

Thailand

Country Background

Thailand is one of the few countries never colonized in Asia. It is bordered by Laos, Burma, Cambodia, and Malaysia. It is divided into 75 provinces with two special governed districts. The current estimated population for 2009 is 65.9 million. Per capita income increased from US\$ 7,900 (2006) to US\$ 8,400 in 2008 largely due to its well-developed infrastructure, a free-enterprise economy, and generally pro-investment policies.⁸¹

The annual population growth rate was at 0.615% in 2008. The average life expectancy at birth is 73.1 years (75.55 for women and 70.77 for men).

⁸¹ <https://www.cia.gov/library/publications/the-world-factbook/geos/mg.html>



A Glimpse of the Present: Economic and Political Conditions

In May 2008, the People's Alliance for Democracy (PAD) demonstrated in the streets of Bangkok against the new government, ending their protests in early December 2008 after a court ruling that dissolved the People's Power Party (PPP) and two other coalition parties for election violations. The Democrat Party formed a new coalition government and Abhisit Wetchachiwa became the prime minister.

Thailand's southern border provinces have been host to an ethno-nationalist Malay Muslim secessionist movement rallying around a regional "Patani" identity. Since 2004, separatists have conducted an increasingly violent insurgency against symbols and representatives of central government authority, as well as against civilians, both Buddhist and Muslim, which has resulted in thousands of deaths.

Thailand's economy is export-dependent, with exports of goods and services equivalent to over 70% of GDP in 2008. Before the 1997 financial crisis, the country's economy had years of manufacturing-led economic growth—averaging 9.4% for the decade up to 1996. Thailand's recovery from the 1997-1998 Asian financial crisis was due largely to external demand from its major trading partners. Real GDP growth strengthened sharply from 2.2% in 2001 to 7.1% in 2003 and 6.3% in 2004. From 2005 to 2007, the country's economy averaged 4.9% as political instability stalled infrastructure projects, eroded investor and consumer confidence, and damaged the country's international image. Thailand's economy in 2007 relied heavily on resilient export growth particularly in the automobile, petrochemicals, and electronics sectors. Persistent political uncertainty and the global financial crisis in 2008



weakened Thailand's economic growth by reducing domestic and international demand for both its goods and services. In 2008, the growth rate fell to 2.6%. By the end of the first quarter of 2009, Thailand fell into recession due to a decrease in exports. However, due to the recovery of its manufacturing industry, the country moved out of recession as evidenced by its GDP growth of 2.3% in the second quarter of 2009.

In the 2009 index of economic freedom published by the Heritage Foundation and the Wall Street Journal, Thailand placed 10th among the 41 countries within the Asia-Pacific region, and its overall rank globally is higher than the world average.⁸² The United Nations Development Program's 2009 Human Development Index (HDI) score for Thailand was 0.783, receiving the 87th place out of 182 countries examined.⁸³ The country's 2009 Human Poverty Index-1 (HPI-1)⁸⁴ is at 8.5, giving it a rank of 41 among 135 countries. In 2004, the population living below the national poverty line was pegged at 10%. In the 2009 Global Corruption Report of Transparency International, Thailand's ranking in the corruption perception index slightly improved from 84th in 2007 to 80th in 2008

82 <http://www.heritage.org/Index/country/Thailand>

83 The HDI provides a composite measure of three dimensions of human development: life expectancy, adult literacy and gross enrolment in education, purchasing power parity, and income.

84 HP-1 is used for developing countries. HP-1 measures "a composite index measuring deprivations in the three basic dimensions captured in the human development index — a long and healthy life, knowledge and a decent standard of living."



among 180 countries.⁸⁵ However, in a survey conducted by Political and Economic Risk Consultancy (PERC) in 2008, expatriates perceive the level of corruption in Thailand to be among the highest in Asia.⁸⁶ Political instability and corruption perception may have had a negative impact on the economy since investor confidence has yet to improve.⁸⁷

A Peek into the Past: Historical Backdrop

The first independent Thai Kingdom was established in 1238. A bloodless revolution in 1932 led to a constitutional monarchy. Today, Thailand remains a constitutional monarchy where the King has considerable moral authority and formal powers. The Prime Minister is head of the government.

