

# PERSPECTIVE

RESEARCHERS AT ISEAS – YUSOF ISHAK INSTITUTE ANALYSE CURRENT EVENTS

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## How Much Longer can Thailand's Prime Minister Rule Before Reaching the Eight-year Limit?

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In this photo, Thailand's Prime Minister Prayut Chan-O-Cha inspecting the police guard with Police General Chakthip Chaijinda (L) at a ceremony at the police headquarters in Bangkok on 2 August 2019. Picture: Lillian SUWANRUMPHA, AFP.

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## **EXECUTIVE SUMMARY**

- A dispute has emerged over when Prime Minister General Prayut Chan-ocha's premiership will reach the constitutional limit.
- Thailand's 2017 Constitution limits to eight years the total duration of time that a person can hold the premiership, whether those years are consecutive or not.
- Opposition parties contend that General Prayut's premiership will reach the limit by next August since he was first appointed prime minister in August 2014, after he led the country's May 2014 coup.
- Legal experts say the constitutional limit is applicable only to the period since the constitution entered into force in April 2017; hence, General Prayut can continue to lead the government until April 2025.
- Some supporters further insist that General Prayut can stay much longer if he so wishes, since he became prime minister under the current constitution only in June 2019, after the March 2019 general election.
- General Prayut is asking for five more years in office "to make things better" for Thailand, creating new confusion in Thai politics.

## INTRODUCTION

A huge political storm is brewing in Thailand. It centres on a seemingly simple but highly controversial question: When will Prime Minister General Prayut Chan-ocha's premiership reach the eight-year constitutional limit? The question is directly tied to another intriguing question: When did his premiership actually start?

Section 158, Paragraph 4, of the 2017 Constitution stipulates: "The Prime Minister shall not hold office for more than eight years in total, whether or not consecutively ..."<sup>1</sup> The drafters of the constitution recorded their rationale for setting the eight-year limit, and it was to serve as a precaution against lengthy monopolisation of power, which could be the source of political crisis.<sup>2</sup>

Opposition politicians now contend that General Prayut's premiership started on 25 August 2014, when the previous monarch, King Bhumibol, appointed him prime minister following a unanimous decision of the National Assembly on 21 August 2014 to select him for the premiership. Therefore, they say, General Prayut's premiership must end by 24 August 2022. Beyond that date, his rule becomes unconstitutional. The opposition intends to take its case to the Constitutional Court if General Prayut ignores the constitutional limit.

However, constitutional lawyers generally agree that Section 158 of the 2017 Constitution has no (adverse) retroactive effect. They believe that it is applicable only to the period after the constitution entered into force, i.e. on 6 April 2017. Therefore, General Prayut's premiership will reach the eight-year limit only on 5 April 2025.

On the other hand, supporters of General Prayut argue that he has much longer than that to serve as prime minister, because his premiership under the current constitution actually began only on 9 June 2019 — after the March 2019 general election. Assuming that he completes his first four-year term in March 2023,<sup>3</sup> General Prayut can thus constitutionally serve another four-year term until mid-2027.

In a recent public opinion survey, 40.73 per cent of respondents thought that General Prayut's premiership would reach its constitutional limit in August 2022. At the same time, 38.3 per cent suggested that he seek clarification on the matter from the Constitutional Court, and 15.03 per cent believed that General Prayut need not do anything for now.<sup>4</sup>

General Prayut seems to agree that he has until mid-2027 to remain in office. Nevertheless, he has assigned Deputy Prime Minister Dr Wissanu Krea-ngarm, the government's chief jurist, to examine all pertinent issues concerning Section 158 of the 2017 Constitution.

In the meantime, General Prayut is asking the Thai people to give him five more years "to make many things better".<sup>5</sup> In recent weeks, the prime minister has been conducting frequent field trips in the provinces, assuring the hard-pressed populace that the COVID-19 pandemic is being tackled effectively, and that economic recovery is just around the corner.<sup>6</sup> He is in fact acting and speaking very much like a politician canvassing for votes.

General Prayut seems to have regained his self-confidence, after narrowly surviving potential political assassination in the House of Representatives in early September.<sup>7</sup> Apparently, he has made up his mind: He is determined to complete his four-year term in March 2023. After that, he would welcome renomination from the Phalang Pracharat Party (PPP) to return to the premiership after the next general election.<sup>8</sup> Hence he is asking the Thai people to give him five more years.

