



THAILAND: 2007 PRE-ELECTION TECHNICAL ASSESSMENT REPORT

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26 April 2007

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INTRODUCTION

IFES is pleased to present this comprehensive assessment report anticipating the upcoming constitutional referendum and general election in the Kingdom of Thailand. IFES hopes that these findings and recommendations can inform efforts to strengthen the democratic process within Thailand and can provide guidance as the nation seeks to reassume its position as a model for democracy within Southeast Asia. The field work and interviews that provide the substance of this report were conducted between March 14 and April 5, 2007.

A great deal of information was collected during the course of the assessment, which reflects the openness and input of all with whom the team met. At the same time, the political situation in Thailand is dynamic, with developments occurring more quickly than can be captured fully by a written report. Given the timing of the issuance of this report vis-à-vis the release of the draft constitution by the Constitution Drafting Assembly / Committee (CDA/CDC), some facts contained herein will become outdated. Once the draft constitution is made public, IFES will prepare a legal review of the electoral provisions that will serve as a supplement to this report.

As a nonprofit, nongovernmental democracy development organization that works to give people a voice in the way they are governed, IFES has provided election stakeholders from more than 100 countries with the technical advice and tools necessary to conduct democratic elections and maintain stable, accountable election administration. Since our founding in 1987, our work has been nonpartisan and focuses on forging a sustainable democratic process through responsive institutions, informed citizens, respect for human rights and the rule of law.

The rapid-appraisal methodology used to perform diagnostic pre-election technical assessments (PETAs) has been refined over the past two decades. A PETA can provide host country stakeholders, and the international donor community, with a benchmark document to facilitate election assistance that is appropriate, coordinated and strategically oriented. IFES has conducted assessments based on this PETA methodology in nearly 70 countries, including Afghanistan, Indonesia, Papua New Guinea and Bangladesh. IFES' PETA reports include information about the overall electoral environment and political, economic, social, and security issues likely to affect the campaigns and elections process in the host country. They also outline both short-term action strategies and longer term, sustainable solutions.

ACKNOWLEDGEMENTS

The IFES assessment team would like to express its sincere appreciation to the Chairman and Secretary General of the Election Commission of Thailand (ECT) and the commission staff who were exceedingly generous with their time and input. During the course of three weeks, IFES spent hours with nearly two dozen commission representatives. The ECT was open, forthcoming with information, and responsive to requests. The assessment team also thanks the other stakeholders with whom they met for answering what must have seemed an endless array of questions. The success of this fact-finding exercise is due to the thoughtful input of all interviewed. IFES would also like to acknowledge the support provided by the U.S. Embassy in Bangkok and the funding for the PETA provided by the Office of Democracy, Human Rights, and Labor at the Department of State.

KEY TO ACRONYMS

ABAC	Assumption Business Administration College
ANFREL	The Asian Network for Free Elections
AUSAID	Australian Agency for International Development
CDA	Constitutional Drafting Assembly
CDC	Constitutional Drafting Committee
CDR	Council for Democratic Reform
CNS	Council for National Security
ECT	Election Commission of Thailand
EU	European Union
GOTV	Get out the Vote
ICT	Ministry of Communication and Information Technology
LEC	local election committee
KPI	King Prajadhipok Institute
MOE	Ministry of Education
MOI	Ministry of Interior
MOI-RDA	Ministry of Interior - Regional Development Office
MP	Member of Parliament
NCCC	National Counter-Corruption Commission
NGO	non-governmental organization
OSCE	Organization for Security and Co-operation in Europe
NHRC	National Human Rights Commission
NLA	National Legislative Assembly
PDA	Population and Community Development Association
PEC	provincial election commission
PETA	pre-election technical assessment
PNET	People's Network for Elections in Thailand
PM	prime minister
PSA	public service announcement
PVT	parallel vote tabulation
SMS	short message service
SNTV	single non-transferable vote
SRI	Social Research Institute
TBG	tactile ballot guides
TOT	training of trainers
TRT	Thai Rak Thai
TVM	Thai Voting Machine
UN	United Nations
USAID	United States Agency for International Development

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PART I: EXECUTIVE SUMMARY AND SUMMARY OF RECOMMENDATIONS

This section provides an overview of the issues examined in this report and of the IFES team's recommendations pertaining to the constitutional and regulatory framework, election management and administration, voter education and election observation. For a more thorough appreciation of the rationale behind the recommendations, readers are encouraged to read the main body of the report.

Funded by the Office of Democracy, Human Rights and Labor (DRL) of the U.S. Department of State, IFES sent a team to Thailand from March 14–April 5, 2007, to conduct a pre-election technical assessment (PETA). IFES' PETA team sought to examine the Thai electoral system from a technical and legal perspective, taking into account the political context and taut timetable for drafting a new constitution and new election legislation and preparing for a referendum. The referendum on the new constitution is currently scheduled for September 3, with general elections expected to take place in December 2007.

A. EXECUTIVE SUMMARY

A decade ago, the Constitution of the Kingdom of Thailand B.E. 2540 (1997) became an international model for the participatory process by which it was adopted and for the broad reforms and government restructuring it enacted. Unfortunately, some of the new institutions and processes intended by that charter to fight corruption were methodically corrupted over the past few years. Thai citizens increasingly came to view their government as out of control and no longer legitimate. Last September, the military seized control of Thailand's governmental administration, abrogated the 1997 Constitution and formed an interim government under an interim constitution. Thailand now faces a crisis of confidence regarding the foundations of its democracy and has embarked on a new search for governmental integrity and stability within a democratic framework.

The beginning point for establishing the legitimacy of a new government is writing a new constitution, as prescribed by the interim constitution. This process is to culminate in the holding of a national public referendum on the draft constitution, followed by the conduct of general elections. However, the use of a referendum poses risks, because Thailand has never held one and because the process is being implemented by a military-led regime that is viewed with suspicion by the public. Any proposed charter will inevitably generate controversy and invite opposition on diverse items. The outcome of the referendum vote could also be negatively affected by a wide array of social and political grievances unrelated to the content of the draft constitution itself. The ability of this process to gain legitimacy for a new constitution and government will ultimately depend upon (1) the level of transparency and public participation in its implementation as well as (2) the extent of public understanding of the substance of the new constitution and the importance of its adoption to the future of Thailand.

As the Constitutional Drafting Assembly / Committee (CDA/CDC) debates the content of a new draft constitution, the newly appointed members of the Election Commission of Thailand (ECT) are anticipating the conduct of the constitutional referendum (by September 3) and a general election (which is to be held either on December 16 or 23). Given this timeframe, the ECT faces multiple challenges. It will need to enact changes to the electoral system, processes and procedures as envisioned in the new constitution and new organic laws (which have yet to be adopted). It will also need to ensure that election workers at all levels understand and are prepared to implement these changes. It will be tasked with conducting the country's first referendum on an issue of the greatest importance in the context of a military regime and political uncertainty. However, perhaps its greatest challenge will be to overcome the legacy of its predecessor.

The ECT, like other institutions in Thailand, was compromised under the previous regime. The 2006 national legislative elections were nullified by the Constitutional Court for systemic violation of secrecy of the vote. The court also found three ECT members guilty of malfeasance and ordered them jailed. The new ECT is composed entirely of judges—a move designed to reassert respect for the rule of law and to restore public confidence—and the ECT’s secretariat is under the leadership of a new secretary general. In the coming months, the ECT will continually have to demonstrate to the Thai electorate and election contestants its commitment to transparency and accountability as well as its ability (and that of its subordinate election committees) to implement new legislation and administer the referendum and general election in a neutral and professional manner. The ECT’s new leadership has affirmed its commitment to institutional independence and democratic elections. Its ability to restore public confidence will be integral to the perceived legitimacy of the constitutional referendum and general election and to acceptance of their outcomes.

High levels of public awareness will also be critical to the integrity and ultimate success of the constitutional and election processes. Despite the efforts of the CDC to date—including public discussions held throughout the country and media coverage of its activities and decisions—recent polls suggest a considerable percentage of the population still knows relatively little about the process or the issues under consideration. While the CDC intends to ramp up its activities once the draft is released on April 19 through public hearings and a higher profile media campaign, there is a great deal of information to be conveyed in the final 30-day public comment period. Once the draft is finalized and the new law on referenda passed, the challenge confronting the CDC, ECT and other voter educators will be to inform voters about the referendum process itself and about the key provisions of the charter they are being asked to accept or reject. Failure to do so runs the risk that voters will not vote on the merits of the draft, but rather will treat the referendum as a vote of no confidence in the regime or an opportunity to protest specific public policies. The general election also presents a challenge to voter educators as many aspects the electoral system, processes and procedures are expected to change, some quite significantly. In order to avoid confusion and deter fraud on election day, the ECT and non-governmental organizations (NGOs) will need to clearly convey how these changes impact the decisions confronting voters, their voting rights and their participation in the voting process.

Given the nature and extent of changes to the electoral process the CDC is expected to propose and given the necessity that the constitutional referendum and general elections be accepted as legitimate by the Thai people, civil society has an important role to play. It can contribute to public confidence and help deter fraud through domestic monitoring activities. The presence of neutral domestic monitors during the referendum will also be important because there will be no partisan monitors (from political parties and candidates) and because a simple “yes” or “no” vote can lend itself to chain voting in a context where vote buying has been a persistent problem. There are many, diverse civil society groups (both formal NGOs and informal groups) engaged in domestic monitoring in Thailand, which bodes well for a visible presence at the polls and during vote counting. However, there are issues of coordination, capacity, independence and neutrality that will likely affect the overall impact of the domestic monitoring effort. These issues will need to be addressed currently and in the future to ensure the effectiveness of civic watchdog groups vis-à-vis elections in Thailand.

B. SUMMARY OF RECOMMENDATIONS

Constitutional and Legal Issues

- (1) The international community should generally accept and endorse the process defined by Thailand’s interim constitution for drafting a new constitution and holding a constitutional referendum and subsequent general elections as long as the Thai people remain committed to these steps.

- The process currently underway is almost certainly the only feasible means for moving forward and reestablishing legitimacy for Thailand's government.
 - Unless the drafting process suddenly loses its transparent or participatory nature—and absent the introduction of provisions that are clearly anti-democratic or that indicate the military's effort to retain more power—international observers should respect the efforts of the drafters, civil society and the Thai citizenry to make this process succeed.
 - Assuming the referendum is fairly and competently conducted, the international community should accept the legitimacy of its outcome, regardless of whether the draft constitution is accepted or rejected by the voters.
- (2) Opportunities under Section 26 of the interim constitution should be fully utilized. This section identifies Thai institutions and other bodies that will have 30 days to review and comment on the draft. These bodies will also receive an explanation of the differences between the draft and the 1997 Constitution.
- These entities should be encouraged to become seriously engaged in fulfilling this responsibility and in seeking the participation of civil society and the general public. They should also receive every assistance in their efforts to obtain sufficient information and to communicate their views effectively.
 - The comments of these entities should be transparent, so that the public is aware of what recommendations have been made to the CDA/CDC. Consideration should be given to posting these comments on the CDA/CDC website.
 - Moreover, political parties (whose activity has been restricted since the coup) should be invited to participate actively in the review of the draft constitution and to lend their important perspective to its refinement.
- (3) In the new draft, the CDA/CDC should consider decreasing the number and specificity of provisions governing elections as compared to those of the 1997 Constitution. While a constitution should guarantee basic political rights and fair electoral processes, if it contains too much detail about the conduct of elections, it locks in electoral and administrative policies that would be better governed by the organic law on elections to permit flexibility and change over time.
- (4) The CDA/CDC should also consider employing transitional provisions in the draft constitution and organic law on elections with respect to the 2007 general elections, particularly regarding issues affecting the administration of these elections and the composition of the legislature they will produce. The drafters should take into account the capacity of the ECT and other bodies to conduct elections for changed political structures under new laws in a short timeframe (e.g., they should reconcile the ECT's ability to quickly and properly conduct boundary delimitation for new constituencies with the provisions they propose).
- (5) The constitution should clearly and unambiguously support the electoral rights of Thai citizens by stating their rights to electoral enfranchisement and to secret, periodic, direct and free elections in a single, strongly worded provision. Such an approach could help promote the understanding that these rights apply to all elections, and referenda, conducted in Thailand and that these are inviolable and fundamental rights.
- (6) The independence of the ECT should be strongly stated in the new constitution. Clearly mandating the independence of the Commission there would provide greater protection to this key electoral

principle than if it was only contained in the statutory law. Provision should also be made for greater budgetary independence of the ECT.

- (7) The constitutionally mandated committee that appoints members to the ECT should involve non-state actors that represent political parties, civil society organizations, academia and professional bodies (such as the Lawyers' Council) to help ensure that the resulting Commission is impartial and has the confidence of all key electoral stakeholders.
- (8) If, as expected, the system for the adjudication of election-related complaints is changed under the draft constitution to reduce the powers of the ECT and to directly involve the judiciary (through an electoral court or other mechanism), the judges and staff assigned to electoral matters will require immediate and intensive training. In addition, they will need sufficient resources to enable them to quickly oversee investigations and complete their review of cases. The ECT will also require guidance with respect to their new, more limited role in receiving and processing complaints, conducting investigations and reaching preliminary judgments about alleged illegalities.
- (9) Voter and civic education programs to discourage vote-buying should be continued as part of a long-term strategy—accompanied by increased enforcement efforts—even if such measures may not significantly impact the extent of vote-buying in the December general elections.
- (10) Revised organic laws on political parties and political finance (and implementing regulations) should particularly focus on “off-the-books” spending by parties and candidates. Such practices are common in developing democracies and require persistent enforcement efforts to limit them. In the future, laws requiring political parties/candidates to keep financial records, and report their content, will need much stronger enforcement (though likely Thailand’s election commission and courts do not have the capacity to fully address these issues in the upcoming general elections). To achieve this goal will require that:
 - Party treasurers be better trained and held accountable for record-keeping and financial reporting;
 - Violations of political finance reporting regulations be clearly specified, including filing reports late, failing to file reports, submitting false or incomplete information in reports, keeping inadequate records, failing to maintain documentation, or conducting political finance activity outside of the officially designated and reported bank account (or in coordination with “surrogates”); and
 - Sanctions for reporting violations (a) be based on a graduated scale proportionate to the amount of money, seriousness of the violation and the degree to which the party/candidate is culpable (i.e., is the violation due to a mistake, negligence or deliberate action), and (b) include civil penalties for administrative violations (monetary fines or political consequences, such as denying candidate certification, suspending election campaigning or dissolving the political party) and criminal sanctions for deliberate or very serious violations.
- (11) Civil society, the media and the general public should be enlisted in a coordinated effort to monitor and report expenditures by political parties and candidates in the general election. Such an effort would encourage transparency and accountability in political finance reporting from these electoral participants.
- (12) The ECT should develop a code of conduct for political parties, which should be signed or sworn to by all election contestants. Signatories should commit to uphold the constitution and all laws governing the referendum or general election process and to refrain from malfeasance and fraud,

including vote-buying. The code should be highly publicized and made a hallmark of voter education and domestic monitoring efforts.

- (13) The election law should provide for counting ballots at the polling station for all types of elections and for releasing polling station results at the constituency level so as to provide for greater transparency and accountability.
- (14) The assessment team acknowledges the need to pass new organic laws governing elections once a new constitution is adopted so that the ECT can proceed with election preparations and contestants can prepare their campaigns. However, it recommends that representatives of political parties, think tanks and NGOs working on elections be provided some opportunity to comment on the bills before they are passed into law. Given the time constraints, this might be achieved by holding a public conference.

Election Administration

- (1) The ECT should establish formal advisory or consultative committees whose members come from political parties and civil society in order to allow these groups to provide input into the development of electoral regulations and other guidelines/procedures for the conduct of the election. Such committees would also ensure that information about the electoral process was shared with these key stakeholders. Such fora should also be established at the provincial and district levels to facilitate consultation on local issues and to provide information.
- (2) The international community should offer advisory and technical support as appropriate to the members of the ECT and their senior staff as they prepare for the referendum and general elections.
- (3) In this time of increased political tension, it will be particularly important for the ECT to ensure that the hiring of election commissioners and lower-level staff is competitive and that candidates are properly screened so that only qualified, politically neutral candidates are selected to serve as members of election or polling station committees.
- (4) Improved outreach between the ECT and the selection committees for provincial election commissions (PECs) could help increase confidence in the selection process. The criteria nominees to PEC positions must meet should be clearly communicated (and clarified if necessary). If the ECT cannot accept at least five of the nominees presented by the selection committee for a particular PEC, it should provide some explanation for its decision.
- (5) The ECT should work to continue to build the professional and technical capacity of its permanent staff in headquarters and also in the provinces. The conduct of a regular and comprehensive training program, with an immediate emphasis on planning for the referendum/elections and on some of the ECT's key technical responsibilities, would help prepare the Commission for its upcoming challenges.
- (6) In the interest of the integrity of the referendum/election processes and of public confidence in the results, the ECT should give serious consideration to adopting a code of conduct for all election officials and poll workers and to incorporating an ethics component into its training programs.
- (7) Given lingering concerns about the impartiality, transparency and accountability of the PECs as institutions, consideration should be given to conducting an independent assessment—in cooperation with the ECT—of a sample of PECs for the purpose of identifying specific improvements that need to be addressed in the near term.

- (8) The ECT should consider conducting a technical review of the compilation of the voters register with the aim of generating recommendations for short- and longer-term steps that can be taken to further enhance its accuracy and credibility.
- (9) The ECT is well advised to continue to carefully study the possible implementation of an electronic voting system in order to ensure that the system will be accessible, secure, accountable, auditable and transparent.

Voter Education

- (1) Official voter education and public relations efforts should emphasize confidence-building measures that continually assure voters of the impartiality and integrity of the ECT and PECs, the legitimacy of the referendum and general election processes, and the reliability of results. Messages intended to instill voter confidence should address topics such as:
 - Constitutional and legal changes that reinforce the ECT's independence and oversight of the performance of PECs;
 - The process and criteria for selecting members of PECs, LECs and polling station committees (a process that includes input from civil society) and the circumstances under which the ECT might reject recommended nominees;
 - The provision of ethics training and the adoption of a code of conduct for election officials (the code would be signed or sworn to by all people charged with administering the referendum/general election);
 - The existence and expansion of the ECT's transparency mechanisms (for example, holding open sessions that journalists or observers can attend);¹
 - The availability of routine updates, daily if necessary, on the ECT's work/decisions and on the status of referendum/election preparations and information about points of access (e.g., the ECT website, call center, media center, etc.);
 - The existence of consultative mechanisms that provide civil society and political party representatives with opportunities for ongoing dialogue with the ECT and input into its decisions;²
 - The ECT's receptiveness to scrutiny by the mass media and civil society, its support of domestic monitoring efforts, and its invitations to international observer organizations to monitor elections;³
 - The ECT's efforts to deter fraud and violations of electoral law, to apply relevant penalties in the event of violations, to protect the secrecy of the vote and to protect ballot security; and
 - Steps the ECT is taking to improve the transparency and accountability of the counting process, such as posting result protocols at counting locations and posting referendum/election results (from the lowest level on up) on the ECT website.

¹ It may not be appropriate to open all sessions to journalists given the sensitivity of some discussions and the need to safeguard some information. Therefore, in sessions designated as open the agenda could be organized so that the opening of the meeting could be public and then the commission could go into closed session to address more sensitive issues.

² The ECT's offer to mediate between the CNS and political parties on lifting the ban on party activity as well as its outreach to religious leaders provide useful examples.

³ The ECT has invited observers not only from regional election commissions but also from professional observer organizations, such as ANFREL.

- (2) The ECT should post voter education materials and tools on its website and encourage their use and replication by NGOs. At the same time, in the interest of providing current, accurate and consistent information, NGOs should fact check their own education messages using official sources, such as the ECT website.
- (3) Voter education materials should be simple, straightforward and manageable in terms of voters' ability to absorb, understand and retain information. They should emphasize what has changed relative to the 1997 Constitution and previous election practices and what will be new to voters, in particular Thailand's first ever referendum.
- (4) Military- and government-owned media outlets should provide free airtime to the CDC and ECT to broadcast, during prime viewing hours, public service announcements informing voters about the draft constitution, the referendum process and the general election. Greater emphasis should be placed on using the mass media so that voter education messages reach as many voters as possible.
- (5) Restrictions on the mass media and on political activities should be lifted as soon as possible to allow for free political discourse and mobilization of the electorate. The lifting of restrictions would also help increase the perceived legitimacy of the constitutional and legal drafting processes, the referendum and the general election.
- (6) Given the amount of new information to be conveyed as a result of changes to the constitution and laws governing campaigns/elections and the limited timeframe for implementation, international donors should re-engage quickly with the aim of reinforcing and expanding non-partisan NGO voter education efforts both for the constitutional referendum and for the general election.
- (7) NGOs are well positioned to provide targeted voter education, both geographically in regions where election violations have been most evident (for example, the northeast) and in regions with unique circumstances (such as in the southern provinces) and thematically with respect to specific issues like vote-buying.⁴ Such voter education initiatives should be encouraged and supported.

Election Observation

IFES affirms that domestic monitoring by NGOs and partisan monitors is important to the transparency, integrity and ultimate legitimacy of the electoral process in Thailand.

- (1) NGOs should mobilize to observe the constitutional referendum and should be provided with support, including from the international community, because (a) there will be no partisan monitors for the constitutional referendum, (b) a simple up or down vote can lend itself to chain voting in a context where vote buying is prevalent, and (c) of the absolute necessity that the constitutional referendum be viewed as legitimate regardless of its outcome.
- (2) In general, NGOs observing elections should strive to share information, coordinate their activities, pool their resources and raise their public profile as a means of more effectively deterring fraud and serving as an independent and tenacious watchdog of the process throughout the country. NGOs dedicated primarily to election observation should also be brought into the broader family of organizations active in monitoring corruption in Thailand as all might benefit from sharing networks, methodologies and experience.

⁴ NGOs are well positioned to carry out targeted voter education as compared to the ECT, which has as its primary responsibility the education of the entire electorate on a whole range of issues.

