

THAILAND'S CURRENT CHALLENGE: POLICY CORRUPTION

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Thailand has suffered from corruption for such a long time. In the past, corruption has been endemic among state officers. However, Thailand has experienced a significant change in the form of corruption in recent decades. As of now, it is evident that Thailand is suffering from a new form of corruption which has proliferated not only among state officers but politicians, bureaucrats, as well as those from the business sector.

This article will discuss the current forms of corruption that took place through policy and will present some case studies on the issue. Additionally, it proposes anti-corruption efforts led by some inspection agencies designed to enhance measures and mechanisms to prevent policy corruption.

I. CURRENT FORM OF CORRUPTION: LEGITIMACY AND COMPLEXITY

In the past, corruption in Thailand was profoundly witnessed among state officers at all levels, mostly centred among low-ranking state officers.¹ Bribery and embezzlement were common forms of corruption. State officers sought illicit gains by looking for loopholes in their work process. Therefore, corruption was not complicated and only a limited number of people were concerned. Simply put, corruption in the past was an illegal act of those who seek benefits on the existence of policy and law. There were no attempts to legalize the act by creating or altering policy or law.²

In this day and age, corruption in Thailand has become more complex as well as broader than bribery and asset misappropriation. Those who engage in this recent form of corruption are no longer confined to embezzlers and bribe takers. They include politicians, senior bureaucrats, cabinet ministers, and some businessman and multi-national corporations. Academics have defined the current form of corruption that took place through policy as “Policy Corruption³.”

The National Anti-Corruption Commission identifies that policy corruption often has the following characteristics⁴:

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¹ BertemannStiftung, (2020) BTI 2022 Country Report: Thailand. Available at https://bti-project.org/fileadmin/api/content/en/downloads/reports/country_report_2022_THA.pdf. Accessed 15 October 2022.

² Sangrungruang, Y. (1983) The suitable model of the office of the commission of counter corruption in Thailand, Chulalongkorn University, Bangkok.

³ Rathamarit, U. (2016) Policy Corruption Project: Legal Measures to Control and Prevent Policy Corruption in Thailand, The Thailand Research Fund (TRF), Bangkok.

⁴ The National Anti-Corruption Commission, What's Policy Corruption?, Available at http://baanbangmoung.go.th/public/list_upload/backend/list_2281/files_default_7589_1.pdf. Accessed 15 October 2022.

- (1) Government agencies, cabinet ministers or politicians determine any particular policies or projects with a claim of national interests or the people's well-being.
- (2) Policy corruption is generated by amending the law, enacting new law, changing policy or creating new policy to legalize certain policies or projects. For this reason, the public will recognize the policy or project as being legal.
- (3) New policy or project implementation contributes to unreasonable benefits to an individual, a group of people, friends or relatives of the policymakers whether in the form of money, property or any benefits.

By doing so, the political sector raises certain social issues for the public's consideration and pushes these issues as a part of an urgent agenda, even when those social issues are not the real problem of society. The study found that an essential prerequisite for policy corruption is legitimacy building. Therefore, policy corruption is concerned with the use of political power or political conditions with the mechanism of both legislative power and executive power to make certain policies or projects possible. Finally, these policies or projects benefit a certain limited group of people.

This essay will discuss the first example of policy corruption in Thailand: the cancellation of the price ceiling price on medicine. The case has been recognized as the first case of corruption for which a former politician was convicted and served a jail term for corruption. Another case that this essay will elaborate is the rice pledging scheme, which is the most recent mega-scandal in Thailand. The two cases obviously show how corruption works through policymaking.

II. THE MEDICINE AND MEDICAL SUPPLIES PRICE SCANDAL: THE DISCONTINUATION OF THE CENTRAL PRICING SYSTEM

Since 1988, the Ministry of Public Health announced the central price of medicine and other medical supplies aimed at controlling the prices at a reasonable level. Thus, hospitals nationwide could purchase medicine and medical supplies at the median price. There is no need to pay more for medicine than the price ceiling.

The central pricing system, through which the prices were announced and controlled by the ministry, came to an end during the administration of the new minister who held a political position. In 1997, he issued an announcement of the Ministry dated 15 December 1997 to cancel the price ceilings for medicine. To legitimize the act, the Ministry claimed that this would lead to price competition according to market mechanisms. Therefore, the community as a whole will benefit from the dropping medical price. Also, the minister claimed that due to the economic situation and an increase of the value added tax (VAT) from 7 to 10 per cent affected the prices of medicine and medical supplies. As a result, the central pricing system must be discontinued. The cancellation of the central pricing system provided channels for people to seek benefits.⁵

⁵ Roengtam, S. (2007) Understanding Corruption through Policy: Case Study of the Corruption in Medicine and Medical Supplies of Ministry of Public Health, 1998, JOURNAL OF POPULATION AND SOCIAL STUDIES Volume 15 Number 2 January 2007.

