

Thai court ignores evidence and acquits prime minister of corruption charges

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7 August 2001

In a clear case of political expediency, the Constitutional Court in Thailand last Friday narrowly acquitted Prime Minister Thaksin Shinawatra, one of the country's richest men, on charges of failing to fully declare his assets as required by anti-corruption legislation. The 15-member court voted 8-7 in favour of the prime minister but has yet to provide any explanation of its decision.

Thaksin was indicted last December by the National Counter-Corruption Commission (NCCC), which alleged that he had sought to hide around \$US100 million in assets while deputy prime minister in 1997. Millions of company shares owned by him and his wife were placed in the names of proxies including his driver, security guards and maids. *Forbes* magazine estimates his current wealth at \$1.2 billion.

Thaksin and his Thai Rak Thai (Thai Love Thai) party won the national elections in January with an absolute majority after campaigning on a populist program, offering handouts to rural villages, debt relief to farmers and the formation of an agency to take over the financial system's bad debts. The future of his administration has been in doubt, however, as a court decision confirming the NCCC indictment would have disqualified Thaksin from holding public office for five years.

When he appeared before the Constitutional Court in June, the prime minister did not deny that he had failed to declare the assets. He disingenuously claimed that the official forms had been "confusing" and that he had made an error "in good faith". He appealed to the court to be able to continue to serve the country, saying he was guilty only of "a technical error".

At the same time, Thaksin mounted a campaign to bring pressure to bear on the court to throw out the charges. His backers in big business, the police and

state bureaucracy organised to flood the court with letters of support and collected 1.4 million signatures. A number of relatively small protests were staged.

Other forms of influence may have been at work. According to a report in the *Australian Financial Review*, two of the judges changed their minds just days before the decision was made. So rampant were rumours that large bribes were being paid that Judge Kramol felt compelled to publicly deny any wrongdoing by the court. He called on the anti-corruption commission to check for any irregular transfers into judges' bank accounts.

The media has attempted to explain the court's dilemma as being a conflict between the "rule of law" and Thaksin's popular support. One commentator in the *Australian* newspaper stated: "[T]he judges were torn between two competing interests: the need to get tough on corruption—one of the key aims of the 1997 constitution—and the importance of recognising the will of the people. Yesterday, democracy won."

The verdict, however, has nothing to do with democracy. The prime minister's much vaunted popularity is largely the product of the hostility towards his immediate predecessor Chuan Leekpai, who implemented the economic restructuring agenda demanded by the IMF and World Bank. Thaksin, who only formed his Thai Rak Thai party in 1998, was able to garner support by appealing to the alienation among those hard hit by falling living standards and rising unemployment.

Thaksin is supported by those in big business, the military and the state apparatus connected to the so-called political "old guard" who ran the country under successive military dictatorships and whose economic interests were threatened by the opening up of the Thai economy. In particular, they opposed the introduction

of tougher bankruptcy laws and the sale of faltering companies. Thaksin himself is a former policeman who got his first breaks in business through contracts with the police and military.

While Thaksin was careful not to challenge the court during the trial, he launched a broadside once the decision was announced. He said he found it “strange” that a leader who was voted by 11 million people should have to bow to organisations “composed only of appointed commissioners and judges”. If he had been convicted “it would have shown there was something wrong with our Thai legal system”.

Concerns have been expressed in Thailand about the overtly political character of the court decision. Somchai Homlaor, general secretary of the Asian Network for Free Elections, commented: “This is a big step backward for our democracy. It shows that no matter what we say about cleaning up our political system, the rich and powerful can always escape from punishment.”

The *Bangkok Post* declared: “Despite the feeling of euphoria and relief by the majority, a black cloud of uncertainty still hangs over the rule of law under the new constitution.” The *Nation* was even more forthright, stating: “It seems to be a political rather than a judicial decision... Thaksin’s acquittal was based on arguments that sound anything but convincing.”

The main concern in media and business circles, however, was over the impact on investment and the markets. In the short term, the Thai currency strengthened, the Bangkok stock exchange rallied by 4.2 percent and shares in Thaksin’s own Shin Corporation shot up 13.5 percent. But a number of commentators pointed out that foreign investors were likely to steer away from Thailand. HSBC analyst James Moss declared: “While the acquittal has assured that there will be political stability in the short term, Thailand’s economic fundamentals are extremely weak and there must now be concern over the rule of law in this country.”

The *Australian Financial Review* spelled out these criticisms in more detail in a comment entitled “Thai credibility in the mire.” Thaksin’s acquittal, it stated, “makes a mockery of international efforts to promote good corporate governance and transparency in Thailand. ... Foreign investors seeking safeguards are not much concerned with [Thaksin’s] popularity. They

want to know they are dealing on a level playing ground.”

The split court decision reflects sharp divisions within ruling circles between those wanting to press ahead with economic restructuring, including the establishment of “level legal playing field”, and those whose business interests were previously bound up with government and the military. Both sides are hostile to any genuine democratic involvement of ordinary working people in political life. In the case of Thaksin, this will soon become clear as his administration fails to keep its election promises, his popularity fades and he begins to use the police and military, with whom he is closely connected, to deal with any opposition.



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