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Collaboration Between Pheu Thai and Move Forward Parties on Their Core Issues Will Determine Thailand's Future

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Newly-elected Pheu Thai Party leader Paetongtarn Shinawatra (centre R), youngest daughter of former Thai prime minister Thaksin Shinawatra, poses for photos with Thailand's Prime Minister Srettha Thavisin (centre L) and party members at the Pheu Thai Party headquarters in Bangkok on 27 October 2023. Photo by Manan VATSYAYANA/AFP.

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EXECUTIVE SUMMARY

- Thailand's Pheu Thai-led coalition government is struggling to amend the Constitution of 2017, or to draft a totally new replacement for it.
- Not much progress can be made on that front, however, unless and until the Move Forward Party provides support. It is capable of blocking any move to change the Constitution in any substantial manner.
- At the same time, Move Forward wishes to push a bill on general amnesty to absolve all those persons charged with or convicted for their political protests since 2006. To succeed, it needs the support of Pheu Thai to pass the ambitious bill into law, and to facilitate a process of national reconciliation.
- A *quid pro quo* on these two issues between Thailand's two largest parties seated on opposite ends in the House of Representatives will determine the country's political future.

INTRODUCTION

Presenting the Thai people with a new and genuinely democratic Constitution seems like a “slam dunk” for the Pheu Thai (PT) party that leads the 11-party coalition government under Prime Minister Srettha Thavisin.

But increasingly, putting into place a new “Constitution of the People” appears to be a more complicated project than previously assumed. More questions have arisen to which the PT has no good quick answers.

This apparent indecisiveness has created suspicions about the PT’s ulterior motives. Is the PT playing safe to protect its fragile coalition, and does it really want a new Constitution to replace the existing one promulgated on 6 April 2017 during the authoritarian rule of coup leader General Prayut Chan-o-cha?

When it became the largest opposition party after the general election in 2019, the PT was adamant that the Constitution of 2017 was “undemocratic”, calling it a despicable “vestige of authoritarianism” that should be replaced by a new Constitution of, by, and for the people. Most other parties tended to agree with the PT. Move Forward Party (MFP), then the second largest in the opposition, went so far as to call for the formation of a wholly-elected national assembly to draft a new Constitution. But their repeated attempts proved unsuccessful.¹

Most of the appointed 250 senators opposed any move to change the Constitution in any substantial manner. Every constitutional amendment requires the support of a majority of the parliamentarians (more than half of the 500 MPs and 250 senators combined), and the majority vote must include at least one-third of the senators (83 senators).²

Eventually, MPs and senators could only agree—in September 2021—to some amendments involving the electoral system and the composition of the 500 elected MPs,³ changes which do not affect the senators.

SENATORS’ TERM DRAWING TO AN END

The five-year term of the existing 250 senators ends on 11 May 2024.⁴ After that the Senate will have a new batch of 200 members chosen from various occupations.⁵ But unlike the existing 250 senators, the new senators will not have the right to join MPs in voting for a new prime minister.

Lest we forget, a large majority of the 250 senators were instrumental in blocking MFP leader Pita Limjaroenrat from winning the premiership last July. On 14 July, Pita’s candidacy for the premiership failed to gain the support of a majority of parliamentarians: only 311 MPs and 13 senators voted for him; that was 52 votes short of the minimum majority of 376 votes needed. Subsequently, on 19 July, as many as 210 senators joined 185 MPs in blocking Pita’s renomination for the premiership, and therefore ended his quest for the premiership.

Assuming that the new 200 senators who will succeed the existing 250 senators are more pro-democracy, the Senate will no more be an obstacle standing in the way of any constitutional

amendment. Section 256 of the Constitution can then be easily amended to open the door for the establishment of a new constitutional drafting national assembly. The drafting should not take longer than six months since it will be the 21st constitution of the country. Many good provisions in previous Constitutions can be conveniently lifted and pasted into a new draft.

NEW CONSTITUTION OF THE PEOPLE

Undoubtedly there is strong and widespread popular support for a new constitution. The victory of the MFP and the PT, coming first and second respectively in the May 2023 general election,⁶ provided clear evidence that a majority of Thai voters wanted changes – including a new Constitution.