### **STILL THE ONE TO BEAT**

General Prayut's popularity had been in decline this year; his favourability rating fell from 28.79 per cent in March to 17.54 per cent in September.<sup>9</sup> But he is still the strongest contender for the premiership following Thailand's next elections – if he really wants to go for it.<sup>10</sup>

By throwing his hat into the ring this early, General Prayut is practically undermining the ongoing search by the chief opposition party, Phuea Thai (PT), for a viable nominee for the premiership. While most other parties will nominate their party leaders to succeed Gen Prayut in the premiership, PT is an exception. Its current leader Sompong Amornvivat, a veteran MP from Chiang Mai, is too low-key, inarticulate and uninspiring to be viable candidate. Despite being the formal Opposition Leader, Sompong has seldom taken the floor in the House to say anything extemporaneously; he generally reads from prepared texts.

PT has intensified its search for potential nominees for premier, in anticipation of a possible dissolution of the House and an election in the first half of 2022. Those being considered included, not so surprisingly, members of the family of exiled former Prime Minister Thaksin Shinawatra.<sup>11</sup> After his downfall in the 2006 coup, Thaksin managed to install both his brother-in-law, Somchai Wongsawat, and then his younger sister, Yingluck, in the premiership in the periods 17 September – 2 December 2008 and 10 August 2011 – 7 May 2014, respectively.

PT is however yet to announce potential nominees for the premiership. In the 2019 general election, it nominated three individuals.<sup>12</sup>

### **THE PPP NEEDS GENERAL PRAYUT**

Like PT, the PPP also does not intend to nominate its party leader, General Prawit Wongsuwan, for the premiership. Its existing plan is to renominate General Prayut, as it did in the 2019 general election.

Deputy Prime Minister General Prawit, who is 76 years old and not in good health, has repeatedly insisted that he does not wish to replace General Prayut as prime minister. “The party leader can hardly walk, ... I don't feel any disappointment ... I am the one who nominates Prayut to continue for another term”, he recently told reporters wishing to know if he had changed his mind.<sup>13</sup>

One impediment to General Prayut's smooth return to office is the continuing presence of Captain Thammanat Prompao, who holds the influential post of secretary-general of the PPP. The flamboyant former Army officer was the mastermind behind the failed conspiracy to bring government MPs together with opposition MPs to vote against General Prayut in a parliamentary no-confidence motion in early September.

General Prayut counter-attacked forcefully and managed to foil the conspiracy. And he survived the no-confidence vote. Then, without informing General Prawit in advance, General Prayut took revenge by having Captain Thammanat dismissed from the cabinet through a sudden command from the king, issued before Captain Thammanat could tender a formal resignation.

At first, a disappointed Captain Thammanat announced his intention to return to his northern home province of Payao. But General Prawit has asked him to stay on in the PPP.

Moreover, General Prawit has appointed a new party strategist, namely General Wit Thephassadin, a former deputy Army chief who was edged out by General Prayut in 2010 for the force's top job. General Wit's arrival in the PPP could be seen as deterrence against attempts to wrestle control of the PPP from General Prawit and to hand it over to General Prayut.

Without a party of his own, General Prayut remains vulnerable in the House. The PPP can easily force him to resign by withholding support for a bill proposed by the government, especially one involving fiscal matters. A prime minister is supposed to accept political responsibility if his government's draft law is rejected in the House.

Alternatively, a prime minister can choose to dissolve the House and call an early general election when a bill is rejected. This power is General Prayut's trump card *vis-à-vis* government MPs. Few of the latter want to face the hardship of an early general election, when they still have nearly 18 months of their four-year term left in which to enjoy their privileged parliamentary status.

## **THE TRIO'S LOVE-HATE TRIANGLE**

At times, General Prayut has been bold enough to do things in his own way – even though this might displease General Prawit, his mentor and beloved “big brother”. Dropping Captain Thammanat from his cabinet was one such daring move. Another was to cancel in early October General Prawit's reassignment to supervise four key departments<sup>14</sup> for which Captain Thammanat was responsible when he was deputy minister in the Ministry of Agriculture.

