

**[Interim Report Series: Vertical Accountability in Asia]**

**Electoral Accountability in Thailand:  
Analyzing the 2023 Election**

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**Introduction**

This research focuses on the 2023 Election which was hoped to be the most democratic election since the 2014 coup d'état. Although there was 2019 Election, however, it was hosted and conducted by the 2017 Constitution (Interim). Thus, the legislative body, consisted of Senates appointed based on the advice of the National Council of Peace and Order (NCPO), played a crucial role in electing the Prime Minister. This means the body of the Government still has a strong connection with the coup d'état, resulting in the distrust of people in the 2019 Election. With that said, in the 2023 Election, under the 2017 Constitution, although the "Transitory Provisions" allow Senates to be selected by a "Selection Committee" appointed by the NCPO, there was also a new election mechanism implemented: the two-ballot voting system. The two-ballot voting system allowed people to "vote for the party you love and the party you like", allowing them to have more flexibility and choice in expressing their political preferences (Lohatepanont and Jatusripitak 2023). With all being said, we will explore the degree of Thailand's vertical accountability based on the Varieties of Democracy measurements, and evaluate the accountability deficit during the 2023 Election.

**1. Thailand's Vertical Accountability Level in the V-Dem Figures**

Accountability has been a long-discussed concept where it is defined as responsibility. It is a concept that is crucial to "good government" (Moncrieffe 1998).

This is due to the fact that accountability is indeed important to the effectiveness of a government since it may prevent the abuse of political power. The idea of accountability describes a relationship between two actors – one shall be accountable to the other when there is an obligation to do so. It is the concept that deals with two dimensions: answerability and enforcement (Schendler, Diamond and Plattner 1999).

Accountability can be categorized into many types, nonetheless, in a democratic system that an election plays a crucial part, it is worth discussing electoral (vertical) accountability. The essential aspect of electoral accountability is that people should be able to replace their legislators and government through voting. Voting allows citizens to select their representative who is likely to meet their expectations. This allows the people to hold politician accountable and also incentivizes the

politician to keep themselves accountable to voters since they want to gain power and remain in power by being re-elected.

With that said, indicators specified by V-Dem can indicate how and to what extent vertical accountability is available in one country. The measurement has been grouped into electoral accountability and political parties (Lührmann, Marquardt and Mechkova 2017).

**Figure 1.** Vertical Accountability Index of Thailand (1997-2022)



The Vertical Accountability Index from V-Dem shows the level of vertical accountability in Thailand as follows<sup>1</sup>:

1997: In 1997, Thailand’s vertical accountability score was at 0.76, which is in line with when Thailand started to execute a constitution drafted by the people after being under a long military regime. The 1997 Constitution is marked as the constitution that has the most connection with the people (*Thairath Plus* 2022). This has set the country up for a more free, fair and stable election in the future.

2007: In 2007, Thailand’s vertical accountability score is at 0.69, which is lower than in 1997. This is due to the fact that a new Constitution was drafted in 2007. The 2007 Constitution was drafted by a committee appointed by a coup d’ état, resulting in the Constitution being less connected with the people.

2017: In 2017, Thailand’s vertical accountability score is at 0.52 which is lower than in 2007. This constitution was also a result of a coup d’ état and has even lesser connection with the people than before.

It can be seen that the vertical accountability score in Thailand has declined through each constitution. This is the result of the constitutions having less connection with the people. Thus, questions arise in regards to the legitimacy of the electoral management body, which is an “independent” organization according to the constitutions.

<sup>1</sup> It should be noted that this author has used the vertical accountability score in the year that a new constitution has been drafted, as it is an important milestone that can represent drastic change in the law and the facts.

Since vertical accountability deals with the formal form of accountability, the institutions that relates most to an election, namely the election management body, shall be considered. The indicators of accountability for such an institution are as follows.

## 2. Legal Arrangement of Electoral Accountability in Thailand

### 2.1. The Head of Government

According to Articles 158 and 159 of the Constitution of Thailand B.E. 2560 (2017), The King appoints the Prime Minister who is approved by The House of Representatives. The approval shall be done by an open vote.

With that being said, the Head of Government, namely the Prime Minister, shall be approved by the National Assembly. The National Assembly, which approved the Prime Minister from the 2023 Election, consists of Members of the Parliament (elected by the 2023 Election) and the Senate.

It is worth mentioning that the Senate, particularly the set of Senators who may approve the Prime Minister from the 2023 election, is appointed by a “Selection Committee,” appointed by the NCPO. This is in accordance to Article 269 of the Constitution of Thailand B.E. 2560 (2017) Transitory Provisions.

