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Regime Consolidation Through Deinstitutionalisation: A Case Study of the 2019 Elections in Thailand

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Abstract

Studies of elections held by autocrats often assume that institutions are strengthened in order to increase the leverage of the dictator. Yet, it can also be the case that institutions are purposely weakened when autocrats allow for elections. This is what happened in the 2019 Thai elections. These elections were notable not for advancing “national reform” or democratisation, but for the deinstitutionalisation of the party system. Through three mechanisms – constitutional engineering, electoral manipulation, and legal rulings – Thailand’s royalist elites were able to deinstitutionalise the opposition and undermine a fair, democratic process. This paper outlines these mechanisms of deinstitutionalisation that distorted the outcome of the 2019 elections.

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Keywords

Deinstitutionalisation, political parties, Thailand, royalist elites, elections, autocracy

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Introduction

Across the developing world, dictators have frequently used elections to retain power, maintain the fiction of democratic competition, and legitimise their rule. Whether in Russia under Putin, Egypt under Mubarak, or Indonesia under Suharto, elections have been effectively deployed to consolidate autocratic regimes. Elections have furthermore served as bridges for dictators to transition from a full dictatorship to a façade of democratic rule through the tight control of the procedures involved in granting the franchise.

The use of elections for the purpose of regime consolidation often occurs in the context of significant leverage over institutional structures that are then used to further the goals of the autocrat. This usually means that institutions are strengthened in order to execute the autocrat's plans. Yet, dictators can also pursue a different direction when deciding to hold elections: they can seek to break down institutions in order to consolidate their grip on power. The breakdown of institutions is a form of deinstitutionalisation intended to undermine procedures and organisations that might otherwise challenge autocratic continuity.

Thailand represents an illustrative case of deinstitutionalisation through elections in order to ensure regime consolidation. On 24 March 2019, Thailand held elections after a five-year spell of military rule. More than 38 million Thai citizens voted in this election. In the lead-up to the elections, numerous parties contested forcefully. Yet, far from restoring democracy to Thailand, the 2019 elections reaffirmed the strength of the military along with the Thai conservative, royalist elite.

We argue in this paper that deinstitutionalisation of the party system was central to the restoration of elections in Thailand, and to the weakening of democratic institutions.¹ Deinstitutionalisation was pursued by the incumbent government and its allies in order to weaken opposition to the dominant regime. Deinstitutionalisation occurred through the following three mechanisms: constitutional engineering, electoral manipulation, and legal rulings. Constitutional engineering was used to restructure the electoral system into a Mixed Member Apportionment (MMA) that weakens party organisation and by establishing a party-list system that penalises large parties. It was also used to enshrine rules that make party defection easier and to ensure that the prime ministership would be taken by a non-elected individual, primarily by making the Senate an unelected body involved in the selection of the prime minister. Electoral manipulation by the Election Commission of Thailand (ECT) worked to undermine party identification on the electoral ballot, to sow confusion through inconsistency of electoral regulations and practice, and to sabotage party membership. Finally, legal rulings by the Constitutional Court gave the coup de grace to parties that stood as clear threats to the dominant regime.

In seeking to analyse and document the politics behind the process of deinstitutionalisation, our focus is on the role of royalist elites² nested in the bureaucratic apparatus, including supposedly independent institutions, controlled or coopted by the conservative establishment. In particular, the royalist elites imprint institutional rule structures with ambiguity or loopholes, most notably through constitutional engineering, where arbitrary interpretation and implementation can have major consequences for institutional decay, especially in the party system.

Deinstitutionalisation was a central goal of the incumbent regime because it had failed in past elections to defeat parties linked to its chief opponent, Thaksin Shinawatra. In the 19 September 2006 coup, conservative elites sought to overthrow the democratically elected Thaksin government that they saw as a threat to the traditional, royalist order. Under the military junta known as the Council for Democratic Reform (CDR), the 2007 Constitution was promulgated to weaken political parties, especially those linked to Thaksin (Dressel, 2012).

Yet, subsequent electoral results in 2007 and 2011, as well as the Red Shirt mass movement, showed very clearly that parties allied with Thaksin remained deeply popular.³ In the 2007 elections, PPP gained 233 out of 480 seats in parliament, while in the 2011 elections, Pheu Thai gained 265 out of 500 seats. Despite military repression and numerous legal manoeuvres against Thaksin and his parties, the conservative elites could not change a stubborn fact: a huge swath of voters throughout the country, especially in the north and northeast, were deeply loyal to parties linked to Thaksin, such that these parties remained dominant in all elections since 2001. Given the failure of the 2006 coup to end Thaksin's electoral dominance, the military appeared to have little choice but to stage another putsch in 2014 – what was aptly called “the coup to end all coups” (McCargo, 2019: 123).

After the junta, known as the National Council for Peace and Order (NCPO), seized power in May 2014, it arrested and threatened politicians and activists who opposed the military government. It furthermore sought to solidify its legitimacy by proclaiming itself the protector of the monarchy, particularly during the transitional period from King Bhumipol to King Vajiralongkorn. The support for the junta was further reinforced by conservative elites, royalists, and the urban middle class.

