

Democracy and Good Governance

Summary Report in English

10th – 11th March, 2006
Siam City Hotel, Bangkok

Organized by

Council for Asian Democratic Governance (ADG Council), Japan
and
Asian Institute for Human Rights (AIHR)

Table of Contents

1.	Introduction	2
2.	About the organizers.....	3
3.	Program	4
4.	Democracy and Good Governance in Thailand.....	7
	A.Situation of Rule of Law in Thailand	7
	B.The effectiveness of the existing mechanisms of checks and balances in the Parliamentary democracy of Thailand	8
5.	Regional Perspectives.....	12
	A.Democracy and Economic Development in Japan and other East Asian Countries, A Historical Perspective	12
	B. Elements of Democratization and Japan’s role in democratization of developing countries	15
6.	Participant’s Voices.....	18
7.	The Way Forward	19
	A. Good Governance and Political Reform.....	19
	B. Role of Civil Society.....	19
8.	Conclusion.....	22
	Appendix:.....	23
	List of resource persons and participants	23

1. Introduction

Set at a time of intense political upheaval in Thailand, the two day workshop on Democracy and Good Governance, organized by the Council for Asian Democratic Governance (ADG Council) of Japan and the Asian Institute for Human Rights, was an opportunity to reflect on the fundamental principles and values of democracy and good governance.

A general belief exists even today that democracy is a luxury and not the cause but only the result of sustained economic and social development. Till the 1980s many East Asian countries gave top priority to economic development and industrialization at the cost of democratic governance, human rights and environmental protection. However particularly since the end of the Cold War regime in 1990, many civil society organizations have been working tirelessly to bring democratic governance in their societies irrespective of differences in the stage of economic and social development facing them. From the different deliberations held during those times, it was found that democratic governance to be sustainable had to have a broad support of the people who shared such democratic values. Further there was a need for economic and social underpinnings that would sustain and spread the benefits of democratic values across all people. And last but not the least, there had to be political, legislative and administrative systems, with adequate checks and balances to ensure and promote democratic governance.

The workshop on 10th – 11th March 2006 brainstormed on these issues and tried to analyze the systemic problems that contributed to the current political turmoil in Thailand. After identifying problems with the existing system, the participants also tried to come up with a framework for strengthening democracy and good governance in the future.

Apart from discussing issues relating to Thailand, the Council for Asian Democratic Governance, Tokyo also gave a regional perspective on democracy and good governance. The present report gives a summary of all the presentations and discussions at the workshop.

2. About the organizers

Council for Asian Democratic Governance (ADG Council), Japan

The Council for Asian Democratic Governance, Japan, was established in 2002 to promote values of democratic governance. In collaboration with United Nations Development Programme (UNDP) it organized an International Workshop on Democratic Governance at the United Nations University in Tokyo March, 2004. As a follow up to the workshop a network of Asian civil society organizations working for the promotion of democratic governance was formed. Since then ADG Council has facilitated workshops in Cambodia and Mongolia to discuss issues relating to democratic governance and its role in promoting a human rights approach to development.

Asian Institute for Human Rights

The Asian Institute for Human Rights strives to strengthen the theory and practice of human rights activism, facilitate systematic linkages between academics and activists and contribute to a continuous process of action and reflection. The Institute through its various programs aims to function as a resource organization for human rights activism in the Asian region and also bring in experiences from other regions of the world.

3. Program

Objectives

- To facilitate a discussion amongst actors working with different issues of government and governance
- To facilitate brainstorming and strategizing on how the rule of law can be strengthened to achieve good governance
- To develop a knowledge base on democracy and good governance

10th March

Moderator: Mr. Pitak Kerdhom

- 8:30 Registration
- 9:00 Opening Remarks
Prof. Ryokichi Hirono, ADG Council, Japan
Assoc Prof Surichai Wun'geao, Asian Institute for Human Rights
- 9:30 – 10:00 “Economic Development and Democratisation in Asian Countries: A Japanese Perception”,
Prof. Ryokichi Hirono, President of ADG Council
- 10:00 - 10:15 Coffee and Tea – break
- 10:15 - 11:30 Situation of The Rule of Law in Thailand
Judge Jaran Pukdithanakul, Secretary-General, Office of the Supreme Court
- Moderator: Mr. Pitak Kerdhom
- 11:40 - 13:00 Panel discussion on ‘Parliamentary Checks and Balances- Are they effective in checking arbitrary use of power?’
Mr. Prarinya Thewanaruemitku, Faculty of Law, Thammasat University
Mr. Kavi Chongkittavorn, Senior Editor of the Nation Newspaper
Mr. Kraisak Chunhawan, Chairperson of the Senate Committee of Foreign Affairs
- Moderator: Ms. Sune Chaiyaroj
- 13:00 – 14:00 Lunch

14:00 - 15:00	Key Note Speech on “Second Level Political Reform in Thailand and Good Governance” by <i>Mr. Pipob Thongchai, Advisor, Campaign for Popular Democracy</i>
15:00 – 16:00	Small group discussions on issues of the rule of law highlighted through the panel discussions, whether parliamentary checks and balances have been effective to promote and protect the rule of law, and strategizing on the way forward
16:00 - 16:15	Tea Coffee break
16: 15 – 17:00	Group Presentations
17:00	Closing for the day
17.30	Welcome Dinner Special Speech on “Role of Civil Society in Promotion and Protection of Human Rights” By <i>Prof. Vitit Muntabhorn, UN Special Rapporteur on the Situation of Human Rights in the Democratic People’s Republic of Korea, Professor, Faculty of Law, Chulalongkorn University</i>

