Democracy and Deliberation: A Case Study of Deliberation on the 2017 Constitution Drafting Process [*]

Ngamsuk Ruttanasatian [a]
Bordin Saisaeng [b]

Article Info

Abstract

This research focuses on studying concepts and formats of deliberative democracy in various aspects, particularly in terms of processes that would be suitable for developing a culture of deep listening and results-based deliberation. In conducting this research, both qualitative and participatory methodologies were employed to experiment with the usefulness of deliberative dialogue in clarifying specific conflicted issues from the draft constitution. The findings of this research are as follows: 1) in the contextual aspect regarding problems of Thai democracy, it was found that a constitution, both in its content and drafting process, as well as political power relations, reflects the issues of democratic values and protracted social conflict in Thailand, and 2) in the process context, it was found that the utilization of an "issue book" is the key instrument in the deliberative dialogue process.

1. Introduction

Despite more than ninety years since the 1932 political revolution that transformed Thailand from an absolute monarchy to a constitutional monarchy, the nation continues to struggle to establish a mature democracy. According to democratic principles, the relationship between citizens and political structures is reflected in their ability to exercise political participation—not only through electoral process but also through broader forms of engagement, including direct participation in democratic movements and the pursuit of assembly rights to advocate for a democratic constitution.

[a] Lecturer, Institute of Human Rights and Peace Studies, Mahidol University, Nakhon Pathom 73170, Thailand. E-mail: ngamsuk.rut@mahidol.ac.th
[b] Researcher, Institute of Human Rights and Peace Studies, Mahidol University, Nakhon Pathom 73170, Thailand. E-mail: bordin.sai@mahidol.ac.th

This research was conducted in two phases. The preliminary phase, completed in 2012, coincided with efforts to amend the 2007 Constitution. This initial phase proceeded smoothly and produced recommendations for the 2007 Constitution amendment during 2012-2013. However, the second phase was abruptly interrupted by the 2014 military coup. Following the military's repeal of the 2007 Constitution and its replacement with the 2014 Interim Constitution, the research objective shifted from using deliberative dialogue to discuss the 2007 Constitution amendment to examining the ongoing constitution drafting processes. Despite the challenges of conducting research on democratic dispute resolution methods during military junta governance, the researchers found that the techniques of deliberative dialogue and the utilization of issue books for documentation remained effective. Thus, this paper examines the deliberation techniques and tools employed in the stakeholders' hearing process, specifically addressing the case study of the 2017 Constitution drafting.

2. Research Objectives

This research project encompasses multiple dimensions of deliberative democracy, including theoretical foundations, practical approaches, processes, and methodological techniques and tools. While this paper specifically focuses on techniques and tools employed in the hearing process, an overview of the broader research objectives provides readers with a comprehensive understanding of the project scope. The research objectives are as follows:

1. To conduct a comparative analysis of democratic development between Thailand and other nations, while identifying factors contributing to political conflict in Thailand.
2. To examine the theoretical foundations, patterns, and processes of deliberative democracy that facilitate the development of listening culture and deliberative dialogue.
3. To implement selected deliberative dialogue techniques and tools in practical experiments for clarifying contested issues.
4. To evaluate deliberative dialogue processes within the context of potential deliberative democracy development in Thailand.

As previously stated, this paper primarily addresses the development of listening culture and deliberative dialogue, specifically examining the application of deliberative dialogue and issue book methodologies in clarifying contested issues that may contribute to the advancement of deliberative democracy in Thailand.

3. Research Frameworks and Research Methodology
3.1 Research Frameworks

This research seeks to examine democratic politics and political conflict in Thailand, to develop a theoretical model of the deliberation process, and to implement this model through practical application with specific target groups and issues. The research framework is illustrated in Diagram 1.

