

BRIDGING THAILAND'S DEEP DIVIDE

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BRIDGING THAILAND'S DEEP DIVIDE

EXECUTIVE SUMMARY AND RECOMMENDATIONS

The protracted struggle between the royalist establishment and those allied with ousted Prime Minister Thaksin Shinawatra has left Thailand deeply polarised. It sparked the most violent political confrontations in recent times, killing people, injuring nearly 2,000 and inflicting deep wounds on the national psyche. The government of Abhisit Vejjajiva's unilateral offer of a "road map" to national reconciliation will lead nowhere without the participation of its opposition, including his deposed predecessor. A credible investigation of the violence, enduring legal reforms, and properly addressing societal inequities cannot succeed without the Thaksin-aligned Red Shirt movement. This cannot happen if its leaders are detained, marginalised, or on the run. Fresh elections that are peaceful, fair, and accepted by all sides will be the first test to see if the country is back on track or has lost its way. Thailand should lift the emergency decree imposed over large swathes of the country or risk further damaging its democracy, hindering much needed reconciliation, and sowing the seeds of future deadly conflict.

Thai politics changed significantly when Thaksin, a former policeman and telecom tycoon, won successive election landslides in 2001 and 2005. His popularity rapidly rose among the poor who benefited from his populist programs, such as low-cost health care. At the same time, his increasingly autocratic and corrupt rule angered the urban middle classes. Conservative elites also feared that his growing popularity would challenge their dominance. These establishment forces revolving around the King's Privy Council, the military and the judiciary were supported on the streets by "Yellow Shirt" protestors. Together they worked to remove Thaksin from politics and erode his influence. In early 2006, Thaksin's government was first challenged by mass demonstrations by the People's Alliance for Democracy (PAD) and subsequently ousted by a military coup. While in self-imposed exile abroad, his party was disbanded by a court ruling in May 2007. A proxy party took power later that year, only to be also banned by the courts. Under military pressure and without a fresh poll, a new Democrat Party coalition led by Prime Minister Abhisit took office.

Despite losing power in such an unconstitutional manner, Thaksin was never a spent force. His supporters rallied around the United Front of Democracy Against Dictatorship (UDD) that soon became a movement larger than any one person. Led by a divided leadership of members of parliament, banned politicians and even popular radio hosts, the "Red Shirts" drew support from the urban and rural poor. They formed a pivotal force that rallied against the military-installed government and the establishment-backed Abhisit administration. After a court ordered the seizure of Thaksin's assets in late February, the UDD again took to the streets demanding an election. Their occupation of Rachaprasong intersection in Bangkok's business heart and storming of the parliament ultimately saw a state of emergency declared in the capital and its vicinities on 7 April, allowing authorities to ban demonstrations, shut down media, and detain suspects without charge. The draconian law, which grants officials immunity from prosecution, was later extended to cover 24 provinces by 19 May – one third of the country. Two major clashes in April and May and a few other violent incidents killed 90 before the streets were cleared in a hail of military gunfire.

In the wake of the crackdown, a triumphant government sees that it has restored order to the streets, but it underestimates the deeper divisions this response has created. More than a "road map" to national reconciliation is needed; a new political consensus should be built with the equal involvement of all sides. Heated rhetoric needs to be toned down, including abandoning the use of the term "terrorist" to brand Thaksin and Red Shirt leaders. For their part, opposition figures should publicly renounce violence, reject armed elements, and urge their supporters to follow this lead. Those committed to peaceful protest should be given their rights back so they can again become politically active. Past and future criminal behaviour should be prosecuted in an even-handed manner.

In the long run, Thailand needs to think deeply about much broader political reforms of its system of government, including the role of the monarch and military. Wealth needs to be shared, justice delivered equitably, and power decentralised. The recent violence needs to be

investigated fully as part of a reconciliation process that will allow new elections as soon as possible, with the polls being the beginning and not the end of the process. This new government, with the legitimacy of a fresh mandate and if accepted by all sides, would be the one to move forward with any agreed reform agenda. To get there, the current administration needs to turn away from authoritarianism and choose open, inclusive and democratic means to solve the nation's problems.

RECOMMENDATIONS

To the Government of Thailand:

1. Immediately lift the emergency decree imposed in Bangkok and the other 23 provinces.
2. Conduct a thorough, transparent, and independent inquiry into the violence of April-May 2010. If the inquiry continues to lack credibility, consider enlisting international assistance to boost confidence in the process.
3. Abandon the use of terrorism provisions against Red Shirt leaders accused of offences as part of the protests, including former Prime Minister Thaksin; instead use other sections of the Criminal Procedures Code covering offences such as assault, arson, or illegal possession of weapons.
4. Apply the law without bias so that criminal charges against disorderly, disruptive, or violent political demonstrations in recent years are pursued with equal vigour, whatever their political affiliation.
5. End sweeping bans on Red Shirt media outlets, community radio stations and websites and expedite the enactment of a law to establish an independent commission to regulate broadcast media so as to prevent the use of media for incitement to violence or hate speech.
6. Recognise that Thailand's long-term political stability requires talking with Thaksin rather than continuing to demonise him.
7. Introduce amnesties to allow 220 banned politicians to run in elections and reinforce the role of parliament in settling political disputes.
8. Allow international monitoring of the next elections to enhance the credibility of the polls.
9. Conduct fundamental security sector reform with an emphasis on providing necessary training and adequate remuneration so that the police can be made responsible for internal security, including riot control and overseeing demonstrations, with the army's role restricted to external defence.

10. Improve social services and economic support in a way that empowers and meets the needs of the poor and improves livelihoods so as to lessen socio-economic disparities.

To the Red Shirt leaders:

11. Ensure your followers strictly adhere to non-violent principles in all their future activities.
12. Reject the presence of armed elements in your ranks and condemn any violent acts, even if they are claimed to be for the purpose of protecting supporters.
13. If political restrictions are lifted, participate in good faith in the investigation into the violence, national reconciliation efforts, law reform efforts, and planning for future elections.

To Thaksin Shinawatra:

14. Encourage your supporters to work towards a peaceful election and explore an acceptable formula for your return to Thailand as part of national reconciliation efforts.

To all political parties, the UDD and the PAD:

15. Sign a pact to keep election campaigns peaceful, restrain supporters, and ensure the outcome is respected.
16. Work towards a peaceful national election by toning down confrontational rhetoric and agreeing to acceptable behaviour for campaigning, and pledging not to obstruct campaigning.

Bangkok/Brussels, 5 July 2010

BRIDGING THAILAND'S DEEP DIVIDE

I. INTRODUCTION

The most violent political clashes between the government and demonstrators in modern Thai history erupted between 10 April and 19 May after weeks of protests on the streets of Bangkok.¹ While this recent chapter of the country's tumultuous politics ultimately ended in a government crackdown, conflict between conservative elites and the allies of a populist politician is far from over. On one side is the unelected establishment – the palace, the military, the judiciary and the network around them, and their yellow-shirted supporters. On the other is a police colonel-turned-businessman-turned-politician, Thaksin Shinawatra, who has challenged the old order with his red-shirted supporters drawn from the rural and urban poor. Neither side is united and each has its own counter-intuitive allies. With the conservative royalist establishment stand some members of the urban middle class, angered by Thaksin's corruption, cronyism and human rights abuses. With the populist Thaksin are some members of the military and much of the police. Thai society, institutions, even families are often dangerously divided down the middle.

As this report was researched, the protests and crackdown took place, and then a "state of severe emergency" was declared in Bangkok and 23 other provinces, curtailing political rights.² Dozens of radio stations, websites, a cable television station and print media that the government perceives to be affiliated with the Red Shirts were shut down. The leaders of the movement, including Thaksin,

were charged with terrorism – a crime punishable by death. Others not in detention went into hiding, lowered their profile, and refrained from making public comments. Communities thought twice about holding public meetings.

The government has used mainstream media to control public opinion and build legitimacy for violent suppression. Intimidation campaigns were waged via the internet against individuals sympathetic to the Red Shirts' causes and international media, which was accused of pro-Red Shirt bias. This combination skewed public debate and restricted freedom of expression in Thailand. Under such circumstances, people were careful of who they spoke to, what they said, and were often reluctant to go on-the-record.

This report examines the factors that led to the violent confrontation in the capital, analyses why negotiations failed, and suggests what might be done as the country looks to the future. It is based on extensive interviews, review of documentary materials as well as reports from the domestic and international media. While much of Crisis Group's previous work on Thailand has focused on the conflict in the predominantly Malay-Muslim South, this report concentrates on national politics. During this time, the violent ethno-nationalist insurgency in the southernmost provinces has received less attention from the government but has continued unabated.

¹ See Crisis Group Asia Report N°82, *Thailand: Calming the Political Turmoil*, 22 September 2008. The death toll between 10 April and 19 May 2010 exceeds those of the three previous political crises: the student-led uprising in 1973, the massacre of left-leaning activists in 1976 and the pro-democracy demonstrations against military-backed government in 1992. Based on official records, there were 77 people killed in 1973, 43 in 1976 and 44 in 1992. Actual death tolls of these incidents are believed to be higher.

² Under the emergency decree, the government may declare a "state of emergency" or a "state of severe emergency". The latter is used when the situation is perceived to be more serious and authorities are granted additional powers, such as detention of suspects without charge for up to 30 days.

II. THE ROAD TO VIOLENT CONFRONTATION

The downward spiral toward violence began when a populist politician who posed a threat to the old order came to power. Thaksin won handily in two elections and served as prime minister between 2001 and 2006. His popularity among the rural and urban poor was seen by the elites as a threat to their political influence. Meanwhile, the urban middle class criticised his autocratic rule. Ousted by a military coup in September 2006 while overseas, Thaksin has since remained in self-imposed exile, mostly in London and later Dubai. He was subsequently convicted in absentia on corruption charges and faces a two-year prison term if he returns. Although his party was disbanded, he still wields influence through proxy parties and other allies.

A. FROM THAKSIN TO THE RED SHIRT RALLY IN 2010

Thaksin led his Thai Rak Thai Party to a landslide win in the 2001 elections. He implemented populist programs, including universal health care, micro-credit schemes and a debt moratorium for farmers. This won him followers among the poor and marginalised, many of them in the North and North East of the country. At the same time, many in the urban middle class criticised him for corruption, abuse of power, cronyism and human rights abuses. Thaksin's friend-turned-foe Sondhi Limthongkul, a media mogul, spearheaded a movement to bring him down. As this loose anti-Thaksin movement gained momentum, the People's Alliance for Democracy (PAD) was formed.

PAD adopted the slogan "We are fighting for the King" as well as yellow shirts to symbolise their political allegiance. Yellow T-shirts were in fashion for the first time in 2006 as people wore them to join the 60th anniversary of the revered King Bhumibol Adulyadej's accession to the throne. (In the Buddhist tradition, yellow is the colour for Monday, the day he was born.) PAD demonstrations against Thaksin accelerated after his family sold its shares in telecom conglomerate Shin Corporation to Singapore's Temasek Holdings in January 2006. Thaksin was accused of abusing his position to enrich his business empire and of tax evasion.

Confident of his popularity with voters, Thaksin dissolved the parliament in February 2006 and called a snap election. The April 2006 election was boycotted by the main political parties leading to an inconclusive result. The King advised the judges of the Constitutional Court and Administrative Court to use their authority to break

the political impasse. The court annulled the elections and a new poll was scheduled for October 2006.

Fearing another Thaksin victory, the royalist establishment pushed the military to stage a coup to depose him. Anti-coup activists and Thaksin's supporters united under the United Front for Democracy Against Dictatorship (UDD) fought against the military-installed government of Surayud Chulanont, a member of the Privy Council – the king's advisory body – who had temporarily left this post to take the premiership. The UDD accused Privy Council president Prem Tinsulanond of masterminding the coup.³

The establishment moved to weaken Thaksin's power further. The Constitutional Court ruled in May 2007 to disband the Thai Rak Thai party for violating political party laws. The ruling banned 111 executive party members, including Thaksin, from running in elections for five years. Despite a military propaganda campaign against Thaksin in his strongholds in the North and North East, the People Power Party (PPP), acting as a proxy, won the first post-coup election in December 2007 and took power.

2008 was turbulent with the PPP-led government facing constant challenges from the Yellow Shirts. Prime Minister Samak Sundaravej was removed in September after a court ruled him guilty of conflict of interest after taking payments for hosting a TV cooking show. In December, the PAD seized Bangkok's two main airports to force Samak's successor, Somchai Wongsawat, to step down. At the height of the PAD protest, the Constitutional Court ordered the dissolution of the PPP and two other medium-sized parties on charges of violating election laws, bringing down the Somchai government. The court ruling barred 109 executive members of the three dissolved parties from running in elections for five years. The military pressured smaller parties and a faction in the disbanded PPP to join a new coalition led by the opposition Democrat Party. Abhisit Vejjajiva, the Democrat Party leader who was born in England and educated at Eton and Oxford, became prime minister. The disbanded PPP was replaced by the Puea Thai Party, yet another Thaksin proxy, which leads the opposition.

The establishment-backed government of Abhisit was, in turn, challenged by the Red Shirts. In April 2009, Red Shirt demonstrators broke through the lines of security forces to storm the ASEAN summit in the beachside town

³ According to the constitution, the King has the sole right to appoint up to eighteen Privy Council members, who advise him. See Section IV.A.

of Pattaya, forcing its cancellation.⁴ It was a historic low for the ten-member organisation and a gross breach of diplomatic protocol. After reassuring delegates at midday that the meeting would go ahead, Abhisit abandoned his guests as protestors closed in and some 30 minutes later participants were told their safety could no longer be guaranteed. The Vietnamese prime minister was said to have been particularly upset by his evacuation from a hotel rooftop.⁵

Shortly after, Red Shirt rallies in Bangkok turned violent as several groups clashed with the military in the streets. Two people were killed, some 120 people injured, and several public buses were set on fire.⁶ The Red Shirts became “rioters” in many people’s eyes. Realising their tactical mistake, they voluntarily dispersed.

B. 10 APRIL AND RACHAPRASONG OPERATION

In February 2010, the situation deteriorated further after the Supreme Court for Criminal Cases of Political Post Holders ordered the seizure of 46 billion baht (\$1.4 billion) of Thaksin’s assets.⁷ The Red Shirts staged a sit-in in Bangkok, occupying roughly 2km of the streets near Government House. The area is commonly used for political rallies. They demanded dissolution of the parliament.⁸ The atmosphere was initially peaceful and festive as the Red Shirts paraded around Bangkok in lorries, pick-up trucks, motorcycles and on foot. Supporters greeted them by waving red flags or pieces of red cloth from pavements and buildings along the roads.

Tensions escalated after the Red Shirts occupied Rachaprasong intersection in the commercial heart of Bangkok on 3 April, forcing upscale shopping malls and five-star hotels to shut down.⁹ On 7 April, a group of Red Shirt protesters, led by Arisman Phongruangrong,

stormed the parliament, forcing parliamentarians to abandon their session. They searched for Suthep Thaugsuban, deputy prime minister for security affairs, who escaped together with other cabinet members by climbing a ladder over the back fence before being taken away by a military helicopter.¹⁰ In response to the chaos, the government declared a state of emergency in the capital, banning demonstrations.

With the draconian law imposed, the government began to take harsher steps, beginning what it called an operation to “take back the area” on 10 April. While it pledged to strictly follow standard riot control measures, live ammunition was used during chaotic night time clashes. Accounts of the violence remain disputed. It is clear that troops were attacked by grenades and fired on by unidentified armed groups, with five soldiers killed, including a commander, Col. Romklao Thuwatham.¹¹ 21 civilians were shot dead and autopsy results show most were killed by high-velocity rounds.¹² More than 860 were injured, 350 of whom were soldiers.¹³

While soldiers were filmed pointing their rifles directly at the protesters, it remains unclear who fired at them.¹⁴ Mysterious armed assailants, some of whom wore black, were captured on camera. BBC video footage shows a black-clad gunman carrying an assault rifle walking among the Red Shirts, while other footage posted on YouTube shows a group of armed men sitting behind shields opening fire at troops.¹⁵ Reuters television cameraman Hiro Muramoto, who was shot dead on the scene, filmed grenades striking the troops and soldiers dragging

⁴ “Summit collapses, state of emergency declared”, *Bangkok Post*, 11 April 2009.

⁵ Crisis Group interview, senior ASEAN member state foreign ministry official, 7 May 2010.

⁶ “Centre of city rocked by skirmishes”, *The Bangkok Post*, 14 April 2009 and “Two shot to death in melee”, *The Bangkok Post*, 14 April 2009. The government claimed that the two Bangkok residents were killed in a fight with the Red Shirts and not by the military.

⁷ The court ruled that the former prime minister concealed his assets while in office and abused his power for personal gain.

⁸ The government imposed the Internal Security Act in Bangkok and nearby provinces ahead of the rally, enabling the military to oversee demonstrations. The law allows the authorities to impose curfews, declare areas off-limits, and control weapons possession and electronic devices as well as use of roads and vehicles.

⁹ “We’re not moving”, *The Bangkok Post*, 4 July 2010.

