

The 2019 Thai General Election:

A Missed Opportunity for Democracy



Head Office

105 Sutthisarnwinichai Road,
Samsen Nok, Huai Khwang,
Bangkok 10310, Thailand
Tel: 66-22776678, 66-2-6931867
Fax: 66-2-6943228
Email: anfrel@anfrel.org
www.anfrel.org

The 2019 Thai General Election: A Missed Opportunity for Democracy



Election Observation Mission Report



The 2019 Thai General Election: A Missed Opportunity for Democracy

Final Report of ANFREL's International Election Observation Mission (IEOM)
to the Kingdom of Thailand's 2019 General Election

ISBN: 978-616-8264-00-3

Written by:

Cleve Arguelles
Jayantha Dehi Aththage
Karel Jiaan Galang
Bidyalaxmi Salam
Amaël Vier

Edited by:

George Rothschild
Chandanie Watawala
Damaso G. Magbual

Book cover and Layout designed by: Saw Benhur

Printed in Bangkok, Thailand by: KP Printing

Produced and Published By :

The Asian Network for Free Elections (ANFREL)
105 Sutthisan Winitchai Road, Samsennok, Huai Khwang,
Bangkok 10310, Thailand
Tel: (+66 2) 26931867

Email: anfrel@anfrel.org

Website: www.anfrel.org

This report reflects the holistic findings of the ANFREL International Election Observation Mission in Thailand and does not necessarily reflect the opinion of ANFREL's individual observers, staff, donors, or CSO partners. Neither institutions, nor any person acting on any of their behalf, may be held responsible for the information contained herein.

Photos without credits are courtesy of ANFREL observers.

Reproduction is authorized, provided that ANFREL is acknowledged as the source.

2nd edition

Table of Contents

Glossary	5
Acknowledgements	6
Organization Profile	8
Mission Profile	10
Executive Summary	12
Election Laws and Administration	17
Constitutional and Legal Framework	17
Electoral System	25
The Election Commission of Thailand (ECT)	35
Voter List Management	44
Political Party Registration and Regulation	49
Electoral Dispute Resolution	52
Election Environment	59
Campaign Period	59
Voter Awareness and Education	62
Media and Freedom of Expression	64
CSOs, Domestic Election Monitoring Organizations, and INGOs	67
Gender Inclusivity	69
Electoral Participation of Youth	72
Vote Buying and Abuse of State Resources	75

Voting Process	79
Advance Voting	79
Election Day: Opening, Polling, Closing and Tabulation	82
Voter Turnout	86
Invalid Votes	88
Announcement of Results	90
 Recommendations	 98
 Photo Gallery	 103
 Annexures	 113

Glossary

CDC	: Constitutional Drafting Committee
CSO	: Civil Society Organization
ECT	: Election Commission of Thailand
FFP	: Future Forward Party
IEOM	: International Election Observation Mission
INGO	: International Non-Governmental Organization
IPU	: Inter-Parliamentary Union
MMA	: Mixed-Member Apportionment
MP	: Member of Parliament
NBTC	: National Broadcasting and Telecommunications Commission
NCPO	: National Council for Peace and Order
NGO	: Non-Governmental Organization
NLA	: National Legislative Assembly
ONACC	: Office of the National Anti-Corruption Commission
PM	: Prime Minister
PNET	: People's Network for Elections
PPRP	: Phalang Pracharat Party
PTP	: Pheu Thai Party
PWD	: Persons with Disabilities
SLAPP	: Strategic Lawsuit Against Public Participation
TRC	: Thai Raksa Chart Party

Acknowledgements

As the long-awaited Thai general election was held on 24 March 2019, ANFREL supported the country's efforts to return to democracy by fielding a team of international election observers, and by assisting civil society organizations and human rights institutions.

ANFREL wishes to express its appreciation for Thai voters for putting their faith in the electoral process as the proper mechanism for selecting the country's leaders. Voter turnout was high, especially among the youth, which is admirable. In addition, the role of civil society in promoting free and fair elections through various programs, including the deployment of domestic election observers, as well as civic and voter education, is commendable.

In addition, many Thai academics were active advocates for democracy. The media, especially alternative media and foreign media, made considerable efforts to educate the public and address the challenges to free and fair elections. We thank them for their cooperation when our observers sought their insights on the intricacies of Thai elections.

The diplomatic community, the United Nations, and international non-governmental organizations present in Thailand also supported the promotion of democracy in the Kingdom and provided financial support for election monitoring activities.

In addition, ANFREL would like to sincerely thank the Election Commission of Thailand for granting its accreditation to our organization and allowing us to deploy an election observation team.

Our gratitude also goes to the ANFREL member organizations as well as our committed and skillful observers who rose to the challenge of preparing for, and carrying out their mission in a very short period of time. Their continuous efforts, day and night, made this comprehensive mission report

possible thanks to their findings and recommendations. To our local staff and volunteers, we also express our thanks for helping to make a success of the mission.

Finally, ANFREL's experienced Board of Directors provided invaluable guidance for not only this particular mission but also with respect to the broader goal of promoting democracy in Asia at a time which is challenging for those who believe that people should freely and fairly choose their own governments.

A handwritten signature in blue ink, appearing to read "Chandanie Watawala", with a horizontal line underneath.

Chandanie Watawala
ANFREL Executive Director

Organization Profile

Formed in November 1997, the Asian Network for Free Elections (ANFREL) has established itself as the leading NGO in Asia working for the promotion of democratic elections. ANFREL's primary work is focused on election observation, developing and training civil society groups that are actively working on democratization in their home countries, and undertaking campaign and advocacy activities to address electoral challenges and foster democratic development in the region.

Since its formation, ANFREL has conducted 61 election observation missions across Asia, with over a thousand international election observers participating in these missions. ANFREL draws its observers from a network of member civil society organizations in Asia. Our long-term aim is to build expertise on elections and governance in the region, entrenching a culture of democracy that is locally developed rather than externally imposed. By engaging in elections in various countries, our observers develop a strong understanding of best electoral practices, knowledge that can then be utilized to strengthen electoral processes in their respective home countries.

In addition to direct election observation programs, ANFREL also carries out training and capacity building programs for civil society, the media, and other institutions working on elections and democracy-related issues. Providing capacity building training, either directly or indirectly, to local organizations has been an integral part of most of our election observation missions to date. ANFREL believes that capacity building for local stakeholders is one of the most important elements in democratization efforts, which is why it regularly holds regional or country-specific workshops to develop the abilities of democracy advocates.

Finally, ANFREL also carries out election-related advocacy and campaigning, including the dissemination of information and publication of materials related to elections and other democratic processes, as well as

lobbying for electoral reforms both on the national and international stage. Since 2012, ANFREL has also organized the Asian Electoral Stakeholder Forum (AESF), which brings together election-related civil society groups and election management bodies from across Asia and beyond to foster greater understanding and cooperation for addressing the remaining challenges to free and fair elections in Asia. By engaging diverse electoral stakeholders through our advocacy and campaign work and bringing together observers from across the region to participate in our observation missions, ANFREL seeks to create an environment conducive to democratic development in the spirit of regional solidarity.

ANFREL's three areas of work - election observation, capacity building, and advocacy - support and complement one another to further our mission of improving the quality of elections across Asia.

Mission Profile



ANFREL's International Election Observation Mission (IEOM) to the 2019 Thai General Election was composed of 34 international election observers, including two electoral analysts (EAs) deployed for 45 days, a first team of 8 observers present for 14 days, and a second team of 24 observers deployed for 10 days.

The IEOM was able to conduct election observation through campaign monitoring, in-depth interviews with key electoral stakeholders, desk reviews of legal and electoral developments, and visits to a random sample of polling stations. ANFREL observers managed to cover 27 polling centers on Advance Voting Day (March 17), 492 polling stations in 30 provinces across the country on Election Day (March 24) and 12 polling stations during the election re-run in constituency 8 of Chiang Mai Province (May 26).

This comprehensive Mission Report is designed to address all aspects of the electoral process, including pre-election preparations, advance voting, Election Day operations, as well as post-election activities. Aside from

ANFREL's independent assessment of the conduct of the 2019 Thai General Election, it contains recommendations for the Thai election management bodies and other stakeholders to consider and hopefully implement to strengthen electoral processes and advance democratization in Thailand.

ANFREL observation reports are guided by the standards and principles of free and fair elections laid down in the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), the Declaration of Principles and Code of Conduct for International Election Observation (2005), the Bangkok Declaration for Free and Fair Elections (2012), the Dili Indicators of Democratic Elections (2015), the Bali Commitment to Electoral Transparency (2016), the Colombo Pledge to Promote and Defend Democracy (2018), and other relevant international instruments.

ANFREL was the only endorser of the Declaration of Principles and Code of Conduct for International Election Observation accredited for the 2019 Thai general election.

Executive Summary

To say that the Thai general election which took place on 24 March 2019 was long-awaited would be an understatement. After five years of unchecked military rule and successive election postponements, the people of Thailand finally had an opportunity to express their opinions, in what should have been a moment of collective exhilaration.

While ANFREL welcomes the much-needed return to democratic processes, it has consistently expressed concerns about the circumstances under which the general election would take place. The 2019 Thai General Election was found wanting in the most important element required for an election to be considered truly democratic. Thai authorities did ultimately fulfill their promise to hold an election, but they failed to establish the healthy political climate that lies at the heart of a free and fair electoral process. Elections are mechanisms that cannot be assessed in isolation, but always in the context of their environment, which includes prevailing socio-political conditions as well as the status of fundamental human rights.

The strong grip of the military junta and its civilian allies on the country's affairs since the May 2014 coup ensured that the new régime would be designed to best serve their interests. All stages of the electoral process, from its inception to the announcement of results and beyond, were influenced to secure an electoral outcome that would not be too disruptive to the ruling establishment. The legal framework for elections, resting on the foundations laid out by the controversial 2017 Constitution, is the most restrictive in decades. For instance, it limits the role of the people's representatives, fails to provide for a democratically-elected government, and introduces a unique form of guided democracy whereby an appointed Senate participates in the selection of the Prime Minister, defying the common understanding of what constitutes a parliamentary democracy.

Despite these shortcomings and a somewhat abbreviated timeframe, the electoral campaign was more vibrant than most commentators had expected, with many political parties competing for seats, conducting political rallies for the first time in five years, and mobilizing social media to reach out to voters. The election provided citizens with a chance to voice concerns that they had long been unable to express, and the campaign remained mostly peaceful, with no significant instances of violence recorded despite some name-calling and fearmongering. ANFREL collected reports of vote-buying across the country, although it is difficult to ascertain if voters were actually influenced by such activity. More disconcerting was the distribution of vast amounts of money on the eve of the election through a government-sponsored welfare program, which, in the eyes of many stakeholders, constituted an abuse of state resources.

Genuine elections should provide a space for all stakeholders to act freely in the political sphere, which was not the case for this election. ANFREL saw a civil society and a media sector that had both been weakened, stunted by years of the ban on political activities and hounded by intimidation, abuse of legal processes to suppress dissent, and other threats to the freedoms of expression and association. Nevertheless, the civil society and the media participated to the best of their abilities, providing the public with the necessary guidance and information on how to meaningfully participate in the electoral process — efforts which were often overlooked in this eventful election. Moving forward, the government should allow civil society and media to grow by addressing the challenges this mission observed and taking steps to protect dissent and promote free speech.

The Mission witnessed strong popular support for the reintroduction of electoral activity. The fact that 74.69% of voters reportedly showed up at the polls is a strong indication of the people's belief in elections and can be seen as a rebuke of forceful takeovers of government. We hope that the wishes of the voters will be implemented through improvements to political processes to make them more inclusive, accessible and transparent. Maintaining high quality voter lists, promoting the use of PWD-friendly instruments, as well

as wider information dissemination and voter education initiatives can help sustain this active voter participation and address the inordinately high rate of 5.6% of invalid ballots.

ANFREL recognizes the efforts of the Election Commission of Thailand (ECT) to achieve an overall well-managed Election Day. The poll workers braved the challenges posed by a complex and demanding voting process. Observers saw their commitment to a smooth election day through their efforts to ensure that all materials were prepared, voters were well-assisted, and vote counting in the precincts were opened to the public. While ANFREL noticed small variances in the implementation of polling procedures, these were simple and can easily be addressed by providing polling staff with more thorough training in the future. Furthermore, the support of the police force contributed immensely to the overall peaceful conduct of the polls, and no major violence or disruptions were reported by the media or other observers.

While the ECT did demonstrate good management of the voting process, this was effectively negated by the body's poor handling of the tabulation of results. Foremost among our concerns was the ECT's lack of transparency by not allowing observers and the media to witness this vital part of the election process. The ECT's prohibition is contrary to the principles of transparency required for a truly democratic election. Furthermore, initial announcements of results on election night were wildly inaccurate, which fueled the public's confusion and distrust of the figures. As a result, voters' perception of the integrity of the vote was irreparably damaged, an outcome which could have been avoided if the election management body had been more open and transparent by formally publishing precinct-level results, or if it had at least offered a credible explanation for its secrecy. In the spirit of transparency, we invite the election management body to adopt a proactive approach for releasing election data, starting from vote counts at the polling station level, which would help mitigate accusations of partiality and result manipulation.

The general election was unfortunately marred by recurring allegations of bias on the part of the ECT, an election management body unilaterally appointed by the junta's hand-picked National Legislative Assembly (NLA). The ECT's regulations were hard to access, and its decisions were not always accompanied by efforts to make them clearly understood and accepted, which undermined the public's perception of the ECT. Perhaps the most flagrant misstep by the ECT was its post-election publication of a formula for allocating party-list seats, which was marked by a significant departure from the calculation method that seems to have been previously agreed upon by all political parties prior to Election Day. The change, introduced weeks after the polls, effectively overturned a narrow anti-junta majority in the House of Representatives.

Many stakeholders have also stated their disappointment in the ECT's adjudication of electoral complaints, which appears to have consistently favored the military proxy Phalang Pracharat Party (PPRP) over other parties. In the wake of the polls, the Future Forward Party (FFP) and other politicians hostile to the military junta found themselves the targets of a growing number of legal proceedings in what may be little more than an attempt to cow them. While most of the cases are still under investigation, the track record of Thailand's judiciary indicates that these charges, widely perceived to be politically motivated, may posit real threats to some newly seated representatives from the anti-junta camp. Therefore, we call on Thai authorities to address these matters with the utmost standards of transparency and accountability, and for the people to remain vigilant and ensure that all sides benefit from equal treatment under the law.

Altogether, the shortcomings highlighted above and detailed at length throughout our Mission Report prevent ANFREL from considering the 2019 Thai general election anything other than partly free, and not fair. It is regrettable that the people's initial faith in the process and their enthusiasm to turn out on Election Day did not transform into a broadly accepted outcome, which in turn could have contributed to the country's long-term political stability. Instead, controversial election results and subsequent

negotiations in Parliament have again sapped much of the public's trust in politics, with only 12.9% of Thais believing that the new Prime Minister and government would be legitimate¹. As the political future of Thailand looms uncertain yet once again, an unfortunate predicament that has been normalized in the minds of Thais, it is essential to address the fact that this latest Thai election was not a truly democratic process but at best a missed opportunity which failed to deliver on the people's expectations.

¹ *The Nation*, "Public disillusioned with self-serving politicians: poll", 10 June 2019, <https://www.nationmultimedia.com/detail/politics/30370802>

Election Laws and Administration

Constitutional and Legal Framework

Thailand’s modern political history is one of periodic upheavals, coups d’état, and aborted democratic experiments. Since the end of the absolute monarchy in 1932, the country has known 20 constitutions, more than any other country, with constitutions lasting less than five years on average.

Following the May 2014 coup which deposed the democratically elected Pheu Thai government and interrupted democratic rule, Thailand underwent a comprehensive regime change, with the military junta enacting an interim charter that replaced the 2007 constitution. In what the NGO Thai Lawyers for Human Rights described as a “constitutionalization of absolutism²”, the 2014 interim constitution entrusted vast powers to the newly established National Council for Peace and Order (NCPO), an organization formed by the military junta to run the country.

Most notably, the interim constitution’s Section 44 conferred absolute power over every branch of government — executive, legislative and judicial — on the NCPO. In any case which it deemed necessary, the NCPO could issue an order that could not be challenged in any forum. The sweeping powers conferred by Section 44 obviously did away with all checks and balances in the Thai government.

Although a ban on public gatherings and political activities enforced since the coup in 2014 was lifted on 11 December 2018, several NCPO orders curtailing freedom of speech, association, and assembly, remain in effect. Most prominent are NCPO Announcement 97/2014, prohibiting

² Thai Lawyers for Human Rights, “The State of Human Rights in Thailand: Four Years Under the National Council for Peace and Order”, 22 June 2018, https://www.tlhr2014.com/?wpfb_dl=100

“criticism of the work of the NCPO” and forbidding the dissemination of “information that could harm national security, cause confusion, or incite conflicts or divisions in the country”, and NCPO Announcement 103/2014 banning the publication of news “intentionally distorted to cause public misunderstanding that affects national security or public order”. These resulted in a treacherous environment for media, political parties, and civil society activists, who have resorted extensively to self-censorship to avoid the possibility of incurring severe criminal penalties.

An array of other legal enactments also continue to significantly restrict freedom of expression in Thailand, including the Computer Crime Act, the Public Assembly Act, as well as a number of articles of the Criminal Code. Section 112 of the Criminal Code contains perhaps the most stringent *lèse-majesté* law in the world, while Section 116 imposes sanctions for sedition, and Sections 326 to 333 address the offense of criminal defamation. As experience has shown, these legal weapons are too often utilized through strategic lawsuits against public participation (SLAPPs)³, and Thailand lacks any semblance of an anti-SLAPP law that could protect its citizens’ fundamental freedoms from abuse of these statutory measures by government officials or private interests.

The elaboration of a new Constitution started in 2015, and a first draft was shot down by a military-appointed council after nine months⁴. A new Constitutional Drafting Committee (CDC) composed of 21 lawyers, academics, and generals, and chaired by NCPO member Meechai Ruchuphan, was tasked with writing a new draft. The drafting process took place without public consultation, until the draft constitution was unveiled and submitted to the Thai people in a referendum in August 2016⁵. Freedom of expression was severely curtailed as the Referendum Act of

³ Kas Chanwanpen, “When freedom of speech is SLAPPED by law enforcement”, *The Nation*, 4 March 2019, <http://www.nationmultimedia.com/detail/politics/30322931>

⁴ BBC, “Thailand’s controversial draft constitution explained”, 6 September 2015, <https://www.bbc.com/news/world-asia-34149522>

⁵ ANFREL, “Thailand Constitutional Referendum 2016: A brief assessment report”, November 2016, <https://anfrel.org/wp-content/uploads/2019/05/Thailand-Referendum-2016-Report-FIN-2.pdf>

2016 prohibited criticizing or campaigning against the draft constitution and activists were harassed in the lead-up to the referendum⁶. With a turnout of only 59%, voters approved the constitution, which was then substantially modified by HM King Vajiralongkorn in sections pertaining to the powers of the monarch⁷, before becoming officially effective on 6 April 2017.

Drafted in the absence of any input from the public, and adopted in a climate where the exercise of fundamental political rights was prohibited, the 2017 Thai Constitution is unsurprisingly not conducive to democratic ideals and practices. While its Section 25 recognizes "the rights and liberties of the Thai people", in many ways the text is a step back from the 1997 and 2007 charters regarding the affirmation of individual rights⁸. For instance, it permits limits to be imposed on the freedoms of expression, assembly, and association, to "maintain public order or good morals" or "protect the health of the people"⁹ without providing definitions for these terms, thereby allowing considerable flexibility in their interpretation and the opportunity for considerable misuse of those provisions.

The last chapter of the constitutional text sets forth transitional provisions, among which Section 267 allowing the NCPO to remain in power until elections are held and a new government is sworn in, and Section 265 which allows the NCPO to invoke its "special power", per the former Section 44 of the interim Constitution. This means that this most powerful weapon in the junta's legal arsenal would cast a shadow over the entire election period, effectively preventing Thai civil society from blossoming into an open space where free speech and criticism are protected.

⁶ iLaw, "Repressive Constitution under the Referendum Act 2016", 1 April 2018, <https://freedom.ilaw.or.th/en/blog/repressive-constitution-under-referendum-act-2016>

⁷ Sasiwan Mookhasen, "First look at major changes to the new Thai Constitution", *Khaosod English*, 6 April 2017, <http://www.khaosodenglish.com/politics/2017/04/06/first-look-major-changes-new-thai-constitution>

⁸ Khemthong Tonsakulrungruang, "Life under Thailand's 2016 Constitution", *New Mandala*, 5 February 2016, <https://www.newmandala.org/liberties-and-rights-lost-under-thailands-2016-constitution/>

⁹ 2017 Constitution of Thailand, Sections 34, 42, and 44

Section 268 also establishes a loose timeframe for holding the first general election under the new constitution, which must be “completed” within 150 days of ten organic laws becoming effective. These organic laws, drafted by the CDC and adopted by the National Legislative Assembly (NLA), the junta-appointed parliament, include four directly related to elections:

- The 2017 Organic Act on the Election Commission
- The 2017 Organic Act on Political Parties
- The 2018 Organic Act on the Election of Members of the House of Representatives
- The 2018 Organic Act on the Installation of Senators

According to the junta’s electoral roadmap, polls were to be held by November 2018 at the latest. However, the election was delayed no less than five times by the NCPO, which claimed that the country was “not ready”¹⁰. When the Organic Act on the Election of MPs took effect on 11 December 2018, the deadline was set for the first election in years to be completed by 9 May 2019. After some controversy about whether “completion” meant holding the polls or endorsing the results, the Election Commission officially announced on 23 January, a few hours after the publication of the royal decree calling for elections, that Election Day would take place on 24 March 2019, and that the results would be certified by 9 May at the latest. After five years under the military junta’s unchecked rule, Thai voters were finally about to return to the polls.