Diagram 1 The Research Frameworks:
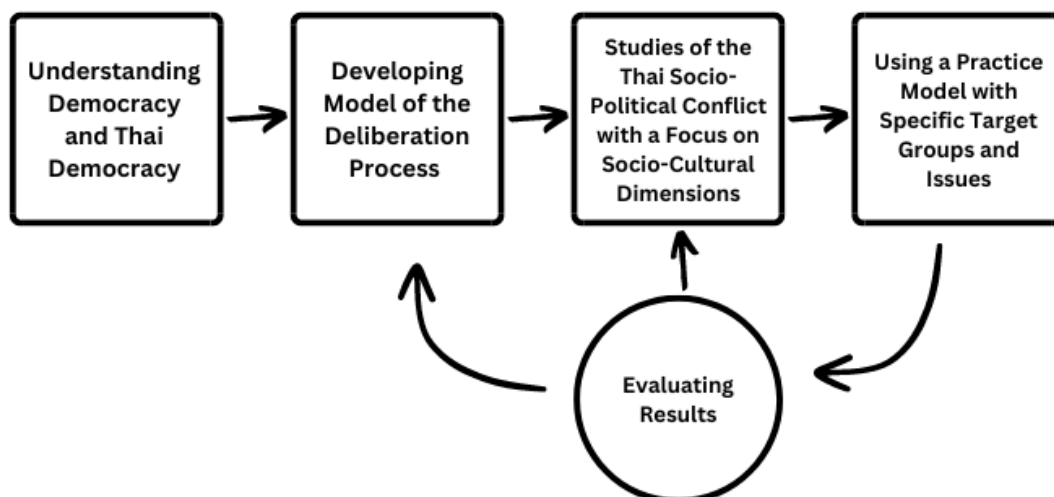
Understanding *(The Problem of Thai Democracy)* – **Proposing processes** *(The Result-Based Deliberations)* – **Using a Practice Model**

3.2 Research Hypothesis

The study hypothesizes that political conflict in Thailand has led to societal polarization, necessitating additional conflict transformation tools and techniques to ensure sustainable democratic development. The proposed interventions focus on two key areas: the cultivation of a listening culture and the development of results-based deliberation methodologies.

3.3 Theoretical and Conceptual Frameworks

The theoretical foundation of this research draws upon multiple theories and concepts, including conflict transformation, results-based deliberation, deliberative democracy, and non-violent communication. The concept of deliberative democracy relates to consultative democracy, which David Held categorizes into two distinct dimensions. The first emerges from the principle of public consultation by free and equal citizens, representing a core competency of political decision-making and self-determination legitimacy. The second posits that political legitimacy depends not solely on majority rule but also on justified rational argumentation in public discourse. (Held, 2006, p. 237)

Surangrut Jumnianpol argues that the quality of public participation increases when citizens can make decisions equally, leading to a public consensus that gains universal acceptance. This enhanced decision-making quality stems from: (1) equal and inclusive participation from all stakeholders, (2) prioritization of rational and knowledge-based approaches over power and interest-based decisions, and (3) outcomes that may occasionally deliver greater public satisfaction than conventional popular votes. (Jumnianpol, 2009, pp. 13-14)

Gutmann and Thompson identify four essential characteristics of deliberative democracy: reason-giving requirements, universal accessibility of reasons, time-bound decision-making (binding), and dynamic processes. These characteristics are predicated on a governing structure where citizens possess equal rights and freedoms. Within this framework, citizens can express their rational thinking in decision-making processes while engaging in mutual listening, ultimately working toward conclusive decisions that bind all

citizens for a specified period while maintaining opportunities for future revision (Gutmann & Thompson, 2004, as cited in Jumnianpol, 2009, pp. 21-22).

While deliberative democracy emerged as an enhancement to representative democracy during periods of state legitimacy crisis and strengthens participatory democracy through deliberative dialogue, Prajak Kongkirati identifies certain limitations. Notable among these is the disparity in communication skills and public speaking abilities among participants in deliberative dialogue. Those experienced in public speaking may disproportionately influence dialogue direction, potentially compromising principles of free, fair, and equal expression. (Kongkirati, 2019, pp. 77-78) However, these limitations can be mitigated through supplementary tools and techniques, such as issue books and non-violent communication methodologies.

Deliberative democracy emphasizes free, fair, and equal opportunities for participation in public platforms where individuals can communicate, persuade, and encourage others through reasoned proposals and justifications while exploring multiple alternatives to contested issues. While deliberation ultimately seeks resolution of these issues, effective deliberative dialogue requires tools that enhance the process and facilitate more precise and accurate conclusions. One such critical tool is the "issue book"; The issue book serves to bridge knowledge disparities among participants and address inequalities in communication capabilities. Phlainoi et al. (2008) delineate the following essential characteristics of the issue book:

1. It provides specific, contextual data pertinent to the issues under consideration, including comprehensive background information.
2. It presents a minimum of three alternative solutions (as binary options may foster polarization), detailing the underlying values and concepts of each alternative, along with implementation pathways. The document outlines both positive and negative implications of each option, supported by relevant justifications and explicit acknowledgment of trade-offs.
3. It facilitates constructive discussion, argumentation, and collaborative problem-solving, rather than adversarial confrontation between opposing groups.
4. It functions as an instrumental framework for coordinating inclusive decision-making processes in addressing complex problems.