However, in the provinces, opposition politicians continued to work in their constituencies and build their ties with voters. In different regions of Thailand, MPs still visited their voters and assured them they would come back to represent them. The bond between the former MPs and their voters endured despite numerous obstructionist efforts by provincial officials.⁴ Furthermore, a poll conducted by the King Prajadhipok Institute in September 2017 suggested that Thaksin remained the most popular prime minister from 2002 to 2017 (Prachatai, 2017).

The NCPO therefore understood very well that any eventual return to an electoral system had to have as its preeminent prerequisite the complete demolishing of the linkage between political parties and voters, especially by undermining the programmatic identity and value of parties. The process of drafting the constitution and the organic laws that would culminate in the 2019 elections was thus shaped by conservative elites' aim of accomplishing an unfulfilled mission: weakening, once and for all, the parties linked to Thaksin. This meant deinstitutionalisation of Thaksin's parties by undermining the bond between politician and voter, by effacing programmatic and ideological identity, and by preventing organisational development.

The 2019 elections delivered a mixed result (Table 1). While the party linked to the military, Palang Pracharat, won the most votes, the oppositional Pheu Thai gained the most seats, and another vocal opponent of the junta, Future Forward, came in third.

Table I. 2019 Election Results (Top Five Parties Listed).

Party	Votes	Percentage	FPTP seats	Party-list seats	Total seats
Palang Pracharath	8,433,137	23.34	97	19	116
Pheu Thai	7,920,630	21.92	136	0	136
Future Forward	6,265,950	17.34	31	50	81
Democrat	3,947,726	10.92	33	20	53
Bhumjaithai	3,732,883	10.33	39	12	51

Source: Election Commission of Thailand, 2019.

Palang Pracharath did not have enough votes in the lower house to elect Prayuth Chan-ocha as prime minister although it did cobble together an unwieldy coalition made up of 19 parties, many of whom had gained only one seat from the party-list. Exactly as intended by the constitution-drafters, the Senate was therefore instrumental in mustering the necessary votes to make Prayuth prime minister since the Constitution required that the prime minister be elected from a majority of legislators of both the Senate and the lower house. Subsequently, the Constitutional Court played its appointed role of killing off the oppositional Future Forward (McCargo and Chattharakul, 2020). In the absence of the mechanisms of deinstitutionalisation, it is very unlikely that the outcome of the elections would have favoured Prayuth's Palang Pracharath and the broader conservative establishment.

Before proceeding further, it is important to clarify the analytical and temporal scope of our argument. Analytically, our claim about deinstitutionalisation focuses causally only on institutional mechanisms related to the power of military-royalist forces, namely the rules of the 2017 Constitution, the actions of the Election Commission, and the decisions of the Constitutional Court. We argue that the effect of deinstitutionalisation is evident on political parties, especially their organisational structure and roots in society.

Temporally, our focus is only on the period prior to the 2019 elections and to its immediate aftermath. Important to note is that prior to the 2014 coup d'état, the Thai party system appeared to be moving toward relatively stronger institutionalisation, particularly in relation to parties' roots in society, as well as organisational identity. With four consecutive elections (2001, 2005, 2007, and 2011) in which parties linked to Thaksin dominated and consolidated regional loyalties in the north and northeast, while the opposition Democrat Party held its ground in the south, the party system looked as if it were becoming increasingly institutionalised or at least divided into clear political blocs (Caraway 2020; Pisailert 2021; Nam and Nethipo 2022). Yet, the political dynamics of the 2019 elections scrambled the earlier trend by undermining parties opposed to the conservative-military bloc: Pheu Thai, for the first time since 2001, failed to win the most votes; its ally, Thai Raksa Chart, was disqualified prior to the elections; and the more radical party, Future Forward, was disbanded after the elections. Thus, we argue that the 2019 elections are significant in terms of deinstitutionalisation, but also distinct from earlier electoral periods.

The paper proceeds as follows. The next section discusses the relationship between elections, authoritarianism, and deinstitutionalisation. The following three sections then focus on the three mechanisms of deinstitutionalisation during the 2019 elections: constitutional engineering, electoral manipulation, and legal rulings. The paper concludes with a brief discussion of how the 2023 elections provide further evidence of the importance of deinstitutionalisation.

Elections and Authoritarianism

Much of the literature on political institutions under authoritarian regimes suggests that dictators adopt and institutionalise nominal democratic institutions to maintain their rule (Gandhi, 2008; Gandhi and Przeworski, 2007). Given that authoritarian regimes face potential threats from the masses they rule and challenges from elites with whom dictators must often share power, nominal democratic institutions help ensure that dictators' opponents and allies alike are monitored, commitment to power-sharing is visible, and opportunities for uprising and betrayal are detected (Svolik, 2012).