¹⁰ “Protesters storm parliament”, *The Bangkok Post*, 8 July 2010.

¹¹ See King-Oua Laohong, “Proud legacy of slain army hero recalled”, *The Bangkok Post*, 12 April 2010. Many of the grenade attacks during the demonstration were fired from M-79 grenade launchers. While often referred to in the Thai press as “M-79 grenades”, the M-79 is a U.S.-made grenade launcher that uses 40x46-mm grenades.

¹² Vichan Piewnum of Ramathibodhi Hospital, a forensic team member, said the autopsies showed the wounds were caused by bullets from high velocity guns. See “Victims on both sides hit by high velocity bullets, doctors say”, *The Nation*, 27 April 2010.

¹³ Information from Erawan Emergency Center, the Bangkok Metropolitan Authority’s official centre recording casualties relating to the Red Shirt rallies. www.ems.bangkok.go.th:80/radmob.html.

¹⁴ See Mehdi Chebil “Exclusive FRANCE 24 footage shows soldiers firing directly at protesters” 11 April 2010. www.france24.com/en/20100411-exclusive-france-24-footage-shows-soldiers-firing-directly-protesters.

¹⁵ See video clips “BBC: Guy with AK-47” at www.youtube.com/watch?v=vBLQYR9CRO0&NR=1 and “Unidentified Forces, Guys with AK-47” at www.youtube.com/watch?v=OHNrn9btDWA.

away the blood-soaked bodies of their comrades.¹⁶ The rank-and-file Red Shirts saw the “men in black” as rescuers but claim they had no idea who they were.¹⁷

The government used the presence of these “men in black” during the 10 April incident to claim that there were “terrorists” among the demonstrators.¹⁸ It also adopted a harder line and accused the Red Shirts of intending to overthrow the monarchy. The *lèse majesté* law, which carries a severe penalty of up to fifteen years in prison, has often been used in Thailand to discredit opponents and suppress political dissent. The military-dominated Centre for the Resolution of Emergency Situations (CRES), set up by the government to oversee security operations under the state of emergency, released a chart showing an anti-monarchy network linking various individuals related to the Red Shirts and the Puea Thai Party, with Thaksin at the centre.¹⁹

For the military, the 10 April incident was humiliating and led them to tighten their guard. The grenades that accurately struck a group of commanders who blended into the troops on the street raised speculation that it was a target killing. So-called “watermelon soldiers” – green on the outside and red inside – were suspected of helping identify the targets. (See Section IV.B on divisions within the military)

After the 10 April incident, the Red Shirts abandoned their original protest site near Government House and gradually built a fortified encampment in Bangkok’s business heart. From its centre, a stage set up at Rachaprasong intersection, the camp spread out in a cross: spanning 2.2 kilometres from north to south and 1.8 kilometres from east to west. Fearing an attack by the security forces, protesters stacked up old tires bound together by sharpened bamboo poles to build walls around the perimeter. Tensions rose when counter-Red Shirt forces, dubbed “multi-colour” shirts, rallied on nearby Silom Road to show their opposition to the Red Shirts and shout obscenities. On 22 April, five grenades hit the area where counter-Red Shirt protesters were gathered, as

well as a nearby elevated train station platform, killing one and injuring some 80 people. The government claimed that grenades were fired from an area next to the Red Shirt camp but the protest leaders denied any involvement.²⁰

On 29 April Red Shirt guards raided Chulalongkorn Hospital next to their protest site, claiming that soldiers were hiding inside buildings in its compound. The raid, led by a Thaksin-allied politician Phayap Panket, drew severe public criticism and greatly tainted their image. The hospital evacuated all patients in the following days.²¹ Red Shirt leaders apologised for the raid, saying the UDD leadership did not consent to Phayap’s plan.²²

Amid the growing prospect of a crackdown, Prime Minister Abhisit made a televised announcement on 3 May. He offered to hold the election early, on 14 November, and outlined a five-point “roadmap” to national reconciliation: upholding the monarchy, resolving socio-economic injustice, ensuring an impartial media, conducting an independent investigation into violent incidents, and undertaking political reform.²³ Red Shirt leaders initially welcomed the plan. But internal differences over how or whether to end the protest dragged on for a week without any conclusion. The sticking point was a minor issue about whether Deputy Prime Minister Suthep Thaugsuban should turn himself into the police or Department of Special Investigation (DSI) to face questioning for his responsibility for the 10 April military operation.²⁴ The government believed the Red Shirts were insincere about ending the protest. It believed the moderates had lost control of the movement to Thaksin and the hardliners, who

¹⁶ Nick Macfie, “Reuters TV cameraman’s chilling last picture show”, Reuters, 12 April 2010.

¹⁷ Crisis Group interviews, Red Shirt followers, Bangkok, 13 April 2010.

¹⁸ Prime Minister Abhisit Vejjajiva said in his televised announcement on 12 April 2010. See “Government aims to separate those committing terrorist acts from amongst innocent demonstrators, while working towards political solution”, www.capothai.org/capothai/government-aims-to-separate-those-committing-terrorist-acts-from-amongst-innocent-demonstrators-for-web-and-pr.

¹⁹ A copy of the anti-monarchy network chart released by the CRES is available at <http://us.asiancorrespondent.com/bangkok-pundit-blog/conspiracy-against-the-monarchy>.

²⁰ “Bomb terror grips Silom”, *The Bangkok Post*, 23 April 2010. Suthep Thaugsuban said in a televised announcement a few hours after the grenade attacks that the government believed it was fired from behind King Rama VI Monument, the area occupied by the Red Shirts.

²¹ See an independent inquiry into the raid of Chulalongkorn Hospital: “Hospital staff upholds international medical ethics during unrest in Bangkok”, Physicians for Human Rights, May 2010. The paper also noted that hospital staff were harassed by the Red Shirts who wielded knives and sharpened bamboo staves. They inspected vehicles, including ambulances with acutely ill patients that were arriving at the hospital, claiming soldiers could hide weapons in the vehicles.

²² “หลวงพ่อก๊วย แดงบุกกรพ. จุฬาฯ”, *โพสต์ทูเดย์* (ออนไลน์), 30 เมษายน 2553. [“Weng apologises for Red Shirts’ raid on Chulalongkorn Hospital”, *Post Today* (online), 30 April 2010].

²³ See a full transcript in Thai at the official website of Thai government. <http://media.thaigov.go.th/pageconfig/viewcontent/viewcontent1.asp?pageid=471&directory=1779&contents=44386>.

²⁴ On 11 May, Suthep reported to the DSI to hear complaints filed against him by relatives of the 10 April victims. However, the Red Shirts said they would not disperse until Suthep was charged by the police. “Irk PM says ‘rally ends today’”, *The Bangkok Post*, 12 May 2010.

had rejected the deal.²⁵ On 12 May, Abhisit withdrew the offer of an early election.²⁶

The government renewed pressure on demonstrators to leave their fortified protest site in Bangkok's business district. Then on 13 May, Maj. Gen. Khatiya Sawasdiapol, a renegade senior military officer better known as "Seh Daeng" who had been helping oversee security around the camp, was shot dead.²⁷ His assassination was an ominous warning to other Red Shirt leaders.

The 14-19 May operation to "take back" Rachaprasong sparked intense confrontations between the military and Red Shirt supporters just outside the perimeter of protest site. The military declared some areas as "live fire zones". Under its rules of engagement, use of live ammunition was allowed for warning shots in the air, for self-defence, and when confronting people with weapons.²⁸ Snipers were deployed in surrounding structures to provide cover for troops on the ground.²⁹ The military encircled the site and erected sandbags and barricades, while the Red Shirts stacked up old tires as their defence and burned some to create poor visibility for soldiers on the other side.

The government claimed that troops needed to use live bullets because there were "terrorists" among demonstrators, while human rights advocates alleged that the use of force against protesters was disproportionate to the threat they posed.³⁰ Journalists and observers on the ground said

that protestors generally fought with bare hands or with slingshots and homemade firecrackers. A Crisis Group researcher witnessed one incident where army soldiers fired several live rounds at a group of unarmed protesters, which included women and children, in response to a Red Shirt protester launching a non-lethal firecracker at a helicopter. In another account, a foreign journalist saw a red-shirted protestor armed with a slingshot shot by the military; others who were clearly unarmed were shot as well.³¹ The government, however, claimed armed assailants fired more than 100 grenades at army troops during the six-day confrontation.³² The CRES released figures showing the numbers and kinds of weapons found at Red Shirt protest sites.³³ Some of these are thought to have been those taken from government troops and army vehicles during the chaotic night of 10 April.³⁴

At least 54 people died, including two soldiers, and some 470 people were injured. The most notorious incident occurred on the evening of 19 May at Pathumwanaram Buddhist temple, designated as a weapon-free zone.³⁵ Six civilians were shot dead, including one rescue worker and two volunteer nurses. Soldiers were photographed stand-

rachaprasong. Amnesty International issued a statement on 17 May, calling on Thai soldiers to stop firing live ammunition into the areas where anti-government protesters gathered, as they were not likely to present any danger. "Thailand: Military must halt reckless use of lethal force", press release, Amnesty International, 17 May 2010. Human Rights Watch issued a statement calling on military forces to revoke "live fire zones" that might be used to justify the unlawful use of lethal force. "Thailand: Revoke 'Live Fire Zones' in Bangkok", press release, Human Rights Watch, 15 May 2010.

³¹ Read an account of a shooting incident on 15 May at Samliem Din Daeng by Nick Nostitz, "Nick Nostitz in the Killing Zone", at <http://asiapacific.anu.edu.au/newmandala/>.

³² As explained by Prime Minister Abhisit Vejjajiva to parliament during a no-confidence debate broadcast on state-run Channel 11 on 1 June 2010. Abhisit said that the government believed that Lumpini Park, adjacent to the Red Shirts' encampment, was used to fire grenades.

³³ Col. Sansern, the CRES spokesman, told a press conference that weapons seized from the Red Shirts between 22 April and 21 May 2010 included an M79 grenade launcher, four M16 rifles, seven AK47 rifles, four pistols, 39 hand grenades, 215 Molotov cocktails, 89 big firecrackers, and 298 improvised explosive devices/other types of explosive. See "เชื้ออาวุธแดงลักลอบนำเข้า", *โพสต์ทูเดย์*, 22 พฤษภาคม 2553 ["Believed Red Shirts Smuggled Weapons (across border)", *Post Today*, 22 May 2010].

³⁴ Crisis Group interview, Chaturon Chaisaeng, former acting leader of the now-defunct Thai Rak Thai Party, Bangkok, 26 May 2010.

³⁵ A few days ahead of the crackdown, a civil society group led by Gotham Arya, Director of Mahidol University's Research Centre on Peace Building, asked Wat Pathumwanaram Temple's abbot for permission to let protestors take shelter in the compound. The temple was declared a weapon-free zone and hundreds of Red Shirts sought refuge there before and during the crackdown.

²⁵ Crisis Group interviews, Democrat Party parliamentarians, May 2010.

²⁶ "No elections on Nov 14, Abhisit confirms", *The Nation*, 14 May 2010.

²⁷ Seh Daeng was officially disowned by the UDD leadership on 17 March but he continued to make appearances at the demonstration site. The renegade general was treated as a celebrity by Red Shirt followers and regularly interviewed by the media. His actions were tolerated by the UDD leaders. See a detailed discussion about him in Section V.B.

²⁸ English translation of the CRES press briefing, 14 May 2010. (www.capoathai.org/capoathai/security-operations-aimed-at-pressuring-protesters-to-leave-rachaprasong.)

²⁹ Col. Sansern Kaewkamnerd, the CRES's spokesman, admitted the presence of snipers in a televised announcement on 16 May after a video was released showing two soldiers armed with M16 assault rifles inside an unfinished building. The one carrying a rifle with a scope fires shots, while the other shouts "Already fell... already fell". Sansern explained that the soldier fired after clearly seeing a man holding a grenade approach the troops. See "Red Shirt Killed by Royal Thai Army Sniper", www.youtube.com/watch?v=pWLghLXoQUY.

³⁰ The CRES' spokesman Col. Sansern Kaewkamnerd defended the use of live bullets, saying the authorities "met with attacks by some individuals armed with weapons coming from the protesters' area". See English translation of the CRES press briefing, 14 May 2010, at www.capoathai.org/capoathai/security-operations-aimed-at-pressuring-protesters-to-leave

ing on an elevated train track in front of the temple and pointing rifles downward.³⁶ The government said troops were not ordered to go near the temple. Soldiers operating on the ground said they only entered the area to follow suspected arsonists but did not shoot the victims.³⁷ Prime Minister Abhisit said the incident “should not have happened” and said the autopsies showed that bullets were unlikely to have been fired from above.³⁸

Following the crackdown on 19 May, 36 buildings, including the shopping mall Central World Plaza; the Stock Exchange of Thailand; and several commercial banks were set on fire. It remains unclear if the Red Shirts were responsible for all of them.³⁹ The violence in Bangkok sparked anger among Red Shirts in the countryside, prompting the torching of governor’s offices in four north-eastern provinces.⁴⁰

The conflicting accounts of virtually every incident during this period underscore the need for a thorough and impartial fact-finding commission to determine what happened and to hold those responsible on all sides for the violence.

C. AFTER THE CRACKDOWN

The crackdown has deepened the divide and hardened attitudes on both sides.⁴¹ Red Shirt supporters went home empty-handed and grieving the violent deaths of dozens of comrades. The UDD leaders either surrendered to the police or fled. At the same time as the government an-

nounced that it would go ahead with a plan for reconciliation, Red Shirts continued to be arrested, provoking widespread fear. Many local leaders are keeping a low profile or have gone into hiding.⁴² Abhisit is now vague on a date for the election, saying the earliest it will be held is the end of 2010.⁴³ The government’s term ends in December 2011. One member of the Election Commission of Thailand even reportedly suggested that if a peaceful election could not be held, the constitution should be amended to increase the term of the present House of Representatives to ten years.⁴⁴

With the emergency decree imposed in 24 provinces, basic rights of expression and peaceful assembly are restricted and media controlled. The law grants the authorities immunity from civil, criminal and disciplinary penalties, giving them extensive powers with few safeguards against abuse. Authorities are allowed to detain suspects without charge for up to 30 days or summon those suspected of being involved in Red Shirt activities for questioning.⁴⁵ Under normal legal procedures, police are required to place charges and seek a court warrant before making an arrest. A senior army officer in the North East said that hundreds of letters had been sent to Red Shirts requesting them to come for a “talk”.⁴⁶ The CRES has shut down media outlets deemed to be Red Shirt propaganda tools, such as magazines, cable TV channels and community radio stations, without any proof they were

³⁶ See the cover of *มติชนสุดสัปดาห์*, ปีที่ 30, ฉบับที่ 1554, 28 พฤษภาคม–3 มิถุนายน 2553. [*Matichon Sutsapda*, vol. 30, no. 1554, 28 May–3 June 2010].

³⁷ See Wassana Nanuam, “Let the truth be known: what happened at the temple”, *The Bangkok Post*, 10 June 2010.

³⁸ As explained by Prime Minister Abhisit Vejjajiva to parliament during a no-confidence debate broadcast on state-run Channel 11 on 1 June 2010.

³⁹ “Bangkok branch attacked, bomb materials found”, *The Bangkok Post*, 24 May 2010.

⁴⁰ Governors’ offices were torched in Khon Kaen, Ubon Rachathani, Udon Thani and Mukdaharn. The interior ministry transferred the governors of the four provinces out of the area for failing to stop the arson. A senior government official in Udon Thani said “I am not too upset about the arson. We can replace buildings but not the people that would have been killed had the police intervened [to forcibly stop the arsonists]”. Crisis Group interview, a senior government official, 30 May 2010. Police commanders in the four provinces were also recalled to Bangkok.

⁴¹ Fearing revenge attacks, the government imposed a curfew in Bangkok and 23 provinces in the Central, North and north-eastern regions for ten nights after the 19 May crackdown. No serious violent incidents occurred during that time, although there was a shooting at a branch of Bangkok Bank in Bangkok at night, which broke a window pane.

⁴² Crisis Group interviews, Red Shirt leaders, Khon Kaen, 29 and 30 May 2010, and Crisis Group telephone interview, academic, Ubon Rachathani, 30 May 2010.

⁴³ “Election unlikely before year’s end”, *The Bangkok Post*, 30 May 2010. Foreign Minister Kasit Piromya said that parliament might be dissolved around the middle of next year. Crisis Group interview, Kasit Piromya, foreign minister, 28 June 2010.

⁴⁴ Mongkol Bangprapa, “EC organises for rough election”, *The Bangkok Post*, 10 June 2010.