Non-violent communication (NVC) emphasizes the transformation of interpersonal interactions into more constructive dialogues. This methodology is designed to facilitate compassionate communication, particularly in challenging situations. NVC focuses on conscious interaction that addresses both individual and collective needs, rather than reactive responses that may escalate tensions. The approach is predicated on the belief that peaceful conflict resolution is achievable while maintaining respect for diverse value systems. Fundamentally, NVC represents a communication technique that promotes empathetic understanding and recognition of human dignity, including self-dignity. This approach facilitates non-violent conflict resolution while fostering interpersonal connections and social cohesion (Chotsakulrat, 2007). The integration of NVC into deliberative democracy serves to mitigate emotional confrontation among stakeholders, enabling focused attention on contextual and substantive issues. Additionally, it helps prevent misunderstandings and reduces antagonistic interactions. Significantly, NVC facilitates a transition from competitive to cooperative communication patterns, fostering creative dialogue that promotes peaceful transformation of contested issues.

As previously noted, the second phase of this research was conducted during military governance and following a prolonged period of political conflict in Thailand, during which public communication spaces were severely limited. The reconstruction of public discourse platforms became essential for reestablishing the country's democratic

environment. The implementation of deliberative platforms represents one mechanism for recreating democratic atmospheres and establishing safe spaces for discussing challenging issues, while embracing diverse perspectives based on principles of respect and equality. The following table illustrates the components of the deliberation process and their associated methodological tools.

Table 1 Deliberative Dialogue Components and Tools:

Deliberative Dialogue Components and Tools	
Components	**Tools and Activities**
Feelings	Non-violent communication (NVC)
Thoughts	Issue book
Actions	Brainstorming workshops, and proposition for public advocacy

3.4 Research Methodology

This study employs participatory action research methodology through experimental application of deliberation processes designed to facilitate societal change through learning outcomes (Jiawiwatkul, 2010). The research selected "constitution drafting" as its focal point, representing one of the most significant social issues of the period. This topic served as the primary subject for discussion throughout the project, given both its public relevance and its role as a source of social contestation. The researchers and participants systematically tested and evaluated the proposed tools and techniques throughout the study period, utilizing process outcomes to analyze and refine methodological approaches to ensure alignment with theoretical concepts and frameworks. The experimental processes were conducted across several strategically significant locations, including Bangkok, Khon Kaen, Phitsanulok, Chiang Mai, and Narathiwat. To ensure data reliability, deliberative platforms were implemented at least twice in each location. Beyond methodological validation, the substantive information gathered from participant contributions underwent systematic analysis and documentation. These findings were subsequently presented to the Constitution Drafting Committee as representative public opinion regarding the constitution drafting process.

3.5 Research Areas

This research was conducted during the period of military government and amid Thailand's prolonged political conflict spanning more than a decade. The selection of diverse geographical locations for implementing deliberative platforms was particularly significant, as regional differences often corresponded to distinct political orientations.

3.6 Target Groups

Key informants were categorized into four primary groups: political organizations, civil society organizations, political activists, and academics. Participant diversity was ensured through the inclusion of varying political perspectives. The research methodology adhered to all Institutional Review Board regulations and requirements.

3.7 Research Tools

To examine the deliberation process and deliberative dialogue, while gathering substantive information regarding public opinion on the focal issues, the researchers developed research instruments across several categories, as detailed in the following table.

Table 2 Concepts and Processes to Experiment Deliberation Process:

Components	Concepts/tools/techniques	Processes/activities
Preparation		(1) proposing concepts of deliberative democracy (2) Selecting concerning issues
Feelings	Non-violent communication (NVC)	(3) Deliberations from hearts Communication through feelings and emotional acknowledgement
Thoughts	- Issue book - Dot democracy	(4) Presenting an issue book that contains information from preliminary research in deliberative dialogue (5) Deliberative dialogue, based on rational justification, positive/negative aspects and justifiable alternatives (6) Voting for possible alternatives by using dot democracy
Feelings (continue)	Art for peace	(7) Art activities/Haiku compositions
Thoughts (continue)		(8) Repeated deliberative dialogues
Actions	Brainstorming and preparing to propose possible solutions to various stakeholders and public	(9) Result-based deliberative dialogues that focus possible actions
Preparations (for next round)		(10) Lesson learned and modifications

3.8 Data Collection

To obtain comprehensive and accurate data addressing all research hypotheses and objectives, the researchers implemented data collection through deliberative dialogue sessions conducted under the framework of "The Studies of Democratic Inquiries" focusing on the contemporary draft constitution. All information was systematically documented in the issue book. Given the constitutional nature of the subject matter, the research team collaborated with a working group from the Law Reform Commission of Thailand to develop the issue book framework.