Scholars identify several mechanisms to explain why authoritarian elections, whether competitive or not, enable dictators to retain power, including spoils distribution, co-optation, legitimacy construction, information gathering, and credible signalling. For instance, authoritarian elections are used to distribute spoils to regime elites and citizens, promoting the rank and file to positions of power on a regular basis, preventing defection from groups in society, and maintaining their ties with incumbents on which their lives depend (Blaydes, 2011; Geddes et al., 2018; Lust-Okar, 2006; Reuter et al., 2016). Some scholars argue that regime elites hold elections to avert mass revolt and violent overthrow (Acemoglu and Robinson, 2006; Cox, 2007). Authoritarian elections assist dictators in establishing democratic legitimacy based on the principle of popular consent, frequently in the face of international pressure and sanctions (Schedler, 2006). Elections help dictators in monitoring local officials and politicians. Because local politicians must maintain their competitiveness and deliver benefits to citizens in order to be reelected in authoritarian and democratic elections alike, information gathering on local problems and needs and reporting it to dictatorial leaders ensures that more people on the ground receive benefits, and dictators build clientelistic networks to reach the grassroots while also monitoring the competitiveness of local politicians (Brownlee, 2007; Geddes et al., 2018; Nethipo, 2022). Finally, monumental electoral victories send a credible signal to the opposition that mobilising against the regime has a high cost and can also receive buy-in from regime allies (Magaloni, 2006). To win by a supermajority, strong dictators avoid excessive electoral fraud, which has the potential to destabilise political order and mobilise dissidents (Higashijima, 2015; Rozenas, 2012; Simpson, 2013). Institutionalising nominal democratic institutions, thus, helps dictators to retain their power.

Our point of departure from the literature is that dictators do not always institutionalise political institutions to augment their strength. Instead, they may also deinstitutionalise them to bring about institutional decay and consolidate regime power. When the autocrat's goal is to break down the electoral strength of the opposition, including their

linkages with voters, then deinstitutionalisation serves the purpose of undermining the opposition and still appearing to be electorally democratic. We argue that Thailand's dictator and allied technocrats designed the 2019 electoral system with the goal of deinstitutionalising the party system.

We define deinstitutionalisation as the process through which the value, procedures, and capacities of institutions, especially political parties, are systematically undermined. Samuel Huntington (1968) famously conceptualised institutionalisation as "the process through which organisations and procedures acquire value and stability."⁵ If we understand deinstitutionalisation as the inverse of Huntington's definition, then we should expect that the value, including programmatic identity, of institutions will decline; that procedures will become less coherent and routinised; and that organisational capacities, including technical and legal structures, will become less rationalised and less systematic.⁶

Mainwaring and Scully (1995) have further developed the concept of party *system* institutionalisation, focusing on four key criteria: inter-party competition, party roots in society, party organisation, and legitimacy granted to the system. High electoral volatility, weak roots in society, shallow organisation, and weak legitimacy are all indicators of a party system that is poorly institutionalised.

The specific literature on deinstitutionalisation has for the most part addressed the internal and external conditions for party decay.⁷ Harmel et al. (2018) focus on the processes of de-routinisation, decline in value infusion, and weakening of objective durability as aspects of deinstitutionalisation in Nordic right-wing parties. Similarly, in their study of Turkey's Justice and Development Party, Yardımçı-Geyikçi and Yavuzylmaz (2022) emphasise de-routinisation and de-alignment, where voter attachment moves from party to individual, under conditions of uncertainty. We follow a similar focus on the deinstitutionalisation of parties. However, while other studies have emphasised deinstitutionalisation as a process driven by leadership within parties (Yardımçı-Geyikçi and Yavuzylmaz, 2022), we zero in on deinstitutionalisation pushed by autocratic forces.

In the process of deinstitutionalisation, we focus especially on the weakening of parties. Building on Huntington, as well as Mainwaring and Scully, we argue that deinstitutionalisation occurs in the following situation: (1) rules elevate the individual over the organisation; (2) parties cannot sustain their roots in society and therefore cannot establish a continuous identity and rapport with the public; (3) it is challenging for parties to establish organisational structures, such as branches and membership networks; and (4) parties are legally disbanded. Crucially, what we emphasise is not just that routinisation is weaker, but that the *value* of the organisation in terms of its distinct identity is undermined (Levitsky, 1998; Selznick, 1957).

As Table 2 indicates, the National Legislative Assembly, the Election Commission, and the Constitutional Court were key actors in the process of deinstitutionalisation. Their actions of constitutional engineering, electoral manipulation, and legal rulings played a central role in determining the outcome of the 2019 elections. In the next sections, we detail the role of these three actors in strengthening individuals over party

Table 2. Process of Deinstitutionalisation.

Mechanisms	Key actors	Consequences for parties
Constitutional engineering (a) Mixed Member Apportionment (b) Party-List (c) Rules on Party Defection (d) Senate role in selecting prime minister	National Legislative Assembly	- Individuals more important than organisations - Weak roots in society
Electoral manipulation	Election Commission	- Weak party identification - Low membership
Legal rulings	Constitutional Court	- Elimination of opposition parties

Source: authors' compilation.

organisation, in undercutting parties' links with social forces, in undermining organisational structures, and in outright eliminating parties.

Constitutional Engineering

Constitutional engineering was a key mechanism for deinstitutionalisation in at least four ways: the creation of an electoral system that was intended to strengthen individuals over organisations; the creation of a party-list system that was meant to prevent large parties from arising; the establishment of rules that made party switching easier; and the establishment of a non-elected Senate that would take part in the selection of the prime minister. All of these measures worked to undermine party organisation and undercut party roots in society. Crucially, they elevated individual influence over party identity by constraining the growth of parties.