Simultaneously, in 1998, the Cabinet approved the proposal of the Budget Office to allocate additional budget to the Ministry of Public Health in the amount of 1.4 billion baht. The Ministry of Public Health then allocated it to provincial and community hospitals.

Without the central pricing system, each hospital is authorized to make procurement freely through negotiated prices. As a result, the drug companies sell drugs and medical supplies to hospitals more expensive than usual by 300-600 percent. Concerning the procurement, the investigation identified that some politicians and civil servants of the Ministry of Public Health intervened by various methods from asking, persuading, forcing, negotiating, or recommending provincial and community hospitals to order medicine, medical supplies, tools and even unnecessary materials from certain drug companies.⁶

If hospitals denied making procurement with the drug company directly, there is an alternative method for making purchases from the Government Pharmaceutical Organization (GPO). The GPO, which has capability to manufacture some medicines, preferred purchasing them from drug companies listed by high-ranking politicians and state officers, at very high prices. Also, during the same period, the GPO has charged hospitals various prices for the same medicines. This contributed to the same result as the public health agencies having purchased medicine and supplies at an unreasonable price, higher than the market price.⁷

From the investigation led by an inspection agency, the Public Health Minister's advisor received a 5 million-baht bribe from the deputy managing director of a specific drug company in exchange for the cancellation of the price ceiling and being proposed as a medicine trade partner.

In this case, an inspection was triggered after reports by those who work in the ministry that there was massive corruption in the purchasing of medicine and supplies causing a lot of financial damage. Firstly, an internal investigation committee of the ministry was appointed. After that, the Public Health Commission led by the House of Representatives and the National Anti-Corruption Commission conducted the investigation. There was reliable and sufficient evidence that the procurement of medicines and medical supplies were by far more expensive than they should have been in 34 provinces nationwide. The fraudulent behaviour involved administrators of the ministry who abused their power and position to seek benefits, relevant officials who failed to perform duties required by the law and the pharmaceutical company that offered a bribe and sought benefits from the cancellation of the price ceiling. The offenders were punished with disciplinary and criminal actions.⁸

Considering the case, the discontinuation of the central pricing system scandal is the first case in Thailand which triggers recognition among the Thai people concerning the adverse effects of policy corruption. A group of people with political power could exercise power to extort policy to facilitate the business sector, the pharmaceutical companies, with the support of the executive mechanism led by high-ranking civil servants. However, it is also a renowned

⁶ Tangkitvanich, S. (2014) Corruption Menu And Benefit Seeking, Thailand Development Research Institute, Bangkok

⁷ Roengtam, S. (2007) Understanding Corruption through Policy: Case Study of the Corruption in Medicine and Medical Supplies of Ministry of Public Health, 1998, JOURNAL OF POPULATION AND SOCIAL STUDIES Volume 15 Number 2 January 2007

⁸ Ibid.

case since the investigation of inspection agencies led to the successful prosecution of the offenders.⁹

III. THE RICE PLEDGING SCHEME: A SYSTEMIC COUNTERFEIT

The rice pledging scheme is a project initiated by the government in 2011. The government at the time promoted the legitimacy of the policy by claiming that 1) It would support the price of rice in the market that would finally lift the well-being of farmers; 2) It could promote the country's economic growth with the expansion of domestic consumption when farmers have better income; 3) The scheme would result in a higher price of rice compared to the market price. The Pheu Thai party proposed the policy during the national election campaign. When the party won the election, the rice pledging scheme was implemented in 2011.¹⁰ The scheme was a so-called populist policy since it was formulated to maintain the party's popularity to satisfy people who cast a vote for the Pheu Thai party.

However, before launching the scheme, many scholars as well as the National Anti-Corruption Commission raised concerns that the policy is prone to corruption and could lead to massive devastation due to its size in terms of the amount of budget, the number of people involved and the area or operation.¹¹ As a result, they urged for a reconsideration and termination of the policy. Turning a blind eye and a deaf ear to warnings, the government initiated the project.

In operation, to begin with, farmers were required to register with the Agricultural Office in their district. They have to provide information regarding the amount of rice planted (by land area) so that the government could predict the amount of the yield. Meanwhile, the local mill had to apply to the State and the State will select which mill to participate in the programme.

After the harvest, farmers bring the harvested rice to the registered mill. The mill will record quantity and quality in terms of moisture, purity and weight. At this stage, a warrant certificate was issued to farmers. This document made them eligible receive money from the Bank for Agriculture and Agricultural Cooperatives.

The mill, then, started threshing harvested rice crop into rice before delivering them to the central warehouse established in each area. The central warehouse was also required to register and be selected by the State.