11th March

Moderator: Mr. Pitak Kerdhom

9:00-9:30	“Elements of democratization and Japan’s role in democratization of developing countries ” <i>Mr. Hiroo AOBA, Executive Secretary of ADG Council</i> Questions and answers
9:30 – 10:45	Panel Discussion on Mechanisms to deal with issues of corruption <i>Dr. Nuanoi Trirat, Faculty of Economics, Chulalongkorn University</i> <i>Mr. Wisit Leelawarophat, Director of the Office of the Auditor General, Section 5, Ubon Rajathani Province</i> <i>Dr. Mongkul Na Songkha, Former Minister of Public Health</i> <i>Dr. Sangsit Piriyaangsan, Director, Phd Program, Rajabhat-Chankasem University</i>
10:45 – 11:00	Coffee and Tea break
11:00 - 12:00	Small group discussions on the role of civil society in checking corruption and presentations
12:00 - 13:00	Lunch

- 13:00 - 14:15 Panel discussion on Corporate Social Responsibility and its role in good governance
Mr. Preeda Tiasuwan, President of the Social Venture Network Asia
Ms. Wanida Tantiwithayapitak, Advisor of the Forum of the Poor
- 14:15 - 15:30 Group discussions on how corporations and civil society can work together to promote good governance
- 15:30 - 15:45 Coffee and Tea break
- 15:45 - 16:30 Synthesizing the issues arising from the two days discussions and drafting a common plan for future co-operation to strengthen good governance.
Ajarn Prudhisan Jumbala, Faculty of Political Science, Chulalongkorn University
Prof. Ryokichi Hirono, ADG Council, Japan
- 16:30 Closing

4. Democracy and Good Governance in Thailand

A. Situation of Rule of Law in Thailand

It is difficult to define democracy. However it can be conclusively said that Democracy is a people centred system, where the people are the heart, the root and also the fruits. The fruits of democracy are prosperity, good quality of life and well being, human security, human dignity and participation of the people in all decisions affecting their lives.

Rule of the law and separation of powers are the basic pillars of democracy. Rule of the law protects democracy by regulating arbitrary use of governmental power and ensuring equality before the law and formal justice. It provides the institutional framework for a democracy limited by the Constitution to function by respecting some basic principles such as the principle of good faith and equality. However when the system of checks and balances provided by the Constitution, ceases to function, the ability of 'rule of the law' to check arbitrary use of power, also begins to flounder.

One of the issues that gave rise to the current political upheaval in Thailand was the sale of shares by the prime minister's family in a way that no taxes needed to be paid on the earnings from the sale. In this transaction, the laws on taxation were followed but at the same time manipulated to serve limited interests, completely ignoring the larger issue of why a nation state needed to have a system of taxation. When laws and systems are manipulated in such ways by officers who have the power of the State at their disposal, a conflict is created in the society which has to be resolved within the system, to enable the democracy to function smoothly. One constitutional check over such abuse of power is the judiciary. However, the Constitutional Court on 16th February 2006, avoided the responsibility by prima facie refusing to hear the petition submitted to it by a group of senators, as to whether the sale of shares by the prime minister's family to a Singaporean firm resulted in issues of conflict of interests. In such circumstances, the last check over arbitrary use of state power are the people, and for that reason, a faction of the Thai civil society went to the streets and demanded resignation of the prime minister.

The principle of rule of the law, is opposed to the rule of 'person', and Thailand is facing the rule of person today. The responsibility of governing a state, is a public responsibility and cannot be executed in a manner similar to managing private property. Economic prosperity is not the only goal of a nation state – transparency in public affairs, participation of the people in decision making, respect for human rights are equally important. And when these values are not respected, it gives rise to conflict within society.

Further political parties are the link between the people and the government. The parties represent the views of different factions of the society in the different political processes. In a parliamentary system they also provide a mechanism wherein the people can hold elected government officers accountable for their actions. Thus the political candidate is responsible to the party rather than the other way around and when a politician starts

controlling the political party for private gains, then the fundamental values of a democracy are lost.

Another issue that has confronted Thai society since the sale of Shinawatra shares in January 2006, is the issue of morality. Can a public officer manipulate the legal system to further private interests? Is such officer not bound by any morals? It is difficult to answer such a question. Morality frameworks differ from culture to culture and are largely subjective. Only those morals get translated into law, which are approved and duly passed by the legislative branch of the State. And in such case the decision of legislative branch is largely informed by the morals of the majority of the people constituting the legislature. Thus issues of conflict of interests, allegations of corruption, should not be left to the decisions of the majority, rather there should be an independent body that would look into the facts of a given case in an impartial manner.

B. The effectiveness of the existing mechanisms of checks and balances in the parliamentary democracy of Thailand

Senators

Thailand is a parliamentary form of democracy with two houses, the House of Representatives and the Senate. Together they constitute the National Assembly or the legislative branch of the State. Though members of both houses are elected directly, a candidate for the position of a Senator is prohibited from being affiliated to any political party. The objective of this rule was, that Senators should keep a check and balance over the House of Representatives. However in practice, the Senators are not able to perform this role, because of many reasons.