The first attempt to write a new constitution was led by Borwornsak Uwanno, a former Chulalongkorn law professor, and 36 members of a Constitution Drafting Committee (CDC). The process took nine months, but was ultimately rejected by a vote of 135-105 by the National Reform Council in September 2015 (McCargo, 2015). The draft was notable for its effort to create a competitive electoral system – something that the junta absolutely wanted to avoid. In the section on political parties, the draft sought to institutionalise parties through a number of regulations regarding party organisation and the candidate selection process that would have helped strengthen party identity. This was also the first time a Thai constitution sought gender balance by stipulating that at least one-third of candidates in the party-list must be of the opposite gender from the majority.⁸

After the draft was rejected, the NCPO appointed a new CDC led by the eighty-one-year-old Meechai Ruechupan, who had served since 1974 as a legal

advisor to many governments. He was a crucial figure in the 1997 constitution and an advisor to the military government after the 2006 coup. Meechai's draft moved in a sharply different direction than that of Borwonsak, with a clear intention of deinstitutionalising parties. In its basic setup, 350 MPs would be elected in the first-past-the-post voting from single-member constituencies, while the remaining 150 MPs would be selected from a nationwide closed party-list.

The establishment of a new electoral system, known as Mixed Member Apportionment (MMA), supports the goal of deinstitutionalisation through two key mechanisms. First, party identity is severely weakened thereby undercutting party roots in society. In this system, voters cast only one ballot for the constituency candidate. They no longer can indicate a preference for a party. The vote will then be transferred to calculate the party-list seats, but this vote may not represent the voter's preferred party given the way the formula for calculating party-list seats has been devised (described below). Such a system creates incentives for the electoral campaign and voting behavior to focus on the candidate rather than the party. In the process, the linkage between party and voters becomes more personalistic than programmatic because a party's policy becomes less important to win elections.

Second, the way the party-list is calculated was intended to lead to a proliferation of small parties and to prevent a big party from dominating (Bangkok Post, 2019a; iLaw, 2018). In this MMA system, voters cast a single ballot for a candidate. That vote will count as both a vote for the candidate and simultaneously a vote for that candidate's party for purposes of the party-list seats. The total number of votes a party receives nationwide through this single vote determines the total share of seats to which a party is entitled. Party-list seats are added to a party's constituency seats until this total is reached (Hicken and Pundit, 2019). Importantly, the more seats a party wins at the constituency level, the less likely it is to receive party-list seats (Sawasdee, 2020: 55). In addition, there is no minimum threshold for receiving party-list seats, so even a small number of votes a party gains can result in a party-list seat. Cognizant that pro-Thaksin parties dominated all the past four elections since 2001, this rule clearly had Pheu Thai in its crosshairs.

Indeed, Pheu Thai did not obtain any seats for the party-list. Pheu Thai won 136 out of 350 constituencies, while votes for the party's candidates accounted for 22.2 per cent of the total vote. According to the party-list formula, 22.2 per cent is equal to 110.8 seats out of 500. Since Pheu Thai already had 136 seats, exceeding its 22.2 per cent share, it gained 0 seats in the party-list.

On the other hand, the other 11 parties which did not win any constituency seats and whose total vote did not even reach one per cent could each get one seat from the party-list in the House because there is no minimum threshold in the calculation. In the end, the lower house comprised a whopping 24 parties – something not seen since the chaotic 1975 elections.

Besides changes in the electoral system, the constitution also makes it easy for MPs to switch parties, thereby diluting the value of party organisation. This is the first constitution in 50 years that allows MPs to change their party affiliation while in office.⁹

Specifically, the constitution permits MPs who have been expelled by their party to join another party within 30 days or lose their seats. The provision means that MPs have strong leverage against their party. This results in a lack of discipline across parties, but is especially problematic for opposition parties. Notably, several opposition MPs switched parties after they had been expelled due to the fact that they had voted against their party's political position.

The freedom to leave a party and find a new one while still holding one's seat affected quite a number of parties (see Table 3). Some small parties, such as the New Economics Party, lost almost all of their MPs (five out of six), while other parties, such as the Future Forward Party, had to deal with a number of MPs who went against the party line. In October 2019, four Future Forward MPs voted against their party in the motion to oppose the controversial emergency law transferring the supervision of the royal body-guard regiment to the royal household (Bangkokbiznews, 2019). These same MPs voted against their party's mandate again in November 2019 on the motion to form an inquiry committee regarding a constitutional amendment in the House of Representatives (Thaipost, 2019). The party voted to expel them in December 2019 (Bangkok Post, 2019a). Those MPs then decided to join the pro-government party named Bhum Jai Thai instead (BBC News Thai, 2020).

Palang Pracharat, in particular, employed a strategy of recruiting politicians from other parties, targeting areas where MPs had been actively organizing constituencies to maximise their chances of electoral success. The constitution clearly provided Palang Pracharat with the incentive to recruit MPs from other parties. However, Palang Pracharat also used blackmail and coercion to build on the constitution's permissiveness toward party switching. By doing so, Palang Pracharat was successful in undermining opposition parties' roots in society.

A case in point was in Chiang Mai province, which served as an electoral base for the opposition dynastic family associated with Pheu Thai, known as the Buranupakorn

Table 3. Number of MPs who Defected in the Major Opposition Parties.