After 1932, politics in Thailand was dominated for a half-century by military and bureaucratic elite. Changes of government were effected primarily by means of a long series of mostly bloodless coups. Beginning with a brief experiment in democracy during the mid-1970s, civilian democratic political institutions slowly gained greater authority, culminating in 1988 when the country's first democratically elected Prime Minister assumed office. In 1991, yet another bloodless coup ended his term. After a year-long largely civilian interim government and inconclusive elections,

a former army commander was appointed as Prime Minister. Demonstrations were violently suppressed by the military in May 1992, which led the Prime minister to resign, leading to elections in September 1992.

Political parties that had opposed the military in May 1992 won by a narrow majority, and the Democrat Party leader served as Prime Minister until May 1995. The Thai Nation Party won the largest number of parliamentary seats in subsequent elections, with its party leader serving as Prime Minister for little more than a year. The onset of the Asian financial crisis caused a loss of confidence in the Chavalit government that led to a new constitution, and returned Chuan Leekpai to power in November 1997.

The 1997 Constitution, often called the “People’s Constitution,” was considered a landmark in terms of the degree of public participation involved in its drafting as well as the democratic nature of its articles. It stipulated a bicameral legislature, of which representatives of both houses were elected. Many human rights were explicitly acknowledged for the first time, and measures were established to increase the stability of elected governments.⁸⁸ Likewise, it provided Thailand with a strong system of checks and balances. This was ensured through a strengthened rule of law and human rights, enhanced accountability mechanisms, and improved transparency, participation and decentralization.

85 http://www.transparency.org/policy_research/surveys_indices/cpi/2008. The Transparency International annual Corruption Perceptions Index (CPI) for 2008 ranks countries as per ‘the degree to which corruption is perceived to exist among public officials and politicians’. The 2008 CPI scores 180 countries (same number as in the 2007 CPI) on a scale from zero (highly corrupt) to 10 (highly clean).

86 <http://www.theaustralian.news.com.au/story/0,25197,25309467-12377,00.html>

87 <http://www.themalaysianinsider.com.my/index.php/business/35904-thai-economy-expands-23pc-in-q2-out-of-recession>

88 http://en.wikipedia.org/wiki/Constitution_of_Thailand

In January 2001, telecommunications multimillionaire Thaksin Shinawatra and his new Thai Rak Thai (TRT) party won a decisive plurality victory on a populist platform of economic growth and development. Soon after his second term began, allegations of corruption emerged against his administration. Peaceful anti-government mass demonstrations grew, and hundreds of thousands marched in the streets to demand Thaksin's resignation. Prime Minister Thaksin dissolved the parliament in February 2006 and declared snap elections in April of the same year. The main opposition parties boycotted the polls, and the judiciary subsequently annulled the elections.

In September 2006, a military coup ousted Thaksin. The interim government held elections in December 2007 the People's Power Party emerged at the head of a coalition government. Thailand's current constitution was promulgated in 2007, which was written by a junta-appointed group of drafters, but was approved by a public referendum.

A Look into Reforms Towards Good Governance

After the Asian financial crisis, the promotion of good governance and the improvement in public service delivery were the two key elements that drove public sector reforms in Thailand. "In a nutshell, public sector reform in Thailand was geared to improve governance, efficiency, and equity; enhance accountability and transparency of resource management and delivery; and increasing decentralization and public participation."⁸⁹