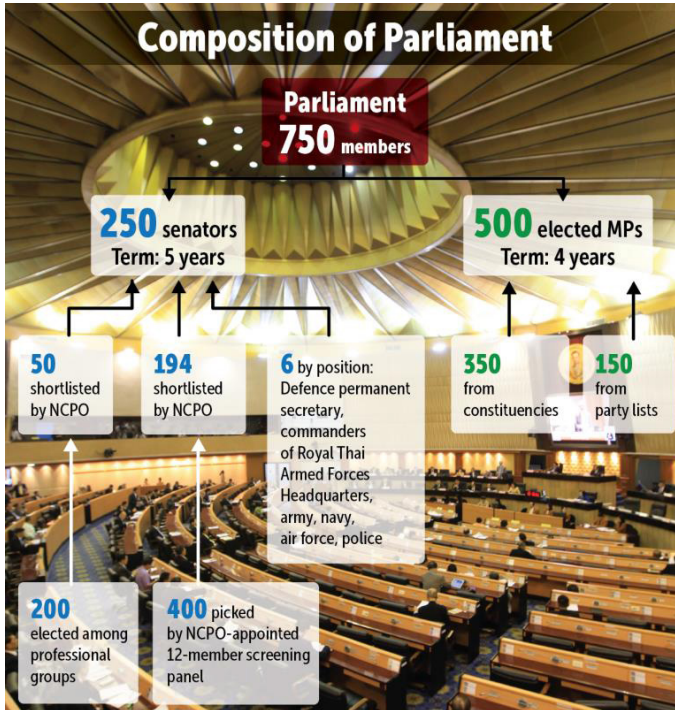
In line with the new Constitution, the new Organic Acts allow for tighter control of the political arena by national authorities. For instance, the Act on the Election Commission expanded the powers of the election management body to allow it in more simple ways to disqualify election candidates or suspend electoral processes. The Act on Political Parties simultaneously imposes more requirements for registering political parties and makes it easier to dissolve a party, including permitting the Election Commission to

¹⁰ Hannah Ellis-Petersen, “Thailand: biggest democracy protests in years held as military junta delays elections”, *The Guardian*, 14 January 2019, <https://www.theguardian.com/world/2019/jan/14/thailand-biggest-democracy-protests-in-years-held-as-military-junta-delays-elections>

dissolve a political party in the event of a breach of law by an individual associated with the party. On this point, ANFREL wishes to reiterate its long-held position that the actions of certain party members should not result in collective punishment, as political parties and their officers have distinct personalities¹¹.

Although it provides for the welcome restoration of an elected House of Representatives, the 2017 Constitution imposes new limits on the role of the people in choosing their government. An additional question was introduced in the 2016 constitutional referendum to allow Senators to jointly select the next Prime Minister along with the members of the lower house during a transitional period of five years. The question was adopted, despite its confusing phrasing and the lack of information provided to voters, thereby allowing the unelected Senators to take part in the nomination of Thailand's head of government, in what constitutes a major break away from the country's democratic tradition.

¹¹ VOA News, "Thailand braces for elections", 30 June 2011, <https://www.voanews.com/east-asia/thailand-braces-elections>



Composition of the Thai National Assembly for its first five years
(Source: Bangkok Post)

For its first five years, the Senate is composed of 250 appointees, instead of 200 appointees for the period beyond. While 6 seats are reserved for commanders of the armed forces, the police, and the Defense secretary, the remaining 244 are selected by the NCPO through two different processes. 50 Senators represent 10 economic and social groups, and are selected by the NCPO after an initial screening by the Election Commission of Thailand (ECT)¹², while the remaining 194 are nominated by the NCPO itself, through an ad hoc screening committee. Senate nominees are ultimately endorsed

¹² Dave Kendall, "Explainer: The appointed Senate", *Bangkok Post*, 28 January 2019, <https://www.bangkokpost.com/news/politics/1617850/explainer-the-appointed-senate>

by the King. For the sake of comparison, the 1997 Constitution established a fully elected Senate for the first time in Thai history, while the Senate created by the 2007 Charter saw 77 of its 150 members elected.

An analysis of the 250 Senate appointees reveals that more than a third of the new Senators have a military or police background¹³, which is unsurprising considering the strong grip that the military junta has on the appointment process. Among those chosen to sit in Thailand's Upper House are fifteen former members of the junta-appointed cabinet, as well as close family members of Prime Minister Prayut Chan-o-cha and his deputies. The names of the members of the selection committee were only disclosed after seven anti-regime parties submitted a petition to the NCPO, and it soon appeared that all ten members were high-ranking NCPO and/or Cabinet officials¹⁴. In a brazen conflict of interest, six of the ten committee members were themselves eventually appointed Senators. Deputy PM Prawit Wongsuwon, who headed the Senate selection committee, has even publicly acknowledged that the Senate would be "controllable¹⁵", leaving little suspense as to the political inclinations of the upper house.

As the term of the House of Representatives is four years, the Senate is expected to play a role in selecting both the government resulting from the March 24 vote and its successor, whether or not the newly

¹³ *Reuters*, "A third of Thailand's appointed senators linked to military, police", 14 May 2019, <https://www.reuters.com/article/us-thailand-election/a-third-of-thailands-appointed-senators-linked-to-military-police-idUSKCN1SK12J>

¹⁴ Aekarach Sattaburuth, "Govt relents on Senate selectors", *Bangkok Post*, 13 June 2019, <https://www.bangkokpost.com/news/politics/1693992/govt-relents-on-senate-selectors>

¹⁵ Wassana Nanuam, "Prawit: It won't be difficult to form the next government", *Bangkok Post*, 13 March 2019, <https://www.bangkokpost.com/news/politics/1643884/prawit-it-wont-be-difficult-to-form-the-next-government>

elected House of Representatives completes a full term before the next election is called. Additionally, the 2017 Constitution allows for an “outsider” Prime Minister, meaning that the head of government is not required to be a Member of Parliament, which is highly unusual among parliamentary democracies.

Throughout ANFREL’s observation efforts, many of the stakeholders interviewed stated that the role the Senate will play after the election was one of their major concerns. Best practices of good governance dictate that if members of Parliament are unelected, they should be prevented from taking part in the nomination of government, lest the expression of the voice of the people be distorted. In this respect, Thailand’s newest constitution bears some resemblance to Myanmar’s 2008 charter by enshrining the military’s role in political decision-making, although it does so in a different way. While the Myanmar armed forces are guaranteed a quota of 25% of seats in all of that country’s parliaments, Thailand’s Senate is fully staffed by military leaders and junta appointees, and amounts for a third of the country’s National Assembly.

ANFREL’s long-standing position is that a government coalition dependent on unelected members of parliament is unrepresentative of the voters’ will and therefore runs contrary to democratic principles. The present constitutional framework is structurally flawed because it does not provide for a democratically elected government in the short term but instead ensures that, at best, Thailand is only a guided democracy.

Finally, a review of the electoral legal framework requires at least mention of the disenfranchisement of several groups of citizens: the members of the Buddhist clergy, as well as people suffering from mental illnesses and all detainees, including those awaiting trial

or convicted of only minor crimes¹⁶. While ANFREL respects the cultural and religious traditions that serve as the basis for excluding the clergy from the electorate, we believe there is enough space in a modern democracy to allow monks, nuns, and novices to exercise their universal suffrage as private citizens.

The prohibition on detainees casting ballots regardless of their conviction status also goes contrary to the ideal of universal suffrage. Pre-trial detainees should be allowed to vote on the basis of the principle of presumption of innocence, while those convicted for minor criminal offenses should not automatically be deprived of their political rights unless explicitly a part of their sentence. We therefore encourage Thailand to consider making the necessary changes in order to allow detainees to vote, as is permitted in the Philippines and Indonesia, for example. All citizens deserve the right to vote, which is why ANFREL hopes that Thai leaders will do more to protect and defend universal suffrage in line with the international commitments Thailand has made.

Electoral System

The 2017 Constitution establishes a 750-seat National Assembly as the legislative branch of Thailand's government. This is a bicameral legislature composed of a fully-appointed Senate, as discussed above, and an elected House of Representatives. The two houses share many powers, including the adoption of laws and the selection of the prime minister during the first five years of the Constitution. The Constitution also introduces a new electoral system implemented for the first time in the 2019 general election. Classified as a "mixed-member apportionment" (MMA) system, it divides

¹⁶ 2017 Constitution of Thailand, Section 96

the 500 seats of the House of Representatives into constituency seats and party-list seats.

According to this system, 350 MPs are elected in first-past-the-post voting from single-member constituencies, while the remaining 150 MPs are selected from nationwide closed party lists. Party-list seats are derived from each party's national tally, using the largest remainder method and Hare quota for seat allocation, both of which are known to favor smaller parties and under-represent larger ones. The process gets more complicated, as the actual number of party-list seats for which a party may be eligible is determined after deducting the constituency seats it wins. Thus, a party winning a large number of constituency seats could be denied party-list seats, while a party with a substantial support but a demonstrated inability to win constituency races could win a number of party-list seats.

How to distribute the party-list seats became a highly contentious issue when a controversy emerged after Election Day regarding the precise mathematical formula to apply in the allocation of those MP seats. What may seem like a mere technical detail to most actually proved to be terribly significant because it determined the new majority in the House of Representatives, thereby eliciting charges of foul play.

Although the legal framework does not establish a threshold in percentage of votes for a political party to be eligible for party-list seats, the Election Commission informally stated in the run-up the March 24 polls that parties would need to reach around 70,000 votes to secure one seat¹⁷. This estimation was based on the electoral quotient, a number obtained by dividing the total number of valid votes by the number of MP seats, that would become the minimum requirement for parties to enter Parliament. This threshold was widely agreed upon by electoral stakeholders and supported by Section 91(4) of the 2017 Constitution, which states that the distribution of seats

¹⁷ Pravit Rojanaphruk, "Doubts over Election Commission's party list allocations grow", *Khaosod English*, 8 April 2019, <http://www.khaosodenglish.com/politics/2019/04/08/doubts-over-election-commissions-party-list-allocations-grow/>

“shall not result in any political party having more Members of the House of Representatives than the number distributed to that political party under [Section 91(2)]”, where the vote tally for each party is divided by the aforementioned election quotient. Simply put, since the March 24 polls saw an average of 71,065 valid votes per MP seat, political parties would need to reach at least this number of votes throughout Thailand to be awarded any of the party-list seats.

However, in the wake of the election, the ECT decided to implement a somewhat different formula that would allow it to award seats to smaller political parties which received fewer votes than the electoral quotient. The formula ultimately used, released in the form of a worded explanation instead of a mathematical equation¹⁸, stems from a particular reading of Section 128(4) of the Organic Act on the Election of MPs, stating that if the integral seat quotas for all parties fall short of 150, seats may be allocated to the parties having the largest remaining fraction, regardless of their total number of votes. Critical voices were immediately raised from among civil society, including domestic election observers, and at least three of the major political parties, the Democrats, Pheu Thai, and Future Forward, to challenge the fairness of the new formula and to demand an explanation for the change.

As a result of the post-election tinkering, eleven minor political parties were awarded seats that would otherwise have been awarded to other parties, despite collectively winning only 1.5 percent of all votes cast¹⁹. The biggest loser of this new allocation method was the FFP, which ended up with only 50 party-list seats instead of the 57 that it would have gained under the ECT’s pre-election mechanism. As a result, the smallest party currently

¹⁸ Election Commission of Thailand, “ข่าวส านักงานคณะกรรมการการเลือกตั้ง”, 8 May 2019, https://www.ect.go.th/ewt/ewt/ect_th/download/article/article_20190508184334.pdf

¹⁹ Panarat Thepgumpanat & Patpicha Tanakasempipat, “Small parties back Thai junta chief after rule change gave them seats”, *Reuters*, 13 May 2019, <https://www.reuters.com/article/us-thailand-election/small-parties-back-thai-junta-chief-after-rule-change-gave-them-seats-idUSKCN1SJOOS>

sitting in Parliament is the New Palangdharma Party, won only 34,924 votes for its sole seat, while the Future Forward Party amassed an average of just over 78,000 votes per seat²⁰. Such a discrepancy is hardly representative of the Thai people's will expressed at the polls.

Not only was the change of formula an undemocratic move, but the ECT failed to properly motivate the reason for its decision, which led to a widespread perception of bias on its part, as all eleven micro-parties benefiting from the lower threshold immediately committed to support a junta-led government. These party-list seats were enough to deprive the so-called “Democratic Front” coalition of the small majority that it would have attained in the House of Representatives, thereby allowing the PPRP-led bloc to claim a narrow majority.

ECT's post-election change to the allocation methodology previously disclosed and agreed upon by stakeholders is egregious and dishonest. Although the new seat allocation formula has at best a tenuous legal basis, it was duly sustained by Thailand's top judicial body. Pursuant to a request from the office of the Ombudsman, the Constitutional Court ruled that the election law and Constitution were compatible, while not explicitly endorsing the formula used by the ECT, thus leaving open the possibility of potential lawsuits from unsatisfied political parties seeking redress²¹.

Unlike in previous Thai elections, voters were invited to cast a single ballot, choosing only a candidate in their constituency while having no opportunity to express a direct opinion on party-list candidates. It is highly uncommon for mixed-member electoral systems to use a single, “fused” ballot: Germany and New Zealand, for instance, have similar systems but provide their citizens with separate votes for both tiers. This gives voters more

²⁰ Thammachart Kri-aksorn, “Weapon of math destruction at work in Thai politics”, *Prachatai English*, 15 May 2019, <https://prachatai.com/english/node/8047>

²¹ *The Thaiger*, “Court says party-list seat calculation is constitutional”, 8 May 2019, <https://thethaiger.com/hot-news/elections/court-says-party-list-seat-calculation-is-constitutional>

freedom as they can express a preference for different parties or candidates on a local and on a national basis.

This is the first time that the two tiers of MPs were tied together in the calculation process. In the 2011 election, Thailand used a mixed-member majoritarian system with 375 constituency seats and 125 party-list seats, filled through two distinct elections conducted together. A characteristic of the new system is that votes for losing candidates at the constituency level are not discarded anymore but count towards national party-list seats, therefore diminishing the majoritarian bias inherent to first-past-the-post voting. On the other hand, it implies that the allocation of party-list seats can only take place if full, credible results are available for all constituencies. Therefore, any change in the results of one constituency, for instance in an election rerun or a by-election, would impact nationwide tallies and require proportional representation seats to be recalculated, as in fact happened after one constituency rerun was held in Chiang Mai province on 26 May.

A predictable consequence of the new electoral system was to greatly increase the number of political parties and candidates vying for seats, since it has become easier for smaller political formations to enter Parliament. The following table shows the proliferation of parties and candidates under the new constitution, a phenomenon largely encouraged by the underrepresentation of larger political parties in the new system.

	2007	2011	2019
Number of constituency seats	400	375	350
Number of party-list seats	80	125	150
Number of political parties fielding constituency candidates	39	40	81
Number of political parties fielding party-list candidates	31	34	77
Number of constituency candidates	3,894	2,422	10,792
Number of party-list candidates	1,260	1,410	2,810
Eligible voters	45,092,955	46,921,682	51,239,638

Table comparing the number of parties, candidates, and voters in the 2007, 2011, and 2019 general elections
(Data: Election Commission of Thailand)

Overall, the significant changes made to the electoral system increased the amount of proportional representation, not always in accordance with a truly democratic spirit, and ensured that small political parties would have an outsized relative weight. This was intended by the CDC and the NLA, who favored a fragmented parliament prone to coalition-building in the hope of attenuating the political polarization of recent years. Nevertheless, the revised electoral rules have been widely criticized by members of academia, political parties both pro- and anti-junta, journalists, and democracy advocates for trying to curtail the power of older, established parties.

Despite the extensive changes, some fundamentals of the Thai electoral system remain the same. For instance, voting remains mandatory for all citizens aged 18 or older, with the loss of some political rights and access to some government positions for a period of two years for those who fail to cast a ballot. However, ballots also include a “none of the above” option which continues to guarantee the right of voters to abstain. Another common feature is that there is no provision allowing independent candidates to run,

as all candidates must be members of, and endorsed by, a political party. Of course, the prohibition of independent candidates is to some extent an infringement of political rights of every individual.

Thailand's electoral system provides an advance voting mechanism to accommodate voters who are unable to vote on Election Day. On the Sunday before Election Day, advance polling stations are open for those voters who have registered to cast their ballots early, either inside their constituency, or outside it, as is most often the case. In 2019, 395 advance polling centers were set up, at least one per constituency or per district in the case of Bangkok. Three of these polling centers were mobile ballot boxes for the elderly or people with disabilities in Bangkok, a welcome initiative to ensure maximum possible enfranchisement.

Voters were able to register for advance voting either online or at local government offices from January 28 to February 19, and they did so at a rate of over 100,000 a day²², in spite of minor technical difficulties encountered on the website. A longer registration period would certainly have enabled even more Thai citizens to exercise their voting rights, which is especially important since the deadline was five weeks before Election Day, still early in the campaign, and many voters were not informed of the procedure to vote early. Nonetheless, a total of 2,632,935 people registered for advance voting throughout the country. After signing up to vote in advance, voters who so registered were moved to a separate voter list to prevent them from casting ballots on March 24 if they changed their minds. Also, allowing for several advance voting days, as in other parts of the world, might also have encouraged a higher turnout. For the first time, advance voting took place on a single day, from 8 AM to 5 PM, unlike in previous years where polling stations were open from 8 AM to 3 PM on both Saturday and Sunday. While we welcome the extension of polling station opening hours,

²² Mongkol Bangprapa, "1.5 million register for early voting", *Bangkok Post*, 20 February 2019, <https://www.bangkokpost.com/news/politics/1631646/1-5-million-register-for-early-voting>

if advance voting were conducted over two days, it would have significantly contributed to minimizing the risk of long queues and voters potentially turning away from the polls.

119,313 Thai voters from overseas were the first to cast their votes, from March 4 to March 16, depending on the schedule for their polling station. 67 advance polling stations were set up in Thai embassies and consulates worldwide to conduct overseas voting, with some voters being able to mail in their ballots if they lived far from a polling station. Overall, ANFREL commends the steps taken by Thai officials to ensure that all voters were able to vote, although longer registration periods and increased communication efforts would be welcome improvements.

Ahead of the electoral campaign, redrawing electoral constituencies is always a very politicized and divisive process. When the ECT unveiled the new electoral map in November 2018, it was met with some skepticism because many of the new electoral districts reportedly were not preceded by the prescribed public consultation process and are reported to have bizarre shapes inconsistent with the three models that the election management body stated it would use in drawing constituencies. The new map was released somewhat later than expected, as the NCPO used its powers under Section 44 to extend the ECT's deadline, allegedly because the designs did not take public input into account²³. Some critics suggested that the extension may have been an attempt by the junta to weigh in on the new electoral map.

Overall, what is clear about the constituency delimitation process was a lack of transparency, as public consultations were generally discreet and there was little scrutiny of the steps leading to the publication of the final electoral map. As is inevitably the case when such an important part of election preparations is not conducted in the open, there were politicians who claimed that the ECT engaged in gerrymandering to favor the military-

²³ Aekarach Sattaburuth & Mongkol Bangprapa, "EC poll map splits views", *Bangkok Post*, 30 November 2018, <https://www.bangkokpost.com/news/politics/1584702/ec-poll-map-splits-views>

backed Phalang Pracharat Party. Representatives of two major political parties, the Democrats and the Pheu Thai, complained about the intervention of the junta government in redrawing electoral districts including several constituencies in the provinces of Maha Sarakham, Nakhon Ratchasima, Sukhothai, and Ubon Ratchathani²⁴. Such accusations are difficult to either corroborate or dismiss without comprehensive knowledge of the particulars of each case, but ANFREL encourages the ECT to conduct the redrawing of boundaries in a more transparent manner in the future in order to foster acceptance of the electoral map.

In a break with the practice of previous Thai elections, political parties were not assigned a unique number for use throughout the country, but numbers were drawn instead in each of the 350 constituencies. This made it impossible for political parties to use a single ballot number for nationwide campaigning and more difficult for voters to determine which candidate on their ballot represented which party. Otherwise, ballot papers were similar to those used in the 2011 general election and displayed only the number of each political party, along with its logo and name, while the names of candidates themselves were not on the ballot.

²⁴ Pravit Rojanaphruk, "Parties fume over new "gerrymandered" electoral map", *Khaosod English*, 30 November 2018, <http://www.khaosodenglish.com/politics/2018/11/30/parties-fume-over-gerrymandered-electoral-map/>

บัตรเลือกตั้งสมาชิกสภาผู้แทนราษฎรแบบแบ่งเขตเลือกตั้ง

จังหวัด..... เขตเลือกตั้งที่.....

ให้ทำเครื่องหมายกากบาท X ภายใน "ช่องทำเครื่องหมาย" ไม่เกินหนึ่งหมายเลข

หมายเลขประจำตัวผู้สมัคร	ภาพเครื่องหมายพรรคการเมือง	ชื่อพรรคการเมือง	หมายเลขประจำตัวผู้สมัคร	ภาพเครื่องหมายพรรคการเมือง	ชื่อพรรคการเมือง
1			21		
2			22		
3			23		
4			24		
5			25		
6			26		
7			27		
8			28		
9			29		
10			30		
11			31		
12			32		
13			33		
14			34		
15			35		
16			36		
17			37		
18			38		
19			39		
20			40		

ถ้าไม่ประสงค์ลงคะแนนเลือกผู้สมัครใดเลย ให้ทำเครื่องหมาย X ในช่องไม่เลือกผู้สมัครใด

Sample ballot for the 2019 Thai General Election
(Source: Election Commission of Thailand)

What was finally printed on the ballot was, however, better than the initial proposal for ballots to omit the parties' names and logos altogether, displaying only party numbers, a proposal which was justified by alleged timing constraints relative to overseas voting²⁵. Fortunately, the ECT backtracked and reinstated party names and logos on the ballot. However, election management officials did not prevent disqualified parties from appearing on the ballot: this was most significant in the case of the Thai Raksa Chart party, which was dissolved by the Constitutional Court less than 3 weeks before the polls. As there was no mention or sticker on ballots

²⁵ Bangkok Post, "Ballot format draws flak", 8 December 2018, <https://www.bangkok-post.com/news/politics/1590174/ballot-format-draws-flak>

to inform voters of the party's dissolution, some people may have voted for its candidates without being aware that their vote would be deemed invalid.

Considering the changes in the electoral system and the large number of first-time voters in this general election, it would have been preferable if authorities had taken further steps to educate the public and disseminate information on how ballots were to be cast and counted ahead of the election. An opinion poll conducted three months before the election showed that an overwhelming majority of the voters did not have a proper understanding of voting procedures²⁶. Members of the ANFREL mission also observed during the campaign period and on Election Day many voters who seemed to be confused about key parts of the electoral process, including how to vote for their preferences, how to find information about the candidates, and how the polling process would be conducted.

The Election Commission of Thailand (ECT)

Thailand's election management body is the Election Commission of Thailand (ECT), an independent authority first established by the 1997 Constitution and retained in subsequent charters, though with some changes in the latest Constitution. The ECT is supposed to be free from political influence. However, as it does not fall under the jurisdiction of either the Constitutional Court or the Administrative Court, mechanisms for the ECT's accountability are not formally established. Election commissioners remain personally liable for criminal wrongdoing, which was the case when members of the second ECT (2001-2006) were jailed for alleged bias in favor of Thaksin Shinawatra in the wake of the 2006 coup.

Section 224 of the 2017 Constitution entrusts the ECT with the following duties: to hold parliamentary and local elections, and referenda; to oversee

²⁶ *Bangkok Post*, "Most people confused by new electoral system: Nida Poll", 11 November 2018, <https://www.bangkokpost.com/news/politics/1573982/most-people-confused-by-new-electoral-system-nida-poll>

the screening of Senators; to ensure that elections proceed in an honest and just manner and conduct investigations when appropriate; to suspend, rectify, or cancel an election and hold a new round if necessary; to invoke sanctions of up to one year of ineligibility if someone tampers with an election; and to ensure that political parties operate within the boundaries of the law.