This research incorporated multiple participatory democracy methodologies in designing the deliberation platforms, emphasizing capacity building for informed civic engagement, and enhanced political decision-making. The examined tools and techniques included citizens' jury (Smith & Wales, 2000), deliberative opinion polling (Fishkin et al., 2000), consensus conferencing (Einsiedel & Eastlick, 2000), ICT dialogue (Kamateri et al., 2015), and Tolerance-Resilience-Listening (อึด-ฮึด-ฟัง) approaches to democratic peace (Wisutthatham, 2012).

Beyond process documentation and content analysis, this action research provided participants with direct experience in political participation and democratic engagement by establishing communication channels between participants, the public, and, occasionally, governmental authorities.

3.9 Data Analysis

The research employed content analysis and analytic induction methodologies for data processing. Content collected through deliberative dialogues underwent categorical analysis, utilizing comparative approaches to examine relationships between causes and effects, including underlying rational justifications for thoughts, behaviors, and actions. Analytic induction facilitated data interpretation and enhanced research documentation quality. The ongoing process and final research outputs were contextualized within existing political circumstances through comparative analysis.

4. Findings and Recommendations

The studies of democratic inquiries regarding the 2 0 1 7 Constitution drafting process commenced following the 2 0 1 4 military coup, which disposed the elected government after nearly a decade of political conflict. The coup intensified political tensions, transforming an already polarized society into a deeply divided one. Under the 2014 Interim Constitution, the National Reform Council appointed a Constitution Drafting Committee chaired by Borwornsak Uwanno, whose draft was ultimately rejected. Subsequently, the Council appointed a new Constitution Drafting Commission chaired by Meechai Ruchuphan. The amended provisions of the 2014 Interim Constitution mandated a referendum prior to the promulgation of a new constitution. The draft of the 2 0 1 7 Constitution was completed on March 29, 2016, with the referendum scheduled for August 7, 2016. This period proved particularly significant for the research project, as it coincided with the implementation of deliberative dialogue initiatives regarding constitutional drafting.

The deliberation process experimentation occurred in three distinct stages. In the initial stage, when no information had been released by the Constitution Drafting Commission, the research team and working group developed an issue book using the 1997 and 2 0 0 7 Constitutions as baseline references for discussions about the prospective constitution. During this period, participants from various sectors shared their aspirations and expectations, engaging in in-depth deliberative dialogues about the strengths and weaknesses of the previous constitutions. The second stage incorporated leaked information regarding the work-in-progress draft into the deliberative process. This stage concluded when the Commission officially released the draft constitution, allowing researchers to integrate official information into the issue book for the final round of deliberative dialogues. The resulting recommendations were documented and submitted to the Commission for consideration. However, evidence suggests that the Commission proceeded with the drafting process without substantial consideration of public input. The final stage focused on examining potentially problematic sections of the drafted constitution through multiple deliberative dialogues. This phase proved particularly noteworthy as, despite diverse political stances and disagreements, participants largely concurred that the drafted constitution could potentially undermine Thai democracy, leading to a collective advocacy for "vote no" or opposing the draft in the referendum.

Throughout this process, researchers and the Law Reform Commission of Thailand's working group continuously refined the issue book to reflect evolving political contexts and dynamics. Several critical components emerged: First, the overall political environment under military rule significantly constrained freedom of expression, speech, and assembly, making research implementation challenging. Second, researchers systematically analyzed and categorized proposals and opinions from result-based deliberative dialogues. Finally, the diversity of participant input was considered invaluable, with researchers documenting all perspectives, rational justifications, and suggested solutions in the issue book.

4.1 Thai Democracy Inquiries

The substantive outputs from this research reveal fundamental issues regarding Thai society's valuation of democratic principles, constituting a root cause of the country's protracted social conflict. Furthermore, most Thai constitutions have been drafted under military governance following coups, resulting in legitimacy derived primarily from authoritarian mandate rather than meaningful public participation. The absence of adequate citizen involvement in constitutional drafting processes has systematically excluded public contributions, demonstrating commissioners' neglect of democratic principles.