A movement organised by iLaw on 13 to 20 August 2023 to collect 50,000 signatures calling for a national referendum on a new Constitution to be drafted by the people – and not by politicians and government experts – ended up with more than 205,000 signatures.⁷ On 30 August, the remarkable outcome was submitted to the Election Commission for verification. The PT has also been informed and been requested to follow up on the matter in the Cabinet.

According to the NIDA Poll held in early September, among the top 10 policy priorities of the PT, drafting a new “Constitution of the People” came fifth in popularity. About 78.70% of respondents wanted it. However, 59% of respondents doubted that the PT would be able to deliver it.⁸

The emerging doubt came from the fact that Prime Minister Srettha has hardly made any comment on this issue. On 3 October, he had simply ordered the formation of a national committee to consider ways of organising national referendums on the Constitution.⁹ The new entity is headed by Deputy Prime Minister Phumtham Wechayachai, who is also the commerce minister, and a deputy leader of the PT.

Minister Phumtham, who is the PT’s chief ideologue with close ties to former prime minister Thaksin Shinawatra, has set up two subcommittees: one on soliciting public opinions, and another on ways and means of holding national referendums. The former is headed by MP Nikorn Chamnong, a veteran politician of the Chatthai Pattana Party; the latter is headed by Vudhisarn Tanchai, a former secretary-general of the King Pradhipok’s Institute.

Minister Phumtham and Nikorn, who is also spokesman for the national committee, have done most of the talking. Prime Minister Srettha, meanwhile, has concentrated on pushing the implementation of the troubled “digital wallet” programme.¹⁰

HOW MANY NATIONAL REFERENDUMS?

In March 2021, the Constitution Court issued a ruling that Thai voters shall be consulted twice: first, in a national referendum on whether they want a new Constitution; and second, in another national referendum on whether they accept a new draft Constitution when its drafting has been completed.¹¹

Now, some constitutional law experts have pointed out that the existing Constitution has no provisions for the establishment of any group to draft a new Constitution. In order to properly empower the proposed elected drafting national assembly to do its crucial job, the Constitution must first be amended to include necessary provisions on this matter. Such a substantial amendment would require approval in yet another national referendum.

Holding up to three national referendums will cost the government nearly 10,000 million baht (US\$286 million). This is bad news for the Srettha Administration, which is desperately struggling to pay for the “digital wallet” programme. As things stand now, the programme to hand out 10,000 baht worth of purchasing credit to every Thai adult 16 years and older (whose salary is below 70,000 baht a month and whose bank account contains less than 500,000 baht) will cost about 500 billion baht (US\$14.28 billion).

The sub-committee headed by Vudhisarn is consulting the Election Commission on how to reduce the number of national referendums. Perhaps, the first national referendum can be postponed until after the Constitution has been amended to include provisions for the formation of a new national assembly to draft a new Constitution. Then voters can be requested in a national referendum to reaffirm the idea of having a new Constitution, and to approve the constitutional amendments on this matter.

DOUBLE MAJORITY NEEDED

One unforeseen complication in the law on national referendum, which went into effect on 12 September 2021, has been identified in Section 13 of the new law. Here, it is stated that in order to approve anything in a national referendum, more than half of all the eligible voters must participate, and the approval receives the endorsement of more than half of the eligible voters who participate.

Nikorn, head of the sub-committee to solicit public opinions, has sounded the alarm, and voiced his “serious concern” about what he called “double deadlocks”.¹² He believes the national referendum law must be revised to remove the first majority of voter turnout, and to let only the majority of voters who participate decide, regardless of their number. This can pre-empt a boycott of the MFP, whose supporters number more than 14 million.

In the May 2023 general election, Thailand had about 52.19 million voters. Only about 39.51 million showed up to vote, a turnout of about 75.71%. Assuming that the population of Thai voters increases by 2% a year, by next May, there will be about 53.23 million voters. In order to approve anything, at least 26.62 million of them must show up to vote in a national referendum, and the approval must be backed by at least 13.31 million votes.