- (3) Domestic observers should undertake targeted efforts that increase scrutiny of issues that have traditionally been a problem in Thailand and that do not occur on election day (e.g., campaign finance abuses or irregularities in the selection of provincial election commissions). Domestic observers should also focus on innovations in the electoral process resulting from constitutional and legal reforms, such as anticipated changes to the process of adjudicating election grievances and to the institution responsible for this process.
- (4) Given government and military ownership of all terrestrial media as well as the increased control of private media by some political interests, unbalanced and biased media coverage of the election campaigns of various contestants can be expected. In such an environment, media monitoring by an independent organization is recommended.
- (5) Financial support and assistance for domestic monitoring, particularly from the international community, should focus on enhancing the effectiveness of such activities by improving coordination, training, monitoring methodologies, media skills, reporting and analysis, etc. It should also support targeted monitoring of specific issues (noted above) or in sensitive regions, such as the northeast or deep south, where electoral abuses have been particularly egregious or where special circumstances exist.
- (6) Given the crisis of public confidence in political/governmental institutions in Thailand, the nullification of the last national legislative election and the September 2006 coup, international observation of the referendum and general election could greatly contribute to the perceived transparency and legitimacy of the process. The ECT should extend invitations beyond regionally based election commissions and observer groups to include other prominent election observation groups and multilateral institutions.
- (7) In the longer term, consideration should be given as to whether there is another institutional option for funding domestic monitoring organizations so as to avoid the conflict of interest inherent in having the ECT directly fund organizations tasked with oversight of election institutions and processes. Given the ECT's constitutional and legal mandate to carry out democracy education and the great need for ongoing civic/voter education programs, perhaps it would be more appropriate for it to provide grants to NGOs solely for that purpose.

PART II: OVERVIEW OF THE PETA MISSION AND A FEW WORDS ABOUT THIS REPORT

As Thailand embarks on a complex and delicate transition to democratic stability, a return to civilian rule and the conduct of a constitutional referendum and general elections, IFES initiated a pre-election technical assessment, deploying a five-person team to Thailand between March 14 and April 5, 2007. The team was composed of Election Law and Campaign Finance Expert Robert Dahl, Election Administration Specialist Susan Palmer, Voter Education Advisor Catherine Barnes, Election Observation Specialist Beverly Hagerdon Thakur, and IFES Program Associate Catherine Kannam.⁵ IFES' PETA team sought to examine the Thai electoral system from a technical and legal perspective, taking into account the political context and taut timetable in which a new constitution and new election legislation are being prepared and referendum preparations undertaken. IFES also considered the other unique complexities of the Thai context, including institutions discredited by corruption and a history of election fraud that includes endemic vote buying that has undermined public confidence in the integrity of democratic processes and institutions.

While in Thailand, the team met with more than 57 people representing 25 different institutions and organizations, including the Election Commission of Thailand, the Constitution Drafting Committee, the Supreme Court, the Supreme Administrative Court, the Human Rights Commission, the National Counter-Corruption Commission, the Ministry of Education, the Ministry of the Interior, political parties, universities, think tanks, NGOs, the U.S. Embassy, and USAID.⁶ During the Mission, Susan Palmer was able to observe a local by-election in Chonburi Province. In addition, Robert Dahl gave presentations on campaign finance and recall elections at a conference in Pattaya, hosted by the King Prajadhipok Institute (KPI). The findings presented in this report are drawn from these interviews and experiences as well as a review of original documents, observer reports, independent analyses, news reports and various websites, including that of the Constitution Drafting Committee, which posts periodic updates of its discussions and decisions.

A great deal of information was collected during the course of the assessment, which reflects the openness and input of all with whom the team met. At the same time, it is important to acknowledge the limitations of the mission and of this report. Currently, the political situation in Thailand is dynamic, with developments occurring more quickly than can adequately be captured by a written report. Given the timing of the issuance of this report vis-à-vis the release of the draft constitution by the Constitution Drafting Assembly / Committee (CDA/CDC), some facts contained herein will be quickly outdated. Because the CDA/CDC's work was at a critical stage, IFES was not able to engage in discussions with its various members to the extent that would have been ideal; this is understandable. In particular, the assessment team was not able to meet with the two members of the CDC who are also election commissioners. Several key pieces of legislation governing referenda and elections—some of which are contingent upon the adoption of a new constitution—have yet to be drafted or made publicly available. As a result, there are important issues that have not been resolved and details that are unknown at this point, particularly with respect to election management and administration. Finally, due to time constraints and the importance of activities taking place in the capital, the team did not travel extensively outside of Bangkok. All of these factors impact the findings and conclusions contained herein.

This report will be distributed to a diverse set of stakeholders within Thailand and the international diplomatic and donor community. The team will also propose areas of assistance that could help to strengthen the process, particularly with respect to transparency, accountability and integrity issues, taking into consideration the abbreviated timeframe.

⁵ Team biographies can be found in Annex II of this report.

⁶ For a complete listing of people with whom the assessment team met, please refer to Annex I.

PART III: BRIEF OVERVIEW OF THE CURRENT POLITICAL CONTEXT

The overall context in Thailand remains one of political uncertainty. Public dissatisfaction is driven by a growing sense that the regime is not making insufficient progress vis-à-vis the justifications given for the September 19, 2006, coup, and there have been allegations of nepotism and graft involving some junta members. A recent Bangkok University poll found that 30 percent of respondents believed that the situation has gone from bad to worse in the past six months, while 32 percent said life remained the same, and only 16 percent believed the overall political and economic landscape has improved. On a scale of one to ten, respondents to the poll collectively gave the government a performance rating of 4.5.⁷ Rumors of a shake-up within the cabinet (or an ouster of the prime minister himself) are rampant among elite circles in Bangkok. As might be expected, perceptions of the overall political situation depend very much upon who you ask. One might identify several distinct groups: (1) the “establishment” in the capital, who see positive progress on the draft charter and new laws and on preparations to return the country to civilian rule; (2) members of civil society, academia and the middle class, particularly in Bangkok, who tend to be considerably more critical of the process and suspicious of the Council for National Security’s motives; and (3) the rest of the country (i.e., ordinary citizens) who are less concerned with political intrigues in Bangkok than they are with meeting their basic daily needs. As one recent editorial in *The Nation* observed, the issue isn’t that a good portion of the population is against the proposed changes to the draft constitution, it’s that “people just don’t care.”⁸

Those who watch unfolding developments with some concern look to a series of upcoming events, the ramifications of those events, and the response of the regime, as potential indicators of stability and success heading into the referendum period. These events include:

- The determination of cases against members of the Thaksin family on a variety of charges, including tax evasion (anticipated in May);
- The determination of cases against Thai Rak Thai, the Democratic Party and several smaller political parties for allegedly committing fraud during the last elections. If they are found guilty (a ruling is expected as soon as May but not later than July), the parties may be dissolved; and
- Scheduled rotations of military personnel, including a rotation involving military brass due to take place in September (which opponents of the regime suggest provides an opening for an incumbency coup).

Regarding the second point, some observers note that if the two main political parties are disbanded, they will have “nothing left to lose” and therefore no incentive to support the constitutional process or the general elections. While published remarks of the parties’ representatives are not entirely consistent on this matter, the assessment team was assured by leading members of both parties that they would support the draft charter. And, in anticipation of dissolution, there is clearly a re-organization of the political landscape underway as members leave their parties, consider new alliances and plan for the formation of new political parties once the ban on political party activities and registration is lifted by the Committee for National Security (CNS). This lifting is expected to take place once the court makes its ruling in July.

At this point in time, the conventional wisdom appears to be that the draft charter will pass and that the most dire of predictions are probably overstated. However, given Thailand’s turbulent political history, nothing should be taken for granted.⁹

⁷ “Poll Has More Bad News for PM,” *Bangkok Post*, April 9, 2007.

⁸ Suthichai Yoon, “Thai Talk: What Has This Constitution Got To Do With You?” *The Nation*, March 22, 2007.

⁹ See for example, Thitinan Pongsudhirak, “Analysis: A Long Road To Election Day,” *Bangkok Post*, April 10, 2007.

PART IV: REFORM OF THE CONSTITUTIONAL AND LEGAL FRAMEWORK

The Kingdom of Thailand is in the midst of a crisis of confidence regarding its fundamental democratic institutions and processes. A decade ago, during a time of economic difficulties, the country managed to develop the “People’s Constitution,” which provided for sweeping changes in political structures, judicial independence and guarantees of civil liberties. The Constitution of the Kingdom of Thailand B.E. 2540 (1997) served as an international model both for the participatory process used to write it and for the impressive ideas for modern and clean government it advanced, including the creation of several independent bodies to fight corruption. Unfortunately, over the past few years, some of these institutions were methodically corrupted themselves and lost their capacity to provide an accountability “check” on the government.

Thus, a governmental system that arose from extraordinarily legitimate origins yielded a government viewed by many Thai citizens as out of control and no longer legitimate. This situation led to the military’s seizure of Thailand’s governmental administration from elected civilian control, its abrogation of the 1997 Constitution and its formation of an interim government under an interim constitution. The question now is whether a legal political process imposed under these circumstances can result in a constitution and elected government that are perceived as legitimate.

Detractors would argue that a military coup is fundamentally undemocratic and that anything resulting from it—or anyone chosen by its leaders to initiate a democratic process—cannot be legitimate. This view creates an impediment to moving forward that can only be overcome by confidence-building and steady, tangible progress within a transparent and participatory process. The current circumstances also create the dilemma of either moving too rapidly, leaving citizens feeling like they haven’t had the opportunity to give input or understand the situation, or moving too slowly and seeming to keep power in the hands of the interim government too long, particularly if political debate were to drag on inconclusively.

The interim constitution (2006) sets forth a process for writing a new constitution, described below, as the beginning point for reestablishing political legitimacy. The process for adopting the new constitution is to culminate in a national constitutional referendum, currently scheduled for September 3, followed by new general elections, tentatively set for December. The use of a referendum poses risks for the interim government, particularly since Thailand has never held one before. The draft constitution will likely include enough controversial elements to give rise to complaints and opposition. Moreover, the outcome of the referendum could be negatively affected by issues unrelated to the content of the draft constitution itself, including opposition to the anti-democratic nature of the coup; unhappiness with the current management of the country’s affairs; the grievances of various groups (such as farmers upset about crop prices and subsidy levels); resentment about the [potential] dissolution of several political parties based on the determination of cases pending before the Constitutional Court; and, of course, anger of political supporters of the ousted regime.

Key to successfully gaining legitimacy for a new constitution and government is adopting a transparent, participatory approach and choosing good people to lead the effort. IFES cannot attest to the openness of the process since its beginning, the impartiality of the selection procedures for enlisting people for the early stages, or the quality or loyalties of all people recruited during this process. However, IFES’ assessment team can say from observation and in-country interviews that the process is moving along quickly and methodically; that it seems open to public and media scrutiny; that the deliberations over the draft constitution appear to be thoughtful, vigorous and wide-ranging; and that the participants with whom we met were highly engaged and taking their responsibilities seriously. Importantly, the constitution-drafting process provides the public with current and future opportunities for participation,

which can lend sufficient legitimacy to its outcome if citizens fully exercise their rights and if the drafters properly take their input into consideration.

A. THE CONSTITUTIONAL DRAFTING COMMITTEE

A.1 *Mandate and Composition*

The 100-member Constitution Drafting Assembly (CDA) and its 35-member Constitution Drafting Committee (CDC) are responsible for the development of the constitution. A 2,000-member National People’s Assembly¹⁰ proposed 200 nominees for the CDA, from which the Council for National Security (CNS) selected 100 members. The CDC was appointed by the CDA, with 10 of its members appointed on the advice of the CNS.

The CDC is composed of three subcommittees on (1) rights, liberties, people’s participation and distribution of power; (2) political institutions: the Parliament, the Council of Ministers, relations between politicians and bureaucrats, and ethics of politicians and bureaucrats; and (3) independent agencies and the judiciary. The CDA has 12 committees; those focused on the referendum include the Special Task Force to coordinate activities concerning public participation and the referendum and the Committee to draft the rules and voting procedures for the referendum.¹¹ There is also a Special Task Force to vet the draft constitution and organic bills, which would include the law affecting the Election Commission and the conduct of elections.

The Constitution of 1997 is the basis for the CDA’s work. Section 26 of the 2006 interim constitution states: “After the completion of a Draft Constitution, the Constitution Drafting Committee shall prepare and submit an explanatory memorandum to clarify the differences between the Draft Constitution and the Constitution of the Kingdom of Thailand, B.E. 2540 (1997) together with reasons of amendment thereon, to the Constitution Drafting Assembly.”

A.2 *Process and Timetable for Preparing and Adopting the Constitution*

The English-language website for the CDA/CDC (http://cda.parliament.go.th/index_en.php) provides the following chart outlining the timetable for the process of constitution drafting:

Implementation Schedule of the Draft Constitution

Completed By	Activity
February 8, 2007	1. Discussion of broad principles and issues by CDC
February 23	2. Discussion at subcommittee level
March 10	3. CDC vetting the subcommittee’s proposals
March 20	4. Preliminary draft constitution presented by the Secretary
April 19	5. First draft with section listing by CDC
April 26	6. Documentation of differences vs. 1997 Constitution
May 26	7. Public hearings

¹⁰ Section 20 of the interim constitution provides that the King of Thailand shall appoint no more than 2,000 members of the National People’s Assembly and that the Royal Command appointing such members shall be countersigned by the president of the Council for National Security.

¹¹ The interim constitution does not give the ECT the authority to conduct the referendum on the new constitution but rather stipulates that the referendum will be conducted “in accordance with the rules and procedures as notified by the Constituent Assembly” (Section 29). However, it is expected that this authority will be granted to the ETC and, indeed, the Commission has been notified that it is expected to conduct the referendum.

June 10	8. Final draft constitution to CDA for review
July 5	9. Approval by CDA
July 6	10. Constitution-drafting process
August 4	11. Publication of draft constitution for dissemination
August 18	12. Drafting organic bills (to begin August 5)
September 3	13. Referendum

Pursuant to Section 26 of the interim constitution, the CDC will present the draft constitution for deliberation to the CDA, CNS, National Legislative Assembly and other relevant institutions/agencies, including the Supreme Court, ECT, National Counter-Corruption Commission, National Human Rights Commission, higher education institutes and other bodies. The CDA shall also seek the input of the public through public hearings and other methods.

Section 28 of the interim constitution stipulates that the institutions/groups named under Section 26 as well as the public will have 30 days to review and comment on the draft.¹² This comment period is a significant opportunity for a broad-based reaction to the CDC's product, and the degree to which it is well utilized and resulting comments properly considered by the CDC will say much about the success of this process and its perceived legitimacy. Inquiries by IFES' assessment team to some of the groups entitled to submit comments indicated little preparation for meeting this responsibility. They had envisioned various formal and informal approaches to the task, but nonetheless expressed a general interest in participation.

The CDA/CDC has expressed a strong commitment to transparency and public participation in this process. It is already seeking public opinion and input during the drafting process through discussion forums being conducted simultaneously with their deliberations. IFES representatives attended a public forum in Bangkok on April 1 and found the discussion to be open and dynamic with a diversity of views represented. For more information about public participation to date, please see Section VI.D of this report ("Official Voter Education Efforts"). Another encouraging sign is recent discussion of lifting the ban on political party activities, although disagreement remains among various authorities as to when this should occur.¹³

A.3 *Failure to Complete or Adopt the Constitution*

Section 32 of the interim constitution provides:

In the event the Constitution Drafting Assembly does not finish preparation of the draft Constitution within the period of time set by paragraph one of Section 29, or the Constitution Drafting Assembly does not approve the draft Constitution under paragraph two of Section 28, or at the public referendum under Section 31 the majority of voters disagree with the promulgation of the new draft Constitution, the Constitution Drafting Assembly shall be terminated and the Council for National Security shall have a joint sitting with the Council of Ministers to consider any of the previous promulgated Constitutions for amendment within 30 days as from the date of the referendum in which voting disagreed and present it to the King for His signature for promulgation of the Constitution.

This provision has understandably aroused concerns that the CNS will impose its preferred version of the constitution regardless of the outcome of the referendum (rendering the vote perfunctory). Or, in the event

¹² IFES was told this 30-day period will begin on April 26 (one week after the drafting deadline of April 19, which allows for printing). The reference in the above chart to May 26 for public hearings is presumably the concluding date.

¹³ *Bangkok Post*, April 4, 2007, p. 1.

the referendum fails, it may choose a less modern and democratic earlier constitution or amend the 1997 Constitution in a manner that strengthens or prolongs the military's role in government. This provision has been seen as a heavy-handed way of ensuring success for the referendum by positing a worse outcome should it fail.

These concerns are justified given Thailand's current political tensions. The provision does inject an element of uncertainty and intimidation into the process. However, the CDA/CDC appears to be working hard to produce a new draft constitution that capably addresses important issues and arrives at these decisions through openness and consensus. It is in the interests of all elements of Thai society, including the CNS and the interim government, for the referendum to be seen as legitimate and for a draft constitution to emerge that all can support on its merits. The coming weeks will show whether these objectives are being met.

It is certainly possible the draft constitution will be rejected by Thai voters in the referendum, on the merits of the draft or for other reasons. The political consequences of such a rejection are impossible to predict at this time, as is the nature of an alternative constitution that would be adopted by the CNS and the Council of Ministers in that event. However, it appears that the interim government intends to proceed with the general election in December even if the referendum fails.

B. MAJOR POLITICAL ISSUES BEING CONSIDERED BY THE CDC

The following overview of major issues under consideration is based on interviews with key administrative, political and civil society participants (including CDC members) during the course of IFES' assessment mission; an annotated list of 36 "hot topics" prepared for the CDA/CDC website (Thai language versions); 26 press releases issued by the CDA/CDC (in English translation) since late January;¹⁴ and newspaper accounts of the proceedings.

As discussed above, in preparation for drafting the new constitution, the CDA/CDC appears to have engaged in extensive and vigorous discussion of a wide range of issues, to be relatively transparent about its process and to have encouraged public input. Its deliberations involve a reevaluation of the institutions and processes put in place by the 1997 Constitution and an effort to reflect upon and fix the flaws that brought about the current crisis. Such an effort carries the risk of over-reaction, but the CDC's discussions seem to acknowledge the trade-offs between the advantages and disadvantages of proposed changes.

These issues present legitimate and difficult policy choices. The decisions made by the Thais during this process should not be too quickly criticized by outside observers as unreasonable or "backtracking" unless the policies are clearly undemocratic or indicate some effort by the military to retain more power—neither of which is evident at this stage. By the end of the assessment mission, and as of this writing, it also seemed clear that these major issues are still being revisited by the CDC in a search for consensus (e.g., issues reappear in press releases describing recent rounds of consultations). Thus, predictions as to how these issues will be resolved in the draft constitution would be mere speculation.

B.1 Prime Minister

Given the origin of the recent political crisis leading to the military coup, it is not surprising that issues surrounding the appointment and accountability of the prime minister (PM) are of significant concern.

¹⁴ See the CDA website at http://cda.parliament.go.th/index_en.php.

The most prominent question raised is should the PM come from the ranks of the members of parliament (i.e., having been elected) or selected from outside? An unelected PM is generally viewed as undemocratic (and seems to most obviously cater to any potential aspirations Thai military leaders have to lead a government), and the idea seems to be losing support. On the other hand, a PM elected to the House of Representatives with wide popular support (particularly from the nationwide party list) could claim an independent basis for power (as happened during the last regime). Some see an appointed PM as an opportunity to better separate the executive and legislative power, and note that other ministers in the Cabinet may be appointed from among MPs or from outside.

Other issues regarding the prime minister involve measures to limit his/her power, define his/her obligations and make him/her accountable, and they include:

- If the PM comes from the ranks of the MPs, should the PM keep his or her MP status?
- Should the PM's tenure be limited to no more than two consecutive terms or eight years?
- Should the PM be obligated to appear before the legislature to answer questions (interrogated)?
- Should it be easier to subject a PM and other Cabinet members to censure debate or other forms of scrutiny and potential sanctions?
- Should a PM (and spouse and family) be required to avoid all conflicts of interest during his tenure and for a specified period after leaving office?
- Should a PM or Cabinet member be automatically removed from office if facing a suspended sentence from a criminal conviction?
- Should the number of citizens' names on petitions required to impeach the PM and members of both national and local legislatures be reduced? (The CDC's proposal is to reduce the number of citizen names required on petitions for impeachment or recall of national public figures from 50,000 to 20,000.)

On April 11 the CDC voted (27:7) in favor of having a prime minister selected from the ranks of elected MPs.¹⁵

B.2 *Senate*

The 1997 Constitution invested considerable political power and faith in the new Senate. It was empowered to initiate impeachment proceedings against the prime minister, members of the House of Representatives and other public officials. Most importantly, the Senate appointed (and could dismiss) members of new bodies designed to monitor corruption and abuse of power, such as the National Counter-Corruption Commission, the National Human Rights Commission, the Election Commission, the Ombudsman, the State Audit Commission and the Auditor-General. Unfortunately, under the prior regime, the Senate became the primary vehicle for corrupting and undermining these very institutions.

Elections for the non-partisan Senate had always been both controversial and cumbersome in implementation (especially in the disqualification of candidates alleged to have committed "money politics" offenses). Thus, the most important question raised is should members of the Senate continue to be elected or should they be appointed? Suggestions for appointing senators include selecting a "body of

¹⁵ "PM to be Elected, Drafters Agree," *Bangkok Post*, April 11, 2007.

electors representing different sectors or occupations” or having provincial legislators appoint senators to represent each province.¹⁶

A corollary question is whether the Senate, if its members are appointed, should be authorized to impeach the prime minister or other officials. Or should it be stripped of these and other powers (an apparent acknowledgement of the likelihood that an appointed Senate might be more susceptible to political influence).

In addition, the CDC is deliberating whether the number of senators should be reduced from 200 to 100 or 80 as a cost saving measure (with some members noting that the United States has 100 senators to represent 300 million people). The CDC is also considering a reduction in the number of members of the House. Furthermore, the CDC is considering whether to continue to require Senate and House members to have earned at least a bachelor’s degree. Some committee members have argued that this requirement generates a more experienced group of politicians, and others contend that this requirement precludes the vast majority of Thais from running for office.

On April 11, the CDC voted (28:3) in favor of an appointed Senate, as Thailand had prior to the adoption of the 1997 Constitution. According to news reports, the number of senators will be reduced to 160 with 76 coming from the provinces and the remainder selected from a range of sectors.¹⁷ The procedures for these appointments are not yet clear.

