



National Integrity Systems

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Currency

The currency in Thailand is the Thai baht (THB) and the rate of the baht to the US dollar in January 2007 was approximately THB 100 to US\$2.80.

Abbreviations

ADB	Asian Development Bank
AMLO	Anti-Money Laundering Office
BOB	Bureau of Budget
CCPN	Coordinating Committee for Primary Health Care of Thai NGOs
CDR	Council of Democratic Reform
CG	Corporate Governance
CPD	Campaign for Popular Democracy
CSR	Corporate Social Responsibility
ECT	Election Commission of Thailand
EGAT	Electricity Generating Authority of Thailand
FACT	Foundation for a Clean and Transparent Thailand
FFC	Foundation for Consumers
GFMS	Government Fiscal Management Information System
IMF	International Monetary Fund
LDI	Local Development Institute
MCOT	Mass Communication Organisation of Thailand
NCCC	National Counter Corruption Commission
NDI	National Democratic Institute for International Affairs
OAG	Office of the Auditor General
OCSC	Office of the Civil Service Commission
OECD	Organisation for Economic Co-operation and Development
OIC	Official Information Commission
OPDC	Office of Public Sector Development Commission
PM	Prime Minister
PNAC	People's Network against Corruption
PNET	People's Network for Elections in Thailand
PTT	Petroleum of Thailand Public Company Limited
RDS	Rural Doctor Society
SEC	Securities and Exchange Commission
TRT	Thai Rak Thai Party
UCL	Union for Civil Liberties

About the NIS Country Studies

What Is the NIS?

The National Integrity System encompasses the key institutions, sectors or specific activities (the 'pillars') that contribute to integrity, transparency and accountability in a society. When it functions properly, the NIS combats corruption as part of the larger struggle against abuse of power, malfeasance and misappropriation in all its forms. Strengthening the NIS is about promoting better governance across all aspects of society.

The concept of the NIS has been developed and promoted by Transparency International as part of TI's holistic approach to combating corruption.¹ While there is no blueprint for an effective system to prevent corruption, there is a growing international consensus as to the salient institutional features that work best to prevent corruption and promote integrity. The country studies are based on an assessment of the quality of institutions relevant to the overall anti-corruption system.

Why Conduct NIS Country Studies?

The purpose of each country study is to assess the National Integrity System, in theory (law and regulatory provisions) and practice (how well it works). The studies provide both benchmarks for measuring further developments and a basis for comparison among a range of countries.

The studies provide a starting point for signaling areas requiring priority action. They also form the basis from which stakeholders may assess existing anti-corruption initiatives. NIS country studies help explain, for example, which pillars have been more successful and why, whether they are mutually supportive and what factors support or inhibit their effectiveness. Country studies also assess where the emphasis should be placed on improving the system and what factors are required to support the overall development of the NIS.

The country studies create a sound empirical basis that adds to our understanding of strong or weak performers. Within a region, in which several countries may function with similar economic, political or social frameworks, the results of the study can create a sense of peer pressure for reform as well as an opportunity for learning from those countries that are in similar stages of development.

For Transparency International, country studies are an important measurement tool. They complement TI's global indices and surveys, such as the Corruption Perceptions Index, Bribe Payers Index and Global Corruption Barometer, as well as national surveys, by exploring the specific practices and constraints within countries and providing qualitative empirical results about the rules and practices that govern integrity systems. More than 55 such country studies have been completed as of August 2006.

TI believes that it is necessary to understand the provision for and capacity of the NIS pillars, as well as their interaction and practices, to be able to diagnose corruption risks and develop strategies to counter those risks. NIS Country Studies are a unique product of Transparency International, as they reflect the systemic approach TI takes to curbing corruption and the independence of analysis that can be offered by the world's leading anti-corruption NGO.

Methodology of the NIS Country Studies

The NIS country studies offer a qualitative assessment of the integrity system in a country. The studies are based on both objective and subjective sources of data, which differ in quantity in each country evaluated. The studies therefore require both desk research and field research.

At least one focus group is convened as part of the country study. Focus group participants include anti-corruption and governance experts drawn from government (including donors, where relevant), the private sector, the professions (e.g. lawyers, accountants and engineers), media and civil society. The aim of the focus groups is for a broad base of stakeholders to evaluate the NIS and to comment on the draft NIS country study. The results of the meeting then inform further revision of the country study.

Each country study is reviewed by an external expert referee.

Executive Summary

Thailand has come a long way in terms of setting up laws and independent bodies to combat and prevent corruption in both the public and private sectors. The 1997 constitution laid the foundation for proper check and balance mechanisms among the pillars of the national integrity system. It established such independent regulatory bodies as the Election Commission, the Administrative Court, the Constitutional Court, the National Counter Corruption Commission and the Ombudsman. Both the public and the private sectors and civil society have taken initiatives to promote transparency and good governance over the past 10 years. However, there have been no large-scale nationwide efforts to combat corruption.

All Thai institutions in theory have the power to function as effective elements of the national integrity system. However, in practice, there have been too many incidents of political intervention. Especially in the past five years, ruling politicians have often interfered politically in the work of these independent bodies. In addition, the bodies lack the experience and expertise to function according to the law and the public's expectations. Some institutions have become stronger, but most are still in the initial stage of development. Most independent bodies have yet to function fully as check and balance mechanisms for the integrity system. Corrupt practices have become much more sophisticated and complex, involving many actors. Thus, it is very important to strengthen the functions of these regulatory bodies further, support coordination between organisations and reduce political intervention in the supposedly independent bodies.

As decentralisation efforts continue, local governments are becoming more important entities both as pillars to counter corruption and as pillars to be monitored for corruption. International institutions have played some role in enhancing new anti-corruption activities and linking Thailand with the international community. Civil society has also grown stronger and has played important roles, together with the media, in counter-balancing the government's administration. However there is much to do to promote the public's will to resist corruption; the norm must be embedded in Thai culture.

In sum, Thailand needs to: further strengthen its independent regulatory bodies; support networking strategies among the regulatory bodies; redesign the anti-corruption agency to handle large and small cases effectively at both the central government and the local government levels; promote ethical codes for public professions; and enhance new civic cultures resistant to corruption in the general public.

Priorities and Recommendations

The following are suggested recommendations to improve the National Integrity System of Thailand.

- **Independent organisations should be further strengthened**

The 1997 constitution was written with careful consideration of the various check and balance mechanisms necessary for an effective integrity system. The priority for Thailand now, after the coup of September 2006, is to restore all of its integrity mechanisms. The functions of independent agencies should be further strengthened in the upcoming new constitution.

In the past five years the powers of the executive branch grew rapidly. The Thai Rak Thai Party was able to grow and became dominant under the conditions provided by the 1997 constitution. It is arguable that this was the intended result of the 1997 constitution, which aimed to overcome the phenomenon of weak coalition governments of the past and to create fewer and stronger political parties. At the same time, the constitution also aimed to create channels for checks and balances of the executive branch by establishing independent regulatory bodies. This goal conflicted somewhat with the goal of creating a strong executive branch.

At first these independent bodies seemed to be working well. The Election Commission effectively monitored elections in 2001, and Thais witnessed for the first time in the country's history a minister being charged with and proven guilty of corruption, in the medicine procurement corruption case. However, by 2006, it was evident that the independent regulatory bodies were never fully strengthened due to both the inherent internal weaknesses of the organisations and to interventions by those with vested interests. The legal framework exists, but enforcement remains the key problem.

Therefore, the country should further strengthen the independence of each independent regulatory body and enhance their capacity to fulfil their roles and functions completely. This could be done best by removing or limiting direct executive branch power from the various pillars, such as the National Police, the Anti-Money Laundering Office, the Election Commission and the Constitutional Court. The political parties' power to select the members of these boards should be reduced; parties already have the opportunity to balance their power in the parliament. In addition, the representative of the 'people's sector' in the selection committees of these bodies should be clearly defined.

- **Networks of the Integrity System should be enhanced**

As corrupt practices have increasingly become larger in scale and much more complex, the mechanisms to counter them must be structured as networks that are flexible and strong. Each pillar must be independent enough to function as a check and balance mechanism, but at the same time each pillar must be checked upon by other pillars to avoid internal corruption. The situation in Thailand throughout the first 10 months of 2006 proved that networks of various pillars contributed to toppling the too powerful executive branch. Networks of pillars can counter agencies powerful due to political interventions or for other reasons. In order to enhance this, legislation for protection of whistleblowers must be passed and put into effect. Coordination among the different independent regulatory bodies could be enhanced through regular exchange of information, through integrated training programmes and seminars and by formulating a national-level strategic plan to counter corruption for the next 5 to 10 years.

Thailand currently faces tremendous challenges in returning to its path of democracy. The 2006 military-led coup was endorsed by many. During the first few days after the coup the Privy Council was openly consulted by the Council for Democratic Reform, and a member of the Privy Council has been appointed as Thailand's 24th prime minister. It is clear that both the military and the monarchy have vital roles as part of the country's structure of checks and balances. Further careful analysis of these two institutions should be carried out to reflect the true nature of the networks in the Thai democratic system.

- **Redesigning anti-corruption agencies to handle different scales of corruption**

Corruption on both large and small scales can occur at the national level and at the local level of administration. Currently, cases have piled up, thus causing delays in investigation and prosecution of wrongdoers. Due to the increasing complexity of grand-scale and policy-based corruption at the national level, anti-corruption agencies should focus on large-scale corruption at the national level, as they have. However, in order to prevent and counter smaller scale corruption and maintain the integrity system in local-level governments, a separate,

independent agency should be established to oversee small-scale corruption problems at the local level. This would be in line with decentralisation efforts because the check and balance mechanism will be installed locally as well.

- **Public values and norms must be changed through new civic culture and education**

There has always been a lack of serious political will and public will to counter corruption in Thailand. Institutional solutions to corruption problems will not survive if values and norms, which currently tend to accept corrupt practices, are not changed. The embedded patron-client relationship in the Thai culture discourages the formulation of anti-corruption movements. The most effective instrument for changing such norms is education. Anti-corruption values must be incorporated in students' curricula, from an early age through higher education. This would require all sectors, especially civil society, to help promote, implement and practice the change in norms. Along with education, a civic culture resistant to corruption should be enhanced. The general public needs to be more aware of the economic and social costs that corruption imposes and must be more willing to fund civil society to help combat corruption, especially among business and political circles. The first step could be the distribution of information on ethical expectations of public officials. Ethical codes for public officials in all the pillars, including political party members, legislature members, senate members, civil servants, police and other public officials, should be written. These codes should be compiled into one document and made public on government websites.

In sum, the key recommendations are:

- Individual independent regulatory bodies should be further strengthened to ensure effective checks and balances. The legal framework is there but enforcement is the main problem.
- Networks of the integrity system should be designed so that none of the independent bodies becomes too powerful and the regulatory bodies are subject to checks and balances.
- Anti-corruption agencies should be designed to handle cases of complex and large-scale corruption separately from cases of petty small-scale corruption.
- Anti-corruption activities should focus on changing the values and norms of the general public to promote a civic culture intolerant of corruption. Ethical codes for politicians, civil servants, police and other public officials should be written clearly in a single document and made public on government websites.

Country Profile

The Kingdom of Thailand, hereinafter Thailand, has an area of 514,000 square kilometres with a population of approximately 65 million people. Buddhists make up 94.6 per cent of the population, Muslims 4.6 per cent and Christians and members of other religions account for the rest. Thailand is the only country in the Southeast Asian region that was never formally colonised. The literacy rate is 92.6 per cent (as of 2005), and the GDP growth rate has been between 4 per cent and 6.9 per cent in the past five years. The GDP per capita is currently US\$8,600. The GDP comprises 46.7 per cent from the services sector, 44.3 per cent from the industrial sector and 9 per cent from the agricultural sector.

It is said that Thailand has recovered fully from the 1997 financial crisis.² However, the past five years have brought Thailand new forms of crisis. The country has been trying to recover from the tsunami disaster that hit the west coast of the southern provinces in December 2004. That disaster together with high oil prices, lower consumer confidence, weaker demands from Western markets and the avian flu outbreak are factors that have obscured recent economic developments, especially in the service industry. Another important crisis is the ongoing violence and insurgencies that have erupted since 2003 in the three southern border provinces, where the population comprises predominantly Malay Muslims. Separatist movements, unjust actions by state officials, illegal businesses and local politics are among the stated causes of the increasing violence in the region.

Since 1932 Thailand has been a constitutional monarchy. It has had 17 charters and constitutions. The military coup in February 1991 and the military leader's attempt to be prime minister in March 1992 caused wide protests among the middle class, which led to the Bloody May 1992 event. Between the event and the promulgation of the 1997 constitution, social movements at all levels, whether grassroots, middle class or elite, sprang up to participate in the rewriting of the constitution.

From 1997 to 2006, the country was run under the 1997 constitution. This was praised as being the most democratic constitution in the history of the country, for both the participatory process in its writing and the nature of its articles. Under the bicameral national assembly, the 200 Senate members were elected for six-year terms and were to be non-partisan, and the 500 members of the House of Representatives were elected for four-year terms. The 1997 constitution ensured human rights, gender equality, free education, decentralisation, an independent judiciary and independent regulatory bodies such as the Election Commission, the Constitutional Court, the Administrative Court, the Ombudsman, the National Human Rights Commission, the State Audit Commission and the National Counter Corruption Commission.

Thaksin Shinawatra, founder of Shin Corporation, a large telecommunications company, formed the Thai Rak Thai party (TRT) in 1998 and won a landslide victory in the 2001 elections, and again in the 2005 elections. Towards the end of 2005 anti-Thaksin groups grew larger in numbers and held increasing number of protests. Despite some successes, Thaksin was alleged of various wrongdoings, including having absolute power, corruption, conflicts of interests, lese-majeste, violation of human rights and using inappropriate populist policies to win the rural poor. After the deal to sell Shin Corporation to Temasek Holdings of Singapore without paying tax because it was sold in the stock exchange, there were massive demonstrations, especially in Bangkok, against Thaksin. In response, Thaksin dissolved the House of Representatives on 24 February 2006 and called new elections. An election was held on 2 April 2006. Other major political parties boycotted and did not send members to run for the election. As a result, the parliament did not have the complete 500 members necessary to function. On 8 May 2006 the Constitutional Court ruled to invalidate the April elections and scheduled new elections for October 2006. However, on 19 September 2006 the military seized power in a bloodless coup. Thaksin was overthrown and the October 2006 election was cancelled.

The 1997 constitution was abrogated by the junta, which promulgated an interim constitution on 1 October 2006. People's lack of confidence in the administration, the ineffective control and monitoring of state power and the massive corruption of the government were some of the main reasons given for the staging of the coup. Under this special one-year administration the junta appoints the interim prime minister and 250 National Assembly members to be both the Senate and House of Representatives. In December 2006, the appointed government was in the process of selecting the drafting committee for the new constitution, which is expected to be promulgated by October 2007.

Corruption Profile

Corruption is seen as a chronic problem in Thailand. In her study in 1997, Pasuk Phongpaichit found four causes of leakages of public spending due to corruption. They were: (1) businessmen avoiding tax obligations by forging documents with public officials' consent; (2) many public officials' lack of experience, rendering them unable to regulate the corrupt practices of businessmen; (3) many public agencies' participation in the culture of receiving under-the-table money in exchange for better services and (4) frequent changes in laws and regulations, causing confusion for public officials.³ In her study of government projects in the telecommunications sector, Phongpaichit also found that contracts were concluded even though the state would lose more than it would gain under the agreements. Public officials were paid for the long-term monopoly leasing of public contracts. In a sample group of businessmen, 63 per cent said they had had experience in paying bribes to public agencies.⁴ The five public agencies with the highest rate of bribery are the Customs Department, the Police Department, the Revenue Department, the Land Department and Bangkok Metropolitan Administration.⁵

Phongpaichit's study coincides with another study by the Office of the Civil Service Commission (OCSC) in 2001.⁶ The OCSC pointed to courts as another public agency that frequently accepts bribes. Officials accepting the bribes are normally not directly linked to the decision by the court but are usually prosecutors and police officers. In the same study members of the parliament were also ranked as low as the police officers for levels of integrity and honesty. In a survey, OCSC found that 79 per cent of businessmen felt bribery was the norm to get things done. In contrast, corruption is less likely to be found in public agencies that provide basic utilities and social services.

In the same study, most of the surveyed civil servants said that when they received gifts they considered them to be for expediting the service, while only 25 per cent thought of them as a kind of corruption. Many factors contribute to the decision to accept corrupt practices among public officials, among them inappropriate laws and regulations, patronage culture and, most important, lack of confidence in personnel evaluation systems. These factors are closely related to political struggles within organisations and political interference from outside organisations. Lack of trust in the personnel evaluation system led to corrupt practices such as buying and selling high-ranking positions, mostly those of department heads and secretariats of agencies. In Bangkok the positions would be directors of offices, centres and schools. Monetary and non-monetary returns were tendered in exchange for these positions, usually involving the consent of a politician, a close peer or direct supervisors.

