

1 Unfinished business

Coups d'état work by the law of the jungle, not the law of the land. For this much is true everywhere: an illegal seizure of power is only truly illegal if it is unsuccessful. More unique to Thailand is the fact that a military coup has little chance of being successful in the first place, but for the endorsement of the world's richest and longest-serving monarch, King Bhumibol Adulyadej. It stands to reason that the Commander-in-Chief of the Royal Thai Army at the time, General Sonthi Boonyaratglin, would be photographed on his knees at Chitralada Palace, just over an hour after announcing that the military had seized power on the evening of 19 September 2006. By then, the generals' every move had been choreographed to impress upon the public that the coup had been staged in the King's name, if not at his behest. Yellow ribbons and flowers adorned tanks, uniforms, and assault rifles. Giant portraits of the King and Queen served as the background for major announcements. The junta's studiously verbose name, the Council for Democratic Reform under the King as Head of State (CDRM) was officially changed 12 days after the coup,¹ but not before making sure that the people had heard the message loud and clear. Thailand had seen royalist coups before, to be sure, but none as awash in royal symbolism. Then again, the military had never removed a Prime Minister as popular as Thaksin Shinawatra. As life quickly returned to normal, it was evident that royal sanction alone could have muted public opposition to the coup, or staved off the possibility that the deposed Prime Minister might put up any resistance.

As the junta deployed its arsenal of royal symbols to forestall active opposition in the streets, the central role played by King Bhumibol in the pseudo-legal process that governed the transition thwarted any attempt Thaksin could otherwise have made to challenge the legality of the coup and continue to present himself as Thailand's rightful, *de jure* Prime

¹ The junta's title was changed to 'Council for National Security' with the promulgation of the interim constitution on 1 October 2006. Its official English name had been shortened to 'Council for Democratic Reform' (CDR) days earlier.

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Minister. By any meaningful legal standard, the generals had no authority to abrogate Thailand's 1997 constitution. In turn, in the absence of a constitution specifying the scope of his powers, King Bhumibol had no real legal standing to endorse the generals' actions, grant them immunity from prosecution, or promulgate an interim charter on 1 October 2006. Still, Thaksin could not possibly have dared to point out the obvious lack of legal foundations besetting the process – challenging the legality of his replacement would have required him not only to argue that the King's signature was inconsequential to the validity of documents that sanctioned the transition, but also effectively to assert, blasphemously, that King Bhumibol had enabled an illegal act. Instead, Thaksin and his supporters were forced to argue against the *merits* of staging the coup, a subject where the deposed Prime Minister stood on much shakier ground, given the skeletons crammed in his closet.

Quite aside from the strategic import of the monarchy's endorsement to the junta's public relations campaign, the broad-based acceptance of the legality of measures imposed in the coup's immediate aftermath laid bare what sets Thailand apart from the average constitutional monarchy. In Thailand, the monarchy's authority exists independently of what the constitution provides. And while each of the country's constitutions has made variously worded references to the concept of popular sovereignty, the fact that the King conserves his authority even after the constitution is abrogated indicates that His Majesty reigns by something more akin to natural right than positive law. A noted royalist stated as much in a best-selling book published before the coup (see Pramuan 2005), where he argued – correctly, as a matter of empirical observation – that 'the constitution is not above the King in any way [. . .] the status of the King does not come under the constitution' (see Pasuk and Baker 2009: 255–6). Decade after decade, royalist judges and jurists have more generally gone to extraordinary lengths to sanction the authority of select individuals periodically to brandish the law of the jungle, should constitutions fail to produce the desired outcomes (see Streckfuss 2011: 118–35; Connors 2008: 148–51; Nattapoll 2013: 126). Whereas the stated intent of the revolution that overthrew the absolute monarchy on 24 June 1932 had been to place the King 'under the law of the land', King Bhumibol's 68-year reign coincided with the emergence of a system of government that effectively elevates the King – and his self-appointed defenders – *above* the constitution.