B.3 *House of Representatives*

The CDC is reevaluating the entire system for electing members of the House. The three most significant issues related to the electoral system are:

- Should the national party-list feature be retained? (Under the 1997 Constitution, 100 MPs are elected by party list and 400 are elected from single-member constituencies.)
- Should the number of MPs be reduced? (This question is related to, though not entirely dependent on, the prior question.) For example, 80 MPs could be elected by national party list and 320 from constituencies, which would bring the total number of MPs down to 400 from 500.
- Should the single-member constituency system be replaced with a multi-member system based on three-member constituencies (with some two-member constituencies to accommodate apportionment of seats within provinces—such as a province with 10 seats)? If so, how many votes should each voter cast?

During its session on April 11, at which five key issues were decided, the CDC voted in favor of 400 MPs, 320 elected from constituencies and 80 elected on the basis of proportional representation.¹⁸

B.3.1 Reducing the Number of House Seats

The main consideration for reducing the number of House (or Senate) seats appears to be cost savings and streamlining elections (with some hope of diminishing vote-buying).

¹⁶ Although again seemingly undemocratic (and susceptible to manipulation, depending on how selections are made and who makes them), it may be noted that Article 84 of Afghanistan’s constitution (adopted with advice from advanced democracies) establishes a Senate appointed by provincial/local legislative councils, experts appointed by the president, and representatives of societal groups.

¹⁷ “PM to Be Elected, Drafters Agree,” *Bangkok Post*, April 11, 2007.

¹⁸ *Ibid.*

The simplest way to achieve that result would be to eliminate the seats won by candidates on national party lists. However, supporters of national party lists argue the current system:

- Provides small parties that cannot presently win seats through winner-take-all single-member constituencies a chance at some representation. Some advocate lowering the threshold for gaining party-list seats from 5 percent to 2 percent to give small parties an even better chance.
- Enables the national leaders of political parties to run without being tied to a constituency and thereby allows them to run a national campaign in anticipation of national leadership as prime minister or as a Cabinet member. This argument now carries some stigma based on the country's experience of the prior regime's populist orientation.

Another important consideration is that changing the number of House members elected from constituencies would present an immediate and difficult challenge for the ECT, as it would need to redraw constituency boundaries. This task would need to be accomplished in time for the first stages of the general election (for example, submission of candidate nominations) to be held late this year. In the past decade, the current boundaries for 400 constituencies have been only slightly adjusted to account for population changes. The new number of seats would have to be redistributed among provinces and almost certainly result in entirely new constituency lines, which are based on existing administrative district and sub-district (*tambon*) borders. The ECT has a department with responsibility for and expertise in constituency boundary delimitation, but it is unclear whether it has retained the technical capacity (such as GIS mapping ability) and reliable population estimates to perform this function quickly and accurately. Moreover, changes in constituency lines are susceptible to political pressures and would certainly draw numerous challenges from political parties, candidates and local political leaders.

B.3.2 System of Representation

From an international perspective, the mixed system of single-member constituencies and national party-list seats under Thailand's 1997 Constitution was not an ideal approach for providing small parties a fair share of seats.

- The system used a parallel vote for the two types of seats (as in the systems adopted by some countries of the former Soviet Union). That is, the national party list and constituency votes were separate and had no effect on each other, allowing the large parties to dominate both the "winner-take-all" constituency contests and the national party-list vote.
- In contrast to a parallel voting system, a country could use a compensatory system (as the Germans do) in which the seats parties have already won in constituencies (most likely by the larger parties) are taken into account when distributing seats from the national list vote. Such a system gives smaller parties a total number of seats that is more proportionate to their party list vote.

The compensatory approach is fairer to small parties and can be coupled with a threshold requirement to prevent very small parties from receiving representation. However, this system often awards large political parties, which won a high number of constituency seats, with few or no national party-list seats (which could prove a shock to the leaders running on the national party list).

B.3.3 Single- or Multi-Member Constituencies

The proposal to change to a (predominately) three-member constituency system is not a radical idea for Thailand, as it was the system in place prior to the 1997 Constitution.¹⁹ However, it is an unusual approach by international standards. Small multi-member electoral districts are not viewed as providing a genuine proportional representation. PR systems are generally regarded as requiring more seats per constituency than three to permit reasonable proportionality when awarding seats to parties.

A block voting system gives each voter the same number of votes as seats in the constituency. A single non-transferable vote system gives each voter only one vote regardless of the number of seats. Both of these methods can produce different but equally unpredictable outcomes when coupled with a requirement that parties nominate a full slate (three candidates) per constituency, as is the case in Thailand. As a result, they require parties use some sophistication when deciding how to campaign for their candidates in each constituency, because they face the risk of dissipating their votes. One party leader described the system as encouraging a party to field their preferred candidate and two “drivers,” i.e. non-serious contenders, as their ticket in a highly contested three-member constituency. Even in a constituency that strongly favors one party, a system that permits each voter only one vote will encourage intra-party competition and a potentially lopsided vote for one candidate of the dominant party (to the benefit of other parties).

The uncertain political consequences of both the proposals to retain the national party list and to change to a multi-member constituency system in the House of Representatives are heightened by the currently volatile dynamics of political parties in Thailand. Both major pre-coup political parties face the potential of dissolution by the Constitutional Court in cases expected to be decided soon, and considerable party reorganizations and realignments among political leaders appear to be taking place. Although the CDC may be making decisions about electoral issues for the House independently of partisan considerations, it may face political opposition to the draft constitution’s choices.

B.3.4 Party Membership

Another contentious issue regarding House members being discussed by the CDC is how long an MP must belong to a political party before he/she can run as one of its candidates (put another way, how close to an election can MPs switch parties). Under the previous system, MPs could not change their political party affiliation within 90 days of an election. Advocates of retaining this time frame argue it discourages last minute party switching that is motivated by “money politics” and that confuses voters. Opponents say this system prevents MPs from changing parties despite conflicts with its policies or leaders (and suggest this constraint froze many MPs into collaboration with the prior regime).

B.3.5 Other Issues

Other issues before the CDC relating to the House of Representatives include:

- Should MPs have more freedom to carry out their responsibilities and to vote independently from their party (a sensitive issue of party discipline versus constituency representation)?
- Should the seat automatically go to the next runner-up if the candidate with the most votes is disqualified, without resorting to a by-election?

¹⁹ As noted above, a change in the number of House members elected in constituencies would require redrawing constituency boundaries. However, a shift to multi-member constituencies could involve simply combining existing constituencies rather than requiring a complete redrawing of lines if the total number of members elected by constituency voting remained the same.

- Should candidates be required to have at least a bachelor's degree in order to run for office?

B.4 Independent Bodies

A significant reform of the 1997 Constitution was the institutionalization of independent bodies to serve as a check on corrupt politicians, such as the National Counter-Corruption Commission (NCCC), the National Human Rights Commission, the Election Commission (ECT), the Ombudsman, the State Audit Commission, and the Auditor-General. The failure of these bodies to prevent corruption under the prior regime—indeed, the corruption of many of these bodies themselves—has naturally caused the CDC to reflect upon the efficacy of these entities and to search for ways to safeguard their independence and improve their operations.

At the same time, there is concern that these independent bodies may be beyond any political control and in need of greater accountability. They are viewed as having overlapping jurisdictions that may lead to confusion or double jeopardy in complaints and investigations. They are also seen as prone to bureaucratic inefficiency and red tape. Once infiltrated by corrupt elements, they cannot be easily reigned back in.

Nevertheless, although the question has been posed by the CDC for public discussion, it is unlikely that any of the independent bodies will be dissolved.²⁰ More likely is that the selection process will no longer be exclusively under control of the Senate, and the oversight powers of the House and Senate will be enhanced to enable them to scrutinize the conduct of these bodies (with the risk, of course, of political interference).²¹ There may be some adjustment to jurisdictional lines, although some view the overlaps as a safeguard. The CDC is proposing specific measures to improve control and scrutiny of the NCCC and the other statutory agencies. For example, the CDC suggests the NCCC be made more responsive to the public by enabling citizens to initiate NCCC action against a public official when they submit a petition to the Senate signed by 20,000 or more eligible voters. In addition, the CDC wants to make the NCCC more accountable by making all statutory agencies subject to the Code of Criminal Justice.²²

The ECT has come under particular scrutiny and criticism, not only for its apparent political bias under the prior regime but also for its basic powers under the Constitution. The CDC has asked whether there should exist an agency or court that scrutinizes the work of statutory independent bodies. With respect to the ECT, the CDC asks if it needs oversight of the exercise of its powers, specifically with respect to deadline, discretion and in rescinding the candidate's rights to stand (which it can rescind). The ECT is seen as too powerful and beyond outside controls. It is also said to possess executive, legislative and judicial powers in its capacity to adjudicate complaints about the fitness and honesty of candidates. For more on the adjudication of electoral complaints, see B.6 below. More detail on the independence of the ECT can be found under D.1.2 below.

Except for the potential reduction in the ECT's adjudicatory powers, and some measures to improve the responsiveness and accountability of the independent bodies, the new draft constitution is unlikely to

²⁰ CDA/CDC Press Release No. 6 (February 8, 2007) summarized the resolutions reached by that stage regarding independent agencies and the judiciary:

1. All the existing statutory Independent Agencies and Courts should remain, with suitable changes to their powers and responsibilities to increase their efficacy and accountability.
2. The selection or recruitment process should be improved to ensure genuine independence and impartiality. It should not be left to the Senate alone as was done in the past.
3. There should be a system of monitoring and supervision over their operations.
4. It should be made easier for the people to participate directly in the scrutiny process of the courts and of the Independent Bodies.
5. Investigation of abuse of power should be prompt and timely.

²¹ Ibid.

²² See CDA/CDC Press Release No. 22 (March 20, 2007).

radically change the status of these bodies. The debate in the CDC seems a healthy reevaluation of entities upon which unrealistic expectations may have been placed at the time of their formation.

B.5 Anti-Corruption Measures, Oversight and Public Participation

The CDC is considering a wide range of creative measures to increase tools available to fight corruption and to encourage greater direct public participation in politics. To reach these goals, it has had far-reaching discussions that have included the following questions:

- Should there be an explicit mechanism or law to protect bureaucrats against politicians' bullying? And should budgetary expenditures be monitored and controlled?
- Should there be a code of conduct for politicians with suitable punishments for violating it?
- Should legal action against political office holders and bureaucrats (both at the national and local levels) who become unusually rich while in office be governed by a time limit (after which such action is no longer possible)?
- Should the number of petition signers required to impeach politicians and to legislate at both the national and local level be reduced?²³
- Should the people be allowed to participate directly in matters such as amendment of the constitution or the law, impeachment and criminal proceedings against politicians (rather than leaving these matters to the independent bodies)? If so, should the constitution specify time frames within which organic laws to advance such efforts must be enacted?
- Should there be funding to support public participation?²⁴
- Should the new constitution aim "to decrease the State's power" and "increase the people's power"?

B.6 Adjudication of Electoral Disputes

Under the 1997 Constitution and previous election laws, the ECT was granted extraordinary powers to order the re-casting of votes in an election (or referendum) when significant allegations of fraud and illegal practices (primarily vote-buying, bribery of election officials or vote-count manipulation) placed the validity of the election in doubt. The ECT was empowered to issue "red cards" to winning candidates when clear evidence of fraud or illegality was presented against them, which suspended candidates from running in any type of election for a year (including, of course, the immediate repeat election). A "yellow card" was given to winning candidates suspected of fraud or illegalities based upon inconclusive allegations, which permitted them to stand for election again in the repeat election.

These extensive powers to conduct relatively hasty investigations of allegations and then issue quasi-judicial rulings that can seriously damage candidates' reputations were criticized from the very earliest days of the ECT's operations (even before more recent accusations of political bias within the commission under the prior regime). The ability of the ECT to suspend winning candidates for suspected violations and require a repeat election was viewed as an imperfect tool for discouraging corruption of the electoral process. The system encouraged spurious and tactical use of allegations against candidates,

²³ CDA/CDC Press Release No. 15 (March 6, 2007) describes a CDC event in which it was suggested the number of petition signatures required for impeachment or recall of political office holders be reduced from 50,000 to 20,000 at the national level. At the local level, the number of signatures required would be reduced in proportion to the turnout at the last election.

²⁴ The CDC is reported to have agreed to include in its draft a requirement that the "government set up a political development fund for civic groups ... to promote political activities in society" modeled on the Thai Health Promotion Foundation. Some CDC members were said to have "voiced concern politicians could exploit the fund." See Mongkol Bangprapa, "CDC Approves Political Fund," *Bangkok Post*, April 4, 2007, p. 3.

wrongly disqualifying some based upon only slight, preliminary or manufactured evidence. Repeat elections were expensive for the state, and punished voters (voter turnout would drop in each succeeding election) as well as honest candidates who were forced to campaign continually.

These widespread objections to the ECT's adjudicatory powers are currently being considered in the process of drafting a new constitution. CDA/CDC Press Release No. 9 (February 15, 2007) states the general view of the drafters (as of that time) and reflects the apparent consensus within the political community and general public.

In principle, the Election Commission should retain the same power and responsibilities as specified in the 1997 Constitution. However, it is agreed that EC should not have absolute authority over election results or be the arbiter, specifically in revoking candidates who have allegedly violated the election laws. EC could now be scrutinized by the Supreme Court if the aggrieved candidate comes to it for redress. The Supreme Court by "full-house opinions" shall decide the case within a given time and with a simple procedure in the interest of quick, honest, and fair elections.

CDA/CDC Press Release No. 10 (February 20, 2007) notes the recommendation of the CDC Subcommittee for the Courts and Independent Agencies that an Election Court or Department of Election Fraud in the Supreme Court should be established to scrutinize the ECT's decisions in handing out penalties. Such a body could also check the qualifications of electoral candidates, MPs, senators and other politicians. Furthermore, the CDA/CDC concluded from the continuing deliberations of this subcommittee that:

- The Supreme Court (or the Supreme Court and the Supreme Administrative Court combined) should be empowered to recall or disqualify MP and Senate candidates.
- Election fraud or conflicts at the local administrative level should be handled by provincial courts using speedy procedures.²⁵

At this point, it is unclear whether the new mechanism the CDC will adopt for adjudicating allegations of election fraud and illegalities will be a new Electoral Court, a special (temporary) division of the Supreme Court or judicial review of ECT decisions. However, it is clear that a consensus has emerged in favor of reducing the ECT's adjudicatory powers (particularly with regard to disqualification of candidates) and providing alternative means for resolving election disputes and complaints. ECT representatives have stated that they would not object to losing this adjudicatory authority, which has proved extremely burdensome and controversial.

²⁵ CDA/CDC Press Release No. 21 (March 15, 2007).

B.7 Money, Politics and Influence

Unfortunately, Thai elections have a long history of corruption by “money politics.” The primary means for influencing elections has been the widespread practice of vote-buying, which has achieved the status of a revered tradition in parts of Thailand. The acceptance of this illegal practice among much of the public (and the corresponding embrace of the practice by political parties and candidates) represents a political pathology that will require long-term efforts of public education and continually ramped up legal enforcement. A quick solution to this problem is clearly beyond the reach of the current constitution-drafting exercise or the new organic law on elections, although vote-buying will certainly be addressed and continue to be prohibited. Only limited progress on this issue can be expected in general elections scheduled for December.

However, incremental improvements on political finance issues can generally enhance the environment for transparency and accountability (and ultimately affect the acceptability of practices like vote-buying). Thailand’s previous organic laws on political parties and elections included requirements for reporting contributions/expenditures, restrictions on the sources and amount contributed to political parties and candidates, and requirements that parties designate a treasurer responsible for maintaining party accounts and filing financial reports. Thailand has already had in place the form and substance for regulation and public disclosure of political finance. However, these regulations have been ineffectively implemented and enforced. In their deliberations, the CDC appears to have recognized these deficiencies and is seeking to strengthen political finance regulations.²⁶

For a discussion of media and civil society oversight of campaign finance issues, please see Section VII.B of this report.

B.8 Political/Social Rights and Civil Liberties

The 1997 Constitution contained extensive, landmark protections of political rights, social rights and civil liberties for the citizens of Thailand. In its deliberations, the CDC has also invested considerable time in reviewing and reasserting these rights and liberties in the draft constitution.²⁷ They appear to be aware that the authority of the National Human Rights Commission needs to be expanded and that its jurisdiction overlaps with that of some of the other independent bodies. Also, the CDC is considering whether to permit citizens to file complaints directly with the Constitutional Court rather than only being allowed to pursue grievances through the office of the Ombudsman.

B.9 Decentralization and Local Government

In reaction to the concentration of power in the prior regime, the CDC is considering several questions related to decentralization and local government. Discussion of the basic question of whether to distribute more power to local governments creates the inevitable arguments and counter-arguments, which cover (1) the benefits of empowering people who know their local situation and can solve their own problems

²⁶ CDA/CDC Press Release No. 11 (February 22, 2007) stated the recommendations of the CDC Subcommittee for Political Institutions regarding political finance regulation:

1. Political parties should disclose the names of their contributors who have given 10,000 baht or more to support their activities, so that the sources of funds can be traced.
2. No one is allowed to contribute more than two million baht to any political party or parties.
3. No one is allowed to belong to more than one political party.
4. No money should be given to any political party which does not field any candidate for parliamentary election.
5. Any financial support by a corporation to any political party should be approved by the shareholders at a general meeting.

CDA/CDC Press Release No. 18 (March 9, 2007) describes additional recommendations of the subcommittee, including that political contributions should be tax-deductible.

²⁷ See for example, CDA/CDC Press Release No. 15 (March 6, 2007).

more efficiently versus (2) the concerns that national resources sent to local areas will be intercepted for corrupt purposes. As with the general debate about encouraging public participation, proposals to enhance the capacity of citizens to hold local officials accountable—such as reducing the number of petition signatures required to initiate a recall or reducing the voter turnout and vote margin thresholds needed to recall officials at both the national and local levels—have been criticized for likely impairing the efficiency of officials/bureaucrats, who would constantly fear investigations of their decisions.

Specific questions put forward by the CDC related to this area include:

- Should there be independent provincial agencies that monitor the actions of local governors?
- Should the local community be empowered to play a bigger role in community development, the management of natural resources and the protection of the environment?
- Should fund allocations to local administrations be explicitly specified in amounts proportionate to the annual budget?
- Should government decentralization be dependent upon on the readiness of the locality?

C. OTHER SENSITIVE ISSUES BEING CONSIDERED BY THE CDC

C.1 Special Committee for National Crises

There has also been discussion within the CDC about creating a senior level ad hoc committee in the event of—and to deal with—national crises or turmoil. To date, there is little information about the criteria that would be used to activate such a committee, who its members would be (or how they would be selected), its authority and accountability, or any conditions placed on its tenure or dissolution. One would presume that this mechanism is being proposed as a means of avoiding more drastic measures in response to future crises (i.e., coups). However, opponents have suggested that such an institution subverts election institutions as well as checks and balances. Questions have been posed about what constitutes a national crisis, whether such a mechanism could be manipulated in order to seize power absent a real crisis, and how to ensure that such a body is dissolved once a crisis passes. According to press reports on April 11, the CDC has voted in favor of the establishment of such a committee.

C.2 Immunity for Coup Leaders

A difficult and intriguing factor in the constitution-drafting process is the question of amnesty for the military generals (and their supporters) who led the coup against the prior regime. The coup leaders are reportedly concerned about their safety and the security of their assets after they exit from the political stage following elections, particularly as allegations of corruption within the CNS and interim government are surfacing. While it is unlikely that the new constitution will contain a specific provision granting the coup leaders or current government amnesty from legal prosecution, either the draft could be written to permit granting of such amnesty or the drafting process could be affected by backroom negotiations over a guarantee that other laws or measures will provide them protection.

C.3 Inclusion of Buddhism as the National Religion

A group of Buddhist nationalists and clergy is waging a public campaign to have the new constitution declare Buddhism the national religion. They have threatened to vote against the draft if this provision is not included. This movement appears motivated by a sense that Buddhism has lost its traditionally strong influence in Thai society, especially among young people, and also by a reaction to the surge of violence in the deep South, which is attributed to Muslim extremists. Opponents note that no previous constitution

has enshrined Buddhism as the national religion and argue that doing so now would show a lack of respect for diversity, inflame religious passion among non-Buddhists and do little to improve Buddhism's impact upon modern Thai society. The proposal has gained military support and has divided the CDC. It will likely remain controversial throughout the constitution-drafting period and the referendum.

C.4 Mass Media Access and Independence

The prior regime's extensive ownership of mass media has encouraged the CDC to ask whether there should be a mechanism for protecting the mass media from political influence, such as in independent regulatory body as originally envisioned in the 1997 Constitution. The CDC's answer seems to be to seek a balance that will prevent interference with the media's ability to present facts, guarantee citizens a right and access to information and develop means of accountability so that media is not used to distort public opinion. Discussions on this topic have also delved into broader issues like the need to diversify media ownership, the scope of military/government control of terrestrial television and non-commercial radio, the proper model for public television and restrictions on elected officials' ownership of media outlets.

D. VOTING RIGHTS AND ELECTION ADMINISTRATION ISSUES BEING CONSIDERED BY THE CDC

Prior to the September 2006 coup, the constitutional and legal framework governing Thailand's electoral process consisted of

- the 1997 Constitution,
- the Organic Act on the Election Commission (1998),
- the Organic Act on Referendum (1998),
- the Organic Act on Political Parties (1998),
- the Organic Act on the Election of Members of the House of Representatives and Senators (1998),
- the Act on Elections of Members of Local Councils or Administrators (2002), as well as
- regulations promulgated by the Election Commission.

The coup leaders, through the Council for Democratic Reform, abrogated the 1997 Constitution and, through several announcements, ensured that the ECT was able to administer local elections throughout the transition period. The Organic Act on the Election of Members of the House of Representatives and Senators (1998) and, importantly, the Organic Act on Referendum (1998) were repealed.