At first, General Prawit was given the role of supervising the four departments, which included the Agricultural Land Reform Office — a crucial mechanism for tackling landlessness in rural areas, and thus a potent means for winning the hearts and minds of rural voters. The Democrat Party, whose secretary-general, Chalermchai Sri-on, is the

agriculture minister, openly opposed the move, fearing that it would undermine Chalermchai's his authority as head of the ministry.

Democrat party leader and Deputy Prime Minister Jurin Laksanavisit cautioned the prime minister against creating a new problem between the PPP and the Democrat Party for the sake of making up with General Prawit to help settle internal problems in the PPP. A week after this warning, General Prayut changed his mind and cancelled the reassignment. The four departments in question are now back under the supervision of Chalermchai, who reports to the cabinet through Jurin.

The Democrats are happy with this solution, and Captain Thammanat is once again frustrated.

How General Prawit will resolve the conflict between Captain Thammanat and General Prayut remains both a puzzle and a matter of intrigue. Publicly, Captain Thammanat has vowed to serve General Prawit, and to make the PPP the top party in the next general election. But he has not declared support for a second term for General Prayut.

### **A PARTY OF HIS OWN**

If the worse comes to worst, and if General Prayut sees he can no longer rely on the PPP, he has another option: heading a party of his own.

At least two political parties have been set up by supporters of General Prayut, the Ruamthai Sangchart Party and the Thai Economic Party. The latter has often been associated with Chatchai Phromlert,<sup>15</sup> who retired at the end of September after serving four years as the permanent secretary of the Ministry of Interior. Chatchai was a trusted top aide to Interior Minister General Anupong Paochinda.

General Anupong is a close ally of General Prayut; he was often seen alongside the Prime Minister during the political crisis in early September. General Anupong needs to strengthen his control of the Interior Ministry in order to fend off efforts by Captain Thammanat and the PPP to make inroads there. One possibility in this regard is to appoint Chatchai as deputy interior minister in the next cabinet reshuffle.

The Interior Ministry controls all the 76 provincial governors and administers the second largest budget allocation of all Thai ministries — larger than the defence budget and second only to the education budget. Whichever party controls the Interior Ministry enjoys enormous advantage in dispensing political patronage nationwide.

If the appointment of Chatchai happens, it will reveal a clear game plan on the part of General Prayut and General Anupong to compete for power against their “elder brother” General Prawit and his PPP.

New and small parties will face an uphill battle in the next general election, when the election system is expected to revert to the use of two ballots, one for a candidate in each

constituency and another for a party. The number of electoral constituencies will be increased from 350 to 400, while the number of party-list House seats will drop from 150 to 100. Constitutional amendments to bring about the changes were adopted in parliament on 10 September and submitted to the king for his endorsement on 4 October.

The changes will benefit large parties, particularly PT and the PPP, which have the resources to field strong candidates in all 400 parliamentary constituencies. To ensure a decisive victory over PT, the PPP wants control of the Interior Ministry.

If and when General Prayut heads a party of his own, one quick way to build it up for the next general election will be to co-opt experienced politicians from other parties. He can count on defectors from the PPP joining his party, especially those in the “Sam Mit” or “Three Friends” faction of Justice Minister Somsak Thepsuthin, Energy Minister Suriya Juangroongruangkit, and Deputy Finance Minister Santi Promphat.<sup>16</sup> Another group of defectors might be 14 MPs from southern provinces, who have long complained about lack of recognition from the PPP’s leadership. The group is demanding a cabinet post for one of its MPs.

Seemingly to placate the “Sam Mit” faction of his party, General Prawit has appointed Somsak as one of his new advisors. Somsak had earlier been suddenly replaced as chief party strategist by General Prawit’s ally, General Wit. Another new advisor to Prawit is Pirapan Salirathvipak, who has advised Prime Minister Prayut on constitutional affairs at Government House. Pirapan, a former justice minister in the Democrat Party-led coalition government of Prime Minister Abhisit Vejjajiva, is an influential “fixer” with good connections in high places. He has clear potential to thrive in the PPP.

When he was asked who he is actually serving, General Prayut or General Prawit, Pirapan avoided the trap and responded that he was “serving the Thai people”.<sup>17</sup>

## **RESTORING TRANSPARENCY**

One quick way to reduce political uncertainty and to restore transparency in Thai politics is to clarify once and for all how much longer General Prayut can constitutionally lead a government.