The years since Thaksin's downfall have exposed the fatal flaws of a system of government royalists like to call 'Democracy with the King as Head of State'. The coup set in motion a series of events that plunged the country into a situation of deep political instability – in the intervening

time, Thailand's 'slow-burn civil war' (Montesano 2012) has repeatedly seemed on the verge of raging out of control. What is more, the series of actions royalists have seen fit to take since 2006 against Thaksin, his supporters, and his proxies have given rise to a severe crisis of legitimacy marked by a hitherto unseen measure of resentment for the royal family, complete with expressions of public disgust for the monarchy that would have been unthinkable just a few years ago (for instance, see Ünalı 2014).

Indeed, the historic significance of Thailand's political crisis is that the 2006 coup has reignited a foundational struggle, carried over from the days of the absolute monarchy, between alternative conceptions of the country's nationhood. This basic dispute has crucial implications for some of the most pressing questions defining Thailand's ongoing political conflict. Most crucially, perhaps, does sovereignty ultimately rest with 'the people' or the King? Put differently, whether or not sovereignty is vested in 'the people' in an abstract sense, is the will of 'the people' expressed most authoritatively by the electorate as a whole, or by a minority of 'good' men and women whose claims to superior morality and wisdom are grounded in their professed ontological proximity to the monarchy? In turn, to the extent that 'the people' have rights, *de facto* as well as *de jure*, do they enjoy such rights as citizens – that is, as full members of the national community, 'equal with respect to the rights and duties with which the status is endowed' (Marshall 1964 [1949]: 84) – or as subjects to whom certain freedoms are delegated by a higher (sovereign) power, perhaps in measures commensurate with social status? Should the King – as well as the multiplicity of individuals, organizations, and institutions claiming to speak for, or act in the interest of, the monarchy – be any way constrained by the constitution, or effectively above it? And do these actors have the authority to undo, through extra-constitutional means, the results of participatory processes conducted in accordance with the constitution? Establishing what John Adams referred to as 'a government of laws, and not one of men' (Adams 1851 [1777]: 106), is the unfinished business of Thailand's 1932 revolution.

The purpose of this book is to build an explanation for Thailand's trajectory of political development from 1932 to the present day – one that accounts for the period's unending succession of coups and constitutions. Thailand's chronic regime instability, as well as its current crisis, is traced back to the failure of its transformation into a modern nation-state – its 'National Revolution' (see Lipset and Rokkan 1967: 13) – to give rise to an idea of 'the nation' qua 'deep, horizontal comradeship' (see Anderson 1991 [1983]: 15) between collectively sovereign citizens who are equal with respect to their rights, their treatment under the

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law, and their legitimate political role. For reasons that have to do with the timing, sequencing, and tempo of Thailand's processes of state and nation building, as well as the contingent outcomes of a continuous process of struggle, the removal of the absolute monarchy did not settle the conflict between the royalist (hierarchical) and the more populist (egalitarian) conceptions of the nation that had emerged upon the founding of an absolutist state in the late nineteenth century (see Copeland 1993). Rather, the events that followed aggravated the constitutional regime's internal contradictions, its deficit of legitimacy, and its resulting instability, creating an opening royalists would later exploit to regain their ascendancy in the 1940s and 1950s. When Thailand's constitutional regime was ultimately put to the sword by a pair of coups staged by Field Marshal Sarit Thanarat in 1957 and 1958, it was in an adaptation of the 'royal nationalism' (*rachachatniyom*; see Thongchai 2001), first elaborated in defence of the absolute monarchy, that the new alliance of the palace, the military, and the bureaucracy grounded its repudiation of the 1932 revolution's founding principles – principles of popular sovereignty, individual equality, constitutionalism, and democracy.

In the time since, the resilience of Thailand's royal nationalism and the enduring strength of institutions responsible for its production and propagation, even in the face of growing popular demands for political and economic empowerment, are explained with reference to mechanisms of institutional reproduction (see Mahoney 2000) accounting for the persistence of asymmetries of power and legitimacy between elected and non-elected institutions. Emphasis is also placed on the strategic adaptations that have allowed the monarchy, the military, and the bureaucracy – the coalition's scarce internal cohesiveness notwithstanding – to respond to a continuous process of change, as well as occasional exogenous shocks, in such a way as to preserve their ability to circumscribe and periodically dismantle political regimes that threatened their prerogatives. It is, conversely, their recent failure to adapt to critical aspects of the thorough transformation of Thai society, as well as the part-structural, part-contingent rise of forces capable of exploiting the opportunities these transformations engendered, that explains the re-emergence of conflict over issues left unsettled by the country's unfinished National Revolution.