Main opposition party	Number of MPs from election results	Number of MPs who defected*
Pheu Thai	136	3
Future Forward (Move Forward)	81	36
Seri Ruam Thai	10	0
Prachachart	7	1
New Economics	6	5
Pheu Chart	5	4

Source: authors' compilation.

*MPs who defected included those who voted against the party's agreement and who moved to other parties. These numbers are from 2019 to 2021.

family. With a longstanding hold on political power in Chiang Mai, the family became a target for concessions by the government. In mid-July 2016, government officials discovered documents that informed the public about issues pertaining to the 2016 draft constitution. This dissemination was illegal under the junta's act on constitutional referendums (Prachatai, 2016). Consequently, military units in the area summoned Boonlert Buranupakorn, the president of Chiang Mai Provincial Administrative Organisation at the time, along with 11 others connected to him, to report to the 33rd Army Regiment Camp in Chiang Mai. Among them was Tatsanee Buranupakorn, a former Pheu Thai MP. Subsequently, they were detained and held captive for seven days at the 11th Infantry Regiment in Bangkok (Thairath Online, 2016). As a result, Boonlert, who had been affiliated with Pheu Thai for decades, switched party allegiance to the Palang Pracharat and led that party's competition in the 2020 local elections against Pheu Thai.

One critical strategy that encouraged other former MPs to join Palang Pracharat, which controlled the state and security apparatus, was the assurance of avoiding further legal proceedings against those facing legal cases. This strategy created "unavoidable proposals" that were difficult to refuse. An example of this approach can be observed in the case of the Phodhiphiphit family, headed by Pracha Phodhiphiphit or *kamnan sia* (or sub-district headman *sia*), in Kanchanaburi province. Historically, the Democrat Party, led by the Phodhiphiphit family, had consistently secured victories in Kanchanaburi constituencies. When *kamnan sia* turned his family into Palang Pracharat's arm due to an "unavoidable proposal," the Kanchanaburi province shifted into a stronghold for Palang Pracharat (Springnews, 2018). Similar shifts occurred in other provinces, such as Kamphaeng Phet, previously considered a Pheu Thai Party stronghold, where dynastic families switched to Palang Pracharat and won three out of four constituencies. Phetchabun province also witnessed Palang Pracharat's victory in the provincial elections after members defected from the Pheu Thai Party. In the 2019 election, a total of 21 former Pheu Thai Party members shifted their allegiance to Palang Pracharat, resulting in the election of 20 of them (iLaw, 2019a).

The fourth mechanism for constitutional engineering was the creation of a non-elected Senate. The Senate consists of 250 seats all appointed by the NCPO. It serves a five-year term, which is one year longer than that of the House of Representatives. Thus, in the next election, the senators would still be in power in contrast to the elected members of the lower house. After this first term, the Senate will consist of 200 seats made up of people "who have common knowledge, expertise, experience, careers, characters, or interests from a variety of areas of society" (Royal Thai Government, 2017b).

The prime minister does not have to be an elected official and is approved by a joint sitting of the House of Representatives and the Senate. The approval must be made by votes of more than one-half of both the lower and upper house (more than 375 votes). Thus, once the NCPO has selected the 250 senators, it only needs 126 seats from the lower house to approve the premiership. The political threshold to appoint a prime minister to the liking of the military was therefore clearly lowered in the House of Representatives in order to mitigate a situation where conservative forces might not have a majority of seats in the lower house to elect the prime minister.

The consequence of a non-elected Senate that plays a role in selecting the prime minister means that it is not only easier to pick a military official as the head of government, but also that the prime ministership is delinked from political parties. If the selection of the prime minister resulted from the votes in the lower house alone, then parties would matter. However, with the inclusion of non-elected senators who are not linked to parties, then the head of government is more likely to be a strong personality rather than a party leader.

Thus, the 2017 Constitution played a vital role in the deinstitutionalisation of parties. It elevated individuals over parties by eliminating citizens' right to vote for a party; made it extremely easy for MPs to switch parties; and provided the conditions for selecting a prime minister who does not belong to any parties. Furthermore, the formula of the party-list system was structured to ensure that small parties proliferate over large parties. In all of this, organisational structure is weakened, and party roots are gradually cut.

Electoral Manipulation

Electoral manipulation through the Election Commission of Thailand (ECT) was another crucial mechanism through which the royalist military elites were able to deinstitutionalise parties. The ECT was established after the 1997 constitution as an independent organisation to administer the elections, but over time, like other independent organisations that should have maintained impartiality, it has become a deeply politicised institution.¹⁰ From the very beginning of the planning of the elections, the ECT sought to undermine the organisational significance of parties. In December 2018, the ECT announced, without any clear rationale, its plan to omit party names and logos from the ballot. After a flurry of complaints, the ECT decided that ballots would have the numbers of candidates, the party names, and logos, but not the candidate names. Crucially, however, the ECT did not allocate one number to each party, but rather allocated a different number to each candidate. In past elections, each party had a number (e.g., Pheu Thai had #1 in the 2011 elections), but in an effort to sow confusion, now every individual candidate would have their own number. The chairman of the CDC, Meechai, defended this system by saying, "the different numbers will help voters consider the candidates over parties" (Bangkokbiznews, 2018).