The first requisite majority of voter turnout will be difficult to achieve because there may not be enough incentives to attract nearly 27 million voters to participate. On 7 August 2016, when General Prayut’s regime held the referendum to endorse its draft constitution, only about 59.40% of 50.07 million voters participated. The draft was endorsed with only about 16.82 million votes, and became the Constitution of 2017.¹³

Moreover, the voter turnout could be too low to pass anything should the MFP mobilise its 14 million supporters to boycott all national referendums. The MFP strongly disagrees with the PT in the latter's stated preconditions on not "touching" or "revising" Chapter I: General Provisions,¹⁴ and Chapter II: The King.

Because of the above disagreement, the MFP has opted out of sending anyone to join the Phumtham-led national committee. As far as the MFP is concerned, the drafting of a new Constitution should start without any preconditions. MFP leader Chaithawat Tulathon has reiterated that the MFP would not support any partial and conditional amendments to the Constitution.¹⁵

Nevertheless, the MFP is open to consultation with the Phumtham committee. The reformist party is keen to press for the direct election of independent representatives to form a new Constitution-drafting national assembly. The MFP dislikes the PT's idea of including unelected "experts" on such an assembly. The MFP says "experts" may join technical sub-committees to advise the elected drafters – but they need not be drafters themselves.

MOVE FORWARD HAS A TRUMP CARD

The MFP won the May general election, winning in 112 of 350 constituencies, and getting 39 of 100 party-list House seats with 14.438 million votes, compared with the PT's winning in 112 constituencies, getting 29 party-list House seats with 10.962 million votes. Obviously, by virtue of such a clear popular mandate, the MFP – not the PT – should be leading a new government.¹⁶

Many MFP supporters are upset with what they perceive as a betrayal by the PT for its own political gain. Their grievances are real and plain to see.¹⁷

Now as the core opposition party, the MFP holds a trump card to frustrate the PT by blocking constitutional amendments.

Under Section 256 of the Constitution, a constitutional amendment needs the support of not only a majority of parliamentarians, and at least one-third of senators in the majority vote; but the majority vote must also include 20% of MPs of parties that do not have ministerial posts, or parliamentary posts (House Speaker, and Deputy House Speakers). Parties in this category are mostly in the opposition, notably the MFP with 148 MPs,¹⁸ Democrat Party with 25 MPs, and Thai Sang Thai with 6 MPs.

Without the cooperation of the MFP, there will be no 20% of the opposition MPs (at least 37 MPs) to endorse any constitutional amendment, as required in Paragraph 6 of the Section 256. The big hot question now is what will the MFP do with its trump card.

First and foremost, the MFP would want to continue to press for a nation-wide election of independent representatives to form a national assembly and to work on a completely new draft Constitution. It opposes the PT's idea of trying to amend the existing Constitution without touching the hyper-sensitive Chapters I and II. Provisions in the second chapter concern the

revered position and prerogatives of the King, which are also protected under the controversial Section 112 of the Criminal Code, the so-called “*lese-majeste* law”.

One of the MFP’s election issues concerned amending the Section 112 to reduce its penalties, and to limit to only the Royal Household Bureau the right to file a police report accusing anyone of violating the law. At present, anyone encountering an alleged violation can notify the police. And if convicted, a violator faces a jail term of 3 to 15 years.¹⁹

Unfortunately, the MFP’s use of the law as an election issue has landed it in hot water. The Constitutional Court has been deliberating on a complaint from one critic who accused the party of undermining the monarchy and attempting to abolish the constitutional monarchy. If found guilty, the MFP will be dissolved and its executive committee members banned from politics for up to 10 years. A ruling on this case is expected by next January.

In the meantime, the MFP is trying to score more political points and turn undecided voters into its supporters. One hot issue in this regard is a general amnesty bill submitted by the MFP to the House of Representatives. The MFP wants a law to absolve all protestors arrested and/or convicted in political gatherings and demonstrations since 2006. The House Speaker has promised to bring up the MFP’s bill for consideration within the next parliamentary session (lasting 120 days), which started on 12 December.