This chapter systematically assembles the components of the book's basic argument. The account begins with a historical overview of Thailand's protracted state of crisis, identifying in its elements of continuity and discontinuity the study's *explananda*. The exposition continues with a brief discussion of the genesis and content of Thailand's 'royal nationalism', as well as its significance to the country's history of instability and

conflict. Considerations made about the relationship between nationalism and democracy subsequently emerge as a crucial building block in the specification of a dynamic theory of Thailand's regime instability, one that relies heavily on analytical tools drawn from the general literature on political development and historical institutionalism. A final section outlines the book's structure and research design.

Past and prologue

The absolute monarchy came to an end in Thailand, known at the time as Siam, with a coup d'état staged on 24 June 1932 by a group of mostly young, foreign-educated military officers and civil servants, who had organized themselves in the clandestine People's Party (*Khana Ratsadon*). Upon seizing power, the 'Promoters' (*phu ko kan*, short for *phu ko kan plian plaeng kan pokkhong*, literally, 'initiators of the change of government'), as they have since been known, mapped out a 10-year transition to representative democracy. The coup, however, had been less about 'democracy' than it had been about 'constitutionalism', or the ambition to limit royal authority and place the King under the law. The six principles spelled out in the incendiary 'First Announcement of the People's Party' included 'freedom' (*seriphap*) and 'individual autonomy' (*khwam pen itsara*) as well as the provision of 'equal rights' (*sitthi samoe phak kan*), such that 'the royal class does not have more rights than the people' (*mai chai phuak chao mi sitthi ying kwa ratsadon*). Crucially, the Promoters declared, 'the country belongs to the people, not to the King, as he fraudulently claims' (*prathet rao ni pen khong ratsadon mai chai khong kasat tam thi khao lok luang*).

Seventy-four years later, the claim the Promoters had dismissed as fraudulent was decidedly back in fashion, to the point of serving as the centrepiece of the public case made by royalists to justify the removal of an elected government and the disposal of a democratic constitution in 2006. Nowhere was the fight against Thaksin Shinawatra defined in more memorable terms than in a speech delivered by General Prem Tinsulanond – a former Prime Minister (1980–8) and President of King Bhumibol's Privy Council – at the Chulachomkhalao Royal Military Academy 2 months before the coup. Prem famously likened the military to a 'horse', adding that governments, unlike the horse's actual 'owner', come and go like mere 'jockeys'. Then, as if to dispel any doubt, Prem reminded his audience: 'You belong to the Nation and His Majesty the King' (*The Nation*, 15 July 2006). The simple imagery invoked by the old general offers a measure of the journey Thailand has travelled over King Bhumibol's long reign. In Prem's formulation, sovereignty rests with the

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King, as well as an idea of ‘the nation’ quite distinct from the electorate that selected the ‘jockey’ – twice, and by crushing margins. Elections, after all, weigh each person’s vote equally, thereby distorting the will of a nation whose very essence, whose main claim to exceptionalism and uniqueness, is a hierarchy of karmic merit, status, and power atop which sits His Majesty the King.

The elevation of the King above the constitution, and the ‘royal nationalism’ that substituted ‘hierarchical’ for ‘egalitarian’ understandings of the nation, are legacies of the dictatorship of Field Marshal Sarit Thanarat (1958–63). Having suffered considerable erosion in the quarter-century that followed the 1932 revolution, it was during this time that the principles spelled out in the ‘First Announcement of the People’s Party’ came to be subverted entirely. With the backing of the United States government, Sarit committed his regime to the re-sacralization of the monarchy and the glorification of King Bhumibol – an irrelevance at the time he had ascended the throne, in tragic circumstances, in 1946. Meanwhile, Sarit’s ideologues conceived a model of governance – sometimes referred to as ‘Thai-style democracy’ – that might be described as a form of ‘Platonic guardianship with Buddhist characteristics’.² At first only figuratively, the polymath ‘philosopher-king’ was hoisted to the top of a hierarchy of ‘natural’ (but, just in case, aggressively state-enforced) inequalities of wealth, power, and status – legitimized, in place of Plato’s ‘Noble Lie’, by Buddhist superstitions of karma, merit (*bun*), and charismatic authority (*barami*). In exchange, the King’s uniformed auxiliaries were entrusted with running the country and effectively placed beyond the law. What the system demanded of ‘the people’ – now, as in the days of Siamese absolutism, equated with ‘children’, not citizens – was reverence and obedience.