In a study of corruption in mega projects, Phongpaichit found that corruption would not have been successful without the assistance and consent of civil servants from the beginning.⁷ She identified several internal and external factors that were associated with the scale of corruption. The internal factors were: the monopoly power of civil servants, the scope and level of discretionary power and the level of transparency in the work process. External factors were: political stability, the social class of the influential group and external auditing mechanisms. Mega projects are corrupted from the beginning of feasibility studies through the process of bidding, which causes unnecessarily high costs, completion delays, leakages of budgets and even complete project failures.⁸ The close network of patronage relationships between politicians, businessmen and civil servants is the foundation of successful large-scale corruption. Different patterns of corruption include cases of politicians and civil servants investing anonymously in companies. These firms would then successfully bid on public projects.⁹

Sangsit Phiriyarangsarn and others studied the change in corruption patterns after 2001 and found that politicians had adopted new techniques to ensure private gains while in public positions. This included appointing only close associates to head public agencies and independent organisations that dealt with procurement and public contracts for long-term investments. Politicians have also been active in amending laws and regulations to increase the power of those over whom they have control in order to intervene legally in the functioning of public entities, for example by ensuring that close associates are appointed as board members of state enterprises.¹⁰

In a case study of corruption in the Customs Department from 1998 to 2004, from 170 samples, problems broke down as shown in Table 1.

Table 1: Corruption cases in the Customs Department, 1998–2004

Problems	Percentage in 2004	2004 Survey	1999 Survey
Under the table bribes [Tea fee]	35.89	1 st	1 st
Lack of transparency and complexity in the work process	20.00	2 nd	2 nd
Lack of criteria and standards for where discretion is needed	8.82	5 th	3 rd
The complexity of the different tax rates and structures	8.82	5 th	4 th
Lack of effective and efficient auditing system	12.35	4 th	5 th
Lack of proper equipment and technologies	14.12	3 rd	6 th

Source: 'Study results of corruption in the Customs Department, businessmen say it is better but the culture of under the table bribes persists', *Matichon*, 15 March 2005, 20 [in Thai].

At the local government level, studies have pointed to widespread problems of corruption, particularly with regard to public projects. Corrupt activities are carried out within large networks of elected and appointed public officials from the central government level down to the local administration and government levels, including not only those directly responsible for the projects but also officials from the Bureau of the Budget and officials in charge of regulating and combating corruption.

In a study conducted by a network of anti-corruption civil society organisations, the authors identified four points of corruption at the local government level. They are: (1) close collaboration between owners of local capital and representatives of state power from the local to the national levels of government; (2) owners of local capital who directly support local politicians or become politicians themselves; (3) close ties between influential groups at the local level and state officials that induce the officials to follow the wishes of the groups and (4) periodic adjustments in the networks of influence of owners of local capital to follow closely the changes in political power in order to safeguard their interests.¹¹

Corruption in Thailand stems from close network ties between politicians, civil servants and businessmen. These networks extend from the central government to local governments and in some cases to businesses outside the country. Types of corruption that have developed include fraud, collusion on public project bidding, improper interpretations of the law and joint establishment of consulting firms to exert power over public projects.

In general in Thailand, while petty bureaucratic graft is controlled and confined to only some agencies such as the Police Department, more complex and sophisticated types of corruption are appearing. Direct abuse or illegal use of political and government power still exists.¹² Examples include vote buying, vote ballot switching and ballot box changing. Some are less visible abuses of power, such as a minister campaigning for a party member, a minister calling for meetings with heads of communities before an election or the transfer of money for populist policies to communities before general elections. However, corrupt activities have also become highly sophisticated, including conflicts of interest and policy-based corruption, which are less traditional types of corruption.¹³ These types of corruption involve the use of authority by politicians and bureaucrats to formulate policies that would benefit private interests, jeopardising the public interest. Decisions made on laws and policies go unchecked, and while on the surface they appear legal and legitimate, the beneficiaries of those policies are usually limited to, if not the politicians themselves, the politicians' close associates.¹⁴

A prime example is the verdict reached by the Administrative Court, in 2006, to nullify privatisation schemes of the Electricity Generating Authority of Thailand (EGAT). The main reason was that one member of the privatisation board was also on the executive board of Advance Info Service Public Co. Ltd. (AIS), an affiliate of the Shin Corporation owned by ex-prime minister (PM) Thaksin Shinawatra. There have been other incidents of alleged conflicts of interest related to ex-PM Thaksin, such as liberalising the telecommunications industry by abolishing the 25 per cent cap for foreign investment in telecommunications companies.¹⁵ The bill passed parliament just days before the Shinawatra family sold their Shin Corporation stock holdings to Temasek Corporation in Singapore for net worth of 73.3 billion baht.

Any observer of the political situation in Thailand for the past five years would be unable to deny the central influence of ex-PM Thaksin, whose regime was very stable from 2001 up until the beginning of 2006. His Shin Corporation has profited extremely well from the telecommunications

industry and is an important resource for his political activities. His Thai Rak Thai (TRT) Party won an enormous majority in the first election under the new constitution in 2001 and won again in the 2005 elections. The 1997 constitution set up fundamental institutions to balance powers and prevent corruption, but there were reports of political intervention in some of the institutions, which weakened the check and balance mechanisms. The extreme political and financial stability that he and his party enjoyed has been paired with criticism from scholars and the public that other countering institutions have been crippled. These institutions include not only those set up under the new constitution but also the media.¹⁶

In sum, despite being in a democratic setting, the previous government is regarded by many scholars as having had absolute power, which has contributed to widespread sophisticated corrupt practices over the past five years. However, at the same time, the institutions under the 1997 constitution were beginning to work, independent regulatory bodies had been established, civil society has grown stronger, the media has been relatively free and the general public has become more aware of corruption problems, owing in great part to the political turmoil and the public protests against ex-PM Thaksin's government during 2005–2006.

Anti-Corruption Activities

Thailand passed its Anti-Corruption Act and established the Counter Corruption Commission (CCC), under the Prime Minister's Office, for the first time in 1975. Prior to this, only the Penal Code of 1956, which named only bribery as a form of corruption, was in force. Both mechanisms were relatively weak without substantial enforcement to prevent and combat corruption in the public sector. It was difficult for the CCC to find evidence to prove corruption cases and to actually prosecute the wrongdoers. Only when the 1997 constitution was promulgated were fundamental structures to counter corruption put in place.

In accordance with the constitutional mandate, the Organic Act on Counter Corruption of 1999 was promulgated and a new National Counter Corruption Commission (NCCC) was established to replace the CCC. With commissioners appointed by the Senate, the NCCC was given wider authority to investigate and review assets and liabilities of elected politicians and high-ranking bureaucrats, including the prime minister, ministers and their spouses and children, to monitor their unusual wealth. It has successfully tackled some cases of false statements of assets and liabilities, such as Sanan Kachornprasart, former minister of interior and secretary-general of the Democrat Party.

Another innovation was the Election Commission, which was established to administer fair and just elections, to combat money politics. It was endowed with legislative, investigative and judicial power to punish offenders against the election laws. It could recount votes, validate election results and mandate new elections.¹⁷ Another newly established institution was the Ombudsman, in accordance with the Ombudsman Act 1999, which has the authority to investigate petitions or complaints from the public against public officials concerning wrongdoing or omission of duties that have caused damage to an individual or to the public. The Ombudsman does not have power to punish but must submit reports to the National Assembly.

In addition to the above, in 1997 the Official Information Act was passed, and the Office of the Official Information Commission (OIC) was established. The act ensures the right of an individual to request public information from public agencies and the right to file complaints with OIC. Various other acts have been promulgated in the past 10 years that are part of the effort to combat corruption. They include: the Civil Service Act of 1992; the Anti-Money Laundering Act, 1999; the Act Governing Liability for Wrongful Acts of Competent Officers, 1996; the Act Regulating the Offence Relating to the Submission of Bids and Tender Offers to Government Agencies, 1999; the Act on the Management of Partnerships and Securities Owned by Ministers, 2000, and the Organic Act on Criminal Procedures for Persons Holding Political Positions, 1999.

Under wide-scale public sector reform policies, with the provision of the Office of the Civil Service Commission and the Office of Public Sector Development Commission (OPDC), the government has also framed a code of ethics for civil servants and established an Ethics Promotion Centre.

Furthermore, in 2002, the government announced policies to combat corrupt practices of influential individuals and families, together with a 'war against corruption'. Influential businessmen and their networks at the provincial level were the main targets of the policy. In Thai, they are referred to as *jao pho*, or *phu mee ittihphon*¹⁸: those who have accumulated wealth through both legal and illegal channels, such as the construction business, drugs, gambling, gunmen and smuggling of goods.

As a result of wide-scale public sector reforms after the 1997 financial crisis in Asia, the government introduced new legislation in the hope of promoting and enforcing the values of good governance. Headed by the OPDC, the government issued its first Royal Decree on Good Governance in 2003. Elements of good governance implicitly and explicitly aim to counter corruption through public participation, transparency, accountability, legal frameworks and efficiency and effectiveness. However, some scholars have argued that the values of efficiency and effectiveness have overshadowed other values worth promoting.¹⁹ Thus, although efforts are continuing, the notion of good governance has not had a clear impact on anti-corruption efforts in the country.

Thailand became a member of the United Nations Convention against Corruption in December 2003. It belongs to no other conventions, and it refuses to be accountable for bribery committed by Thai officials and Thai businesses outside Thailand.

In the past 10 years, growing networks of civil society groups have pushed for transparency and accountability in the public sector. The well-documented case of the social movement called Rural Doctor Society (RDS) and 30 other NGOs working against corruption of drug procurement in the

Public Health Ministry in 1998 proved for the first time that the legal framework installed was workable with efforts from civil society. In the end, the Constitutional Court found the health minister guilty of hiding assets, and he and his consultant were sentenced to prison by the Criminal Court for Politicians in Position.²⁰ The disclosure of information and the prosecution would not have been successful without the collaboration between the media, doctors in the Ministry of Public Health who had formed networks over the past 20 years, NGOs, lawyers who have assisted in the case, the judiciary who have righteously protected the law and the NCCC.²¹ This movement became the model for the network of anti-corruption movements to follow.

Overall, while Thailand has initiated a series of laws and efforts to counter corruption, the attempts have been ad hoc and not part of a large-scale nationwide effort under one strategic plan. National-level policies and sub-projects have not been introduced. Therefore, the efforts have been fragmented and have not shown long-run outcomes and impacts creating a more transparent and accountable public sector.

The National Integrity System²²

Executive

Thailand follows the parliamentary executive system, which is similar to the British system. Administrative decisions on important public policies of individual members of the cabinet can be reviewed through cabinet meetings. However, under Thai Rak Thai Party administration, this principle did not fully function; when policies were initiated by the head of the cabinet – the prime minister – other members of the cabinet were reluctant to object.

The executive branch has independence in its routine operational work of public administration. In policy decision making, formal operational independence is checked by the legislative branch. However, due to TRT's more than 370 out of 500-member majority in the House of Representatives, the executive branch tends to be independent from the legislative branch and dependent on the leader of the party – again, the prime minister.

It is not clear whether the members of the executive must formally give reasons for their policy decisions. The executive, usually the prime minister, frequently and publicly gives reasons through the media, but it is very difficult to distinguish between substantive reasons and those that are political ploys. Moreover, due to the strong power of the prime minister, the stated reasons may arise from cabinet meetings or may be from the prime minister himself.

Under the 1997 constitution the prime minister and his/her cabinet have a four-year term. Nevertheless, they can continue in ministerial positions without term limits. Cabinet members retain their positions depending on the political context and negotiations based on both internal and external party politics.

Ministers and top-level bureaucrats who are permanent secretaries of ministries have authority to make final decisions in ordinary contracts and licensing. They exercise this power in practice. When making decisions on large expenditures for their ministry, ministers have more power and are less limited in their decision making than permanent secretaries, who are not allowed to make any decisions exceeding a certain budget limit.

Structurally, the cabinet in Thailand consists of the prime minister and 35 ministers. The apex of the cabinet organisation is the prime minister, who does not function on the principle of first among equals. The cabinet also has a working administration, the Secretariat of the Cabinet. In addition, the prime minister and ministers have another administrative structure in the Secretariat of the Prime Minister. Both are departments within the Office of the Prime Minister, which is equivalent to a ministry. The ministers themselves have their own Office of the Ministers.

By law, members of the executive are not immune from prosecution. There is, however, political immunity for MPs and senators when both houses are in session.

Every year, the executive branch must receive approval from the legislature on annual budgets, including the expenditures of the executive. Some types of expenditure, however, are not considered part of the formal budget and therefore outside legislative regulation. The government budget must be declared to the legislative branch. In the process of approving annual budgets, the government budget is automatically and officially declared. However, extra-budgetary funding, which is not publicised, cannot be investigated by the public. An example is the budget of the Government Lottery Office, where the cabinet has had the freedom to spend outside parliamentary procedures. The case is just one simplified example of a complex form of extra-budgetary funding; it is being investigated by the present government of Prime Minister Surayud Chulanont.

One of the major aims of the 1997 constitution was to create independent regulatory bodies, such as elected Senate members, the National Counter Corruption Commission, the Constitutional Court, the Administrative Court and the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions, to monitor politicians, especially those in ministerial posts. This seemed to work very well in the beginning of the implementation of the constitution. However, after TRT consolidated its power as the majority party, its members interfered with many independent agencies, which became less effective in overseeing the executive. The TRT's intervention in the Senate, which is supposed to be a neutral political body, is one example of the failure of the check and balance system.

Public consultations, such as public hearings and referendums on controversial policy issues, are required by law. However, in many cases public hearings are not used to mobilise public consultation, but rather they are used to legitimise the government's policies. Referendums are also rarely used as a channel to include public consultation in policy decision-making processes.

The problem of conflict of interest, in terms of policy-based corruption, is very serious in Thailand. The 1997 constitution attempts to prevent ministers from being subjected to conflicts of interest. Section 209 holds that ministers shall not be a partner or shareholder of a partnership or a company or retain their partner status or shares in a partnership or a company up to the limits as provided by law. In case a minister intends to continue to receive benefits, the minister shall inform the president of the NCCC within 30 days of the date of the appointment and shall transfer his or her shares in the partnership or company to a juristic person who manages assets for the benefit of other persons as provided by law. The minister shall not perform any act that, by nature, amounts to the administration or management of shares or affairs of such partnership or company.

However, as transferring shares to a juristic person is allowed, ministers can transfer their shares to one managed by their family or associates or one with which they have close affiliations. When the state is strong, with an overwhelming majority government, and parliamentary checks and balances are weak, laws that allow the prime minister and ministers to gain private benefits encourage conflicts of interest. The examples of the telecommunication conversion concession in 2003 and the US \$1.88 billion Shin Corporation sale to Temasek in 2006, both involving Thaksin, as prime minister, and his family, are noteworthy.

Restrictions on post-ministerial employment are implemented. Ministers as state officials must wait at least two years post employment before they may be employed in firms that have received concessions, licenses or contracts from the government. These restrictions seem to work well. Ministers wishing to continue their political career are investigated by the NCCC; if they are found guilty of corruption, the commission may send the case to the Senate and the Constitutional Court recommending banning those ministers from political positions. Rules of gifts and hospitality are set to certain limits. In general, corruption involving gifts and hospitality is not so crucial at the level of ministerial administration because at this level corruption occurs on a more sophisticated scale, such as policy-oriented corruption.

The constitution, in Sections 291 and 292, requires the prime minister, ministers, members of the House of Representative (MPs), senators, other political officials, local administrators and members of local assemblies, as provided by law, to submit accounts showing their assets and liabilities and those of their spouses and of their children who have not yet become *sui juris*, to the NCCC within 30 days on each occasion of taking and vacating office. In addition, they must resubmit within 30 days from the date of the expiration of one year after they leave office.

In practice, the disclosure of assets is seriously enforced; if not, the politician could be banned from political position by the same procedure as mentioned above. Many politicians, including the present prime minister, have been on trial for the violation of hiding their assets. The NCCC has the duty to update and publicly provide the disclosed information.

The NCCC has staff and budget for investigating alleged corruption among politicians. However, after the coming of TRT, the role of the NCCC was weakened. Executive intervention included not only interference with commissioner recruitment but also efforts to stop the NCCC from functioning using legal tactics or other obstruction of NCCC work.

