present Government remains committed to addressing the issue of economic and social disparities, and has already put in place many initiatives aimed at helping those most in need, including income guarantee for farmers, free health care, free education, provision of subsistence support for the elderly, and measures to address the informal debt problems. Moreover, one key element of the Government's reconciliation plan focuses specifically on dealing with this in a systematic and sustainable manner through a national reform process with participation by all sectors of society.

- Some progress has been made. Government officials, including the Prime Minister himself, have met with representatives of civil society. The next step would be to identify and prioritise problems. In this regard, a national survey will be conducted to gather people's views on their needs and how to resolve the problems, while assemblies would be held in parallel, where all groups of people would be invited to share their views. Eventually, it is envisaged that a special mechanism driven by the civil society, working independently from but supported by the Government, would be up and running to carry on the work.

8. *Where did the 2007 Constitution come from? Was it written and handed down by the military who staged the coup in September 2006?*

- The Constitution was drafted by an assembly with public hearing being conducted in all regions of the country. It was accepted by the majority of people through a national referendum – the first one to do so.

- In fact, the present Constitution is based on the 1997 one. But the drafters had sought to correct some of what was then regarded as weaknesses of the 1997 Constitution, in particular those which had opened ways for abuse of power and political interference in independent bodies and scrutiny processes of the executive branch. The provisions with regard to ethical standards of political office holders have also been strengthened.

- Be that as it may, along the way, people may feel that there are deficiencies or provisions that pose difficulties in the administration of the state. In this regard, the issue of constitutional amendment has been discussed. In fact, the Prime Minister proposed this after last April's riots, and he again has included this issue as part of his proposed reconciliation plan.

9. *Why has His Majesty the King remained silent despite calls for his intervention, similarly to what he did to end the political crisis in 1992?*

- The Thai monarchy is above politics. As a constitutional monarch, His Majesty the King has not taken sides or involves himself in political matters or conflict. In the past, the King has used the “moral authority” he has earned over the years to make humanitarian interventions when political conflicts pitting the government against the people spiral out of control, such as that in 1992.

- In recent years, however, the monarchy has been dragged into the political conflict by different political groups. Calls for the King to intervene this time are also politically motivated, designed to draw the monarchy into the political fray. This is something that has to be prevented and stopped.

- Political problems should be addressed through political means. Rather than try to seek redress from the King every time the country finds itself with an intractable political problem, it is the Thai people's responsibility and duty to join hand in pursuing reconciliation, and rebuilding and rehabilitating what has been affected by the recent events.

10. *Is the uncertainty associated with the issue of succession a destabilising factor for the Thai situation? Why is this not discussed openly in the public?*

- The issue of royal succession is clear, both with regard to the Heir to the Throne and rules and procedures as to what will happen should the need arise. Relevant

provisions in the current Constitution also lay out the specific roles of the Privy Council, National Assembly and Cabinet.

- Nevertheless, the succession is certainly a difficult issue for Thais to discuss, given what His Majesty has done for more than 60 years for the well-being of all Thai people who regard him as a father figure. It is thus normal for people to be apprehensive.

*11. Is the lèse-majesté law an obstacle to discussions about issues surrounding the monarchy which are important to Thailand's political future?*

- Discussing the monarchy is not taboo. What is known as lèse-majesté law in Thailand has not been an obstacle to discussions, particularly academic ones, about the monarchy, including how the monarchical institution itself has continuously adapted to the changing environment over the past 700 years of its existence in the Kingdom. In fact, only two years ago, there were lively discussions at the 10<sup>th</sup> International Conference on Thai Studies held in Bangkok about the Thai monarchy and its role in Thai society.

- But of late, there have been attempts to politicize the monarchical institution to ferment divisions within the country, leading to an increase in lèse-majesté cases. The Government is aware of this and has been trying to address it, taking into account the need to protect freedom of speech.

- Admittedly, this is not easy given the sensitivity involved. There are both those who view that the law is too restrictive and those who see it as too lax. In this regard, to sensitize the enforcement of the law, a special advisory panel has been set up by the Prime Minister as a mechanism to help screen and give advice to the police and the public prosecutor on merits of cases related to lèse-majesté under their purview. It will take, among others, the presence of intention to harm the institution of the monarchy and the importance of people's constitutional right to freedom of expression as important considerations. Furthermore, the panel will study and consider how to make further improvements and promote public understanding about the law with a view to reducing instances leading to lèse-majesté complaints.

*12. How can the Government ensure that people's rights are not abused, including risk of forced detention and mistreatment of those arrested? With the casualties that occurred reportedly due to the security forces' operations to disperse the protests, can the case be sent to the International Criminal Court?*

- The Thai Government, in working to resolve the current situation, has always given due respect to the principle of human rights, including civil and political rights. As a party to the International Covenant on Civil and Political Rights (ICCPR), Thailand has been transparent about the exercise of its right of derogation under the Covenant in light of the declaration of a severe emergency situation in certain parts of the country. It has also been observing the letter and the spirit of the Thai Constitution,

especially those provisions dealing with freedom of expression, and emphasising as its core policy the importance of the rule of law and good governance.