### 2.2. Percent of Adult Citizens That Has the Legal Right to Vote

According to Article 95 of the Constitution of Thailand B.E. 2560 (2017), a Thai person, who is not less than eighteen years of age, and has their household registered in the constituency for not less than ninety days up to the date of the election, has the right to vote.

The 2023 Election marked the election that has been participated the most in Thai history. Out of approximately 52 million eligible voters, 39,293,867 people cast their votes, representing a turnout of 75.22 percent (*Workpoint Today* 2023).

### 2.3. Schedule of the Election

Election Law and well-established precedent (or, at least, to layman’s understanding), stipulates that the term of the Prime Minister shall be four years; therefore, an election shall be hosted every four years. However, in reality, it can be seen that Thailand has gone through several coup d’état and dissolution of Parliament; therefore, in this author’s view, a concrete election schedule that no one may amend is absent. Moreover, there are also “ways” that an election can be scheduled earlier than planned.

The 2023 Election was a result of a dissolution of parliament by Prayuth Chan-ocha, a few days before the end of the House of Representative’s four years term. This results in the time frame for the Election Date being shifted. This is in accordance to Article 103 of the Constitution of Thailand B.E. 2560 (2017). Other benefits include Members of Parliament having the opportunity to switch parties, as the required membership time is shortened and the time limit for utilizing campaign funds has also been shifted (*iLaw* 2023).

With all that said, it is not that the law is absent regarding the timeframe for hosting an election, but rather that the law has been exploited.

## 2.4. The Election Management Body

The electoral management body in Thailand is the Election Commission of Thailand, an independent organ under the Thai Constitution B.E. 2560 (2017). Nonetheless, Article 222 of the Constitution stipulates that the Election Commission consists of seven commissioners appointed by the King upon the advice of the Senate.

It should be noted that the Senate, that advised the King regarding the Election Commission, is the same set of Senate mentioned earlier in chapter 2.1. In addition, the term of the commissioners of the Election Commission of Thailand is seven years. Therefore, the Election Commission responsible for the 2023 Election is still the one that has been appointed by the Senate from the NCPO.

In regards to their duty by law, according to Article 224, the Election Commission has the duty to hold or arrange elections, supervise elections, and handle other responsibilities related to elections. Furthermore, the Constitutional Court has previously ruled that the Election Commission of Thailand has the power and responsibility to hold an honest and fair election according to the Constitution and Organic Law, and if there were any irregularities regarding holding such election, they should investigate and decide on the matter. The exercise of power by the Election Commission in this sense, is according to the Constitution and not an executive power. With that being said, the Administrative Court does not have the power to “check” the power exercised by the Election Commission concerning the election.

## 3. Electoral Accountability Gap: the 2023 Election

Quality of election can be assessed by identifying the autonomy and capacity of the electoral management body, the accuracy of the voter registry, the intentional irregularities, intimidation, and harassment by the government, the degree of the multiparty practice, and the degree of freeness and fairness of the election.

### 3.1. The Autonomy and Capacity of the Electoral Management Body

As mentioned earlier in chapter 2.4., although the Constitution stipulates that the Election Commission is an independent organ that shall conduct its duties impartially, the fact that its members were ‘selected’ and their terms allow them to remain in power until the recent election in 2023 raises concerns. Therefore, considering the origin of the commissioners, it is hard to say that the electoral management body in Thailand is fully independent and autonomous.

In terms of the capacity of the Election Commission of Thailand, while there is no specific number of governmental officers working at the Election Commission, it is notable that personnel expenses account for around 42 percent of the national budget, whereas the average personnel expenses of governments around the world are only at 19.4 percent of the national budget. Moreover, a statistic in 2021 indicates that the quality of the government personnel regarding public service ranked the 72nd out of 192 countries in the world, and regarding corruption, the ranking is 120th (Kumsang 2022).

As for other resources, namely funding, as mentioned earlier in the table above, the Cabinet has approved the budget of around 5,945 million THB (equivalent to 161 million USD) for the recent

election, to be used by the Election Commission of Thailand. This amount is considered the highest budget allocated for hosting an election in Thai history (*Isra News Agency* 2023).

Nonetheless, the recent election hosted by the Election Commission of Thailand is heavily criticized due to several ‘mistakes’, such as missing voter’s names, votes cast by the wrong people, mistakes with mailed ballots, and incomplete lists of candidates at polling stations. These are the only problems raised at the early voting session (*Reuters* 2023).