One of the reasons is that the Constitutional norm that Senators should be independent and not belong to any political party is followed only in letter and not in spirit. As a result in practice, most of the Senators are relatives of members of the House of Representatives.

Also Thai society is still basically feudal in nature. And almost every Senator has private business link to development projects such as construction on public works, dams, logging etc. These businesses thrive because of State concessions and thus the Senators feel the need to have links to political power. The problem is that though such links exist, it is extremely difficult to prove them and hence hold them accountable.

Thus because of such vested interests, senators rarely raise critical questions and instead of being a check on the House of Representatives, they merely acquiesce to decisions taken by the lower house.

This problem is compounded by the fact that, parliamentary rules and regulations, make it extremely difficult for senators who want to raise questions to actually do so. According to the rules, senators have to queue up to ask questions from the cabinet in the

Parliament. When this rule is translated in practice, a Senator is able to speak only once in a year.

Because of all these reasons, serious issues confronting the country such as community foresting, human rights violations, Kruse case, Takbai case, disappearance of human rights defender Somchai Neelapaijit, Free Trade Agreements have never been discussed in the parliament. Discussion over such issues is usually postponed. For example, review of the human rights report of the National Human Rights Commission has been postponed every year. Even criticism by the UN over human rights violations in Thailand has never been discussed in the parliament.

Last but not the least, even if Senators are able to raise contentious issues of refugees, ethnic minorities, it is difficult to sustain such interest and debate because the general apathy of the media. In the recent past, there have been many restrictions on the media, which has resulted in freezing of public opinion as well as self censorship by the media. At the same time, some newspapers have played a positive role and reported on human rights violations, such as the incident at Kruse Mosque and Takbai (violence in the south of Thailand).

It can be said that at the moment there is no room within the Parliament to deal with the present political crisis. Though national elections have been announced, there are serious doubts whether such elections would be free and fair. The National Election Commission has not been able to fulfill its responsibilities. The other systems of checks and balances are also not functioning. In totality of these circumstances, the role of Senators has been seriously curtailed. The Senate is not an independent body as it has been envisaged in the Constitution.

National Election Commission and other mechanisms

500 members of Parliament will be elected in the elections of the House of Representatives in April 2006. 100 of these members would be party list candidates. Since there is no major opposition party contesting the elections, there will be a single candidate in approximately 144 constituencies and one of the major issues in such case would be the need of the one party candidate to get 20% votes of the total eligible voters. If such candidate does not secure the required 20% vote, then re-elections would have to be held till such criterion is met. Further the new Parliament can be convened only when all 500 members have been elected.

The National Election Commission has not been able to show that it is transparent in its decision making and independent in its functioning. As per the Constitution, once the house of representatives is dissolved, new elections have to be held within 60 days. However when Prime Minister Thaksin dissolved the house in February 2006, the Election Commission announced the date of fresh election which was within only 36 days of the dissolution. Such snap elections, were advantageous to nobody other than the ruling party itself.

Judiciary

Amongst the reasons for the present political crisis are the allegations against Prime Minister Thaksin of selling the Shinawatra Company to a Singapore firm without paying taxes and manipulating the system in such a way, that the transaction is seemingly lawful. The complete transaction was very complicated and the taxation authorities instead of scrutinizing it carefully, announced immediately that there was no need for further investigation as there was no violation of laws. The haste in which the authorities cleared the sale of shares led the public to believe that the taxation authorities were not independent. The Constitutional Court also avoided responsibility of judicial review by prima facie refusing to consider the petition submitted to it by a group of senators, as to whether the sale of shares by the prime minister's family to a Singaporean firm resulted in issues of conflict of interests.

The 1997 Constitution of Thailand provides for the impeachment of the Prime Minister by a decision of the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions. Such a move can be initiated by a required number of members of the House of Representatives or general public through the President of the Senate and the National Counter Corruption Commission. However no such move was initiated against Prime Minister Thaksin, though there were numerous allegations of corruption and abuse of power against him.

The Constitution also mandates the setting up of the Office of the Auditor General for monitoring the transparency of government expenditures. However the Senate has made attempts to remove the present Auditor General from her office when her office started investigations into allegations of corruption in government works across the country.

Thus the independence of the monitoring bodies is a grave issue that needs to be addressed. The Senate council selects the members of the committees of these independent bodies and if the senate council is not independent then the appointments to these committees would not be independent.

In spite of these problems, the Supreme Administrative Court has been proactive and in March 2006, declared the planned sale of the Electricity Generating Authority of Thailand (EGAT) to be illegal as it was mired in conflict of interest issues and would create an unfair monopoly for the new owners. The decision has helped to bring the privatization plans of the government under public scrutiny and has set up a good precedent that gives the message that politicians or bureaucrats cannot use their state power to further private business interests.

Media

The basic function of the media in promoting human rights and good governance is to create a knowledge base of information and make it accessible to the civil society as well as political parties. However in Thailand, the media has been not been consistent in this role and has lacked the pervasiveness to follow up issues till the end, such as the CTX

corruption scandal, involving scanning machines at the new Bangkok International airport. After a few initial reports, the media failed to follow up on the issue.