The 2017 Constitution establishes a seven-member Election Commission, up from five members in previous charters. Commissioners are appointed for a non-renewable term of seven years, but the members of the fourth ECT, established in 2013, were dismissed by the 2017 Organic Act on the Election Commission, which required the appointment of an entirely new body. Sitting commissioners were to remain in office until their successors could be named, except for Somchai Srisuthiyakorn, who was ousted from office in March 2018 by a Section 44 order from PM Gen. Prayut Chan-ocha, on the grounds of improper conduct²⁷.

After a first attempt to staff the new ECT in February 2018, during which the junta's rubber-stamp National Legislative Assembly turned down all seven prospective nominees for undisclosed reasons²⁸, five commissioners were appointed in August 2018. They were among seven nominees presented by the judiciary and an ad hoc selection committee, while the other two nominees were once again rejected by the NLA²⁹. The final two vacant seats were filled by the NLA in a closed-door session in November 2018, only four months before the general election³⁰.

²⁷ *The Nation*, "EC Somchai sacked", 20 March 2018, <http://www.nationmultimedia.com/detail/politics/30341362>

²⁸ *The Nation*, "Ball in NLA court as selection panel picks new EC members", 4 May 2018, <http://www.nationmultimedia.com/detail/politics/30344568>

²⁹ Aekarach Sattaburuth & Nattaya Chetchotiros, "NLA rejects 2 EC member hopefuls", *Bangkok Post*, 13 July 2018, <https://www.bangkokpost.com/news/politics/1502346>

³⁰ Aekarach Sattaburuth, "NLA votes in approval of final two election commissioners", *Bangkok Post*, 22 November 2018, <https://www.bangkokpost.com/news/politics/1580318/nla-votes-in-approval-of-final-two-election-commissioners>

The current make-up of the ECT is as follows:

- Mr. Ittiporn Boonprakong (Chairman), former director of the treaties and legal affairs department at the Ministry of Foreign Affairs, and former ambassador to Kenya and the Netherlands
- Mr. Tawatchai Lertpaothai, former governor of Saraburi province
- Mr. Chatchai Chanpraisri, former Supreme Court judge
- Mr. Pakorn Mahannop, former Supreme Court judge
- Mr. Suntud Sirianuntapiboon, former environmental technology professor
- Mr. Lertviroj Kowattana, former permanent secretary for agriculture and cooperatives
- Mr. Thitichet Nuchanat, former adviser to the Lawyers Council

ECT commissioners were chosen by the National Legislative Assembly in a process lacking in transparency, thereby raising concerns about the independence of the new members of Thailand's election management body³¹³². Apart from the obvious and regrettable lack of women on the Commission, it is worth mentioning that the commissioners hail from various lines of work, but none of them had any experience in managing elections prior to their appointment. Given the importance of ECT's responsibilities and the short timeframe in which they were expected to hold a general election, this placed the commission in a somewhat precarious position.

Even before Election Day, domestic observer group PNET issued a statement saying that the ECT had failed to fulfill its work requirements, demonstrate a strong sense of responsibility or even its commitment to free and fair elections during the first six months of its mandate. PNET called on the commission to "improve its performance quickly as well as make

³¹ Khemthong Tonsakulrungruang, "Thailand's tainted Election Commission", *New Mandala*, 18 April 2019, <https://www.newmandala.org/thailands-tainted-election-commission/>

³² iLaw, "The 2019 Elections, of the NCPO, by the NCPO, and for the NCPO", 7 November 2018, <https://ilaw.or.th/node/5004>

timely announcements about its works, so the administration of the election [would] be transparent and accepted both locally and abroad³³”.

Transparency is the hallmark of truly democratic elections, which is why the presence of non-partisan domestic and international election observers is essential to a healthy democracy. With the exception of the 2016 constitutional referendum, Thailand has consistently welcomed the presence of international observers, and ANFREL was able to deploy missions for the 2001, 2005, 2007, and 2011 general elections. However, there was concern that Thailand would not allow international observers this year after Foreign Minister Don Pramudwinai declared that they were not “not needed” because allowing them would imply that Thailand had electoral problems³⁴. This statement was especially surprising considering that Thailand is a member of the Inter-Parliamentary Union (IPU), a body which recognizes the right for election observers to take part in electoral processes³⁵.

³³ Pravit Rojanaphruk, “Poll observers give “F” grade to Election Commission”, *Khaosod English*, 7 March 2019, <http://www.khaosodenglish.com/news/2019/03/07/poll-observers-give-f-grade-to-election-commission/>

³⁴ Aekarach Sattaburuth, “Foreign poll observers ‘not needed’”, *Bangkok Post*, 7 November 2018, <https://www.bangkokpost.com/news/politics/1571158/foreign-poll-observers-not-needed>

³⁵ Declaration on Criteria for Free and Fair Elections, Article 4(7): “States should take all necessary and appropriate measures to ensure the transparency of the entire electoral process including, for example, through the presence of party agents and duly accredited observers.



ANFREL Executive Director Mrs. Chandanie Watawala and Spokesperson Mr. Damaso G. Magbual meet with ECT Chairman Mr. Ittiporn Boonprakong, Special Advisor Mr. Anucha Chansuriya and ECT staff on February 11

Fortunately, the ECT did not follow the Foreign Minister's position, and it allowed ANFREL to field international observers for the 2019 general election. After sending an initial letter on 19 November 2018, ANFREL was able to meet ECT Chairman Mr. Ittiporn Boonprakong and other ECT officials to discuss its request to observe the polls. Notwithstanding that ANFREL's initial request was made in November, the ECT did not grant accreditation until 15 March, less than ten days before Election Day, which hindered our ability to recruit a fully-functioning observation mission. In the future, election observers need clear rules and timely accreditation, key tenets of the Declaration of Principles for International Election Observation³⁶ and the Bangkok Declaration on Free and Fair

³⁶ Declaration of Principles for International Election Observation, Article 12: "In order for an international election observation mission to effectively and credibly conduct its work basic conditions must be met. An international election observation mission therefore should not be organized unless the country holding the election takes the following actions: (a) Issues an invitation or otherwise indicates its willingness to accept international election observation missions in accordance with each organization's requirements sufficiently in advance of elections to allow analysis of all of the processes that are important to organizing genuine democratic elections..."

Elections³⁷, two of our guiding documents.

Under the election law, the ECT relies on mobile election inspectors to oversee the work of local election staff and to investigate complaints or alleged electoral fraud. Between 2 and 8 inspectors were appointed per province, for a total of 413 inspectors³⁸. The ECT conducted training sessions for the staff members charged with tending the 92,837 polling stations across the country. All polling staff interviewed by ANFREL observers declared that they had received at least one day of training in the weeks leading up to the polls and felt prepared to conduct their duties; however, some instances of mismanagement or perfunctory knowledge of polling procedures later indicated that training was not always sufficient. In addition to its own staff, the ECT was also able to call on help from election “support centres” set up by the Department of Provincial Administration and other state agencies to ensure order and facilitate logistical arrangements³⁹.

ECT’s regulations for the 2019 general election were not made readily accessible on their website, or disseminated widely to the media and public. The ECT also has no public docket of complaints or case-tracking system where one could follow the progress of cases being investigated by election officials. Political parties, analysts, and observers were reduced to depending on partial information released by the ECT during press briefings. The lack of transparency and cooperation between the Commission and other electoral stakeholders severely limited the outflow of information among the public at large. We would therefore strongly encourage Thai authorities

³⁷ Bangkok Declaration on Free and Fair Elections, Article 18(2): “When accreditation is given inconsistently or only at the last minute, it is difficult for election observation groups to properly conduct the complex planning required for a mission to observe the pre-election process as well as the election day and post-election activities. EMBs should set out clear rules for timely accreditation of domestic and international observers and apply them fairly and consistently.”

³⁸ *NNT*, “EC shortlists 413 inspectors to ensure fair elections across Thailand”, 26 December 2018, <https://news.thaivisa.com/article/29993/ec-shortlists-413-inspectors-to-ensure-fair-elections-across-thailand>

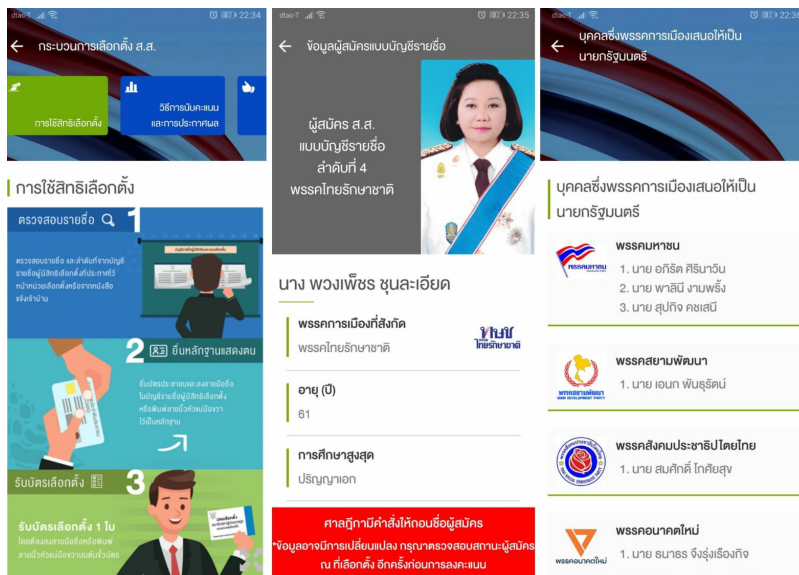
³⁹ *Bangkok Post*, “Poll support centres set up to help watchdog”, 22 February 2019, <https://www.bangkokpost.com/news/general/1632958/poll-support-centres-set-up-to-help-watchdog>

to adopt a more open and proactive approach to releasing electoral data and regulations, which should be made easily available in an effort to foster voters’ trust in the process.



An ANFREL observer attends a training session for polling staff on 19 March in Si Samrong district, Sukhothai province

A welcome initiative from the election management body was the development of a trio of mobile applications for use by voters and election officials. The most important of these is “Smart Vote”, a one-stop shop for voters to obtain information about the electoral process and candidates. Replete with infographics, videos, official documents from the ECT, and personal information about candidates, the app allowed users to check their voter registration status, the location of their polling station, the list of political parties running in their constituency, the process for advance voting and basic regulations about polling procedures. QR codes were posted in many polling stations to advertise the application, and Smart Vote was downloaded over 100,000 times from the Google Play store, which is a relatively small number in comparison to the size of the electorate.



These screenshots of ECT's Smart Vote application display examples of the information available to voters regarding polling procedures, candidates, and political parties

While this is a potentially useful tool for voter education whose development is to be encouraged, the application also had shortcomings that should be addressed for future elections. Some fundamental information was missing, for instance guidelines on how to properly cast a ballot, the programs of political parties, or election results. In line with our recommendations for making election data more transparent, the ECT should ensure that the information contained in its apps for the general public is as complete as possible. Moreover, all data included on the applications should also be made available on the ECT's website or a dedicated web platform that voters could easily access from any device, which was not the case this year.

Another application, dubbed “Pineapple Eyes”, provides to all citizens a way to report potential irregularities to the ECT. After logging in with their national ID card number, anyone can send a complaint to election officials and attach pictures or videos if necessary. While this is a good initiative,

the process could be improved by allowing anonymous reports in order to ensure the protection of whistleblowers. Additionally, the complaint mechanism could be included in the Smart Vote app itself, to avoid the need to download a separate app which few people have heard of. There was no publicity about this application, and the number of reports submitted through the app and the actions taken by the ECT in relation to those complaints were never disclosed, so Pineapple Eyes' effectiveness remains unknown.

The last application was designed for polling staff only, in order to submit their counting results up the ladder of the election management structure. Called "Rapid Report", this software was already used during the 2016 referendum. In the 2019 general election, many technical difficulties were encountered on the Rapid Report system, which was allegedly the reason for delayed and inaccurate preliminary results. On 24 March, ANFREL observers were able to witness a number of polling staff opening the app, only to face an unresponsive, frozen screen. While the technical challenges in setting up such an IT system are great, election management bodies should ensure that their software is fully tested and bug-proof before relying on it for widespread use. In the spirit of transparency, all software used in the tabulation and transmission of results should also undergo a round of source code review from third-party experts and invite feedback from civil society, as is standard among countries which rely on IT at any stage of the electoral process.

Voter List Management

Elections are about inclusion, and thus truly democratic ones ensure the participation of all citizens, as voters or as candidates, regardless of their socioeconomic and political conditions. In fact, existing regional⁴⁰ and international standards on democratic elections and human rights place a premium on this principle^{41,42}. In technical election monitoring, one key measurement of participation is the quality of the voter lists, a feature which lies at the heart of electoral integrity and is an important consideration in determining whether an election is a democratic one.

The Bangkok Declaration on Free and Fair Elections emphasizes that the quality of a country's voter lists impacts the legitimacy of the elections, as well as public confidence in the process. The 2017 Thai Constitution is explicit on the compulsory nature of voting by all eligible citizens, and failure to vote without an acceptable reason will result in a citizen incurring a penalty, such as "restriction of certain rights as provided by law." Eligibility to vote is defined by Section 95 of the 2017 Thai Constitution,

⁴⁰ Bangkok Declaration on Free and Fair Elections, Article 2: "1. Prohibiting certain groups of people from voting erodes the legitimacy of elections as the true expression of the people. Electoral laws must consider that universal franchise is upheld in accordance with each country's context. 2. Citizens of voting age must be guaranteed the right to vote regardless of their religious, ethnic, or social status."

⁴¹ Universal Declaration on Human Rights, Article 21: "Everyone has the right to take part in the government of his country, directly or through freely chosen representatives..."

⁴² International Covenant on Civil and Political Rights, Article 25: "Every citizen shall have the right and opportunity, without any of the distinctions mentioned in Article 2 [race, color, sex, language, political or other opinion, national or social origin, property, birth or other status] and without unreasonable restrictions:

- a. To take part in the conduct of public affairs, directly or through freely chosen representatives;
- b. To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the elections..."

which includes the following provisions:

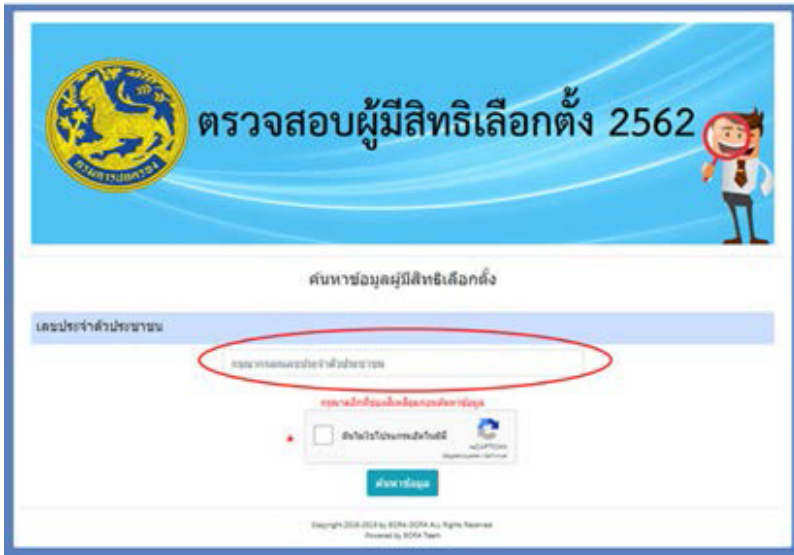
- “1. being of Thai nationality, provided that a person who has acquired Thai nationality by naturalization must hold the Thai nationality for not less than five years;
2. being not less than eighteen years of age on the election day;
3. having his or her name listed in the household register in the constituency for not less than ninety days up to the date of the election.”

The same section also includes provisions which ensure the rights of out-of-constituency voters, or voters who reside outside the constituency where their names appear on the household list, as well as those eligible citizens who reside outside of Thailand.

On the other hand, while the legal system generally requires all Thai citizens to vote, Section 96 of the Constitution also enumerates a class of citizens who are prohibited from voting. These are:

- “1. Being a Buddhist monk, Buddhist novice, ascetic or priest;
2. being under revocation of the right to vote, whether or not such case is final;
3. being detained by a warrant of the Court or by a lawful order;
4. being of unsound mind or of mental infirmity.”

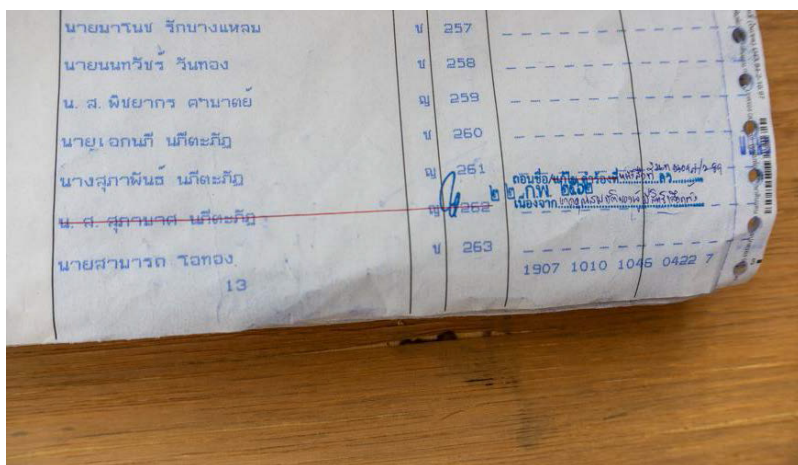
Thai citizens do not have to register to be included on the voter list. Inclusion on the voter list is automatic, and all information about each voter is sourced from other existing government documents. Most of the voter data are culled from the Thai Household Register, a document managed by the district offices (*amphoe*), which contains a list of households and their members in a given administrative area.



Screenshot of the website where Thai citizens can check their voter registration status

The Thai voter list contains information such as the name, sex, birthday, and national ID number of each voter. To verify its accuracy, the voter list is posted 20 days prior to an election so that each voter can check the information. Voters can see their voter lists in district offices or on an online database and a mobile application the Election Commission of Thailand (ECT) produced. Each household receives a document which contains household members and information on their designated polling centers, which unfortunately was sent late this year in some instances. Should they find mistakes regarding voter information, citizens can file a complaint with their district office which will then trigger a correction process which should be acted upon 10 days before an election. Citizens can also file a complaint to question the inclusion or non-inclusion of a voter on the voter list. Under current regulations, the head of the household can also challenge information on the voter list on election day itself but must provide much information.

The advance voting registration process was conducted from 28 January to 19 February 2019. Advance voting registration is a process which enables a voter to cast a ballot early⁴³ from the district where the voter is residing. This process removes the need for voters to travel to their actual constituencies to vote on Election Day. While most voters registering for advance voting were living outside of their constituency, there were some who chose to vote early in their own constituency because they would be unavailable on 24 March, for instance if they were to man polling stations. The same process applies for Thai citizens living outside of Thailand, in which case they can vote at the closest Thai embassy or consulate⁴⁴. Re-registration can be done by visiting the district office or embassy to express the voter's intent to vote where he or she is residing, or a voter can opt to register online. A separate voter list is then created and maintained to contain the names of all advance voters. Names included on the advance voter list should then be purged from the Election Day voter list.



Example of a name removed from the voter list by election officials

⁴³ Out-of-constituency and inside-constituency advance voting was conducted on 17 March 2019.

⁴⁴ Overseas advance voting was conducted from 4 to 16 March 2019.

Interviews and inspections made by the mission's observers revealed the voter list to be mostly accurate, registering only minor issues. Among the few mistakes ANFREL noted were isolated instances of names of children and the deceased that were accidentally included on the list⁴⁵. There were no reported instances of advance voters' names being included on the Election Day voter list. The names of those prohibited from voting were still included in the voter list. For those whose voting rights were revoked as punishment, those detained, and those deemed by authorities to be of "unsound mind or of mental infirmities", observers saw instances where their names were stricken to prevent them from voting. Names of religious leaders were left unmarked, thus opening a possibility for them to vote if they were not wearing religious garments.

Overall, the quality of the voter list was exceptional, with only a few instances where voters were turned away due to their names not being included on the list. Most of these occurred during the advance voting conducted on 17 March, usually due to a poor understanding of the online re-registration process, where voters failed to complete the final step. In total, there were 2,632,935 eligible voters who registered for advance voting across Thailand, and an additional 119,313 for advance voting overseas.

One inevitable consequence of automatic registration, however, was the system's rigidity against changing voter information, especially the address of a voter. In Bangkok, for instance, ANFREL interviewed voters who have resided in the city for several decades but who have to re-register and vote for candidates from the constituency in the provinces where their names appear on the household list. According to these voters, they are effectively voting for candidates who do not represent them. Thus, an effort must be made to provide for more flexibility in changing households or changing one's address to allow voters to decide which constituency seems correct for them to vote in.

⁴⁵ *The Nation*, "EC threatened with lawsuits, impeachment over alleged irregularities", 27 March 2019, <https://www.nationmultimedia.com/detail/politics/30366599>

While district offices managed the voter lists properly, the ECT made some lapses in declaring the actual number of voters nationwide. Up until 24 March 2019, the ECT declared that there were 51,205,624 eligible voters, but on 28 March 2019 the number rose to 51,239,638 eligible voters. No explanation was given by the ECT regarding the sizable discrepancy, and such errors cast doubt on the integrity of the voter list data. For the purposes of this report, ANFREL will use the figure announced on 28 March.

Political Party Registration and Regulation

Several laws govern the formation and registration of political parties seeking to contest elections. The most crucial provisions are contained in Section 45 of the 2017 Constitution and in the 2017 Organic Act on Political Parties. These define how a political party is formed, governed, and gains the right to contest in elections. Among the requirements that must be met to form a political party are a founding membership of at least 500 citizens in accordance with Section 9 of the organic law, the establishment of a 1 million baht (around 32,000 USD) seed fund, and the holding of a plenary session attended by at least 250 members in accordance with Section 10. However, to hold a plenary session in 2018, all applicants were required to obtain the permission of the National Council on Peace and Order (NCPO) so as not to violate the severe curbs on freedom of assembly in effect at that time. The ECT then had 30 days to decide whether to approve a party's application. On 2 March 2018, the first day of registration of political parties, at least 38 new political parties applied with the ECT⁴⁶. By 3 April 2018, a total of 98 parties had sought approval from the ECT⁴⁷.

⁴⁶ AFP, "Dozens of new political parties register in run up to Thai poll", *The Straits Times*, 2 March 2018, <https://www.straitstimes.com/asia/se-asia/thailands-election-commission-opens-registration-for-new-parties>

⁴⁷ *The Nation*, "Fifteen new political parties get approval", 13 April 2018, <http://www.nationmultimedia.com/detail/politics/30343087>

There were 81 political parties allowed by the ECT to participate in the election and submit candidate names for constituency, party list, and prime minister contests. Submission of candidate applications took place from 4 to 8 February 2019. Each candidate, whether running on the basis of constituency⁴⁸ or party-list⁴⁹, had to pay a non-refundable fee of ten thousand baht to register. On 24 February, the ECT announced that 10,792 candidates from 81 parties⁵⁰ had met the requirements to run for constituency seats, while 2,810 party-list candidates from 77 parties were qualified to run⁵¹, along with 71 prime ministerial nominees from 46 political parties.