Since Sarit’s death in 1963, Thailand has been governed by a series of political regimes reflecting various combinations of democratic and non-democratic rule. Figure 1.1, which plots the country’s Freedom House scores on measures of ‘political rights’ and ‘civil liberties’ for as long as such scores have been assigned, offers a visual representation of its tangled trajectory of political development. Over the last half-century, the military has alternated periods of outright dictatorship (1958–68, 1971–3, 1976–8, 1991–2, 2006–7, 2014–) with periods of pseudo-democracy in which unelected generals (active duty or retired) served as the Prime Minister but cohabitated with an elected legislature (1969–71, 1979–88, and parts of 1992), as well as periods in which the armed forces allowed the formation of fully civilian governments (1973–6, 1988–91,

² The concept of ‘guardianship’ is contrasted with ‘democracy’ in Dahl (1991: 52–64).

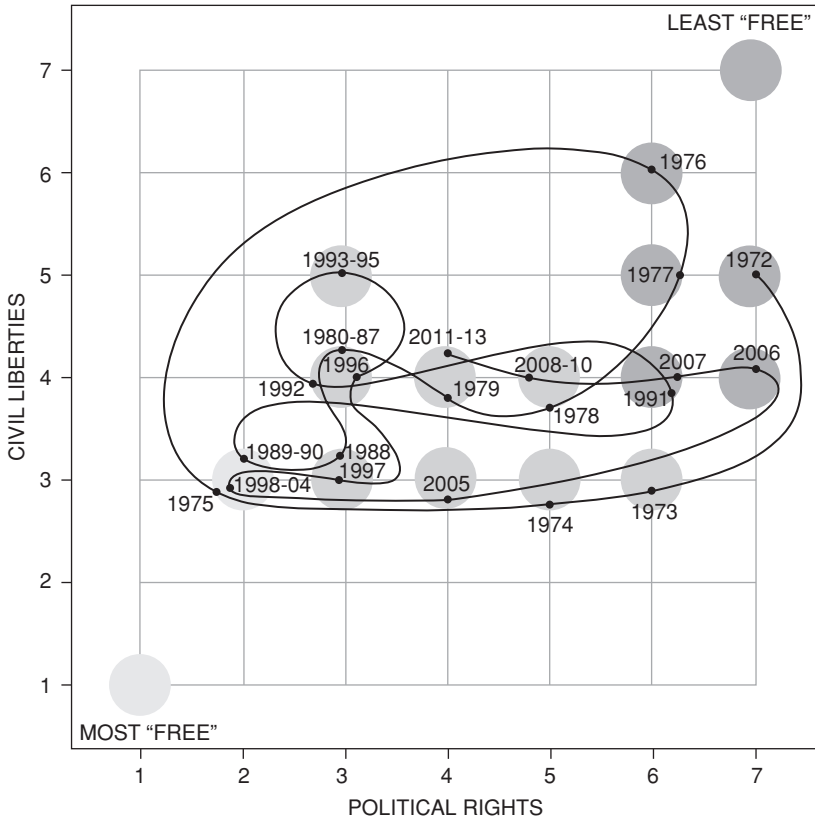


Figure 1.1 Thailand's Freedom House ratings, 1972–2013.

Note: Freedom House scores range from 1 (best) to 7 (worst). Because Freedom House publishes its scores in January of each year, its assessment refers to the previous year (e.g., scores issued in 2014 refer to 2013). For the purposes of this graph, each data point describes Thailand's performance during the year the Freedom House scores cover, not the year in which the scores were published. Colour shadings reflect overall ratings of 'Free' (light grey), 'Partly Free' (darker grey), and 'Not Free' (darkest grey).