The legal framework now in place is composed of the remaining acts, as amended by announcements from the Council for Democratic Reform, and corresponding regulations. The announcements:

- Ensured that the national Election Commission remained in place, as an institution, and retained the Organic Act on the Election Commission (1998) while changing the Commission's composition by appointing a new chairman and four new commissioners (Announcements Nos. 13 and 26)²⁸;

²⁸ Announcement by the Council for Democratic Reform, No. 13: Selected Organic Laws Shall Continue to be Effective (September 20, 2006). Announcement by the Council for Democratic Reform, No. 26: Amendment of Announcement of the Council for Democratic Reform No. 13, (September 29, 2006).

- Retained the ECT’s power to conduct elections for both local administrative councils and local administrators and retained the 2002 Local Administrative Council Members and Local Administrators Elections Act (Announcement No. 13);
- Stipulated that the newly appointed Election Commission is deemed to have been lawfully selected, with a term of office starting from the date of appointment and with powers and duties according to those stated in the Organic Act on the Election Commission (Announcement No. 26)²⁹; and
- Maintained the status of political parties (but prohibited existing parties from meeting or conducting other political activities), suspended the establishment or registration of new parties and retained the Organic Act on Political Parties (1998) (Announcements Nos. 7 and 15).³⁰

Other relevant announcements concerning the ECT and the conduct of elections are Announcement No. 27,³¹ which further amends Announcement No. 15, and Announcement No. 32,³² which concerns the announcement of results from local government elections and the ECT’s duties with regard to illegal acts committed during any election.

D.1 Constitutional Issues

The new constitution is clearly key to the development of a new legal framework for the conduct of elections and the referendum. In addition to addressing the system of representation and political participation (as discussed under B.3.2 and B.5 above), the constitution should address two issues fundamental to the conduct of elections: (1) the right to vote and (2) the Election Commission. The new constitution will also include provisions covering the transitional period to the general elections, setting the date for these elections, and the role and the responsibilities of the Election Commission.

It appears that the transitional arrangements of the new constitution will maintain the current election commissioners. Press Release No. 22 of the CDA/CDC (March 20, 2007) states that Transitory Provisions will “...allow statutory agencies to serve to the end of their tenures as specified in the 1997 Constitution or in accordance with the relevant law. The said agencies include: (1) Election Commission...” This decision enables the chairman and four commissioners to serve out a seven-year term, effective from their date of appointment in September 2006.

In some areas, the new constitution is overly detailed regarding the conduct of elections, while in other areas, key principles—such as the independence of the Commission—are inadequately addressed. The basic electoral principles need to be clearly enshrined in the constitution, while operational aspects should be detailed in the electoral law and in regulations.

D.1.1 Right to Vote

Article 25 of the International Covenant on Civil and Political Rights, ratified by Thailand in 1997, states, in part, that:

²⁹ Announcement by the Council for Democratic Reform, No. 26: Amendment of Announcement of the Council for Democratic Reform No. 13 (September 29, 2006).

³⁰ Announcement by the Council for Democratic Reform, No. 7: Ban on Political Gatherings (September 20, 2006). Announcement by the Council for Democratic Reform, No. 15: Ban on Meetings and Other Political Activities by Political Parties (September 21, 2006).

³¹ Announcement by the Council for Democratic Reform, No. 27: Amendment of Announcement by the Council for Democratic Reform (September 30, 2006).

³² Announcement by the Council for Democratic Reform, No. 32: Authority and Duties of the Election Commission Regarding Local Administrative Council Members and Local Administrators Elections (September 30, 2006).

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- (1) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- (2) To vote and to be elected at genuine periodic elections, which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors.

The 1997 Constitution, while making voting compulsory, places limits on citizens' rights to electoral participation. It deprives monks (actually, Buddhist priests, novices, monks and clergy) of the right to vote. This was of concern to some civil society activists with whom the IFES mission met, as there are estimated to be some three million monks in the country. However, at the present time, there does not seem to be widespread interest in amending this constitutional provision. Operationally, the ECT has noted some difficulties in including former monks on the voter register, and as a result, until their house register can be changed, they will be categorized as ineligible to vote. Others have noted that monks appear on the register despite being ineligible.

In addition, Thai citizens who are deemed "of unsound mind or of mental infirmity" are not eligible to vote.³³ Mental disability is the most common reason given in electoral legislation around the world for disqualifying potential voters, and it is one of the most difficult to address. An increasing number of developed democracies are beginning to tackle this issue, although many still have legislation preventing people with mental disabilities from registering to vote, specifically those who have been declared mentally incompetent by a court of law.³⁴ Society's understanding of mental disability and mental health are in constant flux. People who have epilepsy, or autism, or whose communication abilities are limited by cerebral palsy have often been wrongly thought to be insane and dangerous. The intervention of counseling and medications can now make it possible for people with psychiatric disorders to work and live in their communities. It is recommended that the constitutional drafters examine the issue of electoral participation by those with mental disabilities. The International Covenant on Civil and Political Rights and the recently signed UN Convention on the Rights of Persons with Disabilities can serve as a strong foundation for protecting electoral enfranchisement for these citizens.

The new constitution should focus on protecting the fundamental voting rights of all citizens, while it should be left to the electoral law to further clarify the application of this basic constitutional right. In this way, the voting rights of monks and those with mental disabilities can be addressed in a way that takes into account how perceptions of these issues may change over time.

With regard to elections themselves, the 1997 Constitution fails to strongly mandate secret voting and the conduct of free and fair elections. section 144 of the 1997 Constitution states that "The Election Commission shall control and hold, or cause to be held, an election of members of the House of Representatives, senators, members of a local assembly and local administrators including the voting in a referendum for the purpose of rendering it to proceed in **an honest and fair manner**" (emphasis added), but this language does not fully uphold the fundamental principle of free and periodic elections. Likewise, secrecy of voting is not treated as a fundamental principle in the 1997 Constitution. Instead, this right is referenced in the provisions relating to the conduct of the House and Senate elections: "The election shall be by direct suffrage and secret ballot" (Sections 104 and 123). Written this way, the 1997 Constitution

³³ 1997 Constitution, Section 106, relating to the House of Representatives elections.

³⁴ The BBC recently reported (April 4, 2007) that an election pack for candidates issued by the Bournemouth Borough Council, UK, stated that "lunatics and idiots" and "deaf and dumb persons" were disqualified from standing. The electoral services officer said it was a mistake and that the terms were taken directly from election law dating back to 1766. The information pack has since been amended.

fails to protect the secrecy of the ballot in local elections. A single strong provision mandating secret voting is suggested for the new constitution.

D.1.2 The Election Commission

The 1997 Constitution addresses the funding, composition and powers/functions of the Election Commission. All three areas are being reviewed by the constitutional drafters, but it should be noted that a critical issue relating to the ECT and the integrity of the electoral process is not addressed in the constitution: the independence of the Commission.

The constitutionally guaranteed independence of the Commission will contribute to the integrity and credibility of the electoral process, and it is critical to instilling public confidence in the process and acceptance of the results. The 1997 Constitution deals only tangentially with the structural independence of the Commission. Section 75 of the 1997 Constitution refers to the funding of the Commission, stating:

The State shall allocate adequate budgets for the independent administration of the Election Commission...

There is no clear statement in the Constitution that the Commission shall be independent of the control of the government in its operations.

There are many examples of election management bodies whose independence is constitutionally mandated. The following provisions are useful to consider as they address independence differently. One focuses on operations, and the other on structure.

“Except as provided for in this Constitution or any other law not inconsistent with this Constitution, in the performance of its functions, the Electoral Commission shall not be subject to the direction or control of any authority or person”—article 46 of the Constitution of Ghana.

“General elections shall be organized by a general election commission of a national, permanent and independent character”—article 22E(5) of the Indonesian Constitution.³⁵

Whatever the manner constitutional drafters decide to enshrine the ECT’s independence in the constitution, it is critical that this issue be addressed. Related to this, the CDA/CDC’s decision to establish a budget office for independent agencies (such as the ECT) and the courts that is directly answerable to parliament could also have a significant impact on the budgetary independence of the election commission.³⁶

The appointment process, composition and terms of office of election commissioners are provided for in Sections 136 to 140 of the 1997 Constitution. Indications are that CDC is considering decreasing membership of the selection committee from ten to five people, limiting political party representation on the Committee to the opposition leader (excluding other parties represented in the Senate) and removing “rectors of all State higher education institutions which are juristic persons.” The 1997 Constitution called for both the selection committee and the Supreme Court to submit five names to the Senate, from which the chairman and four commissioners would be approved. Press Release No. 17, dated March 8, 2007, of the CDA/CDC reports consideration of the following:

³⁵ Alan Wall, Carl Dundas, Sara Staino and Joram Rukambe, “The Constitution,” *ACE Electoral Knowledge Network* (www.aceproject.org/ace-en/topics/em/emb/emb03, accessed March 24, 2007).

³⁶ See CDA/CDC Press Release No. 22 (March 20, 2007).

The Selection Committee has 5 members: 1) President of the Supreme Court, 2) President of the Constitutional Court, 3) President of the Supreme Administrative Court, 4) President of the House of Representatives, and 5) Opposition Leader. The Committee chooses three suitable candidates, then submits the list to the Senate for approval. The remaining two candidates are to be selected at the Supreme Court's general meeting and similarly the names are submitted to the Senate for approval.

Should the CDC mandate this process of choosing ECT members, it will limit the involvement of non-state actors and political parties in the nomination of candidates. Involving more political actors as well as non-state actors (such as members of civil society organizations, academia or professional bodies like the Lawyers' Council) could help ensure that the resulting Commission is impartial and has the confidence of all key electoral stakeholders. For example, the selection committee for the National Human Rights Commission is the most representative and participatory of the independent agencies; it includes representatives from academia, private organizations, political parties and the public media (among others).³⁷

Sections 144 and 145 of the 1997 Constitution detail the ECT's powers and duties, stipulating that the chairman of the Election Commission "shall have the charge and control of the execution" of key electoral laws (Section 144) and shall be the political party registrar. The Commission is also charged with issuing notifications for the execution of the electoral laws, giving orders instructing government officials to support the conduct of the elections, conducting investigations into problems or disputes, announcing the result of a poll and performing other acts as provided by law. The list of the Commission's powers and duties is not comprehensive, omitting two key functions—boundary delimitation and voter registration—which are instead addressed in the electoral law. While the 1997 Constitution does lay out the method of delimiting districts for the House,³⁸ it does not stipulate that the Commission has this responsibility. If this responsibility should remain with the ECT, the constitution needs to attribute this duty to the ECT.

The law on the Election Commission gives it the responsibility of preparing the voters register, which is extracted from the Household Register maintained by the Ministry of the Interior. Because the ECT does not have control over the voters register, it cannot fully ascertain its accuracy. As some think the ECT will be fully responsible for preparing the voters register in the future, this issue might be better addressed in an act on the Election Commission rather than in the constitution.

As noted in B.6 above, the CDA/CDC is also considering the role of the ECT with regard to the adjudication of election disputes.

D.2 Legal Framework Issues

The conduct of the constitutional referendum will be held "in accordance with the rules and procedures announced by the Constitution Drafting Assembly," as stipulated by Section 29 of the interim constitution. With regard to the conduct of the referendum, the only other guidance that the interim constitution gives is that "the referendum shall be held on the same day throughout the kingdom" (Section 29). The referendum is currently scheduled for September 3. It appears that the referendum law is being prepared with significant ECT involvement, and at the time of the assessment team's departure, a draft bill was already before the ECT commissioners for review. Discussions with various stakeholders suggest

³⁷ See Saneh Chamarik, "The Role of the National Human Rights Commission of Thailand," *Thailand Human Rights Journal* 11:15 (2003).

³⁸ "The determination of the ratio of the number of inhabitants to one member shall be made by reference to the division of such number of inhabitants throughout the country as evidenced in the census announced in the year preceding the election by the number of four hundred members of the House of Representatives." (1997 Constitution, Section 102)

that the bill will be fast-tracked through the National Legislative Assembly so that preparations for the referendum can begin

Section 30 of the interim constitution gives the CDC 45 days from the date of completion of the draft constitution to draft the necessary organic laws for holding elections. The CDC suggests that drafting must begin by August 5. The revocation of the Organic Act on the Election of Members of the House of Representatives and Senators (1998) necessitates a new law for the general elections. Significant alterations are expected in this act given the anticipated changes to the electoral system and constitution. While not revoked, the Organic Act on the Election Commission (1998), the Act on Elections of Members of Local Administrative Councils or Administration (2002) and the Organic Act on Political Parties (1998) require review to ensure that they provide clear direction to the ECT and the stakeholders as to the electoral process and that they are consistent with the electoral principles in the constitution.

While the assessment team cannot comment on laws that have yet to be drafted, several issues were raised during discussions with stakeholders that should be considered during the drafting process. These are discussed below.

D.2.1 Inconsistent Legal Provisions

There are inconsistencies in provisions of the current Organic Act on the Election of Members of the House of Representatives and Senators (1998) and the local government elections act, which include (but are not necessarily limited to):

- **Closing the polling station:** For House and Senate elections, voters in line at 3:00 pm (when the polls close) are not allowed to vote, while they are in the local elections.
- **Advance voting:** Advance voting—whereby voters can vote before election day if they cannot visit the polls on election day—is available for House and Senate elections but not for local elections.
- **Vote buying:** The local election law stipulates penalties for both vote selling and vote buying, while the law for House and Senate elections punishes only the vote buyer.

These differences in the laws, and in some of the resulting procedures, not only impact enfranchisement but also can impact the application of the law, as election workers can be confused as to the correct procedure to follow for various elections. For voters, too, differences between the conduct of general and local elections can raise questions and even erode trust in the system. It is critical that the legal framework be closely examined *in toto*.

D.2.2 Accountability of the Counting Process

Depending on the election, the counting of ballot papers is done either at the polling station (for local assembly and Senate elections) or at the constituency counting center (for House elections and for elections for local administrators). Many with whom the assessment team met expressed strong support for the counting of ballot papers at the polling stations for all elections, and it is recommended that this be seriously considered, including for the referendum. The constitutional drafters are taking up this issue, and a CDC press release in early March reports: “The Meeting agreed that counting should be done at the ballot booth unless otherwise directed. The proposal is subject to public opinions, however.”³⁹

³⁹ CDA/CDC Press Release, Issue No. 16 (March 7, 2007).

Counting at constituency centers has been touted as a way to thwart vote buying; amalgamating polling station results at the counting center can protect a polling station from improper influence from a candidate or party. However, some types of elections require counting at the polling station. Additionally counting ballots at the constituency center automatically makes the process less transparent, which can decrease public acceptance of the outcome. Party/candidate agents and election observers often do not have the means to follow the ballot box to the constituency center and, as a result, cannot observe the count or ensure the integrity of the box. Furthermore, when the ballot papers from different stations are mixed prior to the count, results for individual stations cannot be checked or verified. Finally, the counting of ballot papers at the constituency center does not prevent vote buying, which is clear from reports from past elections. Vote buying is better addressed through strong enforcement of the law and through education of the voting population, political parties and candidates.

If new electoral laws require counting at a mid-way point (where ballots from several polling stations would be counted in one location), political parties and domestic groups must work with the ECT to put in place measures to ensure the integrity of the count, such as counting ballots from each polling station separately (and not mixing them), using tally boards to track polling station results, reviewing provisions for tracking the ballot boxes, posting polling station results by constituencies and enhancing facilities for the observation of the count.

D.2.3 Voters Requiring Assistance and Secrecy of the Ballot

Since 2000, visually impaired or blind voters have been able to use a tactile ballot guide (TBG) to mark their ballot papers in secret and without assistance. Provided by the Election Commission, the TBG is placed over the ballot paper, with cut-outs on the guide matching the boxes where a voter can place a mark, either to vote for a candidate or party or to abstain from the election. While promoting access for citizens with disabilities by providing the guide, Thailand's previous election laws do not meet international standards for providing assistance to voters with disabilities because they do not allow voters with disabilities to seek assistance from a person of their choice at the polling station.

On March 30, 2007, Thailand was one of over 80 countries to sign the UN Convention on the Rights of Persons with Disabilities, which will come into force with its ratification by 20 nations. The Convention outlaws discrimination against people with disabilities in all areas of life, including employment, education, health services, transportation and access to justice. It also specifically addresses voting rights of people with disabilities, with Article 29 stating in part that States Parties shall guarantee:

...the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice.

In Thailand, the law requires that:

...the Election Commission shall provide a facilitator for casting a vote of the disabled specifically or provide assistance in casting a vote under the supervision of the committee of a polling station.⁴⁰

The involvement of an election official in voting not only compromises the secrecy of that vote but also can enable that official to influence the vote. Allowing voters with disabilities to be assisted by people of their own choice lessens the chance of interference in the process and increases the likelihood that the preference of the voter will be respected. Further guarantees to safeguard the secrecy of the vote for a

⁴⁰ Section 55, Organic Act on the Election of Members of the House of Representatives and Senators, 1998.

disabled voter who uses an assistant could also be considered, such as requiring the assistant to swear an oath that he/she will follow the instructions of the voter and respect the secrecy of the vote.

E. RECOMMENDATIONS

- (1) The international community should generally accept and endorse the process defined by Thailand's interim constitution for drafting a new constitution and holding a constitutional referendum and subsequent general elections as long as the Thai people remain committed to these steps.
 - The process currently underway is almost certainly the only feasible means for moving forward and reestablishing legitimacy for Thailand's government.
 - Unless the drafting process suddenly loses its transparent or participatory nature—and absent the introduction of provisions that are clearly anti-democratic or that indicate the military's effort to retain more power—international observers should respect the efforts of the drafters, civil society and the Thai citizenry to make this process succeed.
 - Assuming the referendum is fairly and competently conducted, the international community should accept the legitimacy of the its outcome, regardless of whether the draft constitution is accepted or rejected by the voters.
- (2) Opportunities under Section 26 of the interim constitution should be fully utilized. This section identifies Thai institutions and other bodies that will have 30 days to review and comment on the draft. These bodies will also receive an explanation of differences between the draft and the 1997 Constitution.
 - These entities should be encouraged to become seriously engaged in fulfilling this responsibility and in seeking the participation of civil society and the general public. They should also receive every assistance in their efforts to obtain sufficient information and to communicate their views effectively.
 - The comments of these entities should be transparent, so that the public is aware of what recommendations have been made to the CDA/CDC. Consideration should be given to posting these comments on the CDA/CDC website.
 - Moreover, political parties (whose activity has been restricted since the coup) should be invited to participate actively in the review of the draft constitution and to lend their important perspective to its refinement.
- (3) In the new draft, the CDA/CDC should consider decreasing the number and specificity of provisions governing elections as compared to those of the 1997 Constitution. While a constitution should guarantee basic political rights and fair electoral processes, if it contains too much detail about the conduct of elections, it locks in electoral and administrative policies that would be better governed by the organic law on elections to permit flexibility and change over time.
- (4) The CDA/CDC should also consider employing transitional provisions in the draft constitution and organic law on elections with respect to the 2007 general elections, particularly regarding issues affecting the administration of these elections and the composition of the legislature they will produce. The drafters should take into account the capacity of the ECT and other bodies to conduct elections for changed political structures under new laws in a short timeframe (e.g., they should reconcile the ECT's ability to quickly and properly conduct boundary delimitation for new constituencies with the provisions they propose).

- (5) If, as expected, the system for the adjudication of election-related complaints is changed under the draft constitution to reduce the powers of the ECT and to directly involve the judiciary (through an electoral court or other mechanism), the judges and staff assigned to electoral matters will require immediate and intensive training. In addition, they will need sufficient resources to enable them to quickly oversee investigations and complete their review of cases. The ECT will also require guidance with respect to their new, more limited role in receiving and processing complaints, conducting investigations and reaching preliminary judgments about alleged illegalities.
- (6) Voter and civic education programs to discourage vote-buying should be continued as part of a long-term strategy—accompanied by increased enforcement efforts—even if such measures may not significantly impact the extent of vote-buying in the December general elections.
- (7) Revised organic laws on political parties and political finance (and implementing regulations) should particularly focus upon “off-the-books” spending by parties and candidates. Such practices are common in developing democracies and require persistent enforcement efforts to limit them. In the future, laws requiring political parties/candidates to keep financial records, and report their content, will need much stronger enforcement (though likely Thailand’s election commission and courts do not have the capacity to fully address these issues in the upcoming general elections). To achieve this goal will require that:
 - Party treasurers be better trained and held accountable for record-keeping and financial reporting;
 - Violations of political finance reporting regulations be clearly specified, including filing reports late, failing to file reports, submitting false or incomplete information in reports, keeping inadequate records, failing to maintain documentation, or conducting political finance activity outside of the officially designated and reported bank account (or in coordination with surrogates); and
 - Sanctions for reporting violations (1) be based on a graduated scale proportionate to the amount of money, seriousness of the violation and degree of the party/candidate is culpable (i.e., is the violation due to a mistake, negligence or deliberate action), and (2) include civil penalties for administrative violations (monetary fines, or political consequences, such as denying candidate certification, suspending election campaigning or dissolving the political party) and criminal sanctions for deliberate or very serious violations.
- (8) Civil society, the media and the general public should be enlisted in a coordinated effort to monitor and report expenditures by political parties and candidates in the general election. Such an effort would encourage transparency and accountability in political finance reporting from these electoral participants.
- (9) The ECT should develop a code of conduct for political parties, which should be signed or sworn to by all election contestants. Signatories should commit to uphold the constitution and all laws governing the referendum or general election process and to refrain from malfeasance and fraud, including vote-buying. The code should be highly publicized and made a hallmark of voter education and domestic monitoring efforts.
- (10) The constitution (the highest law of the land) should clearly and unambiguously support the electoral rights of Thai citizens by stating their rights to electoral enfranchisement and to secret, periodic, direct and free elections in a single, strongly worded provision. Such an approach could help promote the understanding that these rights apply to all elections, and referenda, conducted in Thailand and that these are inviolable and fundamental rights.

- (11) The independence of the ECT should be strongly stated in the new constitution. Clearly mandating the independence of the Commission there would provide greater protection to this key electoral principle than if it was only contained in the statutory law. Provision should also be made for greater budgetary independence of the ECT.
- (12) The selection committee that appoints members to the ECT should involve non-state actors that represent political parties, civil society organizations, academia and professional bodies (such as the Lawyers' Council) to help ensure that the resulting Commission is impartial and has the confidence of all key electoral stakeholders.
- (13) The election law should provide for counting ballots at the polling station for all types of elections and releasing polling station results at the constituency level so as to provide for greater transparency and accountability.
- (14) The assessment team acknowledges the need to pass new organic laws governing elections once a new constitution is adopted so that the ECT can proceed with election preparations and contestants can prepare their campaigns. However, it recommends that representatives of political parties, think tanks and NGOs working on elections be provided some opportunity to comment on the bills before they are passed into law. Given the time constraints, this might be achieved by holding a public conference.