- The Emergency Decree provides various safeguards against human rights abuses.

- For example, with regard to detention, Section 12 of the Decree stipulates that the authorities must seek court permission before making an arrest and the arrest shall not exceed seven days. This requirement is more stringent than regular procedures under the Criminal Procedure Code which empowers competent officials to make a 48-hour detention without warrant. The Decree also provides that suspected persons shall not be treated as a convict, and that court permission is required for extension of the custody period which can be extended by seven days at a time not to exceed a total period of thirty days. Upon the expiration of such period, if the detention is still required, the competent official shall proceed under the normal Criminal Procedure Code.

- Furthermore, the Decree provides that the authorities must file a report on the arrest and detention of suspected persons for submission to the court. A copy of such report shall be deposited at the office of the competent official so that relatives of the suspected persons may access such reports for the entire duration of the detention. Relatives of suspects and lawyers may also visit these suspects. There is therefore no risk of disappearances.

- To ensure that the rights of suspects detained under the Emergency Decree are not disproportionately affected, the Decree provides that they shall be detained at designated appropriate locations which are not police stations, detention centres, penal institutions or prisons, underlining the fact that these suspects are not treated as accused persons. Such locations are also made public.

- There is also no blanket immunity provided to officers under the Emergency Decree. Under Section 17 of the Decree, an official can still be made liable for acts which are discriminatory, unreasonable, exceeds the extent of necessity or performed in bad faith. Furthermore, victims have retained the right to seek compensation under the law on liability for wrongful acts (Tortious Liability of Officials Act B.E. 2539 (1996)). As officials know that they can be held accountable for abuses and mistreatment, the risk of human rights abuses is minimised.

- Importantly, in carrying out these operations, the officers – as in all other cases – abided strictly by the rules of engagement established by the Government in accordance with international standards. The operations were also conducted transparently, with members of the media, both domestic and international, able to report upon the security force's operations.

- At the same time, as made clear by the Prime Minister, the Government is open to scrutiny and stands ready to be accountable in accordance with the law. It also



stands ready to cooperate with inquiries by independent agencies such as the National Human Rights Commission as well as the National Anti-Corruption Commission.

- On the suggestion of bringing the issue to the International Criminal Court, it should be amply evident that what has transpired in Thailand does not have elements that would constitute a “crime against humanity”. The situation is about maintenance of the rule of law, and the Thai legal system is adequate for bringing the perpetrators of violent incidents to justice.

*13. Why does the Government not accept international intervention? Should international peacekeeping forces be dispatched to help maintain peace and order?*

- The Government is fully capable of handling the situation. All along, it has acted patiently, cautiously and with restraint – not because it cannot enforce the law, but because it chooses to avoid unnecessary violence.

- The situation is about maintaining the rule of law in the face of unlawful protests with armed elements using heavy weapons against officers and innocent people. In so doing, the security officers operated under strict rules of engagement that emphasise a graduated approach in taking measures from light to heavier ones, and strict rules in using live ammunition.

- Despite the international attention it has received, the situation that has occurred is a matter of Thailand’s internal affairs that the Thai people can and should resolve among ourselves. Any international intervention beyond friendly expression of concern could further complicate on-going efforts in this regard.

*14. Has the Government applied double standards in dealing with cases against different political groups, i.e. the People’s Alliance for Democracy (PAD) vs. the United Front for Democracy against Dictatorship (UDD)? Are there also double standards in the handling of the demonstrations by the UDD as compared to those of the PAD?*

- For the present Government, there is only one standard and all are equal before the law.

- It recognises frustration of some people about the pace of the cases against the PAD. But the fact is the judicial system in Thailand is independent and separate from the executive system. The Government could not interfere.

- How quickly each case proceeds depends on its complexity, which includes the number of evidence and witnesses involved. Certain cases against the PAD have already been submitted for prosecution, such as the one on intrusion into a TV station. But cases like the blockade of the airport requires more time given the large number of

witnesses. Likewise, some cases involving the UDD, for example, their attack on the prime minister's car at the Ministry of Interior last April, remain under investigation.

- The Government has in fact asked the police and the Attorney-General's Office to expedite their work on all major cases which are of interest to the public. The Prime Minister has also instructed the police to come up with a report on the status of major cases, which include those against the PAD and UDD leaders alike.

- With regard to the operations in dealing with demonstrations, the security officers carry out their function in maintaining peace and order within the framework of the law. As opposed to the previous administration, the present Government, in declaring the use of the Internal Security Act and then the Emergency Decree, has made clear that the Cabinet would take full responsibility for the operations. The Government works closely with the police and the military. There is also a clear *modus operandi*. All these have enabled the officers to perform their duties with confidence.

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7 June 2010