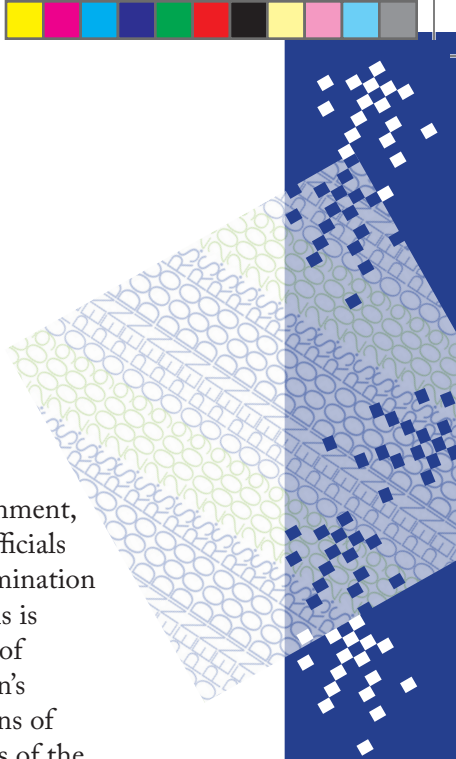

89 http://siteresources.worldbank.org/INTTHAILAND/Resources/CDP-G/CDPG_Final_Report_012307.pdf

In the 1997 Constitution, mechanisms were put in place to enhance transparency. It provided the citizens the right to access public information in possession of a government agency or local government organization. It also strengthened accountability through clearer and stronger standards in defining conflicts of interest. The 2007 Constitution also introduced provisions that complemented the previous constitution. Aside from imposing limits on the length of time the Prime Minister stays in power, full disclosure of the Premier's assets and conflicts of interest are also required. Ordinary citizens were also empowered to question politicians more easily as local government bodies have to submit their plans and related budgets to the people, as well report their implementation for scrutiny, among others.⁹⁰

Thailand joined the Asian Development Bank/Organization for Economic Cooperation and Development (ADB/OECD) Anti-Corruption initiative in 2005. As part of the initiative, Thailand's current priority is to support active public involvement. To achieve this, Thailand proposed to raise and strengthen public awareness about corruption and to build strong countrywide network. Although Thailand signed the United Nations Convention Against Corruption (UNCAC) in 2003, the country is still undergoing the process of determining gaps in state laws versus UNCAC commitments before ratification.⁹¹

90 <http://www.thailawforum.com/articles/Thailand-Eighteenth-Constitution.html>

91 http://siteresources.worldbank.org/INTTHAILAND/Resources/333200-1089943634036/475256-201245199159/2008Mar-asset_recovery-sompong_speech.pdf



According to the 2007 Global Integrity Report⁹², Thailand's anti-corruption legislation is considered strong. Largely covered by The Act of Penal Code, B.E. 2502, bribery, attempted corruption, extortion, abuse of public office for private gain, as well as serving as an intermediary between two parties exchanging bribes and services are all punishable by heavy sentences, including capital punishment. The Anti-Money Laundering Act of 1999 considers money laundering and the use of crime-related money and assets as criminal offenses. In accordance with the 1997 Constitution, Thailand set up independent anti-corruption institutions, such as the National Counter Corruption Commission (NCCC) and an Ombudsman.

Mandated by the Organic Act on Counter Corruption, the (NCCC) was established in 1999. The NCCC is an independent supervisory body accountable to the Senate. Its primary duty is to carry out inspections and investigations of cases of unexplained wealth. In 2003, the NCCC received 852 complaints on corruption in local governments but investigations proceeded at a very slow pace, with few convictions.

The Office of the Ombudsman, established by the Ombudsman Act of 1999, is an independent body with the power and the obligation to investigate complaints about public officials' negligence to perform their duties in compliance with the law. Although under the Organic Law, the Ombudsman is not required to publicize decisions made based on the complaints received, it continues to publish results in its website.

92 <http://report.globalintegrity.org/Thailand/2007/scorecard>

Anticorruption

Under the 2007 Constitution, all members of government, members of parliament, senators and government officials are required to declare their assets to the Asset Examination Committee (AEC) upon appointment to office. This is done to ensure transparency, and in case allegations of corruption are present, the AEC may freeze a person's assets when there is evidence that supports allegations of corruption. Freezing of assets also includes the assets of the person's family, similar to what happened with former Prime Minister Thaksin. The AEC works closely with the NCCC, and is a body consisting of members from the NCCC, the Anti-Money Laundering Office (AMLO), and the Auditor General, among others.