His chief legal counsel Dr Wissanu is understandably unenthusiastic about tackling the controversy now. In fact, he has appeared annoyed when several opposition leaders kicked up a fuzz over what he considers a hypothetical issue.<sup>18</sup>

Dr Wissanu has pointed out that General Prayut would not yet have exceeded the eight-year limit on service as premier, even if his premiership were to be considered as starting in August 2014. This being the case, Dr Wissanu believes that the Constitutional Court will not accept for further consideration any complaint that General Prayut is violating the constitutional limit simply because he has stated his wish to go for a second four-year term.

Nevertheless, one possible solution — now being looked into — is for the Election Commission to request a ruling by the Constitutional Court on when General Prayut's premiership will reach the eight-year limit. This is provided for under Section 170, Paragraph 3, of the 2017 Constitution. The thinking behind this idea is that the Election Commission needs to know when the term of a prime minister ends, because it has to plan for a possible snap general election.

Opposition leaders are demanding that General Prayut respect the “democratic spirit” of the eight-year limit on the premiership. They are challenging him to step down before August 2022. This will refute their long-standing accusation concerning General Prayut's “monopolisation of power” since the time he, as Army chief, toppled the PT-led coalition government on 22 May 2014.

So far, the prime minister's only response has been to say that he is “playing by the rules” for the common good of the Thai nation.

Whether or not Thai voters are willing to give General Prayut five more years to rule remains to be seen. If they have had enough of him, they can vote for candidates and parties in the opposition. If these latter collectively win at least 376 seats in the House – the minimum simple majority of the combined memberships of the House's 500 MPs and the Senate's 250 members — they can vote for someone else to be the next prime minister.

## **CONCLUSION**

With General Prayut still in the race for the premiership, PT has little chance of regaining power in the next general election. Thailand's main opposition party cannot even find anyone willing to compete against the incumbent prime minister for his job.

However, if General Prayut can be kept out of the race by the constitutional limit restricting prime ministers to eight years in the post, then the field will be thrown wide open. And even the PPP will have to scramble to find another nominee for the premiership.

For now, General Prayut looks confident about retaining the premiership if he is renominated by the PPP. He can still count on the strong support of senators, just as he did in June 2019 when 249 out of the 250 senators voted for him.

However, if he chooses to lead a party of his own, and that party nominates him for the premiership, his political future will be less certain. He and his party will face tough competition from the PPP, which has enormous “fire power” and experienced politicians, in the next general election. The PPP is certainly capable of attracting strong candidates for Thailand's premiership.

Political uncertainty and confusion will diminish only after a satisfactory resolution of the question concerning when General Prayut's premiership will reach the eight-year limit. The sooner this is done, the better for Thailand.

<sup>1</sup> See the Council of State’s English translation of the 2017 Constitution at [krisdika.go.th/documents/67673/181643/837163\\_0001.pdf](http://krisdika.go.th/documents/67673/181643/837163_0001.pdf), accessed 8 October 2021. Section 171 of Thailand’s earlier 2007 Constitution limited the premiership to eight *consecutive* years.

<sup>2</sup> “ความมุ่งหมาย และคำอธิบาย ประกอบร่างมาตราของรัฐธรรมนูญแห่งราชอาณาจักรไทย พุทธศักราช 2560” [Objectives and explanations of each section of the Kingdom of Thailand’s Constitution of 2017], published by the Secretariat of the House of Representatives in May 2019 and revised in October 2019, [www.parliament.go.th/ewtcommittee/ewt/draftconstitution2/download/](http://www.parliament.go.th/ewtcommittee/ewt/draftconstitution2/download/), accessed on 9 October 2021. The rationale of setting the eight-year limit for the premiership was

“เพื่อมิให้เกิดการผูกขาดอำนาจในการเมืองยาวนานไปอันจะเป็นต้นเหตุเกิดวิกฤติทางการเมืองไทย”.

<sup>3</sup> General Prayut’s four-year term as prime minister ends when the four-year term of members of parliament ends on 23 March 2023. He will become caretaker premier while awaiting the outcome of a new general election. The time in transition shall not be counted as part of the eight-year duration. Therefore, if his premiership is deemed to have started on 9 June 2019, he can actually serve another four-year term and still stay within the eight-year limit ending in mid-2027.