While the registration process was mostly uneventful, the period following candidates and PM nominees registration was plagued by controversies brought about by the overly technical political party regulations under the Organic Act for Political Parties and the Constitution. While the registration process itself did not pose much restriction, the network of existing laws made it easier for political parties to be disqualified based on technicalities. Scrutiny of the law reveals that the legal system does not distinguish between the personality of the party and that of its members, and there are instances where violations of a party member can result in the dissolution of a party. The Organic Act on Political Parties play host to such policies such as those in Sections 44, 45, 46, 72, and 74 among others. In effect, the laws mete out disproportionate penalties, where an entire party is sanctioned for violations of individual members. Furthermore, the electoral system does not recognize the participation of independent candidates. Such restriction goes against individual political rights enshrined in the Dili Indicators of

⁴⁸ Organic Act on the Election of Members of the House of Representatives, Section 45

⁴⁹ Organic Act on the Election of Members of the House of Representatives, Section 57

⁵⁰ The ECT received 11,181 constituency candidate names, 389 of which was deemed unqualified to run.

⁵¹ The ECT received 2,917 party-list candidate names, 107 of which were deemed unqualified to run.

Democratic Elections⁵² and the United Nations Human Rights Committee⁵³.

Among the most controversial issues was the dissolution of the Thai Raksa Chart Party (TRC), one of the parties associated with the Pheu Thai Party camp. The ECT believed that TRC committed an act violating the fundamental principles of Thailand's constitutional monarchy after it nominated the King's eldest sister, Princess Ubolratana Mahidol, as its candidate for Prime Minister⁵⁴. Twelve hours after the surprise announcement, HM King Vajiralongkorn issued a decree against the Princess's candidacy, deeming it "a violation of royal tradition [...] and highly inappropriate⁵⁵". The election management body then moved to disqualify the Princess as a PM nominee and filed a case with the Constitutional Court to dissolve the party based on vaguely defined "customary law". The Court ruled in favor of the ECT's case on March 7, thereby immediately dissolving the party, banning its 14 executives from setting up political parties, running in elections, or becoming political party executives for 10 years. Due to the dissolution, all Thai Raksa Chart candidates were also disqualified from running in the election⁵⁶. As advance voting was already under way, it is possible that

⁵² Dili Indicators of Democratic Elections, Article II(b)(4): "Independent candidates are allowed to compete in elections."

⁵³ UN Human Rights Committee CCPR General Comment No. 25, Paragraph 17: "The right of persons to stand for election should not be limited unreasonably by requiring candidates to be members of parties or of specific parties."

⁵⁴ Princess Ubolratana relinquished her royal status after she married an American in 1972. After their divorce in 1998, she returned to Thailand and performed duties on behalf of the Royal Family while not reacquiring her royal status. Upon accepting Thai Raksa Chart's nomination, she declared herself to be a "commoner" through an Instagram post. "For the Thai Raksa Chart party to nominate me to be a candidate for prime minister is a display of rights and freedoms and shows that I have no privileges over the Thai public under the current charter," she said. Source: *The Nation*, "I'm 'now a commoner' candidate", 8 February 2019, <https://www.nation-multimedia.com/detail/breakingnews/30363777>

⁵⁵ *Bangkok Post*, "Princess Ubolratana 'may not take political position'", 8 February 2019, <https://www.bangkokpost.com/news/politics/1626046/princess-ubolratana-may-not-take-political-position>

some voters saw the ballots they had already cast become invalid after the fact due to the Court's decision.

Several opined that the action of the Thai authorities regarding this matter seemed like an abuse of power⁵⁷, and convolution of the law⁵⁸. While the TRC did not appeal the decision of the Constitutional Court, some who criticized the ruling are now facing criminal prosecution. For example, the Future Forward Party's secretary-general, Piyabutr Saengkanokul, was charged with contempt of court under Section 198 of the Criminal Code and with spreading false information under Section 14(2) of the Computer Crimes Act as a result of his criticism of the Court's ruling to dissolve the Thai Raksa Chart Party⁵⁹.

Electoral Dispute Resolution

The Constitution, the Organic Act on the Election Commission, and the Organic Act on the Election of MPs, provide the Election Commission of Thailand with a broad mandate to “control and supervise”

⁵⁶ Bangkok Post, “Constitutional Court disbands Thai Raksa Chart”, 7 March 2019, <https://www.bangkokpost.com/news/politics/1640796/constitutional-court-disbands-thai-raksa-chart>

⁵⁷ Amnesty International Thailand, “Decision to dissolve political party shows restrictive environment for human rights”, 7 March 2019, <https://www.amnesty.or.th/en/latest/news/699>

⁵⁸ Eugénie Mérieau, “What is the role of a Constitutional Court in a military dictatorship? On the dissolution of Thai Raksa Chart”, New Mandala, 5 April 2019, <https://www.newmandala.org/whats-the-role-of-a-constitutional-court-in-a-military-dictatorship-on-the-dissolution-of-thai-raksa-chart/>

⁵⁹ Prachatai English, “Lawsuits against Future Forward proceed after Songkran”, 18 April 2019, <https://prachatai.com/english/node/8024>

elections⁶⁰, including the power to conduct fact-finding investigations, suspend candidates from running for office for not more than one year, conduct arbitration hearings, and order re-elections. The ECT is not only a quasi-judicial body, it can also petition the Supreme Court if it has suspects a violation of election laws by a candidate⁶¹, or the Constitutional Court if the alleged violation involves executive members of a political party⁶². Impartial dispute resolution mechanisms are essential to bolster public trust in the electoral process. Some electoral stakeholders reported a poor understanding of existing dispute mechanisms, as the procedures to address reported instances of electoral fraud and other complaints were not made sufficiently clear to them. The existence of a public docket of complaints, where citizens and stakeholders could track ongoing dispute cases, would have greatly enhanced the transparency of the process. In Indonesia for instance, all data relative to electoral dispute resolution is freely available to the public.

Throughout the election period, the general impression reported by most stakeholders was one of persistent bias by the Election Commission, as perhaps is best illustrated by comparing its treatment of cases against the junta-sponsored Phalang Pracharat Party (PPRP) and other political parties.

For instance, after the PPRP held a fundraising dinner in December 2018, many rival politicians and activists claimed that government officials made illegal financial contributions to the party. They filed complaints with the ECT, alleging that some contributions were over the allowed amount, and that the party did not properly report all income from the event^{63,64}. When

⁶⁰ Constitution of Thailand, Sections 224-226

⁶¹ Organic Act on the Election of MPs, Section 133

⁶² Organic Act on the Election of MPs, Section 132

⁶³ *The Nation*, "Bellies full, but who paid?", 21 December 2018, <http://www.nationmultimedia.com/detail/politics/30360861>

⁶⁴ *Bangkok Post*, "Activist wants Palang Pracharat donations probed", 19 January 2019, <https://www.bangkokpost.com/news/politics/1614138/activist-wants-palang-pracharat-donations-probed>

the election management body cleared PPRP of any wrongdoing, it did so after investigating only claims related to Section 74 of the Organic Act on Political Parties, regarding foreign contributions, which was not mentioned by any of the petitioners. Instead, most complaints were based on Section 76, dealing with the prohibition for state officials and agencies to finance parties⁶⁵. While ANFREL is not privy to the details of this case, which were not publicly disclosed, the apparent reluctance to investigate serious allegations campaign finance violations and the eagerness to clear the PPRP cast a cloud on the ECT.

In another high-profile case, the ECT issued the bizarre ruling that PM Prayut Chan-o-cha was not a government official and therefore was eligible to be a prime ministerial candidate⁶⁶. The decision came only three days before the election, after the Association for the Protection of the Constitution filed a complaint against the PPRP for nominating Gen. Prayut. The ruling is in line with the position of the Ombudsman's Office, which stated that the NCPO chief was not a state official but a royal appointee and because the NCPO operates outside of state authority, although it is not clear whether the Ombudsman has authority on the matter. Furthermore, an activist pointed out that Gen. Prayut was ruled a government official by the Supreme Court in another case, which at least highlights an inconsistency about the status of the coup leader in the eyes of the law⁶⁷.

On the other hand, the ECT appeared to act swiftly in several cases involving political parties in the anti-junta camp, for instance in forwarding the case of the Thai Raksa Chart (TRC) Party to the Constitutional Court when it

⁶⁵ Mongkol Bangprapa, "Anger as PPRP let off the hook", *Bangkok Post*, 13 March 2019, <https://www.bangkokpost.com/news/politics/1643404/anger-as-pprp-let-off-hook>

⁶⁶ Thitinan Pongsudhirak, "The anatomy of a very tricky election", *Bangkok Post*, 29 March 2019, <https://www.bangkokpost.com/opinion/opinion/1652708/the-anatomy-of-a-very-tricky-election>

⁶⁷ *Prachatai English*, "Prayut the government official cannot run for PM, contends victim convicted of failing to follow the order of government official Prayut", 20 March 2019, <https://prachatai.com/english/node/7978>

was accused of committing an act hostile to the monarchy by nominating Princess Ubolratana Mahidol, as its prime ministerial candidate. The ECT also disqualified a winning candidate from the Pheu Thai Party (PTP) in Chiang Mai province for vote-buying after he gave money to a temple during the campaign⁶⁸. The politician denied the allegations and argued that it was a strictly personal matter, especially since monks are not eligible voters in Thailand. In any case, the decision is surprising as other MP candidates made similar donations without being sanctioned by election officials, which demonstrates at least a selective application of electoral laws.



Ballots are counted in San Pa Tong district, Chiang Mai province, on 26 May

This disqualification of a winning MP candidate led to the only constituency-wide election re-run this year. A new poll was held on 26 May in Chiang Mai's constituency number 8, and ANFREL was able to witness the high level of polling staff preparation and a peaceful election. Some voters, however, expressed confusion as to why they had to vote again, which suggests that they were not properly informed by local election officials. In a bizarre twist, the election re-run also had an unfortunate consequence for

⁶⁸ *The Nation*, "Pheu Thai candidate dismisses allegations, demands review of orange card", 26 April 2019, <https://www.nationmultimedia.com/detail/politics/30368419>

the small Thai Rak Tham party, which won 33 votes against 57 in the 24 March poll, and subsequently lost its only MP seat because of the recalculation of the party-list seats⁶⁹. The election law indeed stipulates that for a period of one year, any additional electoral result would lead to a correction of the party-list seats if necessary⁷⁰.

Aside from the re-run in Chiang Mai, there were only minor Election Day mistakes that needed to be resolved. Elections were held again at six polling stations in Bangkok, Lampang, Yasothorn, Phetchabun, and Phitsanulok, because the number of ballots cast did not match those of voters present⁷¹. One constituency in Nakhon Pathom province saw the need for five different recounts before the ECT could finally declare a candidate, a result that was ultimately called into question by the FFP that came in second place⁷². On another note, 11 MP candidates were disqualified after the election because they were either members of two political parties or members of their party for less than 90 days⁷³. While these decisions were reached in accordance with the election law, scrutiny of candidates is a duty of the election management body that should be conducted before Election Day in order to avoid the disenfranchisement of some voters after the fact.

One major issue that arose over the election period involves the ownership of media shares by MP candidates. Electoral laws prohibit MP candidates

⁶⁹ *Bangkok Post*, "Chiang Mai victory gives bloc zero political gain", 27 May 2019, <https://www.bangkokpost.com/news/politics/1684688/chiang-mai-victory-gives-bloc-zero-political-gain>

⁷⁰ Organic Act on the Election of MPs, Section 129

⁷¹ *The Nation*, "Miscount cases in Khon Kaen solved, fresh voting at six polling stations", 19 April 2019, <https://www.nationmultimedia.com/detail/breaking-news/30367936>

⁷² *The Thaiger*, "EC dogged by new controversy after poll re-run in Nakhon Pathom", 30 April 2019, <https://thethaiger.com/hot-news/elections/ec-dogged-by-new-controversy-after-poll-re-run-in-nakhon-pathom>

⁷³ *The Nation*, "11 election candidates disqualified", 2 May 2019, <https://www.nationmultimedia.com/detail/politics/30368750>

from having any stakes in a media company⁷⁴. Ahead of the election, Pubate Henlod, a Future Forward Party (FFP) hopeful in Sakhon Nakhon, was the first candidate to be disqualified on those grounds. He had used a standard form template while registering his company, which would potentially allow it to publish a newspaper or media in the future⁷⁵. This is a situation common among business owners, yet at the time of printing he remains the only candidate effectively dismissed for media ownership despite similar complaints made against candidates from other parties.

Most publicized is the case of Thanatorn Juangroongruangkit, the Future Forward leader, for allegedly failing to transfer his media shares ahead of registering as an MP candidate. Mr. Thanatorn has defended himself by claiming that the shares were actually sold more than two months before his application as a candidate, but the ECT forwarded the case to the Constitutional Court on 16 May, on legal grounds that appear flimsy⁷⁶. A rule has not yet been reached, and pending the Court's ruling, his MP status was suspended immediately after the swearing-in ceremony.

The situation of the media shares law quickly escalated, with the PPT and FFP parties firing back and lodging their own complaints against rival politicians⁷⁷. On 12 June, the new Speaker of the House of Representatives submitted a petition to the Constitutional Court to investigate complaints against 41 MPs from six political parties⁷⁸, while on 14 June yet another petition was filed with the ECT regarding 16 MPs from two political

⁷⁴ 2017 Constitution of Thailand, Section 98(3) and Organic Act on the Election of MPs, Section 42(3)

⁷⁵ *Bangkok Post*, "Abuse of media share law a growing concern", 27 April 2019, <https://www.bangkokpost.com/news/politics/1668132/media-share-minefield>

⁷⁶ Teeranai Charuvastra, "EC asks Court to rule on disqualifying Thanathorn", *Khaosod English*, 16 May 2019, <http://www.khaosodenglish.com/politics/2019/05/16/ec-asks-court-to-rule-on-disqualifying-thanathorn/>

⁷⁷ *Bangkok Post*, "Media share minefield", 27 April 2019, <https://www.bangkokpost.com/news/politics/1668132/media-share-minefield>

⁷⁸ *The Nation*, "Pro-junta bloc hit by shares storm", 13 June 2019, <https://www.nationmultimedia.com/detail/politics/30371010>

parties⁷⁹. While no one disagrees with the fact that political candidates should be prevented from influencing media during, the intent of the law has been twisted beyond reason, and political parties have locked themselves in a form of mutually assured destruction.

While there is currently a multitude of legal cases remaining to be settled, ANFREL is not privy to the details of each one as they are not made public. There has been a growing concern that the Election Commission's track record is perceived to demonstrate inconsistent and sometimes selective enforcement of the electoral laws. Election officials and courts should address all complaints in a transparent and uniform manner befitting the importance of their responsibility and clearly communicate to the public exactly what it is doing and why.

⁷⁹ NNT, "EC petitioned to probe alleged media share holdings of 16 MPs", 14 June 2019, <https://news.thaivisa.com/article/36464/ec-petitioned-to-probe-alleged-media-share-holdings-of-16-mps>

Election Environment

Campaign Period

Although the NCPO Order No. 3/2015 was lifted in late 2018 and political gatherings were allowed for the first time since the coup, the electoral campaign did not actually take off until early 2019 as political parties remained unsure of what they were able to do⁸⁰. But for more than a year, PM Gen. Prayut Chan-o-cha had been free to roam across the country, whereas his potential political opponents could not. His government conducted "mobile cabinet meetings" throughout 2017 and 2018, traveling across the country on taxpayer money, a move critics alleged were an illegal and premature campaign ploy^{81,82}. Once Gen. Prayut was nominated as the PPRP's prime ministerial candidate, the ECT was eventually asked to weigh in on the matter, who then ruled to allow the sitting PM to continue holding mobile cabinet meetings unimpeded⁸³.

For the 2019 general election, campaign strategies adopted by political parties and candidates predominantly featured traditional methods such as house-to-house visits, roadside posters, motorcades with loudspeakers, and public rallies. In rural areas, though, exposure to the electoral campaign

⁸⁰ Masayuki Yada, "Thai anti-junta parties hold back campaigns in fear of arrest", *Nikkei Asian Review*, 18 December 2018, <https://asia.nikkei.com/Politics/Thai-anti-junta-parties-hold-back-campaigns-in-fear-of-arrests>

⁸¹ *The Nation*, "Prayut denies mobile Cabinet meetings are political ploy", 25 July 2018, <http://www.nationmultimedia.com/detail/breakingnews/30350733>

⁸² Sasiwan Mookhasen, "With no elections in sight, why is Prayut campaigning so hard?", *Khaosod English*, 4 October 2017, <http://www.khaosodenglish.com/news/2017/10/04/no-elections-sight-prayuth-campaigning-hard/>

⁸³ *The Nation*, "Prayut allowed to continue mobile cabinet meetings", 1 February 2019, <http://www.nationmultimedia.com/detail/politics/30363328>

was often limited to TV and community radio stations, thus reducing the potential spectrum of information available to rural voters. Advertising on radio and TV was banned by electoral rules, so political parties had to rely on the time slots they were allocated in order to spread their message.

Many political parties and candidates also campaigned extensively on various social media platforms, but strict rules governing online election campaigning required candidates to notify the ECT in advance before commencing to campaign online. Complicated legal requirements were installed to prevent the propagation of false information or defamation, whose particulars were so confusing that many candidates preferred either not to have a strong online presence or to deactivate their social media accounts altogether in order to prevent any repercussions⁸⁴. Despite such limitations on freedom of speech, the overall campaign environment provided opportunities for public discussions among political parties, candidates and other electoral stakeholders which had been impossible for nearly five years under military rule.

27 out of 80 political parties running in the election signed a civil society-sponsored pledge to run the election campaign ethically and to form the next government with due respect to the voices and aspirations of the people⁸⁵. The pledge was a joint initiative of domestic election observer group PNET and Mahidol University's Institute for Human Rights and Peace Studies. While efforts from the civil society aimed at ensuring a calm and inclusive campaigning are welcome, it would have been more significant if the ECT had spearheaded such a project, which could have led more political parties to adhere to the pledge.

⁸⁴ Hannah Ellis-Petersen, "Thailand's military junta cracks down on social media ahead of the election", *The Guardian*, 29 January 2019, <https://www.theguardian.com/world/2019/jan/26/thailands-military-junta-cracks-down-on-social-media-ahead-of-election>

⁸⁵ *Bangkok Post*, "27 parties sign up to 10-point poll pledge", 22 December 2018, <https://www.bangkokpost.com/news/politics/1598834/27-parties-sign-up-to-10-point-poll-pledge>

The campaign environment observed by ANFREL in the provinces seemed peaceful and free of any major violence or electoral violations. The relatively subdued nature of the campaign environment was nonetheless perceived by various stakeholders interviewed as a reflection of the stringent electoral regulations imposed by the Election Commission of Thailand as political parties and candidates conducted safe and non-confrontational electoral campaigns to avoid any possible violations. In addition, fear of intimidation and backlash from authorities and powerful political factions prevented voters from lodging or commenting about possible electoral misconduct.

A commonly raised issue by stakeholders was the prevalence of an uneven playing field for political parties despite the obligation of the EC to ensure equal chances for all contestants. Several of the voters and stakeholders interviewed stated that they believed the campaign process was "unfair" and designed to favor pro-junta parties. Pro-junta parties were perceived as being freer to operate than other parties because they would be held to much looser standards by the government and electoral authorities than the other parties, General Prayut's adoption of populist policies and his attendance at numerous rallies around the country before the lifting of the ban on political activities and campaigning being two examples.

While ANFREL appreciates the conduct of a generally peaceful campaign period, there were instances, reported by both the media and political parties, where the actions of security officers appeared partisan and intended to harass rather than ensure security. Candidates from both the Pheu Thai and Democrat parties reported that security officers searched their homes or offices on 21 March without a warrant or probable cause. Without a proper reason for doing so, these only intimidated candidates and their families, an act incompatible with a free campaign environment. Needless to say, these incidents further damaged the reputation of the security agents, who should remain neutral at all times and ensure that all candidates and voters can safely take part in the electoral process. On 7 March, Army chief Gen.

Apirat Kongsompong had already taken unprecedented steps by pledging to only support a government loyal to the monarchy⁸⁶.

Regarding campaign financing, current laws establish a threshold for excessive spending which was decided in consultation with all political parties, and provide for a possible post-election audit of parties' financial statements. ANFREL, however, was not able to find out which parties were consulted and when. Parties have 90 days after Election Day to submit reports on their spending, which will then be made public⁸⁷. Furthermore, current regulations do not require candidates and parties to disclose how much they spent for social media and Internet advertisements, and are also silent on what should parties do with unused campaign funds. Parties met by ANFREL expressed worries on how the vague campaign finance regulations included in the law will ultimately be implemented by the ECT.

ANFREL observers were also deployed to monitor the cooling off period, within which no campaigning should occur. They relayed that they did not witness any irregularities or violations of the campaign regulations.

Voter Awareness and Education

Interviews conducted by ANFREL observers revealed that voters generally possessed sufficient information to arrive at a well-informed choice when casting their ballot. However, some observers reported that the voters, aside from expressing excitement at the prospect of being able to vote again, relayed their misconceptions caused by the minimal information they received regarding the electoral process. Unfortunately, the ECT did not make its rules and procedures publicly available ahead of time, thus fueling the existing distrust of voters in the election as a whole. Furthermore,

⁸⁶ Teeranai Charuvastra, "Army chief swears to only back gov't loyal to the King", *Khaosod English*, 7 March 2019, <http://www.khaosodenglish.com/politics/2019/03/07/army-chief-swears-to-only-back-govt-loyal-to-king/>

⁸⁷ Organic Act on the Election of MPs, Section 67

civil society organizations and media also displayed poor awareness of the process, and thus were not able to alleviate the situation. The lack of coordination between the civil society, media, and the ECT, especially with regard to the release of voting procedures, primarily caused this poor flow of information.

Voter education initiatives, which are essential in acquiring an understanding of the electoral process among voters, were limited. The ECT and various organizations conducted social media campaigns and distributed materials such as pamphlets and booklets containing information on the voting procedures and candidates, but did so over a short timespan prior to the elections. Reports from our observers also indicate that some of these materials contained errors on candidate information, and were mostly limited to urban areas. To augment these efforts, universities, in partnership with domestic observer groups such as WeWatch and PNET, have initiated voter education programs, with the hope of bringing about awareness of the importance of the electoral process to students and first time voters.

The ECT released a well-designed mobile application entitled "Smart Vote" that compiled a lot of information useful to voters, including the location of their polling station and the candidates in their area. However, some of the information provided, such as that on voting or counting procedures for instance, was rather generic. Providing more detail could have prevented spoiled ballots or confusion at the polling booth. The app was downloaded over 100,000 times on the Google Play Store, which is encouraging but at the same time insufficient to ensure the widespread dissemination of information to the general public. It is also regrettable that this information was not prominently displayed on the ECT's website.

In Bangkok and other urban areas, voters were able to access information regarding candidates and parties through both traditional and social media, while rural residents tended to utilize traditional media more. Door-to-door campaigns, distribution of pamphlets, and rallies organized by the political parties were the most direct source of information on the campaign

platforms of parties, and the main means of direct interactions between candidates and voters. Most voters expressed that the debates, as well as the comprehensive interviews held by television media such as the Standard, Voice TV, or Thai PBS, helped to guide them in making their choice.