⁴⁵ The state of emergency was initially declared in Bangkok and nearby provinces on 7 April and the government announced additional areas for imposing the law for three times. By 19 May 2010, the law covered a total of 24 provinces, which include six in the Central region (Bangkok, Nonthaburi, Samut Prakan, Pathumthani, Nakhon Pathom, Ayutthaya and Chonburi), five in the North (Chiangmai, Chiangrai, Lampang, Nakhon Sawan and Nan), and twelve in the North East (Khon Kaen, Udon Thani, Chaiyaphum, Nakorn Rachasima, Si Sa Ket, Ubon Rachathani, Nongbua Lamphu, Maha Sarakham, Roi-et, Sakon Nakhon, Kalasin and Mukdahan). A similar emergency law, enacted under the Thaksin government, has been imposed on the southernmost provinces of Pattani, Yala and Narathiwat since 2005. The predominantly Malay Muslim region has been wracked by an insurgency that has claimed more than 4,000 lives.

⁴⁶ Crisis Group interview, senior army officer, Nakhon Ratchasima, 27 May 2010.

connected to or had incited any violence.⁴⁷ More than 2,200 websites deemed to support the Red Shirts have been blocked.⁴⁸

The authorities have also used the additional powers granted by the emergency law to scrutinise and ban financial transactions of those believed to be the Red Shirts' main financiers. The CRES has already banned transactions of some 120 individuals and about twenty companies, including Thaksin's family members, members of Puea Thai Party and other Red Shirt leaders.⁴⁹ The Anti-Money Laundering Organisation (AMLO) later announced that it had tracked movement of funds totalling 150 billion baht (\$4.6 billion), which could be used to incite chaos and violence. Some 83 individuals and companies are suspected to be involved.⁵⁰ The list compiled by AMLO was published in various Thai media on 21 June.⁵¹ On its own, it proves little, resembles a smear campaign, and has raised questions about its arbitrariness.⁵²

The government's use of the emergency law goes beyond what is necessary to restore order and appears to have only hardened the Red Shirts' resolve. Restrictions on freedom of expression and assembly could force some Red Shirts underground; others say they are waiting for the restrictions to be eased before opening a new chapter in their struggle.⁵³

A key question is whether the movement will turn violent. One Red Shirt leader in Khon Kaen told Crisis Group that "violence is not a matter of if but when".⁵⁴ Some, including Thaksin, initially speculated that the Red

Shirts might become guerrillas.⁵⁵ As a preventive measure, the CRES since early May has ordered local authorities to confiscate shotguns issued by the government to village defence volunteers for fear that they would fall into Red Shirt hands. In the North East, some 40,000 shotguns have been taken back.⁵⁶

Recent violence in Bangkok and other provinces may lead the government to extend the emergency decree on 7 July, when it will be up for renewal.⁵⁷ On 22 June, a bomb exploded near the headquarters of Bhumjaithai Party, damaging cars and injuring one of the bombers, 26-year-old Anek Singkhunthod. According to police, there were six alleged culprits in the attack. Five pounds of TNT concealed in a cooking gas tank was placed in a pushcart and wheeled to an area close to the party headquarters. The remote control failed to trigger the bomb and it later exploded when Anek touched it. Another bomb in a cooking gas tank was abandoned in the bushes. Two suspects reportedly confessed to police, saying they were motivated by their frustration with the government's "double standard" treatment of the Red Shirts and the crackdown. They said they had acted on their own initiative.⁵⁸

On 25 June a small homemade bomb consisting of a water pipe filled with gunpowder was found near a telephone booth in the north-eastern province of Udon Thani.⁵⁹ On 27 June, two rocket-propelled grenades were fired into an empty oil depot with a capacity of five million litres in a military unit in Nonthaburi province, adjacent to Bangkok. The explosion caused some damage to the tank, which had not been in use.⁶⁰ It is unclear if the

⁴⁷ The CRES issued an order on 24 May 2010 banning four publications perceived to be connected to the Red Shirts: Voice of Taksin, Truth Today, Thai Red News, and Wiwatha (debate). See "CRES bans 4 publications connected with red shirts", *The Bangkok Post*, 27 May 2010.

⁴⁸ "วงในปิดเว็บไซต์เว็บปลุกระดมผิดเทคนิค-ยอดพุ่งสูง", *ไทยรัฐ*, 15 มิถุนายน 2553. ["Insiders say shutting down websites wrong method, numbers of banned websites jump", *Thai Rath*, 15 June 2010].

⁴⁹ See CRES Order no. 49/2553 dated 16 May, 58/2553 dated 18 May and 61/2553 dated 20 May 2010.

⁵⁰ "วงในเอสไอฟรีเงินหมื่นล้าน พัวพันก่อความไม่สงบ ผู้ต้องสงสัย 80 รายมีคนดังเอี่ยว กดเอทีเอ็มเบิกเงินแสนกว่า", *มติชน* (ออนไลน์), 14 มิถุนายน 2553. ["DSI to consider freezing 10 billion-baht funds used to incite violence; 80 suspects involved including famous names withdrawing 100,000 baht from ATM", *Matichon* (online), 14 June 2010.]

⁵¹ "The Blacklist", *The Nation*, 19 June 2010.

⁵² "How did people get on the red shirt funding list?", Bangkok Pundit (<http://us.asiancorrespondent.com/>), 21 June 2010.

⁵³ Crisis Group interviews, Red Shirt leaders, Khon Kaen, 29-30 May 2010.

⁵⁴ Crisis Group interview, Red Shirt leader, Khon Kaen, 30 May 2010.

⁵⁵ See Mark MacKinnon, "Fugitive former Thai leader warns of further violence", *Globe and Mail*, 26 May 2010. Thaksin said "resentful people will become guerrillas".

⁵⁶ Crisis Group interview, senior army officer, Nakhon Ratchasima, 27 May 2010.

⁵⁷ By law, the state of emergency needs to be renewed every three months by the cabinet.

⁵⁸ "รวบ กำพล-เดชพล ต้องสงสัยบ่มกบฏใจไทย ปลุคผู้หญิงซื้ออาวุธทำไปเพราะไม่พอใจรัฐบาล สลายมือแดง", *มติชน* (ออนไลน์), 25 มิถุนายน 2553. ["Kamphon and Detphon arrested for bombing near Bhumjaithai Party; revealing a lady name 'Or' involved; claiming they acted out of anger at govt's crackdown on Red Shirts", *Matichon* (online), 25 June 2010.]; "Blast hits near Bhumjaithai HQ", *The Bangkok Post*, 23 June 2010. Bhumjaithai Party may have been targeted because one of its influential members is Newin Chidchob, a banned politician who broke away from Thaksin and led a group of parliamentarians from the disbanded PPP to join the Democrat-led coalition government in December 2008.

⁵⁹ "Police find bombs in Bangkok, Udon Thani", *The Bangkok Post*, 25 June 2010.

⁶⁰ "Disuse army oil depot attacked", *The Bangkok Post* (online), 28 June 2010. A similar incident took place on 21 April 2010. A rocket propelled grenade was fired into an oil tank at the fuel terminal of Thai Petroleum Pipeline public company in Prathum Thani province, adjacent to Bangkok. The grenade

homemade bomb and oil depot attack are related to the Red Shirts. The bombing at Bhumjaithai Party headquarters suggests rank-and-file Red Shirts might take matters into their own hands and stage violent attacks against government targets.

III. FAILED NEGOTIATIONS

Several efforts to get the government and the UDD to negotiate a political settlement were made through various channels, up to the very last moment before the government decided to send troops into the Red Shirts' fortified camp. All failed to stop the violence.

The government appointed Kobsak Sabhavas, Secretary-General to the Prime Minister, to liaise with the Red Shirts as they began their protests in early March.⁶¹ The first third-party group that offered to facilitate negotiations between the government and the UDD was the National Human Rights Commission (NHRC).⁶² The government welcomed its offer on 18 March but the UDD immediately turned it down. Thaksin accused the NHRC of being partisan because it held a joint press conference with Abhisit at a military installation – the 11th infantry division headquarters.⁶³ The first round of televised talks facilitated by the King Prajadhipok Institute, a democracy promotion centre founded by an act of the Thai parliament, took place on 28 March and were inconclusive.⁶⁴ The UDD called for the government to dissolve parliament within fifteen days of an agreement. Another round of talks was held the following day. Abhisit offered to step down within nine months, cutting his term short by about a year. The UDD turned him down.⁶⁵

The situation intensified after 10 April. With the emergence of the “men in black”, the government took a tough line on the Red Shirts, claiming there were “terrorists” among them. Talks were held behind the scenes on a timeline for dissolution of parliament and bail for the

⁶¹ Crisis Group interview, an academic close to the prime minister, 12 March 2010.

⁶² “นายกรัฐมนตรีพร้อมเจรจากับผู้ชุมนุมแต่ต้องอยู่บนเงื่อนไขการชุมนุมที่อยู่ภายใต้กติกาของกฎหมาย”, สำนักเลขาธิการนายกรัฐมนตรี (www.pm.go.th/blog/13418), 18 มีนาคม 2553. [“PM ready to negotiate with law-abiding demonstrators”, Secretariat of the Prime Minister, 18 March 2010.]

⁶³ “ทักษิณ โฟนอินขอขอบคุณ ดันดิขึ้นเวทีแดง”, *คมชัดลึก*, 19 มีนาคม 2553. [“Thaksin phones to thank Tom Dandi for being on Red Shirts' stage”, *Kom Chad Luek*, 19 March 2010.]

⁶⁴ “เจรจากแรกล้ม ถกอีกวันนี้ มาร์คยอมจับเข้าคุกกับนปช. แต่ตกลงไม่ได้เรื่องยุบสภาฯ เผยเบื้องหลังกองทัพบีบคุ้ย”, *ข่าวสดรายวัน*, 29 มีนาคม 2553. [“First negotiation failed, second round begins today, Abhisit talked to UDD but can't agree on house dissolution, talk is pushed by army”, *Khao Sod Daily*, 29 March 2010]. The government was represented by Prime Minister Abhisit, his secretary-general Kobsak Sabhavas, and the Democrat Party's deputy secretary-general Chamni Sakdiset, while those from the Red Shirts were the UDD's president Veera Musikaphong, Jatuporn Phromphan and Weng Tojirakan.

⁶⁵ “เจรจากับเห่ แดงระดมใหญ่ไล่มาร์ค”, *ข่าวสดรายวัน*, 30 มีนาคม 2553. [“Negotiation failed, Red mobilised to oust Abhisit”, *Khao Sod Daily*, 30 March 2010].

created a hole in the tank used for storing 22 million litres of jet fuel. The leaking fuel caught on fire, but was quickly put out. “Failed sabotage attempt at fuel terminal forces urgent boost in security”, *The Nation*, 22 April 2010.

UDD leaders facing criminal charges.⁶⁶ In late April, Kobsak announced that he was ending his role as mediator.⁶⁷ Bangkok Governor Sukhumbhand Paribatra, in talks with the UDD leaders to manage space around the protest site, was briefly appointed intermediary. He said Abhisit officially asked him to hold talks on 23 April but less than 24 hours later told him to stop for unspecified reasons.⁶⁸ The Red Shirts then extended their deadline for dissolution of the government from fifteen days to 30.⁶⁹ Abhisit refused, explaining that the timeframe needed to take into consideration not only the views of the Red Shirts but also the majority of Thais.⁷⁰ Other civil society groups were trying in vain to get talks restarted, as a crackdown seemed imminent. On 30 April, Crisis Group warned that the country's polarisation demanded immediate assistance from neutral figures from outside the country.⁷¹

The prime minister's 3 May announcement of a "road-map" to national reconciliation renewed hope that the demonstration could end peacefully. As mentioned, the UDD accepted it in principle but internal differences over how or whether to end the protest led the government to accuse the Red Shirts of delaying tactics. Abhisit withdrew the offer on 12 May.⁷² The troops began the operation to take back Rachaprosong area on the following day. A group of senators led by retired general Lertrat Rattananawit launched the last bid at mediation on 18 May. After Lertrat talked to the UDD leaders at the protest site, they agreed to a "6pm ceasefire" and to renew talks. Abhisit said he told the senators that it would not work as long as the Red Shirts continued to fire grenades.⁷³

Negotiations failed largely because of lack of trust and genuine will on both sides. Disunity among the Red Shirts was also to blame. The government offer of the 14 November election date was reasonable and should have been acceptable for the Red Shirts. The opportunity passed because of internal disagreements. Among the Red Shirts, emotions ran high after months of demonstrations, and years of bitter struggle, heightened by the death of their comrades. Many did not trust the government's promise and wanted immediate dissolution of the parliament. Moderate leaders had a difficult time convincing their followers, who feared government suppression should they return home, to accept the offer.⁷⁴ The government should not have so quickly dismissed the senators' attempt to foster talks and rushed to clear the demonstrators. More concerted efforts to find a non-violent solution and greater patience could have prevented the divisive bloodshed that eventually transpired.

⁶⁶ Crisis Group interviews, civil society groups informed about the talks, April-May 2010.

⁶⁷ "กอร์ปศักดิ์รับนายกฯ เปลี่ยนคนเจรจาปช.", *โพสต์ทูเดย์*, 24 เมษายน 2553. ["Kobsak admits PM changes mediator with UDD", *Post Today*, 24 April 2010].

⁶⁸ Haseenah Koyakutty, "Revelations of a Thai crisis mediator", *Asia Times Online*, 29 April 2010. Sukhumbhand was reported to have met with Thaksin in mid-April in Brunei, during which he lobbied for the return of his diplomatic passport and access to the hundreds of millions of dollars not confiscated by the Supreme Court ruling. The talks were organised by a Swedish parliamentarian. Shawn W Crispin, "Abhisit's democratic choice", *Asia Times Online*, 12 June 2010.

⁶⁹ Crisis Group interview, Sukhumbhand Paribatra, Bangkok governor, Bangkok, 4 May 2010.

⁷⁰ "Thailand PM rejects protesters' offer", *BBC*, 24 April 2010.

⁷¹ International Crisis Group, *Crisis Risk Alert: Thailand*, 30 April 2010.

⁷² "No elections on Nov 14, Abhisit confirms", *The Nation*, 14 May 2010.

⁷³ Abhisit Vejjajiva, Briefing on the Current Political Situation for Members of the Diplomatic Corps and Foreign Chambers of Commerce, 29 May 2010.

⁷⁴ Crisis Group interviews, Jaran Dittha-aphichai and Weng Tojirakan, UDD leaders, 13 May 2010.

IV. THE ESTABLISHMENT

At the core of the political turmoil is a power struggle between the royalist establishment and Thaksin. There are four groups that have played pivotal roles in defending the establishment. The Privy Council, an advisory council to the king; the military, which sees itself as guardian of the nation; the judiciary, which since 2006 has been issuing verdicts that have sought to erode Thaksin's influence; and the People's Alliance for Democracy (PAD), popularly called the Yellow Shirts, a largely royalist movement.

A. THE PRIVY COUNCIL

The eighteen-member Privy Council, and particularly its president, Prem Tinsulanond, has become a symbol for Thaksin and the Red Shirts of the power network that they seek to change. Noted scholar Duncan McCargo argues that the 89-year-old Prem, an army commander and former prime minister (1980-88), wields enormous influence in Thai politics at the centre of a "network monarchy" whereby the King exercises his political will through proxies, such as privy councillors and trusted military figures. Since the 1980s, the King has been the ultimate arbiter of political decisions in times of crisis and the primary source of national legitimacy. He also acts as a commentator and helps set the national agenda.⁷⁵

Tensions arose when Thaksin sought systematically to displace the palace power network. The palace fought back.⁷⁶ In June 2006, Thaksin alleged that a "charismatic individual" was trying to use "extra-constitutional power" to pressure him to establish an interim government and amend the constitution before having new polls.⁷⁷ He resisted and the September 2006 coup appeared to be the result of that. Three years later, striking back at the establishment from his exile abroad, Thaksin told thousands of his Red Shirt supporters rallying in Bangkok via a video-link that the person he referred to was Prem.⁷⁸

Although Prem has denied being behind the 2006 coup, the fact that a trusted member of the Privy Council, Surayud Chulanont, became interim prime minister indicates tacit royal endorsement.

Journalist Paul Handley, author of the banned book *The King Never Smiles*, suggests that a fundamental driver of the coup was the issue of royal succession.⁷⁹ The establishment feared Thaksin would retain his influence during the transition period from King Bhumibol to his designated heir, Crown Prince Maha Vajiralongkorn. If Thaksin's power grew, he could influence changes in the palace's network. Handley argued that the 2006 coup, as with previous ones, was about "ensuring the solidarity and strength of the royal-military alliance in the face of potential challenges".⁸⁰

Thaksin has been accused of being disloyal to the monarchy and wanting a republic, an accusation he denies.⁸¹ He returns the charge, arguing that Prem's political manoeuvring has damaged the monarchy which is supposed to be above politics.⁸²

B. THE MILITARY

The conflict has polarised the army, traditionally a guardian of the throne, from its most senior officers to its basic conscripts. Thaksin alienated many in the elite, particularly Prem who previously influenced the selection of top commanders, by favouring his former classmates over palace-supported candidates for promotion. Those appointees were in turn resentful after his ouster, when they were replaced with officers trusted by the coup leaders.⁸³

⁷⁹ See Paul M. Handley, *The King Never Smiles* (New Haven, London, 2006)). The book, written by a former Bangkok-based correspondent for the *Far Eastern Economic Review*, is a critical and controversial biography of the revered King Bhumibol Adulyadej. Thai authorities deem it inappropriate for sale in the country.