1992–2006, 2008–14). In four instances, Thailand was permitted to transition to 'electoral democracy' (1975–6, 1988–91, 1992–2006, 2011–14) – as Freedom House defines it, a system where governments are chosen through regular elections that are free of systematic violence, intimidation, and fraud as well as minimally competitive, thanks to a multiparty system, open campaigning, and opportunities for parties

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to get their message out through the media.³ On each occasion, however, civilian governments were invariably confronted with efforts made by the palace, the military, and the bureaucracy to defend their extra-constitutional prerogatives. These ‘reserve domains’ have served as *de facto* constraints on an elected government’s control over the drafting, passage, implementation, and enforcement of its own policies, its exercise of constitutional powers to appoint officials to key positions in the military and civilian bureaucracy, and generally its capacity to direct a decidedly ‘lumpy’ state (or ‘un-state’; see Reynolds *et al.* 2011) whose various components, and the networks of power and influence cutting across each, enjoy a measure of autonomy and veto power no constitution has ever envisaged.

At least since the 1980s, the largest and most powerful among these overlapping informal networks, the ‘network monarchy’ (McCargo 2005), has worked to manipulate, weaken, undermine, or otherwise restrict the ability of elected governments to exercise powers vested in them by the constitution. Originally built by General Prem, the ‘network monarchy’ loosely amalgamates ‘the palace’ – the monarchy and its court of royal advisors, including members of the Privy Council and top officials in the Office of His Majesty’s Principal Private Secretary, the Royal Household Bureau, the Crown Property Bureau, and royal charitable foundations, organized in competing ‘circles of influence’ around senior members of the royal family (see John, 23 November 2009) – with networks centred on conservative military officers, career civil servants, judges, politicians, business elites, and opinion leaders in the media and the academy. Until recently, its strength had been rooted, even more so than its powers of coercion and patronage, in the ‘cultural hegemony’ of its official ideology (among others, see Connors 2007 [2003]; Streckfuss 2011; Glassman 2011), sustained through schooling and aggressive legal enforcement, as well as a massive, taxpayer-funded propaganda campaign that built for King Bhumibol a cult of personality quite uncharacteristic of a society as modern. Indeed, while a degree of political pluralism has generally been tolerated, often even in the wake of military coups, the

³ Since the adoption of this classification in 1989, Freedom House has identified Thailand as an ‘electoral democracy’ for 1989–90 and 1990–1, qualifying its rating by noting ‘military influence’ over Thailand’s parliamentary democracy. Having dropped out in the 1991–2 ratings, owing to the military coup staged in 1991, Thailand was continuously classified as an ‘electoral democracy’ between 1992–3 and 2006. Beginning with its ratings for 1999–2000, Freedom House dropped the qualification of ‘military influence’. Thailand did not recover its classification as an ‘electoral democracy’ after the 2006 coup despite its return to civilian rule a year later, because Freedom House (2008) reasoned that the elections held on 23 December 2007 were not sufficiently competitive, given the junta’s activities against the Thaksin-backed People Power Party. Thailand re-joined the ranks of ‘electoral democracies’, per Freedom House, after the 2011 elections.

only subject whose discussion has always been truly off-limits since the late 1950s is the monarchy, protected by one of the world's harshest and most vigorously enforced *lèse majesté* laws. It is no surprise, in this sense, that arrests and prosecutions for *lèse majesté* skyrocketed after the 2006 coup,⁴ considering the extent to which Thaksin Shinawatra's enemies have relied on the need to 'protect the monarchy' to justify his removal and rationalize the smorgasbord of illiberal measures taken since then to prevent his return.