The 1997 constitution, Section 303, holds that the prime minister and ministers (among other political and administrative positions) who live in circumstances of unusual wealth indicative to the NCCC of malfeasance in office, malfeasance in judicial office or an intentional exercise of power contrary to the provisions of the constitution or law, may be removed from office by the Senate. In the same manner, Section 304 specifies that a group of not less than one-fourth of the total number of existing MPs or voters numbering not less than 50,000 also have the right to lodge with the president of the Senate a complaint requesting the Senate to remove from office persons to whom Section 303 applies. Two attempts have been made to use citizens' rights through the '50,000 voters procedure', but these failed due to procedural difficulties, including verification of names.

Many Thais hoped the elected Senate members would be able to counter corruption, but again under the control of the majority in parliament, the majority of the Senate sided with TRT. Therefore, the Senate has been unable to carry out its function of regulating the executive properly.

The executive showed no explicit sign of addressing corruption internally under the TRT regime. Scapegoats, or lower-level public officials, often became the victims of corruption at the ministerial level. When there were suspicions of corruption in buying scanners to detect bombs for the new airport early in 2006, the TRT government handled the issue by moving the minister involved in the case to another ministerial position. Indeed, this might be considered a promotion rather than punishment because it was a move from minister to deputy prime minister.

Corruption at lower levels of the bureaucracy, however, is confronted from time to time because the government wants to create an image of seriously pursuing anti-corruption policies. Frequently, corruption scandals arise in Thailand as each political party tries to create negative images of its opponents.

Legislature

The legislative branch or the National Assembly of Thailand is a bi-cameral institution consisting of the House of Representatives and the Senate. The House of Representatives has 500 MPs and the Senate has 200 senators. Each house may have standing and ad hoc/select committees. The Senate has 24 committees while the House of Representatives has 31 committees. They may appoint joint committees between the houses. Both have secretariats. Standing committees of both houses also directly oversee accounts and budgets.

In theory, as the ultimate source of sovereign power from the ballot box, the legislative branch enjoys its privileged independence of formal operation. However, in Thailand's modern democracy, the role of the legislature in initiating and enacting laws is controlled by the executive. In Thailand in the past five years, due to the increasing role in day-to-day administration of the executive and the nearly absolute majority rule of TRT in the House of Representatives, the role of the lower house has been controlled by the TRT. As mentioned in the discussion of the executive pillar, the majority of senators are also allied with the TRT. That is to say, the Senate is also under the control of the TRT, especially in decisions regarding crucial agendas.

Within this context, it is very difficult for the legislature to veto senior appointments proposed by the government. It is also very difficult to amend the budget, although the legislature is required to approve it. For example, parties have discipline codes prohibiting members from criticising other members and requiring them to adhere to the resolutions of the party.²³ The overwhelming majority government, together with such practices of strict party discipline, tends to overshadow individuals' reasoning and to silence minorities. This obscures the check and balance roles of the legislative branch.

The 1997 constitution, Section 169, gives privilege to the executive through provisions allowing MPs to introduce money bills with the endorsement of the prime minister. Money bills are those related to the budget, such as allocation, receipt, custody, payment of state funds and the transfer of expenditure estimates of the state. Section 180 of the constitution states that the House of Representative must finish the consideration of the annual appropriations bill, the supplementary appropriations bills and the transfer of appropriations bills within 105 days from the date the bill reaches the lower house. If not, the bill shall be deemed to have been approved by the lower house and shall be submitted to the Senate. The Senate has a role in checking money bills. The Senate must approve or disapprove the bill, without any amendment within 20 days. If not, the bill shall be deemed to have been approved. If the Senate votes not to approve the bill, the lower house may reconsider it. If the lower house resolves to reaffirm the original bill or the bill considered by the joint committee by a vote of more than one-half of the total number of the existing members of the House, the bill shall be deemed to have been approved by the National Assembly.

The Committee on Interior Administration in the Senate and the Committee on Prevention and Suppression of Corruption in the House of Representatives handle corruption issues. Both are standing committees. Every legislator, as a person in a political position, must abide by the constitution, Sections 303 and 304, the same as the members of the executive.

In general there is a reluctance to accept the role of lobbyist and lobbying methods, compared to the practice in the United States. Thus, contact between legislators and lobbyists and interest groups tends to be undisclosed and off the record. Lobbyists in Thailand tend to approach the members of the executive, who can make policy decisions, rather than the legislators, except when those legislators are key persons to the executive.

A code of conduct and a code of ethics for legislators are identified in the constitution. Section 149 provides that MPs and senators shall honestly perform their duties for the common interest of the Thai people. Section 150 requires that, before taking office, MPs and senators make a solemn declaration that they will perform their duties in accordance with honest dictates of their consciences for the common interest of Thai people. Section 191 endows both houses with the power to make rules of procedure governing the conduct of members and committee members. They must do this in accordance with the directive principle of fundamental state policies as written in Section 77, that the state shall prepare a political development plan, a moral and ethical standard for holders of political positions, government officials, officials and other employees of the

state in order to prevent corruption and perform duties efficiently. A special code of conduct and a code of ethics for MPs were declared on 6 August 1999. However, in practice, these codes do not seem to work well. While the law requires MPs to behave ethically, in practice there are no internal checks and balances.

Rules on conflict of interest for legislators are the same as those for the executive. According to Sections 110, 111 and 128 of the constitution, legislators shall not: (1) hold any position or have any duty in any state agency or state enterprise, or hold a position as member of a local assembly, local administrator or local government official except as political official other than minister; (2) receive any concession from the state, a state agency or state enterprise or become a party to a contract involving an economic monopoly with the state, a state agency or state enterprise, or become a partner or shareholder in a partnership or company receiving such concession or become a party to a contract of that nature or (3) receive any special money or benefit from any state agency or state enterprise apart from that given by the state agency or state enterprise to any other person in the ordinary course of business.

A legislator shall not, through his or her status or position as a member of the legislature, interfere with or intervene in the recruitment, appointment, reshuffle, transfer, promotion and elevation of the salary scale of a government official holding a permanent position or anyone receiving salary and not a political official, an official or employee of a state agency, state enterprise or local government organisation, or cause such persons to be removed from office. All of these 'shall nots' are closely monitored by the public and the media. However, the public and the media tend to focus on the executive rather than the legislature. Thus, because they are less monitored, legislators may be involved in corrupt practices.

Disclosure of assets for legislators is required by the constitution on a basis similar to that for the executive branch. The NCCC is the main monitoring body, continuously updating the information and making the information public. As with the executive branch, the role of the NCCC was working well in the early period but has been curtailed by political intervention in the past five years.

Section 156 of the constitution demands that the president of the National Assembly, the president of the lower house and the president of the Senate shall ensure that the voting of each member is recorded and disclose such record in a place where public inspection is possible, except in the case of voting by secret ballot. The disclosure of votes in the legislature is a formal procedure.

Legislators are immune from prosecution under the constitution but only during the legislative session. Section 165 of the constitution provides that no MPs or senators shall, during a session, be arrested, detained or summoned by a warrant for inquiry as the suspect in a criminal case unless permission of the house of which he or she is a member is obtained or he or she is arrested *in flagrante delicto*. In the case in which an MP or a senator has been arrested *in flagrante delicto*, it shall be reported to the president of the house of which he or she is a member and that president may order the release of the person so arrested. Section 166 provides that, if a criminal charge is brought against an MP or senator, whether the house is in session or not, the court shall not try the case during a session unless permission of the house of which he or she is a member is obtained or it is a case concerning the organic law on the election of MPs and senators, the organic law on the Election Commission or the organic law on political parties, provided that the trial of the court shall not hinder the member from attending the sitting of the house.

Within the context of TRT majority government, it is very difficult for the legislature to inspect the exercise of state power. Party discipline under Thaksin, a strong party leader who is one of the richest men in the nation, created difficulties for the legislature in confronting corruption internally and externally. Making matters worse, the legislature tended to be an instrument to legitimise policy-based corruption on the part of the executive. Ironically, as the goal of the 1997 constitution was to create strong political parties and through them strong government, the role of the legislature was also decreased automatically. Thus, the effort to create stronger political parties has operated like a double-edged sword.²⁴

Political Parties

The organic law on the election of MPs and senators (1998), the organic law on political parties (1998) and the organic law on the Election Commission of Thailand (1998) are the rules governing political parties, party registration and candidates. Political parties campaign in elections under the regulation of the Election Commission of Thailand (ECT). The ECT must regulate and investigate parties' activities according to the above organic laws.

It is not difficult legally to form a new political party. Indeed, in Thailand, there are perhaps too many political parties. In May 2006 there were 44 political parties listed.²⁵ Most existing parties do not perform the roles of political parties and do not have MPs. They are political parties elected only by name and by law. Only four parties – TRT, Democrat, Chart Thai and Mahachon – had MPs in the 2005 general election. Indeed, only these four parties have been politically significant in the past four years.

Operational independence varies from party to party. Among the three largest parties, TRT's operational independence is very low because of the strong influence of the political and financial power of the party leader. It can be said that TRT is Thaksin and Thaksin is TRT. As mentioned earlier, this is a consequence of the aim of the 1997 constitution to create strong political parties and leaders and stable government. For the Democrat Party, operational independence depends on the balance of cliques in the party. Normally, the clique of southern MPs dominates the party. In the case of the Chart Thai Party, the party is also very much dependent on its leader because of his seniority, political experience and money, although it is not comparable to that of the leader of TRT.

There are explicit rules on political party funding, and these rules are observed in practice. Under the organic law on political parties of 1998 and the proclamation of the ECT on rules of donation to political parties in 1998, the leaders of the parties must publicise the list of donors and the amount of money donated every week and submit it to the Political Party Registrar (or the chairperson of the ECT). Apart from private funding, parties also receive state-allocated budgets to support them through a 'fund for development of political parties'. The ECT appoints a committee to administer and regulate this fund. However, these rules cannot prevent corruption in funding for running parties' businesses, especially vote-buying.

Political parties must keep accounts showing their financial balance, income and expenditures. The balance account must show assets, debts, income and capital. Income and expenditure budgets must show sources of income from private donations and from state funds and other income. They must show expenditures of the party administration, especially in campaigning for elections. In doing so, parties must submit this information to the ECT for investigation and release to the public (Section 39 of the political party organic law).

The executive board of the party must prevent party members and its candidates from using excessive funding in campaigning for elections, the limit of which is set by the Political Party Registrar and the ECT. However, a formal legal requirement is very different from real practice; it is nearly impossible for the ECT to monitor actual expenditures. Money is the most crucial factor in running elections, and expenditures on elections are far greater than the donated funds that political parties receive. For instance, between January and February 2005 (the time around the 2005 general election), the ECT reported that private funding of parties amounted to some 132 million baht, and this sum was relatively low compared to the estimated total spending in the election.²⁶ Thus, in practice, a large proportion of the parties' income is not publicised and is, therefore, illegal.

The organic law on political parties of 1998 governs parties' affairs. The chairperson of the ECT acts as the registrar of political parties and has authority to regulate political parties according to the provisions of this act. As discussed above, the parties must make reports to the ECT. Political parties tend to do what is required by law, but, as mentioned above, there are significant amounts of off-the-record and out-of-the-report income and expenditures.

Public consultation by political parties is very rare. Some parties may consult for strategic reasons, in order to create a good political image. However, not only the general public but also, in parties' annual meetings, even the members of large parties would hardly have the chance to express their opinions and ideas.

According to the organic law on political parties of 1998, the executive committee of the party must write the party's regulations, which include discipline and a code of ethics. Liability for financial irregularity always involves both individual officials and the party. Because election campaign costs are very high, parties must seek extra money, and this is usually done through individuals. Individual financial irregularities do occur, especially when members of the party are appointed to political positions, such as joining the cabinet. The code of conduct of major political parties seems to have the purpose of creating a good image rather than being taken seriously. Unethical candidates involved in allegations of corruption have appeared in the top ranks of TRT's party list²⁷, which means that the candidate is preparing to return to an executive position.

The 1997 constitution, Section 109, provides that a person under the following prohibitions shall have no right to be a candidate in an election of MPs: (1) having been expelled, dismissed or removed from official service, a state agency or a state enterprise on the ground of dishonest

performance of duties or corruption; (2) having received a judgment or an order of the court that his or her assets shall devolve on the state on the ground of unusual wealth or an unusual increase in his or her assets.

Apart from the disclosure of party funding, income and expenditure both in law and in practice discussed above, Section 42 of the organic law on political parties of 1998 also requires that party leaders and executives must submit an account showing particulars of their own assets and liabilities and those of their spouses and their children who have not yet become *sui juris*, to the Registrar of Political Parties within 30 days before and after fulfilling their duties.

Electoral Commission

As an independent regulatory body formed under the 1997 constitution, the Election Commission of Thailand was established to oversee electoral processes and make sure that they are fair and just. The ECT controls and manages elections at both the national level and for the local level administration and assemblies. It has the legislative, investigative and judicial powers to deal with vote-buying, fraud and other kinds of unfair schemes. The ECT can also punish wrongdoers by sanctioning them from participation in future elections. Nevertheless, vote-buying is a very serious problem in Thailand. This creates a vicious cycle of money politics in the nation.

The ECT is formed under Section 138 of the 1997 Constitution. It is written there at length that the selection and election of the commission chairperson and election commissioners shall proceed as follows: (1) There shall be a Selective Committee of 10 members consisting of the president of the Constitutional Court as chairperson; president of the Supreme Administrative Court; rectors of all state higher education institutions, that are juristic persons, who choose four nominees from among themselves; and representatives of all political parties having a member in the House of Representatives, provided that each party shall have one representative and all such representatives shall choose four nominees from among themselves, to be in charge of the consideration and selection of five persons who have the qualifications under Section 137 and who are suitable to be Election Commissioners, for nomination to the president of the Senate upon consent of the nominated persons. The resolution nominating these people must be passed by votes of not less than three-fourths of the number of all existing members of the Selective Committee; (2) The Supreme Court of Justice shall, at its general meeting, consider and select five persons who are suitable to be Election Commissioners for nominating to the president of the Senate upon consent of the nominated persons; (3) The nominations under (1) and (2) shall be made within 30 days from the date when the need for the selection of persons to be in such office occurs. If the Selection Committee under (1) is unable to make a nomination or unable to nominate the full number within the prescribed time, the Supreme Court of Justice shall, at its general meeting, make nominations to obtain the complete number within 15 days from the date of the expiration of the nomination time under (1); (4) the president of the Senate shall convoke the Senate for passing, by secret ballot, a resolution electing the nominated persons under (1), (2) and (3). For this purpose, the first five persons who receive the highest number of votes that are more than one-half of the total number of existing senators shall be elected as Election Commissioners, but if the number of the said elected persons is less than five, the name-list of those not elected in the first vote shall be submitted to the senators for voting on another occasion and consecutively. In such a case, the persons receiving the highest number of votes in respective order up to five shall be deemed to be elected election commissioners; (5) The elected persons under (4) shall meet and elect among themselves the chairperson of the Election Commission and then notify the president of the Senate of the result. The president of the Senate shall report to the king for further appointment. Election commissioners and the chairperson of the commission have tenure for seven years and they can hold office for only one term.

The Office of the ECT is required by the organic law on ECT of 1998, Section 34, to propose a budget, according to the ECT's decision, to the cabinet, for the cabinet to allocate funds to the ECT and the Office of ECT in the government's annual budget. Section 38 of the same law requires the Office of the ECT to submit a financial report to the Office of the Auditor General (OAG) for investigation of its finances and performance every year. The OAG then makes a report to the legislature and cabinet. The budget and report of the ECT are required by law to be reported to the upper and lower houses and to the cabinet through the Office of the Auditor General, and this information must be disclosed to the public.

In addition to Section 38 of the organic law on ECT of 1998, Section 39 provides that for consideration of the yearly performance report of the ECT, MPs or senators may ask the ECT or the Office of the ECT for oral or written clarification of the report. Therefore, the ECT is accountable to the OAG, the legislature and the cabinet.

According to the 1997 constitution, Section 137, an election commissioner shall: (1) not be a member of the lower and upper houses, a political official, a member of a local assembly or a local administrator; (2) not be or have been a member of or holder of other position in a political party throughout the five years preceding the holding of offices; (3) not be an ombudsman, a member of the National Human Rights Commission, a judge of the Constitutional Court, a judge of the Administrative Court, a member of the NCCC or a member of the State Audit Commission.

Section 139 provides that an election commissioner shall not: (1) hold a permanent position or receive salary as a government official; (2) be employed by a state agency, state enterprise or local government organisation; (3) hold any position in a partnership, a company or an organisation carrying on businesses for sharing profits or incomes, or be an employee of any person; (4) engage in any other independent profession.

The organic law on ECT of 1998 requires election commissioners to submit an account showing particulars of their assets and liabilities and those of their spouses and their children who have not yet become *sui juris* to the NCCC within 30 days of taking and vacating office. In addition, they must resubmit within 30 days of the date of the expiration of one year after they have left office.