The media has not been able to prove its credibility in the handling of social justice issues. Rather it has shown itself to be leaning towards the interests of the market and giving more space to entertainment rather than social issues.

At the same time, media has played an important role in the political history of Thailand,. After the May 1992 massacre and during the drafting of the people's constitution, the media actively promoted the role of the civil society in a democratic state. During the economic crisis of 1997, 12 newspapers were closed down, some publishing companies and news agencies had to lay off staff or reduce their coverage, but media as a whole was still independent. However since 2001, during the Thaksin regime, media started to get isolated. They had to fight for their survival because of the numerous economic constraints imposed on them. Increasingly politicians acquired control over media, both in terms of ownership as well as purchase of advertisement space in television, radio and print media. As a fall out, media was more engaged in supporting and advocating about government policies and programs and their good effects. They refrained from criticizing the government as they were afraid from persecution by the government. Whenever it had the courage to speak out critically, it either faced public ridicule from the prime minister, or various legal suits were filed against it, leading to a kind of self censorship by the media itself.

In order to perform its role as a watch dog in a democracy, media needs to be free from State control. It has to have the freedom to report without being harassed. And last but not the least it also has to strengthen itself, have certain standards and be transparent and professional in its working.

5. Regional Perspectives

A. Democracy and Economic Development in Japan and other East Asian Countries, A Historical Perspective

Ryokichi Hirono, President, Japan Committee for Asian Democratic Governance and Professor Emeritus, Seikei University, Tokyo, Japan

Introduction

Dr. D. Ganbat, Executive Director, Academy of Political Education, Mongolia in a keynote speech on Democratic Governance in Mongolia, 2004 said, “Competitive elections with participation of a number of political parties, which was theoretically regarded to be the heart of democracy, is now seen as only a minimal precondition of democracy”. Today the synonyms of “democracy”, to name a few are egalitarianism, equality, transparency, accountability, participation and rule of law. These can also be said to be the heart and soul of democracy.

Reaganomics and Thatcherism forged ahead in the early 1980s, promoting political freedom, human rights (beginning with the Carter Administration in the late 1970s), deregulation, market forces, individual initiatives and private sector development. Good governance at the corporate, community, provincial and national level has also been the centre of global concerns since the 1990s. As a result there has been a keen interest in not only exploring the dynamic linkages between economic development and democracy, but also in alternative approaches to promoting democracy under different socio-economic and political conditions.

Economic Development, Democracy and Human Development In East Asia

Some of the major actors promoting democracy are quite impatient with the alternative view that economic development when sustained over a significant period of time will bring about political reforms in favour of democracy and enhance human rights. The series of historic events taking place in the former Soviet Union subsequent to the embracement of the Gorbachev's Perestroika and Glasnosti in the 1980s and the breakdown of the Cold-War regime in the beginning of the 1990s have sharpened this impatience. In Asia, Cambodia and Mongolia went through economic and political reforms simultaneously in favour of transition to a market-oriented economy and political pluralism, while China, Laos and Vietnam opted to go for market-oriented economic reforms without simultaneously going through fundamental political reforms. The Democratic People's Republic of Korea (DPRK) and Myanmar still chose the third way, remaining within the traditional socialist/nationalist closed-door regime, with only a few market-based experiments here and there. Many mixed economies of East Asia, including the old ASEAN-5, have moved toward a higher degree of market orientation and political liberalism.

Human development in any country requires both economic development and democracy on a sustainable basis. Economic development without political democracy does not lead to sustainable human development. Political democracy provides basic human rights such as the right to life, liberty and security of person, equality before the law regardless of race, ethnicity and gender, freedom of assembly, freedom of thought, religion and speech and the right to participate in community and national life including the universal right to vote for all (women's suffrage included). Economic development provides for enhanced opportunities for employment and a decent standard of living including basic needs (food, clothing and shelter) satisfaction, education, health and ecological security.

Political democracy without economic development may mean little to men on the streets, in particular to the poor who would have to struggle very hard for their day to day survival, while economic development without political democracy may mean little to the educated middle-class including high-school and university students who would feel insecure, irritated, suffocated and even angered by the lack of individual freedom and choices. Political democracy and economic development may not be sustainable, however, unless society is on the trajectory of sustained economic growth and development, with masses of people actively participating in the development process and in the fair distribution of development benefits. Thus, for any society to be secure, prosperous and dynamic, coexistence of both economic development and political democracy is the must, and only such society can move towards sustainable human development.

Since the breakdown of the Cold War regime, there have been waves of political democratization the world over, though at different speeds, ranges and depths. Fair and equitable development is yet to be adequately and satisfactorily achieved in most of the developing countries, though it is fairly well installed in industrial countries and more advanced developing countries particularly in East Asia. In fact, in many developing countries in Asia in spite of moderate economic growth, there have not been many gains in terms of poverty reduction or meeting the basic needs of the poor people. Income distribution has often worsened in many of these developing countries and East Asia has been no exception to this overall trend in the world.