The Office of the Auditor General (OAG) was reorganized in 1997 and placed under the Senate instead of the Prime Minister's Office. It carries out its duties based on the State Audit Act and supervises state revenues and finances. The OAG is considered by the Global Integrity Report as one of the stronger offices that fight corruption, and provides the public access to its documents.

Thailand has taken the first steps towards developing an e-governance framework to further strengthen transparency in the procurement process. Electronic auctions and e-procurement for public projects have increased, though much still needs to be developed. The Revenue Department has introduced e-filing of tax on its website, where

individuals as well as companies can file their taxes. The customs department has just introduced one-stop service customs houses, where customs papers can be submitted at a single entrance point.

Procurement Initiatives

Procurement in Thailand is highly decentralized. The main legislation on government procurement is the Regulation of the Office of the Prime Minister on Procurement 1992, as amended to No. 6, 2002 (ROPMP). The law does not cover local government agencies,⁹³ but they are governed by the Regulations of the Ministry of Interior on Procurement of Provincial Administration, which are similar to the principles of the ROPMP. State-owned enterprises on the other hand have the free will to draft their own procurement regulations. Since there is no central procuring entity, around 200 government agencies are responsible for procuring their own goods and services.

A range of government agencies are mandated by law to oversee procurement. They are the Public Procurement Management Office (PPMO) in the Comptroller General's Department (CGD) within the Ministry of Finance. The PPMO controls, monitors, and evaluates procurement by government entities. It also determines regulations and guidelines related to government procurement. In addition, the Committee in Charge of Procurement (CCP), established under the ROPMP, interprets the ROPMP, makes recommendations concerning its enforcement and amendment, grants exemptions from the

93 <http://www.adb.org/Documents/Books/Public-Procurement-Asia-Pacific/tha.pdf>

ROPMP to procuring agencies, and hears complaints. For specific procurements, the procurement personnel of an agency involved must prepare a proposal to be approved by the head of the agency. Selection committees evaluate offers and select the winning bids.⁹⁴

Based on the law, Thailand publishes tenders on the websites of the Ministry of Finance, the State Legal Council, and the Ministry of Interior. The information includes the value of the contract and the nature of the goods or services. The interval from the advertisement to the deadline for submitting a bid must be at least 21 days. Post-awarding negotiations are allowed, only when they serve the best interests of the state. If a company is caught cheating in the bidding process, it may in principle be barred from participating in future competitive bidding. Procurement for the military is covered by another set of specific regulations.

The law also requires the use of model contracts and tender documents to strengthen transparency. The procuring entity is required to publish the prequalification criteria and method of selection, and inform the CCP. Through this enabling mechanism, civil society in monitoring procurement is increased, while collusion between bidders is reduced. Since Thailand uses model documents, if none of the received bids meets the requirements, the tender is reopened.

The Act Concerning Offences Relating to Submission of Bids to Government Agencies of 1999 states which acts are illegal and corrupt on both sides of the contract.

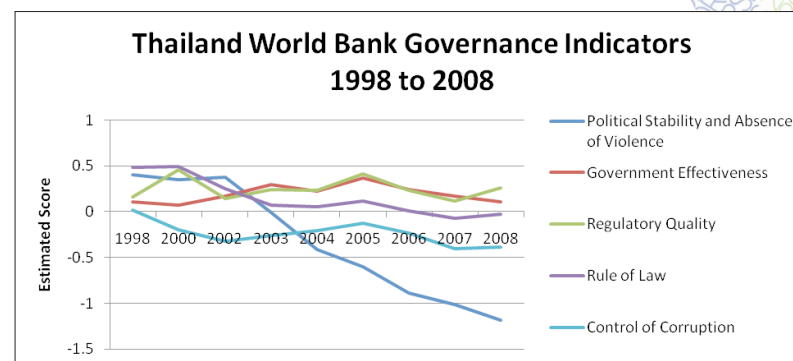
94 <http://www.adb.org/Documents/Books/Public-Procurement-Asia-Pacific/tha.pdf>

Although Thailand has no specific laws yet on conflict of interests for public procurement officials, several laws have been passed to ensure that integrity is maintained. These are the Organic Act on Counter Corruption 1999 that includes conflict-of-interest provisions. The Royal Decree on Good Governance in State Administration 2003, the Civil Service Act 1992, and the Civil Service Ethic Standard. The NCCC has also issued a “notification” concerning the acceptance of gifts.