PART V: ELECTION MANAGEMENT AND ADMINISTRATION

A. ELECTION MANAGEMENT STRUCTURE

Thailand's Election Commission was established by the 1997 Constitution to conduct national and local elections and to organize referenda. It replaced the Ministry of the Interior as the election authority. The ECT has a permanent two-tier structure: (1) the ECT and the Office of the ECT operate at the national level and (2) the provincial election commissions (PECs) and the offices of the PECs operate in Thailand's 76 provinces. Local election committees (LECs) are also established on a non-permanent basis, depending on the election.

A.1 Election Commission of Thailand

Following the disqualification of the April 2006 national legislative election, several commissioners were charged with malfeasance and jailed. A new five-member Election Commission was appointed in September 2006 following the military coup. The chairman is Mr. Apichart Sukhaggonond, a former presiding justice of the Supreme Court. The four commissioners—each of whom has responsibility for a functional area—are Mr. Somchai Juengprasert (information technology and administration), Mr. Sumeth Ubanisakorn (public participation), Mr. Prapun Naigowit (election administration), and Mrs. Sodsri Satayathum (political party affairs and referendum). As was noted above, the transitional provisions of the new constitution may formalize their appointments, enabling them to serve full seven-year terms.

The commissioners appointed a new secretary-general of the Commission, Dr. Suthiphon Thaveechaiyagarn, who is responsible for the day-to-day operation of the Office of the ECT. He has a five-year term of office, which may be renewed once. As director of the Office of the Commission, the secretary-general heads up five bureaus: (1) the General Administration Bureau, (2) the Investigation and Adjudication Bureau, (3) the Election Administration Bureau, (4) the Political Party Affairs and Referendum Bureau and (5) the Public Participation Bureau. Three departments also report directly to the secretary-general. There are approximately 800 full-time staff based at ECT headquarters in Bangkok. Staff are members of the civil service who have been assigned to the Commission.

A.2 Provincial Election Commissions

The PECs were established by the Organic Act on the Election Commission (1998); their rules, procedures for appointment, and terms of office were prescribed by regulations issued by the Commission. The ECT has authority over the PECs but entrusts them with the conduct of elections in the provinces. The PECs can also “suggest a division of constituencies for an election on a constituency basis to the Election Commission.”⁴¹ Reportedly, the ECT is considering devolving more responsibilities to the PECs, including the announcement of the results of local government elections. (However, it is not certain to what extent the role of the PECs would change for the upcoming general elections.)

There are 76 PECs, one for each of the 75 provinces (*changwat*) and one for Bangkok. PECs have five members who serve four-year non-renewable terms. The ECT appoints provincial election commissioners from nominations received from a 15-member selection committee composed of state and non-state actors such as members of the police, the judiciary (chief judge or attorney-general), the military, the provincial administration, the media, cooperative organizations, labor unions and other groups. The selection committee submits 15 nominations to the ECT. Candidates may not be members of any political party.

⁴¹ Organic Act on the Election Commission (1998), Section 13.

This process of appointing provincial commissioners is currently underway for 62 PECs, whose commissioners' terms expired in the past year. The ECT is ready to receive nominations for review.

During the assessment mission, concern was expressed to IFES that the selection process in some provinces was neither consultative nor transparent. One civil society activist involved in the selection process for a PEC in the south reported that none of the five candidates named by the ECT were among the 15 nominees proposed by the selection committee. Given the significant responsibility that the PECs have with regard to the conduct of the referendum and the elections, and given the need for the PECs to have the electorate's confidence, it is a matter for concern that the designated selection process does not appear to be followed in all provinces. According to the ECT, there are instances in which the recommendations of the selection committees are not followed—for example, if the nominees lack the requisite skills or if the routine background check raises issues. However, the ECT does not communicate to the selection committee the reasons it ultimately rejects some nominees recommended by the committee. This relative lack of transparency, combined with lingering distrust of PECs due to perceived partisanship during previous elections, could undermine public confidence in the integrity of the elections process at the provincial level.

A.3 *Local Election Committees*

Depending on the type of election to be conducted, LECs are established to help the ECT (and by extension, the PECs) conduct the election. In past elections, the structure was as follows:

- **Senate election:** Since the province is one constituency, a provincial election committee of four persons is established, which works with the PEC; below which there is a district committee of three to five persons for each of the 877 districts. There are also seven-member polling station committees.
- **House elections:** Below a provincial election commission, there is a nine-member election committee for each of the 400 constituencies. There are also seven-member polling station committees, and seven counting officers and one assistant for each of the constituencies.
- **Local elections:** Below the PECs, there are five-member election committees for each constituency and seven-member polling station committees.

In Thailand, local government consists of 75 provincial governments (*changwat*), the Bangkok Metropolitan Administration, 1,158 municipalities, the Pattaya City Administration and 6,620 sub-district (*tambon*) administrations.

The head of the local administrative authority is the director of the local election committee, and the committee might have other members from the local administration. The remaining members are appointed by the PEC. As director of the LEC, the head of the local administration is responsible for receiving candidate applications, establishing polling stations, appointing the polling officers, inspecting the voters register, preparing the announcement of the election, and preparing the ballot boxes and materials (the ballot papers are provided by the ECT).

The Organic Act on the Election Commission (1998) stipulates that the local administration and others are under the ECT's authority in the conduct of elections: "In performing duties with respect to an election or a referendum, the Election Commission shall have the power to give an order instructing government agencies, local governments, State enterprises or other State agencies to carry out any matter under their authorities..." (Section 15). Without being able to examine the local government election act, and the accompanying regulations (which are in Thai), it is difficult for IFES to determine whether the

ECT's legal authority over the electoral process is maintained in the implementation of the over-arching legislation. This issue might be addressed in the ongoing review of electoral legislation, particularly as it appears that the ECT might be considering devolving some authority to the PECs, including the responsibility for announcing the local government results.

B. ELECTION OPERATIONS

Thailand held its last general elections in April 2006 for members of the House of Representatives and the Senate. Although the results of the House elections were later invalidated by the Constitutional Court and a new round of voting ordered, it is useful to review some of the statistics released by the Election Commission for a sense of the scope of electoral operations in the country. In 2006, there were:

- 45,232,145 eligible voters on the register (out of a population of more than 62 million);
- 86,905 polling stations, of which 73,051 were in buildings and 13,854 were in tents;
- 400 vote-counting centers at the constituency level for the House elections; and
- 1,102,076 electoral staff, including 2,180 permanent staff, 4,150 investigators and 1,039,830 election-day personnel.

The budget for the House elections was 2.02 billion Baht (\$52 million in 2006), with \$33.7 million allocated for the elections, \$8.3 million to auxiliary departments (domestic observation by NGOs, voter education conducted by government agencies, etc.), \$4.07 million to the investigation of complaints and \$386,400 to political parties, who receive state subsidies from the Election Commission.

The ECT has already been asked by the government to submit a budget for the conduct of the referendum. That budget is currently estimated at 1.5 billion Baht (\$46.7 million in 2007). According to ECT representatives, the budget was reviewed and agreed to by the Constitution Drafting Assembly, which is responsible for submitting it to the National Legislative Assembly for final approval prior to disbursement by the Budget Bureau. The election budget for the general elections is on hold until the type of electoral system is more certain.

The election budget covers the electoral expenses of the PECs and the local authorities. The ECT's annual budget funds the normal operating expenses of the national headquarters while the PECs are funded from the provincial allocations as are local authorities. Local authorities fund the conduct of local elections, although the Cabinet will make additional budgetary allocations if the income of a local authority is not sufficient to cover expenses. Annual and supplementary (election) budgetary requests from the Election Commission are submitted to the Council of Ministers for approval prior to review and allocation by the parliament. The ECT is required to submit financial reports within 90 days of the end of the accounting year (which concludes on September 30). The auditor-general then audits the report and submits the it to the National Legislative Assembly and the Council of Ministers.

The infrastructure of the ECT includes its headquarters in Bangkok and the offices of the 76 PECs. ECT operations at the local level are conducted through local authorities. As a result, there is no separate electoral office at the local level. Local authorities also store election materials, and they manage the transport of the materials during the election. Ballot papers are supplied through the Thai Post. Therefore, the ECT does not maintain warehouses or a fleet of vehicles—a significant budgetary savings.

B.1 Boundary Delimitation

The Organic Act on the Election Commission (1998) gives the ECT the responsibility for delimiting constituencies and provides general guidance for drawing constituency boundaries (being contiguous, recognize communities, etc.). The PECs advise and assist in this responsibility. As discussed in Part IV, the CDA/CDC is considering changes to the system of representation that are likely to impact constituency delimitation (see section IV.B.3.1). As is necessary when determining other aspects of the electoral process, the ECT will need to undertake full consultation with key electoral stakeholders as it conducts any boundary delimitation. At present, the Organic Act on the Election Commission (1998) states only that “When the division of constituencies has already been made, the Election Commission shall publish such division in the Government Gazette” (Section 18) and does not mandate a process for public input. IFES learned that public input is required by regulation, and election officials from one province reported that they had held public hearings as part of the process of constituency delimitation. Consideration might be given to making public review mandatory in the electoral law, which would further enhance the transparency of the delimitation process. The boundary delimitation that may result from the anticipated decrease in the number of House members could pose a significant technical challenge to the ECT, as has been discussed.

B.2 Election Worker Recruitment and Training

The PECs are responsible for appointing members of the local election committees while the local authorities have primary responsibility for appointing polling station staff. As many polling station workers are teachers, the local authorities work with the Ministry of Education to identify staff. Some of the civil society activists with whom the IFES mission met expressed concern about the recruitment of staff for election or polling station committees. They noted that the process was not transparent and that in some cases the recruited election workers were not impartial (due, they suggested, to undue influence on the part of police officers). In this time of increased political tension, it will be particularly important for the ECT to ensure that the recruitment process is competitive and that candidates are properly screened so that only those candidates who are qualified and known to be politically neutral are selected to serve as a member of an election or polling station committee.

The ECT has developed training manuals and DVDs to ensure consistency in the training of polling station staff and election committees. Prior to the by-election in Chonburi Province, IFES observed the training of a polling station committee, including the two police officers assigned to it. The training was conducted by the Palad and was organized as a refresher course since all members of the polling station committee had previously served as election staff. They practiced using the election materials and, at the end of the training, packed up the ballot papers to be used for the by-election and sealed the box. Members of the polling station committee were to receive 250 Baht (\$7.35) for the election and 150 Baht for the training (\$4.40).

B.4 Voter Registration

The lack of an accurate and complete voters register will threaten the credibility of any electoral process. In Thailand, the voters’ register is extracted from the Household Register, which is maintained by the Ministry of the Interior, and includes the names of those who are 18 years and older and who fulfill the criteria to be registered as voters. The Election Commission does not have much control over the accuracy of the voters register, as it does not maintain this list. The extraction of voter registration information from a civil register is also problematic in other countries where the election management body is responsible for the voters roll while a ministry or other government agency is responsible for the civil register.

The voters register is displayed at the district office and polling stations 20 days prior to the election in order to provide voters an opportunity to check their names, correct any information or object to names on the list of those who might not be qualified to vote or who might have passed away. However, there is usually little interest in the display of the list, with the result that some voters cannot find their names on the list on election day and, therefore, are denied the right to vote. IFES observed this happen to one woman during the local by-election on March 25. She had recently moved to the area, and her name had not yet been transferred to the Household Register.

In addition to displaying the voters register, the Election Commission also mails notices to every household with the list of registered voters from that household, the location of their assigned polling station and information about the election, such as the date, time and type of elections and the names of political candidates.

In Thailand, where voting is compulsory, when a voter fails to exercise his/her electoral duty, he/she loses certain political rights until he/she votes in another election. These rights include, but are not limited to, the right to stand as a candidate and the right to petition senators, members of the House of Representatives, local administrators or members of the local assembly. Therefore, problems with the voters register impact not only voter participation in an election but also a citizen's participation in political life.

B.5 Advance and Overseas Voting

In addition to voting at the polling station on election day, Thailand allows advance voting for two categories of voters: (1) those who reside outside the province where their names are on the voters register and who would like to vote in the province where they are now living and (2) those who anticipate being outside their constituency on election day. In addition, voters who reside outside the Kingdom of Thailand have the right to vote at embassies, consulates or other central polling stations prescribed by Thailand's ambassador to the country in which they live. They can also vote by mail if prescribed by the ambassador. For the 2006 legislative elections, 491,244 registered voters voted outside their province of registration, and 121,202 voted outside the country at 86 polling places in 63 countries.

As has been learned in many countries, these extra measures to promote electoral participation are often overlooked in the conduct of elections, as most attention is focused on election day. However, these processes deserve particular scrutiny because they tend to occur out of the spotlight and without close monitoring by political parties and the public, thereby creating opportunities for election fraud. This is a particular problem in many developed democracies, and it gained increased attention in the United States following the 2000 presidential election. In its report on Thailand's 2005 national legislative elections, ANFREL noted: "Voters residing outside their home provinces and overseas voters were concerned about whether their ballots would reach their proper destinations. There is a poor tracking system for these ballots." Therefore, the ECT must ensure that advance voting and overseas voting (as well as the counting of these votes) is open to observation and that the system for tracking these ballots is known to stakeholders and the public. The media can play a particularly useful role in reporting on overseas voting, while the Ministry of Foreign Affairs can work with the ECT to ensure the release of full information about this process.

B.6 Voting and Counting Processes

During the mission, IFES was afforded the opportunity to observe a local council by-election in Chonburi Province on March 25, 2007. Although conducted at only one polling station, the election presented an opportunity to assess the voting and counting process as well as the participation of voters and other

actors. It is hoped that the conduct of the by-election in Chonburi is an example of the conduct of elections nationwide in that this by-election was transparently and credibly conducted, and characterized by the involvement of domestic observers, open conduct of election procedures, and adherence to the law governing the process. The by-election demonstrated the importance of counting ballot papers at the polling station, as this provided the opportunity for voters, candidates and observers to monitor the process and increase their confidence in the result. Further, in reviewing the electoral procedures and materials, IFES made some comments for consideration by the ECT and stakeholders as they continue to work to strengthen the electoral process.

B.6.1 Conduct of the Poll

The by-election in Chonburi was held to replace a retiring member of the local administrative council, and two candidates ran for the vacated post. Turnout was 55 percent, with 195 of the 352 registered voters participating. According to the Election Commission, turnout in local government by-elections has been consistently low. Of those who cast a ballot, 3.6 percent abstained (by marking the abstention box on the ballot paper) and 4.1 percent of the ballots were invalid—not marked, marked more than once, or in the wrong box.

The polling station displayed a copy of the voters register, candidate information (including photographs), notice of election, and ballot paper account form (which shows the number of ballots allocated to the polling station). This useful information was reviewed by voters as they entered the polling station. The polling station was set up in an open-sided tent provided by the local authorities, and voting started promptly at 8.00 am and ended with the closure of the polling station at 3.00 pm. The polling station was set up prior to opening, but the election staff waited until 8:00 am to exhibit the empty ballot box to voters and observers before they sealed the box—an important measure to promote transparency.

The polling station committee consisted of seven staff, including one director, who managed the overall conduct of the poll. Security was provided by two police officers, and two domestic monitors from Media Forum observed the elections. It was interesting to note that the domestic observers recorded their observations of the conduct of the elections on forms supplied by the ECT. Members of the polling station committee clearly knew their duties and followed the procedures established by the ECT. (All had previously served as poll workers.) There was more than enough staff to handle the operations, particularly given the low turnout. The police were not involved in the conduct of the polling operations, rather they observed the process and were available to handle any security problems that might arise (none did). From their vantage point within the polling station, the domestic observers could clearly observe all aspects of the process. Candidate agents were not present, although the candidates themselves observed the counting of the ballot papers.

Upon entering the polling station, the voter showed his/her ID card (usually a national ID card), the poll worker checked his/her name on the register, called out the name, and wrote down the ID number. Next, the voter either signed or thumb-printed the register. The register contained the voter's name, address, national ID number, gender, birthday and a serial number. The voter then moved to the next election official to receive a ballot paper, which had been pre-folded, and instructions to vote for one candidate. The voter proceeded to the polling booth (which was shielded by a voting screen) to mark the ballot paper and then to the ballot box to cast the vote, prior to exiting the station.

With regard to the stated electoral procedures, IFES would like to address two issues: (1) assistance to voters with disabilities and (2) provisions for spoiled ballots. Concerning the first issue, this report discusses the legal provision for providing assistance to voters with disabilities and encourages revision of the law according to international standards. On the second issue, a ballot can be spoiled if it is mistakenly torn or defaced by a poll worker or voter or if a voter makes a mistake in marking it.

Currently, if a ballot is spoiled by a polling station official, it is noted in the polling station record book, and the ballot is considered unused. If a voter makes a mistake on the ballot paper, he/she cannot request a new one and must cast that ballot paper. In such a case, the ballot could be considered invalid when it is counted. Some countries utilize the spoiled ballot provision to cut down on the likelihood of invalid ballots.

B.6.2 Materials

As observed by IFES, the materials utilized in the conduct of the by-election, which are understood to be standard materials for the electoral process in Thailand, for the most part contribute to a credible and transparent election.

Ballot Papers

In Thai elections, each candidate is assigned a number, and ballot papers are printed with boxes next to these numbers. They do not contain candidate names or symbols. This design reduces printing costs but can impede the voter's ability to accurately mark the ballot paper. In the by-election in Chonburi, the ballot paper had 20 boxes on it, although only two candidates were running, and some voters got confused about where to mark their vote. Additionally, a few voters marked the ballot twice, not knowing that they only had one choice for this election. (This is understandable given that in some elections block voting—or voting for more than one candidate—is used). Lack of voter understanding and the ballot paper design resulted in 4.1 percent of the ballots cast being ruled invalid. Clearly, ballot papers will need to be designed differently for the referendum, and the design will need to be carefully considered for the general elections.

Thai electoral law requires voters to mark the ballot paper with a cross and not with any other mark. Observers of past elections have expressed concern that this provision increases the number of invalid votes as even those ballot papers that are marked in such a way as to clearly show the intent of the voter, such as the box being marked with an “√”, are ruled invalid. In countries where paper ballots are used, there usually is more flexibility concerning the rules for marking the ballot paper and determining its validity. As explained by the Election Commission, the “x” is used to limit the objections over validity during counting. They note that the crossing of lines in the “x” must be in the designated box, so even if part of the “x” crosses into another box, the intended vote is clear. Of the small sample observed by IFES, none of the marked invalid ballots papers were marked with symbols other than an “x.” In the 2006 election, voters marked the ballots with an x-shaped stamp, but election officials reported that this will not be used in upcoming elections. Apparently, voters often had difficulty using the stamp, and if they did not press down firmly or ink it properly, the stamp would not make the full “x” required and the ballot paper was considered invalid.

Concerns about ballot paper security, relating to the number and design of the ballot papers, were raised by observers in past elections. The ECT has ballot papers produced in booklets of different sizes to ensure that there is not an over- or under-supply of ballot papers to any polling station. During the Chonburi by-election, 375 ballot papers were supplied for a registered voting population of 352, because ballot papers are produced in booklets of 25. This is an acceptable over-supply for that station. In addition to tracking the numbers of ballot papers supplied to the polling stations, there are security measures throughout the distribution process and the disposition of unused ballots after voting. The ECT requires that any unused ballot papers be destroyed following the close of the poll. At the by-election observed by IFES, this was done by punching a hole in the ballot papers. They were then secured by twine, and the twine was sealed by wax. The ballot papers were put in a separate plastic bag, which was also secured by a seal, to be returned to the local authorities.

The ballot papers do not have any security features, such as watermarks, and some believe that they can be easily duplicated. The covers of the ballot paper booklets are printed with serial numbers, which the ECT uses to track the ballot papers. Additionally, the Election Commission stamps the ballot papers prior to issuing them to the polling stations (the stamp used differs for each election). Ballot papers without this stamp are considered invalid. Clearly, ballots with pre-printed security features are more costly than those without, and this is presently a constraint for the Election Commission. However, the production of such ballot papers, particularly when combined with a strenuous ballot paper tracking system (which includes the recording of ballot paper serial numbers at the polling station), would enhance the security of the ballot papers.

Tactile Ballot Guides

The ECT has produced tactile ballot guides (TBGs) for use by visually impaired voters since 2000. The guides are placed on top of the ballot and have cut-out windows that allow the ballot paper to be marked. The voter then feels these windows and, by counting, determines the box for the first candidate, second candidate, and so on. The voter places an “x” on the ballot paper, through the window. As with voters voting without ballot guides, the voters using the guide must know the number of their chosen candidate or party and the order that the candidate/party appears on the ballot paper. The ECT should be commended for working to facilitate the participation of people with disabilities by providing TBGs for the elections. This is an important tool that enables visually impaired people to vote without assistance and in secrecy. IFES has worked in several countries on the design and production of tactile ballot guides, and offers two recommendations for consideration:

- The TBG observed at the local government by-election was produced from white heavy stock paper. The use of darker colored paper would hide any pen marks made by the voter that went outside of the ballot paper box and onto the guide, thus better protecting the secrecy of the vote.
- A corner could be cut from the TBGs and from the ballot papers so that the visually impaired voter could ensure that the TBG is placed correctly over the ballot paper. This would prevent the ballot paper and guide from being placed upside down or backwards. The voter would match up the cut corners of the TBG and the ballot paper—for example, the bottom right of each—and by so doing would be able to determine that the TBG and the ballot paper matched up and that he/she would be marking the correct side of the ballot paper.

It is suggested that the Election Commission include disabled people’s organizations in its consultations about the upcoming elections with a view to further enhancing access for people with disabilities in the elections.

Ballot Boxes and Seals

For the most part, the ballot boxes used by the ECT for elections are metal with a plexiglass window. The ECT also procures cardboard boxes, also with windows, during election time to prevent any shortage of boxes. The window in the boxes contributes to the transparency of the election, enabling voters and observers to guard against ballot-box stuffing.