Media and Freedom of Expression

According to Freedom House, a renowned monitoring organization, Thai media were “not free” in 2018, based on its indicators of free expression and the situation in the country⁸⁸. Political developments in the last five years that significantly polarized the political landscape of the country were accompanied by a reduction of the space available to express thoughts freely. Freedom of expression for individuals and the media in the leadup to the 2019 Thai general election was more controlled and restricted than during the 2011 general election. According to a recent survey conducted by the International Federation for Human Rights (FIDH) of 32 political parties, human rights was not a critical issue for them and they only expressed limited support for measures aimed at improving freedom of opinion and expression. In addition, most parties were unwilling to commit to limiting the role of the military in Thailand’s political affairs⁸⁹.

Since the military seized power in 2014, the NCPO has systematically used censorship, intimidation, and legal proceedings to suppress independent media. NCPO Order No 41/2016 provided for the monitoring of the dissemination of information to the public. The NBTC, with power to prohibit the broadcast of information or programmes with content that could lead to the overthrow of the democratic system with the King as head of state or content affecting national security, peacefulness and morale, was insulated from civil, criminal and disciplinary accountability. However, aggrieved parties may file a complaint and claim for compensation from the

⁸⁸ Freedom House, “Freedom in the World 2018: Thailand Profile”, <https://freedom-house.org/report/freedom-world/2018/thailand>

⁸⁹ FIDH, “More shadows than lights in political parties’ human rights commitments”, 14 March 2019, <https://www.fidh.org/en/region/asia/thailand/more-shadows-than-lights-in-political-parties-human-rights>

governmental office under the Accountability for Infringement of Officials Act. Academic freedom is also constrained under the NCPO. University discussions and seminars on topics regarded as politically sensitive are subject to monitoring or outright cancellation by government authorities.

Instances where media houses have been shut down and taken off the air like Voice TV and banning of the Economist under NCPO orders (such as Nos. 97/2014 and 103/2014) were passed just like many other Announcements by invoking Section 44 of the Interim constitution which gives sweeping powers to the NCPO leaders to issue any order which are deemed "lawful, constitutional and final". A widespread notion among the general population was observed regarding aforementioned NCPO announcements, gave sweeping power to NBTC to control the media without any liabilities. Announcement No. 97/2014 which prohibits individuals and all kinds of media from interviewing academics and former civil servants and prohibits all kinds of media from disseminating news pertaining to the seven criteria similar to those mentioned in Announcement No. 18/2014. Announcement No. 103/2014 is an amendment of Announcement No. 97 and notes that no criticism shall be made with an unethical purpose or with false information.

Peace TV, a news channel frequently critical of the government, was suspended twice by the National Broadcasting and Telecommunications Commission (NBTC), in February and May 2018, for broadcasting "provocative" content. NCPO has enacted various laws which have been very intensively enforced by the NBTC, limiting and restricting the media to work freely and independently.

There have been other orders as well like Announcement no. 41/2016 which gives authority NBTC to close down any media which fails to cooperate with the junta or presents information deemed as a threat to national security along with the Section 37 of the Broadcasting and Television Business Act. NCPO Announcement No. 3/2015 which is on the Maintenance of Public Order and National Security, which was issued under Article 44 of the 2014 Interim Constitution which expanded the authority of the military.

Not only the mainstream media but also the social media, often referred as alternative media, came under strict monitoring by the authorities. The

existing legal provisions such as the recently amended 2007 Computer Crime Act, sedition (under Criminal Code Section 116), and defamation (under Criminal Code Sections 326 to 333) as tools used to intimidate and suppress critical views against the government or the military.⁹⁰ The leader of the Future Forward Party Thanathorn Juangroongruangkit, along with two other senior party members, Jaruwan Sarankate and Klaikong Vaidhyakarnwere, charged the authorities under Section 14(2) of the Computer Crime Act after an NCPO member filed an allegation against them for transmitting false information or information that damages the country's stability in relation with the Facebook Live Broadcast on 29 June 2018. Even the Secretary-General of the party Piyabutr Saengkanokkul is facing similar charges under Section 14(2) of the Computer Crimes Act and contempt of court under Section 198 of the Criminal Code for reading out a statement on the Constitutional Court's decision on the dissolution of the Thai Raksa Chart Party.

From the main opposition party the Pheu Thai, Pichai Naripthaphan, Watana Muangsook and other key members have also been charged with sedition and computer crimes while Police General Seripisut Temiyavet, leader of the Seri Ruam Thai Party, has also seen computer crime complaints filed against him.⁹¹ The 2019 CyberSecurity Act was passed despite widespread public criticism over its far-reaching powers to oversee individuals' online activities. The ECT's strict guidelines on political campaigning that emphasized on social media activities of parties and candidates are reported to be viewed as targeting political parties that received wide attention by voters who are active on social media platforms. Many political analysts, INGOs and local NGOs have cited political repression, media censorship, unequal media access, the role of the military-appointed Senate, and lack of independence and impartiality of the Election Commission as factors preventing a free and fair election.

⁹⁰ Jason Thomas, "Human rights a non-issue in Thai elections", *The ASEAN post*, 21 March 2019, <https://theaseanpost.com/article/human-rights-non-issue-thai-election>

⁹¹ CPJ, "Thai columnist Pravit Rojanaphruk charged with two cases of sedition", 8 August 2017, <https://cpj.org/2017/08/thai-columnist-pravit-rojanaphruk-charged-with-two.php>

Despite bearing the burden of huge legal consequences, the media remained visibly active throughout the electoral process, normalization of self-censorship in Thai society was constantly put forth by representatives of media and civil society groups interviewed by our observers. Self-censorship during the period leading to 2019 election was widely perceived by stakeholders interviewed as part and the continuation of fears instilled years ahead of the 2019 election. With the restrictions faced by both media sector and individuals regarding space for various political views and independent opinions particularly in mainstream media, ANFREL wishes to highlight the concern of limited public's accessibility to critical and varied information.

CSOs, Domestic Election Monitoring Organizations, and INGOs

Despite the success of civil society's contribution in influencing the Constitution in 1997, a significant step toward democratization and broader political reform, the development of civil society's had been hindered by the bureaucracy and years-long of military rule in Thailand. Openness in the civic space could potentially contribute in checking, monitoring and holding the relevant authorities accountable in democracy, empowering people by disseminating ideas and information, and encouraging the citizens' meaningful participation in the process.

Unfortunately, restrictions on press freedom, intolerance toward criticism limited the civil society's engagement, and the junta's iron-grip control over all public affairs took its toll on the most organizations. This was further aggravated by the factionalism and distrust plaguing the sector brought about by the country's contentious, polarized politics. As a result, the 2019 general election witnessed limited participation on the part of Thai citizens as domestic observers with the exception of a handful of citizen organizations. The diminished number of CSOs performing election monitoring reflects the structural, enduring control by the past undemocratic rulers. In this

election, the combined force of all domestic observers was not sufficient to cover even 10% of polling stations.

Among these domestic observer groups, the Open Forum for Democracy Foundation (PNET) and WeWatch were the largest, and showed strong presence in some localities to record, track, and assess developments in the electoral situation. Apparently, the deployment of 2,929 both short-term and long-term election observers nationwide along with 1,000 key informants by WeWatch⁹² and upwards of 600 observers by PNET made the election monitoring mission successful one with numerous findings. With the objective of strengthening democracy, promoting free and fair elections, and constructing democratic culture, these organizations monitored the pre-election situation, Election Day and post-election procedures very closely and came up with solid conclusions and recommendations.

Apart from the aforementioned organizations, a number of bodies comprised of students, academics and social activists have monitored the election and post-election situation, and expressed their concern over the “controversial” role of ECT. Among them are University Students Following the Election Network, the Student Union of Thailand, the Academic Network for Civil Rights, the Civil Society and Human Rights Organizations Network, People Who Want Elections, and the Association to Protect the Thai Constitution.

However there are some organizations who were unable to deploy human resources during the election but profoundly campaigned for free and fair elections in some other means. iLaw, a monitoring group on legal issues, for instance utilized social media and their website to publish infographics and articles regarding the electoral environment, advocated to repeal NCPO orders, or disseminated booklets containing important information about the election significantly added value in voter education. In addition, ANFREL’s observers were informed about some CSOs working for women’s empowerment that have been providing training and workshops for women who want to enter into formal politics.

⁹² WeWatch, “Preliminary Statement on 2019 Thai General Election”, 29 March 2019, <https://drive.google.com/file/d/1eFbzEPVVIqzhfok9Q73rXo6tql7BpfFj/view>

Allegedly, several organizations received some funding from the ECT to support the dissemination of election-related information and perform other activities to assist the ECT's operation. However, none of those interviewed were familiar with the nature of their engagements and the amount each organization received. While there were no recorded instances of crackdown on independent organizations during the pre-election period, most of them complained that the extremely polarized political environment and the plethora of existing legal provisions against defamation have forced them to censor some of their statements.

After years of CSO advocacy for making the election accessible for PWDs, in this election polling stations were equipped with Braille ballot papers for visually impaired persons to use when necessary, as reported by our observers. Also, there were provisions for wheelchair-accessible and mobile polling stations for PWDs found in Bangkok and across the country, however most of the stations would not have been easily accessible to wheelchair-bound voters. Most of the time, polling officers were found eager to accommodate differently abled persons to the best of their availability, but not clear guidelines seemed to be available for them. Much more could be achieved in terms of ensuring full political participation for PWDs.

Gender Inclusivity

Women in Thailand were among the first in Asia who were granted the right to vote, in 1932. The country has also has ratified the International Covenant on Civil and Political Rights (ICCPR) and the International Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which stipulates that States must take all necessary measures ensuring that equal rights are granted to both men and women without any discrimination.

ANFREL highly appreciates the general outlook of many political parties and candidates in the run-up to the 2019 election regarding gender issues and the expressed need to even the political field between men and women.

Many of them interviewed by our Observers responded to have taken a conscious decision to field more women candidates for the constituency and party-list MP positions.

While there is no official gender disaggregated data yet on many aspects of women's political participation in the 2019 general election, it is reported at least that women comprise 51% of the eligible voters in Thailand. Even though women outnumber men in total population, general voter turnout as well as the number of eligible voters, they remain underrepresented in Thai politics. This situation has been a trend, if not completely similar, in most of the general elections that have been held previously in the country. In terms of female representation in politics, based on a UN Women data, women's representation in the junta-appointed parliament was just above 5% in 2017, putting the country among the lowest in the list of 90 countries⁹³.

Furthermore, in the previous parliament established in 2014, women comprised only 5.4% of the members (5% in 2011), having occupied only 13 seats out of 240⁹⁴. The disparity was visible during the 2019 general election too. 78 women made their way into the House of Representatives which was convened in May 2019, 53 as constituency MPs from 5 political parties which fielded 126 women candidates, and 25 women as party-list MPs from 9 political parties⁹⁵. After the constituency re-run in Chiang Mai province on 26 May, the number of women parliamentarians rose to 81, adding one female constituency MP from Future Forward, and two female party-list MPs, one from the Democrat Party and another from PPRP. Out of a total number of 68 prime ministerial candidates nominated by 44 political parties, only eight were women.

⁹³ Dumrongkiat Mala, "Women poorly represented as lawmakers", *Bangkok Post*, 7 November 2018, <https://www.bangkokpost.com/news/politics/1571138/women-poorly-represented-as-lawmakers>

⁹⁴ Inter-Parliamentary Union, "Women in national parliaments", 1 February 2019, <http://archive.ipu.org/wmn-e/classif.htm>

⁹⁵ Thaireform, "Official numbers of female MPs", *Isranews*, 8 May 2019, <https://www.isranews.org/thaireform/associate/76358-info76358.html>

The Pheu Thai Party, with the highest number of female MPs in the current parliament, indeed gave Thailand its first and only woman Prime Minister so far, Yingluck Shinawatra. In the recent election, the Party stood out among others for its female PM candidate Ms. Sudarat Keyuraphan⁹⁶ who mirrored as a strong female political figure. Another thing worth mentioning is the role and participation of transgender communities, as candidates for various political parties, as well as parties including them specifically in their programs. One PM candidate, Pauline Ngarmpring from the Mahachon Party⁹⁷, was transgender, as well four of the elected MPs⁹⁸. It is the first time in Thailand's history that transgenders make their way into Parliament, a major step for their inclusion in the country's decision-making.

However, despite these figures and reportedly no discrimination faced by women in voting or running for candidacy per se, many voters with whom ANFREL observers interacted opined that women's representation in Thai politics remain mostly symbolic. A Bangkok-based young voter stated that "women in Thai politics is more like decorations". The voter stretched that female representation in politics will not mean anything if at all they continue to be gender insensitive, men or women politicians. He further added, echoing expressed views of many other voters interacted across Thailand, that Thai people hope to achieve gender equality beyond mere representation of women in formal politics, who mostly come from elite families and often with political backgrounds or ties, irrespective of which side of the political camps they belong to.

⁹⁶ Ann Babe, "Women candidates take a stance in Thailand", *Asia Times*, 23 March 2019, <https://www.asiatimes.com/2019/03/article/women-candidates-take-a-stand-in-thailand/>

⁹⁷ Feliz Solomon, "What Thailand's first transgender candidate for Prime Minister says about the first election in 8 years", *Time*, 22 March 2019, <https://time.com/longform/pauline-ngarmpring-thailand-trans-elections/>

⁹⁸ AFP, "Thailand's first cohort of transgender MPs make parliamentary history", 6 June 2019, <https://www.scmp.com/news/asia/southeast-asia/article/3013416/thai-lands-first-cohort-transgender-mps-make-parliamentary>

With these general feelings among Thai voters and the disparity in women's participation as voters to MPs, the embedded gendered dimension of Thai politics is apparent. It also contrasts with the pledges made mainly during election periods by several political parties over the years about gender equality, in this context, more importantly, in politics. This indirectly reflects a rather lower level of awareness and seriousness about gender dimensions in political participation among political leaders and lawmakers who happen to be mostly men.

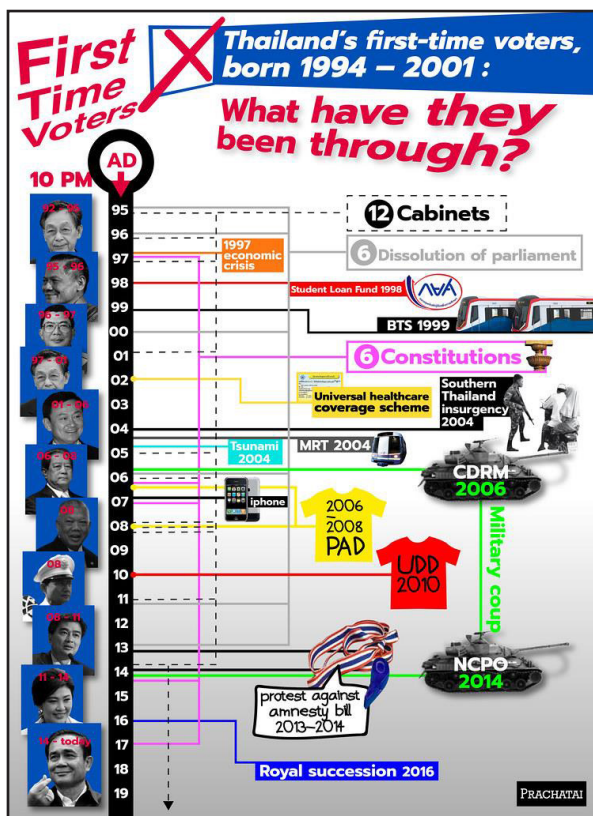
Electoral Participation of Youth

ANFREL witnessed a very vibrant engagement from the youth, a sector that is often overlooked during political processes such as elections. ANFREL is pleased that the youth of Thailand have taken an active role in the 2019 Elections. Comprising 16.1% of the voting population, youth are in a strategic position to contribute to the country's political development even after the elections. Reports from ANFREL observers were also positive in their assessment of youth participation during advance voting and Election Day, where they witnessed huge groups of young voters who braved the heat in order to vote.

Given that the last democratic electoral process in Thailand took place in 2011, the 2019 election saw an unusually large cohort of first-time voters, with over 6 million of them, amounting to 13.74% of the electorate, compared with only 1.96% in 2011⁹⁹. It is also important to highlight the fact that these youth grew up during an extremely volatile period for Thailand, and that they have never experienced political stability throughout their lifespan.

⁹⁹ Anna Lawattanatrakul, "A country for the young: first-time voters in the 2019 general election and how they can change the face of Thai politics", *Prachatai English*, 23 March 2019, <https://prachatai.com/english/node/7984>

Undeniably, the youth have been very effective in directing the course of this election, participating in the process as election observers, political party members, civil society and media. This is much more incredible given that, for more than seven years of political stagnation, they had very little direct experience of participating in any political process due to the restrictive political situation.



This infographic displays major events in Thai history throughout first-time voters' life (Source: Prachatai English)

In several focus group discussions conducted by ANFREL in Bangkok, the election has revived healthy person-to-person interactions among students, where they freely engage in formal and informal discussions about the current state of democracy in the country — a very positive development given the very conservative nature of Thai society which does not encourage expressions of strong political views. This also runs true in social media, where the youth have been very vocal about the policies which they relate with, expressing their support through memes, infographics, and even music. Such active youth engagement in social media contributed to the rise of the Future Forward Party, a party composed mostly of young politicians¹⁰⁰.

The new youth-centric election observation group, WeWatch, emerged to be among the most effective and consequential groups in the country, deploying around 2,600 observers nationwide. Several youth activists have also led several protests to address the electoral mismanagement, using creative forms of dissent¹⁰¹. One such interesting creative expression of dissent is a rap group that released political protest songs, including one criticizing the appointment of 250 senators shortly before Election Day¹⁰². This band, called Rap Against Dictatorship, received global attention and went on to receive a prestigious human rights award¹⁰³, but it was in their own country that they were more effective, raising the political awareness of their generation. ANFREL hopes that such positive momentum of youth engagement will be continued and encouraged even after the election.

¹⁰⁰ Ken Lohatepanont, "The future Thailand's junta fears the most", *Asia Times*, 11 March 2019, <https://www.asiatimes.com/2019/03/article/the-future-thailands-junta-fears-the-most/>

¹⁰¹ James Buchanan, "Netiwit's 'shoe protest' against the Election Commission: how bodily taboos become forms of dissent", *Prachatai English*, 17 April 2019, <https://prachatai.com/english/node/8022>

¹⁰² Rap Against Dictatorship, "250 สบพล (250 Bootlickers)", Youtube, 22 March 2019, <https://www.youtube.com/watch?v=9GSdVFOD5U8>

¹⁰³ Teeranai Charuvastra, "Anti-junta rappers awarded creative dissent prize", *Khaosod English*, 27 May 2019, <http://www.khaosodenglish.com/politics/2019/05/27/anti-junta-rappers-awarded-creative-dissent-prize/>

Vote Buying and Abuse of State Resources

Allegations of vote buying were widespread during the campaign period of 2019 Thai general election. As Election Day was getting nearer, such allegations only increased in number and flooded social media. Furthermore, this election saw massive concern and fear among voters and several political parties and candidates regarding misuse of state resources in favour of political parties aligned with the interests of the government. The legal environment under which the country had been from 2014 till the 2019 election and post-election period, gave overarching powers to the junta and hugely contributed to the prominent beliefs among various stakeholders of misuse of state power and resources with undue political intentions.

Throughout their deployment period, ANFREL observers collected reports of vote buying and malpractice during the campaign period, in both cities and rural areas, through their interactions with voters and stakeholders, as well as media reports. Reports of malpractice were widespread, yet most of them were never taken to the concerned officials for investigations. While some of these reports are most likely apocryphal, many of them were credible.

Apart from a lack of evidence, a common reason provided for not formally reporting cases of malpractice was the distrust towards impartiality of the officials who would conduct the investigations. Stakeholders interviewed by our observers expressed certainty about vote buying happening in every election. In fact, Thais generally refer to the night before an election as "the night of the howling dogs" because canvassers would go door-to-door and hand out money to voters in a last attempt to influence them. However, in this particular election, some interviewees stated that they were unable to easily differentiate between the representatives of the state and those from certain political parties, leaving them in a state of helplessness and reluctant to even consider taking actions against possible malpractice.

Interestingly, while more efforts to thwart attempts at vote buying would certainly increase the integrity of, and public confidence in, the polls, Thai voters demonstrated spectacular sophistication when deciding for whom to vote. Many of them, during several interviews conducted by our observers, amusingly acknowledged that they accepted money from political parties or candidates, while declaring that they would still vote for the candidate of their choice when the time came. Indeed, most stakeholders met by ANFREL observers expressed doubts as to the actual influence of vote buying over the voters. While many voters still accept the money offered to them, a widespread practice throughout recent Thai elections, they also have more access than ever to candidate information thanks to new forms of communication, and are therefore less likely to be influenced. We can only hope that this will make the long-time practice of vote buying altogether irrelevant in the future.

Several allegations concerning government-sponsored welfare programs also surfaced during the campaign period. In the months ahead of the polls, the NCPO introduced numerous welfare schemes and programs one after the other targeting different sections of the society. Target groups are mainly comprised of low-income groups, senior citizens and retired officers across the country. This was one of the main criticisms the government drew drawn itself into, with voters across the spectrum questioning the timeliness of the programs and claiming they constituted an abuse of state resources.

One spending scheme, amounting to a whopping 86.9 billion baht (2.8 billion USD), included a cash handout of 5.66 billion baht (181 million USD) for 11.3 million recipients in possession of a welfare smartcard issued by the government¹⁰⁴. However, the government repeatedly denied accusations of campaigning with state funds, including a statement from Prime Minister Prayut Chan-o-cha insisting that it was only a coincidence¹⁰⁵

¹⁰⁴ Wichit Chantanusornsiri, "Welfare handout half depleted in 3 days", *Bangkok Post*, 12 December 2018, <https://www.bangkokpost.com/business/news/1592158/welfare-handout-half-depleted-in-3-days>

¹⁰⁵ Wichit Chantanusornsiri & Chatrudee Therapat, "PM insists cash splurge not populist as poll looms", *Bangkok Post*, 21 November 2018, <https://www.bangkokpost.com/news/politics/1579298/pm-insists-cash-splurge-not-populist-as-poll-looms>

that such programs happened to take place around the campaign period, and that they are not populist project or politically motivated but continuation of previous works.

The abuse of government resources in the form of an intertwining of a government welfare program and the electoral campaign was indeed both broad and deep. In particular, the resemblance in the name of the state welfare scheme "Pracharat Welfare Scheme" with the junta's proxy political party "Phalang Pracharat" (PPRP), and the move of several cabinet members of NCPO government to the party's executive committee reaffirmed the public's perception of a connection between the existing policies and the economic program of the PPRP¹⁰⁶. The proximity was evident throughout the pre-election period, with many politicians campaigning on the popularity of said welfare programs, which even received the allocation of additional money during the final week of campaigning, raising the amount of beneficiaries from the Pracharat fund to 14 million¹⁰⁷.