Beginning with advance voting on March 17, there were many instances in which the ECT made questionable decisions, including parties' confiscation of voters' ID cards, voters receiving incorrect ballots, and a lack of transparency in ballot transportation. When the election was held, several media reports highlighted severe problems with the way the ECT had held the elections. These included errors in candidate information, faulty ballots, inefficiency of the staff at polling stations, tardy overseas ballots, and inability of voters to find their names at the polling stations (iLaw, 2019b).

The vote counting process was also problematic. At many polling stations, vote counting was discontinued. Then, the ECT stopped reporting the vote count and announced an unofficial result late that night (Thai Publica, 2019). When ECT chairman Itthiporn was asked for an explanation for stopping the vote count, he said: "we do not have a

calculator.” (Thairath Online, 2019) Since the law stipulated that the vote shall be counted at the polling stations without postponement or delay, the election could have been voided because the counting had stopped (Royal Thai Government, 2017b). The discontinuity and delay of the counting process may thus have served as a backup tool for the ECT in case it would want to later annul the election, such as in a situation where it did not get the desired results.

The official announcement of constituency MPs was furthermore inconsistent with the results, which were constantly changing (BBC News Thai, 2019). Most notably, the ECT did not explain to the public the formula it was using to calculate the number of party-list seats. At the end, the ECT used the formula proposed by the CDC that resulted in a massive proliferation of small parties. The failure to clarify the exact party-list formula and then choosing the CDC version at the last minute was especially problematic because this decision was crucial in deinstitutionalising opposition parties. The consequence therefore was that many small parties were able to gain party-list seats, while Pheu Thai, the main opposition party, did not gain any party-list seats. This was a clear indication of party deinstitutionalisation to the extent that the electoral growth and organisational expansion of Pheu Thai were explicitly curtailed. Many of the small parties that gained from the party-list formula chosen by the ECT ended up serving as part of the unwieldy 19-party coalition that underpinned the government of Prayuth.

Finally, the ECT also employed legal mechanisms to curtail parties’ organisational power. This strategy was evident in the implementation of the new Political Parties Act announced by the NCPO on 7 October 2017, which mandated all existing parties to re-register their party members and party branches with the ECT (Royal Thai Government, 2017a). This regulatory measure specifically targeted established parties, such as the Democrat Party and Pheu Thai. Given the significant size of their memberships, exceeding two million in the case of the Democrat Party, complying with the requirement to resubmit documentation for all members within the 90-day timeframe following the promulgation proved insurmountable. Consequently, the Democrat Party suffered a substantial loss, with over 90 per cent of its existing members unable to fulfill the re-registration rule. Conversely, these regulations proved advantageous for Palang Pracharat, its allies, and other smaller parties: it allowed them to pass the Act’s re-registration threshold with ease (Workpoint Today, 2017).

The Constitutional Court’s Legal Rulings

A final deinstitutionalising mechanism employed by the conservative establishment involved legal rulings from the Constitutional Court. The Constitutional Court was established based on the 1997 constitution as a core element of democratic reform. The provision of the Court in the constitution was intended to prevent the power of politicians and bureaucrats from subverting constitutional intent (Klein, 2003). However, the Constitutional Court, where seven of the current stable of nine judges were approved by the NCPO, has gradually become an agent working toward consolidating the gains

of authoritarian regimes. From 2007 to 2014, the Court evinced a combative attitude toward democratically elected political institutions.³³ This role of the Court developed in the context of a trend toward judicial activism, in which judicial power is forcefully deployed to solve political problems, often with direct attacks against elected officials.¹¹ In her seminal work on Thailand's "deep state," Méricau (2019) identified the Constitutional Court as the deep state's central agent, whose goal was "to transform the 'traditional' and 'charismatic' legitimacy of the king into a legal-rational legitimacy through the judiciary."

The Constitutional Court played a central role in the deinstitutionalisation of parties, when it acted upon recommendations from the ECT to dissolve two anti-junta parties: Thai Raksa Chart and Future Forward. Thai Raksa Chart, an ally of Pheu Thai, was explicitly formed to cope with the idiosyncrasies of the new electoral system. On 8 February 2019, the party announced the nomination of Princess Ubolratana as its candidate for prime minister. The nomination stunned the nation as it was the first time in history that a royal family member would be a candidate in elections (Bangkok Post, 2019b). Within 14 hours, the king issued a royal command stating that a royal family member standing for an election was inappropriate. The next day, the ECT submitted to the Constitutional Court its recommendation for the dissolution of Thai Raksa Chart. On 7 March 2019, just two weeks before the election, the Constitutional Court disbanded the party and revoked the political rights of the party's 14 executive members for ten years. Ironically, the ECT's filing actually went against its own opinion, as it had agreed, publicly just prior to the king's rebuke of his sister, that the candidacy of Princess Ubolratana was legally valid.

