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Elections in Thailand

2016 Constitutional Referendum

Frequently Asked Questions

Asia-Pacific

International Foundation for Electoral Systems

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Frequently Asked Questions

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Disclosure:
These FAQs reflect decisions made by the Thai elections authorities as of August 4, 2016 to the best of our knowledge. This document does not represent any IFES policy or technical recommendations.

When is Election Day?

The referendum is scheduled for August 7, 2016.

What are the citizens voting for?

Voters will cast their ballots to answer two questions: 1) whether or not the voter accepts the draft constitution; and 2) whether or not the Senate should be allowed to join the House of Representatives in the voting process to select a Prime Minister for a five-year period.

If the first question is approved, the Prime Minister will present the draft constitution to the King of Thailand for his signature within 30 days of announcement of the result. If the King signs the constitution, it will be countersigned by the Prime Minister and enter into force when it is published in the Government Gazette. This would pave the way for a general election as early as September 2017. If the King does not approve the draft constitution within 30 days, it will lapse. There is no provision in the constitution for next steps if the constitution is rejected, either by a “no” vote in the public referendum or by the King. Either possibility may precipitate a constitutional crisis.

If the [second question is approved](#), the draft constitution will be amended and then reviewed by the Constitutional Court, lengthening the timeline to a general election. Under the new provisions, a Senate, which would be appointed by the National Council for Peace and Order for a five-year term, would vote with the elected members of the House of Representatives to choose the next Prime Minister. This provision, along with existing language in the draft constitution that removes the requirement for the Prime Minister to be an elected member of the House of Representatives, [creates the possibility](#) of the Senate helping to select an unelected Prime Minister.

If the draft constitution passes but voters reject the additional powers for the appointed Senate helping the House of Representatives select a prime minister, the constitution could be enacted without the language and general elections could proceed. If the [constitution is rejected](#) but the Senate proposal passes, it could lead to the drafting of a new constitution that includes this provision, with a general election postponed well into 2018.

What is the context of the referendum in Thailand?

In May 2014, Thailand’s military took control of the government and enacted an interim constitution to replace the 2007 constitution. The interim constitution outlined a roadmap to return the country to a democratically-elected government, to be implemented by the military-led National Council for Peace and Order. The roadmap includes a constitution drafting and review process followed by a public referendum. A first draft of the constitution developed by the Constitutional Drafting Committee (CDC) was rejected by the National Reform Council (NRC) in September 2015. Under the terms of the interim constitution, this rejection requires development of a new draft by a new CDC, which was completed on January 29, 2016. This new draft does not require approval by the NRC, and instead goes directly to the Thai people for approval in the referendum.

How would the draft constitution affect Thailand’s electoral system?

The electoral system Thailand used in 2011 was a parallel or mixed-member majoritarian (MMM) system with the 500 seats in the House of Representatives composed of 375 single-seat constituencies, along with 125 party list seats elected from a single national constituency under proportional representation. Under this system, voters cast two separate votes, one for a candidate and one for a party list, and parties could choose to field candidates in single-member constituencies, compete nationally for party-list seats, or both.

The draft constitution would replace this system with an uncommon mixed-member apportionment (MMA) system. This system would alter the distribution of seats within the lower house to 350 single-seat constituencies and 150 party list seats. Rather than casting two votes, voters would cast only one vote for a candidate in their respective constituency. This vote would count as both the vote for the candidate and the party list seat. After the 350 single-member seats are awarded, 150 party list seats would be allocated to parties on a compensatory basis to make overall seat totals more closely approximate the proportion of the vote received by the parties’ candidates in the constituency races. Among other effects, [this change](#) would prevent parties from competing directly for party list seats, requiring them to field candidates in single-member constituencies.

As noted above, the draft constitution also provides for a 250-member Senate to be appointed to a five-year term. Of the 250 members, 244 would be chosen by a committee appointed by the National Council for Peace and Order, and the remaining six seats would be reserved for defense executives and chiefs of the armed forces and police.

What is the law governing the conduct of the referendum?

On April 22, 2016, the government of Thailand issued the Organic Act on Referendum for the Draft Constitution (hereafter referred to as the “Organic Act”), which establishes the procedures and regulations governing the referendum.

What is the election management body? What are its responsibilities for the referendum?

The interim constitution tasks the Election Commission of Thailand (ECT) with conducting the referendum and announcing the results. It also gives the ECT the responsibility of carrying out voter education, including disseminating the draft constitution and explaining its content.

At the constituency level, the Organic Act assigns Provincial Election Commissions the responsibility of serving as Constituency Voting Committees (CVC), with the duties of “designating polling units, polling stations, preparing the voters’ lists, adding and withdrawing the voters’ names in the constituency including having duties to supervise the vote casting, vote counting, and announcement of the results.” In

any province where a Provincial Election Commission does not exist, the ECT is responsible for recruiting a CVC for that province.

Who can vote in the country?