The final procedure was to distribute rice through various methods including exporting through Government to Government (G2G) deals, packing for domestic sales at cheap price to reduce the people's cost of living. Also, the government donated some of them to those affected by natural disasters both in the country and abroad.¹²

The corrupt behaviour has been identified in each stage of the rice pledging scheme operation. Firstly, some farmers provided false information regarding the amount of planted area that turned out to be too excessive. The excessive amount of planted area would make

⁹ Rathamarit, U. (2016) Policy Corruption Project: Legal Measures to Control and Prevent Policy Corruption in Thailand, The Thailand Research Fund (TRF), Bangkok.

¹⁰ Ibid.

¹¹ Mahakun, V. (2018) Lesson learned in fighting corruption in the rice-pledging scheme, ANTI - CORRUPTION FOUNDATION, Bangkok.

¹² Dechgitvigrom, W. (2014) An epic of Cheating: Rice, Lips Publishing, Bangkok.

them eligible to bring more harvested rice to join the programme. Some farmers or the mill fraudulently imported rice from neighbouring countries at cheaper prices to sell them in the programme at higher prices so that they could gain the surplus.¹³ For instance, the pledge price of jasmine rice (moisture content not exceeding 15.00 per cent) was 15,000-20,000 baht/ton, while the market price was 8,000-9,000 baht/ton.

Next, it was found that some unqualified mills and the central warehouses offered bribes to the state offices in exchange for being selected by the State to join the programme. The mills played a key role in the corruption process. They distorted the moisture, purity and weight of the rice. Consequently, the amount of money that farmers participating in the project received was less than it should be. The mill distorted the overall weight so that they could bring more rice into the programme. The investigation also found that some mills brought the harvested rice (with higher quality) received from the farmers and sold them itself. The mills then take harvested rice from other sources (with inferior quality) and delivered them to the central warehouse. Meanwhile, the central warehouse also failed to secure the rice as a large amount of rice was lost from the warehouse. They also distorted the moisture, purity and weight of the rice in exchange for benefits paid from the mills.

To distribute rice, the government committed a deal “Government to Government (G2G)”. However, it turned out that there was not trade between states as planned. Some influential persons in the rice industry had connections with people in the government and set up fake companies aboard to buy rice from the government at cheap prices.

From the investigation, the damages were about 136 billion baht. The Supreme Court's Criminal Division for People Holding Political Positions sentenced a jail term without suspension against the Prime Minister and the Commerce Minister at the time.

The criminal charge against the Prime Minister at the time she violated Section 157 of the Criminal Code on malfeasance. Section 157 concerns wrongful exercise of duties, and it stipulates that whoever, being an official, does not exercise any of functions to the injury of any person, or dishonestly omits to exercise any of his functions, shall be punished. The Court points out that she failed to scrap the policy in spite of knowing the scheme was plagued by corruption.

Meanwhile, from the investigation, the former Commerce Minister found guilty of falsifying G2G deal between Thailand and China. The ministry insisted that rice was sold to Chinese firms, acting on behalf of the Chinese government. Actually, there was no rice exported through G2G deals but locally sold. The firms claimed to be Chinese were fraudulent set up by Thais. The fabricated deals with the Chinese firms caused huge losses to Thailand.

The rice pledging scheme is a new policy that the government initiated without precautionary measures against possible corruption. The government hastily kicked off the project in spite of arguments from various actors. Moreover, there are no studies conducted to identify the possibility of success and failure, pros and cons and other risks of the project. That is why the scheme is called a populist policy, operating to satisfy those who cast a ballot for the party. The scheme created opportunities for all parties to seek advantages, and it seemed as though the process was lawful.

¹³ Ibid.

IV. POLICY CORRUPTION RISK INDICATOR

Apart from seriously cracking down on corruption and motivating all stakeholders in fraud prevention, one of the attempts that the National Anti-Corruption Commission initiated to prevent policy corruption is by designing a tool named the “Policy Corruption Risk Indicator”, or PRI. The cabinet has approved the National Anti-Corruption Commission’s proposal on the issue in 2019.

PRI is a declaration form that all political parties have to submit to the Office of the Election Commission of Thailand, and it is a prerequisite before elections. PRI aims at providing information for people to help them decide which political party to vote for. Political parties are required to select at least one important policy or project to assess. The selected policy or project must be one that political party prioritizes and which the party intends to implement after being elected.

With PRI, political parties must identify the origins of the policy or project, including whether it has cascaded from the national strategy; assess whether their own project or policy is at risk of policy corruption as well as to provide adequate measures to prevent corrupt practices; and analyse impacts, worthiness and feasibility. PRI also pushes the political parties to conduct reliable research attached to the assessment.

The reason why PRI is so important as it would directly help promote transparency and accountability by making political parties’ data available to all. However, in 2019, after the PRI assessment was implemented, there were only 24 political parties (from 103 parties) that submitted the form. It reflects that the PRI itself still lacks enforcement. Currently, in order to prepare for the next general election, which could take place by the end of 2023, the National Anti-Corruption Commission in cooperation with the Office of the Election Commission of Thailand are redesigning the PRI with the intention to prevent policy corruption at the beginning of the new government term.