The election commissioner, along with the executive, legislators and other political office-holders, is also subject to Section 303 of the constitution, which requires election commissioners to be removed from office if found to be involved in corruption.

The ECT has a duty to disclose the sources of political parties' funding from both private and state sources, and it does this in practice. However, this is not effective for controlling parties' spending, especially for election campaigns, because there is a very large gap between the estimated spending in elections and the incomes of the parties. The ECT is aware of this irregularity but has not done anything. Many people suspect that the ECT may wish not to do anything to favour certain political parties.

In the recent political crisis, the ECT been suspected of a lack of independence. Some critics believe the ECT showed bias towards the TRT on several occasions. Many people consider the ECT's prejudice to be one of the main causes of the 2006 political crisis. In addition, the ECT has been scrutinised for its monetary outlays. For instance, the ECT issued an internal financial regulation allowing its chairperson to spend up to 500,000 baht in secret operations; the commissioners can receive operational compensation at a lump sum rate of 20,000 baht a month. It is claimed that the ECT does not have the authority to do this.²⁸

It is not clear by law that any institution can directly stop the misconduct of the ECT. However, after allegations that the ECT conspired with the TRT Government in calling for snap elections, the Supreme Administrative Court invalidated the election of April 2006, giving as one reason that the ECT violated the law that people must vote secretly at polling stations. The booths were positioned in such a way that it was possible for observers to see where on the paper the person in the voting booth was making a mark, thus compromising its secrecy. In the end, all election commissioners at the time were sentenced to jail by court order for not following election laws that state that the ECT must arrange voting booths so that people can cast votes secretly.

The ECT is empowered by the constitution (Sections 144, 145 and 147) and the organic law on ECT of 1998 (Section 10) to start investigations on its own initiative and to impose sanctions on candidates and elected MPs and senators. The ECT exercises its authority in practice by ordering new elections when there is convincing evidence that the election has not proceeded in a free and fair manner. However, in the general election in April 2006, the ECT was accused of favouring the largest political party. Thus, rather than creating free and fair elections according to the law, it is suspected that the ECT has become a political instrument to create dishonest and unfair elections.

Supreme Audit Institution

The Office of the Auditor General has the following goals: (1) to promote good governance, (2) to prevent and control misconduct involving public expenditure and (3) to monitor state expenditure so that it is used in the most constructive way.²⁹ The office aims to develop its own organisation by: (1) developing procedures for auditing that cover as many public organisations possible in a timely way, (2) encouraging public participation in the auditing tasks of the office and (3) establishing a system to store and make use of the results of auditing data for assessing the outcomes of the office in the long run.³⁰

The supreme audit institution is guaranteed in the constitution under Section 312, which states that the state audit shall be carried out by the State Audit Commission and the auditor-general, who is independent and impartial. The same section states that the chairman and nine other

members of the commission are to be appointed by the Senate. The State Audit Commission has an independent secretariat, with an auditor-general, who is also appointed by the Senate. Members serve for six years and are limited to only one term. There is a separate organic law on state audit to govern all the details concerning the State Audit Commission, the auditor-general and the Office of the Auditor General. Removal of heads without relevant justification is protected in the law, but in practice political interventions have allegedly taken place, especially in the case of the auditor-general³¹ Khunying Jarawan Maintaka, when she was reportedly forced to take leave for a period of months in 2005–2006.³² The selection of the auditor-general requires the approval of the Senate. But Senate members face doubts from the public about whether they are truly independent individuals or not. There have been attempts from the Senate to nominate someone the leading party would be able to control.

The Office of the Auditor General audits performance of the public agencies in addition to financial and law compliance. It audits the collection, the holding and the spending of money whether it has followed the law or not. Furthermore, Section 39 of the organic law of the State Audit of 1999 states that the office must suggest whether the organisation has achieved its goals with an acceptable level of efficiency. All public expenditures are randomly audited by the State Audit Commission annually (Sections 4 and 48 of the organic law of the State Audit of 1999). In practice this is routinely done. But large-scale irregularities are hardly ever found.

The staffing and budgeting of the State Audit Commission is governed by Sections 53 and 58 of the organic law of the State Audit of 1999. Section 58 states that the budget is governed by the parliament, but the executive can provide input regarding the appropriate budget allocation in the draft bill. Formally the State Audit Commission is independent to manage its finances and allocated budget. There are in total 15 regional offices of the State Audit Commission around the country.

The organic law of the State Audit of 1999 governs the oversight of the State Audit Commission and the office. The Office of the State Audit must produce annual reports to present to the House of Representatives, the Senate and the cabinet (Section 48 of the organic law – the State Audit of 1999).

There are rules to regulate problems of conflict of interest within the State Audit Commission, such as qualifications (Sections 7 and 32). In addition there is the Standard State Audit article 1/2000 code s.130 on ethics, morality and responsibilities for auditors as a profession.³³

Annual reports of the State Audit Commission should be provided to the public (Section 43 of the organic law on State Audit). The state auditor-general must report audit results to the State Audit Commission and the Commission on Budgetary and Financial Discipline (Section 37 of the organic law on State Audit).³⁴ Reports do not have to be debated by the legislature.

Average citizens have access to State Audit reports and related information at the Office of the Auditor General's website at www.oag.or.th or they can request disclosure of information through the Official Information Act of 1997. In addition, a citizen can make a request, in written form, for information from the Office, with clear purposes identified.³⁵

The public and officials in the Office of the Auditor General can send information to report misconduct, file complaints and make recommendations to the office through the website www.sao.go.th. In the case of complaints against a public official, the plaintiff must identify the name and position of the public official in question, the agency and the date/time. The Office of the Auditor General has the right to conceal the name of the plaintiff.³⁶

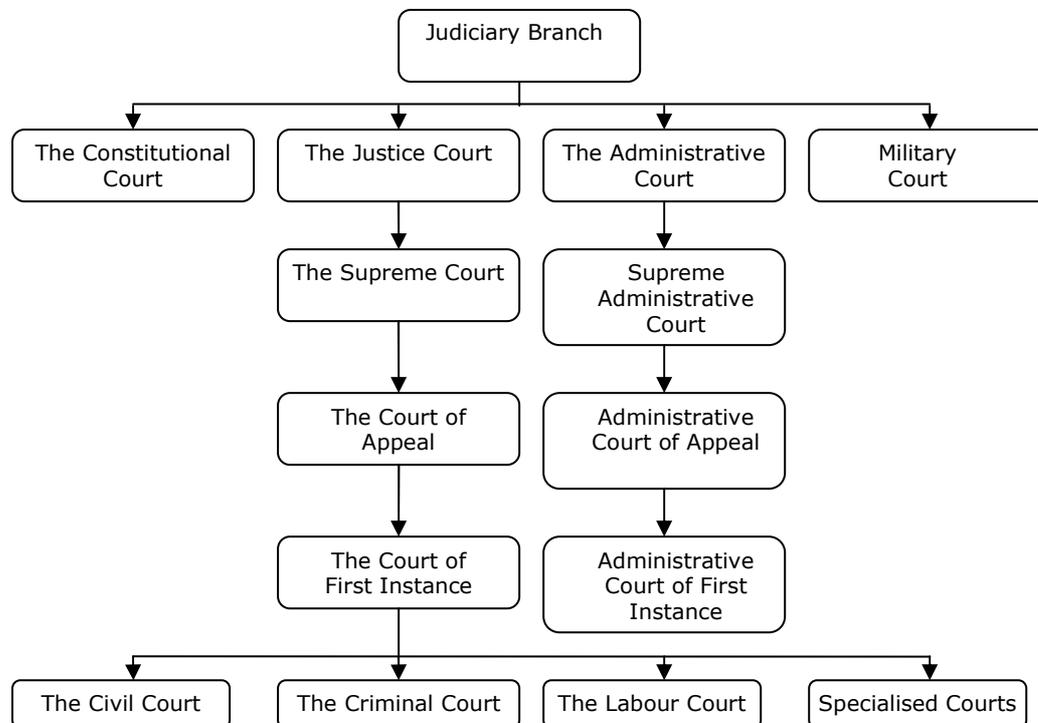
The State Audit Commission has the duty to investigate and audit the use of public money by public agencies. Thus, must work closely with public agencies and also with the cabinet to ensure that policies are carried out as planned. The State Audit Commission also interacts with the House of Representatives and the Senate in reporting audit results and in selection of the auditor-general. Another pillar is the media, which usually follows the audit results closely to report to the public. An example of the government and the media acting on the State Audit report is the case of irregularities found in the mega-project of construction of the Suvarnabhumi Airport in 2004.

Judiciary

There are four main courts in Thailand: (1) the Constitutional Court, (2) the Justice Court, (3) the Administrative Court and (4) the Military Court (see Figure 1). In Section 249 of the 1997 constitution, judicial independence is guaranteed. Judges are independent in the trial and adjudication of cases in accordance with the constitution and the law; transfer of judges without their consent is not permitted except in the case of transfers according to the term periods as provided by law, promotion to a higher position, being under disciplinary action or becoming a

defendant in a criminal case. Section 250 prohibits judges from being political officials or holding political positions. In addition, the appointment and removal from office of a judge of any court other than the Constitutional Court, the Court of Justice, the Administrative Court and the Military Court, as well as the adjudicative jurisdiction and procedure of such courts, shall be in accordance with the law on the establishment of such courts.

Figure 1: Structure of the Judiciary in Thailand



Section 233 of the 1997 constitution ensures that the trial and adjudication of cases are the powers of the courts, which must proceed in accordance with the constitution and the law and in the name of the king. In addition, according to Section 252, before taking office a judge must make a solemn declaration before the king that he/she will be loyal to the king and uphold the democratic regime of government with the king as head of state, the constitution of the Kingdom of Thailand and the law in every respect.

The courts are each administered by separate committees and offices. The salaries, emoluments and other benefits of judges are determined separately from the salary scale of civil servants under the laws governing judiciary officials, according to Section 253 of the constitution.

Presidents and vice-presidents of the Supreme Court, the Constitutional Court, the Supreme Administrative Court, the prosecutor general, judges of the three courts and the director of the Office of Military Courts must submit an account showing particulars of their assets and liabilities and those of their spouses and children who have not yet become *sui juris* to the NCCC on each occasion of taking or vacating office and one year after vacating office.³⁷ The public can file to gain access to the asset information through the Official Information Act (2001) in case the plaintiff is directly affected by the information.

Judges of the courts of justice can be removed from office if they engage in corruption or misconduct. This requires signatures of one-fifth of the existing judiciary civil servants.³⁸ In practice, this rule has never been put to use.

Several sections in the constitution aim to uphold the courts' integrity. Judges shall not be political officials or hold political positions (Section 250). Judges cannot simultaneously become members of the Judicial Commission of the Courts of Justice, the Administrative Court or any other court (Section 254). Furthermore, a judge cannot have held important positions such as minister, election commissioner, ombudsman, member of the National Human Rights Commission, member of the NCCC or member of the State Audit Commission (Section 256). Judges hold office for only one term of nine years (Section 259). In practice, these rules are effective.

Sections 308 to 311 address criminal proceedings against persons holding political positions. These cases are dealt with by the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions; all orders and decisions made by the Division shall be disclosed as soon as possible and are final. In practice these documents are available to the public upon request. Witnesses of criminal cases have the right to protection, proper treatment and necessary and appropriate remuneration from the state as provided by law (Section 244).

Table 2 shows the annual budget of the courts allocated by the House of Representatives under the category of independent agencies.

Table 2: Annual Budget of the Courts

Agency	2003	2004	2005	2006
Office of the Constitutional Court	69.0	72.8	138.6	155.9
Office of the Court of Justice	6,103.6	6,665.4	7,097.1	8,280.0
Office of the Administrative Court	615.2	757.5	993.2	929.7
Total (Million Baht)	6,787.8	7,495.7	8,228.9	9,365.6

Source: Bureau of Budget

The Administrative Court

Established after the 1997 constitution, the Administrative Court is relatively new in Thailand. The court serves as an important channel to decide on disputes between the state and private citizens or private entities and disputes between public agencies as well. This includes any misconduct or administrative act by the state that should result in the payment of compensation to the private entity.³⁹ The court oversees cases of local administrative bodies as well. Average citizens can file lawsuits against a public agency or public officials related to abuse of power, failure of performance or the neglect of duty. The court does not deal directly with countering corruption, but its function does help to enhance the accountability of public agencies.

Courts of first instance of the Administrative Court comprise eight central administrative courts and seven regional administrative courts, located in large provinces of the country.⁴⁰

Aside from the annual budget, the Administrative Court collects fees and fines, which it must keep until the case is closed. Table 3 shows the size of the budget.

Table 3: Budget of the Administrative Court by Revenue Source (baht)

	2003	2002
Deposits		
Court Fees	114,297,075.14	51,721,663.10
Court Fees (Appeal)	1,554,677.56	-
Deposits from the opponent	1,028,208.80	258,944.97
Deposits made from court orders	98,951.19	-
Total Deposits	116,978,912.69	51,980,608.07
Revenue from Donations	26,923.34	25,333.34
Total	117,005,836.03	52,005,941.41

Source: Annual Report for the Administrative Court Office 2004

Table 4 shows the size of staffing for the Administrative Court and judiciary public officials working in the office (as of 31 December 2004).

Table 4: Personnel of the Administrative Court

Number of Personnel	Allocated Positions	Actual Number
Supreme Administrative Court	23	13
Courts of First Instance	164	119
Office of the Administrative Court		
Judiciary civil servants		1,331
Officers of the Courts		375
Permanent employees	1,931	26
Temporary employees		130
Total	2,118	1,994

Source: Annual Report for the Administrative Court Office 2004

The Constitutional Court

The Constitutional Court judges complaints concerning laws and governmental actions that are alleged to contradict the provisions of the constitution. It has the final say in the interpretation of the constitution and legal questions regarding corruption. It also decides on disputes regarding the scope of power and duties of public agencies that are under the constitution.

Section 255 governs the appointment of the Constitutional Court, which consists of a president and 14 judges appointed by the Senate. The 15 members are selected according to the following: (1) 5 judges of the Supreme Court of Justice, who are elected at a general meeting of the Supreme Court of Justice by secret ballot; (2) 2 judges of the Supreme Administrative Court, who are elected at a general meeting of the Supreme Administrative Court by secret ballot; (3) 5 qualified persons in law elected by a selection committee; and (4) 3 qualified persons in political science elected by a selection committee. The selection committee consists of the president of the Supreme Court of Justice, four deans of the faculties of law of higher education institutions (elected from among themselves), four deans of faculties of political science of higher education institutions (elected from among themselves) and 4 representatives of political parties that have a member in the House of Representatives (elected from among themselves). The selection committee selects and prepares a list of 10 qualified persons in law and 6 qualified persons in political science to submit to the Senate. Not less than three-fourths of the existing members of the committee must vote for the nominees. Then the Senate votes to elect the nominated persons.

The representation of political parties (4 out of 13) in the selection committee is a channel for political intervention in the appointment of the Constitutional Court.⁴¹ Constitutional Court judges hold office for nine years for one term only.

According to Section 307 of the constitution, the Senate can cast a secret ballot to remove any person from office by vote of not less than three-fifths of the total number of the existing members of the Senate. In practice, Section 307 has never been put to use. One reason may be allegations that the Senate was dependent on the TRT party.

There are no channels under the constitution for citizens to file lawsuits directly with the Constitutional Court if their rights and freedoms under the constitution have been violated. Citizens can seek protection, however, through indirect channels such as courts of justice and administrative courts, the Ombudsman and the legislative branch.⁴²

A quorum of judges of the Constitutional Court for hearing and giving a decision must be published as a report in the government gazette. The report must include a description of the background of the case or allegation, a summary of the facts obtained from the hearing, the reasons for the decision and the law invoked and resorted to (Section 267 of the constitution). However, although the court's decisions are published, only the majority's reasons and not the minority's are recorded.⁴³ Some critics have asserted that the Constitutional Court has not cooperated in disclosing the quorums and meeting summaries of important cases.⁴⁴

The case that caused academics, civil society groups and the media to begin to question the integrity and neutrality of the Constitutional Court was in 2001, when ex-PM Thaksin failed to declare certain items of his assets and concealed facts that should have been revealed. Four of the judges decided that the case did not fall under Section 295, which states that those in political positions must disclose their assets. Seven judges decided that the case did fall under Section 295. However, the final decision of the Constitutional Court was that seven judges found Thaksin guilty while eight judges did not (four thought Thaksin was not guilty and four thought the case did not

fall under Section 295). Based on this, Thaksin was judged not guilty. In previous cases of persons holding political positions, the law was not interpreted this way. Thus, the same law has been interpreted differently for different cases.⁴⁵ This has raised strong doubts about the integrity and neutrality of the Constitutional Court.