Other projects include the Government Housing Bank Loan under the "One Million House Scheme" for buying house up to 1 million baht with low interest rates based on the stipulated monthly salary, the payment of 10,000 baht to those retired government officers whose retirement pension is less than 10,000 baht¹⁰⁸, and other policies such as village and urban community funds, schemes to support rice farmers, rubber farmers and oil palm farmers- which are also viewed as populist¹⁰⁹. Such state-sponsored welfare initiatives were the bulk of the PPRP's economic platform, claiming for themselves the benefit of the junta government's most popular policy.

¹⁰⁶ Kas Chanwapan, "Govt sops to poor raise questions of propriety", *The Nation*, 21 November 2018. <http://www.nationmultimedia.com/detail/politics/30358983>

¹⁰⁷ Peter Janssen, "Populism back in vogue in electoral Thailand", *Asia Times*, 21 March 2019, <https://www.asiatimes.com/2019/03/article/populism-back-in-vogue-in-electoral-thailand/>

¹⁰⁸ Siri and Theparat, "PM insists cash splurge not populist as poll looms", *Bangkok Post*, 21 November 2018. <https://www.bangkokpost.com/news/politics/1579298/pm-insists-cash-splurge-not-populist-as-poll-looms>

¹⁰⁹ Supatsak Pobsuk, "Observations on the Thai Election 2019", *Focus on the Global South*, 1 April 2019, <https://focusweb.org/observations-on-the-thai-election-2019/>

ANFREL would like to reiterate, in the light of doubts hovering among voters concerning the misuse of state resources, that the national budget belongs to all Thai people and should not be allocated for populist purposes at sensitive electoral times. The government should demonstrate responsibility and utilize state resources in a way that cannot be perceived as beneficial to a particular political party or group, in order to ensure a fair playing field for all.

Voting Process

Advance Voting

Thailand implements advance voting mechanisms to provide all citizens with an opportunity to cast their ballots, and therefore to comply with their compulsory voting requirement. Registration took place online and in civic registration centers from January 28 to February 19, with a total of 2,752,119 voters signing up for advance voting, a remarkably large number given that there was little publicity for the process and that the registration window ended more than a month before Election Day itself.

From 4 March to 16 March, overseas voters were the first ones able to exercise their franchise, in 94 Thai embassies or consulates around the world. Out of 119,232 registered overseas voters, 84.7 percent cast ballots, despite facing an array of problems in many polling stations¹¹⁰. Voters encountered instances of long queues, incorrect candidate information, and postal ballots being delivered late or at a wrong address, all of which indicate an insufficient level of preparation from the Election Commission and diplomatic missions tasked with carrying out the ballot.

Another issue that arose from overseas advance voting was the delay of about 1,500 ballots coming from voters in New Zealand, which were not delivered to their respective polling stations by the deadline of 5 PM on 24 March, and therefore deemed invalid upon arrival. This development came as a disappointment for many voters that went through all the necessary steps to vote, only to be disenfranchised because of the lack of planning from election management bodies. It is the duty of the ECT and its partners to ensure that every Thai citizen has access to the fundamental right of expressing its choice through the ballot box.

¹¹⁰ Anna Lawattanatrakul, "Voter suppression or mismanagement? Thais face obstacles as overseas voting begins", *Prachatai English*, 15 March 2019, <https://prachatai.com/english/node/7974>



Members of the armed forces line up on
Advance Voting Day in Nakhon Ratchasima province

Advance Voting Day was held on Sunday 17 March, and marked the start of the general election in Thailand, with over 2.2 million Thais marching out to vote in what amounted to an 87 percent turnout among those registered. Although advance voting usually displays higher turnout rates than Election Day, in part because those registering to vote early are more educated on electoral matters than the general population, this was a remarkable display of the voters' intent to take part in the country's first electoral process in years.

ANFREL observers reported that Advance Voting Day was peaceful and orderly, with a voting process generally organized and transparent, and no major incidents of violence or electoral violations reported. However, queues rapidly formed in many of the Kingdom's 385 polling centers open for the occasion. Despite the deployment of large numbers of polling staff to assist voters, the widespread overcrowding of polling stations led to hours of waiting for many voters, and in some cases to people having

to leave without being able to vote. This tumult could likely have been avoided if advance voting took place over two days like in past elections, instead of a single one this year. Therefore, we recommend that the election commission considers extending the time frame for casting advance votes in the next general election.

Instances of mismanagement nevertheless punctuated the day, with inconsistencies in the application of rules by polling staff, and complaints of inadequate education and information efforts from both voters and political parties. The most noteworthy issue was that, in several polling stations, voters were given the wrong ballot paper, a blunder acknowledged by the ECT that would effectively mean their vote would be discarded. Some advance polling stations, especially in Bangkok, were missing candidate information documents. There were also cases of voters whose names were not found on the list because the online registration process for advance voting was either faulty or too complicated.



Missing candidate information sheets on
Advance Voting Day in Bangkok's Bang Sue district

Overall, advance voting mechanisms provided voters, media, and observers with a clear picture of the level of preparedness of ECT. Although the conduct of the polling process on March 17 went rather well, there were many indicators of low voter education and perfunctory training of polling staff, both of which were to be displayed on a much larger scale on March 24 with the bigger polling exercise that is Election Day. The ECT and other government bodies were unable to foster public trust in the electoral process, in particular with regard to the transportation and storage of advance ballots which raised many questions. Therefore, we invite election officials to be more forthcoming in the future about the process and safeguards they implement.

Election Day: Opening, Polling, Closing and Tabulation

On Election Day, ANFREL observers were deployed across Thailand to witness the election day unfold, observing the opening of polling stations, the voting process, the closing of polls, as well as the counting of votes. The mission deployed 34 international election observers who were able to cover 492 polling stations across 30 provinces across the country on Election Day, and an additional 12 polling stations during the re-run election in Chiang Mai's Constituency 8 on 26 May.

Overall the observers reported a peaceful and orderly election day. According to them, generally, no restrictions hindered the free movement of people, and that the secrecy of votes were mostly protected. ANFREL's engagement with voters from all walks of life reveals a common feeling of excitement to be able to vote again and hopes that conditions in the will improve with the establishment of a new government. This holds true in both rural and urban areas. Such tremendous election day success was largely due to the commitment of polling officers who made sure that needs of voters were accommodated. Furthermore, police officers were present in all polling stations observed, which contributed to the confidence of the people heading to the voting centers.

ANFREL welcomes the ECT's decision to hold a longer voting time during election day, from 8 AM to 5 PM, which helped increase voter turnout. Polling stations generally opened on time and were found to be orderly, and well-managed. No irregularities were observed during the opening of polls, where polling officers presented the ballot boxes to be empty, the procedures to open the polls were properly accomplished, and that no election materials were missing. This is a considerable achievement given the large number of polling stations and the short time period that election officials had for preparations, something that the ECT has consistently been good at even during previous elections.

ANFREL observers witnessed queues starting to form as early as 7 AM in the areas they were present. The longest queues were observed between 8 AM to 10 AM, and the shortest when approaching the closing of the polls, from 3 PM to 5 PM. The voting process starts with cross-checking the national ID card and the names on the voter list, which proved to be the main bottleneck in the process and the cause of the long queues. The voter will then be handed a single ballot, which should be filled out behind the secrecy booths. After filling out the ballot, the voter is expected to fold it crosswise at least twice, and deposit it to the ballot box. Interestingly, upon completing the voting process, voters were not marked with indelible ink. The use of indelible ink is a common practice among Asian elections in identifying citizens who have already voted, thus preventing fraud such as double voting. Each voter took 5 to 7 minutes to vote, excluding the queue time which took at least 30 minutes during peak times.

Most polling stations our observers visited were accessible and gave priority to persons with disabilities and elderly voters. In cases where there were a few steps to access the polling booth, the polling staff were able to assist in lifting wheelchairs. Another commendable preparation done by the ECT was the provision of braille guides for blind voters, which were supposedly available in all polling stations. ANFREL interviewed several blind voters who utilized these tools and expressed that they were happy to be able to vote on their own. For those who needed further assistance in filling out their ballots, the polling staff were also able to assist them well.

Nevertheless, reports from some polling stations highlighted uneven implementation of rules and procedures, the result of perfunctory training of polling staff or their misunderstanding of the guidelines they were to follow. In a few isolated instances, polling staff did not prevent unauthorized persons in the polling area or voters discussing while casting ballots, either of which may have compromised the secrecy of the process. Guidelines should be disseminated clearly to all polling staff, and applied evenly across the board to ensure that all polling stations attain the same level of integrity in the future.



This polling station in Prachinburi province was moved a few days before the polls to be installed underneath the sign from a government-sponsored welfare shop

Other reported shortcomings include insufficient checking of voter ID cards, or inappropriate locations for polling stations. One, for instance, was installed at the entrance of a government-sponsored “Thong Fah Pracharat” shop, which sells subsidised goods to low-income earners and bears a resemblance to the name of a pro-establishment political party. However,

the fact that such mishaps were few among the over 500 polling stations visited by ANFREL observers indicates the consistent quality of the voting process that took place on Sunday.

Throughout the day, there were few agents of political parties and even fewer domestic observers to be found at polling stations. Cumbersome procedures for the presence of party agents required them to obtain approval from the ECT well in advance. An easier process for the approval of party agents and observers could have increased their presence, which in turn would have enhanced the transparency and fostered trust in the exercise. Civil society organizations need to invest in developing an engaged critical mass of observers to effectively oversee electoral and political processes in the future.

While the accreditation card provided by the ECT was enough to gain access to most polling stations, members of the ANFREL mission were asked in others to provide clearance from district authorities or remain outside the premises, which in a few cases hindered our ability to observe. Most worrisome is the fact that one ANFREL observer was asked by a police officer to hand over the information she had written down, a fundamental breach of the rights of election observers that was, fortunately, an isolated incident.

Reports from our observers showed that, overall, the closing and counting process was conducted diligently, transparently, and in accordance with the rules enacted by the ECT. However, the ECT procedures laid out for determining the validity of a ballot were problematic as they allow voters to choose from amongst 16 acceptable variations of a cross to mark their ballot, but charts showing examples of the proper marks that are allowed were usually not publicly displayed during voting hours. Additionally, these examples do not cover every scenario, allowing a discretionary space for polling officials to declare a ballot paper invalid, even in cases when the intention of the voter was clear.

While ANFREL acknowledges the integrity of the counting process in most of the polling stations where its observers were present, it has serious concerns over the transparency of the vote tabulation and consolidation operations, to which observers, party agents, or media were not provided access. The counting of over 2 million advance ballots and the presentation of their breakdown were also not publicized enough according to our findings. Furthermore, storage of the 2 million advance voting ballots, not yet counted and tabulated, in the Laksi Post Office Warehouse were only disclosed upon the public's expression of concern. The Bangkok Declaration on Free and Fair Elections invites election management bodies to allow public scrutiny and transparency in all stages¹¹¹. Without the access required to fully scrutinize the process, from the moment the first ballot is cast until results are made official, observers cannot produce a definitive statement on the trustworthiness of an electoral result as a whole.

Voter Turnout

According to the data provided by the ECT, there were 36,268,375 voters who participated, which comprises 74.69% of the 51,239,638 registered voters. Looking at the data provided in International IDEA's website¹¹², the 2019 Elections registered the fourth highest turnout in all elections held since the 2001. The advance voting turnout is a staggering 86.98% of the 2,752,248 registered advance voters¹¹³.

¹¹¹ Bangkok Declaration on Free and Fair Elections, Article 18(1): "EMBs, subject to their prevailing laws, should ensure that all well-trained and non-partisan observer groups are permitted to observe all stages of election processes including observing the entire polling and counting processes at any polling station."

¹¹² International IDEA, "Voter Turnout Database: Thailand", 2019, <https://www.idea.int/data-tools/country-view/280/40>

¹¹³ *Bangkok Post*, "Nationwide turnout of 86.98% for advance voting", 18 March 2019, <https://www.bangkokpost.com/news/politics/1646772/nationwide-turnout-of-86-98-for-advance-voting>

Parliamentary			
Year	Voter Turnout	Total vote	Registration
2019	74.69 %	38,268,375	51,239,638
2014	46.79 %	20,130,929	43,024,000
2011	75.03 %	35,203,107	46,918,709
2007	78.51 %	35,844,272	45,658,170
2006	64.77 %	29,088,209	44,909,562
2005	75.13 %	33,693,624	44,846,472
2001	69.95 %	29,909,271	42,759,001

Voter turnout in Thai parliamentary elections since 2001
(Source: International IDEA)

While several issues surround the statistics provided by the ECT, ANFREL observers saw an organic desire on behalf of the voters to participate in the elections. Such turnout can be attributed to the thirst felt by Thai citizens to direct their own country's political affairs, which no coups d'état can quench. ANFREL sees such active electoral engagement from the voters as a call for politicians to ensure the will and right of people is reflected in the country's governmental processes.

Active political engagement can be sustained if Thai electoral stakeholders can work together on several good practices, which ANFREL observers saw lacking in this election. For instance, ANFREL observed that grassroots voter education and information initiatives, which can help boost meaningful electoral participation, were almost not present. The effort to inculcate the values of voting was carried mostly by the media and some

civil society organizations, while being subject to political barriers. In other Asian elections ANFREL observed, voter participation tends to be higher when election management bodies attempt to partake in voter education.

Furthermore, there were several logistical issues which may have prevented the 2019 Elections from registering a higher voter turnout. ANFREL met several voters who were effectively disenfranchised and were forced to forego of their voting rights due to the overcrowding and polling station mismanagement, which the ECT admitted¹¹⁴. Such voter discouragement could also result from the advance voting registration mishaps, where several voters ANFREL met were not able to see their names. This is due to the confusion regarding the advance voting procedures where voters failed to accomplish the last step in the registration website. As a consequence of their names not being included in the advance voting list, they now have to go back to the constituencies they are originally registered in order to vote.

Invalid Votes

Of the 38,268,366 cast ballots registered during election day, 92.85% are found to be valid, 5.57% are invalid, and 1.58% chose none of the candidates¹¹⁵. The instance of invalid votes translate to 2,130,327 ballots, which can vastly influence the seat distribution in the party list contest. Thus in the case of Thailand, it is important to ensure that the number of invalid votes are minimized, given especially that the formula utilized to decide on the party list seats is complicated and very sensitive to miniscule changes in the votes received by each party.

¹¹⁴ Mongkol Bangprapa, "Setting the record straight", *Bangkok Post*, 22 April 2019, <https://www.bangkokpost.com/news/politics/1664936/setting-the-record-straight>

¹¹⁵ Election Commission of Thailand. March 28, 2019. Retrieved from https://www.ect.go.th/ewt/ewt/ect_th/download/article/article_20190328165029.pdf.



ECT's guidelines for counting ballots: invalid marks are on the left, valid on the right

Upon inspection of the guides, ANFREL saw that a ballot is deemed invalid should the voter leave it blank, mark two boxes, or fill it with other marks aside from a cross. The ECT explained that these were done to curb vote buying, where in the past elections, different parties ask voters to use different symbols to fill out their ballots. Yet, there remains enough variations among the accepted ways to mark a ballot for vote canvassers to issue voting guidelines. Furthermore, the guides lack consistency given that the invalid guide do not address every scenario and therefore leaves a little room for discretionary judgement from the poll officers in some instances.

The ECT can address this by using other means to fill out the ballots. In Indonesia, the voter is asked to punch a hole adjacent to the candidate of their choice. In Myanmar, the election commission provides a unique stamp to be used by the voter to indicate their choice. In the Philippines, voters are asked to shade the circle adjacent to their chosen candidate. All of these methods would be more efficient in clearly assessing the intent of the voter while at the same time reducing the potential for vote buying activities.

Announcement of Results

In the evening of Election Day, the initial announcement of results by the ECT was marred by inaccuracies and an intermittent delivery. According to a “Rapid Report” system implemented by the commission, poll officials were to send their data to the center using a mobile app. Preliminary results were then released via a live feed on Facebook and shared with media outlets who disseminated them. However, many of the results broadcasted were deemed untrustworthy because they contained a number of discrepancies: in many instances, the breakdown of ballots did not tally with the reported voter turnout, or the turnout figures by constituency were higher than the numbers of eligible voters in those locations.

These contradicting figures immediately led to widespread confusion among voters, and the commission eventually had to halt the livestream and postpone the announcement of the results until the following day, reneging on its earlier promise to complete 95 percent of the vote counting on Election Day itself, as is common practice in Thai elections. The ECT has alternatively blamed the discrepancies found in the preliminary results on human error, saying that officials entered incorrect information into the Rapid Report app, unspecified attacks by hackers on the data collection servers¹¹⁶, or even the media themselves for failing to interpret correctly the raw data shared with them¹¹⁷.

¹¹⁶ *Bangkok Post*, “Petition to impeach EC hits 660,000 names”, 26 March 2019, <https://www.bangkokpost.com/news/politics/1650964/petition-to-impeach-ec-hits-660-000-names>

¹¹⁷ Jintamas Saksornchai, “US Calls for Immediate Release of Thai Election Results”, *Khaosod English*, 27 March 2019, <http://www.khaosodenglish.com/politics/2019/03/27/us-calls-for-immediate-release-of-thai-election-results/>



In this screenshot of ECT's election night live feed, the number of male voters who cast ballots in Bangkok is displayed as a negative 60,937 (Source: "CSI LA" Facebook page)



In this screenshot of ECT's live announcement of results, the number of valid votes, invalid votes, and "no" votes (3rd, 4th and 5th lines respectively) add up to nearly 200% of the overall voter turnout (2nd line)(Source: "CSI LA" Facebook page)

Another indicator of the election management body's poor handling of the dissemination of results on election night was its Chairman's offhand comment, when asked by the media what the final results were, that he "did not have a calculator with him" at the time¹¹⁸. This immediately sparked widespread outrage on social media, and did not help to mend the rocky relationship between the ECT and the public. By the evening of 25 March, over 600,000 people had signed a petition¹¹⁹ to have elections commissioners removed for their supposed failure to hold a free and fair election, and 1.4 million tweets were posted with the hashtags "EC Busted" and Election Fraud 2019"¹²⁰.



On 25 March, pro-democracy activists demonstrated at the ECT office in Bangkok to "donate" calculators and demand the announcement of the final vote count results (Source: MGR Online)


¹¹⁸ *The Nation*, "Dubious results expose EC to glare of public scrutiny", 25 March 2019, <http://www.nationmultimedia.com/detail/politics/30366513>

¹¹⁹ Change.org, "ขออำนาจพลั้งประชาชนร่วมกันลงชื่อสนับสนุนแคมเปญล่ารายชื่อถอดถอนกรรมการการเลือกตั้งที่ดูมีมลทินมากที่สุดในประวัติศาสตร์ชาติไทย", <http://tiny.cc/xohr5y>

¹²⁰ Kas Chanwapen, "Spotlight on EC after dubious results", *The Nation*, 26 March 2019, <http://www.nationmultimedia.com/detail/politics/30366538>

While in previous elections the final results, albeit still unofficial, were disclosed within hours of the polls closing, in 2019 full results were not released until four days after the election. In the meantime, the numbers were held up with 95 percent of ballots counted, and at least seven political parties lodged complaints with the election commission to seek explanations regarding the delay¹²¹.

The full vote count disclosed on Thursday 28 March raised new questions across the country, most notably regarding the voter turnout, which increased from 65.96% in the partial results to 74.69%. The difference was so significant that many pundits expressed doubts or skepticism with the new figure. Pheu Thai PM candidate Khunying Sudarat Keyuraphan echoed these concerns by stating that "in just four days, 4,493,145 ballots were created in the ballot boxes¹²²". Also different from previous announcements was the number of eligible voters, which should have been determined and publicized well in advance of election day, and under no circumstance should be revised after the election. Other inconsistent data included the numbers of used ballot cards (38,268,366) and of voters who exercised their franchise (38,268,375), which exhibit a difference of 9 while they should match each other.



	24 March 2019	28 March 2019	Difference
Eligible voters	51,205,624	51,239,638	+34,014
Cast ballots	33,775,230	38,268,375	4,493,145
Voter turnout (%)	65.96	74.69	+8.73

This table presents the difference in the announcements of results by the ECT on 24 March and 28 March (Source: Voice Online, translation: ANFREL)

¹²¹ *The Nation*, "EC seeks delay in final results amid ongoing probes", 28 March 2019, <https://www.nationmultimedia.com/detail/politics/30366676>

¹²² *Bangkok Post*, "EC unveils full count of ballots", 29 March 2019, <https://www.bangkokpost.com/news/general/1652620/ec-unveils-full-count-of-ballots>

As a response to the continued criticism it was facing, the Election Commission immediately retracted some of the data published in its second announcement of results and took down documents from its website in order to verify the information¹²³. Information was posted again on Friday, March 29, with some minor corrections brought to the previous set of documents. In the following days, the ECT strived to explain the discrepancies by detailing the way its Rapid Report system worked.

According to the election commission, the increase in the number of ballots merely reflects the fact that only 93% of the votes were accounted for on the evening of 24 March, and earlier figures did not include the advance voting ballots, both in-country and abroad¹²⁴. However, since advance votes were sent to their home constituencies and also counted on election day, it is unclear how they could have been disaggregated in the first set of results. Several of the electoral stakeholders met by ANFREL have stated they remained unconvinced by the ECT's explanations and expressed distrust towards the official voter turnout.

Successive hasty announcements by election officials, however, did not satisfy the Thai voters' strong demand for both transparency and integrity. The Rapid Report system especially, initially designed to ensure a quick release of results to the public, spectacularly backfired and undermined the efforts of many hard-working and diligent poll officials who were doing their best to issue reliable vote counts in a timely manner. The ECT eventually did away with its Rapid Report system altogether and scrutinized more acutely the data that was going out, but not before serious harm was done to the public perception of the polls.

The behavior of the ECT in the hours and days following the polls may have cause long-term damage to the people's trust in the electoral process. In an

¹²³ Kas Chanwapee, "Series of errors hound EC", *The Nation*, 29 March 2019, <http://www.nationmultimedia.com/detail/politics/30366745>

¹²⁴ King-oua Laohong, "EC calls discrepancies in poll figures „explainable“, *Bangkok Post*, 30 March 2019, <https://bangkokpost.com/news/politics/1653360/ec-calls-discrepancies-in-poll-figures-explainable>

opinion poll conducted from 26 to 30 March, 48% of respondents said they were disappointed with the election commission for its lack of transparency during vote counting and the delay in announcing the results, while only 20% were generally satisfied with the commission’s performance and 30% stated they were indifferent¹²⁵. Overall, the main windfall from the shaky announcement of results was that the perceived integrity of the polls is severely undermined in the eyes of the public.

However, it is equally important to acknowledge that most political parties seemed to recognize the results presented by the election management bodies as mostly trustworthy, partly so because they immediately reacted to them as an indication of their own strength or relative weakness. In the aftermath of the election, political parties and their candidates also fueled an intense debate over the formula that should be implemented for the allocation of the national party-list MP seats, as we will see. By focusing on such technical details, parties vying for seats implicitly endorsed the results presented to them by the election commission, with most complaints regarding polling station- or constituency- level vote counts instead of blanket dismissals of the nationwide figures published by election officials.

