

# The Search for Order: Constitutions and Human Rights in Thai Political History

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In 1997 Parliament passed the new Constitution of the Kingdom of Thailand B.E. 2540(AD.1997). The new Constitution reflected the crystallization of 67 years of Thai democracy. In this sense, the promulgation of the latest constitution was not simply another amendment to the previous constitutions, but it was a political reform that involved the majority of the people from the very beginning of its drafting. The whole process of constitution writing was also unprecedented in the history of modern Thai politics. Unlike most of the previous constitutions that came into being because those in power needed legitimacy, the Constitution of 1997 was initiated and called for by the citizens who wanted a true and democratic regime transplanted on to Thai soil. This popular demand, fueled by the latest uprising in May 1992 against the military-controlled government, led to the election of the Constitution Drafting Assembly to rewrite the new constitution according to the wishes of the people. To make this Constitution closer to the wishes and aspirations of the people, the Constitution Drafting Assembly organized public hearings to enable concerned citizens and groups to air their opinions on a variety of topics and subjects crucial to the working and efficiency of the Constitution. Finally the new and first popular Constitution was submitted to Parliament with strong support from people of all walks. Its submission was followed by long debates and objections from certain leading members of the House who feared it was overly liberal in its strong support of human rights and liberties of the people. The Constitution of 1997 became the 16th constitution in the 67 years of Thai democracy.

The history of a constitution is necessarily interwoven with the history and development of democracy, and more specifically, with the emergence of the concept of rule by law. The ability to implement a constitution and to guarantee its integrity presupposes strong social and political institutions. Although constitutions were occasionally put in practice by ancient regimes, they are, for the most part, of recent invention. Their fates remain bound to those of the political history of a given country, particularly with regard to the aspirations for democratic rule. The Thai constitution is no exception. Thailand was catapulted into a democratic, or at least a democratizing, period following the Coup of 1932. The leaders of this coup were immediately presented with the dilemma of having to adapt the ideals of Western constitutionalism to the realities of Thai society and politics: namely a highly stratified society with a large number of undereducated people and the concentration of political and economic resources in the hands of a small percentage of the population. Additionally the presence of the military in their capacity as 'midwives' of Thai democracy, although not initially perceived as an obstruction to the advancement of democracy, became increasingly problematic as they gained in strength throughout the Cold War period and beyond.

In order to understand the Thai constitution, it is necessary to examine how it developed by drawing upon Thai ideas and adapting the Western 'ideal' to Thai realities.

## 2.1 The Importance of Constitution in Thai History

In the tradition and understanding of Western constitutionalism, the constitution aims at the limitation and regulation of the government's powers and the protection of private rights and liberties. The significance of the constitution in Thai political history and government is that it is

not simply the highest law. Thai constitutions served as histories of political development and conflicts, and in terms of the law, they were the sum total, not the source, of the lesser and organic laws that existed prior to the promulgation of the constitutions. Reflecting the temperament of the times, the Thai constitutions therefore represented the realities of power relations in the process of Thai social and political development.

The historic role of the constitution in Thai politics reflects its unique position in the continuity of the government. After the abolition of the absolute monarchy, the country had not been able to establish new institutions and customs to legitimize the transfer of power by force. In the old Thai government tradition, the palace coups and the use of force to overthrow or take over the king's power was justified and legitimized by the Buddhist concept of merit and power. According to traditional beliefs, the righteous behavior of the leaders was a precondition for their possession of power. That meant that those who had power were thought to be good and deserving of it. But the legitimacy of a modern regime stems not only from the elaborate process of having constitutions, calling for new elections, appointing respectable figures in the governments, and declaring loyalty to the monarchy, but more so from the regime's ability to maintain authority and retain power.

Following the Coup of 1932, the first constitutional monarchy regime was established with the aim of creating a democratic government in the kingdom. The coup group (known as the "People's Party") saw this period as transitional and needed a special plan for the implementation of the new political system, resulting in the National Assembly, composed of a mixture of elected and appointed members. In the wake of the Coup, however, government leaders and political elites attempted to adhere to the idea of constitutionalism. This idea persisted even in the face of many violent conflicts, which erupted from rivalry among elite groups. From 1932 to 1946, there were two unconstitutional changes of government. The first was the forced closure of Parliament by Phraya Mano, the first Prime Minister, in 1933, as a result of disagreement in the Cabinet over the proposed economic plan by Pridi Phanomyong. This led to the coup in the same year by the military wing of the People's Party against Phraya Mano's government. Later there were also two attempted rebellions against the government. One was the Bowaradet Rebellion in 1933, the other was the Songsuradet Rebellion in 1939. The use of force in resolving political conflicts among rival elite groups increasingly became part of the fledgling constitutional regime. The government under Phibun at that time resorted to the use of a special court and executions in order to suppress its political enemies.