During the constitution drafting period, the military government restricted public participation, further limiting citizens' ability to express concerns regarding constitutional content. However, the deliberation process, which strengthens deliberative democracy, provided citizens with opportunities to envision recovery from disrupted democratic development. This potential depends on society's capacity to recognize democratic values in terms of freedom, equality, rule of law, and justice. Therefore, despite military governance constraints, deliberative dialogue served as a platform enabling citizens with diverse political perspectives to discuss conflict resolution mechanisms and articulate their constitutional preferences. The following sections examine key issues worthy of consideration in the deliberation process.

4.1.1 Constitution and Reconciliation

When military leaders staged the coup in May 2014, they justified the intervention as necessary to halt confrontations among conflicting parties. However, the coup did not diminish political conflict. While tensions might not be publicly visible, the devastation from recent violence persisted, and many citizens continued to bear psychological and physical wounds from violent incidents. Additionally, the military government's excessive deployment of military and security forces to maintain peace and stability exacerbated the situation. Military leaders perceived seizing power through a coup as essential for preserving peace and stability in Thai society. They argued to the public that democratic practices were the root cause of political conflict and social unrest, asserting that no democratic alternative existed to resolve ongoing tensions apart from military intervention. Despite forceful control over political movements, conflict persisted in a latent state, sustained by anger, hatred, hostility, and fear, remaining primed for eruption when circumstances permitted. The National Council for Peace and Order (NCPO), established following the May 22, 2014 coup, attempted to achieve reconciliation but ultimately appeared to fail (Pindavanija et al., 2017).

Despite the coup's negative consequences, many citizens supported the military's use of force. Supporters were predominantly right-wing authoritarians with conservative orientations, while opponents were primarily liberals. These ideological disputes predated the 2014 military coup but were employed to justify the power seizure. Right-wing authoritarians, typically belonging to conservative groups, embrace concepts of "Thainess," "Thai-style democracy," "hierarchical structures," and "righteous leadership." Conversely, liberals advocate for "democracy," "equality," and "good governance." The collision between these political ideologies continued post-coup. Conflicting groups employed discourses that intensified hatred, fear, and hostility, with those in power more likely to use such rhetoric to discredit opposition. These political conflict dynamics resulted in societal polarization.

Political conflict affects both political and social systems and citizenry, which constitute democracy's essential elements. Therefore, reducing conditions conducive to political conflict requires addressing contributing factors. Recovery from political conflict involves multiple stages to restore democratic elements and establish reconciliation conditions. First, healing past wounds requires addressing trauma experienced by those affected by violent conflict. Second, social institutions such as the rule of law, social justice, and the justice system must be restored/restructured in order to ensure citizen access to justice and equality. Third, developing shared values that encourage the vision of an inclusive society where all citizens can coexist peacefully regardless of identity or political differences. The above consideration shows how deliberative democracy could contribute to constitution drafting processes; moreover, a constitution developed through fully participatory processes would enable further democratic development and strengthen other democratic mechanisms. Deliberative democracy primarily concerns citizen consent, civil

rights, and justifiable relationships between government officials and political leaders. Achieving these objectives relies on deliberative dialogue that enables citizens to listen to others and respect differences.

Collaboration between conflicting groups may prove extremely challenging. Therefore, a constitution serving as supreme law that commands universal respect may represent the most crucial tool in political conflict resolution. Constitutions possessing certain characteristics can mitigate conflict and tension among opposing groups through: 1）prevention and promotion mechanisms that help establish and sustain social platforms for deliberative democracy, develop reconciliation discourse, promote non-violent mechanisms, and cultivate learning cultures that enhance conflict transformation skills and knowledge; 2）construction of a National Reconciliation Conference to address national crises through deliberative processes; and 3）post-conflict peacebuilding pathways by incorporating conflict transformation mechanisms into constitutional frameworks, including social healing, fact-finding, transitional justice, and amnesty provisions.

4.1.2 Human Rights in a Constitution as the Foundation of Reconciliation

Human rights must be robustly enshrined in a constitution to ensure legal protection of citizens' fundamental rights. When human rights receive strong legal protection, they approximate the idealistic concept of natural rights that are universal and inalienable. During periods of conflict, citizens suffer from human rights violations, intimidation, abuses, and exclusion. Progress becomes impossible without addressing these conditions. If victims and those who have endured unjust treatment, human rights violations, intimidation, abuses, and exclusion lack proper healing mechanisms, their wounds will continue to inflict suffering, deterring participation in reconciliation processes. A constitution must guarantee the protection of human rights, freedoms, and justice. Once these conditions improve, opportunities for advancing toward reconciliation emerge.