The party dissolution of Thai Raksa Chart significantly undermined Pheu Thai's chances of forming a majority coalition in parliament and potentially contesting the prime ministership. Pheu Thai and Thai Raksa Chart had formed an alliance, wherein they decided to divide much of the electoral map, such that Pheu Thai would run in 238 constituencies out of 350, while Thai Raksa Chart would run in 176 constituencies. With Thai Raksa Chart dissolved, many constituencies no longer had a pro-Thaksin party that voters could choose. Crucially, the elimination of Thai Raksa Chart also meant that it would become extremely difficult for the Thaksin parties to surmount the party-list law that was structured in order to limit the party-list seats of large parties. The point of having Thai Raksa Chart run along with Pheu Thai was primarily to overcome the party-list law by spreading out MPs in constituencies, which would ensure that Thaksin's parties would have two means of gaining party-list seats.¹²

Future Forward was the second party to be eliminated by the Constitutional Court. The case against Future Forward is best labeled as "lawfare"¹³ – warfare through the use of law (Tonsakulrungruang, 2020). Lawfare against Future Forward was necessary given the party's surprising and unprecedented ability to gain significant popular support in a very short period of party development. This new party targeted the younger generation, including 6.4 million first-time voters (Khaosod, 2018). The youthful charisma of Thanathorn Juangroongrunangkit, a progressive and pro-democratic ideology, as well as an extensive social media campaign, helped propel the party's overwhelming

popularity among younger voters.¹⁴ In addition, the MMA system ended up surprisingly benefitting Future Forward, awarding it 50 party-list seats and thereby making the party the third largest in the House (Lertchoosakul, 2019).

As soon as the seats in the House of Representatives were finalised, the Constitutional Court turned its eyes on Future Forward. The Court quickly reduced the party's seats in the House by suspending its leader, Thanathorn, from serving as an MP on the charge that Thanathorn was holding shares in a fashion magazine, despite the fact that the magazine was defunct.¹⁵ Although there were many other MPs, including in Palang Pracharat, who were known to be holding shares in the media, only Thanathorn was suspended (Tonsakulrungruang, 2019).

In another case against Future Forward, the Court had to address a charge put forth by the ECT regarding whether a 191.2 million Baht (6 million USD) loan made by Thanathorn to his own party should be seen as a donation.¹⁶ Since the law sets the donation limit at 10 million baht, Thanathorn's alleged donation would be an illegal act. The ECT claimed that the party received money from unlawful sources and recommended that the Court dissolve the party. On 21 February 2020, the Court ruled to dissolve the party and revoke the rights of its executives for ten years. It prevented Future Forward from presenting its case in front of the Court.

The ruling was heavily criticized among law scholars. A Chulalongkorn University Law professor Tonsakulrungruang (2020) pointed out the problem with the Court's interpretation of the term "illegal." Thirty-six law professors from Thammasat University contended that "a political party is not a public legal entity, but a private legal entity, like a foundation or an association and, hence, can legally acquire a loan or loans per the Civil Code" (Thai PBS World, 2020).

Crucially, the Constitutional Court's dissolution verdict had a direct negative impact on the organisational structures of Future Forward. The party leadership had to undertake the arduous task of relocating all existing party entities to a new legal and organisational structure, leading to the formation of the Move Forward Party. Amidst this transitional period, the party's provincial branches suffered the loss of their legal status and experienced administrative upheaval. Numerous party provincial branches were suspended permanently. Local mobilizing networks disintegrated, and provincial teams and voluntary staff disassociated themselves from the party (Chaithawat Tulathon, 2021, personal communication; Sarayoot Jailak, 2021, personal communication). As a result, decision-making authority within the new party structure shifted away from the provincial branches, with a greater concentration of power vested in the central secretariat. The party's local branches experienced a weakening of their organisational structures and diminished capacity to participate in party decision-making processes.

The Constitutional Court thus became a central instrument of deinstitutionalisation, primarily by following through on the ECT's recommendations to dissolve two major anti-junta parties. The speed and vigor with which these cases were executed by the Constitutional Court point to a systematic effort to take down parties that could challenge the conservative establishment. By forcing opposition parties out of the system, the Court sought to undermine the possibility of robust institutional opposition from within parliament.¹⁷

Conclusion

Deinstitutionalisation is important because it erodes a central element of democracy: the idea that representation should occur through programmatic parties rather than primarily through individual politicians. What Thailand experienced in the 2019 elections was the undermining of democracy through the sabotaging of institutions. The consequence for citizens is that democracy lacks accountability precisely because parties are not able to pursue a check-and-balance function when their organisational structures are weakened.

The emphasis in this article has been squarely on the effects of constitutional engineering, electoral manipulation, and legal rulings in weakening parties. Constitutional engineering weakened party roots in society, and above all, elevated the significance of individual politicians over party organisation. Electoral manipulation undermined party identity and distorted party membership. Legal rulings disbanded oppositional parties. Thus, the apparatus of the conservative forces employed different levers to deinstitutionalise the party system.

Although our primary analytical and temporal focus on party deinstitutionalisation is centered on the 2019 elections, one can point to the 2023 elections as further corroborating evidence of deinstitutionalisation. Arguably, deinstitutionalisation was visible across many parties – both those who were victorious and those who were defeated.