<sup>4</sup> NIDA Poll published on 10 October 2021,

[www.nidapoll.nida.ac.th/survey\\_detail?survey\\_id=522](http://www.nidapoll.nida.ac.th/survey_detail?survey_id=522), accessed 10 October 2021.

<sup>5</sup> “‘บิ๊กตู’ ขอเวลา 5 ปี หลายอย่างต้องดีขึ้น” [‘Big Tu’ asks for five more years; many things must be better],

*Daily News*, 7 October 2021, [www.dailynews.co.th/news/352606](http://www.dailynews.co.th/news/352606), accessed 8 October 2021. ‘Big Tu’ is the nickname of General Prayut.

<sup>6</sup> “‘บิ๊กตู’ โพลต์ขอทุกคนเชื่อมั่น พลังสามัคคีผสานต้นทุนทางวัฒนธรรมจะพลิกโฉมสู่ประเทศที่มีรายได้สูง” [‘Big Tu’ posts (in his Facebook page) to call for confidence, saying that the power of unity combined with the rich cultural capital will transform (Thailand) into a high-income country], *Thai Post*, 8 October 2021, [www.thaipost.net/main/detail/119174](http://www.thaipost.net/main/detail/119174), accessed 9 October 2021.

<sup>7</sup> Termsak Chalermpanupap, “Thai PM Remains Vulnerable Without a Party of His Own”, *ISEAS Perspective* 2021/127, 28 September 2021, at [www.iseas.edu.sg-articles-commentaries/iseas-perspective/2021-127](http://www.iseas.edu.sg-articles-commentaries/iseas-perspective/2021-127), accessed 8 October 2021.

<sup>8</sup> “‘ประยุทธ์’ เคารพยินดีและขอบคุณ พรรคพลังประชารัฐที่ให้ความไว้วางใจ จะเสนอชื่อชิงนายกฯ อีกครั้ง” [Prayut welcomes and thanks the Phalang Pracharat Party for its confidence in him and its intention to renominate him for the premiership again], *Post Today*, 5 October 2021, [www.posttoday.com/politic/news/664881](http://www.posttoday.com/politic/news/664881), accessed 8 October 2021.

<sup>9</sup> Based on the NIDA Poll of the National Institute for Development Administration (NIDA). See details of the quarterly surveys at [www.nidapoll.nida.ac.th/survey\\_detail?survey\\_id=519](http://www.nidapoll.nida.ac.th/survey_detail?survey_id=519), accessed 8 October 2021.

**Popularity of Key Thai Political Figures in 2021**

Ranking	Name	September	June	March
1	No favourite	32.61%	37.65%	30.10%
2	<i>General Prayut</i>	17.54	19.32	28.79
3	Khunying Sudarat Keyuraphan (a)	11.15	13.64	12.09
4	Pita Limjaroenrat (b)	11.05	5.45	6.26
5	Pol Gen (ret.) Seripisuth Temeeyaves (c)	9.07	8.71	8.72
6	Not interested	7.48	2.15	3.25
7	Korn Jatikanvanij (d)	2.58	3.62	2.70
8	Sompong Amornvivat (e)	2.33	0.87	1.90
9	Jurin Laksanavisit (f)	1.54	1.47	0.99
10	Anutin Charnvirakul (g)	1.24	2.35	2.02
	Others (h)	3.41	4.77	3.18

- a. *Khunying Sudarat is now leader of the Thai Sang Thai Party. In November 2020, she left the chief opposition party, Phuea Thai, whose lead nominee for the premiership she had been in the March 2019 general election. Her new party has yet to enter a general election.*
- b. *Pita is leader of the Move Forward Party, the second largest opposition party in parliament.*
- c. *Police General (retired) Seripisuth, a former National Police chief, is leader of the Thai Liberal Party, which is currently in the opposition.*
- d. *Korn is leader of the Kla or Courageous Party, another new party. He was a finance minister in the Democrat-led coalition government of Prime Minister Abhisit Vejjajiva, December 2008 – August 2011.*
- e. *Sompong, a veteran MP for Chiang Mai, is leader of the Phuea Thai Party.*
- f. *Jurin is leader of the Democrat Party, the third largest in the ruling coalition, and a member of that party's prominent but fading southern wing.*
- g. *Anutin is leader of the Bhujai Thai Party, the second largest in the ruling coalition after the lead party Phalang Pracharat.*
- h. *Other names mentioned in the surveys included Abhisit Vejjajiva, Ming-khwan Saengsuwan (leader of New Economics, an opposition party), Dr Varong Dejkitvikrom (leader of the new royalist Thai Pakdee Party), Wan Muhammad Nor Matha (leader of Prachachart, an opposition party), Kanchana Silaparcha (leader of the Chatthai Pattana, a government party), and Chadchart Sitthipan (the Phuea Thai Party's second-ranked nominee for the premiership in the 2019 general election who left the party soon after the general election to pursue the Bangkok governorship as an independent and has been the strong front-runner for the post in recent surveys).*