Reconciliation represents the outcome of conflict transformation, which converts stakeholders from adversaries, seeking defeat of the other side, into collaborators pursuing creative conflict transformation. Creative conflict transformation requires imagination and paradoxical thinking that transcends comfort zones to envision possibilities for valuing brotherhood and accepting coexistence with those holding dramatically different perspectives. Therefore, a constitution should establish a Conflict Transformation Organization with legitimate authority to heal past traumas, provide deliberative platforms, and create shared futures among people with diverse identities and political ideologies.

4.2 Deliberative Dialogue Based on "Issue Book"

The organized deliberative dialogues should incorporate multiple tools and techniques, including non-violent communication (NVC), communication arts, poetry (such as Haiku writing), and visual representation (such as infographic, animation). These methodologies derived from John Paul Lederach's (2012) conflict transformation concepts as shown in "The Moral Imagination: Art and Soul of Building Peace." The experimental implementation of the "issue book" in the deliberation process is described below.

Designing an issue book requires comprehensive understanding of deliberative democracy. The evolution from representative democracy to participatory democracy creates space for examining participatory quality, particularly the extent to which participation is based on freedom of choice and eligibility for self-determination. One-way communication is no longer the preferred means of engagement; rather, providing alternative tools, techniques, and platforms for opinion exchange and mutual learning becomes paramount.

The experimental use of issue books in deliberation processes assists participants in maintaining focus on discussion topics by emphasizing rational support for possible solutions and alternatives. This approach helps exclude emotional influences caused by conflicting issues and circumstances. Consequently, deliberative dialogue differs from both debating and regular dialogue, as it aims to achieve agreement or actionable outcomes. To fulfill this objective, issue books play crucial roles in helping participants maintain focus on substantive content despite divergent perspectives and positions.

Several essential components characterize deliberative dialogue organization using issue books. First, issue books must provide factual background information to all participating parties, reducing confrontation and arguments over facts by presenting relevant information to everyone. Second, working groups responsible for issue book preparation must research information thoroughly, including possible solutions and alternatives. Notably, the number of alternatives should be three, as binary options may cause polarization, while many alternatives can be grouped into three or, at most, four categories. Once alternatives are incorporated, facilitators must develop justifications for each option, providing adequate support, arguments, opportunity costs, trade-offs, and benefits.

Each alternative must clearly articulate comparative advantages and disadvantages. Alternatives should maintain sufficient distinction to avoid stakeholder confusion. As previously mentioned, each alternative must present positive and negative aspects with adequate rational justification. In short, issue books used in deliberative dialogue contain facts, basic information, issue backgrounds, diverse opinions, possible solutions, alternatives, comparative justifications, and perspectives. Issue book contents are adjustable and correctable throughout each deliberative dialogue round. Issues receiving participant consensus remain in the issue book, while items agreed for removal are eliminated, and additional issues may be incorporated upon participant agreement. Issue book contents undergo modification until all involved parties express satisfaction and the document is ready for public presentation or final implementation.

4.3 Additional Observations

While the deliberation process employed in this research explored multiple tools and techniques, designing deliberative dialogue processes remains highly flexible. Strict adherence to all tools, techniques, and processes described in this report is not always necessary. Results and alternatives vary according to political conditions and circumstances (Gutmann & Thompson, 2 0 0 4). These conditions and circumstances present both opportunities and limitations. Complete accommodation of all conflicting parties through deliberation is not always feasible; issue books may contain open-ended questions requiring consultation with stakeholders who were unable to participate in deliberative dialogues but remain willing to contribute inputs. Repeated organization of deliberative dialogues ensures careful stakeholder consideration and more acceptable solutions for all conflicting parties.

Furthermore, deliberation process results require practical implementation. Translating deliberation outcomes into action involves several considerations. First, for issues where participants can implement results independently, stakeholder commitment to action becomes possible. Second, some issues may exceed stakeholder resolution capacity and require governmental intervention; in such cases, issue books serve to persuade authorities to act upon proposed solutions. When convincing authorities proves impossible, issue books may facilitate public advocacy for social movements as consultation documents.

In conclusion, issue books function as tools for rational discussion during periods of conflict when confrontation between opposing parties remains probable. Rational

discussion can yield acceptable solutions and alternatives. Although these alternatives may contain both positive and negative aspects, participant opportunities to study and reconsider these elements can lead to justifiable solutions. Through such justifications, chosen solutions may ultimately benefit both participants and the public in resolving complex issues, particularly those contributing to Thailand's protracted social conflict.

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