In many East Asian countries it has been a proven experience during the last two decades that sustained economic growth and rise of the middle class have heightened popular demand for political reforms and democracy which the political party (ies) in power are increasingly incorporating to sustain political stability, economic growth and human development. Fair and equitable economic development, however, requires the presence of political democracy. This certainly implies that without political and economic democratisation sustained economic development, let alone sustainable human development will not and can not be observed for a longer period time in any developing country, regardless of the level of its economic and social development.

Japanese Experiences in Economic Development, Democracy and Human Development

The economic and social development of both prewar and postwar Japan is now under rigorous examination in many developing countries of Asia and elsewhere so as to draw some lessons from it. Malaysia, the Republic of Korea, Singapore and Taiwan which have undergone transformation in recent years from somewhat authoritarian to democratic rules are some such countries.

Particularly interesting to those developing countries desirous of catching up with OECD countries has been the role of the government in Japan's modern economic development and industrialization and the patterns of dynamic partnership between government and the private sector in response to the changing domestic and external environments since the World War II. There has been a keen interest about how since World War II, Japan, a country with cultural values and social traditions and institutions (group orientation) so different from those of the West (individualistic orientation), has been able to achieve its modern economic development and industrialisation, while simultaneously installing political democracy "similar to the West". It is vital to recall, however, that the role of the government has drastically changed in nature between prewar and postwar Japan, i.e., from a leading role to a supportive role vis-a-vis the private sector and the civil society activities.

Unlike during the prewar days, Japan's postwar success has been achieved under a democratic regime and not under a strong authoritarian regime repressive of individual freedom, initiatives and creativity, considered so important and common under political and economic democracies. Japan's sustained economic growth and restructuring since the World War II would not have taken place unless there had been a strong pressure for political democratisation under the Occupation Forces during the 1945-52 which brought about fundamental changes in the economic, political and social structures of postwar Japan. It is to be noted, however, that Japan had built up during the prewar days its domestic capacity for development through a long period of economic, technological and bureaucratic modernisation. Therefore, the Japanese experiences in economic development, democracy and human development over the last century, do indicate that those developing countries in East Asia which have not achieved the degree and level of "acceptable" political democracy could still hope that they could be successful in accelerating the establishment of socio-political foundations for sustained economic development by allowing active participation of the civil society in all walks of life.

The Millennium Development Goals (MDGs) are to be achieved by the developing countries by 2015. All this requires developing countries, including Thailand, to have a strong political will for the satisfaction of basic human needs for all people and an effective installation of legal, administrative and judicial framework for democratic governance.

B. Elements of Democratization and Japan's role in democratization of developing countries

Hiroo AOBA, Executive Secretary, ADG Council

There are two fundamental elements of democratization – a democratic political system with proper institutions and a socio-economic foundation for democracy.

A Democratic Political System with Proper Institutions

A democratic political system requires a legal system that guarantees political rights, such as universal adult suffrage, and political freedoms such as freedom of speech, freedom of publication, and freedom of association. The acceptance of these ideas as fundamental by all of the political parties, is also necessary for a democratic system. Some of the sub-elements which constitute a democratic political system are as follows;

Check and Balance Mechanism for the Separation of State Power

Generally, as there is a tendency in developing countries for the executive branch to be the strongest and most dominant of the three branches of political power, it is essential, through the strengthening of Parliament and the cultivation of the legal profession to devise a 'check and balance' mechanism to ensure that no one branch has more power than any other. If freedom of political party activity, especially that of the opposition party, is guaranteed not just formally but substantially, it can be expected that measures will be in place to prevent the administration from taking too much control.

Improvement of Government Awareness and Capability

The improvement of awareness and capability in executive and judicial branches leads to good governance. In order to be successful, this will require efforts by the government itself such as maintaining the executive organizations, creating politically neutral bureaucratic organizations, improving the effectiveness of the police, educating people in the administration, establishing law and order, introducing measures to prevent bribery and corruption, and establishing education aimed at improving the quality of governance.

Citizen Empowerment

By making concerted efforts to increase the awareness and capability of the people, the government substantially increases the opportunity of the people to participate in administrative and political affairs. Utilizing this participation effectively and acquiring the ability to check government administration is included within the scope of citizen empowerment. It is thought that for this to work, strengthening of the civil society is required. This is largely achieved through the efforts of Civil society organizations, including NGOs. For civil society organizations, the important issue is not just the demand for appropriate administration management, but to achieve a mutual level of awareness and respect. With this as a basis, political society can mature, and one can expect the improvement of the social 'soil' that enables democracy to grow. Education has an important role to carry out so that the people can acquire this type of consciousness and attitude.

A Socio-Economic Foundation for Democracy

Even if democracy is desired, and a political system is in place to allow it to function, one still cannot say that this is sufficient. Democracy should be supported by a socio-economic foundation. This foundation can be achieved through the establishment of peace, economic stability, and basic human needs.

In countries subject to disputes and civil war, or in countries where even physical existence is in a state of crisis due to wars with foreign countries, even to discuss democratization is virtually meaningless. For this reason, it is essential to prevent or solve such disputes, or bring them speedily to conclusion and to move forward for the revival of the country. Stability of the economy is also one of the foundations to enable democracy to function effectively. If basic human needs such as a minimum required level of food, shelter, sanitation/hygienic conditions, and education are not met, whether as a result of disaster, food shortage, unemployment, or conflict, it does not matter how much the idea of democracy is advocated, it is also meaningless. In such circumstances, people would just try to survive. Thus the resolution of disputes and stable economic conditions are necessary for the sustainability of democracy.