All Thai citizens 18 years or older on the date of the referendum are eligible to vote, provided their name is on the household registry of their constituency at least 90 days prior to the voting day. Naturalized citizens must have their Thai citizenship for at least five years.

The Organic Act identifies four instances in which a person meeting these criteria is not eligible to vote:

1. If a person is a Buddhist priest, novice, monk, or clergy
2. If a person has their right to vote suspended (e.g., voting rights suspended for previous instance of failing to vote without providing a reasonable cause)
3. If a person has been detained by a court warrant or lawful order
4. If a person is of unsound mind or mental infirmity

How is the voter list prepared?

The Constituency Voting Committee (see above section on the election management body) is responsible for preparing the voter list for each polling unit based on the household registry. The list must be posted at the polling station at least 20 days prior to the referendum. Any person who believes he or she has been incorrectly omitted from the voter list can submit a petition to the Committee no later than 10 days prior to the referendum date. Upon receiving petitions, the Committee must review the evidence and resolve the petition within three days by either adding the voter to the list or dismissing the petition. Likewise, an eligible voter can submit a petition if he or she believes an ineligible voter has been included on the voter list prepared by the Committee, which will review the petition and resolve it accordingly.

Is out-of-country voting allowed?

No. Thai citizens living outside of the country are ineligible to vote in the referendum.

How are polling stations determined for the referendum?

The Organic Act specifies that a polling unit should consist of approximately 800 eligible voters. This number may be increased or decreased at the discretion of the relevant Constituency Voting Committee to account for convenience or safety concerns associated with casting votes. Polling units must be announced no later than 20 days prior to the referendum date, and they may not be altered within 10 days of the vote except under emergency circumstances such as a riot, flood, or fire.

How will voters with disabilities cast their ballots?

The Organic Act requires that the Election Commission of Thailand (ECT) provide persons with disabilities and elderly voters with special assistance for voting in the referendum under the supervision of the Polling Unit Committee. This assistance should enable the voter to cast his or her vote individually to preserve the secrecy of the vote. If a voter is physically unable to mark the ballot paper, a member of the Polling Unit Committee can cast the vote with the individual's consent.

The ECT also has the discretion to designate a specific polling station for persons with disabilities or elderly voters. If a voter registers to vote at this polling station, he or she becomes ineligible to vote at the polling station where his or her name is listed in the household register.

What is the process for counting, tabulation, and announcement of results?

On the day of the referendum, polling stations will be open from 8:00 a.m. to 4:00 p.m. Prior to the opening of the polls, a ballot paper count will be conducted and posted publicly. After the polls close, the Polling Unit Committee will count the votes publicly at each polling station. The Polling Unit Committee will then report the results of the count, the number of completed ballots, and the number of unused ballots to the Constituency Voting Committee.

After receiving the reports from each polling unit in its constituency, the Constituency Voting Committee will compile the results and report the results to the Election Commission of Thailand (ECT). After receiving all constituency reports, the ECT will announce the result of the vote and number of votes cast. If voting was not able to be completed in polling stations, if there is a discrepancy between the total ballot papers counted before the opening of the polls and the total number of completed and unused ballots, or if there is a petition of challenge submitted (see next question on adjudication of election disputes), the ECT may choose to postpone announcement and order a new vote in selected polling units or proceed with announcement if it determines the outstanding issues will not impact the final results.

How will election disputes be adjudicated?

If at least 50 voters at any polling unit believe that the voting at the polling station was conducted unfairly, they have 24 hours from the closing of the polls to submit a petition to the Election Commission of Thailand (ECT). The ECT is required to immediately conduct an investigation into the dispute, and if it finds that voting in the polling unit was not conducted fairly, it can call for a revote in the unit within 30 days of the original referendum date. However, if the ECT determines that a new vote in the polling unit would not have the potential to change the final result of the referendum, the ECT has the discretion to dismiss the petition on this basis.

What is being done to educate voters on the referendum?

The Election Commission of Thailand (ECT) has developed informational booklets to inform voters about the referendum and has also delivered summaries of the draft constitutional provisions on TV, radio, and online. The ECT has also developed a mobile app that includes the full text of the draft constitution, infographics and summaries of the draft's content, guidance on the process of voting, and polling rules.

However, the government has enacted other measures that have limited public discussion on the referendum process. Section 61 of the Organic Act prohibits any attempt to influence individuals' vote through print, radio, television, or other media that is "distorted from fact or [has] violent, aggressive, rude, inciting, or threatening characteristics," with a punishment of up to 10 years in prison.

Resources

- [2016 Draft Constitution of the Kingdom of Thailand \(English\)](#)
- Constitution of the Kingdom of Thailand (Interim) B.E. 2557 (2014) (English) [Original Document](#); [Amendment \(No. 1\)](#); [Amendment \(No. 2\)](#)
- Organic Act on Referendum for the Draft Constitution B.E. 2559 (2016) (English) [Part 1](#); [Part 2](#)
- [The Election Commission of Thailand \(English\)](#)