In another important case, 28 Senate members filed a complaint against Thaksin's qualifications for holding political office based on his concealment of another set of assets in the beginning of 2006. The Constitutional Court turned down the case on the grounds that the allegations did not have enough supporting evidence. Thus, the court closed off a vital channel for public investigation of the case as well as the opportunity for Thaksin to prove his innocence. Many academics regard the court's decision to be a form of abuse of power.⁴⁶ Nevertheless, these two incidents have shown that the Constitutional Court has begun to play an important role in the check and balance mechanism.

In general, although the courts do have independence and are respected by most people, they have been largely ineffective at curbing corruption. Only in April 2006 did the courts become a more noticeable actor in resolving the political deadlock in the country. However, despite their increased visibility, the courts were ultimately ineffective in solving the political deadlock before the coup in September 2006.

Civil Service

In Section 70 of the constitution, civil servants, employees, staff and public officials of the state are directed to protect the public's interests, provide public service to the citizens and be neutral in politics. In practice, political intervention in public agencies is constant. Politicians build networks with high-ranking public officials who have the authority to approve public plans and projects. At the same time, public officials depend on politicians for promotion and advancement in their career paths. This is due to the deep-rooted patron-client system in Thai culture, which results in civil servants being accountable to their boss or patron rather than to the citizens to whom they should provide services.

Public sector agencies in Thailand are managed based on the merit system, regulated by the Civil Service Commission and its Office. Selection of general public servants is merit based through central exams. For high-ranking positions, the selection process should be done openly through recruitment and selection committees. In practice, however, selection of high-ranking civil servants is usually influenced by the preferences of politicians in power and in some cases by businessmen who are influential in politics.

In a study of corruption in buying public positions in the year 2000, it was found that head of bureau or department level positions are usually bought and sold.⁴⁷ The OCSC has the responsibility to oversee and regulate these types of corruption through its sub-commission for maintaining justice and morality in the civil service.⁴⁸

Table 5 shows the budget of the ministries in the government in the past four years.

Table 5: Budget of Public Sector Agencies

Public sector agencies	Budget (millions of baht)			
	2003	2004	2005	2006
Central Budget	147,633.9	129,784.7	250,190.0	256,220.0
Office of the Prime Minister	32,348.9	7,677.3	9,465.8	14,246
Ministry of Defence	79,923.3	77,980.7	81,241.4	85,891.7
Ministry of Finance	116,238.1	132,590.2	140,176.6	144,670.9
Ministry of Foreign Affairs	5,003.6	5,377.7	5,648.5	6,342.6
Ministry of Tourism and Sports	1,701.0	2,508.3	2,403.0	2,993.2
Ministry of Social Development and Human Security	3,689.5	3,918.8	4,755.4	5,984.9
Ministry of Agriculture and Cooperatives	55,509.7	53,226.4	52,131.1	55,629.9
Ministry of Transportation	47,210.3	50,251.6	66,443.4	65,104.1
Ministry of Natural Resources and Environment	18,244.1	14,975.8	16,150.2	16,267.2
Ministry of Telecom and Communications	2,168.8	2,212.2	5,021.2	5,041.9
Ministry of Energy	1,467.4	1,629.3	1,609.7	1,792.1
Ministry of Commerce	5,193.8	4,707.6	4,658.0	4,871.8
Ministry of Interior	62,119.8	102,792.3	139,800.2	160,730.5
Ministry of Justice	9,752.8	11,447.2	11,753.8	12,474.8
Ministry of Labour	12,712.8	12,994.3	17,679.2	18,843.2
Ministry of Culture	1,682.4	2,234.6	2,480.8	2,933.7
Ministry of Science and Technology	4,166.4	5,145.6	6,671.9	10,073.0
Ministry of Education	153,420.5	158,037.7	203,752.4	225,528.2
Ministry of Health	41,995.5	42,225.5	45,014.4	52,774.8
Ministry of Industry	3,600.6	3,214.8	3,697.9	3,962.2
Bureau of Higher Education	32,576.3	31,926.2	Currently under the Ministry of Education	
Public agencies not under the line ministries	51,311.4	55,179.7	55,342.6	65,229.6
Autonomous agencies under the constitution	8,448.8	9,475.8	13,617.6	14,896.1
Public enterprises	42,453.8	40,125.9	41,014.7	50,547.5
Circulating fund	59,328.4	63,359.8	69,280.2	76,949.8
Total	999,900.0	1,028,000.0	1,250,000.0	1,360,000.0

Source: Bureau of Budget

In the past five years the Thai public sector has undergone various administrative reforms. Applying results-based management (RBM) ideologies in the management of budgets is one of the focuses of reform. Beginning in 2006, the budget is determined in three dimensions: through the line ministries, or function-based; through national-level strategic policies and through provincial or area-based allocations. The Bureau of Budget (BOB) is mainly responsible for examining the appropriateness of plans and projects proposed by public agencies and enterprises. The BOB also monitors and evaluates plans and projects once they have been executed and ended.⁴⁹

The Thai government is currently undergoing a transition from input-based budgeting to performance-based budgeting. Public agencies or delivery units are to make agreements with policy-making units about the outputs expected of them. The delivery units declare their plan to the comptroller's office. Budget performance is monitored through the Government Fiscal Management Information System (GFMIS) and evaluation of management and performance are done through the Balanced Score Card (BSC) and the Performance Assessment Rating Tool (PART), belonging to the Public Sector Development Commission (OPDC) and the Bureau of Budget respectively.

Section 11 (8) of the State Administration Act of 1991 laid the foundation for the Regulation of the Office of the Prime Minister on Good Governance, 1999, which aims to create a system of good governance, to promote transparency and improve the quality of public service.

The 1997 constitution also states that citizens have the right to file lawsuits for misconduct or the failure to act by public organisations, including public enterprises, local government entities and other public sector-related organisations. If the damaged party is a private company, it should be dealt with according to civil law. Private individuals and agencies can file lawsuits regarding the acts of public entities through the administrative courts.

Public agencies in each line ministry are monitored and evaluated by the Department of Monitoring and Evaluation of the Bureau of Budget. However, in practice, the department is relatively weak and lacks the expertise for evaluation. Overall, the monitoring and evaluation mechanism that is in place does not serve the purpose of increasing accountability in any way. Currently, among the plans of reform, there is an effort to create a new public agency under the Office of the Prime Minister to oversee all evaluation activities of the public sector. This would be another move to re-centralise power under the executive branch.

According to the 1997 constitution, the state must promote and support citizens' participation when formulating public policies. Citizens have the right to participate in the decision-making processes of public officials if such decisions will affect the rights and freedom of members of society. According to the Strategic Plan for Public Sector Development (2003–2007), the government intends to open up the civil service for greater public participation in all areas by appointing consultation committees made up of the citizens who have some concern with the issue. A standard has been set that all public sector agencies must have a citizen-consultation system in place. In addition, public agencies must make all necessary information in the area of their responsibility readily available to the public at all times. However, in practice, public participation is often the one-time event of a public announcement, usually organised in a hotel room, isolated from the real stakeholders.

According to the 1997 constitution, Section 77, the state shall prepare a political development plan, moral and ethical standards for holders of political positions, government officials, officials and other employees of the state in order to prevent corruption and create efficiency in the performance of duties. Civil servants must obey the Civil Service Act 1992, which regulates the discipline of civil servants. Civil servants will be punished for misconduct, acts of conflict of interest and corruption. Civil servants cannot become board members or owners of private companies. Also, civil servants must be politically neutral at all times.

In addition to the law, the OCSC has established the Centre to Promote Ethics, mainly targeting public officials. The centre formulates guidelines for moral standards and ethical conduct. It also has created the Transparent and Clean Thailand Project, a joint effort between the OCSC, relevant public and private organisations and the general public. The objective is to urge the Thai people to be aware of the danger of corruption, which is now a serious threat in the country.⁵⁰

Civil servants are not allowed to accept gifts and hospitality worth more than 3,000 baht. Restrictions on post-public service employment are limited to civil servants who have been dismissed from office. They are not to hold any political or official position for five years.

Sections 58–59 of the constitution and the Information Act of 1997 ensure citizens rights to access to public information, explanations and reasons for decisions made by the state and public officials. Public officials who hold high positions, such as heads of departments, bureaus and ministries, must declare their assets and liabilities to the NCCC immediately before taking the position, immediately after leaving the position and one year after leaving the position.

Recently, the Thai government has been implementing the elements of e-government. Examples are the use of e-auctions and e-procurement for public projects. With the enhancement of the application of information technology, citizens have the choice of conducting transactions with the government through the internet. This in the long run should help to make the government more transparent because it gives citizens easier access to public information and provides the government with a better system for managing performance information. However, in practice, the general public still does not have easy access to the internet and most government websites function merely as introduction pages to the organisation. Websites are not yet the main channels of interactive communication between public agencies and citizens.

There are two ways to investigate allegations of corruption committed by the civil service. One is through internal mechanisms such as internal audits or appointing ad hoc committees to investigate. The other is to rely on external mechanisms, which include the Constitutional Court, judicial courts, the NCCC, the auditor general and the Ombudsman.

A cabinet resolution on misconduct in the civil service and protection for whistleblowers states that superiors are to protect whistleblowing subordinates. However, this resolution is rarely put into effect, especially when it is the superiors who are suspected of corruption. Moreover, many employees still do not know of the existence of the resolution.

Law Enforcement Agencies

The main law enforcement agency is the national police force. The power and role of the police are stated in the National Police Act of 2004: to (1) maintain order in the public interest, (2) enforce laws related to criminal acts, (3) ensure the public's happiness and (4) look after public benefits. The police have the power and responsibility to investigate criminal cases, including bribery and corruption. This covers tax violations, traffic violations and economic-related criminal acts. The police's power to combat unlawful businesses has, in turn, become a channel for police to seek personal benefits from these businesses.⁵¹

The Royal Thai Police Office is directly under the prime minister and not the Office of the Prime Minister or other ministry. Previously it was part of the Ministry of Interior. The police force is recruited at the initial stage under the merit system, but promotion up the ranks is based on seniority and patronage relationships.⁵² Appointment and repositioning of policemen of high rank is very much in the hands of the prime minister. Thus, close friends and relatives have been selected to hold important positions in the police force, which contributes to networks of power and abuse of power among politicians and policemen.⁵³ If a policeman feels that his/her repositioning order is unjust he/she can file complaints with his/her superiors or the Police Commission (Sections 105 and 106 of the National Police Act, 2004). The officer can also file complaints with the Administrative Court.

To ensure coherence with national policies, laws and cabinet decisions, the policies of the police are governed by the Board of the Royal Thai Police, on which the prime minister sits as the head (Section 16 and 17 of the National Police Act, 2004). Personnel matters are administered by the Office of the Police Commission (Section 31 of the National Police Act, 2004). Punishment for policemen is the under the same law as for general civil servants, and it is also regulated by the National Police Act of 2004.

The other law enforcement body is the Office of the Attorney General, which is independently administered. Public prosecutors have three main roles: to ensure justice in judicial cases, to preserve the state's and the public's interest and to protect the rights and freedom of the citizens. Officials of the office have complained that there is widespread political intervention in the personnel management and budgetary decisions of the office.⁵⁴ In practice, attorneys have been criticised for only being mailmen, delivering messages to the courts of justice. Afraid of being accused of receiving money from politicians, attorneys are quick to pass cases to courts without thorough investigation.⁵⁵

The attorney general has the duty to submit corruption cases of politicians to the Supreme Court of Justice Criminal Division for Persons Holding Political Positions (Sections 308–311 of the 1997 constitution; Organic law for Criminal Proceedings Against Persons Holding Political Positions, 1999, Section 9, 10; and Organic law for the National Counter-Corruption Act, 1999, Sections 66, 70). This section covers the prime minister, ministers, members of the House of Representatives, senators or other political officials who have been accused of becoming unusually wealthy or of the commission of malfeasance in office according to the Penal Code or a dishonest act in the performance of duties or corruption according to other laws. This applies to cases in which the politician involved is the principal, an instigator or a supporter of the criminal act. Attorneys have the power to prosecute bureaucrats as well (National Counter-Corruption Act, 1999, Sections 84, 97).

The Commission of the Attorney General is responsible for personnel management of the office. The commission selects no less than five candidates, from among whom prosecutors around the country elect one to be the attorney general. The commission oversees the election. Attorney generals are elected rather than appointed to avoid intervention by politicians. However, in practice, a commission member has himself run for the position of the attorney general.⁵⁶ This means the referee has become a player, violating the spirit of the game.

The resources of the three agencies in charge of law enforcement are shown in Table 6. The Office of the Attorney General and the Ministry of Justice follow the same budget systems as other public agencies. However, the Royal Thai Police Office and sub units under it have a separate system for internal auditing. As of September 2006, the Royal Thai Police, except for the central unit, had not

yet adopted the GFMS budget scheme, which aims to enhance transparency and effectiveness of public budgets and with which all public agencies are to comply.⁵⁷

Table 6: Budget of Law Enforcement Agencies (millions of baht)

	2003	2004	2005	2006
Royal Thai Police Office	41,445.2	44,311.4	44,018.4	51,848.8
Office of the Attorney General	2,988.8	3,284.0	3,513.6	4,044.8
Ministry of Justice	9,752.8	11,447.2	11,753.8	12,474.8

Source: Bureau of the Budget

Both attorneys and police work under rigid hierarchical command structures. The police report to their commanders, and top-level officers report directly to the prime minister. Attorneys are administered directly by the Office of the Attorney General. There is no provision requiring the police or attorneys to consult the public. However, there are initiatives to open up police stations to be more user-friendly by incorporating more citizen-participatory approaches in the work of policemen for daily and routine tasks. This is reflected in the new regulations for procedures to promote local and community participation in police affairs, such as in fighting against drugs, neighbourhood crime and traffic congestion, as well as promoting strong public facilities and citizens' quality of life.⁵⁸

As for dissemination of information to the public, both the police and the attorney general's offices have websites, but information is often not updated. Available information is mainly for internal use of the office rather than for publicising important cases of corruption or any other cases of interest to the public. Only those who are directly involved in the case have the right to access documents related to investigations made by the police. Furthermore, the access is only available after the prosecutor has filed the case in court. According to the 1997 constitution, citizens affected by a case do have the right to see the details when the prosecutor decides not to file the case. If the citizen does not agree with the prosecutor's decision he/she can directly file the case with the court.⁵⁹ Corruption on the part of public prosecutors often occurs in the form of prosecutors deciding not to file a case for unjust reasons in return for money from the accused.⁶⁰

Policemen in Thailand must follow laws, regulations, cabinet decisions and written ethical codes for the police. However, in practice, the police force is an institution that has not fulfilled its role as a protector of the law. A study has shown that in 2001, the police received a total of 19,000 to 27,000 million baht from gambling businesses in exchange for police protection of the businesses.⁶¹ The policemen's irregular incomes are supported by two weaknesses: complex laws and regulations, which discourage people from obeying them, and laws and regulations that rely too much on police discretion, such as permissions to establish service-related or entertainment businesses.⁶²

Both the police and public prosecutors are prohibited from being board members or owners of companies and members of political parties. As for rules on gifts and hospitality, police and prosecutors have the same limit of 3,000 baht set for civil servants. There are no post-employment restrictions.

According to the law, the attorney general, deputy attorney general, director of the Office for Military Justice Affairs and the commander of the police force must declare their assets and liabilities to the NCCC when they take on their position, immediately after they have left the position and one year after they have left the position.

Wrongdoing related to discipline for policemen is handled within the police organisation through investigation committees. There is no special provision for whistleblowing on misconduct by the police.

In cases of corruption, the NCCC is responsible for handling the investigation of the case, notifying the accused policemen's organisation of the case and sending reports to the prosecutor for filing the case in the courts. If a policeman is on trial or under investigation, another policeman may not be a witness in the investigation.

In addition, policemen are restricted in personal tastes and behaviour – such as wearing sunglasses, certain hair styles and hats and standing and walking postures – to the discipline and customs of the police.⁶³

In practice, it is nearly impossible to impose checks and balances on the power of the police; internal auditing⁶⁴ and self-regulation are the custom. The police are an independent agency that is so independent that it poses threats to the integrity system.

Public Contracting System

The law to regulate procurement in the public sector is based on the Regulation of the Office of the Prime Minister on Procurement (1992).⁶⁵ The Department of the Comptroller General within the Ministry of Finance oversees public procurement activities. An act also regulates private companies that are cooperating on or managing public projects (1992). This act separates the powers related to the processes of selection of offers made for public projects.