The role of Japan for democratization in developing countries

In the 1990s, assistance for democracy and governance came to be viewed with even greater importance and increased in scale. Calls for effective and improved democracy assistance grew during this period. The Japan's ODA Charter of 1992 clearly stated her basic idea on this matter. The principles stipulated in the 1992 Charter and the 2003 Revision of the Charter included the condition that "full attention should be paid to efforts for promoting democratization,... and the situation regarding the securing of basic human rights and freedoms in the recipient country."

Regarding support for democratization in particular, Japan introduced a concept of "partnership for democratic development" (PDD), and announced its intention to strengthen these efforts from then on. This concept of a partnership emphasizes that democratic development and better promotion and protection of human rights require not only the political will of the government of the developing country but also appropriate systems, institutions, and human resources.

Moreover, it was declared that Japan would take the following principles into account when extending support for democratization:

- Support should be based on a partnership between Japan and the developing country.
- Support should be provided to the self-help efforts of the developing country.
- Support should be implemented after consultations and agreement with the developing country.

However, Japan has not necessarily exhibited a clear linkage between democratization and aid in their assistance policies, and has not identified specific criteria for it. The reality is that judgments about attaching conditions are made in accordance with specific circumstances. Discretionary policy has been adopted in practice, from the standpoint of economic relations and security guarantees with various developing countries.

Donors, including Japan, often contribute to reinforce the asymmetrical relationship by aiding a limited group of people against the welfare of the people in the country. It is important especially for Japanese people, especially NGOs, to monitor the way in which the Japan's ODA is utilized for improvement of democratic governance. Traditional assistance, such as assistance for poverty reduction and education, should be reviewed in the context of democratization framework.

Summary and Conclusion

A democratic system has not been properly institutionalized in many developing countries, while the socio-economic foundation in such countries is often insufficient. The poverty reduction is apparently a precondition for substantive democratization.

In such circumstance, donor countries, such as Japan, and International Financial Institutions (IFI), such as the World Bank, have a strong leverage for democratization in developing countries. They can strengthen the socio-economic foundation for democracy and aid the government in upholding accountability and transparency for democratic governance. To maximize this leverage, Japan, as one of the major donors, has to set a clear strategy for development assistance in the context of democratization framework.

And lastly democracy is not simply setting up a legal and administrative framework in which elections are held. Democratic values have to be built in the mind of people: politicians, bureaucrats, ordinary citizens and so on. The government, the civil society organizations, the donor countries, IFI (International Financial Institutions), and people have to establish the reciprocal, respectful and complementary relationship for the common goal with different approaches.

Reference:

Institute for International Cooperation, Japan International Cooperation Agency (JICA)
(March 2003) *Roads to Democracy and Governance*

Note: This study report is downloadable from the JICA web-site below.

(<http://www.jica.go.jp/english/resources/publications/study/topical/roads/index.html>)

6. Participant's Voices

Some voices...

Democracy in Thailand is still superficial and one can say that the ideology of democracy has not been able to reach common man. Rather the society is still feudalistic in nature with people rarely questioning the leaders that they have elected. Vote buying is very common, but the question is how to stop it? In the rural areas, economic development is an issue. People need cash and small capital and are vulnerable to the practice of money distribution before the elections. They also get easily taken in by populist policies that bring immediate benefits to them.

In fact there is a long channel of people who are involved in money distribution before the elections or 'vote buying' as it is commonly known. The Election Commission penalizes only the people who are at the lower end of this channel and never imposes any sanction on the powerful people behind such vote buying. Till we have monitoring bodies that are truly independent and transparent, it will be difficult to control such practices.

Apart from that, religious and ethnic minorities have long being marginalized from the political process. Their participation is never sought in political, social or economic decision making processes impacting upon their lives. They also lack access to education, which further marginalizes them. Migrant workers are facing a lot of harassment at the hands of the police officers, the local administration and business enterprises. Though Burmese migrant workers are entitled to a minimum wage they cannot demand for it because of fear of persecution by the authorities. In such situations – the poor and marginalized trust only the information coming from their limited sources, and are vulnerable to be manipulated by vested interests.

The fact that people do not participate in democracy in an informed and critical manner can be linked to the issue that the State has not been able to make economic resources and opportunities available to all based on the principles of equality and non discrimination. People from rural communities are struggling for their basic needs. People need the benefits that they derive from the populist policies. At the same time, since they have no idea about the long term impacts of such policies, they accept and support the government that supports such policies. That is one of the reasons why the present political upheaval has given rise to a clash between the rural poor and the politically conscious urban middle class having access to critical information. To strengthen the democratic fabric of the country, one would have to bridge this gap otherwise it would lead to further polarization and conflict.

All these factors feed into each other in a cycle of vote buying and corruption and any political reform to be successful would have to address all these issues.

7. The Way Forward

A. Good Governance and Political Reform

The fault is not within the 1997 Constitution of Thailand, but the problem is that the Constitution is wrongly being applied by powerful interests.

