

Thailand on Spin Cycle

As Thailand's constitutional referendum campaign kicks off, the military rulers are doing all they can to make sure it passes

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Eleven months after Thailand's military used its tanks to oust premier Thaksin Shinawatra and scrap the 1997 "People's Charter" constitution, the military-backed government will face its first real test of its popularity when Thais will finally go to the polls for an up-or-down vote on a newly drafted constitution.

Elections are not the junta's strong suit, however, and already the referendum scheduled for August 19 has come under fire. Anti-coup groups and former members of Thaksin's now-dissolved Thai Rak Thai party are furious over a draft law for the special election that says anyone who "makes trouble, obstructs or does anything that could disturb the referendum" could be jailed for up to 10 years, fined up to 200,000 baht and banned from politics for five years, according to media reports.

But while opposition from coup opponents may be expected, even the constitution drafters don't like the draft law. As it stands now, the bill would ban any public relations campaigns for or against the charter, which may just include the government's plans to spend at least 30 million baht of taxpayer money for a PR offensive to "educate" the public.

"Even if amended to allow for 'factual' campaigning on the referendum, it is clear that the main purpose of the law is to intimidate and silence persons who don't share the official view," the Asian Human Rights Commission (AHRC) said in a statement last week. "Meanwhile the administration is pumping vast amounts of money into Yes propaganda that is set to increase quickly."

So far, public education on the referendum has mainly consisted of government officials, soldiers and even election commissioners all telling the public to approve the constitution and urging coup opponents to keep quiet or risk jail time. The military-appointed premier Surayud Chulanont has told government ministers to "raise public awareness" about the new constitution, while warning that those who campaign against it may be breaking the law.

The Yes campaign has already taken on strange forms. On Wednesday, the Bangkok Post carried pictures of people distributing leaflets on the referendum dressed bizarrely in green tights that made them look vaguely like villains from the 1960s Batman TV series. The government hopes millions of these so-called "democracy volunteers" will train citizens to accept the draft constitution, and that those people in turn will urge others to do the same, the paper reported. In addition, The Nation newspaper reported that the government plans to launch advertisements on television, radio, newspapers, billboards and the Internet under the theme "Approve: New Constitution, close to the people."

Government officials have gone to pains to link plans for a real election with a successful referendum. Last week Defense Minister Boonrawd Somtas told reporters that an election "can take place only if the new constitution passes the referendum." The 17 million baht that the government has already spent on advertising to encourage a Yes vote has also linked the referendum to an election, implying that a No will simply mean longer military rule. What's more, coup leader Sonthi

Boonyaratglin has reportedly ordered soldiers in all regions “to publicize the charter to residents.”

“I don’t think that the military can educate the people about the constitution because it has an interest that the constitution should pass a referendum, and it will do anything to persuade people to pass the referendum,” said Vorajet Pakirat, a law lecturer at Thammasat University. “Some people in provincial areas already think they don’t have a right to vote No.”

The government’s awkward moves to restrict discussion come on top of what is already a strange referendum. While the vote is meant to prove that the new 309-article constitution is democratic and accepted by the people, indeed voters don’t have a clear choice. If Thais reject the constitution, then the generals could choose any other constitution, make any amendments it wishes and then promulgate it. Although some top soldiers have said they would choose the 1997 constitution, they would also likely make changes that look very similar to the current draft, meaning that the public could end up with a constitution that looks an awful lot like the one the military is presenting now no matter what they choose on August 19.

Certainly this constitution has some key differences with the 1997 version, both for better and worse. A prime minister cannot own a stake in any media firm – a clear reaction to Thaksin’s ownership of the iTV television channel – and cannot serve for more than eight consecutive years – Thaksin once implied that he would rule for at least 15. Censure motions can be filed by just a fifth of Parliament, or 96 MPs—coincidentally the same number the main opposition Democrat party won in the last legitimate election in 2005. Instead of a directly elected 200-member Senate, a panel of unelected judges and heads of independent bodies would appoint almost half of a 150-member upper house.

The draft also says the government must provide the military with “forces, weapons, ammunition, military equipment and technology that are adequate and necessary” to protect the country. And finally, in the last article, it absolves the coup makers of any wrongdoing, which critics fear would open the door to more coups in the future.

Former Thai Rak Thai members have already regrouped to launch a campaign against the draft. The former party retains an extensive network throughout the country’s poorer Northeast region, and at the very least, a No campaign could act as a de facto campaign for the general election promised for later this year, even though the government still bans new political parties.

Interestingly, the coalition of the Democrat, Mahachon and Chat Thai parties has agreed to support the new constitution. The parties all boycotted the April 2, 2006 election because they said the Election Commission was biased and a free election could not take place, which helped set the stage for the coup. Even so, this time around the parties don’t have a problem with the fact that two of the election commissioners organizing the referendum on the constitution also helped write the document and voted to support it.

Election commissioner Sodsri Sattayatham, who is also a constitution drafter, has warned anti-coup groups against campaigning to reject the constitution. She also has a personal stake in the outcome. While the constitution was being drafted, she persuaded the entire five-member Election Commission to resign if the drafters approved a proposal to ban anyone who helped write the new constitution from sitting on independent bodies or running for Parliament. Essentially, that clause would have banned her from the Election Commission due to conflict of interest. In addition, when arguing unsuccessfully for a “national crisis council” to be included in the constitution, Sodsri said: “Why don’t we bring the military into the process so things can become orderly?”

“We don’t see anything wrong with the Election Commission,” said Ong-Art Klampaiboon, a

spokesman for the Democrat party. "I think they can do their job independently. Society will monitor them and former MPs in the Thai Rak Thai group will monitor them, so it's not easy for the commission to do as they want."

He added: "If we accept the constitution, it will make our country more peaceful and we can have an election later this year."

For those who don't support the generals, the restrictions on campaigning for the referendum fit into a larger pattern of the military altering the playing field to favor soldiers and bureaucrats. Besides boosting the military's budget by 66 percent over the past two years, the coup makers also passed a wide-ranging national security bill that will turn the Internal Security Operations Command into a vast superstructure in which senior officials are immune from judicial oversight and have wide powers to detain suspects without warrants, restrict travel and send those who "obstruct" their work to jail.

Indeed, a front-page report on Wednesday in the Bangkok Post quoted a source close coup leader Sonthi saying he has used command staff both to lay the groundwork for him to run in the next election and to "break up" support for the dissolved Thai Rak Thai party in the North and Northeast. Although many NGO leaders, academics and editorialists initially supported the coup as a necessary evil to correct a system that Thaksin had manipulated, it's now clear the playing field is still tilted—just in the other direction.

"Ultimately, the notion of a constitution being replaced by military force is—from the perspective of human rights, justice and the rule of law—an absurdity," said the AHRC statement. "While government propaganda in Thailand may persist in trying to give the appearance of a decent and harmless coup, the effect of removing the paramount law of a country by force is to make clear that the country is lawless.... Thus the country has devolved, in legal and institutional terms, to an extremely barbaric point that will have lasting bad effects for generations."

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