Military parties, including Palang Pracharat and the United Thai Nation, experienced alliance splits and resounding electoral defeats, as voters struggled to differentiate between the two. Insufficient investment in organisational building, coupled with weak policy continuity, such as the Pracharat Scheme, contributed to the diminished brand recognition of these parties. Pheu Thai, on the other hand, faced significant losses in its historically entrenched strongholds in the northern region, parts of the northeastern provinces, and in Bangkok.

Deinstitutionalisation can also shed light on the electoral mobilisation choices of the 2023 electoral winner, Move Forward. Following the Constitutional Court's ban, many Future Forward branches in rural provinces either collapsed or permanently halted their operations. The party suffered substantial losses in grassroots networks and thus could not effectively execute its mass campaign for direct voter mobilisation. Consequently, Move Forward had no alternative but to concentrate its efforts on social media platforms to mobilise voters. Although Move Forward claimed a stunning electoral victory, its gains came in large part from an air-war strategy rather than from deep organisational building.

In conclusion, it is worth emphasizing that the argument advanced here focused on deinstitutionalisation does not deny that there are also elements of continuity in the Thai party system. Pheu Thai remains a formidable force in Thai politics. Its organisational identity and linkages with social groups remain significant, albeit weakened. Progressives under Move Forward were also able to regroup following the disbanding of Future Forward, maintaining their ideological direction despite serious on-the-ground, organisational limitations. Parties can thus remain prominent in the polity and even win elections despite organisational weaknesses.

Yet, the claim developed in this article is not that deinstitutionalisation completely eroded the capacities of opposition parties. Rather, the argument is that, in the context of a highly polarised polity, deinstitutionalisation played a central role in distorting the potential electoral results and institutional trajectories of opposition parties. Ultimately, it is important to distinguish between institutionalisation and the persistence of a party. Despite the tenacious persistence of parties like Pheu Thai and Move Forward, deinstitutionalisation has undermined their organisational attributes and therefore their full potential in the polity.

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Notes

1. Although other authors writing about the 2019 elections (McCargo, 2019; Ricks, 2019; Sawasdee, 2020) also discuss the role of institutions, we focus especially on the process of deinstitutionalisation.
2. We acknowledge the significance of the debate between the deep state and network monarchy concepts. As McCargo (2021: 554) observes, “network monarchy foregrounds the notion of semi-monarchical governance: monarchical power is not an either/or, but a continuum of contingent agency and authority.” Our argument highlights such authority facets of institutional manipulation. We leave the empirical investigation of the institutional effect of mobilising bottom-up royalist networks to future research.
3. On the institutionalisation of Pheu Thai, particularly in the north and northeast regions, see Caraway (2020), Nam and Nethipo (2022) and Pisailert, (2021).
4. Based on the observations of the authors in provinces, especially in the north and northeast, between 2015 and 2018.
5. For some important conceptualisations focused on either party or party system that all build on Huntington (1968), see Levitsky (1998), Mainwaring and Scully (1995), Panebianco (1988) and Randall and Svåsand (2002).

6. A recent paper Yardımcı-Geyikçi and Yavuzyılmaz (2022) defines de-institutionalisation “as the mirror image of the process of institutionalisation referring to a process of deterioration in the organisation features that enhance the stability of organisation and declining attachment of its core electorate to the party.”
7. Oliver (1992) provides an important review of processes of deinstitutionalisation, although from a distinctively sociological perspective.
8. In Thai, เพศตรงข้าม.
9. See Article 101, sections 9 and 10 of the 2017 Constitution. Contrast, for example, the 1997 Constitution that made it extremely difficult for MPs to switch parties and maintain their seats (Kuhonta, 2008).
10. The ECT demonstrated very clearly its political bias in 2014 when it helped to create a deadlock in Thai politics. At the height of the protests of the anti-government movement, known as the People’s Democratic Reform Committee (PDRC) led by the former Democrat deputy leader Suthep Thaugsuban, that pushed Prime Minister Yingluck Shinawatra to dissolve the House of Representatives, the ECT intervened decisively by obstructing the election of 2 February 2014. This election would likely have been won by Pheu Thai. This political deadlock helped set the stage for the 2014 coup.
11. Judicialisation (*Tulakanpiwat*) has become one of the key themes to analyse Thai political development since about 2006. See Dressel (2010), McCargo (2014), Méricau (2016) and Pakeerut (2009).
12. Three other parties – Pheu Chart, Pheu Tham, and Prachachart – were part of the pro-Thaksin group, but they were less relevant.
13. As Tonsakulrungruang (2020) noted: “... an individual could file a complaint against a party which would be swiftly investigated by a watchdog agency. The case would then be referred to the court which would stretch the text of law beyond imagination in order to punish the accused party. Meanwhile the court enjoyed cozy protection by a harsh contempt of court law. For the past 14 years, lawfare dissolved major parties and obstructed a number of policies under the auspices of protecting the constitution and Thai democracy, leading to accusations of judicial overreach.”
14. One survey found that 41 per cent of respondents in the 18–29 age group, chose Future Forward as their preferred party (Selway, 2020)
15. As a result of Thaksin’s past domination and manipulation of the media, constitutions now have provisions preventing the holding of media shares by public officials.
16. There were three cases against Future Forward. One of them was rejected by the Court.
17. As one long-time observer of Thai politics noted: “the Court has had a role in bringing down each elected government between 2006 and 2014” (Hewison, 2020).

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