The public contracting system has no formal operational independence. Rather, a committee on public procurement ensures that the laws on procurement are followed and decides when interpretation of the regulation is necessary. The committee consists of the director general of the Office of the Prime Minister as the head and representatives from other public agencies such as the Office of the Prime Minister, the Ministry of Defence, the Office of the Auditor General, the Attorney General's Office, the Bureau of Budget and the Supreme Court. In addition, the prime minister appoints no more than five other experts to be on the committee. The appointed committees have a two-year term and can be reappointed.

Open bidding is required on all projects worth over 1,000 million baht. However, in practice, in order to avoid regulation, large projects are broken down into smaller projects worth less than 1,000 million baht each.⁶⁶ There are exceptions to the 1,000 million baht threshold, and these are channels for corrupt practices. Some projects are exempted from the threshold due to their urgency. Some are interpreted as part of a previous project rather than a new one, and this can be abused.

The Suvarnabhumi International Airport is a case in point. In 2006 many corruption cases arose related to the purchase of durable goods and construction contracts for the new Suvarnabhumi Airport. Management of construction of the new airport was passed to private entities to increase flexibility and efficiency. Cases that require investigation include development of the land and roads, which was brought to light by the NCCC⁶⁷; the installation of electrical systems, revealed by the Auditor General⁶⁸; the purchase of furniture, which was disclosed by the opposition party⁶⁹; and the CTX luggage scanner procurement, which was uncovered by the U.S. government and the opposition party. Currently the auditor general, under the orders of the leaders of the military coup, are investigating different cases of corruption related to many areas, including construction, the purchase of bomb scanners and bidding for a kitchen area of the airport.⁷⁰ None have come to trial.

Auditor General Jaruan Maintaka has summarised the following problems for procurement processes in the government.⁷¹

1. Purchasing are made inflated prices.
2. There are many cases of monopoly due to political power.
3. There are three-way networks between politicians, businessmen and high-ranking officials.
4. Many projects do not truly benefit the public.
5. Politicians have laid a foundation of networks in all public agencies.
6. Barriers are created, such as locking the specifications of bidders in various ways to favour certain companies, that prevent fair competition for bidding.
7. The government sometimes decides not to accept the finished contracted work.
8. Approval for exemption from existing laws is given by issuing new regulations.
9. Some projects, such as the new airport, seem genuine because high qualifications are required for consultants and board members. However, these consultants and board members may not oppose proposals, and studies have found that some of these members do not have the appropriate qualifications or expertise.

Thailand began to install its e-procurement system in 2006. According to the Office of the Prime Minister's Regulations on e-Procurement (31 January 2006), terms of reference (TOR), prequalification and pricing offer documents for projects worth more than 2 million baht must be made public at www.gprocurement.go.th for at least three days and allow the public to make recommendations before the bidding process starts. This is not a true public hearing but it is an approximation. The scheme is supposed to have representatives from civil society check the bidding process as well. In practice, there are not enough experts from civil society and not

enough effort to train people from government to become familiar with the system to help effectively monitor the procurement process.⁷²

As part of a larger scheme of e-government, public agencies are now encouraged to hold e-auctions.⁷³ E-auctions include bid invitations, price competition, bid result announcements and procurement contract preparation. Price settlements, bidding processes, registration of private companies and e-catalogues are other examples of provisions of the e-procurement scheme. In the Government Procurement Office's website, the public can view lists of private companies and individuals that have violated the regulations of procurement and those that have been suspended from future bidding on public projects. E-procurement should make public contracts more transparent and help reduce corruption.⁷⁴ In the year 2005 e-auctions were used in 6,450 projects, mostly of construction and purchase of durable goods.⁷⁵ However, as this system is relatively new in Thailand, its positive impact has yet to be seen.

The Department of the Comptroller General is responsible for developing procurement management systems, including standards for inventories, and collecting information on procurement and inventories for the public sector. Thus, standards and rules of procurement are centralised. However, their oversight is de-concentrated according to the administrative design of the country. At the provincial level, the financial office of the province regulates procurement activities.

The Department of the Comptroller General is under the Ministry of Finance. Public agencies are to have action plans for procurement and contracts by the end of October each year and must submit them to the Office of the Auditor General either at the central office or the regional office, depending on the public agency. Results of the action plan must be monitored, evaluated and reported to the Auditor's Office every four months.

There are no special rules for qualifications of staff, rotation of staff and division of roles for staff involved in contracting. Staff have to comply with laws and regulations regarding contracting and procurement, especially not using public power for any private gains. Those that are guilty face discipline charges in addition to criminal or civil charges.

Staff in charge of procurement do not have to declare their assets and are not monitored. Procurement rules are available to the public through a government website. There are rules for disseminating invitations to tender and terms of reference through various channels such as information postings on boards of public agencies, announcements of the information on the radio, in newspapers, through the Department of Public Relations and notification to the Office of the Auditor General. Public procurement and contracting must be offered 20 days before the closing date, and information must be submitted to the Bidding News Centre website (<http://www.bnc.co.th>). After the information has been made public, any adjustments and changes to the contracts in execution must be reported to the Office of the Auditor General.

Public contracts are said to be the number-one channel of medium- to large-scale corruption in Thailand, involving junior to high-ranking government officials, bureaucrats, politicians and the business sector.⁷⁶ Information about cases of misconduct in contracting and procurement procedures can be found on the Office of the Auditor General website (www.oag.go.th). Before the coup in September 2006, NIS pillars designed for checks and balances were heavily compromised. Thus the system was not functioning according to the spirit of the constitution. In 2000, it was estimated that 5 to 10 per cent of procurement projects' budgets went to bribes. For contract projects, the percentage was estimated to be as high as 10 to 20 per cent of the budget. Techniques for corruption include fixing the specifications of goods to serve a particular company's interest, intentionally obscuring fair competition or even forcing others not to compete in the bidding process.⁷⁷

An important form of large-scale corruption occurs in projects that allow private companies to manage the project. The law states that projects worth more than 5,000 million baht must hire consultants. There are many cases in which high-level bureaucrats, politicians and construction companies establish their own consulting firms in order to influence the decisions to choose companies for public contracts that would benefit them as well.⁷⁸ Another channel for corruption occurs at the policy formulation stage, when the cabinet issues orders to loosen regulations so that projects can be approved more quickly and easily. This poses a problem when cabinet members have stakes in the project.⁷⁹

A prime example of corruption in procurement is the large-scale purchase of overly expensive medicine by the Ministry of Public Health in 1998, worth 1,400 million baht. Whistleblowers on the case were street-level bureaucrats and networks of medical doctors in rural areas.⁸⁰ The Rural Doctors Society (RDS) and the Rural Pharmacists Forum (RPF) released the information, and together with 30 civil society groups they made use of Section 304 of the constitution, against

corrupt government officials, through the collection of 50,000 signatures. The two public health ministers and the secretary general of the public health ministry involved were forced to resign and were removed from their posts permanently.⁸¹ At first, however, the NCCC documents showed irregularities; the name of the minister was not stated in the results of the investigation. Using the Official Information Act, the network of NGOs discovered this and through the courts was able to make the NCCC release the information.⁸² This case was one of the greatest achievements of the national integrity system, as well as the first major case under the 1997 constitution. In the end, the minister and his advisor were sentenced to prison, in one of the rare cases in Thailand in which such a high-ranking figure received such a sentence. It is worth noting, however, that the minister was able to hide for a few years before he was found and actually arrested in November 2004.

Aside from external control, all public agencies and provincial-level agencies have internal auditing systems in place. These auditors must have at least a bachelor's degree in accounting or commerce, and they report directly to directors of the agency or governors of the province.

In the case of corruption such as accepting prices that are too high, punishment is imposed on both the public officials and private companies involved. The guilty party, who faces discipline, civil and criminal charges, can be imprisoned for up to five years and fined up to 50 per cent of the inflated price.⁸³ Numerous actual prosecutions have taken place but only for small cases and not for large-scale cases that might include cabinet members.

The public contracting system is related closely with all public agencies, because all agencies must comply with the rules. The main problem of public contracting is that many politicians and high-ranking bureaucrats are involved, and they often change the rules and regulations in their own favour and usually formulate policies that benefit them directly. Thus, public contracts might appear to be completely legitimate and lawful but could very well involve policy-based corruption, and such corrupt practices are making the functioning of the check and balance mechanisms ever more difficult.

As of September 2006, the Council of Democratic Reform (CDR) has set up a special assets scrutiny committee to look into all the projects approved and implemented during the Thaksin regime for traces of corruption and irregularities.⁸⁴

Ombudsman

Sections 196–198 in the 1997 constitution address the independent body of the Ombudsman. The ombudsman has the powers and duties to consider and inquire into complaints related to public officials' failure to perform in compliance with laws as well as performance that unjustly causes injuries to the complainant or to the public, whether the act is lawful or not. The Ombudsman submits cases and opinions to either the Constitutional Court or the Administrative Court for their decisions according to law. In addition, the Ombudsman has the duty to make a report, including opinions and recommendations, to the parliament. The Ombudsman must also submit annual reports, by March of every year, to the parliament. Thus despite being formally an independent body, it works for the parliament.

The Ombudsman consists of three members who hold the position for only one term of six years. The qualifications, prohibitions, selection and election of the Ombudsman must be in accordance with the organic law on Ombudsman. Ombudsmen are appointed by the Senate. In practice, the selection of the Ombudsman was heavily influenced by the ruling party due to the party's extraordinarily strong presence in the House of Representatives as well as Senate members who side with them.

The Ombudsman's budget is allocated by the government under the category of independent agencies. A summary of the budget appears in Table 7.

Table 7: Budget of the Ombudsman (in baht)

Subsidies from national budget	2003	2004	2005	2006
Investigation of facts according to complaints				63,124,900
Promote education on rights to file complaints according to law				15,000,000
Total	45,400,000	58,400,000	76,006,000	78,124,900

Source: Bureau of Budget

An Ombudsman member is not restricted from taking up any other kinds of employment after holding the post. However, if the Ombudsman member is ordered to leave office, he/she is restricted from taking up any political or administrative posts for five years.

There are no specific rules on conflict of interest or on gifts and hospitality for the Ombudsman, aside from the civil servant's limit of 3,000 baht. However, the members of the Ombudsman do need to report their assets and liabilities to the National Counter-Corruption Commission once when they take up office, then again after they have remained in office for three years and five years, when they leave office and one year after they have left office.⁸⁵ In the past five years, there has not been an incident of an Ombudsman member being removed from office without relevant justification.

The Ombudsman oversees the Office of the Ombudsmen secretary general. There is a deputy secretary general and an assistant secretary general. The office has three divisions: the investigative division, the administration division and the technical support and community relations division. The administration division oversees human resources management of the office.

The Ombudsman is not required to consult the public about its work. However, if a public agency does not improve administrative practices in line with the Ombudsman's suggestions, the Ombudsman may reveal the report to the public if it considers such a move appropriate. If the Ombudsman is unable to pursue a fact-finding investigation, it must stop the case and report to the upper and lower houses.⁸⁶ The public has access to the Ombudsman's website (www.ombudsman.go.th) to find types and results of decisions handed down by the Ombudsman.

According to the organic law, the Ombudsman's decisions do not have to be made public. The Ombudsman must inform the public agency that has the authority to investigate and the superiors of the public official who has engaged in maladministration so that they may carry out necessary and appropriate actions against the public officials involved. The responsible public agency and the superior must report the results of their actions every three months.

The general public can file complaints about misconduct of an official or employee of a state agency, state enterprise or local government organisation with the Ombudsman through various channels: handing the letter of complaint personally or via a representative directly to the Ombudsman, handing the letter to a Senate or House of Representatives committee or filing an oral complaint at the telephone number 1676 (for this method the complainant must provide his/her name and 13-digit citizen number as well).⁸⁷

Between 2000 and March 2006 a total of 12,224 cases were filed, 2,552 of which are still under investigation. The details are shown in Table 8. Most cases involve inappropriate behaviour on the part of public officials. Other cases dealt with corruption, inefficiency and personal disputes. The two public agencies that have received the most complaints are the Ministry of Interior and the police force.

Table 8: Cases filed with the Ombudsman

	Number of Cases
1. Complaints currently under investigation	2,552
2. Complaints that have been investigated	9,352
2.1 Cases in which the defendant was found not guilty	2,570
2.2 Cases in which the complainant's charge was found to be true	1,649
2.2.1 Cases in which the Ombudsman suggested administrative improvement	417
2.2.2 Cases in which the Ombudsman suggested legal amendments	6
2.2.3 Cases that were sent to the Constitutional Court or the Administrative Court	20
2.2.4 Cases that were dealt with and brought satisfaction to the complainant	1,194
2.2.5 Cases in which the public agency involved is to investigate and report to the Ombudsman every 3 months	12
2.3 Cases that the Ombudsman declined because they were outside its power	5,133
2.3.1 Cases that were declined or stopped in the process of investigation	3,588
2.3.2 Cases that were declined by the Ombudsman but passed on to relevant public agencies to handle	1,545
3. Complaints that were withdrawn	188
4. Other notices	132
Total Complaints and Notices	12,224

Source: The Ombudsman Office as of May 4, 2006

The Ombudsman has been criticised for its slow investigative and decision-making processes. A prime example is the case in which a group of Senate members, hoping to protect human rights, filed a complaint with the Ombudsman about the appropriateness of the Executive Decree on Public Administration in Emergency Situations – which took effect on 19 July 2005 in Narathiwat, Pattani and Yala, the three southern border provinces. The question was whether the decree was in accordance with the constitution. The Ombudsman took so long to investigate and process the case that the decree's term expired, and the case was never brought to the Constitutional Court, as it should have been.⁸⁸

However, the Ombudsman has been reliable at times. One example was when a group of academics from Thammasart University filed a complaint with the Ombudsman asking for an investigation of the recent election results in April 2006. The Ombudsman decided to pass the case on to the Constitutional Court for a ruling on the appropriateness of election procedures for which the Electoral Commission was responsible.

The Ombudsman faces difficulties in conducting investigations because public agencies under investigation seldom are willing to cooperate in making available documents and information related to the case. Currently the Ombudsman members are trying to improve their work by being more proactive, proposing an amendment to the Ombudsman Act of 1999 permitting them to initiate their own motion for investigation, working to obtain an amendment to the law designating them as the last resort in the complaint process, networking with partner organisations and establishing an Ombudsman call centre.⁸⁹

Anti-Corruption Agencies

The main anti-corruption agency in Thailand is the National Counter Corruption Commission. The NCCC is empowered by an Organic Act on Counter Corruption (1999), which states that it has three main functions: (1) receiving declarations of and inspection of assets and liabilities, (2) corruption prevention and (3) corruption suppression.⁹⁰ The NCCC has the following powers and duties (Section 301 of the 1997 constitution): (1) inquire into facts, summarise cases and prepare opinions to be submitted to the Senate and to the Supreme Court of Justice Criminal Division for Persons Holding Political Positions; (2) inquire and decide whether a state official has become unusually wealthy or has committed an offence of corruption, malfeasance in office or malfeasance in judicial office in order to take further action in accordance with the organic law on Counter Corruption; (3) inspect the accuracy, actual existence of and changes in assets and liabilities of

high-ranking politicians and bureaucrats (Sections 291 and 296); (4) submit an inspection report and a report on the performance of its duties together with remarks to the Council of Ministers, the House of Representatives and the Senate annually and publish that report for dissemination; and (5) carry on other acts as provided by law. NCCC covers only public officials (politicians and bureaucrats) in the public sector.

In case unusual wealth is found, the NCCC sends documents and inspection reports to the prosecutor general to institute an action in the Supreme Court of Justice Criminal Division for Persons Holding Political Positions (Section 294 of the 1997 constitution). Thus its main function is to investigate. In practice the organisation plays a role in education and raising awareness. The NCCC does not have the power to prosecute; instead it gives opinions and files cases. Decisions are made by courts of justice.

Reports of inspection of and changes in assets and liabilities of high-ranking persons (prime minister, ministers, members of the House of Representatives, senators, other political officials, local administrators and members of local assemblies as provided by law) must be disclosed to the public and published in the Government Gazette no later than 30 days from the date of expiration of the time limit for the submission of such accounts (Section 293–294).

In addition, the NCCC publishes its annual performance reports on its website. According to its annual report of 2003, the NCCC received 2,120 new cases, was able to finish investigation of 1,261 cases and had 5,780 cases still in progress. In that same year, the NCCC found 115 cases of corruption, of which details of 35 cases were reported in the annual report. Most of the corruption cases reported were quite insignificant, such as the sale of 1 baht bus tickets for 8 baht by a bus ticket seller. Most were less than 100,000 baht in value.⁹¹

In the same year the NCCC filed the cases of five persons who intentionally did not declare their assets. In 2003, the NCCC had a total of 99 cases of unusual wealth and was able to close 45 cases in the same year, none of which were found to have enough evidence of unusual wealth. Thus, in 2003 the NCCC reported not finding a single case of unusual wealth among politicians and bureaucrats.