Corruption is perceived as a significant issue in Thailand. Although Thailand’s legal framework for combating corruption has been in place since the late 1990s, enforcement remains weak. The asset declaration requirements of public officials have failed to hinder conflict of interests between government officials and the business sector, where demands for facilitation payments are widespread.

Table 1 shows findings from the 2008 World Bank Governance Index Report. A slight increase has been observed in Regulatory Quality, Rule of Law and Control of Corruption. The downward trend on Political Stability and Absence of Violence/Terrorism, and Government Effectiveness was due to the uncertainty in the political environment brought about by the 2007 coup and its continuing effects in the country.

Table 1: World Bank Governance Indicators for Thailand (1998-2008)⁹⁵



To address issues on corruption, Thailand has made strides toward ensuring that enforcement of its state policies is observed. In the 2007 Constitution, provisions were made to strengthen existing mechanisms such as the NCCC and the Ombudsman.

Overview of Civil Society Organizations

Under the 1997 and 2007 Constitutions, the state recognizes the vital role of civil society in ensuring transparency and accountability in government processes. CSOs and individuals can submit complaints to the NCCC for investigation. They also play a large role in communicating corrupt practices through media.

⁹⁵ <http://info.worldbank.org/governance/wgi/pdf/c213.pdf>

A Picture of Years Gone by: A Brief History of CSO Involvement

In the early 1970's, a student uprising took place that signaled the advent of the citizen's familiarity with rural poverty and disparity, which triggered them to be more politically active. Many interest groups viewed social development from the humanitarian point of view and demanded radical reforms to enable the transfer of resources to the poorer sections of the society. In 1973, the rise of left wing groups was counterbalanced by the formation of right wing organizations that toppled the government in 1976. However many student and grassroots organizations were suspected of being communist insurgents and their growth was suppressed. This marked the decline of civil society organization during the next decade.

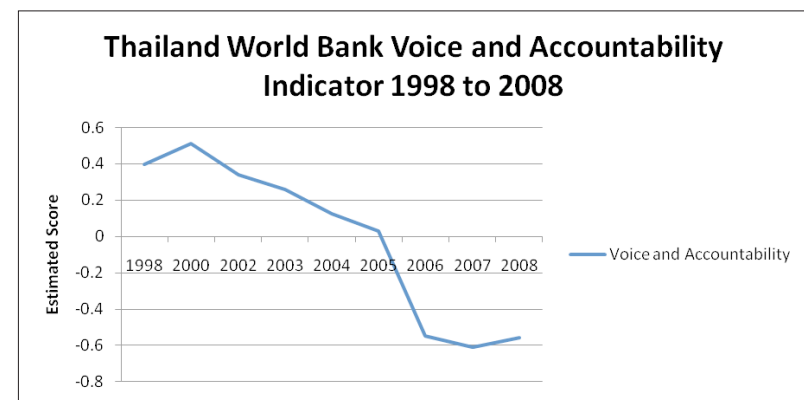
In the late 1980s conditions became favorable for civil society. Gradually, development oriented organizations became increasingly active. Their formation was a reaction to the threat of poverty to human security, and the general thought was that they were able to provide alternative means to address the issue. By being anti-bureaucratic, many organizations reacted negatively toward government resulting to a period of strong tension between CSOs and the government. This was only addressed recently through the establishment of the Joint Coordination Committee between government and CSOs. Regional sub-committees have also been designated and are now very active in their localities.