The past few years have shown how systems and structures of good governance can be manipulated to further narrow interests. The vulnerabilities of the independent bodies set up under the Constitution to act as checks and balances on the use of state power have also been exposed thoroughly.

Another important realization from the current political turmoil has been that Thailand puts a lot of emphasis on individual personalities rather than broader issues of systems and structures. This fixation with personalities which can be linked to the Thai feudalistic history fosters a paternalistic approach to governance. Political parties instead of being a democratic space where dissenting views are equally respected, become the private concerns of charismatic leaders. Such an attitude affects the quality of political debates as leaders are accepted questioningly.

This attitude is also present within the masses or the civil society, though it takes on different forms. The rural poor are attracted to the handouts distributed by populist governments and are not able to foresee that populism results only in short term gains while it has a long lasting negative impact on the economic foundations of the country. The urban middle class is largely focused on its own interests having general apathy towards the issues confronting the poor and marginalized sections of the society. Thus with different factions of the society by and large focusing on their short term gains, there is absence of monitoring of overall governance issues and informed questioning of the policies and programs adopted by the State.

Thus any 2nd political reform to be meaningful and successful has to address all these issues. Amendments to the Constitution will not be enough. Civil society has to be empowered as well, so that they are politically conscious and are able to use the democratic spaces to demand accountability from the government. The principles and values of democracy have to be integrated within the education system so that they can be internalized and a culture of democracy is established which in turn would strengthen the foundations of good governance.

B. Role of Civil Society

The first question that arises is who comprises the civil society? Though nowadays it has become synonymous with Non Governmental Organisations, civil society does not have to be in the form of organizations. Even volunteerism is part of 'civil society'.

While talking about the role of civil society in protecting and developing human rights, one also needs to examine the obligations of the State, including its obligations under the

international human rights law. Thailand has ratified all the core human rights treaties, and thus the State is under an obligation to respect, promote and protect the rights enshrined in them. The civil society has to ensure that the State abides by these obligations. Further, prevention of human rights violations should also be part of the strategy. To take an example the emergency decree promulgated in Thailand is very crucial as it does away with judicial review of state action, making way for state impunity which in turn has led to an increase in the number of disappearances. Civil society needs to be alert and prevent such harmful systemic changes.

Civil society is the same as human rights defenders. Two years ago the Special Rapporteur on Human Rights Defenders visited Thailand. In her report she said, that the State through various mechanisms had tried to destroy the creditability and reputation of the civil society and human rights movement in Thailand. Such measures included limiting their access to foreign funds and their basic freedom of forming associations. The State tried to harass them and curtail their activities by instituting various legal actions against them. The State also did not take any measures to protect the human rights defenders from the threat and intimidation of non state actors.

Thus to strengthen the role of the civil society, first civil society has to be facilitated by removing restrictions on their freedom of association and their ability to receive foreign funds. Human rights defenders also have to be protected, so that they can speak out against violations without any fear of threat or intimidation. Not only should they be protected, but the work done by them also needs to be appreciated as a valuable contribution to society so that they are encouraged in their endeavors. Further there has to be a space within the system where reports of such violations and adequate and effective mechanism to address such violations are discussed. Often States pay less attention to this, and so civil society has to work hard for setting up such mechanisms.

Last but not the least civil society has to be empower itself so as to be able to make use of the spaces available to it. Participation of the people in the decision making processes is a fundamental principle of good governance – which today has also been given recognition by authorities at different levels. However such participation has by and large been only ‘formal’ in nature and sometimes only on paper. Like in the last few decades, the state has built a number of development projects such as dams across the country with the purpose of increasing power resources. These development projects such as the Mae Moh power generating plant, the Pak Moon dam displaced a large number of people violating their rights to life and livelihood. However the people displaced by the project were never consulted neither did they reap any returns from the resources generated by such projects.

The sale of Shinawatra shares to a Singaporean company at huge tax free profits has created a lot of antagonism towards the corporate sector. It is true that in Thailand many business enterprises have been able to expand and reap huge profits because of their political connections, or their ability to avoid paying taxes. Because of these reasons – many people have argued that business persons should be barred from entering into politics. However that is not the solution. Rather such a move will be a violation of political rights of the people engaged in business.

The business sector is also part of the society and has a social responsibility. There is a need to translate this social responsibility in to laws or codes of conduct that can be enforced. There are many business persons who care genuinely for social justice and such people should be encouraged to play an active role in civil society activism.

8. Conclusion

It is not wrong to say that if there is absence of good governance, the society can collapse as it happened in Philippines and some Latin American countries. To strengthen democracy in Thailand, there is a need to strengthen the institutional mechanisms of checks and balances.

Economic development and democracy are intricately linked to each other and one cannot be sacrificed for the sake of another. However economic development is also linked with competition, but competition is not always bad. Once, His Majesty, the King of Thailand, was explaining the meaning of competition to a boy scout, and he said that competition between enemies is different from competition with friends. With an enemy, one has to fight very hard, and the fight always results in a win or loss, happiness or unhappiness. But with friends, one never loses. If the friend wins, one takes the resolution to improve oneself for the next time, but never resolves to destroy the friend.

Thus apart from institutional reforms, the ideology of national politics also needs to change. The arena of national politics should have similar kind of competition, where the larger collective goal is democracy and good governance. Civil society has to be patient and while respecting the diverse cultures and nationalities, it has to forge forward in its struggle in a peaceful and non violent way.