The ECT has established procedures to ensure the security of the ballot box and ballot papers at the end of the day. At the by-election observed by IFES, the ballot box arrived at the polling station containing the ballot papers and was secured by a numbered plastic seal. Once the seal was removed, the ballot papers taken out and the box shown to be empty, the box was secured with a new seal, which remains throughout voting. At the end of voting (if counting at the polling station), the seal is removed, the ballots counted and the used (valid and invalid) ballot papers, along with the results form and counting sheet, are put into

the ballot box. A new seal is applied and signed by the polling station staff. A difficulty with the box examined by IFES is that the slot in the top of the box, for the ballot papers, cannot be closed with a plastic seal. To ensure that the top is closed, the polling station officials glue a special form to the top, and all members sign the form and around its outside edges, to prevent it from being removed. The box is also sealed with tape, and again the election officials sign the edges of the tape.

The design of the ballot box, without tabs on the top and additional tabs on the sides where seals can be used, necessitates these additional security measures be followed to prevent tampering with the ballot box and the ballot papers and requires additional materials (tape, glue, forms and pens). Over time, the ECT will need to procure additional boxes and should consider those that can be sealed and that are lighter weight. Lighter weight boxes would greatly facilitate transportation, particularly in rural areas where polling station staff need to hand carry the election materials to the polling stations.

Voting Screens

In the local by-election observed by IFES in Chonburi, the secrecy of the vote was protected by the voting screen, which was positioned so that no one could see behind the screen and observe the voter marking the ballot. The ECT plans to position the screens in this manner in all elections to ensure secrecy is maintained, in contrast to the 2006 House elections when the screens were positioned in such a way as to allow those in the polling station to see the voter marking the ballot, which ultimately resulted in the cancellation of that election.

B.5.3 Counting, Aggregation and Announcement of Results

Like its system of representation, Thailand has a “mixed” system when it comes to the counting of ballot papers. For Senate elections and local assembly elections, the counting of ballot papers is done at the polling stations. For House elections and local administrator elections, the counting of ballot papers is done at constituency centers. Counting at the polling station greatly contributes to the transparency as well as accountability of the election process, as it provides an audit trail. Issues for election law drafters to consider with respect to counting votes at the polling station versus at the counting centers are discussed in greater detail under Section IV.D.2.2 above. For the by-elections in Chonburi, votes were tallied at the polling station. At the end of the day, voters and candidates returned to the polling station and were able to fully observe the counting process.

When counting at the polling station, the procedure is for the ballot box to be unsealed and for the ballots to be counted in full view of assembled observers and voters. Polling station staff display each ballot to the public, note whether it is an invalid or valid vote, and note for whom the vote has been cast. Three labeled plastic baskets (for abstentions and the two candidates) were supplied for the by-election observed by IFES, and staff put the ballots in these baskets after they were counted. A record of the count was kept by another member of the polling station committee on a large results sheet, which could be clearly seen by the public. At the conclusion of the count, a separate results form was completed, and the used ballots, results sheet and the form were placed in the ballot box, and the ballot box was sealed. A separate record of the count was posted at the polling station. If no election petition was submitted, the results were expected to be announced quickly by the ECT.

B.8 Electronic Voting Machines

For several years, the Election Commission has been working with a local company to develop an electronic Thai Voting Machine (TVM), which they hope will facilitate voting and counting and will result in cost savings in the conduct of the election (primarily by limiting the need for paper ballots and reducing the number of staff serving on a polling station committee from seven to three). The machine is

based on that used in India and was developed for the ECT by AEROTHAI, a local company. Each machine has four “ballot units” that are used by voters to cast their vote. The ballot units are connected to a counting unit, positioned at the polling station, which records the votes and can issue a paper record of the tally. The first prototype of the unit was developed in 2003, and the ECT has been field testing the machines. The Commission is interested in gradually introducing them into the electoral process. This plan would require amendments to the existing electoral legislation.

IFES was able to see a prototype of the machine but did not have the capacity on this mission to conduct a thorough technical evaluation. IFES is currently working in several countries where election management bodies are in the process of introducing new technology and of dealing with such challenges as assessing needs and solutions, designing specifications, selecting a vendor, contracting, implementing the system, preparing the public, training election workers and establishing an appropriate legal framework. Preparing for and introducing new technology is a costly and time-consuming exercise that requires the involvement of a great many stakeholders. In the Philippines, making the necessary changes to the legal framework alone took more than a year.

According to election expert Linda Edgeworth, “All elections and the results they render—whether they are achieved manually or with high tech devices and sophisticated network applications—must still be conducted on the firm foundation of common principles. They must be accessible, secure, accountable, auditable, and transparent.”⁴² Assuring that these basic principles are upheld when utilizing new technology is a challenge, as has been demonstrated in many countries with electronic voting machines. While the machines may initially seem cost-effective and easier to use (particularly in elections with many ballots), it is difficult to ensure that the system is transparent and auditable (e.g., how can political parties and domestic observers be certain that the votes are correctly recorded and tallied?). It is also difficult for electoral authorities to support the system with trained personnel (this is a problem in the United States). All of these issues will need to be addressed in the planning and implementation of an electronic voting system.

C. UNIQUE CHALLENGES TO ELECTION ADMINISTRATION IN THE CURRENT CONTEXT

There are several major challenges with regard to the administration of the upcoming referendum and elections given the current review and revision of the constitutional and legal framework for the elections, the extra-constitutional system of governance and the ongoing crisis in southern Thailand. One of the most significant challenges will be to conduct extensive voter and civic education prior to the referendum and the elections (discussed further under Section VI below).

Constitutional changes, unknown rules/procedures for the conduct of the referendum, revision of the law for the conduct of the Senate and House elections, and potential changes to other electoral laws could impact the following elements of election administration (among others):

- Delimitation of the constituencies for the House of Representatives election;
- Electoral regulations;
- Electoral procedures;
- Training of election officials (both the election committees and polling station staff);
- Role of the ECT in complaint investigation and adjudication;
- Structure for the administration of the elections (within the ECT and at the local level);

⁴² Linda Edgeworth, “The Introduction of New Technologies from the Election Administrator’s Perspective” in *From Power Outages to Paper Trails: Experiences in Incorporating Technology into the Election Process* (IFES, March 2007).

- Design of ballot papers;
- Election forms; and
- Election materials.

There is little time in the schedule to develop a full electoral framework with the necessary consultation of all key actors. Recent statements by the prime minister put the general elections in the latter half of December, leaving only a few months to prepare following the constitutional referendum, which is tentatively scheduled for September 3. The framework is composed of not only the election laws but also the regulations issued by the ECT, codes of conduct and the electoral procedures.

The other significant challenge involves the insecurity in the three southern provinces, which have suffered from violence between the Buddhist and Muslim communities since January 2004. The provinces have been under a state of emergency, which has recently been extended through July, and some have questioned whether the referendum or the elections can be held there.

D. RECOMMENDATIONS

- (1) The ECT should establish formal advisory or consultative committees whose members come from political parties and civil society in order to allow these groups to provide input into the development of electoral regulations and other guidelines/procedures for the conduct of the election. Such committees would also ensure that information about the electoral process was shared with these key stakeholders. Such fora should also be established at the provincial and district levels to facilitate consultation on local level issues and to provide information.
- (2) The international community should offer advisory and technical support as appropriate to the members of the ECT and their senior staff as they prepare for the referendum and general elections.
- (3) In this time of increased political tension, it will be particularly important for the ECT to ensure that the hiring of election commissioners and lower-level staff is competitive and that candidates are properly screened so that only qualified, politically neutral candidates are selected to serve as members of election or polling station committees.
- (4) Improved outreach between the ECT and the selection committees for provincial election commissions (PECs) could help increase confidence in the selection process. The criteria nominees to PEC positions must meet should be clearly communicated (and clarified if necessary). If the ECT cannot accept at least five of the nominees presented by the selection committee for a particular PEC, it should provide some explanation for its decision.
- (5) The ECT should work to continue to build the professional and technical capacity of its permanent staff in headquarters and also in the provinces. The conduct of a regular and comprehensive training program, with an immediate emphasis on planning for the referendum/elections and on some of the ECT's key technical responsibilities, would help prepare the Commission for its upcoming challenges.
- (6) In the interests of the integrity of the referendum/election processes and of public confidence in the results, the ECT should give serious consideration to adopting a code of conduct for all election officials and poll workers and to incorporating an ethics component into its training programs.
- (7) Given lingering concerns about the impartiality, transparency and accountability of the PECs as institutions, consideration should be given to conducting an independent assessment—in cooperation

with the ECT—of a sample of PECs for the purpose of identifying specific improvements that need to be addressed in the near term.

- (8) The ECT should consider conducting a technical review of the compilation of the voters register with the aim of generating recommendations for short- and longer-term steps that can be taken to further enhance its accuracy and credibility.
- (9) The ECT is well advised to continue to carefully study the possible implementation of an electronic voting system in order to ensure that the system will be accessible, secure, accountable, auditable and transparent.

PART VI: VOTER EDUCATION

A. LEGACY OF THE 1997 CONSTITUTION AND SUBSEQUENT ORGANIC LAWS

Section 327 of the Transitory Provisions of the Constitution of the Kingdom of Thailand (1997) stipulates that the organic law on the Election Commission of Thailand (ECT) should contain, among various matters of substance, “the provision of education to the people on the democratic regime of the government with the King as the Head of State” (Article 3). Chapter 1 of the Organic Act on the Election Commission (1998), which addresses the powers and duties of the ECT, affirms that it shall “provide or co-ordinate with any State agency, local government, State enterprise, or to support a private organization to provide education to the people on the democratic regime of government with the King as Head of the State” (Section 10, Article 9). The ECT expects that this legal mandate will continue under revised organic legislation to be enacted once a new constitution is in place.

B. CAPACITY OF THE ECT

This constitutional and legal mandate is reflected in the organizational structure of the ECT, which not unlike other state institutions in Thailand includes a public participation bureau and budget allocations dedicated to public participation. The ECT’s Public Participation Bureau is composed of divisions dedicated to NGOs and provincial community participation, public participation development, media production, election campaign(s) and information dissemination. It is responsible for ongoing civic education initiatives, voter education in advance of electoral events and support of domestic monitoring by formal NGOs and informal community groups.⁴³ The ECT also operates five regionally based democratic learning centers and works in cooperation with the Ministry of Education (MOE) on a democracy curriculum, school-based programs and summer camps.

In addition to a department and dedicated budget to conduct public information and participation programs, the ECT also has education professionals on staff with a firm grasp of the information needs of Thailand’s electorate. They also are knowledgeable about education methodologies and approaches most appropriate for the country’s future and for eligible voters and marginalized groups therein.⁴⁴ Some staff members have civil society and international development backgrounds. During election periods, the ECT works with the MOE and the Ministry of Interior’s Regional Development Office (MOI-RDO), among other state agencies, to carry out official voter education. According to news reports, the Ministry of Social Development and Human Security will also conduct election promotion forums in 8,500 *tambons* prior to the general election. This cooperation reflects the need for a broad-based network to conduct voter education activities at the grassroots as well as the limits of the ECT’s budget relative to the task at hand.

As will be discussed in greater detail in Section C below, official voter education programs employ a diverse range of products and approaches, including direct contact programs, mass mailings, public service announcements (PSAs), a website, hotline and distribution of a range of collateral materials. Official voter education materials developed for previous election cycles and ongoing civic education programs have heavily emphasized visuals and the presentation of a manageable amount of information. They feature practical tools, such as checklists, sample ballots and sample forms as well as illustrations of the polling site layout, the voting process and how to properly mark a ballot so that it won’t be invalidated.⁴⁵ Voter education materials also address vote-buying and other election violations.

⁴³ For more on this point, please refer to Section VII of this report, which addresses domestic monitoring.

⁴⁴ Too often in transitional political situations, official voter education is left to lawyers or judges who tend not to fully appreciate the information needs of ordinary citizens or how to convey legal or technical information in a language and format that they can understand.

⁴⁵ The Organic Law on Election of Members of the House of Representatives and Senators (1998) does not include a spoiled ballot provision.

The voter education efforts of the ECT's Public Participation Bureau are reinforced by its Public Relations Bureau, which disseminates information through the mass media and advertises the ECT's voter education services, products and events. For more information about the ECT's public relations activities, please refer to D below.

C. APPROACHES TO PUBLIC INFORMATION AND PARTICIPATION IN THAILAND

C.1 *Direct Contact*

Local stakeholders agree that the most effective way to reach and inform voters in Thailand is through direct contact programs. This conventional wisdom is reflected in a significant reliance by civil society and unofficial bodies on “town hall” style meetings, public hearings, discussion groups, seminars, story telling sessions, rallies, street fairs, concerts and similar special events. Such approaches are deemed to be particularly effective among rural populations and marginalized groups, whose media use and options may be limited relative to their urban counterparts. Direct contact programs conducted by official bodies—often in coordination with each other—utilize networks of local opinion leaders and moral figures to implement their activities. These leaders include local government officials, teachers, students, public health workers, monks, other religious leaders and various community and civil society activists.

Such programs do not appear to be driven solely by the “supply” side but also reflect public expectations for participation and input as enshrined in the 1997 Constitution. Such participation was a hallmark of the open and inclusive process surrounding the drafting of that charter.⁴⁶ The current constitutional debate includes considerable discussion of problem-solving via public initiative as well as mechanisms for fostering public participation and oversight, including greater decentralization. While comparative studies have found that voter education programs conducted through the mass media can be more effective in reaching large numbers of people with a consistent message, they also suggest that direct contact programs are essential to moving voters from information to action. More specifically, they play an important role in increasing public participation, including voter turnout on election day.

However, direct contact programs require considerable mobilization of resources, whether financial or in the form of volunteer labor, and take time to organize and implement, especially when a “cascade” approach is used. With respect to the current schedule of upcoming polls, stakeholders representing various official bodies and civil society groups raised concerns about the limited amount of time available to reach voters: (1) during the relatively short public comment period following the planned release of the draft constitution on April 19, (2) once the draft constitution has been finalized and prior to the constitutional referendum, and (3) after a new constitution is approved and new organic laws prepared and prior to the conduct of the general election. Until the substance of the new constitution is determined and the “rules of the game” established, voter educators cannot finalize the content of messages and materials to be delivered through direct and mass media programs.

C.2 *Mass Media*

Thailand has six terrestrial television stations as well as multiple cable and satellite providers, 204 AM stations, 334 FM stations and a growing number of shortwave broadcasters, community radio stations and university-based radio stations. According to the National Statistical Office, 92 percent of households in Thailand have televisions, and 77 percent have radios.⁴⁷ A recent poll of students conducted by ABAC, found that 95 percent watch an average of four hours of television a day, and 77 percent listen to radio

⁴⁶ The 1997 Constitution is commonly referred to as the “People’s Constitution.”

⁴⁷ See <http://web.nso.go.th/eng/index.htm>. However, most rural and poor households do not have access to cable/satellite television.

programs on average of about three hours per day.⁴⁸ The ECT, along with other state agencies with which it cooperates, produces public service announcements (PSAs) for television and radio as well as radio programming at the provincial levels. However, it does not have any guarantees of free airtime from the government- or military-owned media outlets. Instead, the ECT has gotten discounted airtime on such stations but not prime-time placement of its spots. According to ECT representatives, only Channel 11 provided free airtime, and its ratings are poor. Reportedly, it was easier to get free airtime for PSAs prior to former Prime Minister Thaksin's tenure in office.

Due to production and broadcasting costs, NGOs engaged in voter education who use the mass media often turn to radio, including community radio, particularly in areas where there is little media diversity. By comparison, commercial radio is less inclined to carry public service programming. However, due to the uncertain legal status of community radio, stations are vulnerable. As noted elsewhere in this report, one of the first acts of the military regime was to suspend more than 300 community radio stations, particularly those in the northeast, where Thaksin has a strong following.⁴⁹

Print advertisements have also been used for voter education purposes. The daily press and other periodicals are currently filled with news coverage, commentary and letters to the editor concerning various constitutional, political and electoral issues. Both the CDC and ECT intend to use the print media to disseminate information about the draft constitution. Unlike the broadcast media, most print media publications are privately run. There are four mass circulation dailies, three quality dailies and an extensive range of business and English-language dailies as well as several weekly business and news publications. There are also local newspapers (more than 100 in northeast Thailand, for example).⁵⁰ Compared to broadcast media and the Internet, the print media have been subjected to less control and censorship, although there were several incidents in 2005, 2006, and in the immediate aftermath of the coup. For more information on the ramifications of the coup for media freedom, please refer to Section F below.

C.3 Collateral Materials and Mass Mailings

The ECT, other state institutions and NGOs have recently used various collateral materials, including leaflets, voter guides, CD-ROMs, video tapes, posters, banners, stickers, t-shirts and caps, to inform voters and enhance the electoral atmosphere. As part of its Integrated Democracy and Rural Development Project, the Population and Community Development Association (PDA) uses a specially outfitted tour bus. This mobile library, brightly painted with scenes of Thailand's history, travels from village to village distributing civic and voter education materials and conducting information sessions for students and community residents.

The ECT also uses mass mailings. Prior to elections, it sends a letter to every household informing the inhabitants about who is registered to vote; the date, time and type of elections; and where they should go to vote. As part of a coordinated voter education effort, the Ministry of Education also implements a school-based program in which students learn about the upcoming elections and, as a practical exercise, write a letter to their parents containing basic facts about the elections and encouraging them to vote. After the election, follow-up discussions are held. Students are asked to report on how many eligible voters in their household went to the polls.

⁴⁸ See "ABAC Polls in News: Bangkok Youth Use Cell Phones 3 hrs/day" at http://www.websurvey.au.edu/PollResult/mcot_06120326363.html.

⁴⁹ IFEX Press Release, "ITV Saga Underscores Continuing Instability in Country's Media Environment, says SEAPA" (March 12, 2007).

⁵⁰ For an overview of media in Thailand, see http://en.wikipedia.org/wiki/Media_of_Thailand.

C.4 Hotlines, Websites, and Use of New Technologies

NGOs such as P-NET and official institutions such as the ECT have made use of hotlines to field questions and receive complaints from voters on election day. During the previous election cycle, the ECT estimates that its call center received more than 100,000 calls. Most of the calls to the ECT call center dealt with such questions as where a voter needed to go to cast his/her vote, what forms of identification were required or specific acts that might constitute a violation of voting rights. The CDC is currently operating a hotline to receive questions and comments from the public on the draft constitution. Callers to the CDC hotline are often directed to its website, which contains more information on the activities of the CDC and the “hot topics” under consideration by the drafting committee.

Like the CDC, the ECT (and many other state institutions) have websites. Some NGOs, including those active in domestic monitoring and voter education, also use the web. According to available statistics, there are more than 14 million computer users in Thailand, and almost half of these currently use the Internet.⁵¹ Internet use is still concentrated in big cities, although it is proliferating in the regions. According to the Computer Association of Thailand, there appears to be no gender divide with respect to use of the Internet.⁵² As for young people, among the most active computer and Internet users, a recent ABAC Poll found that nearly 80 percent of student respondents spent at least three hours a day on the Internet.⁵³ While most stakeholders agreed that websites serve as useful tools to share information, some NGO representatives questioned the extent to which such sites have thus far been effective in coordinating activities, such as domestic monitoring or voter education. Internet chat rooms, some with presumed partisan backing, also serve as a forum for public political discourse about issues related to the constitutional drafting process, the upcoming referendum and general elections. However, as will be discussed under Section F below, sites with political or issue advocacy content are vulnerable to scrutiny and censorship by the Ministry of Communications and Internet Technology.

Mobile phone use is also prevalent and growing. In a country with a population in excess of 60 million people, there are more than 30 million mobile phone subscribers.⁵⁴ According to ABAC, 96 percent of students and young people polled in a recent survey spent at least three hours a day talking on their mobile phones, and 45 percent send SMS messages at least twice a day. Despite its increasingly popularity, SMS technology does not appear to have been put to use for voter education purposes. However, it may play an important role in coordinating rallies or other public events.

D. OFFICIAL VOTER EDUCATION EFFORTS

D.1 The Constitutional Drafting Process and Referendum

D.1.1 Public Information on and Input to the Draft Charter

Section 27 of the interim constitution requires that the CDA make public the draft constitution and documents of explanation as well as promote and hold public hearings to hear public opinions. The CDA has a Public Participation Bureau that carries out public information activities in Bangkok and the provinces. Throughout the constitutional drafting process, the CDA Public Participation Bureau, and its 76 branch offices, has begun to roll out its public information campaign. As of the first week in April, it

⁵¹ According to the information on the websites of the Ministry of Information and Communications and the National Statistical Office, 14,450,100 people use computers and 2,084,200 use the Internet. For further information in English, see <http://web.nso.go.th/eng/index.htm>.

⁵² See *Thailand Country Report*, a power point presentation for the SEARCC EXCO Meeting in Sydney Australia, September 26, 2005.

⁵³ See “ABAC Polls in News: Bangkok Youth Use Cell Phones 3 hrs/day” at http://www.websurvey.au.edu/PollResult/mcot_06120326363.html.

⁵⁴ As of April 1, 2000, the population of Thailand was 60,606,947 people based on official census data available at the website noted in the preceding footnote. The number of mobile phone subscribers is reportedly 30,391,159 and growing.

had conducted 537 discussion forums during which participants were given the opportunity to comment on various proposals being considered by the drafting committee.⁵⁵

While in Bangkok, the assessment team attended a discussion forum, which was televised live from parliament.⁵⁶ There were approximately nine television cameras present. Radio broadcasters were also in evidence. Special arrangements were made for the hearing impaired. The agenda included 24 topics. The audience, by virtue of its questions, determined the actual number of topics discussed and the order in which they were addressed. During the course of two hours, the discussion covered approximately half a dozen issues. CDC members, including its chairman, and various political representatives were present to address each other's comments and those from the audience. They were not immune to criticism. The audience's questions and comments were genuine and, at times, heated.⁵⁷ They reflected various political viewpoints.