⁸⁰ Paul Handley, "What the Thai coup was really about", Asia Sentinel, 6 November 2006. www.asiasentinel.com/index.php?option=com_content&task=view&id=249&Itemid=31. Thongchai Winichakul, a noted historian at University of Wisconsin-Madison, called the 2006 coup "a royalist coup". See Thongchai Winichakul, "Toppling Democracy", *Journal of Contemporary Asia* 38, no. 1 (February 2008), p. 30.

⁸¹ Richard Lloyd Parry, "Thaksin Shinawatra: the full transcript of his interview with The Times", *The Times* (online), 9 November 2009. The interview was controversial and the Thai authorities blocked access to the webpage.

⁸² Thaksin made the charge in the same video link mentioned above. See "ทักษิณจัดเปรม คนมีบารมี นอก รชน.ทำเจ้านายเสื่อมเสีย - อัดสุรยุทธ์บงการรัฐประหาร เนะล้างไฟ", *มติชน* (ออนไลน์), 28 มีนาคม 2552 ["Thaksin accused Prem of being charismatic person outside Constitution, damaging his boss' reputation; blaming Surayud for masterminding coup, suggesting clear the deck", *Matichon* (online), 28 March 2009].

⁸³ Crisis Group interview, retired army general, Bangkok, 25 May 2010.

⁷⁵ Duncan McCargo, "Network monarchy and legitimacy", *The Pacific Review* 18, no.4 (December 2005), pp. 499-519.

⁷⁶ As explained by McCargo, *ibid.*, p. 500.

⁷⁷ "ทักษิณจัด คนมีบารมี ทำบ้านเมืองวุ่น", *กรุงเทพธุรกิจ*, 30 มิถุนายน 2549. ["Thaksin accused charismatic person causes chaos for the country", *Krungthep Thurakit*, 30 June 2006].

⁷⁸ "ทักษิณจัดเปรม คนมีบารมี นอก รชน.ทำเจ้านายเสื่อมเสีย - อัดสุรยุทธ์บงการรัฐประหาร เนะล้างไฟ", *มติชน* (ออนไลน์), 28 มีนาคม 2552. ["Thaksin accuses Prem of being charismatic person outside Constitution, damaging his boss' reputation; blaming Surayud for masterminding coup, suggesting clear the deck", *Matichon* (online), 28 March 2009].

In October 2007, Gen. Anupong Paochinda, the First Region commander who took part in the 2006 coup, was promoted to army commander-in-chief.⁸⁴ Some feared that Thaksin allies in the army, dissatisfied with their “unjust” removal, might try to stage a coup. Anupong has repeatedly denied the possibility, and put trusted men as battalion commanders in the forces normally used in a coup to make sure that they would not mobilise troops against him. Although the pro-Thaksin soldiers might not be capable of overturning the dominant clique, signs of internal rift were evident. During the two-month demonstrations, Red Shirt leaders claimed that “watermelon” soldiers – who support the Red Shirts’ cause – leaked news to them about government operations. Within the rank-and-file, many soldiers from lower class and rural backgrounds were sympathetic to the Red Shirts. In the North and North East, the movement’s heartland, they implemented their orders slowly, giving protestors some breathing room without actively supporting them.⁸⁵

Observers and some in the army believe that “watermelon” army officers might be involved in the grenade attacks during the 10 April incident. The troops operating in the area where commanders were struck by grenades were from the 2nd Infantry Division, aka Bhurapha Phayak (Eastern Tigers), based in the eastern province of Prachinburi. In recent years, senior army officers from this division, including Anupong, have occupied the top posts. This has caused resentment among their peers from other units – particularly those from the Bangkok-based 1st Infantry Division, aka Wong Thewan (Clan of Angels) – who had previously been key candidates for top positions. Some senior army officers affiliated with Wong Thewan are close to Thaksin and would be candidates for top posts in the army should Thaksin-aligned politicians come back to power. Some analysts see the 10 April incident as part of the larger internal rivalry between Bhurapha Phayak and Wong Thewan.⁸⁶

Appointment of a new army commander to replace Gen. Anupong, who is scheduled to retire in September 2010, will be key in ensuring the army’s support for the establishment. When the Abhisit government was considering an early election date, the timing of the military reshuffle and the annual budget were important considerations. The government wanted to stay in power at least until the end

of September to oversee the annual military promotion process. Gen. Prayut Chan-o-cha, the army’s deputy commander, is the establishment’s preferred choice. If appointed, Prayut could hold the post until he retires in 2014. Prayut is another Bhurapha Phayak, who spent several years in his military career in the 21st Infantry Regiment (The Queen’s Guard) of the 2nd Infantry Division.⁸⁷

Since becoming a constitutional monarchy in 1932, Thailand has undergone eighteen attempted or successful coups. The military’s role in politics had been in decline following the 1992 May uprising that overthrew a military-backed government, and many thought the days of military coups were over. Thaksin’s removal in 2006 allowed the military to make a comeback and its political influence has significantly expanded since.

The relationship between the military and police has deteriorated as both institutions have been politicised by the colour-coded conflict. The Abhisit government deployed troops to oversee demonstrations because it did not trust the police, who were seen as largely sympathetic to the Red Shirts. The government accused police of quietly defying its orders.⁸⁸ A senior government official described how the government “could not order anyone” because the police would act like “a state unto itself”.⁸⁹ Some police were labelled “tomatoes”, signifying red. Many police recall with bitterness an operation on 7 October 2008 when they were ordered by the Thaksin-allied government of Somchai Wongsawat to provide security around the parliament where the Yellow Shirts were demonstrating. Day-long clashes resulted in two deaths and some 400 people injured. Police were widely condemned for hurting innocent people and five senior police officers are facing criminal charges for supervising the operation.⁹⁰

⁸⁴ Although one of Thaksin’s former classmates, Anupong, a former commander of the 21st Infantry Regiment (The Queen’s Guard), was never seen as being a supporter.

⁸⁵ Crisis Group interview, senior army officer, Nakhon Ratchasima, 27 May 2010.

⁸⁶ Crisis Group interviews, senior army officer, 14 April 2010; senior journalist on military affairs, 29 June 2010; “เบื้องหลัง 10 เมษายน กลุ่ม “บูรพาพยัคฆ์”, มติชนสุดสัปดาห์, ปีที่ 30, ฉบับที่ 1549, 23 - 29 เมษายน 2553. [“Behind the Attacks on Eastern Tigers”, Matichon Sutsapda, vol. 30, no. 1549, 23 – 29 April 2010].

⁸⁷ Crisis Group interview, retired army general, Bangkok, 25 May 2010.

⁸⁸ In the North East, police have provided assistance to the Red Shirts, ranging from providing transportations and protection for UDD leaders to moving supplies and people to the Bangkok protest site, to teaching them how to avoid army checkpoints. Some police saw the Red Shirt movement as a way to bring about changes in their own low-paid organisation rife with bribery and corruption. They want promotions based on meritocracy and not personal connections. Crisis Group interviews, police officers and Red Shirt demonstrators, Bangkok and Nakhon Rachasima, May-June 2010.

⁸⁹ Crisis Group interview, a senior government official, Bangkok, 28 June 2010.

⁹⁰ The National Counter Corruption Commission brought criminal charges against five senior police officers, including the national police chief Gen. Patcharawat Wongsuwan, for their supervision of the operation. The Prime Minister Somchai Wongsawat and Deputy Prime Minister Chavalit Yongchai-

C. THE JUDICIARY

The exercise of judicial power and the apparently selective use of prosecutions have contributed to the effort to dismantle Thaksin's political power. The use of judicial power to influence political changes during this conflict has been unprecedented. Court rulings relating to Thaksin and his allies have led the Red Shirts to accuse the judiciary of applying a "double standard". As noted, judicial intervention in the political process began in May 2006, following the King's advice to judges to use their authority to resolve the crisis. Since then:

- ❑ The Constitutional Court and Administrative Court annulled the April 2006 elections.
- ❑ The Constitutional Court in May 2007 ordered the dissolution of Thaksin's Thai Rak Thai party for violating the political party law.⁹¹
- ❑ The Constitutional Court removed Prime Minister Samak from power in September 2008 for conflict of interest after he accepted payments for hosting a TV cookery show while in office.
- ❑ The Supreme Court for Criminal Cases of Political Post Holders ordered Thaksin imprisoned for two years for conflict of interest in a land deal case in October 2008.⁹²
- ❑ The Constitutional Court dissolved Thaksin-allied People Power Party in December 2008 for committing electoral fraud.
- ❑ The Supreme Court for Criminal Cases of Political Post Holders ruled in February 2010 that Thaksin abused his authority for personal enrichment and ordered the seizure of 46 billion baht (\$1.4 billion) out of 76.6 billion (\$2.3 billion) frozen assets.⁹³

While some welcome these rulings as judicial activism (*thulakarnwipat*) necessary to resolve the political crisis, others warn that these cases distorted fundamental legal

principles. The judiciary's role in recent years risks undermining its impartiality and credibility in the long term. A group of five legal experts from Bangkok's prestigious Thammasat University, led by Worajet Phakhirat, have criticised the rulings related to Thaksin.

Regarding the 2006 elections, Worajet argued that there was no serious breach of election regulations warranting the nullification. The courts ruled that the elections were conducted too hastily and the positioning of polling booths violated the principle of confidential voting.⁹⁴ Worajet called the 2007 ruling to disband the Thai Rak Thai party "a coup d'état in the disguise of a court ruling". He argued that coup leaders chose to disband Thaksin's party by constitutional means rather than exercise their direct powers so as to make it seem more legitimate. Worajet also disagreed that all executive members should be held responsible for the violation of electoral laws by some party members; nor should the party have been dissolved. He has made similar points regarding the 2008 court rulings that dissolved the People Power Party and two other parties.⁹⁵

As for Samak's removal, Worajet argued that the prime minister's acceptance of a payment for hosting a television cooking show did not make him an "employee" of the company. There was also no evidence that such an act caused any conflict of interest with his position.⁹⁶

Two cases relating to the ruling Democrat Party's alleged electoral irregularities, which could potentially see it disbanded, will likely be before the Constitutional Court soon and will be indicative of whether election laws are being equally applied to all political parties.⁹⁷ Apart from

yudh were also charged. See "NACC hits Somchai and Chalvit with criminal suits", *The Bangkok Post*, 17 March 2009.

⁹¹ The Thai Rak Thai executive members hired small parties to run in the April 2006 elections to circumvent the 20 per cent quorum required in a constituency where a candidate was not contested.

⁹² On 21 October 2008, the Supreme Court's Criminal Division for Political Office Holders sentenced Thaksin to two years in prison. He was found guilty of abusing his authority while in office by facilitating a 2003 Rachadaphisek land deal for his then wife Potjaman, to buy a 772-million-baht plot (\$23 million) of land from the state. See "Thaksin gets 2 years' jail", *The Nation*, 22 October 2008.

⁹³ "Court to seize \$1.4B from former Thai PM", CNN, 26 February 2010.

⁹⁴ วรเจตน์ ภักดิ์รัตน์, *จุดไฟในสายลม* (กรุงเทพฯ: 2552), หน้า 13–14. [Worajet Phakhirat, *Lighting Fire in the Wind* (Bangkok, 2009), pp. 13–14.]

⁹⁵ Ibid, pp. 187–195, 281–291. Announcement of the Council for Democratic Reform No. 27, article 3 (the body of coup leaders established after the coup), dated 21 September 2006, stated that executive members of a disbanded party shall have their right to run in elections revoked for five years. The court delivered a verdict in May 2007 to ban the Thai Rak Thai party in a case relating to the April 2006 elections and its executive members were penalised. The order was applied retrospectively. Worajet has criticised the decision to apply the order retroactively, arguing it violates legal principles.

⁹⁶ Worajet Phakhirat, *Lighting Fire in the Wind*, op. cit., pp. 296–303. For another critical scholarly work by a different member of the group of legal experts, see ปิยนุตร แสงนกกุล, *ในพระปรมาภิไธยประชาธิปไตยและตุลาการ* (กรุงเทพฯ: 2552) [Piyabutr Saengkanokkul, *Under the King's Prerogatives, Democracy and Judiciary* (Bangkok: 2009)].

⁹⁷ The Election Commission has recommended that the Democrat Party be dissolved for committing electoral fraud in two separate cases. One is the alleged misuse of 29 million baht in public funds (\$897,800) provided by the Election Commission for election campaigns, and the other is irregularities related to 258 million baht donation (\$7.9 million) from the TPI Polene,

cases related to Thaksin and his allied parties, rank-and-file Red Shirts believe that the justice system is working against them and applying a “double standard”. In particular, they cite the long delay in prosecuting Yellow Shirts who seized the airports in December 2008. While Yellow Shirt leaders have not been charged, Red Shirt leaders were quickly detained and charged with “terrorism” for their occupation of Rachaprasong area.⁹⁸

D. THE YELLOW SHIRTS

The People's Alliance for Democracy, popularly called the Yellow Shirts, was formed in 2006 as a royalist-liberal alliance. While the conservative elites feared that Thaksin's growing influence was threatening their power, the urban middle classes were concerned about his corrupt and autocratic rule. The PAD has gradually become a potent conservative royalist force. While battling the pro-Thaksin government in 2008, the PAD proposed an idea of “new politics”, with parliament containing 70 per cent appointees and only 30 per cent elected representatives. The proposal, though later dropped, reflected the PAD's weak faith in representative democracy and its preference for a system of virtuous rule by unelected traditional elites.

After the 10 April events, the Yellow Shirts called for the government to take “decisive measures” to protect “the nation and the monarchy”, presenting themselves again as defenders of the throne. They threatened to take action in seven days if the government failed to “enforce the laws and deal with terrorist acts associated with the Thaksin regime”.⁹⁹ The PAD's demand came as thousands of pro-government supporters, dubbed “multi-colour” shirts, were rallying against the Red Shirts on Bangkok streets. Some alleged that the “multi-colour” shirts were Yellow Shirts in disguise. The show of strength by both groups at the height of the Red Shirt protest raised concerns that serious civil strife could erupt.

In June 2009, the PAD turned its loose network of mass support into an organised political party called “New

Politics”. The party's secretary-general Suriyasai Katasila said that the PAD and the party were like water and fish, with the latter needing the former to survive. He expects the new party to be small, with between twenty and 30 seats in the future parliament.¹⁰⁰

Despite having its own party, the PAD continues to be a potent force in extra-parliamentary politics. Sondhi Limthongkul, the New Politics Party's head and the most prominent Yellow Shirts leader, resigned from the party's leadership in May 2010 and pledged to fully resume his role in the PAD. After his resignation, the ultra-royalist Sondhi, speaking on his ASTV cable channel, attacked the Democrat Party and the military for being too lenient towards the Red Shirts and for failing to defend the revered monarchy. He called for Abhisit to step back from politics for three years and “return the power to the King” and have a new government formed to undertake the process of political and social reform.¹⁰¹

whose owner Prachai Liewphairat is a staunch opponent of Thaksin. See “Democrats under fire after ruling”, *The Bangkok Post*, 13 April 2010.

⁹⁸ The police summoned 36 Yellow Shirt leaders to hear the charges in July 2009 but so far it has not sought arrest warrants from the court. The police has delayed its request for arrest warrants for several times. “พ.ต.ช.ชื่อหมาขี้บพม. ก่อการร้ายยึดสนามบินอ้างให้ฝ่ายกฎหมายพิจารณาอีกรอบ”, *มติชน* (ออนไลน์), 26 พฤษภาคม 2553. [“Police chief hold off on arrest warrants on PAD for terrorism and airport seizure, claims need for reconsideration by legal section”, *Matichon* (online), 26 May 2010.]

⁹⁹ The PAD's statement, “Be ready to assume the duty to protect the nation and the monarchy”, dated 18 April 2010, is available at *Manager* (online) (www.manager.co.th).

¹⁰⁰ Crisis Group interview, Suriyasai Katasila, the New Politics Party's secretary-general, Bangkok, 27 May 2010.

¹⁰¹ “‘สนธิ’ คืนพันธมิตร์ฯ สละเก้าอี้ ก.ม.ม. เสนอทางออกปฏิวัติ-ดึง ปชช. ปฏิรูปประเทศ”, *ผู้จัดการ* (ออนไลน์), 14 พฤษภาคม 2553 [“‘Sondhi’ resigned from News Politics Party's leader, proposed a revolution to bring people together to reform country”, *Manager* (online), 14 May 2010]. Sondhi said that he kept his promise to step down after assisting the party during the initial stage, adding that the laws governing political parties and his role as the party's head prohibited him from speaking his mind.

V. THE RED SHIRTS

The UDD is a diverse network of groups that have been drawn into the movement as much by their political and economic aspirations as by their admiration for Thaksin. Its leadership is far from united, and the moderate and the hard-line camps have had heated internal conflicts. The relationship of the "men in black" with the larger movement remains unclear, though the government claims they are allies. Regardless of their affiliation, the appearance of armed men among Red Shirt ranks, perceived by some Red Shirts to be helpful, has been detrimental to the movement and made possible a tough government response.