Under its proposed bill, the MFP leaves open the possibility of including for amnesty those who have been charged or jailed under Section 112.²⁰ They include at least three MPs of the MFP, who were pro-democracy activists before they joined the MFP.²¹ But the PT as well as Bhumjaithai, the second largest government party, is still reluctant to let those who have violated the *lese-majeste* law to go scot-free.

Obviously, there are emerging opportunities for the MFP to negotiate with the PT on a *quid pro quo* basis. The MFP needs the support of the PT to pass the amnesty bill into law as soon as possible. At the same time, the PT needs support from the MFP in amending the Constitution instead of drafting a new one.

If the two largest parties can work together, then anything can happen once the existing 250 senators leave the Senate on 11 May 2024. After they leave, the selection of a new prime minister will be done entirely by MPs. With reconciliation, and a reunion of the MFP and the PT in a new “pro-democracy” alliance, the formation of a new governing coalition cannot be completely ruled out.

As stated by Thanathorn Juangroongruangkit, founder and leader of the dissolved Future Forward Party, the political future of Thailand depends on the MFP and the PT. He recently admitted that he went to meet Thaksin in Hong Kong in early July while the MFP and the PT were trying to win the premiership for Pita. Thanathorn believes an alliance between these two parties will be best for Thailand’s development and for its return to democracy.²²

The MFP is a successor party of the Future Forward Party; the latter was dissolved in February 2020. Thanathorn has turned to lead the Progressive Movement, a civil society organisation to promote democracy and the development of local government. Although he has been barred

from politics for 10 years, Thanathorn has significant influence over the MFP – very much like Thaksin’s clout over the PT, where his youngest daughter, Paetongtarn, is now party leader.

CONCLUSION

Indeed, Thailand’s political future depends on how far and how much the MFP and the PT can work together on the Constitution issue as well as on the general amnesty bill.

A constructive approach by the MFP can win the party political points, and turn undecided voters into supporters of the reformist party. This will help ensure victory for the MFP in the next general election, which can be held soon after a new Constitution, or an amended Constitution of 2017, enters into force.

A positive breakthrough, even if done through secret wheeling and dealing between the MFP and the PT, will put Thailand back of track towards national reconciliation and democratisation.

ENDNOTES

¹ See the author’s article on the failed constitutional amendments, at <https://www.iseas.edu.sg/articles-commentaries/iseas-perspective/2021-47-thailands-constitutional-amendment-process-halted-in-its-tracks-by-termsak-chalermpanupap/>.

² On rules concerning constitutional amendments, see Section 256 of the Constitution. For the Council of State’s official English translation of the Constitution, go to : https://www.krisdika.go.th/documents/67673/181643/837163_0001.pdf/3d0aab10-e61f-03a4-136a-75003ce4c625.

³ The changes included: Using two ballots by each voter, one to choose a candidate in each single-member constituency, and another to vote for a party. The latter will go towards determining proportionately how many party-list House seats each party shall get. The number of directly-elected MPs shall be increased from 350 to 400, while the number of party-list seats shall be reduced from 150 to 100.

⁴ The original batch of 250 senators were mostly hand-picked in early 2019 by a secret search committee headed by then-Deputy Prime Minister General Prawit Wongsuwan, who is now leader of Palang Pracharat Party (PPP). They also included holders of the following six posts who shall join the Senate on the *ex-officio* basis: the supreme commander, the army commander, the navy commander, the air force commander, the national police chief, and the permanent secretary of the Defence Ministry.

⁵ Section 107 of the Constitution calls for an organic act on installation of senators to prescribe details of how the new 200 senators shall be selected, by which occupational groups, and at the district, provincial and national levels.

⁶ In the May 2023 general election, the MFP received 14.438 million votes (second ballots), and the PT, 10.962 million votes (second ballots). Together they won about 64.28% of the 39.514 million votes (second ballots). Both were previously in the opposition; and both advocated reforms and changes, including drafting a new Constitution.