At this event, audience members were asked to raise their hands to indicate their support or disapproval of various proposals. This hand vote has been replicated at forums throughout the country. At the same time, the CDA is conducting its own public opinion surveys. As of early April, slightly more than 36,000 individuals had been polled. According to the CDA, its survey results suggest strong support for a prime minister chosen from the ranks of elected MPs (68 percent), for scrapping the party-list system (63 percent), for electing senators (68 percent), for eliminating subsidies for political parties (71 percent) and for reducing the number of MPs (41 percent). In general, the results gathered at discussion forums tended to show higher levels of support for these issues with two exceptions: people attending discussion forums were not as inclined as the general public to eliminate the party-list system but were more comfortable with an appointed senate.⁵⁸

In March, the CDC received periodic briefings on feedback collected during public discussion forums.⁵⁹ The CDA Public Participation Bureau intends to continue holding public discussions and subsequent public hearings once the draft charter is released on April 19. According to its media plan, 25 of these events will be televised live prior to the close of the public comment period in May. Upon release of the draft charter, public hearings will focus not only on the issues that have been changed vis-à-vis the 1997 Constitution but also on why these changes are being proposed. Ordinary citizens and civil society groups will be able to offer their input during the public hearings, through the CDA website, via a dedicated hotline or by writing the CDA directly. During the assessment team's visit, signs, banners and bumper stickers had begun to appear advertising both the website and the hotline.

Information on the draft charter will be provided via the mass media, with articles printed in newspapers. Copies of the draft constitution will also be made available via the branch offices of the CDA and mailings to households throughout the country. Despite these efforts, numerous stakeholders including academics, civil society representatives, state officials (including those in the ECT and CDC) and participants in public discussion forums concurred that the CDA Public Participation Bureau needs to do more to educate citizens about the draft charter. Concerns were also raised about the length of the draft charter (reportedly 317 sections comprising 15 chapters) and the resulting challenges for voter educators

⁵⁵ This is according to information provided in the *Bangkok Post*.

⁵⁶ This event was aired live on Channel 9 from 3:00 – 5:00 pm on April 1, 2007.

⁵⁷ At this particular forum, the audience was focused on various issues, including (1) the independence of the media, the need for an independent regulatory body, and the appropriate model for public television; (2) whether or not the ECT should have the authority to issue yellow and red cards to candidates alleged to have committed election violations; (3) whether the constitution should include a special provision for an ad hoc group (referred to as the "Group of Eight") to deal with political crises; and (4) whether or not the junta should receive immunity in the new constitution. The last two issues were hotly debated.

⁵⁸ This data is taken from the April 3, 2007 edition of the *Bangkok Post*.

⁵⁹ At the time of the assessment team's visit, the CDC had received an overview of public comments on March 1, 15 and 28.

given the limited time between the release of the draft on April 19 and the public hearings deadline on May 26.

The assessment team also had questions about how input from ordinary citizens will be processed, reviewed and applied by the CDC, particularly with respect to the information collected during the public hearings. There does not appear to be information publicly available about how this process will work. A representative of the CDC assured the assessment team that all public comments would be given serious consideration as any failure to do so would lead to complaints lodged against the drafting body. In fact, ensuring that input from ordinary citizens, civil society and independent governmental agencies is incorporated into the debate on the draft charter (as well as cultivating perceptions to this effect) is essential to the legitimacy of the drafting process and the success of the constitutional referendum.

The challenge confronting the CDA's Public Participation Bureau was made clear by the results of an independent public opinion poll published in the *Bangkok Post* in late March. The poll found that more than 50 percent of Thais had never read the country's Constitution. Thirty-two percent had read part of it, while only six percent had read the entire document. In addition, only 15 percent of those polled understood that the Constitution was the highest law of the land. While such statistics are not particularly surprising (doubtless many established democracies would not fare any better), they are worrisome given that the adoption or rejection of the draft charter is contingent on the outcome of the first referendum ever to be held in Thailand. A failure to adequately educate the public about the new charter could contribute to circumstances in which citizens vote not on the merits of the document but rather treat the referendum as a vote of no confidence in the regime or an opportunity to protest specific public policies. News reports during the assessment team's visit suggested that protests already occurring against the constitution, in fact, represent narrow special interests.

D.1.2 The CDC and ECT: Division of Labor on Voter Education for the Constitutional Referendum

While the CDC is primarily responsible for educating the public on the substance of the draft charter, the ECT will take the lead in educating voters about the referendum process. During the course of the assessment team's visit, the CDC and ECT agreed that the former will use its budget to print 1 million copies of the draft charter, while the latter will be responsible for mailing these copies to households throughout the country.

Since this will be Thailand's first referendum, the ECT will need to educate the public about what a referendum is and about its significance in this particular case. In addition, the ECT plans to address the following issues through its voter education and public relations activities:

- The neutrality of the ECT in the referendum process and its preparedness to conduct the referendum;
- Voting rights, voter eligibility and how to check the voters registry;
- The voting process, required voter ID and how to properly mark a ballot;
- The right of voters to cast a ballot anywhere in the country, the process of applying to vote outside of one's regular precinct and the location of special polling stations;⁶⁰
- The complaints process, prohibited activities (e.g., vote-buying) and the existence of penalties for violations; and
- The counting process and determination of results.

⁶⁰ There will be approximately 50 special voting centers in Bangkok, and one per district.

Many of these issues will be governed by a new referendum law, which has yet to be passed. A draft referendum law has reportedly been prepared and forwarded to ECT commissioners for review prior to submission to the National Legislative Assembly. This legislation is on a “fast track” for approval as the ECT must begin planning and preparing for the referendum, which is slated for September 3, 2007.

D.2 Official Voter Education for the General Election

While the ECT’s approach to voter education for the general election will be similar to that for the referendum, it will be confronted with a new constitution and a new organic law on elections. As a result, it will need to expand and adjust its voter education messages to identify changes to the electoral process that affect voters’ rights and participation. Based on the proposals currently before the CDC, the ECT is aware of a range of issues that will require special attention:

- How the prime minister is selected. It appears that the PM will be selected from among the ranks of the elected House.
- How MPs in the House are elected. This is likely to involve a switch from a mixed system of single-member constituencies and proportional representation to multi-member constituencies. This will impact the number of constituencies, the number of people to be elected in each constituency, the ballot design and how to properly mark one’s choice(s) on the ballot.
- How senators are (s)elected. There is a possibility that all, or at least part, of the Senate will be appointed rather than elected. Even if senators are appointed, voters have a right to know how this process will work and to whom senators are accountable.
- The role and responsibilities of the House and the Senate if these are changed. If, for example, the Senate is appointed, its role and responsibilities may be streamlined.
- The terms of office for those being elected or appointed and applicable term limits.
- For those bodies being elected, who can be a political contestant? Who is ineligible? Must candidates be nominated by political parties?
- Changes to the process of complaint adjudication. Some aspects of complaint adjudication will be changed, particularly with respect to disqualifying election contestants. Voters will need to understand what has changed and what remains the same, so they are fully able to exercise their right to file a complaint if necessary.

This list of issues is certain to grow once the new organic law on elections is passed (depending on refinements and reforms contained therein).⁶¹ As just one example, this report has identified the lack of a spoiled ballot provision in the existing organic law as potentially contributing to higher levels of invalidated ballots. If such a provision were added to the new organic law, this change to the process would need to be explained to voters as an added protection of their voting right. Among the longer-standing themes addressed by ECT voter education messages are:

- The date, time and type of elections;
- Who is eligible to vote and who is ineligible;
- Where to go to vote on election day;
- How to check the voters register and request an addition or change as necessary;

⁶¹ While the new organic law on referenda is being prepared by the ECT (on behalf of the government) and will be proposed to the National Legislative Assembly, the new organic law on elections will be prepared by a sub-committee of the CDC.

- Steps in the voting process;
- What constitutes an invalid ballot;
- Prohibited activities (e.g., vote buying) and related penalties; and
- Special voting services for the disabled and people requiring assistance.

In addition to the laws and regulations adopted prior to the general election, a code of conduct may be introduced in an effort to curb vote-buying and other election violations. A code or multiple codes could be developed for political parties, election officials and other actors (such as election observers). A code of conduct can be an important tool in affirming respect for rule of law and facilitating public oversight of the electoral process. If codes of conduct are adopted, they should be centrally featured in official and NGO voter education efforts as a means of holding accountable those who have taken the oath or signed the document and of raising public confidence in the integrity of the electoral process.

As with the referendum process, perhaps the greatest concern of the ECT and cooperating agencies is the limited amount of time they will have to develop messages, prepare products, train educators and organize events once the new organic law has been adopted.

D.3 Public Relations and Outreach by the ECT

D.3.1 Activities of the ECT's Public Relations Department

The ECT has an office of public relations that is responsible for the provision of information to the mass media and other forms of public outreach. For the referendum, the Public Relations Department will carry out a number of ongoing activities. It expects to hold two press conferences, one at the outset of the referendum campaign and the other on referendum night. It will also prepare routine press releases and informational materials for journalists. While commission meetings are not open to the public, press releases will be prepared after commission meetings. The ECT also has a small pressroom available to journalists on the tenth floor of its office building. The commission will designate spokespeople, and it is anticipated that commissioners or the general-secretary will participate in interviews for radio, television and print media. During the time of the assessment team's visit, the secretary-general and several of the commissioners were routinely featured in news coverage.

The Public Relations Department will also provide leadership to the 76 PECs with respect to information and outreach. This will include guidelines on how to interact with the mass media, NGOs and other entities. Some boiler-plate language on the referendum process will also be prepared for the PECs to be adapted as necessary for local conditions, including translation into local dialects. While the PECs do not have public relations departments, there will be referendum facilitation centers in the provinces where the press can go to obtain information. The ECT will also prepare some information in English for the foreign press, particularly on its website.

In addition to reporting on the activities of the commission and on preparations for the referendum, the Public Relations Department plans to provide information about (1) the readiness of the commission to conduct the referendum, (2) its neutrality and transparency in the referendum process and (3) its neutrality and transparency in general. On the latter points, the appointment of judges as commissioners and the support of monitoring are held up as examples. The Public Relations Department will seek to explain to the public what a referendum is and convey the referendum's significance. It will also reinforce the other voter education messages disseminated by the Public Participation Bureau and will publicize the ECT's website and hotline as well as special events it hosts. For example, the ECT will hold a series of special events in Bangkok and 13 other cities throughout the country during the lead-up to the referendum. These

events will feature concerts, rallies, street fairs and information seminars and will be broadcast live on television.

In general, the ECT will replicate this approach for the general elections to be conducted in December. The substance of voter education messages (particularly with respect to the voting process) will be determined by the specifics of the new organic law on elections, which will be passed only after the adoption of a new constitution. The public relations and public participation bureaus will need to emphasize the ramifications for voters of anticipated changes to the process—for example, the system of representation will in turn impact ballot design and the number of choices to be made by voters.

D.3.2 ECT Media Center

On the day before the referendum, on referendum day and on the day after, the ECT will operate a media center at its headquarters. The center will provide computers, printers, phones and fax machines for use by journalists. In addition, the space will be wired for live broadcasts. The media center will be open 24 hours a day during the referendum time period and will also be open in the same manner for 72 hours at the time of the general elections.

D.3.3 ECT Outreach Efforts

In addition to its interaction with the press, the ECT has also begun outreach to a variety of groups, including NGOs, religious leaders of various confessions (including Muslims in the southernmost portions of the country) and political parties. Outreach to civil society takes place primarily through the Public Participation Bureau with voter education efforts and support of domestic monitoring groups. Prior to the assessment team's departure from the country, the ECT had already met with Christian and Buddhist leaders and had scheduled a meeting with Muslim leaders.⁶² Also in early April, the ECT offered to host a meeting for political parties/groups and leaders of the CNS to discuss lifting the ban on political party activities. The ECT had taken the position that they would like to see the ban lifted prior to the referendum in order to provide political parties with adequate time to prepare for the general elections in December. Commissioner Sodsri Satayatham stated, "the ECT is a neutral body and supports a reconciliatory approach." She added, "The two parties [politicians and the CNS] should engage in a dialogue." She also observed that the referendum requires cooperation between all parties and politicians, who "should be allowed to go to the provinces to persuade people to vote."⁶³ At the time of this writing, discussions were ongoing with respect to the timing of lifting the ban, although it was not clear whether the ECT's offer to serve as an honest broker between the parties and the CNS would be accepted.

E. CIVIL SOCIETY'S ROLE IN VOTER EDUCATION AND GET OUT THE VOTE EFFORTS

As noted earlier in this section, the ECT, in cooperation with the MOE and the MOI's Rural Development Office, creates a network of voter educators that includes civil society and community leaders. Some NGOs also engage in their own voter education and "get out the vote" (GOTV) programs. Their ability to do so is often contingent on the availability of financial and human resources, the strength of their local networks, and their access to the mass media. Existing resources are likely to be stretched thin by the occurrence of two electoral events in the course of three to four months, thereby forcing NGOs to devote their efforts to one event or the other. Among the limited number of NGOs visited during the assessment mission, this appeared to be the case.

⁶² The meeting with Muslim leaders is to take place in Bangkok rather than in the southernmost provinces, where the government's emergency decree was renewed for another three months starting from April 19.

⁶³ See "EC Urges Dialogue on Lifting Ban," *Bangkok Post* (April 3, 2007).

It is also possible that the scope of NGO voter activities may be impacted by a relative absence of international donor support. Well before the 2006 coup, Thailand had moved beyond the types of democracy assistance offered by the international donor community. While a few donors have limited programs in support of voter and civic education activities, others are reluctant to re-engage under the current political circumstances.

In early April, the CDC agreed to include in the draft constitution a provision compelling the government to set up a political development fund for civic groups. The aim of the fund is to promote political activities in society. News reports that a proposal to this effect will be sent to the Cabinet for approval in May suggest that the creation of the political development fund is being “fast-tracked.” This, in turn, has led some to speculation that some funding might be made available in advance of the constitutional referendum. Information remains limited about how such funds might be dispersed, who would disburse them, who would be eligible to apply for them, what criteria would be used to evaluate them, how equity would be ensured in terms of funding NGO advocacy on either side of an issue (in the case of the yes or no vote of the referendum), and how such funds would be monitored to ensure they were used appropriately.

There are also questions about the likelihood of political party involvement in NGO advocacy efforts and about restrictions placed on NGO political activity in the Law on Associations. How would this public fund be reconciled with these restrictions? The lack of a clear definition of “political activity” (e.g., does it include domestic monitoring, non-partisan voter education, GOTV and issue advocacy?) is a problem that needs to be addressed in order to eliminate the vulnerability of NGOs engaged in such endeavors.

With respect to the substance of NGO voter education efforts, there will be a lot of new information for NGOs to absorb and convey in a relatively short period of time. The constitutional referendum will be a new experience for Thai voters. It will be governed by the interim constitution, a new organic law on referendum, new implementing regulations, CNS decrees and perhaps other new ordinances addressing issues such as election security and crowd control. The general election will be governed by a newly adopted constitution, a new organic law on elections and possibly other laws impacting the electoral process, and new implementing regulations. It is also possible that some CNS decrees will be lifted by this time. It will be imperative for NGOs to cooperate with the ECT to ensure that they have the most current and factual information about the referendum and election processes and that this information is conveyed accurately and consistently so as to avoid confusion among voters.

F. UNIQUE CHALLENGES TO VOTER EDUCATION IN THE CURRENT CONTEXT

The current context presents a number of unique challenges to policymakers, election officials and others tasked with facilitating the referendum and general election. The amount of new information to be conveyed through civic and education initiatives in a relatively short period of time has been addressed throughout the body of this report. At the same time, there are other contextual challenges that may impact the success of voter education and GOTV as well as the confidence-building measures required to ensure the legitimacy of the referendum/general elections and the acceptance of their outcomes. These are outlined below.

F.1 The Ban on Political Party Activity/Registration and the Possible Disbanding of Two Main Political Parties

In September 2006, the Council for Democratic Reform (subsequently the Council for National Security) issued an announcement (No. 15) that banned political party activities and the establishment or registration of new political parties in the interests of maintaining peace and order. This ban remains in place amid ongoing security concerns, although high-level discussions are underway about lifting it. The

CNS is reportedly favors lifting the ban in July. Meanwhile, the Supreme Court is expected to rule in July on whether the two main political parties—Thai Rak Thai and the Democratic Party—should be disbanded as the result of alleged fraud committed during the previous election.

Representatives of the ECT have called for the ban to be lifted earlier, citing the need for political parties to begin preparing for the general election, the importance of their inclusion in the constitutional process, and their role in mobilizing voter turnout for both the referendum and the general elections. High voter turnout for the referendum will serve as a key indicator of the legitimacy of the constitutional process. Absent political party involvement in mobilization efforts, the ECT, subordinate election commissions and NGOs will bear an inordinate burden in terms of encouraging voters to go to the polls.

All of these points are valid and need to be given serious consideration. Preventing political parties from contributing input to the draft constitution and new legislation governing elections could adversely impact the perceived legitimacy of these processes. If political parties believe these processes to be exclusionary and illegitimate, their supporters may reach the same conclusion, thereby undermining support for the draft charter.

F.2 Control of the Mass Media

All six terrestrial television stations in Thailand are owned by the military or government.⁶⁴ In addition, the government has closely scrutinized and sought to prohibit controversial or inappropriate content on broadcast media and the web. Upon taking power in September 2006, the Council for Democratic Reform ordered the Ministry of Communications and Information Technology (ICT) to censor information challenging the authority of the military government. It shut down more than 300 community radio stations in the rural north and northeast⁶⁵ as well as websites, political chat rooms and web boards with “provocative” content.⁶⁶ While this situation has eased since the immediate post-coup period, and most media in Thailand are up and running, a recent incident illustrates the mass media’s continued vulnerability to control by the military regime, particularly broadcast media and the web. During the first week of April 2007, the ICT shut down the online political forum “Ratchadamnoen” on www.pantip.com claiming that the opinions posted there were a threat to national security. The popular chat room features debate about democracy, the military regime and the legitimacy of the coup.

F.3 Threat of Restrictions on Public Rallies

In late March, the CNS requested that a state of emergency be declared in Bangkok in anticipation of protest rallies in the city. Prime Minister Surayud Chulanont decided against imposing emergency rule, noting that there was no emergency situation. This decision was received positively by pro-democracy groups, human rights activists and ordinary citizens. As noted by one professor at Chulalongkorn University, “you can’t have free and fair elections if you ban protests.”⁶⁷ According to published reports, the prime minister considered the issue to be of a political rather than military nature and sought consultations through existing mechanisms to diffusion tensions. However, at the same time, the Metropolitan Police Commissioner proposed during a meeting of the CNS that a new crowd control law

⁶⁴ This includes iTV, now TITV, which was once envisioned as an “independent counterpoint” to military- and government-owned stations. iTV was compromised by Shin Corp., then owned by Prime Minister Thaksin’s family. In late 2006, the Supreme Administrative Court voided concessions granted to the station under Thaksin’s government and ordered it to pay 2 billion Baht in overdue fees. When these were not paid, the military government took over the station in February 2007. (See IREX press release dated March 12, 2007.)

⁶⁵ IFEX Press Release (March 12, 2007).

⁶⁶ Censorship of the web pre-dates the coup. According to Freedom House, the government of Thailand has blocked more than 4,000 websites since 2003. For more information, see *2005 World Press Freedom Review*.

⁶⁷ See, Marwaan Macan-Markar, “Junta Prefers Polls Minus Rallies” on the Inter Press Service News Agency website at <http://ipsnews.net/print.asp?idnews=37158>.

be enacted as soon as possible. This is reportedly under consideration within the CNS, and a decision may be forwarded to the National Legislative Assembly. The substance of such a decision—and its ramifications for public gatherings—remain to be seen.

F.4 Legacy of the Previous ECT and Provincial Election Commissions

The Constitutional Court invalidated the 2006 national legislative elections for systemic violations of voter secrecy and found three ECT commissioners guilty of malfeasance, for which they were ultimately jailed.⁶⁸ At that time, PECs were also perceived to be politicized and influenced inappropriately by the police. As a result, the ECT as an institution, irrespective of the credentials of its new members/leadership and the technical competency of its staff, suffers from a poor public image.⁶⁹ Skepticism continues to extend to the PECs, which are also in the process of being re-appointed. This lack of confidence is a cause for concern as it may be a drag on the perceived integrity of the referendum/general election and the reliability of results. As a result, confidence-building measures will need to be an integral part of all training, voter education and public relations activities. The situation may require additional steps such as the adoption of a code of conduct for election officials.

F.5 Security Situation in the Southern Most Provinces

On April 9, the Cabinet agreed to renew the emergency decree in the three southernmost provinces for an additional three months, through July 19. This move was taken in response to continued violence in the region. The decree was first imposed by the government of deposed Prime Minister Thaksin Shinawatra and was controversial at the time for its “draconian” measures. It gives widespread powers to security forces and shields those forces and government officials from punishment for abuse of authority. Although the assessment team was unable to travel to this area, stakeholders with whom the team met expressed concern about the impact of the security situation on the ability of election workers to prepare for the referendum/general election and of voter educators and domestic monitors to carry out their activities. Some questioned whether it would be possible to conduct voting in these provinces. A failure to hold the constitutional referendum in these areas, in particular, could well exacerbate an already tense situation. The ECT indicated that it will recruit locally for poll workers and voter educators, which they anticipate will allow them to organize in the area. Extensive voter education in the local language by trusted community and moral leaders will be essential to keeping voters informed, encouraging a calm electoral atmosphere and promoting voter turnout. Steps will need to be taken to ensure the mobility and security of poll workers and voter educators as they carry out their tasks.

G. RECOMMENDATIONS

- (1) Official voter education and public relations efforts should emphasize confidence-building measures that continually assure voters of the impartiality and integrity of the ECT and PECs, the legitimacy of the referendum and general election processes, and the reliability of results. Messages intended to instill voter confidence should address topics such as:
 - Constitutional and legal changes that reinforce the ECT’s independence and oversight of the performance of PECs;

⁶⁸ Polling booths were positioned to face outward from the wall, which the complainant said violated voter secrecy. The ECT claimed that the position of the voting booths was intended to prevent various forms of poll fraud, including the use of cameras to take photographs of the marked ballots. It is alleged that party canvassers demanded ballot photographs in return for money, in essence to confirm that votes had been successfully bought.

⁶⁹ While a vast majority of the stakeholders interviewed by the assessment team believed the judges appointed to the commission to be “honest,” skepticism remained with respect to the institution itself and its ability to withstand political pressure (from the CNS under current circumstances).