A. THE UDD'S LEADERS AND MEMBERS

The United Front of Democracy Against Dictatorship was formed in 2007 as an alliance of the anti-coup and pro-Thaksin forces. There are various personalities involved in the UDD's campaigns, ranging from Thaksin-allied politicians, pro-democracy activists, labour union activists, ex-communists, community radio announcers, and soldiers. The Red Shirts frame their movement as a struggle between *ammart* (aristocratic elite) and *prai* (commoner). The majority of Red Shirt supporters are urban and rural poor, who have been at the margin of economic development. The gap between the rich and the poor in Thailand is large but poor Thais are facing relative rather than abject poverty. Average household income in Bangkok is five times higher than that of Mae Hong Son, the country's poorest province in the North where the average household income is 7,245 baht (\$221) per month. The North East has the highest incidence of poverty in the country.¹⁰² Thaksin's "populist" policies, such as low-cost health care and micro-credit, addressed day-to-day needs in way no government had before.

Since the 2006 coup, hundreds of Red Shirt groups have emerged in the North and North East, loosely organised through the patronage network of Thaksin-supported political parties as well as other social networks. In rural areas, community radio is used to educate the Red Shirts as well as mobilise them. Several of the movement's leaders in the provinces are radio announcers. Khwanchai Phraiphana, a radio host in the north-eastern province of Udon Thani, became one of the most prominent UDD leaders. The government alleges that radio programs have incited the Red Shirts to rise up against the so-called *ammart*. These local stations are hard to monitor and it is

unclear whether they have just used their broadcasts to galvanise support for legitimate political activities or whether they have ever incited violence. Whatever the content, these networks have allowed the Red Shirts to quickly and effectively mobilise their supporters to join demonstrations.

In September 2009, the movement adopted new tactics. It openly launched a "UDD political school" to educate its followers to support its objectives.¹⁰³ Nisit Sinthuphrai, a UDD leader and former executive member of the disbanded PPP, was the director of the UDD political school.¹⁰⁴ Training sessions lasting one or two days were conducted in several provinces in the centre, North and North East. Teachers were UDD leaders who focused their lessons on democracy, organising techniques, non-violent struggle, team work and political analysis.¹⁰⁵ At least 16,700 activists attended these training sessions.¹⁰⁶

¹⁰³ The first two-day training of the UDD political school (in Thai, *rongrean pathibatngan nor por cho daeng thang pang-din*) was conducted on 12-13 September 2009 and attended by some 1,200 Red Shirt followers in Bangkok and nearby provinces. จรัล คิษฐากิษฐ์, "ถนนประชาธิปไตย: โรงเรียนผู้ปฏิบัติงาน นปช. บ่มเพาะครูแดง", *โลกวันนี้วันสุข*, 19 – 25 กันยายน 2552. [Jaran Dittha-aphichai, "Road to democracy: UDD school to produce red teachers", *Lokwanniwansuk Weekly Magazine*, 19-15 September 2009].

¹⁰⁴ Nisit surrendered to the police after the 19 May crackdown and is under detention.

¹⁰⁵ จรัล คิษฐากิษฐ์, "ถนนประชาธิปไตย: โรงเรียนผู้ปฏิบัติงาน นปช. บ่มเพาะครูแดง", *โลกวันนี้วันสุข*, 19 – 25 กันยายน 2552. [Jaran Dittha-aphichai, "Road to democracy: UDD school to produce red teachers", *Lokwanniwansuk Weekly Magazine*, 19-15 September 2009]. For example, Natthawut Saikuea taught democracy, Dr Waeng Tojirakan mobilisation and network building, Wiphuthalaeng Patthanaphumthai aristocratic regime, Wisa Khanthap non-violent struggle for democracy, Jaran Dittha-aphichai teamwork and science, and Adisorn Phaengket, Woraphon Phrommikabut and Jatuporn Phromphan political analysis. Wisa is a left-leaning poet and singer who was among the young activists that joined the democracy movement in the 1970s, popularly known as the "October generation". Adisorn Paengkaet, Waeng Tojirakan and Jaran Dittha-aphichai are also from the "October generation". Adisorn is a veteran politician, who was banned from politics for five years along with other Thai Rak Thai politicians. Waeng is a medical doctor by profession and a veteran democracy activist. Jaran previously taught social science at Rangsit University and is a former NHRC commissioner; he was forced to resign in 2007 after he joined the UDD protests. Woraphon Phrommikabut is a former dean of Thammasat University's Faculty of Sociology and Anthropology, while Wiphuthalaeng Patthanaphumthai was a leader of anti-coup group called *kon wansao mai-ao phadetkan* (Saturday People Against Dictatorship), which later joined the UDD.

¹⁰⁶ Crisis Group interview, a Puea Thai parliamentarian, Chaiyaphum, 28 May 2010. Also see "จตุพรไม่สนรัฐบาลกดดันยุติม็อบขึ้นปึกหลักต่อ", *คมชัดลึก*, 11 พฤษภาคม 2553. ["Jatuporn ignored government's pressure, insisted to continue protest", *Komchadluek*, 11 May 2010].

¹⁰² See United Nations Development Program (UNDP), *Thailand Human Development Report 2009: Human Security, Today and Tomorrow* (Bangkok, 2010), p. 123.

The UDD leadership is far from united and at times its disagreements have broken into heated public arguments in the media. The *Samkler* (trio) – Veera Musikaphong, Jatuporn Phromphan and Natthawut Saikuea — has dominated the UDD campaigns from the outset. Veera is a veteran politician who was among the 111 Thai Rak Thai executive members banned from politics for five years; Jatuporn is a Puea Thai parliamentarian; and Natthawut a former spokesman of Samak government. The trio themselves could not agree on how to respond to the government offer of a roadmap to reconciliation in early May: Veera and Nattawut were in favour of it, while Jatuporn was opposed.¹⁰⁷ In March, these moderates were severely criticised by the more hard-line camp, namely renegade general Seh Daeng, and *Daeng Siam* (Red Siam) led by ex-communist Surachai Danwathananusorn.¹⁰⁸

Authorities suspected that Seh Daeng was involved in several grenade attacks against government-related targets that took place in and around Bangkok during Red Shirt rallies. They saw Red Siam's campaign as having an explicit republican tone. Seh Daeng's violent image and Red Siam's radical tone became liabilities for the UDD, which had already been accused of attempting to overthrow the monarchy. Veera publicly disowned both, stating that their strategy was not in line with the UDD's "non-violent" principles.¹⁰⁹

Red Siam disagreed strongly with the trio about campaign strategies. Surachai criticised them for having made several strategic mistakes that had led to failure. He argued that Red Siam did not promote a republican system but rather a democratic one, in which the monarchy plays a figurehead role and is not involved in politics. He called the "reform" path pursued by the trio a failure and said the Red Shirts had to pursue a "revolutionary path".¹¹⁰

With the violent crackdown at Rachaprasong, they are unlikely to continue leading the Red Shirts. All face terrorism charges. Veera and Natthawut are in detention, while Jatuporn has been granted bail. Others said to be second-tier UDD leaders have also been arrested or fled

and face similar terrorism charges. Arisman Phongruangrong, a pop singer-turned-politician who joined a Thaksin-supported party, and Suphorn Atthawong (aka Rambo Isan), who has been associated with Thaksin-supported parties, are on the run. The radio host Khwanchai is in detention. The DSI has filed terrorism charges against at least 53 Red Shirt leaders, including Thaksin.¹¹¹ The offence is punishable by death. Now on the defensive, local Red Shirt leaders are keeping a low profile as they fear further arrests.¹¹²

It is extremely difficult for the Red Shirts to carry out any political activity while the emergency law remains in force in Bangkok and 23 other provinces, about one third of the country. Any political gathering of more than five people is banned and some Red Shirts were rounded up for staging small rallies. The government has not given any clear indication of when it will lift the emergency law, which is up for renewal on 7 July. Red Siam leader Surachai said that his group would launch a "new struggle" as soon as the law is revoked.¹¹³ It is unclear how much influence he has or will have over most Red Shirt followers.

B. SEH DAENG AND THE "MEN IN BLACK"

The Red Shirts' claim of non-violence was questioned after a series of grenade attacks by armed assailants hit Bangkok Bank branches, the office of an army commander, and the public health ministry between February and March.¹¹⁴ The most deadly attack was on 10 April

¹⁰⁷ Crisis Group interviews, Red Shirt leaders and informed academics, May 2010.

¹⁰⁸ The formal leader of Red Siam is Jakkrapob Penkair. Jakkrapob, a former TV presenter and minister in the Samak government, was one of the original leaders of the UDD during its struggle in 2006-2007. He went into exile after facing a *lèse majesté* charge in 2008.

¹⁰⁹ Veera made the announcement at Phan Fa bridge, 17 March 2010. The transcript of his speech is available at www.voicetv.co.th.

¹¹⁰ Interview with Surachai Danwathananusorn on the "Intelligence" program by Jom Phetpradap, 30 March 2010, available at www.voicetv.co.th/content/10519/แสดงสยามไม่ใช้คอมมิวนิสต์ไม่ได้ล้มเจ้า.

¹¹¹ "ขงคิเอสไอพอริชเงินหมื่นล้าน พัวพันก่อความไม่สงบ ผู้ต้องสงสัย 80 รายมีคนดังเอี่ยวกด เอทีเอ็มเบิกเงินแสนกว่า", *มติชน* (ออนไลน์), 14 มิถุนายน 2553. ["DSI to consider freezing 10 billion-baht funds used to incite violence; 80 suspects involved including famous names withdrawing 100,000 baht from ATM", *Matichon* (online), 14 June 2010].

¹¹² Crisis Group interviews, Red Shirt leaders, Khon Kaen, 29-30 May 2010.

¹¹³ "สุรชัยสั่งพร้อมปลุกคนเสื้อแดงรอบใหม่", *Nation Channel*, 19 พฤษภาคม 2553 ["Surachai announced, ready to lead a new struggle of Red Shirts", *Nation Channel*, 19 May 2010 (www.nationchannel.com).]

¹¹⁴ Bangkok Bank was targeted by the Red Shirt protesters for its alleged link with Prem, who is honorary chairman of the advisory board. They rallied outside its headquarters on Silom Road on 19 February 2010. A week later, a nearby Bangkok Bank branch on the same Road was hit by a hand grenade, damaging glass doors and windows at the entrance. On 15 March 2010, six grenades were fired at a battalion compound that housed army chief Gen. Anupong Paochinda's residence, wounding two soldiers. On 23 March 2010, two grenades hit the public health ministry's compound shortly after a cabinet meeting was held, damaging three cars. See "Foreigners told to keep clear", *The Bangkok Post*, 20 February 2010; "Bank on high alert after bomb blasts", *The Bangkok Post*, 28 February, 2010; "Army unit attacked by M79 grenades", *The Bangkok*

when grenades struck military troops during a stand-off with Red Shirt protesters. After that incident, the government began to refer to these shadowy armed assailants as “men in black”, although it is unclear if all these attacks were carried out by the same group. This term was also adopted by the Red Shirts, some of whom openly welcomed them as additional defence against government troops.¹¹⁵

The identity of the “men in black” remains unclear, but many believe they were linked to Seh Daeng, the renegade officer assassinated on 13 May. Seh Daeng’s background is well known. He joined the Red Shirts partly out of frustration with his superiors within the army as he felt that he had not received a promotion he deserved.¹¹⁶ In 2008, he told the press that he was training young men in black as a counterforce to the Yellow Shirts.¹¹⁷ He reportedly flew to meet Thaksin several times and a photograph released in February this year shows him in Dubai with Thaksin and other UDD leaders.¹¹⁸ Seh Daeng’s blunt criticism of his superiors and his open allegiance to the Red Shirts led the military to suspend him in January 2010.¹¹⁹ He was also threatened that he could be stripped of his rank and dismissed.

Although he was disowned by the UDD leadership, they were unwilling or unable to expel him from their ranks, in part, perhaps, because he was treated by Red Shirt followers as a celebrity. This swaggering and pugnacious personality was always found at the demonstration site and was frequently interviewed by domestic and international media. He was good copy as he often lashed out not only at the government and the army, but also at other Red Shirt leaders, particularly the moderate trio. He had a proprietary air, often inspecting the barricades in the early morning and giving instructions to guards to ensure the troops could not invade the Red Shirts’ fortified camp.¹²⁰

Seh Daeng became a prominent hardliner after he spoke out against ending the demonstrations following the government’s offer of a reconciliation roadmap. The general

said that Thaksin had instructed him in a 9 May telephone conversation to appoint second-tier leaders – Arisman, Suporn, Khwanchai and Vaipot – if any of the current leaders backed down from the protest.¹²¹ Prime Minister Abhisit publicly named Seh Daeng as a chief opponent of the roadmap and said anyone who opposed it was a “terrorist”.¹²² It is not clear to what extent the Red Shirts heeded Seh Daeng’s opinions, but the government believed the hardliners had won out over the moderates when it withdrew its offer of an early election and began to move in the troops for the final operation on May 14.¹²³

Seh Daeng’s assassination occurred at a crucial time: a day before the military encircled the Red Shirts’ barricaded camp. Two plausible explanations are that it was a revenge killing for the death of soldiers on 10 April or an attempt to weaken the hardline wing ahead of the army operation.¹²⁴ Seh Daeng openly supervised the Red Shirt guards, and was thought to have some control over the armed elements, whom he referred to as “Ronins” – masterless Japanese samurai.¹²⁵ He denied this: “Everybody thinks that I am the Ronin leader. I deny this. I deny this. I am not a Ronin....I only want to fight with peaceful means”.¹²⁶

It remains unclear who the “men in black” are, but they appeared to have had military training.¹²⁷ There is specu-

Post, 16 March 2010; “Grenades hit Health Ministry”, *The Bangkok Post*, 24 March 2010.

¹¹⁵ Crisis Group interviews, Red Shirt followers, Bangkok, April-May 2010.

¹¹⁶ Crisis Group interview, a parliamentarian closed to Maj.Gen. Khatthiya Sawasdiapol, Bangkok, 15 April 2010.

¹¹⁷ Nirmal Ghosh, “Nobody messes with Seh Daeng”, *The Straits Times*, 23 October 2008. He also said he would defeat the PAD protesters by dropping snakes on them.

¹¹⁸ See one of the latest photographs of Thaksin, Seh Daeng, and other Red Shirt leaders taken in Dubai on 3 February 2010 at http://thaienews.blogspot.com/02/2010blog-post_04.html.

¹¹⁹ Wassana Nanuam, “Anupong suspends Seh Daeng”, *The Bangkok Post*, 14 January 2010.

¹²⁰ Richard S Ehrlich, “On guard at Bangkok’s frontlines”, *Asia Times Online*, 11 May 2010.

¹²¹ “เสธ.แดงปลุกแม้ว่ตั้งแต่นำแดงรุ่น 2”, *ข่าวสด*, 10 พฤษภาคม 2553 [“Seh Daeng revealed Thaksin ordered setting up second-tier Red Shirt leaders”, *Khao Sod*, 10 May 2010.]

¹²² Abhisit’s weekly televised address on the government-run NBT station on 9 May 2010.

¹²³ Crisis Group interviews, senior Democrat Party members and sources close to the party, Bangkok, May 2010.

¹²⁴ A journalist on military affairs for the *Bangkok Post*, Wassana Nanuam, opined that “hawkish soldiers” saw Seh Daeng’s assassination as necessary to weaken the Red Shirts’ resistance and to help reduce the number of military casualties ahead of the crackdown, although the CRES spokesman denied the army was responsible for the killing. See Wassana Nanuam, “From the Barracks: Thwarted for now, the red tide still runs deep”, *The Bangkok Post*, 22 May 2010.

¹²⁵ In February 2010, Seh Daeng was arrested and charged for illegal possession of weapons after police had raided his house. The raid came after the army headquarters was hit by a grenade and police suspected Seh Daeng might be involved given Gen. Anupong’s recent decision to suspend him. He was granted bail on condition that he would not give any media interviews about launching attacks against or harming important figures. See “Seh Daeng turns himself in to police”, *The Bangkok Post*, 2 February 2010; “Court grants Seh Daeng release on bail”, *The Bangkok Post*, 9 March 2010.

¹²⁶ Richard S Ehrlich, “On guard at Bangkok’s frontlines”, *Asia Times Online*, 11 May 2010.