It is worth mentioning that although the Election Commission is appointed by the recommendation of the Senate; however, the personnel and directors under the Office of the Election Commission go through a similar selection process as other government officer. Thus, when considering the budget of the Election Commission of Thailand, it should be considered separately with one part being for an Election (if any during that time period) and the other part for maintaining and completing other tasks (e.g. promoting and training election supervisors in the local area) of the Office of Election Commission.

### 3.2. Accuracy of the Voter Registry

A voting registry has been set up; however, many voters’ names went missing, despite being already registered. Another problem regarding the accuracy of the voter registry during the early election is that the names of registered voters were marked as “already voted” even before the actual voter arrived (*BBC News* 2023). Nevertheless, no official number of cases that had a problem with the voter registry were recorded.

### 3.3. Intentional Irregularities Conducted by the Government and Opposition

One of the irregularities apparent in this election is such as the mismatch number between the number of registered voters and that of actual voters who voted on Election Day (*Naewna News* 2023).

Other than that, Pongtorn Wisetsuwan, Executive Vice President of Thai Post Co., Ltd. stated in an interview that 300,000 voted envelopes were illegible. However, the Election Commission of Thailand claimed that the statement was untrue. There were only 10,000 envelopes that were illegible (*BBC News* 2023).

### 3.4. The Extent of the Election Is Multiparty in Practice

During the recent election, Thailand entered a new multiparty practice which consist of two political ideologies, many parties, and various policies. Therefore, the people have more choices in this election and they may choose the political ideology that best defines them (Kongkirati 2023).

### 3.5. Opposition Candidates Subjected to Repression, Intimidation, Violence, or Harassment by the Government

No official reports exist in regards to candidate repression, intimidation, violence, or harassment by opposition parties or the government. Nonetheless, further studies shall be conducted in order to identify such issue.

### 3.6. The Extent the Election is Free and Fair

Considering the freeness and fairness of the election, we will need to take all aspects, that is, the pre-election period, Election Day, and the post-election process, into consideration.

During the pre-election, it can be seen that Election Day was initiated by the dissolution of the parliament, initiated by Prayut Chan-ocha. This gave him the advantage of gathering more party members for the Election. This enabled the time period that one shall be a member of a party, in order to stand for election of the Members of the House of Representatives, to be shorter in the case that new election is triggered by a dissolution of the parliament.<sup>2</sup> In addition, during the pre-election process, many voters registered for an early election. This matter has been mentioned earlier in this paper.

During the Election Day, “We Watch”, a civil society group founded in 2013 led by youth volunteers, has listed several problems, such as (i) the election candidates were misnumbered; (ii) the idea of voting confidentiality was ignored, there were no walls or thick board behind the voting ballot, allowing the votes to be seen; (iii) the accuracy of the voting registry is low, voters have found someone they do not know in their house registry; (iv) the number of voting ballot received before the voting was unavailable, illegible, or inaccessible; (v) the idea of transparency is ignored, resulting in the government officer denying private speculators and not allowing citizens to take photos or videos during the vote count (*Prachatai* 2023, *We Watch* 2023).

In regards to the post-election process, the outcome of the election was not respected. The Move Forward Party received the most votes, but became the Opposition Party (*Thai PBS* 2023).

## 4. Conclusion

The 2023 Election is an election that has been highly anticipated by the people, that it carries “the hope” of the people after being under a long regime that is a result of the 2014 coup d’état. With that being said, it is expected that vertical accountability in Thailand would be higher.

Nonetheless, considering the background of the election, the quality of the election, and the quality of political parties, it can be seen that vertical accountability in Thailand, as demonstrated through formal tools, still presents several problems, regardless of the capacity of the electoral management body. In addition, it is believed that the formal tools, designed by the Constitution of Thailand B.E. 2560 (2017) by the commission appointed by the junta, are deeply flawed (*Human Rights Watch* 2023).

Moreover, the result of the 2023 Election, in which the Prime Minister candidate from the party that received the most votes was not elected, raises an important question about whether vertical accountability has been considered not only by the electoral management body but also by the political parties and stakeholders, or if such a concept has no meaning in the election. It suggests that the people, to whom the representatives are accountable, may only wield power on the voting day but not before or after.

With that said, many people have shifted to informal tools in holding a government accountable, namely diagonal accountability tools. Although laws, regulations, and arrests has been made, yet informal tools seem to bring more hope to the people and the power lays within their hands

<sup>2</sup> According to Article 97(3) of the Constitution of Thailand B.E. 2560 (2017)



and is less tempered with than formal tools (and people would assume that formal tools are harder to amend and harder to be taken advantage of). ■

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