In the wake of the general election, there have been numerous and far-ranging efforts to protest the sitting election commissioners and their performance. The online petition mentioned above was the most prominent, reaching nearly 850,000 signatures before being submitted to the Office of the National Anti-Corruption Commission (ONACC) on 11 April¹²⁶. The petition was an initiative of a youth network called New Generation for Social Change.

¹²⁵ *Bangkok Post*, “Pollsters split over election”, 1 April 2019, <https://www.bangkok-post.com/news/politics/1654344/pollsters-split-over-election>

¹²⁶ *Post Today*, “มาตามนัดหอบ8แสนชื่อยื่นปช.ตรวจสอบกกต. วอนสังคมอย่าลืมพวกเรา”, 11 April 2019, <https://www.posttoday.com/politic/news/586202>

There were also many students and academics to take action against the election management body. In the Northeast of Thailand, a student group named “University Students Following the Election Network” released an open statement on the incompetence of the election commission¹²⁷. The Student Union of Thailand announced its intention to sue the ECT for performing its duties dishonestly¹²⁸. The Thai Academic Network for Civil Rights submitted to the ECT on 10 April an open letter to reveal full vote counts, calculate the party-list seats in a transparent manner and lift all charges against citizens¹²⁹. The same day, 63 members of the Civil Society and Human Rights Organizations Network also submitted an open letter with similar demands.

In Bangkok, an anti-coup group calling itself “People Who Want Elections” organized demonstrations and collected signatures for a petition to remove the members of the commission over alleged poll irregularities, also submitted to ONACC¹³⁰. Another group that submitted a petition to ONACC was the Association to Protect the Thai Constitution¹³¹.

Starting on 7 April, activists held silent protests at Bangkok’s Victory Monument, holding signs calling for the ECT to “stop judicial harassment” of citizens and protect free speech¹³². Among the disgruntled are also former members of the dissolved Thai Raksa Chart party, including Ruangrai Leekitwattana, previously a party-list candidate for the party, who requested

¹²⁷ *Bangkok BizNews*, “มข.ตั้งเครือข่ายนักศึกษา เปิดปฏิบัติการตามการทำงาน กกต.”, 9 April 2019, <http://www.bangkokbiznews.com/news/detail/831965>

¹²⁸ *Matichon Online*, “สนท.จ้อฟ้อง 7 กกต. เอาผิด ม.157 เพยกาลังรวบรวมหลักฐาน”, 10 April 2019, https://www.matichon.co.th/politics/news_1445422

¹²⁹ *Prachatai*, “121 นักวิชาการยื่นหาก กกต. ไม่ถอนฟ้องประชาชน ก็ต้องฟ้องพวกเรด้วย”, 10 April 2019, <https://prachatai.com/journal/2019/04/81992>

¹³⁰ *Bangkok Post*, “Protesters hit city streets”, 1 April 2019, <https://www.bangkokpost.com/news/general/1654312/protesters-hit-city-streets>

¹³¹ *The Nation*, “Activist group seeks NACC probe into EC’s conduct”, 9 April 2019, <http://www.nationmultimedia.com/detail/national/30367375>

¹³² *Prachatai*, “ทนายอานนท์ จัดยื่นแถลงฯ ประท้วง กกต. ท่อนสาววิจัยฯต่อ เผย 17 เม.ย.มายื่นใหม่”, 12 April 2019, <https://prachatai.com/journal/2019/04/82029>

to the Ombudsman Office to investigate the work of the ECT and asked the Administrative and Constitutional Courts to take steps to nullify the 24 March polls¹³³. The Ombudsman dismissed his request on 26 April.

After the ECT consolidated its figures, final election results for constituency seats were published on 7 May and for party-list seats on 8 May¹³⁴. Altogether the Election Commission of Thailand certified the winners for 498 seats, pending the election re-run in Chiang Mai province. Results for every polling station were not released, which we encourage the electoral authorities to do in order to address the widespread distrust of the public and alleviate any allegations of tampering. Because of the aforementioned provisions of the electoral law allowing the ECT to invalidate results and hold new elections for a full year after Election Day, which means that this electoral cycle may not be over yet.

¹³³ Khaosod, ““เรื่องไกร” ร้องผู้ตรวจฯ ส่งศาลวินิจฉัย เลือกตั้งโมฆะ ชี้กกต.รายงานผลนับคะแนนไม่ตรงกัน”, 9 April 2019, https://www.khaosod.co.th/politics/news_2396861

¹³⁴ Tarin Angsakul, “EC endorses party-list MPs”, *NNT*, 10 May 2019, <http://thainews.prd.go.th/en/news/detail/TCATG190510093626675>

Recommendations

In light of the many shortcomings reported by the members of the ANFREL international election observation mission detailed throughout this report, it is clear that the 2019 Thai general election cannot be considered as a full-fledged return to democracy. At best, it is the start of a slow transition away from military rule. In order to achieve full representation of the people's through peaceful electoral processes, ANFREL would like to submit the following list of recommendations for stakeholders to consider and hopefully implement ahead of the next elections. To this effect, we hope to see all stakeholders and members of the civil society join in a productive debate and work together to improve on the current situation and attain long-term democratic stability. ANFREL will proudly continue to support all of Thailand's efforts in pursuing the establishment of genuine, periodic, free and fair elections.

On the legal framework for elections:

1. Prevent legal provisions of similar nature to Section 44 of the Interim Constitution from being enacted. Democratic governance require the primacy of checks and balances.
2. Revisit, in consultation with the public, provisions in the Constitution and other laws such as the Computer Crime Act, the Public Assembly Act, the Criminal Code, or the Referendum Act, which effectively limit the fundamental freedoms of association, expression, and assembly.
3. Create rigid legal guidelines to prevent the use of SLAPPs and other forms of statutory measure abuse by state authorities or individuals.
4. Consider making amendments to the constitutional framework to be done to ensure that the will of the people is reflected in all expressions of governmental authority. If Parliament contains non-elected members, those should not be allowed to elect the Prime Minister, as the head of government should only be accounted to the people or their duly elected representatives.

5. Include all citizens of voting age among eligible voters and lift unreasonable barriers to enfranchisement like those contained in some parts of Section 96 of the Constitution.
6. Provide for accountability mechanisms to balance the Election Commission of Thailand's vast powers, and to prevent any conflict of interests from arising.
7. Remove any provisions meting out disproportionate penalties against political parties, such as dissolution, for the wrongdoings of individual members. The personalities of political parties and their members should be distinct.
8. A more transparent and independent selection process for the appointment of the ECT members should be conducted. Furthermore, membership for women, ethnic, and vulnerable sectors in the Commission should be encouraged.

On the electoral system:

1. Enact a party-list seat allocation formula which adheres to principles of proportionality in representation, thereby making the election more democratic.
2. Allow the participation of independent candidates in elections.
3. Redraw the electoral map in accordance to legislative guidelines which specify basic conditions for delineation such as population per constituency, and administrative boundaries among others. Redrawing electoral boundaries should always be done in the most transparent manner possible.
4. Prevent any changing of electoral rules in the post-election period. All guidelines, including allocation methods, should be determined and made public well ahead of an election.
5. Enact clear campaign financing regulations to moderate and monitor the intake and spending of political parties and candidates. Adopt and implement strict regulation to prevent misuse of state resources by any political parties or candidates.

On the voter list:

1. Provide for a longer advance voting registration period to encourage voter participation. The return to conducting advance voting over two days would also contribute to the reduction of long queues and possible disenfranchisement.
2. Redesign the online voter registration platform to ensure that voters are not skipping some necessary steps when applying for advance voting, and allow citizens to consult their voter registration status at any time throughout the year.
3. Ensure that all necessary voter information documents are delivered to the households earlier so voters are aware of the status of their registration and the veracity of voter information.
4. Ensure that voter statistics are handled properly, and provide disaggregated data regarding the gender, age, or disabilities of voters, among others. Publish the actual statistics for registered voters, overseas voters, and advance voters prior to the election to avoid confusion.
5. Provide more flexibility in changing voter addresses, thus providing freedom for voters to choose where they want to vote.

On the electoral campaign:

1. Enforce campaign regulations equally to promote a level playing field for all parties.
2. Consider enacting a Code of Conduct for all political parties and candidates to abide by and ensure an amicable election environment.
3. Assign uniform numbers to political parties nationwide.
4. Promote candidate-to-candidate interactions through debates and expansive interviews regarding policy proposals. The ECT should work with civil society and media to promote an amicable campaign environment.

On election management:

1. Release election results at the polling station level to promote transparency and integrity of the electoral process.
2. Publish an election timeline well in advance of election day to allow for all stakeholders to prepare appropriately.
3. Ensure that all IT tools utilized by the ECT to automate any part of the election process undergoes source code review to ensure that the program used is bug free and secure.
4. Ensure the transparency, impartiality and timeliness of electoral dispute resolution mechanisms.
6. Publish a public docket and/or a case-tracking mechanism for electoral complaints, and generally adopt a transparent approach to election data, including cross-platform availability of basic electoral information.
7. Adopt clearer rules on invalid ballots or consider changing to a different ballot-marking system in order to minimize the number of spoilt votes.
8. Adopt a clear set of rules for election observers and ensure timely accreditation.
9. Provide further training for all polling officers to ensure uniform implementation of election procedures.
10. Improve the assistance provided for PWDs, voters in remote areas, and elderly voters to ensure their full participation in the electoral process.

On the civil society, media and other election stakeholders:

1. Conduct widespread voter education efforts, for the public to gain a better understanding of the electoral process and what makes it meaningful. The ECT should coordinate with the media for this purpose, allocating time for most important guidelines and announcements related to the election.
2. Encourage women from all strata of societies to take meaningful participation in politics through public sector initiatives as well as collaboration with CSOs.

3. Ensure that security forces remain non-partisan. All forms of harassment and intimidation by security forces, especially during campaigns, should not be tolerated.
4. Promote collaboration within CSOs to ensure wide coverage. Holding regular meetings prior to the election can help achieve this aim. The sector should also build its capacity on alternative monitoring methodologies and emerging crucial issues.
5. Increase the capacity of media in covering election-related news and their knowledge of international norms on democracy.
6. Cultivate awareness and interest among the youth regarding electoral and democracy issues, with the help of the academe. Holding symposia and classes regarding this, in partnership with civil society, can help promote sustainable awareness.

Photo Gallery



Advance voters look at information panels in Bang Sue district, Bangkok, on 17 March



An ANFREL observer monitors advance voting in Din Daeng district, Bangkok, on 17 March



Long queues form during advance voting in Nonthaburi province on 17 March



An ANFREL observer interviews voters in Phitsanulok province, on 17 March



Postal workers count advance voting ballots in Din Daeng district, Bangkok, on 17 March



Postal workers seal bags containing voting ballots in Udon Thani province on 17 March



ECT personnel in Sukhothai province parade to raise voters' awareness on 19 March



An ANFREL observer interviews first-time voters on 20 March in Nakhon Sawan province



An ANFREL observer poses with an ECT official in Kanchanaburi province on 21 March



An ANFREL team observes a PPRP campaign rally in Songkhla province on 22 March



An ANFREL observer interviews a military officer in Pattani province on 23 March



Election material before dispatch to polling stations, Phitsanulok province, 23 March



Election material being carried to a polling station in Nakhon Ratchasima province on 23 March



Polling staff assist a wheelchair-bound voter in casting his ballot in Phetchaburi province on 24 March



An ANFREL observer talks with election staff in Phitsanulok province on 24 March



A member of the Election Commission of Thailand visits a polling center in Lak Si district, Bangkok, on 24 March



Polling staff count ballots in Phitsanulok province on 24 March



Polling staff count ballots in Nakhon Sawan province on 24 March



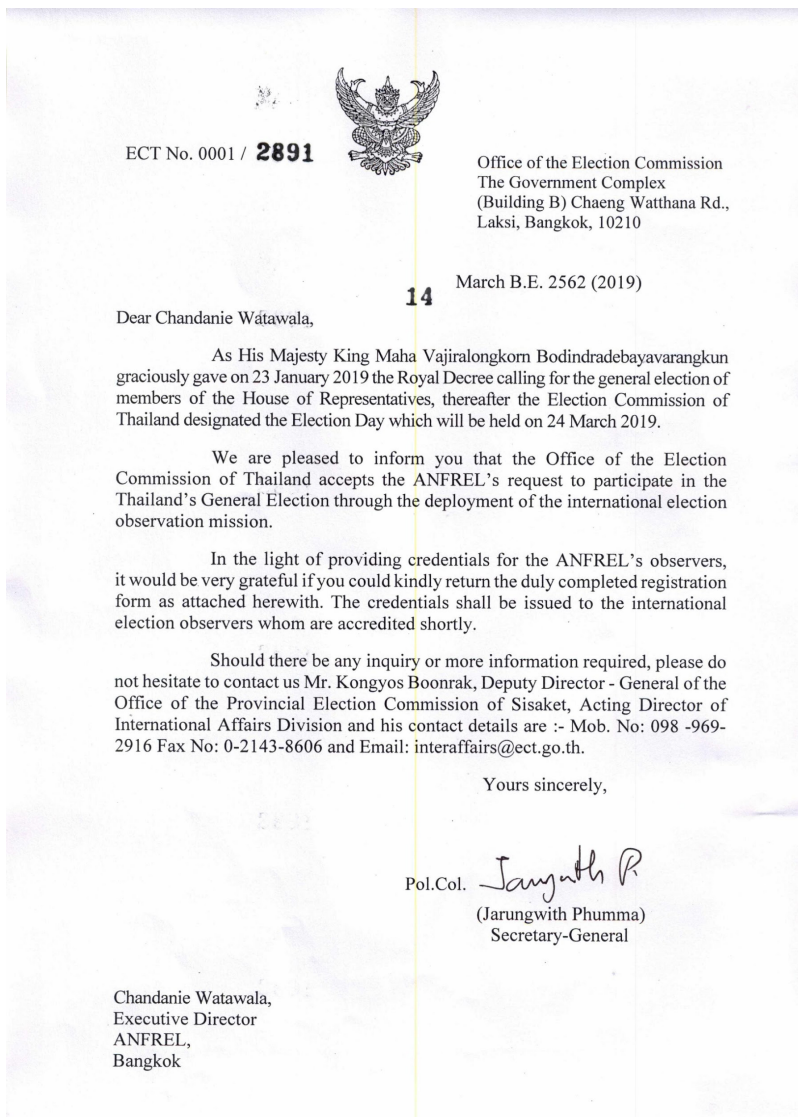
An ANFREL observer monitors ballot counting in Bangkapi district, Bangkok, on 24 March



ANFREL Head of Mission Mr. Rohana Hettiarachchie presents preliminary findings of the observation mission to the press in Bangkok on 26 March

Annexures

1. ECT Accreditation letter



2. ANFREL IEOM Deployment map



LAMBERT CONFORMAL CONIC PROJECTION; STANDARD PARALLELS 18° 00' N 8° 50' N

803532AI (G03664) 2-13

3. ANFREL Press Release on Advance Voting



From Hope to Ballot: Thailand's Advance Vote on March 17, 2019

For immediate release

Bangkok, Thailand

March 19, 2019

In a remarkable expression of their faith in democracy, eighty-seven percent of Thai voters registered for advance voting turned out to vote. Advance Voting Day remained peaceful and orderly but punctuated by instances of mismanagement, inconsistencies in the application of electoral rules by polling staff, and complaints of inadequate voter education and information in particular to voters and political parties.

While the Advance Voting Day establishes the preparedness of the Election Commission of Thailand (ECT), it has provided the Commission an opportunity to immediately take measures to rectify the management issues reported by election stakeholders. The ECT must ensure that the polling staff are consistent in the application of electoral rules on the Election day and would do well by initiating large-scale voter information and education campaign utilizing various media to fill up for any public information deficit that has been identified on Advance Voting Day.

This ANFREL report is based on the observation of 15 Short-Term International Observers deployed in 10 provinces in Thailand. These observers are part of the International Election Observation Mission duly accredited by the ECT. Extensively trained to assess the technical aspects of the electoral processes, ANFREL observers visited 27 polling centers and observed the polling process to assess their conformity and compliance with the electoral procedures notified by the ECT. In addition, the observers also interviewed voters, party agents and representatives of local election monitoring groups. Under the defined methodology, ANFREL observers were also required to speak to the polling staff, but due to unclear instructions from ECT personnel at some centers, they refused to talk.

Reports from ANFREL observers suggest that the voting process at the polling centers was generally open and organized. No major incidents of violence or electoral violations were reported to have occurred at the polling stations. However, underneath the largely peaceful completion of the advance voting day, there were instances of inconsistencies and irregularities that surfaced in the observations of ANFREL observers, which also warrant ECT's immediate attention.



Many polling stations mainly in Bangkok and other major cities were found to be overcrowded, causing hours of waiting in queues for voters. It is worth mentioning the deployment of several staffs at polling stations with the high number of registered voters to assist them in giving relevant information on the advance voting day. However, this arrangement was not sufficient as ANFREL observers met several voters returning without voting. There were cases of voters whose names did not appear on the list despite registering for advance voting online. According to some local election monitors, these missing names were caused by voters not properly accomplishing the online registration process. Measures to ensure non-occurrence of these issues on the Election Day needs to be tackled urgently by the Commission. This will prevent any possible cases of voter disenfranchisement on election day.

ANFREL encourages the ECT to provide information to the public on voting procedures to provide clarity on the proper conduct of the process. Variances in the implementation of electoral regulations at different polling stations were also witnessed. For instance, taking photographs outside the polling booths was reported to be permitted in most stations, but at some polling stations, it was restricted. An ANFREL observer was asked by an on-duty police officer to delete photographs that were taken at the booth. Furthermore, such uneven implementation was also reflected in the information posted on the notice board outside polling booths, as some contained information regarding political party candidates while others did not.

Given the severe lack of voter education ahead of the polling day, the availability and accessibility of electoral information at the polling station is of utmost importance for voters. The inconsistent and insufficient information our observers witnessed at some polling stations raise concerns as it might cause confusion among voters, especially those that receive electoral information for the first time at the polling station on election day.

We regret the limited presence of political party agents and citizen observers on the advance voting day at various polling stations we observed. The presence of these stakeholders in all stages of the electoral process adds to the transparency and credibility of elections. Thus, we call upon the ECT to take immediate measures to ensure that the political party agents and observers are not unduly restricted by polling station staff from observing the voting and counting processes on Election Day.

The media reported that the Election Commission has admitted cases of polling stations handing out ballots for the wrong constituency to voters. A more careful ballot distribution process has to be made in order to avoid such occurrence, thereby avoiding confusion among the voters and removing any unfair benefits to some political parties. The ECT should produce clear guidelines



on how such cases should be resolved, and how to appreciate the votes in the wrong ballots, as well as accommodate those who were not able to cast votes in the polling booths with wrong ballots.

ANFREL strongly urges the ECT to conduct all aspects and phases of the electoral process in a more transparent manner. Civil society groups including local election monitoring groups interviewed by the mission expressed that they were not provided with information regarding the electoral process prior to the advance voting day. As a result, concerns surrounding the security of ballot boxes, transfer, sorting and storage of ballots poured in immediately after the polling stations closed. The Election Commission only addressed the concerns of the public a day after the advance polls. The management body released the measures undertaken to ensure the ballots' security from potential tampering during the transfer and while in the custody of the postal service or at police stations. The public's widespread concern about the security of ballots reflects poorly on the public's level of confidence on the ECT, which is induced mainly by the lack of information.

On Sunday, March 24, tens of millions of voters will go to the polls across the country. The electoral inconsistencies observed during the advance voting day require urgent attention by the ECT in an effort to improve the quality of voting and counting processes on Election Day. In addition, while recognizing the limited time remaining before the polling day, ANFREL recommends that the ECT provide clearer electoral information to voters as soon as possible.

ANFREL highly recommends for the ECT to urgently address the public's concerns surrounding the electoral process, especially events of mismanagement on the advance voting day, including widespread concern over transparency, especially in regards to ballot security. ANFREL calls upon the ECT and all related stakeholders to uphold and protect the Thai people's electoral rights and reward their continued faith in democracy in this 2019 general election.

4. ANFREL Interim Report on the 2019 Thai General Election



**International Election Observation Mission (IEOM)
to the Kingdom of Thailand's 2019 General Election**

INTERIM REPORT

IEOM Profile

ANFREL's International Election Observation Mission (IEOM) to the 2019 Thai General Election is composed of 34 international election observers, which include two electoral analysts (EAs) deployed for 45 days, a first team of 8 observers present for 14 days, and a second team of 24 observers deployed for 10 days.

The IEOM team was able to monitor the election by conducting campaign monitoring, in-depth interviews with key electoral stakeholders, desk review, and visits to a random sample of polling stations. ANFREL observers covered 27 polling centers on Advance Voting Day (March 17), and 492 polling stations across 30 provinces on Election Day (March 24).

This interim report contains an assessment of the pre-election activities, as well as election day operations, from the opening of the polls to the counting, consolidation and publication of results. ANFREL will issue a comprehensive Mission Report a month after the publication of the final election results, which will expand on the information included in this Interim Report and include an assessment of post-election electoral dispute resolution as well as a list of recommendations for electoral stakeholders to consider.

Summary

The Asian Network for Free Elections (ANFREL) congratulates the people of Thailand on the successful and peaceful conduct of the 2019 General Election held on March 24. Through the deployment of international election observers around the country, the mission witnessed a tremendous popular effort and desire to reestablish democratic processes in the country after years of military rule. While the process displays fundamental democratic shortcomings, ANFREL recognizes this election as a first step towards genuine popular representation in governmental affairs. Through this report, ANFREL presents its preliminary assessment of the electoral process, which was crafted with internationally-recognized democratic election norms and principles in mind.

With a voter turnout of just over 65%, it is safe to say that the people still believe in the ballot and the prospect of change it can bring. Therefore, it is imperative that all issues both observers and voters saw emerging from the process be addressed promptly in order to encourage and rebuild trust in the elections.

The voting processes on Election Day ran smoothly, albeit characterized by some variances in the implementation of procedures which did not significantly impact the quality of voter experience or the integrity of the ballot. ANFREL takes issue, however, with the overly restrictive regulations regarding the validity of the ballot marks, which contributed to the almost 1.9 million invalid ballots. Furthermore, while there were only minor mistakes to report as the counting process began, the subsequent tabulation and consolidation of ballots were deeply flawed, which led to an announcement of some preliminary results that were wildly inaccurate on election night. The blunders did further damage to the perceived integrity of the general election, and ANFREL invites the ECT to release comprehensive election results as soon as possible in order to foster trust in the general public's eye.

ANFREL saw a campaign environment which is heavily tilted to benefit the incumbent military junta and the candidates that it supports. Furthermore, an analysis of the legal framework revealed a plethora of legal provisions that are detrimental to the performance of the duties of the media, civil society and voters, prompting these actors to minimize or ultimately self-censor criticism against the military junta. Furthermore, the near absolute powers granted by the 2015 Interim Constitution's Article 44 to the National Council for Peace and Order (NCPO) remained in place throughout the electoral process, and loomed above the head of the current regime's critics.