¹²⁷ CNN released a video clip of one of the “men in black” standing on an elevated train station on 19 May. The video clearly shows the face of a man in his forties wearing camouflage pants and hat and carrying an assault rifle. Police have said that the man in the clip looks alike a UDD guard named

lation that these shadowy assailants might be former paramilitary rangers, particularly from the disbanded Pakthongchai Camp in the north-eastern province of Nakhon Rachasima.¹²⁸ Rangers were recruited to work as auxiliaries to regular soldiers in the fight against communists and were largely deployed in combat. They are said to maintain some links with Chavalit Yongchaiyuth, a former army commander and prime minister who has assumed the role of Puea Thai party's chairman.¹²⁹ Former rangers often face economic difficulties, and while some have found work as security guards, others become hired thugs or gunmen.¹³⁰ Suphot Muangkhit, a former ranger from Pakthongchai Camp and head of Red Shirt guards in Nakhon Rachasima, denied that his followers were part of the group, although he admitted that some former rangers worked as UDD guards.¹³¹

Two foreign journalists from the English-language Asia Times Online were granted rare access to a makeshift camp inside Lumpini Park and provided a vivid account of the armed men, whom they also called "Ronin". They described "the secretive and heavily armed agent provocateurs whose connections, by their own admission, run to the top of the UDD". These men viewed themselves as "black angels" and were structured like a military unit – equipped with a radio operator and a combat medic. They appeared to have been trained in the use of explosives and munitions. While the journalists saw a few paramilitary rangers, most of the men they encountered looked to be in their early twenties – and several said they were active-duty soldiers. On 19 May, the day of the crackdown, the journalists wrote that these men fiercely fought the army.¹³² To date, the authorities have not arrested anyone suspected of being one of the armed assailants.

"Yak". "เปิดโฉมชายลึกลับถือปืนในคลิปซีเอ็นเอ็นเอ็นคล้าย นายชัยกร การ์ด นปช.แต่งเป็นดร.บุญจันท์ที่ร.เอสซี", *มติชน* (ออนไลน์), 3 มิถุนายน 2553. ["Mysterious gun-carrying man in CNN's clip looks like UDD guard 'Yak' who snatched police's guns at SC Park Hotel", *Matichon* (online), 3 June 2010.] Dan River, Bangkok-based CNN correspondent, confirmed the date of the video on Twitter, <http://twitter.com/danieljerivers/status/15150811328>.

¹²⁸ Crisis Group interview, a senior retired general, Bangkok, 25 May 2010. Also see Shawn W. Scrispin, "Thailand mulls a 'half coup'", *Asia Times Online*, 17 April 2010.

¹²⁹ Ibid. Also see "ทหารพรานปีกธงชัย ยันไม่เอี่ยว 'ไอ้ไม่ง'", *กรุงเทพธุรกิจ* (ออนไลน์), 13 เมษายน 2553. ["Pakthongchai rangers", *Khao Sod Daily*, 19 April 2010].

¹³⁰ Desmond Ball, a security expert who teaches at the Australian National University, makes this point in "Thailand in crisis", Episode 2, video, New Mandala, 4 June 2010, <http://asiapacific.anu.edu.au/newmandala/2010/06/04/thailand-in-crisis-episode-2/>.

¹³¹ "อดีตทหารพรานปีกธงชัย ยันไม่เอี่ยว 'ไอ้ไม่ง'", *กรุงเทพธุรกิจ* (ออนไลน์), 13 เมษายน 2553. ["Former rangers from Pakthongchai denied involvement with the 'black-clad group'", *Krungthep Thurakit* (online), 13 April 2010].

¹³² Kenneth Todd Ruiz and Oliver Sarbil, "Unmasked: Thailand's men in black", *Asia Times Online*, 29 May 2010. It re-

While the main stage used by Red Shirt leaders in the protest area had an English language banner above it reading "Peaceful Protestors, not Terrorists", some of the movement's leaders undermined this message as they condoned or refused to condemn the violence and armed groups who launched attacks on 10 April. Jaran Dittha-aphichai, an academic-turned-Red Shirt leader, said a few days before the crackdown that he found it "acceptable to use violence to fight for political change". He said that if there were no "men in black", hundreds of Red Shirts would have been killed on 10 April.¹³³

C. THAKSIN'S ROLE

Thaksin's role in the conflict is neither as all-encompassing as the Thai government assumes nor as insignificant as he himself professes. The government believes him to be the mastermind of the Red Shirt movement and the force behind its rejection of the roadmap. Thaksin denies it. When asked by the media for his opinion on the 14 November election offer, he said, "I don't know. You have to ask the Red Shirts. It's now beyond me. I'm only a little person in the movement".¹³⁴ Both stances are misleading. The former prime minister is certainly a major influence, but the government's assumption that he has absolute control over the Red Shirts is simplistic. If the Red Shirt leaders acted solely on his orders, they would have been more unified than they were. Jatuporn, one of the moderates facing terrorism charges, told a court, "I am prepared to explain [...] that core leaders of the Red Shirts were responsible for every move at the rally without any influence from Thaksin".¹³⁵

In fact, Thaksin has been extremely busy from his comfortable exile. Save for a brief return in 2008 after his proxy People Power Party took power; he has lived mostly in London and subsequently Dubai since the 2006

mains unclear why the "ronins" revealed their activities to the web-based English-language publication owned by the Yellow Shirt media mogul Sondhi Limthongkul. The journalists wrote that they witnessed two Thai soldiers and a Canadian journalist seriously injured by one of many grenades fired from a position believed to be a nearby elevated train station.

¹³³ Crisis Group interview, Jaran Dittha-aphichai, UDD leader, 13 May 2010. An arrest warrant for Jaran has been issued under the emergency law and he is on the run.

¹³⁴ "แม้โทรศัพท์คนไทยยังไม่เกี่ยวกับโรคเมป เป็นเรื่องของเสื้อแดง ระบุยังแข็งแรงดีผมไม่ร่วง", *มติชน* (ออนไลน์), 4 พฤษภาคม 2553. ["Thaksin's call-in at Puea Thai office, denied involvement in roadmap, said it's up to the Red Shirts, confirmed he in good health", *Matichon* (online), 4 May 2010.] A press conference with Thaksin via video link was held at the Puea Thai Party's headquarters.

¹³⁵ Seth Mydans, "Fugitive ex-leader denies financing Thai protests", *The New York Times*, 26 May 2010.

coup.¹³⁶ He was convicted in absentia on a conflict of interest charge and faces a two-year jail term if he returns. He is engaged in businesses in several countries, including hotel construction in Montenegro where he has been granted citizenship.¹³⁷ In a development that sparked a diplomatic spat between Thailand and Cambodia, Thaksin took up a post of economic adviser to the Cambodian government in November 2009.¹³⁸ He has never ceased his political fight against what he called the *ammart*.

Thaksin has maintained a high profile among his supporters via audio, video and Twitter messages. His messages have been re-broadcast on a local cable networks and printed in Red Shirt publications such as the now banned bi-weekly Voice of Taksin.¹³⁹ Ahead of the major rally in Bangkok, he spoke via a video link at several rallies in the countryside. For example, in a 6 March speech at a rally in Nakhon Rachasima, he urged his “brothers and sisters”, in the name of democracy, justice and equality, to “take back our country which Prem has set back 50 years”.¹⁴⁰

During the initial stages of the protest in Bangkok, Thaksin spoke regularly to the crowd via video link. He stopped after 10 April because, according to one Red Shirt leader, he wanted the fight to be a “real people’s struggle”. The government said that the United Arab Emirates barred him from commenting on Thai politics in response to its request.¹⁴¹ His silence sparked rumours that he had been killed or was suffering from cancer. He later resurfaced to disprove such claims.¹⁴²

The government has accused Thaksin of being one of the main financiers of the Red Shirt movement. As men-

tioned above, it has tried to cut the Red Shirts’ funding by banning financial transactions of some 120 individuals and about twenty companies suspected to be their funders, including Thaksin’s family members. Chaturon Chaisaeng, a banned Thai Rak Thai politician who spoke at the Red Shirt rallies, said “you would have to be from outer space to think that Thaksin does not give any money. But, what’s wrong with financing a democratic struggle?”¹⁴³ Jaran, a UDD leader, accepted that Thaksin was one of several large donors from the world of politics and business but said the financial transaction ban would not affect their activities.¹⁴⁴ He said the rally was also funded by small donations from many rank-and-file supporters.¹⁴⁵

For many Red Shirts in the North East, making a donation to the UDD is perceived as a way of making merit, a common practice among Buddhists who constitute about 90 per cent of the Thai population.¹⁴⁶ When Thaksin addressed protesters via a video link in Udon Thani, he was told that the large crowd had come from seven north-eastern provinces with the UDD collecting 660,000 baht (\$20,357) in donations.¹⁴⁷ Thaksin himself noted that the Red Shirt movement was “self-sustaining through donations from both poor and wealthy supporters”.¹⁴⁸

The Thai foreign ministry under the leadership of Kasit Piromya, previously a key Yellow Shirt key supporter, has made frantic efforts to get Thaksin back to Thailand. In a note to foreign diplomats in Bangkok after 10 April, Kasit was quoted as saying that “Thailand will no longer accept arguments that personal relations of their heads of states and/or governments with Former Prime Minister Thaksin Shinawatra are separate from formal diplomatic relations between Thailand and the governments concerned....Any association by foreign governments with Thaksin will be viewed by Thailand as undermining bilateral relations”.¹⁴⁹

¹³⁶ Thaksin came back in February 2008 before fleeing to London in August after the Criminal Court found his wife guilty of tax evasion and sentenced her to three years in prison.

¹³⁷ “Deposed Thai PM Thaksin given Montenegro citizenship”, BBC, 17 March 2010. Thaksin was also granted a Nicaraguan diplomatic passport. “Ex-Thai PM Thaksin holds Nicaraguan passport-gov’t”, Reuters, 15 April 2009.

¹³⁸ Cambodian Prime Minister Hun Sen offered the position to Thaksin, whom he described as his “eternal friend”. Cambodia also denied Thailand’s extradition request. The two countries have had heated disputes over ownership of the area around the border temple of Preah Vihear, which was used by the PAD to drum up nationalist sentiment against Thaksin-allied governments in 2008.

¹³⁹ The magazine uses the former prime minister’s name without an “h”.

¹⁴⁰ “ทักษิณ” โฟนอินเตือนแดง ปลุกระดม รวมพลทท. 14 มี.ค., *ไทยรัฐ*, 6 มีนาคม 2553. [“Thaksin phoned to urge Red Shirts to join 14 March rally in Bangkok”, *Thai Rath*, 6 March 2010.]

¹⁴¹ “แม้ว่าปีกหลักอยู่ดูไบขอเอื้อห้ามโฟนอิน”, *โลกวันนี้*, 9 เมษายน 2553. [“Thaksin in Dubai, UAE bans calls (to UDD rally)”, *Lokwannee*, 9 April 2010.]

¹⁴² Nopporn Wong-Anan, “Exclusive – Thaksin urges snap poll to end Thai crisis”, Reuters, 19 April 2010.

¹⁴³ Crisis Group interview, Chaturon Chaisaeng, former acting leader of the now-defunct Thai Rak Thai Party, Bangkok, 26 May 2010.

¹⁴⁴ See details on financial transaction ban in Section II.C.

¹⁴⁵ “จรัลชี้ตัดท่อน้ำเลี้ยงไม่กระทบมือบ”, *แนวหน้า*, 17 พฤษภาคม 2553. [“Jaran said cutting financial support not affect rally”, *Naewna*, 17 May 2010.]

¹⁴⁶ Crisis Group interview, parliamentarian from the North East, Chaiyaphum, 28 May 2010.

¹⁴⁷ “แม้ว่าโฟนอินเตือนแดงอุตราฯ ผู้ระบบอำมาตย์, *คมชัดลึก*, 12 มีนาคม 2553. [“Thaksin called to urge Udon Thani Red Shirts to fight against ammart”, *Komchadluek*, 12 March 2010.]

¹⁴⁸ “Fugitive ex-leader denies financing Thai protests”, op. cit.

¹⁴⁹ Antonio V. Rodriguez, Philippine Ambassador to Thailand and Dean of the Diplomatic Corps, was summoned by Thai Foreign Minister Kasit Piromya on 27 April 2010 after a group of diplomats met with Red Shirt leaders at the demonstration

On 25 May, the Criminal Court approved a warrant sought by the DSI to arrest Thaksin on terrorism charges. DSI chief Tharit Pengdit said such a charge would make his extradition easier. The Thai government has already pressured the United Arab Emirates and Montenegro to extradite him based on his 2008 conviction for conflict of interest in a land deal case.¹⁵⁰ However, it has faced difficulties in getting Thaksin extradited on the grounds of this conviction because it is not an offence in many other countries. Thai police submitted a request to Interpol to issue an international arrest warrant for Thaksin on the basis of the terrorism charge, which, if approved, would facilitate his arrest in the Interpol's 187 country members. However, the police general in charge of its foreign affairs division cautioned it would not be easy to extradite him and could take years even if Interpol agreed with the arrest warrant.¹⁵¹ Thaksin reacted by saying that Interpol would not take on such politically motivated charges and has sought the help of a Dutch war crimes lawyer to defend him.¹⁵² It is difficult to make a case that Thaksin's role in the recent violence in Thailand fits with definitions of terrorism widely used internationally.¹⁵³

VI. BUILDING A NEW POLITICAL CONSENSUS

A new political consensus is urgently needed to break the cycle of protracted conflict. Building that consensus needs to be an all-inclusive process. The involvement of the broad leadership of the Red Shirt movement, and even Thaksin, will be indispensable. Following its announced five-point roadmap in early May, the government has set up four independent committees on constitutional amendment, media reform, investigation of violent incidents, and country reform (with a focus on reconciliation).¹⁵⁴ The committees are scheduled to submit a blueprint to the government by 1 December 2010.¹⁵⁵

Reconciliation will be hard to achieve as long as the government continues to view the Red Shirts as "terrorists" and a threat to be harshly suppressed. It is also unlikely to take place under the Abhisit government, which was a direct party to the violence. If a consensus can be built around a new national reform agenda, then there is a better chance of a peaceful election of a new government with a genuine popular mandate that could move the country forward.

A. ACCOUNTABILITY

On 8 June, the government appointed Kanit na Nakhon to head the Independent Truth and Reconciliation Commission to investigate the violent incidents during the two-month-long Red Shirt protest.¹⁵⁶ The commission is also considering whether it should look beyond fact-finding and identify underlying causes of the conflict in order to

site. He had circulated a note to his fellow diplomats in Bangkok a day later. Crisis Group obtained a copy of the note.

¹⁵⁰ Crisis Group interview, Panit Wikitset, assistant to foreign minister, 16 June 2010. Panit said that Thailand has no extradition treaty with either the UAE or Montenegro but is in the process of making one with the UAE. A suspect could also be handed over by a country with which Thailand does not have an extradition treaty on the basis of reciprocity. See details of Thaksin's conviction in footnote 92.

¹⁵¹ "Thaksin charged with terrorism", *The Bangkok Post*, 26 May 2010.

¹⁵² "Thaksin Shinawatra speaks to Lateline", Australian Broadcasting Corporation, 26 May 2010; "Dutch lawyer to help exiled Thai leader", Radio Netherlands, 1 June 2010. War crimes expert Geert-Jan Knoops advises the legal team defending Thaksin against terrorism charges. He is well-known in the international legal community and has worked on cases relating to rights violations in Rwanda, former Yugoslavia and Sierra Leone. The team is also considering bringing charges against the Thai government for the crackdown on the Red Shirts.

¹⁵³ Crisis Group interview, regional anti-terrorism official, 17 June 2010.

¹⁵⁴ In mid June, the government set up two separate committees on country reform; former prime minister Anand Panyarachun was appointed to head a committee to lay out strategies on country reform and a social critic Prawes Wasi to head a country reform assembly to engage civil society in this effort. The government appointed Yubol Bencharongkit, dean of Chulalongkorn University's Faculty of Communication Arts, to head the media reform committee. See details of the other two committees in Section VI.A and C. "อำนาจพิเศษ ครอบครองเป็นประธานปฏิรูปประเทศ ตั้งเป้าลดความเหลื่อมล้ำในสังคม ชี้นำ 'ไพร่-อำมาตย์' ศักดิ์สิทธิ์ไม่มีความหมาย", *มติชน* (ออนไลน์), 18 มิถุนายน 2553. ["Anand-Praves accept to lead country reform; aiming to reduce social inequality; saying 'prai-ammart' no significant meaning", *Matichon* (online), 18 June 2010]; "Agenda to solve press freedom complications", *The Bangkok Post*, 24 June 2010.

¹⁵⁵ "รบ. เล็งประกาศพิมพ์เขียวปฏิรูป ปท. 1 ธันวาคม ค.ศ. 2553. ทุกชุดตามแผนปรองดองจะสรุปผลส่งรัฐบาล ด.ค. นี้", *มติชน* (ออนไลน์), 14 มิถุนายน 2553. ["Govt sets to announce Thailand reform blueprint on 1 Dec., expecting all committees to submit reports in Oct.", *Matichon* (online), 14 June 2010.]

