

Abhisit before the Constitution Drafting Committee

Abhisit Vejjajiva's gave his views on political reform and contents of the new constitution before the Constitution Drafting Committee on 24th November 2014 at the invitation of the said committee.

The views expressed were in his personal capacity and not on behalf of the Democrat Party of Thailand (DPT) or its leader, as the interim government with the Martial Law pending has not allowed any political gatherings and/or activities. Thus, the DPT was not able to hold a party meeting according to its by-law in order to provide official inputs to Abhisit or to determine the Party's position on several key issues prior to his appearance before the Drafting Committee.

Abhisit's views are as follows:-

1. A Sustainable and Legitimate Constitution

The constitution will only be sustainable if it is widely accepted by the people in both process and substance.

The legitimacy of the new Constitution will be endlessly debated since it is a result of the 2014 Coup d'état. People who disagree with the process or substance of the Constitution will raise the issue of legitimacy which could lead to further political conflict or even unrest in the future.

Therefore, to ensure its legitimacy, the Draft Constitution, once completed, must obtain people's support through a nation-wide referendum.

The referendum itself must clearly indicate the option for the country to move forward in case the new constitution could not obtain popular support of the people. Abhisit recommended that the Constitution of 2007 be adopted in such a case.

2. A Progressive Constitution

Although democratic development in Thailand has faced many obstacles, democracy has taken root in Thai society, resulting in many changes for the country that have responded to people's needs. This upcoming Constitution must build on that progress and learn from past mistakes. Changes must enhance democratic principles, not reduce them. The new Constitution must not lessen peoples' rights and freedom to participate in the political process including their right

to choose their leaders and the direction of the country according to the spirit of a Parliamentary democracy.

The new constitution must be progressive in terms of delegating more power to the people, in particular, the civil society and further promote decentralization and increased role and accountability of local administrations.

There must be promotion and enhancement of higher moral and ethical standards among politicians and key political institutions.

3. Address the root-causes of the problems

The new constitution must address correctly the root-causes of the problems that led the country into crisis i.e. abuses of power, corruption, failure of independent institutions to effectively provide checks and balances, partial and biased medias, illegal armed elements and intimidations against political oppositions etc.

The following are proposed examples of new provisions which would strengthen the check and balance system:

- Speaker of the House of Representative and Deputy Speakers of the House of Representatives should come from both the majority and minority in the House, and not be monopolized by the governing parties.
- Key Standing Committees and Ad Hoc Committees such as Budget and Anti-corruption should be chaired by Representatives from the Opposition.
- The Prime Minister and cabinet members must appear before the parliament during key sessions, including Question time, with guaranteed public access via television.
- The Opposition must be guaranteed rights to engage in legal political activities and freedom of expression without interference from the executive branch.
- The general public should be allowed to act as plaintiffs in cases where public interests are affected.
- Independent Agencies should be tasked only with important national issues and must be given a limited time frame for their consideration—6 months for example.

- the system of ad-hoc Panel of Judges selected from a pool of qualified people should be used in political cases to reduce the risk of interference.
- political parties should be accountable for their campaign policies so as to prevent potential adverse effects or huge losses/damages to the country. In this regard, the source of fund and use of fund must be clearly explained for public scrutiny.
- the concept "supra-majority" should be employed in case of amendment of key legislations, such as the Constitution and its organic laws.
- the Upper House should be elected, but not from the same geographical bases as the Lower House e.g. through professional groups.

4. Special caveats

There are broad and varied ideas regarding the new Constitution being discussed and debated. However, most of the ideas appear to focus on the process of assuming power rather than the promotion of improved check and balance in the system. Furthermore, there seems to be general misunderstanding in the analysis of the Thai political problems, as listed below:

- There appears to be a belief that a separation of power between the executive branch and legislative branch helps promote checks and balance in the system. On the contrary, a complete separation of power will encourage the executive branch to cite the legitimacy of its power from a direct election to reduce accountability.
- There is a belief that the root cause of the recent political conflict is derived from a contest for power. This is far from the truth. In reality, the recent popular protests were triggered by the abuses of power, corruptions, attempts to push through Amnesty bill on corruption and criminal cases, violent attacks and intimidations against oppositions and human rights violation committed by the previous Government. This misunderstanding has led to proposals to distribute power among all political parties. In so doing, it could lead to a collusion of politicians' interests which would mean more corruption.
- There is a misconception that political parties are too strong. However, lessons learned in the past show that conflicts occurred when personal interests became more important than public

interests. This misconception can lead to wrong focus in the drafting of the new Constitution.

- It is to be reminded that recent political turmoil was triggered by the exploitation of the word 'reconciliation'. It is used as a means towards outright amnesty. The path to national reconciliation and peace is nothing more than the rule of law and equal treatment under the law.

This proposal focuses on the conceptual design of the political system to help act as a framework from which specific ideas can be formed. Further indicative details and other reform proposals such as electoral reform, anti-corruption reform or media reform can be presented when needed.