<sup>10</sup> See the table in note 9 above.

<sup>11</sup> One of Thaksin's family members reportedly being approached by the Phuea Thai Party is Nuttaphong Kunakornwong, who in November 2011 married Thaksin's daughter Pintongta. Nuttaphong is now the CEO of S.C. Assets, a real estate firm founded by the Shinawatra family. Another one is Thaksin's younger sister Monthatip, who is slightly older than Yingluck.

<sup>12</sup> Its lead nominee was Khunying Sudarat Keyuraphan, who left the Phuea Thai Party to head a new party called Thai Sang Thai. Its second-ranked nominee was Chadchart Sitthipan, who has also left the party to pursue the Bangkok governorship as an independent. He has turned down offers to return to head the party. The third-ranked nominee was Chaikasem Nitisiri, who is the party's chief legal advisor. Eventually, in the parliamentary vote on premiership on 5 June 2019, the party supported Thanathorn Juangroongruangkit, leader of the Future Forward Party, against General Prayut, a nominee of the Phalang Pracharat Party. Thanathorn was beaten by General Prayut, by 244 votes to 500. General Prayut received 251 votes from government MPs and 249 votes from senators; one of the 250 senators, Senate President Dr Pornpetch Wichitcholchai abstained. All of Thanathorn's 244 votes came from opposition MPs, and none from the senators.

<sup>13</sup> “‘บิ๊กป้อม’ ถิ่นเอง ชู ‘ประยุทธ์’ นั่งนายกฯ อีกสมัย แจง ‘เดินไม่ไหว’ เลยไม่เป็นเอง” [‘Big Pom’ declares his intention to support ‘Prayut’ for another term in the premiership, citing that he himself can hardly walk and thus he doesn't want it (the premiership) for himself], the *Khaosod Online*, 6 October 2021, [www.khaosod.co.th/politics/news\\_6661423](http://www.khaosod.co.th/politics/news_6661423), accessed 9 October 2021. ‘Big Pom’ is the nickname of General Prawit Wongsuwan, leader of the PPP.

<sup>14</sup> In addition to the Agricultural Land Reform Office, the three other departments in question are the Land Development Department, the Royal Rain-Making and Agricultural Aviation Department, and the Marketing Organisation for Farmers.

<sup>15</sup> “Chatchai Phromlert — the ‘man behind PM Prayut’s new power push’”, *Thai PBS News*, 6 October 2021, [www.thaipbsworld.com/chatchai-phromlert-the-man-behind-pm-prayuts-new-power-push/](http://www.thaipbsworld.com/chatchai-phromlert-the-man-behind-pm-prayuts-new-power-push/), accessed 9 October 2021.

<sup>16</sup> Santi was reportedly the one who betrayed Captain Thammanat and alerted General Prayut of the conspiracy.

<sup>17</sup> Interview with Danai Akmahasawas, *Youtube*, 10 October 2021, [www.youtube.com/watch?v=n1TieN7jn94](http://www.youtube.com/watch?v=n1TieN7jn94), accessed 10 October 2021.

<sup>18</sup> “‘วิษณุ’ ช้องใจฝ่ายค้านเปิดประเด็นนายกฯ 8 ปี อยู่ตั้งนานเพิ่งจะมาพูดให้ยุ่งทำไม” [Wissanu wonders why the opposition is raising the issue of the eight-year term of the PM, (the PM) has been in power for this long, why

kick up a fuzz now] the *Thai Post*, 5 October 2021, [www.thaipost.net/main/detail/118873](http://www.thaipost.net/main/detail/118873), accessed 9 October 2021.

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