¹⁵⁶ The cabinet approved Kanit's appointment on 8 June 2010. "Kanit faces tough task in deaths probe", *The Bangkok Post*, 9 June 2010.

make recommendations for national reconciliation.¹⁵⁷ The 73-year-old former attorney-general and dean of Dhurakijpundit University's Faculty of Law led the probe into the violence during the May 1992 crackdown that led to some 50 civilians killed.¹⁵⁸ Eighteen years later, the findings of the investigation have still not been made public. Kanit also led a committee to probe the disappearance and deaths of more than 2,500 suspected narcotics dealers allegedly extra-judicially killed in Thaksin's "War on Drugs" campaign. Justice ministry permanent secretary Kittipong Kittiyarak, temporarily serving as the investigation panel's secretary, said the panel would listen to all sides for "the sake of national reconciliation and not to punish anyone". He compared the panel to South Africa's Truth and Reconciliation Commission that interviewed more than 20,000 victims in four years but said his timeframe would be shorter.¹⁵⁹

Kanit's appointment has been generally well-received. Abhisit described Kanit as "knowledgeable, capable and reliable" and promised the committee would be given a free hand.¹⁶⁰ Human rights advocates were more guarded, but several of them view Kanit as an "acceptable" choice.¹⁶¹ Amnesty International called for the government to ensure that the investigation body be "free from affiliation with either the government or the UDD". It stated the inquiry should be conducted with the view to not only establishing the facts but to initiating prosecutions against alleged perpetrators of human rights abuses.¹⁶² Previous government-established commissions to investigate deadly incidents failed to lead to prosecutions of security forces found to have committed violent acts.¹⁶³

Some Red Shirts and Puea Thai Party members questioned Kanit's credibility, claiming the former attorney-general made a decision nearly two decades ago to drop a controversial land-scandal case deemed to favour the Democrat Party. He is also a former boss of Tharit Pengdit, now the DSI's chief in charge of serious legal cases against the Red Shirts.¹⁶⁴ Kanit was also very close to Thaksin at one point as he was a founding member and former deputy leader of the Thai Rak Thai party. He later quit the party as he was disappointed with the selection process of Thai Rak Thai candidates and later became a critic of Thaksin.¹⁶⁵ Kanit has defended his "non-partisan stance" as a prosecutor and said he was "ready to talk" to the deposed leader.¹⁶⁶

The most serious problem that undermines the commission's credibility is the government that appointed it. Kittipong acknowledged that this is the "most worrying" issue as it casts doubt on the legitimacy of the commission from the outset.¹⁶⁷ This could hamper its efforts and decrease the likelihood of its findings being accepted. When Kanit went to meet the UDD leaders held at a border patrol police camp in a central province of Phetchaburi, Veera, the UDD president, said that he and seven other leaders thought of Kanit as "a good man who has no tainted history". However, they could not accept that he was appointed by the government that was a party to the conflict, called the Red Shirts "terrorists", and is responsible for the deaths of their followers.¹⁶⁸

¹⁵⁷ Remarks of Kittipong Kittiyarak, the Independent Truth and Reconciliation Commission's secretary, at a public forum on "Independent Truth and Reconciliation Commission: A Solution for Thailand?", Bangkok, 24 June 2010.

¹⁵⁸ The official death toll of the May 1992 uprising is about 50 but is believed to be higher. See Pasuk Phongpaichit and Chris Baker, *Thailand: Economy and Politics* (Oxford, 2000), p. 360.

¹⁵⁹ "Kanit envisions a 'truth commission'", *The Nation*, 12 June 2010.

¹⁶⁰ Abhisit's weekly televised address on government-run NBT station on 13 June 2010. The full transcript of his speech in Thai is available at www.thaigov.go.th; "Kanit faces tough task in deaths probe", *The Bangkok Post*, 9 June 2010.

¹⁶¹ Sunai Pasuk of Human Rights Watch said Kanit is an "acceptable" choice, while Somchai Homla-or, a veteran human rights advocate, said he had confidence in Kanit's "impartiality and independence". "Kanit faces tough task in deaths probe", *The Bangkok Post*, 9 June 2010.

¹⁶² Amnesty International's open letter to Prime Minister Abhisit Vejjajiva dated 11 June 2010, calling for an independent and impartial investigation.

¹⁶³ Thaksin government set up two separate fact-finding commissions to investigate the Tak Bai and Krue Se incidents in 2004 but both failed to lead to successful prosecutions of secu-

rity forces. No security officials involved in human rights abuses in the insurgency-ravaged South have faced criminal prosecution in the past six years. In the 28 April 2004 Krue Se incident, 106 Malay Muslims died in clashes with security forces in eleven locations. During the Tak Bai incident on 25 October 2004, 78 Muslims died from suffocation and injuries after the authorities rounded up protesters and packed them into military trucks; seven others were killed during a stand-off at the protest site. See Crisis Group Asia Briefing N°181, *Southern Thailand: Moving Towards Political Solutions*, 8 December 2009, p. 10.

¹⁶⁴ "คณิศร ไม่ถือพท. ค้าน ปธ. สอบ แฉผลงานทกท.ก. อิศระศุภรณ์ เน้นปรองดอง นพลบออก เป็นกองเชียร์ ปชป.", *มติชน* (ออนไลน์), 9 มิถุนายน 2553. ["Kanit shrugged off Puea Thai's opposition, announcing his work plan this Fri., Noppadon called him Democrats' supporter", *Matichon* (online), 9 June 2010.]

¹⁶⁵ "เปิดใจ ศ.ดร.คณิศร นคร ผู้ร่วมก่อตั้งพรรคไทยรักไทย", *ไทยโพสต์*, 13 มิถุนายน 2553. ["Knowing Prof. Kanit na Nakhon, a founding member of the Thai Rak Thai Party, *Thai Post*, 13 June 2010].

¹⁶⁶ "Kanit envisions a 'truth commission'", op. cit.

¹⁶⁷ Remarks of Kittipong Kittiyarak, the Independent Truth and Reconciliation Commission's secretary, at a public forum on "Independent Truth and Reconciliation Commission: A Solution for Thailand?", Bangkok, 24 June 2010.

¹⁶⁸ "วีระแนะคณิศรต้องเปิดเผยนทุกข้อเท็จจริงไปตรงมาชี้ไม่ควรรีให้คู่กรณีนั่งร่วมเป็นกรรมการด้วย จะหาข้อยุติยาก", *มติชน* (ออนไลน์), 14 มิถุนายน 2553. ["Veera suggested Kanit to reveal all truths, having conflicting parties sitting in panel

While an international inquiry seems to be an anathema to the Thai government, having a formal body of international advisers to Kanit's commission might increase its legitimacy. This idea was supported by Kraisaak Choonhavan, a Democrat Party member who is also a human right advocate. Kraisaak suggested that the committee should seek foreign advisers with legal expertise in inquiries into mass killings elsewhere such as Rwanda or Indonesia.¹⁶⁹ Thaksin's international lawyer Robert Amsterdam opined that "only an international committee could possibly examine the evidence in an independent fashion".¹⁷⁰ The Thai Foreign Ministry countered that the Cabinet-appointed committee will be allowed to do its work without prejudice and the integrity of Kanit should not be questioned.¹⁷¹ There has been some degree of willingness to learn from experiences of foreign countries but it has been made clear that the commission's members will be all Thais.¹⁷²

B. REVERSING TERRORISM CHARGES AND REPEALING THE EMERGENCY LAW

Reconciliation will not be helped either by charging Thaksin and UDD leaders with terrorism or by using special powers under the emergency decree to suppress Red Shirt leaders. Talking with Thaksin will be necessary for any enduring political solution; left out in the cold, still extremely wealthy, and on the run he will continue to be a potent spoiler. Likewise, the longer the state of emergency remains in effect the more it will create a climate of fear and undermine the democratic processes that will ultimately be needed to heal the country.

As discussed above, the terrorism charges seem ill-suited for Thaksin. The same could be said for those charges filed against at least 52 Red Shirts. Prime Minister Abhisit says that the government's definition of terrorism is

in line with the UN's.¹⁷³ However, the definition of terrorism is controversial and there is no universally agreed and legally-binding one in use. A UN high-level panel chaired by former Thai Prime Minister Anand Panyarachun called it "any action...that is intended to cause death or serious bodily harm to civilians or non-combatants, when the purpose of such an act, by its nature or context, is to intimidate a population or to compel a Government or an international organisation to do or to abstain from doing any act".¹⁷⁴ It is hard to argue that the Red Shirts' acts aim to kill civilians. Furthermore, Thaksin is not seen internationally as a "terrorist".¹⁷⁵ Even the United States, one of Thailand's closest treaty allies, sees the use of this term as deeply problematic.¹⁷⁶

While the protests scared some and inconvenienced many, the sense of fear was by no means universal. There were large numbers of women and children in Red Shirt ranks. By some accounts, the protestors' numbers swelled each evening as they were joined by tens of thousands of citizens in Bangkok.¹⁷⁷ It is also difficult to see how such a charge or other emotive rhetoric used against the proposed partners in Abhisit's "roadmap" will smooth the way for future reconciliation.

Instead, where the evidence exists, the government should bring specific criminal charges, such as arson or assault, in a way that will not give rise to accusations that the charges are politically motivated. According to police statistics, at least 417 people had been detained as of early June in areas where the state of emergency was in force. The majority were arrested for illegal assembly and violating curfew, while smaller numbers were held for illegal possession of weapons, arson and other offences. Of these, 221 were arrested in Bangkok, 134 in the North East, 42 in other central provinces, and twenty in the North.¹⁷⁸ The government is considering granting amnesty to those only guilty of minor offences under the emergency law, such as attending demonstrations.¹⁷⁹

would make it difficult to find conclusion", *Matichon* (online), 14 June 2010].

¹⁶⁹ "รัฐบาล-ฝ่ายค้าน คนละครึ่ง ดึงคปท.หนุนซื้อ", *มติชนรายวัน*, 4 มิถุนายน 2553. ["Govt-Opposition half-half, seeking foreign advisors, *Matichon Daily*, 4 June 2010.]

¹⁷⁰ "Thailand lacks creditability to investigate Bangkok killings", press release, Robert Amsterdam, 10 June 2010.

¹⁷¹ "Secretary to the Foreign Minister clarifies misconceptions in Robert Amsterdam's statements", press release, Thai Foreign Ministry, 18 June 2010. Crisis Group interview, senior Thai official, 23 June 2010.

¹⁷² Remarks of Kittipong Kittayarak, the Independent Truth and Reconciliation Commission's secretariat, at a public forum on "Independent Truth and Reconciliation Commission: A Solution for Thailand?", Bangkok, 24 June 2010. The commission held a two-day roundtable in late June with two foreign international experts from South Africa and Geneva with experience in truth and reconciliation to discuss the functioning of the commission.

¹⁷³ Abhisit Vejjajiva, Briefing on the Current Political Situation for Members of the Diplomatic Corps and Foreign Chambers of Commerce, 29 May 2010.

¹⁷⁴ See "A more secure world: our shared responsibility: Report of the High-level Panel on Threats, Challenges and Change", UN General Assembly, A/56/595, 2 December 2004.

¹⁷⁵ Crisis Group interview, regional anti-terrorism official, 17 June 2010.

¹⁷⁶ Crisis Group interview, senior U.S. official, Washington DC, 23 June 2010.

¹⁷⁷ Remarks of Sukhumbhand Paribatra, Bangkok governor, to the Foreign Correspondent's Club of Thailand, Bangkok, 1 June 2010 as reported at <http://us.asiancorrespondent.com/>.

¹⁷⁸ See statistics posted on the website of the Royal Thai Police's Public Relations Division released 9 June 2010, available at www.saranitet.police.go.th/pdf/news09062553.pdf

¹⁷⁹ "Govt to decide on amnesty, emergency", *The Nation*, 17 June 2010. Deputy Prime Minister Suthep Thaugsuban said that

While this is a step in the right direction, authorities should also demonstrate similar flexibility when considering the individuals currently being held on charges of terrorism.

The government should immediately revoke the emergency decree, imposed in 24 provinces, which allows the authorities to ban demonstrations, shut down media and hold suspects without charge. The government maintains that the emergency law is still needed, claiming that the Red Shirts plan to launch new demonstrations in two months and possibly are plotting acts of sabotage.¹⁸⁰ While there have been bombing incidents that were reportedly carried out by vengeful Red Shirts, the government should be able to maintain peace and security without enhanced powers.

The emergency law is restricting public debate; prominent individuals have been reluctant to speak out.¹⁸¹ Suthachai Yimprasert, a historian who teaches at Bangkok's prestigious Chulalongkorn University, recently declined an invitation to speak at the Foreign Correspondents Club of Thailand, fearing the authorities would "come after" him and his family.¹⁸² A Red Shirt sympathiser, he was alleged by the CRES to be part of the anti-monarchy network and was detained for a week under the emergency law.¹⁸³ The dean of his faculty issued an internal note calling for professors to refrain from discussions about current political conflicts in the classroom and from calling for students to join protests.¹⁸⁴

the government would make a decision on amnesty issue in early July.

¹⁸⁰ "รัฐบาลส่งลูกข่าวถูกเงิน แจกแซงชัย ก่อหวนคดีดิน ปลุกระดม", *แนวหน้า*, 9 มิถุนายน 2553. ["Government likely to extend the emergency law, claims Red is planning underground movement and incite people", *Naew Na*, 9 June 2010.].

¹⁸¹ Crisis Group interview, political analyst, Bangkok, 10 June 2010.

¹⁸² Crisis Group email communication, Marwaan Macan-Markar, president of the Foreign Correspondents' Club of Thailand, 12 June 2010.

¹⁸³ Suthachai was arrested on 24 May along with Somyot Prueksakasemsuk, the editor of Red News and a labour activist, while their anti-military coup "June 24 Group" distributed leaflets criticising the action taken by the government against the Red Shirts. Somyot was also released after three weeks in detention. "Scholar set free after colleagues file protest", *The Bangkok Post*, 1 June 2010; "Activist Somyot to be released tomorrow", *The Bangkok Post*, 12 June 2010. Suthachai is mentioned in the anti-monarchy chart released by the CRES. See footnote 19.

¹⁸⁴ A memorandum of Dean of Chulalongkorn University's Faculty of Arts Dr. Praphot Asawawirunkan dated 31 May 2010. See "คณบดีอักษรศาสตร์ – หน.ภาควิชาอักษร จุฬาฯ ขออาจารย์เลี่ยงแสดงความเห็นการเมืองในชั้นเรียน", *ประชาไท* (www.prachatai3.info), 9 มิถุนายน 2553. ["Dean of art faculty and language department's head call for professors to refrain from discussing politics in classrooms",

No reconciliation will be possible if the government continues to harass Red Shirts, intimidating their supporters and sympathisers into silence. The mysterious murder of a bodyguard of Red Shirt leader Suporn (aka Rambo Isan) on 9 June and two other Red Shirts have sparked concern over extrajudicial killing under the cloak of the emergency laws.¹⁸⁵ Red Shirt supporters feel they are being closely watched and harassed by the military. In the north-eastern province of Chaiyaphum, the military has reportedly set up checkpoints and is paying local informants to spy on their activities. A Red Shirt supporter in Nakhon Rachasima said people in the North East were very bitter but did not voice their opinions. In the words of one activist: "What reconciliation are we talking about – between the superior and the inferior or the hand-tied and the free-handed?"¹⁸⁶

For their part, the Red Shirt leaders need to adopt an unequivocal position against violence, restate the peaceful nature of their legitimate political dissent, actively work to prevent conflict, and promptly condemn violent acts when they take place. Otherwise they and their supporters risk harsher treatment at the hands of the state, which will further damage Thailand's ailing democratic credentials and deepen the nation's divide.

C. HOLDING A PEACEFUL ELECTION

A peaceful, free and fair election will be a milestone on the road to reconciliation, a prerequisite for re-establishing Thailand's democratic credentials, and substantive proof that the country can manage political competition without violence. In recent years, election campaigns of political parties, particularly the ruling Democrat Party, have been obstructed by voters affiliated to opposite colours. In a by-election in 2009 shortly after the People Power Party was disbanded, campaigns of Democrat candidates in the North were disrupted by Red Shirts who booed, threw eggs at their campaign teams

Prachatai, 9 June 2010]. The news website, perceived by the CRES to be red-leaning, has been blocked several times. The web operation has changed the URL for at least four times to escape censorship.

¹⁸⁵ The 24-year-old Saknarin Kokaew, a body guard of Rambo Isan, was shot dead in Nakhon Rachasima on 9 June 2010, while he was riding a motorcycle. Two Red Shirt supporters were killed in the north-eastern province of Nakhon Phanom and the central province of Chonburi. "จุดพรฟ้าสุเทพสาบานวัดสระแก้วชี้แจงทยอยตาย 3 ศพแล้ว ขู่เจอปชช.รอบ 3 สถานการณ์เลวร้ายมาถึงเร็วแน่", *มติชน* (ออนไลน์), 12 มิถุนายน 2553. ["Jatuporn asks Suthep to swear oath, three Red Shirts killed, warns third round of protests would come soon, *Matichon* (online), 12 June 2010].

¹⁸⁶ Achara Ashyagachat, "Emergency decree is setting the stage for tragedy", *The Bangkok Post*, 13 June 2010.

and hit their vehicles.¹⁸⁷ The Election Commission of Thailand has gone on the record since the May crack-down that it expects the next election to be “quite violent”.¹⁸⁸ Besides running the election and holding the campaign in such a polarised environment, a further challenge will be having all sides accept the result.