There is, of course, considerable merit to the allegation that Thaksin had sought to establish something of an 'elected dictatorship' during his 5 years in office, because the administration had parlayed its unprecedented electoral strength into policies that compromised key aspects of the country's democracy. The rule of law was openly flouted in the wave of state violence unleashed pursuant to the government's 'War on Drugs' in 2003 and its response to the outbreak of the southern insurgency in 2004. Accountability was undermined by the efforts made to secure the subservience of state agencies that had been designed as a check on the government's power. And freedom of the press declined sharply as a result of legal measures taken against critics, as well as the informal pressure placed on the print and broadcast media to provide favourable coverage. After the 2005 elections, in which Thaksin's political party Thai Rak Thai took three-quarters of the lower-house seats, Thailand was well on its way to developing a form of 'democracy' with a much stronger 'delegative' (see O'Donnell 1994: 59) than 'liberal' flavour.

Characteristically, Thaksin's removal from office had far less to do with his pronounced illiberal tendencies than his attempt to neutralize the 'network monarchy' and project the power of his government deep into institutions, such as the bureaucracy and the military, traditionally off-limits to elected officials (see Thitinan 2008). Aside from the likelihood that Thaksin might be in office long enough to preside over the dreaded royal succession (see Marshall 2014), by then the network monarchy's affiliates in both the state and civil society understood that the former Prime Minister had already begun, in the space of a few years, to muscle the palace out of its central position in the political, social, and economic life of the country. Such fears were rendered particularly acute by the recognition

⁴ Thailand's courts used to accept around ten new cases of *lèse majesté* per year between the mid 1980s and the mid 2000s. The year 2005 set what was at the time a record of thirty-three cases, but the number almost quadrupled to 126 cases in 2007. After a 1-year drop to seventy-seven cases in 2008, after the country's formal return to civilian rule, a new record was set in 2009, with 164 new cases reaching the lower courts (see Streckfuss 2011: 195, 205). David Streckfuss (cited in Prachatai, 28 June 2011) reported that the number rose to 478 cases in 2010. Thailand's ratings on international measures of freedom of the press and freedom of expression cratered as a result.

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that Thaksin's vision of 'capitalist revolution' was decidedly more in step with the provincial electorate's aspirations than the King's retrograde economic ideas – and that, in turn, the ambitions of upward mobility even the poorest Thais were now encouraged to embrace threatened to scramble the social hierarchies upon which 'Thai-style democracy' had once been founded (see Hewison and Kengkij 2010: 194–6).

The agencies and institutions set up by the generals in the aftermath of the coup initiated Thaksin's criminal prosecution, froze his assets, disbanded his political party, and dismantled the constitutional provisions that had facilitated the entrenchment of his legislative and executive dominance. All that, however, did not stop the Thaksin-backed People Power Party from winning a comfortable plurality of votes and seats in the general elections held on 23 December 2007. Within months, the royalist 'Yellow Shirts' of the People's Alliance for Democracy (PAD) returned to the streets to wage an aggressive campaign against the new government, featuring a long-running occupation of the Government House as well as the seizure of Bangkok's international airports in late November 2008. The manufactured crisis of governability was brought to an end by the Constitutional Court, whose decision to dissolve the People Power Party and two of its coalition partners has often since been referred to as a 'judicial coup'. Shortly thereafter, Democrat Party leader Abhisit Vejjajiva became Prime Minister, at the head of a ragtag legislative coalition patched together with assistance from the military and the palace.

Abhisit Vejjajiva's swearing in as Prime Minister marked the opening of one of the most tumultuous periods in King Bhumibol's entire reign. It was only then that the street movement founded by Thaksin's loyalists after the coup came into its own, stepping up mobilization efforts that led to the emergence of a social movement organization unprecedented for its size, its territorial coverage, and its staying power. Channelling the anger and frustration that much of the electorate felt, especially in the country's North and Northeast, over the undoing of successive election results, the 'Red Shirts' of the United Front for Democracy Against Dictatorship (UDD) took to demanding the establishment of a form of 'democracy' that would recognize ordinary people as 'the nation's rightful owners' (*chao khong prathet thi thae ching*) and true sovereign power, end the 'double standards' (*song matrathan*) responsible for perpetuating inequalities in *de facto* citizenship status, and dispense with the authority that Thailand's royal nationalism vests in 'good people' to act outside the constitution, often for the purposes of substituting their will for the electorate's. Eventually, faced with large, disruptive, and at times violent protests staged in the heart of Bangkok beginning on 12 March 2010, Abhisit Vejjajiva's administration authorized dispersal operations