- The process and criteria for selecting members of PECs, LECs and polling station committees (a process that includes input from civil society) and the circumstances under which the ECT might reject recommended nominees;
 - The provision of ethics training and the adoption of a code of conduct for election officials (the code would be signed or sworn to by all people charged with administering the referendum/general election and is strongly recommended);
 - The existence and expansion of the ECT's transparency mechanisms (for example, holding open sessions that journalists or observers can attend);⁷⁰
 - The availability of routine updates, daily if necessary, on the ECT's work/decisions and on the status of referendum/election preparations and information about points of access (e.g., the ECT website, call center, media center, etc.).
 - The existence of consultative mechanisms that provide civil society and political party representatives with opportunities for ongoing dialogue with the ECT and input into its decision-making process;⁷¹
 - The ECT's receptiveness to scrutiny by the mass media and civil society, its support of domestic monitoring efforts, and its invitations to international observer organizations to monitor elections;⁷²
 - The ECT's efforts to deter fraud and violations of electoral law, to apply relevant penalties in the event of violations, to protect the secrecy of the vote and to provide ballot security;
 - Steps the ECT is taking to improve the transparency and accountability of the counting process, such as posting result protocols at counting locations and posting referendum/election results (from the lowest level on up) on the ECT website.
- (2) The ECT should post voter education materials and tools on its website and encourage their use and replication by NGOs. At the same time, in the interests of providing current, accurate and consistent information, NGOs should fact check their own education messages using official sources, such as the ECT website.
 - (3) Voter education materials should be simple, straightforward and manageable in terms of voters' ability to absorb, understand and retain information. They should emphasize what has changed relative to the 1997 Constitution and previous election practices and what will be new to voters, in particular Thailand's first ever referendum.
 - (4) Military- and government-owned media outlets should provide free airtime to the CDC and ECT to broadcast, during prime viewing hours, public service announcements (PSAs) informing voters about the draft constitution, the referendum process and the general election. Greater emphasis should be placed on using the mass media so that voter education messages reach as many voters as possible.
 - (5) Restrictions on the mass media and on political activities should be lifted as soon as possible to allow for free political discourse and mobilization of the electorate. The lifting of restrictions would

⁷⁰ It may not be appropriate to open all sessions to journalists given the sensitivity of some discussions and the need to safeguard some information. Therefore, in sessions designated as open and covering sensitive topics, the agenda could be organized so that the opening of the meeting could be public and then the commission could go into closed session to address more sensitive issues.

⁷¹ The ECT's offer to mediate between the CNS and political parties on lifting the ban on party activity as well as its outreach to religious leaders provide useful examples.

⁷² The ECT has invited observers from regional election commissions and professional observer organizations, such as ANFREL.

also help increase the perceived legitimacy of the constitutional and legal drafting processes, the referendum and the general election.

- (6) Given the amount of new information to be conveyed as a result of changes to the constitution and laws governing campaigns/elections and the limited timeframe for implementation, international donors should re-engage quickly with the aim of reinforcing and expanding non-partisan NGO voter education efforts both for the constitutional referendum and the general election.
- (7) NGOs are well positioned to provide targeted voter education, both geographically in regions where election violations have been most evident (for example, the northeast) and in regions with unique security circumstances (such as in the southern provinces) and thematically with respect to specific issues such as vote-buying.⁷³ Such targeted voter education initiatives should be encouraged and supported.

⁷³ NGOs are well positioned to carry out targeted voter education as compared to the ECT, which has as its primary responsibility the education of the entire electorate on a whole range of issues.

PART VIII: ELECTION OBSERVATION

A. ROLE OF ECT IN SUPPORTING DOMESTIC OBSERVATION

The ECT provides funding, training and credentials to civil society groups to carry out domestic monitoring of elections. It has a Unit of NGOs and Provincial Communities' Participation within its Department of Public Participation, which is responsible for supporting NGO domestic monitoring activities. The ECT has clearly defined the role of NGOs in domestic monitoring: to assist the ECT in monitoring elections to ensure that they are conducted in an honest, free, and fair manner. The ECT views domestic monitoring as an extension of its own supervision of the electoral process and does not perceive there to be an inherent conflict in providing direct funding to organizations charged with overseeing the integrity of elections (the ramifications of this type of arrangement are discussed in greater detail in Section B below).

A.1 NGO Registration and Accreditation

An NGO registering with the ECT to observe elections must be a private organization, must be politically neutral and must have been in operation "for public benefit" for more than one year. It must also be able to provide the following information and documentation:

- Certification of legal person status (if applicable);
- Code, regulations and directives of the organization;
- Names of the representatives of the organization, including address and biographies;
- Annual activity report;
- Annual financial report; and
- Relevant minutes of the meeting where it was decided that the organization should register with the ECT.

For an NGO to be recognized as an official monitoring organization, it must be registered with the ECT, be properly certified by the ECT and carry an ID card (credential) issued by the ECT. Volunteers and coordinators working on behalf of the NGO must be of Thai nationality, must be 18 years of age for the lesser positions and 20 years of age for the more responsible positions, and must have graduated high school. They must also pass required training provided by the ECT. Volunteers and coordinators must be nominated to the chairman of the election committee of the constituency for appointment and "shall be responsible to report to the Election Commission."

A.2 Financial Support to NGOs

Any accredited NGO has access to funds from the ECT. The application for financial support requires the provision of detailed information about the organization, its legal status, years of operation, type (for example a formal NGO, a professional association, network of organizations, or an informal community or citizen's group), structure, organizational management, financial management, mission, objectives, cooperating partners (both state and private), target population, past activities and experience, and plans for election observation in terms of what will be observed and the location the observation will take place.

The ECT budget is based on a figure large enough to provide funds to cover the costs of one observer per polling station throughout the country. The ECT plans for 150 Baht (\$4.40) per day for around a 10-day period and 250 Baht (\$7.35) for two days to cover the immediate election period. However, funding

levels ultimately depend on the final budget approved by the government, the number of accredited observer groups and the number of individual monitors deployed. As of the assessment team's visit, the ECT had received applications from approximately 10 formal NGOs and 140 smaller citizen and community groups to monitor the general elections slated for December 2007. The ECT has included an allocation for domestic observers in its proposed budget for the referendum. This is an important development in light of the fact that there are no partisan observers for referenda, which makes the role of NGO monitors all the more vital.

A.3 Training

The ECT requires that all NGO volunteers and coordinators participate in its training program. The ECT offers half-day training sessions and provides reference materials and observation tools, such as a standardized observation form. It uses a training-of-trainers approach and uses provincial and constituency election commissions to conduct training at lower levels. Typically, individual training sessions are provided for groups of 50 to 100 people at a time. Experienced NGOs have suggested that this training is insufficient, and they typically augment official training with instruction and materials of their own.

B. DOMESTIC OBSERVATION BY NGOS

B.1 Role of Domestic Monitoring Groups

Perhaps due, in part, to the provision of funding by the ECT, there are a significant number of civil society organizations engaged in domestic monitoring. These include formal NGOs, informal community or citizens' groups, and professional associations. Some are solely dedicated to on-going watchdog activities, while others engage in this activity only around election dates and within their local communities. As noted above, more than 150 NGOs and informal groups have already applied to the ECT for funding in support of domestic monitoring activities for the next general elections. There are a few organizations engaged in domestic monitoring that do not accept funding from ECT, but the vast majority do and most see no conflict of interest inherent in this arrangement. Rather, such groups are viewed (and view themselves) as an extension of the ECT's supervision of the electoral process.⁷⁴ In effect, however, the provision of funding from the ECT, which for most groups is the sole source of funding for their monitoring activities, compromises their independence and tenacity (i.e., their ability to serve as a watchdog in the more conventional sense). This may be particularly true with respect to assessing the performance of election commissions and reporting abuses by election officials.

B.2 Capacity of NGOs to Conduct Domestic Monitoring

Following the adoption of the 1997 Constitution and creation of the ECT, a significant domestic monitoring movement sprang up, organized in large part by people who were active in the participatory process of what came to be known as the "People's Constitution." At that time, tens of thousands of observers were organized under Poll Watch/P-Net, a network of approximately 100 organizations. In the decade that followed, more groups became involved in domestic monitoring. It is reasonable to assume that this is a result, at least in part, of ECT funding as some groups would likely not be involved in such activities absent this support. Some critics have suggested that the breadth of groups supported by the ECT has caused, intentionally or not, oversight to be dispersed or dissipated, thereby rendering it ineffective. The need some NGOs have of ECT funds has been increased by the decline in available foreign funding/support in recent years. With respect to NGOs' ability to raise non-ECT funds locally to

⁷⁴ A similar blurring of the line between domestic observer and the election administration exists in the Philippine practice of accrediting "citizen arms" of the election commission as observer groups.

enhance their level of activity, it is important to be aware of some fundamental issues that present an obstacle to developing independent monitoring organization. The Thai people, especially in rural areas, donate their spare money to temples, not to political activities. There is also little understanding of the link between elections, governance and quality of life. This is an issue to be addressed through civic and voter education.

At this point, domestic monitoring in Thailand does appear to be autonomous in nature with a diverse set of groups involved, but with little cohesion. It is difficult to assess precisely the current capacities of some of the larger domestic monitoring NGOs, since many boycotted the 2006 national legislative elections, but it is clear that—in general—capacity has diminished.⁷⁵ There is little evidence of efforts to coordinate strategy/joint action or to pool resources, all of which would serve to raise the effectiveness, clout and profile of domestic monitoring groups and their activities. Some likely candidates for a coordinating role seemed disinclined to assume this responsibility, while competition between organizations comes into play as small groups and local chapters resist what they perceive as an effort by bigger NGOs or central headquarters to control their activities. This is unfortunate as there appears to be no single organization with the capacity to organize a nationwide observation effort.

There also appears to be uneven capacity throughout the country. Again, the decision by some groups to boycott the last national legislative election distorts the picture, but the assessment team heard from both the ECT and civil society representatives that there were gaps in coverage and uneven capacities. For example, PollWatch/P-NET has some local chapters, such as the ones in the southern region, that are able to maintain ongoing activities based on volunteer labor, local financial resources and sheer determination. However, other chapters are less active and more dependent on headquarters for support.⁷⁶ P-NET estimates that it can currently cover approximately 20 of the 76 provinces with a “strong presence” and another 20 with a “moderate” presence. Adapting to this reality, it has devised a strategy to target and focus its observation activities on localities with a history of vote-buying and other forms of election fraud. The three southernmost provinces are a particular challenge given the ongoing violence and its impact on the civil society’s ability to mobilize observers and carry out the normal functions of an observation effort. Some questioned whether it would be possible to hold the referendum or election in these areas. This idea is worrisome in that a failure to do so would likely negatively impact the overall legitimacy of both and could worsen the security and political situation there.

The perceived neutrality of NGOs is also an issue. As noted above, those that opt to receive financial support from the ECT sacrifice some degree of independence in the process. At the same time, some leading NGOs—including those that don’t take ECT funding because they believe it would undermine their neutrality—have been active participants in public rallies of a political nature. The 2005 anti-Thaksin demonstrations provide a case in point. The claim is made that these were pro-democracy rallies, but they can also be viewed as partisan activities. By behaving in a partisan manner, advocating for or against specific political figures, or publicly supporting challengers against incumbents (or vice-versa), NGOs cross a line that makes it more difficult to assert their neutrality as domestic observers.

The assessment team also had questions about the approach taken by many groups to election observation. Most observers do use monitoring forms, either those provided by the ECT or ones prepared by their own organizations, yet it is not clear what happens to those forms after election day. In the case of some NGOs operating independently, the forms are reportedly collected and reviewed at a central location at the provincial or regional level. If problems are identified, the relevant forms should be

⁷⁵ This would appear to be particularly true of NGOs that have no function other than observing elections. Organizations engaged in ongoing watchdog activities and professional associations appeared somewhat better positioned.

⁷⁶ According to a representative of one of P-Net’s stronger chapters, they do not receive funding, materials or other support from the national headquarters and have been informed that, if international funding is secured for the upcoming general election, it will likely be distributed among weaker organizations.

forwarded to an election commission so that it can investigate the matter further. In these cases, it does not appear that the forms or any sort of independent statistical analysis of data are forwarded to NGOs' headquarters or an NGO coordinating body at the national level. For NGOs receiving financial support from the ECT, their forms are reportedly collected by PECs. The preparation of reports containing an overview of findings and recommendations also appear to be lacking (and therefore are clearly not made public). In many cases, this may be an issue of capacity, but a representative of one of the larger NGOs cited a desire to protect the secrecy of the observations of their volunteers.

On a related issue, domestic monitoring in Thailand appears to have taken a somewhat staid approach that focuses primarily on election day and the count. The assessment team found that the Lawyers' Council does monitor the adjudication of grievances, which has been problematic, and assists complainants with pro bono legal services (for example, filling out required paperwork and attending meetings with investigating officers). Few if any organizations have sought to whole-heartedly tackle monitoring of campaign finance abuses and vote-buying, among the biggest setbacks to democratic elections in Thailand. In addition, there appears to be little incorporation of election observation or campaign finance monitoring into broader, ongoing efforts aimed at curbing corruption. In light of the political and electoral changes anticipated as part of the new constitution and new organic laws, NGOs have an opportunity to approach election observation more creatively. Given the nature/extent of the changes proposed by the CDA/CDC and the importance of a constitutional referendum and general election that are accepted as transparent and legitimate, domestic monitoring efforts will need to be vigorous.

C. INVOLVEMENT OF INTERNATIONAL OBSERVER ORGANIZATIONS

The ECT has traditionally extended invitations to regional election commissions to observe its elections. The Asian Network for Free Elections (ANFREL) also has a history of observing elections in Thailand. In addition, representatives of the foreign diplomatic corps in Thailand have also tended to observe. The ECT was open to the possibility of inviting more international observation organizations and multilateral institutions, such as the Carter Center and the EU, to observe elections and to receive contact information and referrals from IFES.

D. RECOMMENDATIONS

IFES affirms that domestic monitoring by NGOs and partisan monitors is important to the transparency, integrity and ultimate legitimacy of the electoral process in Thailand.

- (1) NGOs should mobilize to observe the constitutional referendum and should be provided with support, including from the international community, because (a) there will be no partisan monitors for the constitutional referendum, (b) a simple up or down vote can lend itself to chain voting in a context where vote buying is prevalent, and (c) the absolute necessity that the constitutional referendum be viewed as legitimate regardless of its outcome.
- (2) In general, NGOs observing elections should strive to share information, coordinate their activities, pool their resources and raise their public profile as a means of more effectively deterring fraud and serving as an independent and tenacious watchdog of the process throughout the country. NGOs dedicated primarily to election observation should also be brought into the broader family of organizations active in monitoring corruption in Thailand as all might benefit from sharing networks, methodologies and experience.
- (3) Domestic observers should undertake targeted efforts that increase scrutiny of issues that have traditionally been a problem in Thailand and that do not occur on election day (e.g., campaign finance abuses or irregularities in the selection of provincial election commissions). Domestic

observers should also focus on innovations in the electoral process resulting from constitutional and legal reforms, such as anticipated changes to the process of adjudicating of election grievances and to the institution responsible for this process.

- (4) Financial support and assistance for domestic monitoring, particularly from the international community, should focus on enhancing the effectiveness of such activities by improving coordination, training, monitoring methodologies, media skills, reporting and analysis, etc. It should also support targeted monitoring of specific issues (noted above) or in sensitive regions, such as the northeast or deep south, where electoral abuses have been particularly egregious or where special circumstances exist.
- (5) Given government and military ownership of all terrestrial media as well as the increased control of private media by some political interests, unbalanced and biased media coverage of the election campaigns of various contestants can be expected. In such an environment, media monitoring by an independent organization is recommended.
- (6) Given the crisis of public confidence in political/government institutions in Thailand, the nullification of the last national legislative election and the September 2006 coup, international observation of the referendum and general election could greatly contribute to the perceived transparency and legitimacy of the process. The ECT should extend invitations beyond regionally-based election commissions and observer groups to include other prominent election observation groups and multilateral institutions.
- (7) In the longer term, consideration should be given as to whether there is another institutional option for funding domestic monitoring organizations so as to avoid the conflict of interest inherent in having the ECT directly fund organizations tasked with oversight of election institutions and processes. Given the ECT's constitutional and legal mandate to carry out democracy education and the great need for ongoing civic/voter education programs, perhaps it would be more appropriate for it to provide grants to NGOs solely for that purpose.

PART VIII: ANNEXES

ANNEX I: IFES' CONTACT LIST FOR THAILAND

PERSONS INTERVIEWED DURING PETA MISSION, 15 MARCH – 5 APRIL 2007

GOVERNMENT OF THAILAND – OFFICIAL INSTITUTIONS AND INDEPENDENT BODIES		
ELECTION COMMISSION OF THAILAND		
Name	Title	Address
Mr. Apichart Sukhaggonond	Chairman	44 Srijulsub Tower 18 th Floor Rama 1 Rd. Pathumwan, Bangkok 10330
Mr. Sumeth Ubanisakorn	Commissioner	
Mr. Prapun Naigowit	Commissioner and Member of the CDC	
Dr. Suthiphon Thaveechaiyagarn	Secretary-General	
Puchong Nutrawong	Deputy Secretary-General, Public Participation Bureau	Same as above
Cholaraj Phewban	Director General, Public Participation Department	Same as above Floor 20
Patchara Katikul	Director, Public Participation Department	Same as above
Reungroj Jomsuep	Department of Public Relations	Same as above
Sathaporn Sontibutra	Deputy Secretary-General, General Administration Bureau	Same as above
Prawing Kachacheewa	Deputy Secretary-General, Election Administration Bureau	Same as above
Somsak Suriyamongkol	Deputy Secretary-General, Political Party Affairs and Referendum Bureau	Same as above
Krit Urwongse	Director, Political Party Development and Referendum Division	Same as above. 21 st Floor
Pol.Col. Thasanai Jantaraket	Deputy Secretary-General, Investigation and Adjudication Bureau	Same as above
Prasit Kraisingdecha	Director-General, Department of Electoral Research and Development	Same as above
Somyot Aksorn	Deputy Director-General, Finance/Budget	Same as above
Yongkiat Adisettakul	Director-General, Department of Legal Affairs	Same as above
Boonyakaiti Rakchartcharoen	Director-General, Department of Election Administration	Same as above 20 th Floor
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Chatchai Nipahsiiriphan	Commissioner, Provincial Election Commission	Chonburi Province
Dr. Vijai Amralikit	President, District Municipality of Phanasnikom	Chonburi Province
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Sumara Sadrak		
MINISTRY OF EDUCATION		
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Robert Dahl

Election Law and Campaign Finance Specialist

Robert Dahl has extensive experience as a practitioner in political law and an advisor to democratization programs. Between 1985 and 1991, he served as executive assistant to a member of the U.S. Federal Election Commission. He subsequently practiced law in areas of election law, campaign finance and ethics regulation. His clients included candidate campaigns, political action committees and political party committees. Dahl worked as a consultant for democratic development programs in Eastern Europe and the former Soviet Union (offering his expertise in political finance regulation and complaint adjudication) and has served as legal policy advisor for IFES' program in Indonesia since 1998. Dahl earned his Juris Doctor from the University of Chicago.

Susan Palmer

Election Management and Administration Specialist

Susan L. Palmer specializes in election administration in post-conflict and transitional environments, civil society promotion and support for good governance. She has worked on international democracy promotion and conflict resolution projects in Africa, Latin America and Palestine since 1987. She joined IFES in 1997, and her recent overseas postings include serving as Election Advisor to Liberia's National Elections Commission (2004-2005), Election Advisor and Country Director in Nigeria (2003-2004) and director of IFES' work in Sierra Leone (2001-2002). Palmer has focused on electoral management; civil society involvement in political and electoral processes; anti-corruption and campaign finance initiatives; political participation of marginalized groups; preventing and mitigating electoral conflict; and supporting decentralization and local governance. She has developed training programs and materials for civic leaders, government and election officials, and parties in conflict. She previously worked as an Assistant Director for Projects in the Conflict Resolution Program at the Carter Center in Atlanta, Georgia.

Catherine Barnes

Voter Education Specialist

Since 1990, Catherine Barnes has worked on democracy and governance projects in more than 36 countries, primarily in Eastern Europe and former USSR as well as in North Africa and Asia. Ms. Barnes applies expertise in mass communications and public information and outreach to campaigns and elections, governance and NGO development projects. Her experience ranges from project design and implementation to management (at headquarters and in the field) and evaluation. Following employment at the International Republican Institute (IRI) and International Foundation for Election Systems (IFES), Ms. Barnes established her own consultancy in 1997. Overseas, she has worked with an array of partners in government, politics, advertising, mass media, academia and civil society. She has authored several articles on approaches to foreign aid and on political developments in the successor states of USSR and Yugoslavia. She has also served as editor of a web-based publication on voter education. Ms. Barnes holds bachelor's degrees in political science and mass communications from the University of Delaware. She also pursued a Master's Degree in Foreign Affairs at the University of Virginia.

Beverly Hagerdon Thakur*Election Observation Specialist*

Beverly Hagerdon Thakur has nearly 10 years experience working in international development. As the Chief of Party for IFES-Philippines, she coordinates with the Commission on Elections (COMELEC) to implement its modernized program to manage and conduct elections that comply with international standards. Hagerdon Thakur also works closely with local non-governmental organizations on electoral reform initiatives. She previously worked as a consultant and training specialist in Azerbaijan and was chief of party in IFES' former Sarajevo, Bosnia and Herzegovina office. There she supervised the registration process and monitored elections at absentee polling stations. Hagerdon Thakur earned a bachelor's degree in government from Dartmouth and a master's degree in international affairs from the George Washington University. She also completed courses at the United States Institute of Peace on the mission structures and functions of the Organization for Security and Cooperation in Europe (OSCE) and on conflict management.

Catherine Kannam*IFES Program Associate*

Catherine Kannam has been a member of IFES' Asia team since May 2006. As the Program Associate for the Afghanistan program, she provides administrative and programmatic support to IFES' in-country program. Prior to joining IFES, Kannam worked at an Indian research and training institute focused on participatory development initiatives (through an American India Foundation fellowship). Kannam graduated with honors from Wesleyan University with a degree from the College of Social Studies.