The advance voting process on March 17 revealed strong voter enthusiasm, to the point that long queues sometimes discouraged voters from participating. As an indication of the level of preparedness of the ECT for the ballot, polling was generally transparent and orderly, but observers deployed in several provinces encountered issues in the uniformity of the implementation of electoral procedures.

The campaign period was dominated by vibrant interactions among the various parties and stakeholders. The media performed well by providing the public with comprehensive information regarding the political parties and their campaign platform. Voters seemed to possess sufficient information to arrive at well-informed votes. The 2019 General Election also saw a process which proved to be generally conducive to the participation of women and youth.

The ECT could have improved the quality of the process by doing more to disseminate information on the polling procedures, which could have alleviated much of the public's doubts regarding the process. The lack of transparency and cooperation between the ECT and other electoral stakeholders severely limited the outflow of information, thereby fueling further distrust in the process and the institution itself.

The mission saw eager participation from Thai election monitoring organizations despite their facing the dual challenges of working under the harsh military-controlled environment of recent years and shortages of time and resources for training and planning. Regardless, these election monitoring organizations still managed to deploy observers in a number of polling stations all over the country. However, both international and domestic observers faced at times limitations in getting access to the entire electoral process, with polling stations or tabulation centers requiring additional approval from the district authorities before observers could enter the premises.

Election Day

On March 24, ANFREL observers deployed across Thailand were able to witness a rather transparent and trustworthy polling process which gave voters the opportunity to cast their ballot in a free manner. Polling stations were found to be peaceful, orderly, and generally well-managed, which is a considerable achievement given the large number of polling stations and the short time period that election officials had for preparations.

Nevertheless, reports from some polling stations highlighted uneven implementation of rules and procedures, the result of perfunctory training of polling staff or their misunderstanding of the guidelines they were to follow. In a few isolated instances, polling staff did not prevent unauthorized persons in the polling area or voters discussing while casting ballots, either of which may have compromised the secrecy of the process.

Other shortcomings reported include insufficient checking of voter ID cards, or inappropriate locations for polling stations. One, for instance, was installed at the entrance of a government-sponsored “Thong Fah Pracharat” shop, which sells subsidised goods to low-income earners and bears a resemblance to the name of a pro-establishment political party. However, the fact that such mishaps were few among the over 500 polling stations visited by ANFREL observers indicates the consistent quality of the voting process that took place on Sunday.

Throughout the day, there were few agents of political parties and even fewer domestic observers to be found at polling stations. Cumbersome procedures for the presence of party agents required them to obtain approval from the ECT well in advance. An easier process for the approval of party agents and observers could have increased their presence, which in turn would have enhanced the transparency and fostered trust in the exercise. Civil society organizations need to invest in developing an engaged critical mass of observers to effectively oversee electoral and political processes in the future.

While the accreditation card provided by the ECT was enough to gain access to most polling stations, members of the ANFREL mission were asked in others to provide clearance from district authorities or remain outside the premises, which in a few cases hindered our ability to observe. Most worrisome is the fact that one ANFREL observer was asked by a police officer to hand over the information she had written down, a fundamental breach of the rights of election observers that was, fortunately, an isolated incident.

Reports from our observers showed that, overall, the closing and counting process was conducted diligently, transparently, and in accordance with the rules enacted by the ECT. However, the ECT procedures laid out for determining the validity of a ballot were problematic as they allow voters to choose from amongst 16 acceptable variations of a cross to mark their ballot, but charts showing examples of the proper marks that are allowed were usually not publicly displayed during voting hours. Additionally, these examples do not cover every scenario, allowing a discretionary space for polling officials to declare a ballot paper invalid, even in cases when the intention of the voter was clear.

These counting rules and their uneven implementation may have allowed a number of otherwise legitimate ballots to be included in the almost 1.9 million invalid ballots cast on

Sunday. While this number is lower than in the 2011 general election, invalid ballots still amount to a significant 5.6% of the total voter turnout. The ECT would do well to review ballots that were initially deemed invalid, especially in constituencies where the percentage of invalid ballots is greater than the winning margin.

While ANFREL acknowledges the integrity of the counting process in most of the polling stations where its observers were present, it has serious concerns over the transparency of the vote tabulation and consolidation operations, to which no observers, party agents, or media had access. The counting of over 2 million advance ballots and the presentation of their breakdown were also not publicized enough according to our findings. Without the access required to fully scrutinize the process, from the moment the first ballot is cast until results are made official, observers cannot produce a definitive statement on the trustworthiness of an electoral result as a whole.

Election management bodies have to ensure that election results are not only accurate but also the result of a trustworthy process that is accepted by the public. The latter represents a considerable challenge given the low level of trust many Thais have displayed towards the ECT. The debacle that was the preliminary announcement of results on the evening of March 24th strengthened suspicions of the public about the credibility of the election outcome, warranting urgent mitigation measures from the ECT.

Advance Voting

Thailand implements advance voting mechanisms to provide all citizens with an opportunity to cast their ballots, and therefore to comply with their compulsory voting requirement. Registration took place online and in civic registration centers from January 28 to February 19, with a total of 2,752,119 voters signing up for advance voting, a remarkably large number given that there was little publicity for the process and that the registration window ended more than a month before Election Day itself.

From March 4th to March 16th, overseas voters were the first ones able to exercise their franchise, in 94 Thai embassies or consulates around the world. Out of 119,232 registered overseas voters, 84.7 percent cast ballots, despite facing an array of problems in many polling stations¹. Voters encountered instances of long queues, incorrect candidate information, and postal ballots being delivered late or at a wrong address, all of which indicate an insufficient level of preparation from the Election Commission and diplomatic missions tasked with carrying out the ballot.

Another issue that arose from overseas advance voting was the delay of about 1,500 ballots coming from voters in New Zealand, which were not delivered to their respective polling stations by the deadline of 5 PM on March 24, and therefore deemed invalid upon arrival. This development came as a disappointment for many voters that went through all the necessary steps to vote, only to be disenfranchised because of the lack of planning from election management bodies. It is the duty of the ECT and its partners to ensure that every

¹ <https://prachatai.com/english/node/7974>

Thai citizen has access to the fundamental right of expressing its choice through the ballot box.

Advance Voting Day was held on Sunday, March 17, and marked the start of the General Election in Thailand, with over 2.2 million Thais marching out to vote in what amounted to an 87 percent turnout among those registered. Although advance voting usually displays higher turnout rates than Election Day, in part because those registering to vote early are more educated on electoral matters than the general population, this was a remarkable display of the voters' intent to take part in the country's first electoral process in years.

ANFREL observers reported that Advance Voting Day was peaceful and orderly, with a voting process generally organized and transparent, and no major incidents of violence or electoral violations reported. However, queues rapidly formed in many of the Kingdom's 385 polling centers open for the occasion. Despite the deployment of large numbers of polling staff to assist voters, the widespread overcrowding of polling stations led to hours of waiting for many voters, and in some cases to people having to leave without being able to vote. This tumult could likely have been avoided if advance voting took place over two days like in past elections, instead of a single one this year. Therefore, we recommend that the election commission considers extending the time frame for casting advance votes in the next general election.

Instances of mismanagement nevertheless punctuated the day, with inconsistencies in the application of rules by polling staff, and complaints of inadequate education and information efforts from both voters and political parties. The most noteworthy issue was that, in several polling stations, voters were given the wrong ballot paper, a blunder acknowledged by the ECT that would effectively mean their vote would be discarded. There were also cases of voters whose names were not found on the list because the online registration process for advance voting was either faulty or too complicated.

Overall, advance voting mechanisms provided voters, media, and observers with a clear picture of the level of preparedness of ECT. Although the conduct of the polling process on March 17 went rather well, there were many indicators of low voter education and perfunctory training of polling staff, both of which were to be displayed on a much larger scale on March 24 with the bigger polling exercise that is Election Day. The ECT and other government bodies were unable to foster public trust in the electoral process, in particular with regard to the transportation and storage of advance ballots which raised many questions. Therefore, we invite election officials to be more forthcoming in the future about the process and safeguards they implement.

Legal Framework

The legal framework for the 2019 General Election contains a variety of undemocratic provisions which tilt the electoral playing field, provide the unelected National Council for Peace and Order (NCPO) with extraordinary powers which continue up to, and in some areas beyond, the formation of a new government, and impose restrictions on the fundamental freedoms of expression and assembly. Beginning with the non-inclusive

makeup of the Constitutional Drafting Committee and the deeply flawed 2016 Constitutional Referendum, the legal framework for elections has shown significant procedural and substantive shortcomings. Too many articles of the Constitution and election laws are designed to move Thailand towards a form of guided democracy rather than a fully-fledged democracy.

In the run-up to the election, the Constitution's empowering of 250 appointed Senators with a great deal of legislative and oversight powers was often cited as one of the most undemocratic aspects of the legal framework. Many of the stakeholders interviewed by ANFREL expressed misgivings about the fairness of the opaque and non-inclusive Senate appointment process and the role that the Senate will play after the election, in particular their five-year inclusion in the vote for the next Prime Minister. ANFREL hopes that the future Senators will respect the fundamental right of Thai voters to select their leaders, as expressed on March 24th.

Additionally, Thailand's legal framework does not do enough to include all of the country's citizens in the electoral process. Among those still unable to participate in the voting process are all members of the Buddhist Clergy, and detainees, including those awaiting trial or convicted of minor crimes, as well as a sizeable number of stateless persons born in Thailand. While ANFREL certainly respects the cultural and religious traditions of Thailand, there are several examples in the region of countries which do more to include clergy and those who are detained. Going forward, ANFREL hopes that Thai leaders will do more to protect and defend the rights of these deserving potential voters. In addition to being consistent with the international commitments Thailand has made, such reforms would promote the principle of universal suffrage and would be an indicator of Thailand's becoming a more inclusive and mature democracy.

Campaign Environment

Campaigning strategies adopted by political parties and candidates predominantly used traditional methods such as house-to-house visits, posters, motorcades with loudspeakers, and public rallies. The campaign environment also provided opportunities for public discussions among political parties, candidates and other electoral stakeholders, which were previously impossible for five years under the imposed ban on political activities. Many political parties and candidates also campaigned extensively on various social media platforms in order to reach out to the masses. In rural areas, exposure to the electoral campaign was often limited to TV and community radio stations, thus limiting the potential spectrum of information provided to voters.

The campaign environment in the provinces observed by ANFREL's international observers was seemingly peaceful and free of any major violent activities and electoral violations. The relatively peaceful nature of the campaign environment is nonetheless perceived by various stakeholders interviewed as a reflection of the stringent electoral regulations imposed by the Election Commission of Thailand; and political parties and candidates' effort to strictly avoid any possible violations in order to safeguard themselves and their party from severe penalties. In addition, fear of retaliation and backlash by

authorities and powerful political groups prevented voters from lodging or commenting about possible electoral misconduct.

A frequent and commonly raised issue by stakeholders was the prevalence of an uneven playing field for political parties and candidates. Several voters and stakeholders interviewed opined the campaign process 'unfair'. Often than not, pro-junta parties are accused of receiving more leverage and leniency from the government and electoral authorities, one of which also nominated the current PM as their prime-ministerial candidate in the 2019 general election. While the ban on political activities and campaigning was lifted almost four months prior to the March 24 general election, the government's populist policies and extensive field visits across the country conducted by the PM and government officials much ahead of December 2018 is seen as vote canvassing by many voters and stakeholders.

While ANFREL appreciates the generally peaceful campaign environment, there were multiple instances reported in the media and by political parties where the actions of security officers seemed both partisan and intended to intimidate rather than focused on actual security. Candidates from both Pheu Thai and the Democrat Parties reported that security officers searched their homes on March 21st without a warrant or probable cause. Without a proper reason for doing so, these actions not only needlessly frighten the candidate and their family, they damage the reputation of the security forces, weaken the perceived integrity of the election process, and are incompatible with a free campaign environment.

Furthermore, some voters expressed skepticism about the existence of a conducive electoral environment that is truly free and fair due to the legal provisions that kept sweeping powers in the hands of the government during the campaign and immediate post-election period. For example, some of the legal provisions that have gathered wide public scrutiny and criticism, and also feared to be misused against anti-junta political parties and candidates are the infamous Article 44 of the 2014 Interim Constitution; NCPO's announcements and orders that severely curtail freedom of expression; the recently amended Computer Crime Act; the powers of the National Broadcasting and Telecommunications Commission (NBTC); and the extension of electoral regulations on social media campaigning.

Vote Buying and Abuse of Government Resources

Allegations concerning vote buying were widespread during the campaign period and increased before Election Day. ANFREL observers have collected reports of this type of malpractice in both cities and rural areas across every region in the country. While some of these reports are likely apocryphal, it seems likely that many are true. While more efforts to reduce vote buying would increase integrity of, and public confidence in, the polls, it is also true that Thai voters are more sophisticated than in the past and some of those interviewed expressed that those taking money would still be able to vote for whichever party they preferred.

The abuse of government resources in the form of an intertwining of a government welfare program and the political campaign was both broad and deep. In particular, the

Pracharat welfare scheme, named very similarly to the Palang Pracharat Party running to continue military aligned rule, was a serious misuse of government resources both because of its shared name which unduly benefits one party but also because the benefits continued throughout the campaign period, with additional money approved for the program in the final week of campaigning. The national budget is money that belongs to all of the Thai people and must not be used to advantage a particular political party, as was so clearly evident in this case.

Electoral Administration

Voter Registration and the Voter List

Voter registration and the management of the voter list remains generally efficient and is one of the stronger areas of Thailand's election system. ANFREL believes that the automatic addition to the voter list of eligible citizens turning 18 creates an inclusive environment with one less obstacle preventing the participation of all citizens. While there is always room for improvement in such systems, printouts of voter lists were posted at every Polling Station ANFREL observed, systems for a voter to lookup their Polling Station information online were generally effective, and ANFREL was happy to observe very few instances of voters being turned away or unable to vote after arriving at their Polling Station.

Electoral Dispute Resolution

The Constitution and the Organic Act on the Election Commission passed in 2017 provide the Election Commission of Thailand with a broad mandate to "control and supervise" the election, including the power to conduct fact-finding investigations, suspend candidates from running for office for not more than one year, order re-elections, and make recommendations, including for the dissolution of parties, when referring cases to the Constitutional Court of Thailand.²

The most significant such case before the Commission was that of the Thai Raksa Chart Party, which had a prime ministerial candidate disqualified by the Election Commission just one working day after its announcement and party dissolution recommended in a referral to the Constitutional Court only two days after that. The legal basis for the decision and the speed with which it was made drew accusations from some analysts about the unequal treatment of parties.

On a less newsworthy but no less important point, several stakeholders stated that the mechanisms implemented by the ECT for addressing reported instances of electoral fraud and other complaints have not been made clear to them yet. In addition to at times inadequate information about how to file complaints, transparency about the number and progress of cases filed has not been made readily available. ANFREL observers also heard

² Sections 224-226 of the 2017 Constitution of the Kingdom of Thailand and Section 132 of the 2017 Organic Act on the Election Commission

complaints about a perceived double standard when it comes to the decision making of the ECT regarding both their prioritization of certain cases and the way those cases are decided.

Impartial dispute resolution mechanisms are essential to bolster public trust in the electoral process. Some electoral stakeholders expressed a loss of confidence in existing procedures of dispute resolution because of a perceived lack of transparency in deliberations and decision making processes. This was true before the Election and the issues with vote counting and ballot consolidation on evening of the Election will only further this belief unless the Election Commission takes a more pro-actively open and transparent course of action. To ensure justice to the people of Thailand, we encourage the ECT to conduct its electoral dispute resolution activities without undue delay and in a transparent and fair manner.

Transparency Measures

Transparency and engagement with political parties and civil society are two key ways that any Election Commission can build integrity and public trust in the electoral process. Unfortunately, the majority of those interviewed by ANFREL, whether from political parties, civil society, or the public at large, felt that the Election Commission often avoided transparency whenever possible and was hesitant to engage with other election stakeholders.

In a variety of ways, from the transfer and consolidation of both Advance Voting ballots and those from March 24th, to the Election Commission's failure to clarify its regulations or give access to data, the Election Commission missed an opportunity to embrace transparency in a way that could have made a real difference in winning the public's trust in the process.

Providing more information and data to the public is another area where the Election Commission could have done much more to design transparency into the process. Open Data embraces giving the public access to its data in a way that is machine readable and easy to access and analyse. Even more traditional forms of transparency with data such as the posting of a results sheet at every polling station and at the constituency level would help assuage some of the concerns which cropped up almost immediately after polls closed on the 24th. The Election Commission should also provide more granular results, including voting results from each polling station, as soon as possible so that the public and observer groups can check such figures against their own data from watching the counting and recording the results.

Voter Awareness and Voter Education

Interviews conducted by ANFREL observers revealed that voters generally possessed sufficient information to arrive at a well-informed choice when casting their ballot. However, some observers reported that the voters, aside from expressing excitement at the prospect of being able to vote again, relayed their distrust caused by the minimal information they received regarding the electoral process. Unfortunately, the ECT did not make its rules and

procedures publicly available ahead of time, thus fueling the existing distrust of voters in the election as a whole. Furthermore, civil society organizations and media also displayed poor awareness of the process, and thus were not able to alleviate the situation. The lack of coordination between the civil society, media, and the ECT, especially with regard to the release of voting procedures, primarily caused this poor flow of information.

Voter education initiatives, which are essential in acquiring an understanding of the electoral process among voters, were limited. The ECT and various organizations conducted social media campaigns and distributed materials such as pamphlets and booklets containing information on the voting procedures and candidates, but did so over a short timespan prior to the elections. Reports from our observers also indicate that some of these materials contained errors on candidate information, and were mostly limited to urban areas. To augment these efforts, universities, in partnership with domestic observer groups such as WeWatch and PNet, have initiated voter education programs, with the hope of bringing about awareness of the importance of the electoral process to students and first time voters.

The ECT released a well-designed mobile application entitled "Smart Vote" that compiled a lot of information useful to voters, including the location of their polling station and the candidates in their area. However, some of the information provided, such as that on voting or counting procedures for instance, was rather generic. Providing more detail could have prevented spoilt ballots or confusion at the polling booth. The app was downloaded over 100,000 times on the Google Play Store, which is encouraging but at the same time insufficient to ensure the widespread dissemination of information to the general public. It is also regrettable that this information was not prominently displayed on the ECT's website.

In Bangkok and other urban areas, voters were able to access information regarding candidates and parties through both traditional and social media, while rural residents tended to utilize traditional media more. Door-to-door campaigns, distribution of pamphlets, and rallies organized by the political parties were the most direct source of information on the campaign platforms of parties, and the main means of direct interactions between candidates and voters. Most voters expressed that the debates, as well as the comprehensive interviews held by television media such as the Standard, Voice TV, or Thai PBS, helped to guide them in making their choice.

Women's participation

According to the voter registration data, women comprise 51% of the eligible voters in Thailand. Women voters interviewed by our observers reportedly have not experienced any form of discrimination. ANFREL is still seeking data regarding the number of women candidates for the 2019 elections, but preliminary interviews among political party leaders indicate that most parties have taken a conscious decision to field more women candidates.

ANFREL, however, received information regarding a leader from a dominant religion asking the followers of his group during a service to support men candidates as they are "better suited for leadership roles". While this is an isolated case, the attitude of Thai voters regarding women in politics has always been lukewarm as exemplified in the Thai

Parliament of 2011, where only 5% of women were appointed to the body, and oftentimes, they were appointed as a replacement to their male counterparts.

Youth Participation

ANFREL is pleased that the youth of Thailand have taken an active role in the 2019 Elections. Comprising 16.1% of the voting population, youth are in a strategic position to contribute to the democratic development of Thailand even after the elections. Undeniably, young people have been very effective in directing the course of the elections, participating in the process as election observers, political party members, civil society and media. This is much more incredible given that, for the past 7+ years, the sector has had very little direct experience participating in any political process in Thailand. The new youth-centric election observation group, WeWatch, emerged to be among the most effective and consequential groups in the country, deploying around 2,600 observers nationwide. Through the 2019 Election, the young people of Thailand have built a strong foundation and platform for civic engagement. ANFREL hopes that their momentum and engagement with the process continues after the election.

Media and Freedom of Expression

Freedom of expression for individuals and media freedom leading up to the 2019 Thai general election is perhaps more controlled and restricted than during the 2011 general election. Political developments in the last five years that significantly polarized the political landscape of the country further shrunken the space to express freely. A widespread notion among the general population was observed regarding NCPO announcements (no. 97/2014 and no. 103/2014) and orders (no. 41/2016 and 3/2015) as well as existing legal provisions such as the recently amended Computer Crime Act, 2007; and sedition (under Section 116) and defamation (under Section 326) in Thai Criminal Code as tools used to intimidate and suppress critical views against the government vis-a-vis military³. The Cyber Security Act, 2019 was passed despite wide public criticism over its far reaching powers to oversight individuals' online activities. The ECT's strict guidelines⁴ on political campaigning that emphasised on social media activities of political and candidates are reported to be viewed as targeting political parties that received wide attention by voters active on social media platforms.

While media remained visibly active throughout the electoral process, normalization of self-censorship in Thai society was constantly put forth by representatives of media and civil society groups interviewed by our observers. Self-censorship during the period leading to 2019 election was widely perceived by stakeholders interviewed as part and the continuation of fears instilled years ahead of the 2019 election. With the restrictions faced by both media sector and individuals regarding space for various political views and independent opinions

³ <https://cpj.org/2017/08/thai-columnist-pravit-rojanaphruk-charged-with-two.php>

⁴ <https://www.theguardian.com/world/2019/jan/26/thailands-military-junta-cracks-down-on-social-media-ahead-of-election>

particularly in mainstream media, ANFREL wishes to highlight the concern of limited public's accessibility to critical and varied information.

CSOs and INGOs

For a supposedly competitive process, the number of domestic observers were not enough to cover even 10% of polling stations, which indicates that the environment created by years-long of military rule has considerably weakened the sector. The two most recognized domestic election observers are the Open Forum for Democracy Foundation (PNET) and WeWatch. Both organizations deployed monitors in the field to assess the situation in the localities, as well as record and track violations, threats and violence. WeWatch deployed around 2,600 observers all over the country, while PNET deployed at least 600 observers nationwide.

There were also other organizations which did not deploy observers, but conducted other meaningful activities such as information dissemination and doing election related research. iLaw, for instance utilized social media and their website to publish infographics and articles regarding the electoral environment, as well as distribution of booklets containing important information about the election.

Allegedly, various organizations received some funding from the ECT to support the dissemination of election related information and perform other activities to assist the ECT's operation. However, none of those interviewed were familiar with the nature of their engagements and the amount each organization received.

While there were no recorded instances of crackdown on independent organizations during the pre-election period, most of them complained that the extremely polarized political environment and the plethora of existing legal provisions against defamation have forced them to censor some of their statements.

Regarding foreign organizations seeking access to the elections, only ANFREL, a signatory to the Declaration of Principles for International Election Observation, was formally accredited to launch an election observation mission.