⁷ “กลุ่มประชาชนร่างรัฐธรรมนูญ ล่ารายชื่อ 50,000 คน ชงครม. โหม ทำประชามติ ตั้ง สสร. เขียนรัฐธรรมนูญโดยประชาชน” [Constitution For All Group seeks 50,000 signatures to ask the new cabinet to organise a national referendum on the establishment of a national assembly to draft a new constitution by the people], Today, 13 August 2023, www.workpointtoday.com/politics-8940, accessed 28 November 2023. iLaw is a civil society organisation that specialises in promoting democracy and handling human rights issues in Thailand.

⁸ NIDA Poll released on 3 September 2023, www.nidapoll.nida.ac.th/survey_detail?survey_id=648, accessed 28 November 2023.

⁹ “เปิดรายชื่อคณะกรรมการศึกษาแนวทางการทำประชามติแก้ไขรัฐธรรมนูญ” [Names on the committee to study ways to organise national referendums on how to change the Constitution], Today, 3 October 2023, www.workpointtoday.com/list-constitution, accessed 28 November 2023.

¹⁰ See Dr Napon Jatusripitak’s commentary on “Pheu Thai’s 10,000 Baht Gambit: A Political Promise That Spells Possible Economic Peril,” ISEAS Fulcrum, 12 October 2023, <https://fulcrum.sg/contributors/napon-jatusripitak/>, accessed 28 November 2023.

¹¹ “ศาลชี้ รธน. ปี 60 แก้ได้ แต่ต้องประชามติก่อน” [Court says the 2017 Constitution can be amended, but first there must be a national referendum], Thai PBS Online, 11 March 2021, www.thaipbs.or.th/news/content/302324, accessed 28 November 2023.

¹² Listen to his interview on Inside Thailand online on 20 November 2023 at [\(1\) LIVE เจาะลึกทั่วไทย Inside Thailand 20 พ.ย. 66 - YouTube](https://www.youtube.com/watch?v=1I-LIVE), accessed 29 November 2023.

¹³ See the government’s pamphlet extolling the virtue of the draft Constitution at <https://library.parliament.go.th/sites/default/files/assets/files/give%20%26%20take/main%20page/cdc58-ect/NALT-cdc58-ect-booklet.pdf>. See articles discussing the shortcomings of the 2016 referendum at iLaw’s website, <https://ilaw.or.th/taxonomy/term/1947>. See the Election Commission’s official outcome of the referendum at https://www.m-society.go.th/ewtadmin/ewt/mso_web/article_attach/17586/19908.pdf. In the same referendum, there was a second question on whether to endorse the appointment of 250 senators with important roles to support reforms and political continuity, including voting for a new prime minister. About 15.13 million voters endorsed this Prayut regime’s proposal. It should be underlined that critics and politicians who opposed the Prayut regime and rejected the draft were not permitted to organise any public rally to air their views. And many of those who disobeyed were arrested for allegedly disturbing the peace of the country.

¹⁴ Section 1 in Chapter I is about Thailand being one indivisible Kingdom. Section 2 of the first chapter states that Thailand adopts a democratic regime of government, with the King as Head of State. In Chapter II, Section 6 stipulates that the King shall be enthroned in a position of revered worship and shall not be violated, and no person shall expose the King to any sort of accusation.

¹⁵ “ก้าวไกล” พร้อมร่วมหารือ หากกรรมการศึกษาฯ ยัน สสร. เลือกตั้ง 100% แก้รัฐธรรมนูญได้ทุกหมวด” [Move Forward is ready to discuss with the (Phumtham) Committee if it supports 100% election of all members of the new Constitution-drafting national assembly, and can revise all chapters in a Constitution], Prachatai, 16 October 2023, www.prachatai.com/journal/2023/10/106374, accessed 28 November 2023.

¹⁶ See the author’s article on the Move Forward Party winning the general election, but losing the premiership race, published in ISEAS Perspective on 25 May 2023, at <https://www.iseas.edu.sg/articles-commentaries/iseas-perspective/2023-43-move-forward-party-has-won-the-election-but-may-lose-the-premiership-race-by-termsak-chalermpananupap/>.