The civil society has an immense task before it. It has to take a proactive and constructive role in the pre and post constitutional reforms. And to undertake this responsibility efficiently, it has to empower itself with information and knowledge. It not only has to seek critical information from the appropriate authorities, but also disseminate it to the public. This is one of the ways in which the ideals of democracy and good governance can be achieved.

Appendix:

List of resource persons and participants

List of Resource Persons

Prof. Ryokichi Hirono	President, ADG Council of Japan
Judge Jaran Pakdithanakul	Secretary-General of the Supreme Court
Dr. Sangsit Piriyarangsant	Director of PhD Program, Rajabhat Chankasem University
Mr. Prarinya Thewanaruemitkul	Faculty of Law, Thammasat University
Mr. Kavi Chongkittavorn	Senior Editor, the Nation Newspaper
Mr. Kraisaak Chunnawan	Chairperson, the Committee of the Foreign Affairs, Senate
Dr. Nualnoi Trirat	Faculty of Economics, Chulalongkorn University
Mr. Wisit Leelawaropah	Director of the Office of the Auditor General
Dr. Monkul Na Songkha	Former Secretary –General, the Ministry of Public Health
Mr. Preeda Tiasuwan	President, the Network of Business for Social and Environment
Ms. Wanida Tantiwithayapitak	Advisor, the Assembly of the Poor
Prof. Vitit Muntabhorn	Faculty of Law, Chulalongkorn University
Mr. Hiroo Aoba	Executive Secretary, ADG Council of Japan

List of Participants

Ms. Sunee Chaiyaroj	Commissioner, Office of the National Human Rights Commission
Ms. Ratikan Keaw-nui	Secretary of the Commissioner, Office of the National Human Rights Commission
Ms. Pitikarn Sittidej	Director of the Rights and Liberty Department, Ministry of Justice
Ms. Sadhana Khanarat	The Rights and Liberty Department, Ministry of Justice
Ms. Sopha Chaiyawan	Expert for the Senator
Pol.Gen. Direk Pongpamorn	
Mr. Srisuwan Janya	Secretary-General of the Assembly of the Protection of the Environment Organization
Mr. Songkran Pongboonchan	Lawyer, Environment and Rule of Law
Mr. Thewarith Chote-Charoenporn	Lawyer Council of Thailand
Mr. Bahmad Somboon Bua-Luang	Leader of the Community Puyudh
Mr. Prapoj Sri-Teth	Director, Office of the Tak Province Court
Mr. Wisit Limruecha	Deputy President of the Federation of Factory Tak Province
Ms. Saranuch Soi-Thong	Coordinator, Labor Law Clinic
Mr. Sompob Bunnag	Rights and Liberty, Community Development, Household of Khonkean Province

Mr. Pairoh Mongkolboonluer	Rights and Liberty, Community Development, Househood of Khonkean Province
Mr.Kaj Dittapichai	Highland People Task Force/IMPACT
Ms. Am-Monrat Yitho	Assistant to Secretary, Procedure of Justice, Office of the Human Rights, the Lawyer Council of Thailand
Ms. Kanya Pumchuen	Swan Women Network, Chiang Mai Province
Ms. Moan Kaein	Office of the National Human Rights Commission
Mr. Somnuk Chaiwanich	
Ms. Pairat Junthong	
Ms. Anothai Soma	The International Commission of Jurist (ICJ)
Ms. Kosum Kulsaweh	The Lawyer Council of Thailand
Mr. Anucha Wintachai	Union for Civil Liberty (UCL)
Mr. Pitak Kerdhom	Union for Civil Liberty (UCL)
Mr. Michael Miner	Regional Director, Southeast Asia Cooperation in Human Rights Development
Ms. Milinda Mcdonald	Southeast Asia Cooperation in Human Rights Development
Mr. Athon Charoenlai	Manager, Japan International Cooperation Agency (JICA)
Ms. Tomoko Onuki	Assistant Resident Representative, Japan International Cooperation Agency (JICA)
Mr.Niti Wirudchawong	Office of Ombudsman
Ms. Pinand Chotetirojserane	President, Karn Conserve Group
Ms. Somsri Hanananthasuk	Asian Network for Free Election (ANFREL)
Mr. Pongsak Chan-On	Asian Network for Free Election (ANFREL)
Mr. Chatchawan Rakchart	Asian Network for Free Election (ANFREL)
Ms. Pornpen Khongkachonkiet	
Ms.Preeda Tongchumnum	International Commission of Jurist (ICJ)
Ms. Puttanee Kangkan	Asian Human Rights Commission (AHRC)
Mr. Grant Peak	Journalist, Associated Press
Mr. Chantima Thanasawangkul	Office of the Attorney General
Mr. Boonthan Tansuthepverawong	Director, Amnesty International Thailand

Secretariat

Mr. Somchai Homlaor	Executive Committee, Asian Institute for Human Rights (AIHR)
Ms. Kalpalata Dutta	Director, Asian Institute for Human Rights (AIHR)
Ms. Chananya Kraisor	Administrative Officer, Asian Institute for Human Rights (AIHR)
Ms. Ikuko Yabunami	Researcher, ADG Council of Japan