According to Section 297 of the constitution, the NCCC comprises a president and eight committee members. Committee members are restricted to only one term of nine years. The selection committee for the members of NCCC consists of 15 members: the president of the Supreme Court of Justice, the president of the Constitutional Court, the president of the Supreme Administrative Court, rectors of all state higher education institutions (seven to be elected from among themselves), representatives of political parties having members in the House of Representatives, provided that each party shall have one representative (five to be elected from among themselves). However, since fewer than five political parties might be represented in the House of Representatives, the dominant party may be overrepresented. There is no post-employment restriction for NCCC members.

The NCCC is an independent agency with its own jurisdiction over personnel, budgetary and other issues according to Section 302 of the constitution. There are mechanisms to counterbalance the NCCC. No less than one-fourth of the members of the House of Representatives can file a complaint with the president of the Senate if the NCCC has acted unjustly or intentionally violated the constitution or laws. When the latter is true, three-fourths of the total number of existing members of the Senate can pass a resolution to remove members of the NCCC from office (Section 298–299). Also, one-fourth of the total number of members of both houses combined can file a case with the Supreme Court of Justice Criminal Division for Persons Holding Political Positions if they suspect that NCCC members are unusually wealthy or have committed an offence of corruption.

Currently the NCCC is in the process of drafting its version of the code of ethics for public officials, in addition to the one issued by the Civil Service Commission. It is also drafting a code of ethics for public hearings. The committee consults very little with civil society and the public sector. Its website is not updated. Its annual reports have not come out on time in the past couple of years.

The NCCC is independent in terms of budget and personnel. In fact, the NCCC recently passed new regulations to raise the salaries of its own committee members. This case was brought to the criminal court for politicians. The court ruled that there was possible evidence of misconduct, and the nine committee members were found guilty.⁹² All nine members then resigned from their posts.⁹³ If NCCC members are found guilty of corruption they must face twice the punishment of others.

This event led to a vacuum in counter-corruption practices because, under the constitution, the committee members were to be selected by five political parties, but there were only four political

parties currently in the parliament. Thus, this section of the constitution needs to be amended before the selection process can begin. As of September 2006, the CDR has single-handedly selected a group of respectable anti-corruption experts to be the new NCCC, which now is loaded with more than 10,000 cases to investigate because it has not been functional for so long.

In sum, the NCCC is equipped with proper scope of power and enough budget and personnel to combat corruption. However there is lack of coordination with the civil society sector. Moreover, the 'representative of the people's sector' description given to one member of the selection committee is vague and requires a clearer definition. The selection process is dubious. The cases vary widely in terms of scale, and the work process is very slow.⁹⁴

Another agency with a lesser role and less independence from politics is the Anti-Money Laundering Office (AMLO). AMLO has duties to investigate cases according to the Anti-Money Laundering Act of 1999, Section 3. The AMLO has wide-ranging powers (Section 7 of the act). They include cases related to drug dealing, prostitution, public fraud, fraud by financial institutions, bribery and tax evasion. The AMLO helps counter corruption by providing law enforcement agencies and other pillars with information regarding money laundering.

The AMLO is a public agency with an allocated budget from the parliament. Table 9 shows the budgets of both agencies in the past four years. Budgets of both entities have tripled since 2003.

Table 9: Budget of Anti-Corruption Agencies (millions of baht)

	2003	2004	2005	2006
NCCC	319.7	334.7	935.3	929.7
AMLO	71.3	96.4	152.8	231.0
TOTAL	391.0	431.1	1,088.1	1,160.7

Source: Bureau of Budget

In contrast to the NCCC, the AMLO board is selected directly by the prime minister and his cabinet members. This impacts its independence in practice. Board members of AMLO are supposed to be experts in economics, finance and law. They must be approved by both houses of the legislature and are limited to only one term of 4 years.

AMLO is not officially under the prime minister's office or any ministry. However, as it reports directly to the prime minister, it is in practice completely controlled by the executive branch. AMLO has been accused of functioning as an instrument for political parties in power to monitor the opposition group and not the party in power.⁹⁵ In recent years, AMLO made many allegations and charges concerning business transactions of the media, opposition party members, leaders of civil society groups and military and civilian bureaucrats.⁹⁶

AMLO has made allegations against the press regarding publication of government secrets. An example is the case on 7 December 2001, when AMLO charged *Matichon* newspaper with disclosing government secrets; the court ordered the case dismissed.⁹⁷ In 2003, AMLO made several requests to check business transactions of the media and civil society organisations, causing fear among these organisations, which had been trying to counter-balance and check executive powers.⁹⁸ When AMLO asked for business transaction details of media companies, opposition party members and NGO leaders, AMLO announced that anyone who made AMLO's business investigation documents public would violate the Anti-Money-Laundering Act and could be subjected to at least five years' imprisonment and/or fined 100,000 baht.⁹⁹ The media saw this as a violation of the Official Information Act and of the media's freedom of speech.

In the six years preceding 2005, AMLO confiscated assets worth 4,000 million baht, of which 1,000 million baht went to the state. Of these cases, 90 percent were related to drug dealing.¹⁰⁰ In 2003 Thaksin issued an Office of the Prime Minister regulation allowing public officials to receive reward money of 15 percent of the amount of the seized assets. A mid-level official in AMLO saw the reward as inappropriate under the Anti-Money Laundering Act of 1999 and therefore filed a complaint with the minister of justice. The mid-level official was soon removed from office and sent to be stationed in Yala province in the deep south.¹⁰¹

Media

In the 1997 constitution, Chapter III, Rights and Liberties of the Thai People, the news media are strongly protected. Section 39 states that a person shall enjoy the liberty to express his or her

opinion, make speeches, write, print, publicise, and make public opinions by other means. A press or a radio or television station may not be deprived of the liberties protected under this section. Restrictions on liberty under Paragraph 1 shall not be imposed except by virtue of the provisions of the law specifically enacted for the purpose of maintaining the security of the state; safeguarding the rights, liberties, dignity, reputation, family or privacy rights of other persons; maintaining public order or good morals or preventing the deterioration of the mind or health of the public.

Section 40 declares transmission frequencies for radio or television broadcasting and radio telecommunication to be national communication resources for the public interest. The section establishes an independent regulatory body with the duty to distribute the frequencies under Paragraph 1 and supervise radio or television broadcasting and telecommunication businesses as provided by law. In carrying out the act under Paragraph 2, regard shall be paid to providing the utmost public benefit at national and local levels in education, culture, state security and other public interests including fair and free competition.

Section 41 provides that officials or employees in the private sector undertaking newspaper or radio or television broadcasting businesses shall enjoy their liberties to present news and express their opinions under the constitutional restrictions without the mandate of any state agency, state enterprise or the owner of such businesses, provided that such expression is not contrary to their professional ethics.

Government officials, officials or employees of a state agency or state enterprise engaging in the radio or television broadcasting business enjoy the same liberties as those enjoyed by officials or employees under Paragraph 1 of Section 41. Thailand enacted the Public Information Act in 1997, which ensures the right to access to public information.

Censorship by a competent official of news or articles before their publication in a newspaper, printed matter or radio or television broadcast shall not take place except during a time when the country is in a state of war or armed conflict; exceptions exist under the provisions of Paragraph 2. No grant of money or other properties shall be made by the state as subsidies to private newspapers or other mass media.

In the past, censorship of the media was imposed through the power of the military. Recently, economic and business means and pressures have been developed to control the media in a more complex and less obvious way. For instance, many newspapers do not gain their major income from sales volume but from advertisements. Therefore, if politicians in the government directly or indirectly own big corporations, especially in the telecommunications business, in which large sums of company budgets are allocated for advertising, they can withdraw advertising contracts, which would severely affect the income of the media companies. This is also the case for advertisements paid for by the state.

Media freedom is sometimes affected by the lese majesty law. For instance, the TRT government used this law to ban the distribution of the *Far Eastern Economic Review* and *The Economist's Thailand Survey*. However, many people argued that the real reason behind this was that these news media had severely criticised the TRT government.

Apart from printed media, electronic media and especially television and radio are basically controlled by the state. The case of the Mass Communication Organisation of Thailand (MCOT), which is mentioned below, is an example of the state's control of electronic media. In addition, some owners of influential television channels were core members of the TRT government, so the control of media by the government has relied on interpersonal relationships as well.

However, one must recognise the multi-centred nature of Thai media, especially print media. Although the TRT government could control some portions of the media, it was not able to control them all. Non-TRT media played a very crucial role during the period of anti-Thaksin government demonstrations. This signified the progress of media professionalism to some extent.

Recently, the TRT party has been accused of attempting to gain control of news media by buying up shares of media companies in the stock market. The case of GMM-Grammy, accused of having close relations with the TRT party, endeavouring to take over the *Matichon* and *Bangkok Post* newspapers showed an alleged attempt of the TRT government to extend control over the media. This is linked to both political control and ownership control of the media. Although there has been political investment in the media in the past, it was most obvious and omnipresent during the time of the TRT government.

Moreover, the government has applied the strategy of divide and rule to control the media. Before the political upheaval in early 2006, newspapers were separated by the TRT government into supporters versus non-supporters. This was in addition to having media business groups in the

core of TRT and the use of the MCOT as an instrument to mobilise the consent of the Thai people to TRT's policies.

Accordingly, this appears to represent the failure of the National Broadcasting Committee (NBC), the independent regulatory body established under the 1997 constitution, to promote freedom of the media, which is a key element of modern democracy.

Corruption is well covered in the news. In Thailand, people follow corruption by both politicians and businesspeople. The accusation in the media that ex-PM Thaksin engaged in policy-oriented corruption in the case of the Shin Corp deal with Temasek ignited mass protests around the country; this is clear evidence that news media can mobilise people's attitudes and actions against problematic governments. Media associations from time to time also play a positive role in countering the government's non-transparent governance.

Needless to say, news media play very crucial roles in confronting corruption. The Thai people are lucky to have adequate news media that have professional ethics and have not fallen into traps of corruption of power. This is true especially of the two English-language newspapers, the *Nation* and *Bangkok Post*, both of which have honestly portrayed and disclosed the real 'unseen' Thailand to the world.

Significantly, even though political powers sometimes interfere with the media, the media also intrude into the private sphere of people's lives. Therefore, a good system of media self-regulation to ensure and maintain accountability and professionalism needs to be further developed. This includes capacity building of media personnel as well as fully following professional ethics codes that are in place for journalists.

Civil Society

Civil society organisations in Thailand enjoy a substantial level of freedom. The National Cultural Act (2nd) 1943, Section 5, states that all civil society organisations must register and must receive approval from the Ministry of Culture in order to become formal associations or foundations. Section 7 of the same act states that if an unregistered organisation recruits membership or acts in any way to maintain the organisation, the organisation must be abolished and fined 2,000 baht and/or the responsible persons would be sentenced to jail for one year.¹⁰² Registered civil society organisations are obligated to report their financial status annually.

In practice, however, there are many unregistered civil society organisations in Thailand. Some have loose structures, some work in networks, some are ad hoc and some are more permanent than others. Most freely do fund-raising, collecting donations and membership fees. The number of civil society organisations has grown over the years since the 1960s. These groups are interested in a range of issues including the environment, human rights, education, poverty eradication, democracy, sustainable development, local wisdom and so on. In practice non-governmental organisations and civil society groups are free to plan and carry out projects as they wish, without close observation by the government. Of course, there are exceptions.¹⁰³

Civil society groups have become more and more vibrant in the past 10 years. Support and promotion of anti-corruption activities is increasing. In 1998 Thailand's national chapter of Transparency International was founded. Transparency Thailand (www.transparency-thailand.org) is one of the dominant civil society groups working to fight corruption in the country. It promotes transparency and credibility in Thai society by networking with public agencies, the private sector and the media. Its goals are to monitor corruption, raise awareness among the public and catalyse policy makers to take action against corruption of all kinds.

The corruption case involving the minister of public health in 1998 gave birth to the Anti-Corruption Network, which comprises 30 NGOs. The network led the campaign for the case. (See 'Public Procurement'.)

Another group is the People's Network against Corruption (PNAC), which was formally established in 2001. The network consists of 100 distinguished individual members and more than 500 organisational members. PNAC has collaborated closely with the Social Development and Human Security Commission and the Senate Committee for Investigation of Corruption Cases, especially in organising public seminars. Together with the opposition party, PNAC has played an important role in disclosing 10 corrupt government projects. Its revenue, from members and donations, is approximately 500,000 baht per year.¹⁰⁴ Of all corruption-related complaints that PNAC receives annually, 80 to 90 per cent concern misconduct of government officials.¹⁰⁵ PNAC is, thus, an important channel for the public's voice. Weera Somkamkid, one of the its founders, pushed for investigation of the asset-concealment case of former Democrat Party secretary-general Sanan

Kachornprasart, who in August 2000 was found guilty by the Constitutional Court and was banned from politics for five years.

There is also the Foundation for a Clean and Transparent Thailand (FACT), set up by the Office of the Civil Service Commission. It comprises members from both the public and private sectors. Funding for the foundation comes mainly from private companies such as Toshiba-Thailand, Boonrod Brewery Ltd. and Worldclass Life International.¹⁰⁶

In 2005 an organisation called Corruption Watch was set up. The founding members are prominent leaders in combating corruption in the country, including Khunying Jarawan Maintaka, the current auditor-general.¹⁰⁷

Finally, a large network called Civil Society Network on Anti-Corruption was established by the NCCC at the end of 2002 and funded by the Asian Development Bank (ADB) with 14 million baht. The Local Development Institute (LDI), a non-governmental organisation, administered the 11 projects under the network. The main goal was to strengthen the people's network to monitor the NCCC's work.¹⁰⁸ Projects focused on mass media for anti-corruption efforts, research for and production of a manual for anti-corruption activity and a people's network movement on anti-corruption awareness. All projects ended in 2004 and the NCCC has adopted the network's recommendations for providing budgets to civic groups for continuing anti-corruption activities.

As for campaigns against corruption, primary and secondary schools have introduced limited efforts to raise awareness of corruption issues. At the university level, the subjects of integrity and morality are rare but do exist in a handful of curricula. Business groups usually do not directly campaign against corruption, but some do fund non-governmental organisations that are engaged in anti-corruption activities, as in the case of FACT.

No particular laws govern conflicts of interest and regulation of gifts and hospitality for civil society organisations. Some managers of civil society organisations lack management skills, for most are semi-volunteers. The non-profit sector in general lacks systematic planning, execution and evaluation of its activities. This includes a failure to document data properly for managing the organisation, such as revenue and expenditures. This contributes to the difficulties of making a civil society organisation transparent. Most organisations do not have their financial reports available on their website.

Recently there has been evidence of interference with the independence of civil society groups relating to corruption issues. The closing down of Corruption Watch's website on 30 January 2006, after it had been open for only one month for the public to file complaints of corruption, is a prime example. The government could be responsible because it controls all the domestic hosts on the internet.¹⁰⁹ This interferes with the checks and balances of a healthy and sustainable democracy.

Although there are exceptions, in general, civil society organisations and government agencies do not have close relations. There is often a lack of coordination between the two. Those organisations that are close to government agencies risk being seen as co-opted.

Most anti-corruption organisations do have close relationships with one another, however, especially the PNAC and Corruption Watch; some experts sit on the boards of both organisations. Some board members of PNAC are also members of the opposition political party, the Democrat Party. These groups collaborate through (1) exchanging information on corruption once a week, (2) investigating corruption at all levels of government, (3) sharing information with the public through the media and (4) giving policy recommendations to governmental and independent agencies, with the goal of punishing wrongdoers.¹¹⁰

The verdict by the Supreme Administrative Court to abort the privatisation of the Electricity Generating Authority of Thailand in April 2006 is a prime example of the results of close coordination among civil society organisations, the business sector and the media to counter policy-based corruption. The civil society organisation that pioneered the lawsuits together with 11 representatives of consumer groups was the Foundation for Consumers (FFC). FFC was established in 1994 by the Coordinating Committee for Primary Health Care of Thai NGOs (CCPN), a non-governmental organisation that coordinates health groups in the country.

The Supreme Administrative Court ruled in favour of FFC and aborted the initial public offering of EGAT because two royal decrees drafted to transform the state agency into a public company were illegitimate. This was mainly because one committee member of the privatisation board, which was set up by the cabinet, was a Shin Corporation and Shinawatra University executive. The owner of Shin Corporation at the time was the Shinawatra family. There was perhaps a conflict of interest for privatising EGAT. The court's decision had a strong impact and reinforced the civil society groups' movement to counter-balance ex-PM Thaksin's power. The media, specifically the

newspapers, played an important role in covering the news throughout for the public to follow the court's rulings closely.