To make the elections inclusive, peaceful, and accepted there are a number of steps that should be discussed now by parties as they would take some time to develop and build consensus. These could include changes to the law, election observation and complaints procedures:

Amnesty for banned politicians: The government should grant amnesty to 220 banned politicians to include them in the reconciliation process. A total of 111 Thai Rak Thai executive members were banned from politics for five years following the May 2007 court ruling to disband the party. 37 executive members of the People Power Party, 43 of Chart Thai Party and 29 of Machimathipataya Party faced a similar penalty after the the Constitutional Court ordered their parties dissolved in December 2008.¹⁸⁹ The Democrat Party appears to support lifting the ban.¹⁹⁰ In principle, Thaksin should also be eligible for the same amnesty and run for office, although he still faces the two-year jail sentence for his conviction on conflict of interest.

Pact among political parties and movements: Political parties as well as the PAD and UDD leaders should sign a

code of conduct to keep election campaigns peaceful. Similar agreements between political parties and movements have been used in other countries to avoid election violence.¹⁹¹ Such pledges can also include commitments to respect the outcome of the vote, if there is no serious electoral fraud. Thailand's elections do not have a history of severe manipulation or serious mistakes by election authorities.¹⁹² All political parties should be allowed to campaign throughout the country without obstruction by either the Yellow or Red Shirts. It is of paramount importance that parliament be a forum for open political debate, and that the right to peaceful assembly and expression be guaranteed so all voices can be heard.

Constitutional amendment: A provision in the 2007 constitution on political party dissolution is a major impediment to political consensus and must be changed. Article 237 stipulates that where a candidate in the election has committed electoral fraud, and if the party leader or executive party member connived in such acts, the political party will be deemed to have acquired power by unconstitutional means. If the Constitutional Court then orders the political party in question dissolved, its leader and executive members will be barred from running in elections for five years. The disproportionate application of this provision by the court has undermined democracy.

As part of the “roadmap”, the Abhisit government has appointed a constitutional amendment committee headed by Sombat Thamrongthanyawong, rector of the National Institute of Development Administration. His committee will follow up on the six recommendations of a previous committee appointed by Abhisit government, including one relating to Article 237.¹⁹³ Sombat's nineteen-member committee has been criticised for lacking impartiality. Some were members of the military-appointed committee

¹⁸⁷ “เสื้อแดงลั่นทุบรถ-ปาไข่ใส่หน้าชนวน ขณะหาเสียงเชิงใหม่รอไล่ถาวรชุดผู้ว่าฯ-ผบ.ก.ู้เห็นเป็นใจ”, *มติชน* (ออนไลน์), 6 มกราคม 2552. [“Red Shirts in Lamphun hit cars; throw eggs at Chuan while holding election campaign; Red Shirts in Chiang Mai waits to chase them away; Thavorn said governors and police commanders conspire with them”, *Matichon* (online), 6 January 2009].

¹⁸⁸ Mongkol Bangprapa, “EC organises for rough election”, *The Bangkok Post*, 10 June 2010. In 2007, in what it called a “generally peaceful” election, the Asian Network for Free Elections (ANFREL) noted five vote canvassers were killed during the Thai national election campaign as well as threats to candidates and assassination attempts. See Annex 7 in “Report of the International Election Observation Mission December 2007”, The Asian Network for Free Elections (ANFREL), March 2008. In contrast, more than 100 people were killed in election-related violence leading up to the Philippine national election in May. Sheila Coronel, “In Philippines, clans and guns still rule”, *CNN*, 9 May 2010.

¹⁸⁹ In addition to the 111 Thai Rak Thai politicians banned by the Constitutional Court's May 2007 ruling, three other obscure parties that had been hired by the Thai Rak Thai to contest the April 2006 snap elections were dissolved at the same time. The ruling affected 31 members of these parties, but they are normally excluded from public discussion on banned politicians because they are not considered to belong to “real” political parties.

¹⁹⁰ “Amnesty for politicians gains favour”, *The Bangkok Post*, 6 June 2010.

¹⁹¹ See, for example, East Timor's 8 July 2001 Pact of National Unity.

¹⁹² “Adjudication of Election Complaints: Overview and Assessment of the Legal Framework and Process”, speech by IFES Legal Advisor, Robert Dahl, 11 June 2008.

¹⁹³ The Abhisit government appointed the Reconciliation Commission for Political Reform and Constitutional Amendment, headed by Senator Direk Thuangfang, to study charter amendment. It submitted its recommendations to the government on 16 June 2009, identifying six key points to be immediately addressed. They are Article 237 (on party dissolution), Articles 93–98 (on selection processes for lower house members), Articles 111–121 (selection process for senators), Article 190 (on parliamentary approval required for signing international treaty), Article 265 and 266 (on regulations governing roles of lower and upper house members). The recommendations can be downloaded at www.parliament.go.th:80/parcy/adhoc_index.php?adhoc_id=42

to draft the 2007 Constitution, while others are staunch Yellow Shirt supporters.¹⁹⁴

Election law changes: The 2007 Thai national election law has been extensively studied by political parties, election observers and international experts. Many suggestions have been made about improving this law, including having more reasonable and appropriate sanctions for violation of election laws, better complaints adjudication procedures, and greater transparency in resolving disputes.¹⁹⁵ Recognising that these concerns are as much political as technical and the importance of perception, there should be an effort to address these concerns in a systematic and open manner to build confidence in the process and increase the odds of parties accepting the result.

Election observation and international technical assistance: More domestic and international monitoring could help ensure that elections are free and fair and prevent serious disputes over results that might lead to a total rejection of the polls. Domestic and international monitoring as well as parallel vote tabulations by media companies and non-governmental organisations were all used in the last election, but not without some problems. The Election Commission, the government and donors should work to remove past obstacles and ensure funding for techniques that are widely recognised to help boost confidence in contested or potentially violent electoral environments. Contentious issues such as dispute resolution would especially benefit from international assistance.

D. RECONCILIATION AND LONG-TERM REFORM

Once Thailand has a legitimate elected government and reconciliation between opposing sides is underway, it will be time to consider a broader long-term reform program that includes rethinking the role of the monarchy, attention to economic disparities and military reform. The 82-year-old King Bhumibol Adulyadej has wielded significant influence during his reign, although, constitutionally speaking, the institution is “above politics”.¹⁹⁶ The

world's longest reigning monarch, he is widely regarded as the pillar of Thai society. He has acquired prestige and moral authority beyond what is prescribed in the constitution; his unwritten cultural power is so high that his “advice” is often taken as an undisputed royal directive.

King Bhumipol's achievements have become a liability as well as an asset for the monarchy. The frail health of the King, who has been hospitalised since September 2009, has caused growing anxiety among Thais. The period of royal succession will be a watershed that could fundamentally change the political landscape. Discussion of the monarchy's role remains a taboo in Thailand. The *lèse majesté* law has been used to stifle public debate as well as to suppress political dissent. The *lèse majesté* law should be amended with the severe penalties reduced and authority to accuse an individual of violating the law should be limited to prosecutors.¹⁹⁷ The current lack of restrictions on the law has allowed it to be used to attack political opponents. The amendment of this law would create a more conducive atmosphere for open discussion of the monarchy's role. Even Foreign Minister Kasit Piromya has noted that resolution of the political crisis might see the role of the monarchy revamped.¹⁹⁸

The government also needs to tackle the longstanding problem of socio-economic disparity that lies beneath the current political polarisation and adopt policies that bridge the gap between rich and poor. It was Thaksin's “30 baht” low-cost healthcare that gives many Red Shirts fond memories of his government and underlies calls for his return. The disenfranchised lower middle classes feel that it is their “right” to get social services from the state and they are no longer willing to wait for the mercy of benevolent patrons.¹⁹⁹ If the establishment wants to win

wannathat-Pian, *Kings, Country and Constitutions: Thailand's Political Development 1932 – 2000* (London, 2003).

¹⁹⁷ The Netherlands ambassador to Thailand wrote articles in the *Bangkok Post* explaining the enforcement of *lèse majesté* in European countries with constitutional monarchies. He noted that *lèse majesté* laws are hardly applied in these countries. If they are, the punishment is usually mild. He noted that prosecution of this crime is not always in the monarchy's interests. It can even be counterproductive, undermining the very institution that *lèse majesté* laws set out to protect. See Tjaco Van den Hout, “Europe's *lèse majesté* laws and the freedom of expression”, *The Bangkok Post*, 21 May 2009; Tjaco Van den Hout “Dealing with *lèse majesté* in Netherlands”, *The Bangkok Post*, 18 January 2010.

¹⁹⁸ “Thai minister makes unprecedented call for monarchy debate”, Agence France-Presse, 13 April 2010. Kasit said in Washington, “I think we have to talk about the institution of the monarchy, how it would have to reform itself to the modern globalised world”.

¹⁹⁹ Nidhi Eawsriwong, a noted Thai historian, made this point in his newspaper article. See นิธิ เอียวศรีวงศ์, “การเมืองของเสื้อแดง”, *มติชนรายวัน*, 26 เมษายน 2553. [Nidhi Eawsriwong, “Politics of the Red Shirts”, *Matichon Daily*, 26 April 2010].

¹⁹⁴ See “เปิดชื่อ 19 ออร์แกนไค์รธน. ชุดปรองดอง พท.อัดไม่จริงใจตั้ง ‘ทนายทอสูร’ ล้วนคนเสื้อเหลืองปฎิภัยแนว”, *มติชน* (ออนไลน์), 16 มิถุนายน 2553. [“Revealing 19 members of constitution amendment committee; Puea Thai Party charges govt insincere; all appointees are anti-Thaksin, *Matichon* (online), 16 June 2010.]

¹⁹⁵ “Adjudication of Election Complaints: Overview and Assessment of the Legal Framework and Process”, speech by IFES legal adviser, Robert Dahl, 11 June 2008.

¹⁹⁶ *Kana Rasadorn* (People's Party), led by Pridi Banomyong, staged a coup to overthrow absolute monarchy and installed a new regime of constitutional monarchy in 1932. For rare scholarly works on the roles of Thai monarchy in politics, see Paul M. Handley, *The King Never Smiles*, op. cit., and Kobkua Su-

back the underprivileged, it must redistribute economic and political resources to make Thailand a more equitable society. Decentralisation, which began after the 1997 Constitution came into effect, needs to be pushed forward to increase public participation in local administration, as well as engagement and control over local affairs and resources.

Given a new lease on life by the 2006 coup, the military needs to return to barracks and end its intervention in politics – whether in the form of coup d'état or more subtle political manoeuvrings. In the long term, fundamental security sector reform is needed to give the police responsibility for internal security, with the necessary training and remuneration provided, and to restrict the army's role to external defence. The military should not be used for riot control or overseeing demonstrations. The bloated army should also be reduced in size.²⁰⁰

VII. CONCLUSION

Overthrowing a democratically elected – albeit increasingly autocratic – government in a bloodless military coup was a misstep that plunged Thailand into violent conflict and a potentially vicious cycle of confrontation. What began as a tussle between key figures in the royalist establishment and a populist politician has widened to fracture institutions, divide friends and families as well as produce the most deadly clashes between demonstrators and the government in modern Thai history. With hindsight, it would have been better for Thai society if opposition to Thaksin's corrupt administration had adhered to democratic principles and stayed inside the bounds of constitutional rule. To avoid more bloodshed, the country needs to reverse this trend. It could start by openly examining recent events, building a new political consensus about how the country should be governed, fixing the known flaws in its political system, and reaffirming its commitment to democracy.

It is simplistic for the government to think that the Red Shirt movement is about one man who lives in comfortable exile abroad. Undoubtedly, Thaksin has been trying to use the mass movement to redress his own deep personal grievances with the establishment, but it is not solely under his absolute control. The movement is pulled in various directions and disunity among the key leaders is obvious. Nor can the leadership make the rank-and-file adhere to their proclaimed non-violent principles. The infiltration of armed elements into a mostly peaceful movement with genuine political aims has undermined its legitimacy.

At the height of the confrontation in May, it was unfortunate that negotiations to end the stand-off failed. There was another option at this point; more time could have been spent to find a way out that put lives of citizens first. The government's perception that the demonstrations became a security and not political problem that needed to be cleared from the streets by force led to the unnecessary deaths of dozens of civilians, including medical and rescue workers. Legitimate concerns about law and order should have been balanced against respect for political rights. The government's impatience has only deepened the divide that will complicate future efforts to find a solution to end the current polarisation. As the repressive emergency law lingers, Thailand's democracy continues to be quietly undermined.

The ruling royalist establishment cannot unilaterally push forward its "road map" to national reconciliation while simultaneously suppressing the Red Shirts' dissenting voices. This plan will be seen as merely a ploy to maintain their dominance and neutralise opponents. Recon-

²⁰⁰ Some of these points are drawn from an interview with Desmond Ball, a security expert who teaches at the Australian National University. See "Thailand in crisis" – Episode 2, video, New Mandala, 4 June 2010, <http://asiapacific.anu.edu.au/newmandala/2010/06/04/thailand-in-crisis-episode-2/>.

ciliation cannot take place when, in the name of maintaining peace, the rights of citizens are infringed on a daily basis with bans on demonstrations, restrictions on media, and the detention of suspects without charge. The emergency decree imposed on one third of the country should be immediately lifted as it is counterproductive if reconciliation is the goal. Frightened and resentful, the Red Shirts may become more militant if they are denied the opportunity of peaceful dissent.

If Thailand is to move away from recent violence, consolidate a new political consensus, and restore democracy, it will need to hold elections sooner rather than later. After such a divisive period in Thai history, those in power will need to refresh their mandate. Any reconciliation plan or reform agenda will also need popular endorsement to succeed. If all sides are involved in such efforts, then they could work together to minimise election violence and, more importantly, commit to supporting the result and giving the new government a chance to govern without rancour and instability. It will be an important test for Thailand to prove; that is heading away from this violent moment or entrenching long-term instability with all its deadly consequences.

Bangkok/Brussels, 5 July 2010

APPENDIX A

MAP OF THAILAND



APPENDIX B

ABOUT THE INTERNATIONAL CRISIS GROUP

The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with some 130 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international decision-takers. Crisis Group also publishes *CrisisWatch*, a twelve-page monthly bulletin, providing a succinct regular update on the state of play in all the most significant situations of conflict or potential conflict around the world.

Crisis Group's reports and briefing papers are distributed widely by email and made available simultaneously on the website, www.crisisgroup.org. Crisis Group works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The Crisis Group Board – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring the reports and recommendations to the attention of senior policy-makers around the world. Crisis Group is co-chaired by the former European Commissioner for External Relations Christopher Patten and former U.S. Ambassador Thomas Pickering. Its President and Chief Executive since July 2009 has been Louise Arbour, former UN High Commissioner for Human Rights and Chief Prosecutor for the International Criminal Tribunals for the former Yugoslavia and for Rwanda.

Crisis Group's international headquarters are in Brussels, with major advocacy offices in Washington DC (where it is based as a legal entity) and New York, a smaller one in London and liaison presences in Moscow and Beijing. The organisation currently operates nine regional offices (in Bishkek, Bogotá, Dakar, Islamabad, Istanbul, Jakarta, Nairobi, Pristina and Tbilisi) and has local field representation in fourteen additional locations (Baku, Bangkok, Beirut, Bujumbura, Damascus, Dili, Jerusalem, Kabul, Kathmandu, Kinshasa, Port-au-Prince, Pretoria, Sarajevo and Seoul). Crisis Group currently covers some 60 areas of actual or potential conflict across four continents. In Africa, this includes Burundi, Cameroon, Central African Republic, Chad, Côte d'Ivoire, Democratic Republic of the Congo, Eritrea, Ethiopia, Guinea, Guinea-Bissau, Kenya, Liberia, Madagascar, Nigeria, Rwanda, Sierra Leone, Somalia, Sudan, Uganda and Zimbabwe; in Asia, Afghanistan, Bangladesh,

Burma/Myanmar, Indonesia, Kashmir, Kazakhstan, Kyrgyzstan, Nepal, North Korea, Pakistan, Philippines, Sri Lanka, Taiwan Strait, Tajikistan, Thailand, Timor-Leste, Turkmenistan and Uzbekistan; in Europe, Armenia, Azerbaijan, Bosnia and Herzegovina, Cyprus, Georgia, Kosovo, Macedonia, Russia (North Caucasus), Serbia and Turkey; in the Middle East and North Africa, Algeria, Egypt, Gulf States, Iran, Iraq, Israel-Palestine, Lebanon, Morocco, Saudi Arabia, Syria and Yemen; and in Latin America and the Caribbean, Bolivia, Colombia, Ecuador, Guatemala, Haiti and Venezuela.

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The following institutional and private foundations have provided funding in recent years: Carnegie Corporation of New York, The Charitable Foundation, Clifford Chance Foundation, Connect U.S. Fund, The Elders Foundation, William & Flora Hewlett Foundation, Humanity United, Hunt Alternatives Fund, Jewish World Watch, Korea Foundation, John D. & Catherine T. MacArthur Foundation, Open Society Institute, Victor Pinchuk Foundation, Ploughshares Fund, Radcliffe Foundation, Sigrid Rausing Trust, Rockefeller Brothers Fund and VIVA Trust.

July 2010

APPENDIX C

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