In the 1990's, the civil society movement became stronger when the needs for political and social reforms were recognized. They were able to place themselves in strategic positions such as monitoring political and economic activities in Thailand.

Civil society's role in demanding for a more democratic government was evident during the May 1992 rally which opposition political parties eventually joined against the threat of being dictated by a military junta. The deaths of protesters due to shots fired by Thai soldiers turned out to be one of the most tragic incidents in modern Thai history. After the incident, it became clear that prime ministers would always have to assume the position by popular vote. CSOs were able to observe the impact of the 1997 economic crisis and were also active in fighting corruption.

In the World Bank's Voice and Accountability indicator from 1998 to 2008, from its peak during the year 2000, the indicator assumed a downward trend in the succeeding years eventually reaching a negative score by 2005. Since then, it has consistently dropped though a slight increase was noted for 2008.

Table 2: World Bank Voice and Accountability Indicator for Thailand (1998-2008)⁹⁶



96 <http://info.worldbank.org/governance/wgi/pdf/c213.pdf>



A Glance at CSOs Involvement in Governance Reforms

Transparency Thailand is the country's national chapter of Transparency International. Its activities are focused on promoting transparency and accountability in Thai society through constructive engagement and partnerships with the media, the NCCC and other government institutions, including private sector organizations. In 1998, a joint effort between Transparency Thailand and more than 30 CSOs, successfully documented corruption within drug procurement in the Public Health Ministry. This resulted to the incarceration of two officials who were found guilty by the Constitutional Court.⁹⁷

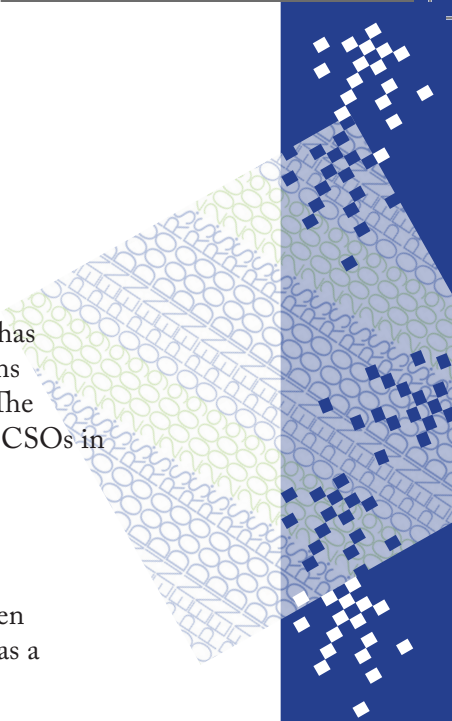
A Snapshot of Civil Society – Government Relations

Civil society is still viewed by the government with distrust.⁹⁸ This is compounded by the current issues being faced in the country. To date, several environmental CSOs are in conflict with the Irrigation Department over the proposal to build dams. Other CSOs are in disagreement with the Electricity Generating Authority of Thailand over the proposals to build large energy plants which have serious environmental repercussions, and which are opposed by local people who were not consulted at the planning stage. Some public officials have taken the view that had it not been because of CSOs, villagers would continue to be complacent with government projects. Moreover in the US Department of State report for 2008 stated that CSOs critical of government-sponsored development projects faced periodic harassment during the year.⁹⁹

97 <http://aceproject.org/ero-en/regions/asia/TH/Citizen%20Mobilization%20in%20the%20Fight%20Against%20Corruption.pdf>

98 http://www.adb.org/Documents/Books/Key_Governance_Issues/Chapter_4.pdf

99 <http://www.state.gov/g/drl/rls/hrrpt/2008/eap/119058.htm>



Notwithstanding this impediment, civil society has continued to participate in implementing reforms that focus on governance and anti-corruption. The academic community is also closely linked with CSOs in advocating for reforms in the government.

A Preview of Issues Past, Present and Future

The environment of distrust and violence between government and civil society in Thailand serves as a disabling factor in fully engaging CSOs.