Business Sector

The country has laws regulating companies. For instance, the Securities and Exchange Commission, Thailand (SEC), was founded under the Securities and Exchange Act B.E. 2535, with a mission to perform the functions of the capital market supervisory agency with the status of an independent state agency. It is doubtful, however, whether this commission performs its function independently. The case of the deal between Shin Corporation, the firm owned by ex-Prime Minister Thaksin's family, and Temasek Holdings raised doubts about the role of the SEC as an independent regulatory body.

The business sector is regulated by the Anti-Money Laundering Act of 1999 (see 'Law Enforcement'). In addition, the Bank of Thailand also has a crucial role in regulating and investigating the operations of the financial sector. Under the pressure of economic globalisation and forces of capitalism, state-owned enterprises in Thailand, especially after the economic crisis, are being privatised. However, privatisation in Thailand has not been fully implemented because state institutions still control the majority or plurality of shares in the companies. Recently, some Thais have argued that to privatise state-owned enterprises is to open an opportunity for top politicians to benefit from the process through the stock market. The case of privatising PTT Public Company Limited, one of *Fortune's* 2006 Global 500, drew attention for providing benefits to members of the executive branch rather than to the Thai people as a whole. The shares of this company were sold out within seconds. In another case of corruption, early in 2006 the Supreme Administrative Court ruled out the government's action on privatising the Electricity Generating Authority of Thailand by implying that there was conflict of interest. No member of the TRT government took responsibility for this.

As in many other countries, structurally, shareholders of companies rarely have the power to regulate the company's executives. Good corporate governance is a motto of the SEC and big corporations, but for many companies corporate governance seems to exist on paper only. Furthermore, the responsibility in corporate governance is limited merely to the company's shareholders, not to stakeholders.

Some business sectors form civil society organisations, such as the Social Venture Network, that have initiatives going beyond corporate governance to corporate social responsibility, and some members try to confront politics and business collusion in the government. However, the efforts have not been strong enough. The crucial role in confronting corruption of politics and business collusion should belong not only to the state and independent regulatory bodies but also to civil society organisations and corporations themselves.

The SEC also tries to campaign in support of corporate governance. For instance, the SEC ranks corporations according to the efficacy in corporate governance to enable investors to select companies that demonstrate accountability. However, it is not certain whether this will in fact promote corporate governance. There is conflict between the motivation to make short-term gains and that to buy shares of a company with a high corporate governance rating (but less profit).

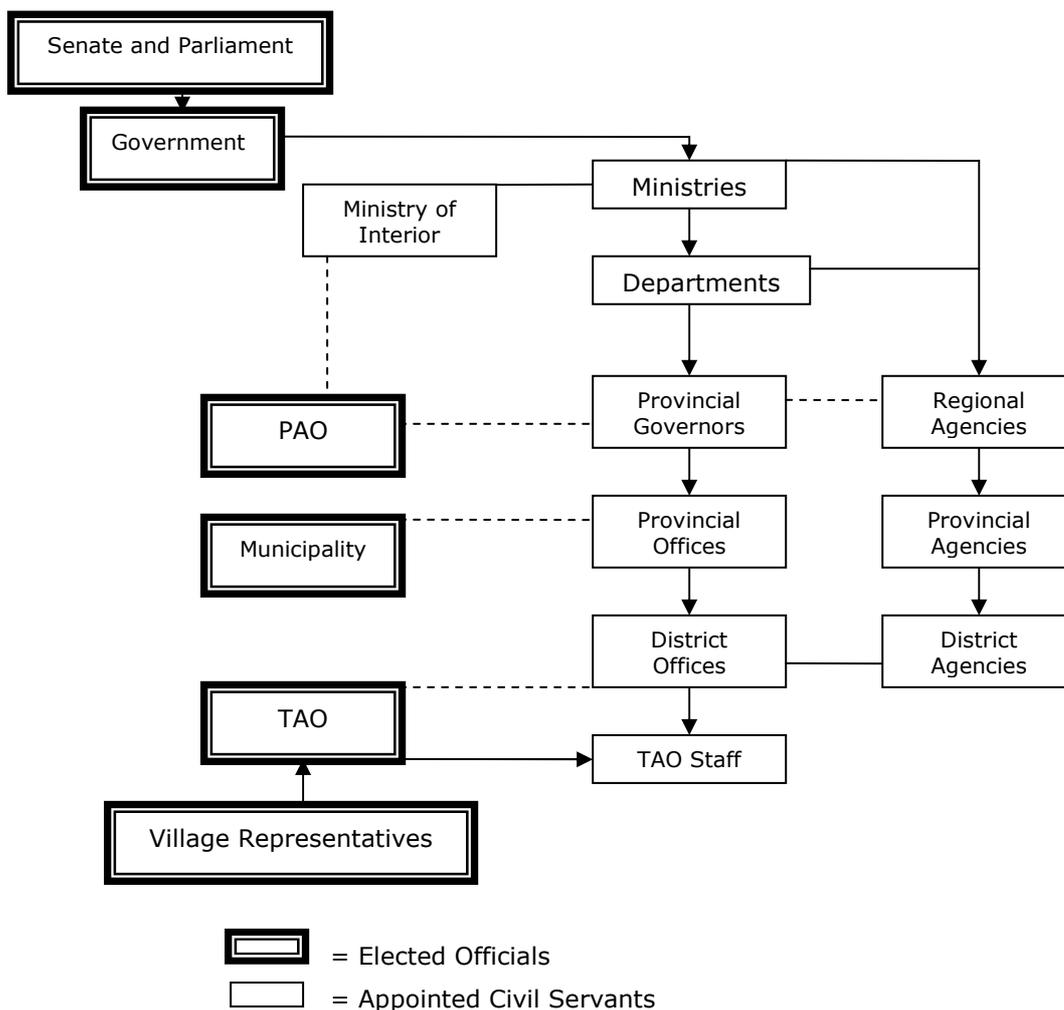
In July 2003, Shin Corporation sued a member of an NGO who campaigned through the media about the malpractices of politics and business collusion, conflicts of interest and policy-based corruption involving the company. The NGO member, who had a very small salary, was sued for many hundreds of millions of baht. This caused widespread criticism of the company.¹¹¹ The case of an anti-telecom concession conversion also evidenced a type of policy-based government corruption because it was estimated that Shin Corporation would save thousands of millions of baht for this concession conversion.¹¹² These two cases demonstrate the lack of accountability in the business sector as business and politics practice collusion. The first case showed the corporation's effort to silence a problem of its policy-based corruption and the second presented the endeavour to gain vested interest from policy-based corruption.

Government-business relations under the TRT were very explicit. The country's capital owners, especially core members of the TRT, used political power to reinforce their economic power and vice versa. With the economic power of the prime minister, as one of the richest men in the country, and with the political power of his TRT party, having an overwhelming majority government, business-government collusion has been one of the major corruption problems in Thailand.

Local Governments

Thailand consists of 75 provinces and Bangkok Metropolitan. It comprises 876 districts and sub-districts, 7,255 tambons and 69,367 villages. Thailand has moved to decentralise since the Decentralisation Act was passed in 1999. There are two tiers of administration in each province. One is the provincial governors, who are sent from the Ministry of Interior and head all other civil servants, who are sent from each line ministry. There are also regional-level public agencies, which are branches of departments, bureaus and agencies of the central government. The other tier is the elected local administrative bodies. They comprise the provincial administrative organizations (PAO), the municipality and the tambon administrative organisations (TAO). The Department of Local Administration of the Ministry of Interior supports and promotes governance of these local entities. Figure 2 illustrates the structure.

Figure 2: Governing Structure of Thailand



Source: Adapted from Orapin Sopchokchai (2001: 6)

There are no specific laws and regulations concerning corruption at the local government level, aside from the usual rules of procurement, public projects, accounting and the making of annual reports. The local administrative bodies are under the same laws and regulations, especially the 1997 constitution, as the central agencies regarding corruption. For example, tambon-level administration must submit annual reports to the Office of the Auditor-General, who has the duty to oversee accounting practices for all public entities. Politicians in the local governments are under the same constitutional law as national-level politicians for declaration of assets and liabilities before and after holding government posts. In addition, the Administrative Court has the same jurisdiction in the local administrative bodies as it has in the central government.

Citizens have channels to check and balance the local government's power. One-half of the number of eligible voters can petition for local entities to issue new laws. Also, citizens can cast votes to remove local politicians from power if more than three-fourths of the voters agree. This is on the condition that more than half of the eligible voters came out to vote (1997 constitution, Sections 286–287). In 2001–2002, the NCCC conducted seminars and workshops to promote people's awareness of corruption issues at the local level.

Politicians running for elections at the local level must not have been involved in or charged with any corruption in the previous five years. Local governments must publicly announce their policies and report their performance annually.

In practice, there is widespread corruption at the local level, especially in connection with public projects and elections.¹¹³ According to an official at the Ombudsman Office, most complaints the office receives are related to local governments. Most of these are issues of corruption and non-transparency, especially with respect to land disputes.¹¹⁴ This can be traced to the independence of each local administrative body and the weak and vague check and balance mechanisms. Cases of corruption are investigated and prosecuted by the same NIS pillars as at the national level, such as the Administrative Court.

Local-level corruption reflects and interconnects with national-level corruption and power politics. Decentralisation efforts have increased the powers of the localities for budget and human resources decisions, in addition to collection of revenues and discretion on public policies. Along with the increase in power comes an increase in the abuse of power. To remedy this, declaration of assets and liabilities of locally elected administrators should be made public as well.

Newspapers report cases of murder, assaults and bribery almost daily in the localities; most are related to various forms of corruption. A notorious case of corruption connected to local government is that of Chonburi province, where the court prosecuted a well-known figure (mafia/politician) for corruption in buying land for building a garbage dump area for Pattaya City.¹¹⁵ However, the person escaped and actually has not been arrested. In sum, anti-corruption mechanisms are not properly designed for local administrative entities, causing Thai society to rot from the grassroots on a wide scale.

International Institutions

Thailand is an active member in many international organisations worldwide. Many international organisations have played vital roles in promoting and enhancing anti-corruption activities in the country. Thailand signed the United Nations Convention against Corruption (UNCAC) in December 2003. The convention provides frameworks and platforms for exchange of ideas on ways to deal with international and domestic corruption in the public and private sectors.¹¹⁶

Thailand is part of the Asian Development Bank (ADB) and the Organisation for Economic Co-operation and Development (OECD) Anti-Corruption Initiative for Asia and the Pacific, which aims to change legal and institutional frameworks and implement international standards to counter corruption.¹¹⁷ Their three pillars of action are: developing an effective and transparent system for public service; strengthening anti-bribery actions and promoting integrity in business operations; and support for active public involvement. Thailand, through the Ministry of Justice, endorsed the ADB-OECD Anti-Corruption Action Plan for Asia and the Pacific in November 2004 and is a member of the steering group.

Through its loans, partnership programmes and monitoring of related development projects, the World Bank contributes to anti-corruption movements by approving loans directly for research on corruption. The World Bank also contributes by setting standard practices for financial management of its projects. It promotes the principles of good governance with member countries and NGOs. Public agencies in Thailand have to follow norms and standards strictly for the approval and evaluation of loans. In addition, together with OECD, the World Bank organised the Asian Roundtable on Corporate Governance and issued a white paper on corporate governance in 2003, of which Thailand was a part. The International Monetary Fund (IMF) also plays a role in strengthening the central bank and financial institutions in Thailand.

There are government-to-government initiatives as well. An example is the Anti-Money Laundering PACT signed between Thailand and Vietnam. There is also cooperation with non-profit organisations at the international level. The Campaign for Popular Democracy (CPD), which coordinates an anti-corruption network with 32 civic groups, 6 universities and 169 NGOs, is supported by the National Democratic Institute (NDI) – a non-profit organization based in Washington, D.C. In 1999 NDI also worked with the People's Network for Elections in Thailand (PNET) and the Union for Civil Liberties (UCL) to help combat corruption during elections.¹¹⁸

A recent case of alleged corruption by a member of the executive branch and high-ranking bureaucrats – the purchase of CTX 9000 bomb scanners for the new airport in Thailand – led to widespread criticism from the public and was debated in the parliament. Some information for this case surfaced because of effective anti-corruption laws in the United States.¹¹⁹ This case is an example of effective sharing of information between a public agency from another country with the opposition party and anti-corruption agencies in Thailand.

Despite the above, however, international institutions have played less important roles than domestic institutions in combating corruption practices. This is due to these international organisations' non-intervention principles and their limited legal power. But they do provide guidelines, financial support and technical expertise that is important for the anti-corruption movement. Most important of all, these international organisations provide platforms for exchange of knowledge and experience in combating corruption among member countries and serve well as centres for data collection, research and the generation of policy recommendations.

Evaluation of the NIS

Thailand has come a long way in terms of democratic developments since the promulgation of the latest constitution in 1997. In general the necessary laws and institutions exist to ensure a healthy democracy, promoting citizen participation and mechanisms to counter acts of corruption. Many people held high expectations for the 1997 constitution and the various independent institutions that were established in the years that followed.

The 1997 constitution equipped Thailand with many new regulatory bodies to strengthen the check and balance mechanisms. They include the elected Senate, the National Counter-Corruption Commission, the Constitutional Court, the Administrative Court, the Ombudsman, the Electoral Commission, the Anti-Money Laundering Office, the Supreme Audit Institution and the Office of Information Commission. In addition, efforts have been made to reform the public administration to create a more efficient and transparent government. Examples include the setting up of the Office of Public Sector Development Commission, the promotion of e-government, the use of the Government Fiscal Management Information System and decentralisation policies.

The older pillars of the NIS usually do not have very good reputations. The legislature, the executive, the political parties, the civil service, the police force and the military are usually regarded by the public with some scepticism concerning their integrity and honesty. This pattern is not new and is the reason why new regulatory bodies have been designed. Exceptions are perhaps the courts, which have maintained their integrity.

The relatively new independent regulatory bodies are still at the developmental stage. All have enabling laws and are equipped with the power to counter corruption, but many still do not have the personnel and organisational knowledge to utilise their powers to their full capacity. As one interviewee said, 'we have been good at importing organisational structures but have not realised that our capacity is weak'. The NCCC, the courts, the Ombudsman and the EC all are overloaded with cases awaiting review. On the one hand, this is a good sign, in that cases have been reported and are in the hands of these organisations. On the other hand, the overload may indicate that these organisations are managed inefficiently.

In addition, Thai society tends to rely on one-man shows rather than on the organisation as a whole. In many instances individual leaders of organisations have not been working fully for various reasons, causing the organisation to stop functioning. These are internal weaknesses of the organisations. As for weaknesses caused by external factors, nothing is more threatening than the pattern of political interventions by other entities, such as the executive branch, the police or the political parties.

In theory, Thailand has all the tools to counter corruption; in practice, however, enforcement is still weak. This is due to both internal and external factors, but also to the lack of comprehensive strategic plans, political will and the general public will to counter corruption.

On the non-governmental side, the number of civil society groups aiming to counter corruption and demanding better services from the government has increased. Among leading NGOs are Transparency Thailand, the Anti-Corruption Network, the People's Network against Corruption, the Foundation for a Clean and Transparent Thailand and the Civil Society Network on Anti-Corruption. The media, especially print organs such as the *Nation* and *Bangkok Post*, have also played important roles in reporting facts to the public. The business sector has also made more efforts to promote corporate governance. However, there is still a large gap between theory and practice.

There have been several landmark counter-corruption cases. One prime example is the case of the impeachment of a minister, his advisor and several high-ranking bureaucrats involved in the corruption of drug procurement in the Ministry of Public Health. Although, to date, the NIS pillars have not been successful in dealing with these issues, at least the problems are now on the table and investigations are underway. Many of these cases will serve as benchmarks for the future.

However, Thailand is still faced with chronic problems of corruption, which is becoming more complex, vague, and less visible. Corruption at the local government level is of critical concern, especially vote-buying in local elections. Coordination among the pillars is ever more important. Laws and rules need to be fully enforced and implemented at all levels.

Currently Thailand is going through some of the most critical turmoil in the country's political history. On 19 September 2006, the military staged one of the most peaceful military coups in history and toppled the powerful Prime Minister Thaksin. One of the main reasons for the power takeover was the wide-scale corruption in the government. It is worth noting, however, that most

military coups that have occurred in this country have raised the problem of corruption as a reason for the military takeover. Currently the military is setting up committees to investigate all the corruption cases related to Thaksin and those in his administration. That is the short-term challenge. As for the longer term challenge, Thailand needs to search for alternatives to make amendments to the constitution and to enhance anti-corruption values in the civic culture in order to continue developing the structures and roles of the various institutions that are important for maintaining a healthy, corruption-free democracy.

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