¹⁷ MFP supporters’ grievances include the following:

- The PT thwarted the MFP’s move to nominate one of its MPs to be the House Speaker; the crucial post went to Wan Muhamad Noor Matha, a veteran politician of Prachachat Party whose government party has only 9 MPs. MFP’s MP Padipat Sunti-phada has to settle for a Deputy House Speaker post. [Subsequently, in late September, Padipat was expelled from the MFP for disobeying the party executive committee’s decision for him to quit the Deputy House Speaker post. Padipat wanted to keep the parliamentary post; he left the MFP to join Fair Party, a micro opposition party with only one MP. His departure enabled the MFP to claim the formal post of the Opposition Leader for its party leader Chaithawat Tulathon.]

- The PT didn't work hard enough in lobbying senators to vote for MFP leader Pita Limjaroenrat in the premiership race; Pita failed to gain a majority support in his quest for the premiership on 14 July.
- It was the PT's suggestion to House Speaker Wan Noor Matha to open a parliamentary debate on 19 July on whether Pita could be renominated for the second time in the premiership race. Eventually, a majority of parliamentarians (including 210 senators) opposed Pita's renomination.
- The PT crossed over to work with pro-military parties in the previous Prayut Administration to form a new coalition government – betraying its own campaign pledges to dismantle all “vestiges of authoritarianism” of the three ageing generals (Generals Prayut Chan-o-cha, Prawit Wongsuwan, and Anupong Paochinda). The first two generals were, respectively premiership candidate of United Thai Nation Party, and Palang Pracharat Party, both of which are in the PT-led coalition government now.

¹⁸ The MFP's House strength has decreased from 151 seats to 148, following three recent expulsions—of Deputy House Speaker Padipat Suntiphada, MP Chaiyamapawan Manpienjit (Bangkok, Constituency 26), and MP Wutthipong Thong-laoh (Prachinburi, Constituency 2); the latter two MPs were found guilty of sexual harassment. Padipat (Phitsanulok, Constituency 1) and has joined Fair Party, a micro opposition party; Chaiyamapawan has joined Thai Progressive Party, also a micro opposition party; and Wutthipong has joined Chatpattana Kla, a micro government party. Each micro party has only one or two MPs.

¹⁹ See details of the MFP's policy on amending the *lese-majeste* law at the party's website site at <https://www.moveforwardparty.org/article/8844/>, accessed 29 November 2023.

²⁰ “ ‘ก้าวไกล’ ยื่นแล้ว ร่างพรบ. นิรโทษกรรมทุกฝ่าย ... ” [‘Move Forward’ submits its draft amnesty bill to include all sides,...] Thai Post, 5 October 2023, www.thaipost.net/hi-light/461046, accessed 29 November 2023.

²¹ The three MFP MPs facing charges under the *lese-majeste* law are: Piyarat “ToTo” Chongthep (Bangkok, Constituency 23); Ms. Rakchanok “Ice” Sri-nok (Bangkok, Constituency 28); and Ms Chonthicha “Luk Gaed” Chaeng-raew (Pathumthani, Constituency 3). Without a general amnesty, if they are finally convicted, they will lose their MP status and go to jail.

²² “ ยอมรับพบ ‘เมี้ยว’ ที่ฮ่องกง ” [(Thanathorn) Admits he met “Meo” in Hong Kong], Manager Online, 20 November 2023, www.mgroline.com/politics/detail/9660000104358, accessed 29 November 2023. “Meo” is the media nickname for former prime minister Thaksin Shinawatra. The report was based on an interview with Thanathorn Juangroongruangkit in a news talk show of Sorayuth Suthassanachinda on TV Channel 3 on 20 November morning. Thanatorn admitted meeting Thaksin in Hong Kong in early July, while the MFP and the PT were struggling to lobby for parliamentary support for MFP leader Pita Limjaroenrat for the premiership. Thanathorn claimed that he didn't discuss any “deals” with Thaksin, because it would be unlawful for him to interfere in the MFP's affairs.

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