After World War II, the meaning of the constitution began to change according to new developments in political factions and conflicts. Maintaining parliamentary politics and the stability of the government proved to be increasingly difficult. In order to cope with the new internal and external political and economic situation, the Constitution of 1946 was written, this time with a different idea regarding the form of Parliament. The Constitution of 1946 replaced an unicameral form of parliament with bicameral, calling the second house or the House of Elders. From that time on the upper house or later Senate would become another institution in the growth and development of parliamentary government in Thailand. The 1946 Constitution was terminated shortly by the military Coup of 1947.

From 1947-1958 there were seven attempts to overthrow the government by force; four of them succeeded in changing the governments (1947, 1951, 1957 and 1958). Two rebellions against the regime, the Grand Palace Coup (1949), and the Manhattan Coup (1951) failed and one attempted coup by a group of junior army officers was suppressed before it took place. These overthrows and instances of violent action against the regimes had not yet been polarized into the antagonistic relationship between civilian-military rule. In fact throughout the period from 1932-1957, governments consisted of supporters from both military and civilian groups as did the opponents. As yet there was no strong division between military and civilians in government. Nor did the government leaders use the constitution as a political means to protect and secure their

powers. Of those four government changes there were only two governments which wrote new constitutions, the Constitutions of 1948 and 1949. Otherwise the governments simply revised or amended the previous or existing constitutions.

The important point is that in the period from 1932-1947 government leaders still firmly believed in democracy as the most modern and viable form of government. Pridi Phanomyong (r. March 24-August 21, 1946), the most important leader of the People's Party once said, "a democratic system means democracy with law and order and morality and honesty." Such a system clearly must be based on a constitution that is the highest law of the country. The problem facing the political elite at the time was how to make the new democratic government work in the context of Thai society rather than trying to redefine the meaning of democracy to fit with the desire of the government holders; a policy which would be anxiously initiated and pursued by government leaders from the late 1950s onwards.

Gradually, but more so after World War II, it became clear that the principles and customs of liberal democracy were inapplicable in the transfer of power and resolution of political conflicts among the elites, who resorted to force and extra-constitutional means to settle their conflicts. Once in power by extra-constitutional means, government leaders sought legitimization of their regimes mainly by the holding of elections. To achieve this they had to first promulgate new constitutions, which also gave them the semblance of popular sanction for their regimes. Another reason for writing a new constitution was that after each major change of government institutional structures were also modified to strengthen the new regimes. The constitution thus served as a legal framework and guarantee of stable political structure for the regimes. Politically, the enactment of new constitutions allowed the government to declare its complete loyalty to the monarchy and to demonstrate the king's acceptance and support of the new rulers. The constitution thus retained its acquired symbolic meaning along the way.

In the period from 1957 to 1992 the Thai constitution underwent many redefinitions. With many ups and downs in the lives of the constitutions, the political elites during the Cold War era denounced the Western liberal democratic regime as "alien institution" incompatible with the customs of Thai society. Paradoxically this stance was adopted even though the government had close ties with the US government; but such were the mutual needs and interests of Thai government and the US in their fight against Communism during the Cold War. In order to create a more stable government, political leaders, mainly from the army, turned away from Western concept of constitutionalism and relied instead on traditional political ideas namely paternalism and patron-client relations between government and the people. The growth of indigenous Thai democracy came about as a result of the failure in implementing a liberal form of democracy. First defined in Sarit Thanarat's regime (r.1959-1963) as "Thai-style democracy", the executive branch of government was emphasized at the expense of the legislature and judiciary. Sarit redefined the role and meaning of the constitution, appointing the Constituent Assembly to function both as the Constitutional Drafting Assembly and the legislature. The Assembly drafted a new constitution while making laws for the government. Other democratic institutions were either curtailed or abolished. Political parties, labor unions, organizations, freedom of the press and expression were greatly prohibited or suppressed in the name of national peace and order. In place of modern democratic theory, Sarit introduced Thai paternalism invoking what he claimed were the practices and ideas of the ancient Thai kings, in which the government was like a benevolent father and the people were children. Claiming the power to guide and the responsibility to care for the well being of the people, the government had no need for Western frameworks of democracy. With full control of government power, Sarit's rule was known as despotic paternalism. Such political ideas and practices continued in the Thanom Kittikachorn regime until the people's uprising in October 1973 which fought for full democratic government. The Constitution of 1974 was promulgated to serve as the fundamental basis for democratic development. Similar to the fate of the 1946 Constitution, however, it was quickly nullified by the military coup of October 1976.

Later in the Prem Tinsulanond government in the 1980s, a similar idea of Thai style "half-fruit democracy" was also proposed this time including some relaxation of restrictions pertaining to political parties, the labor movement, and the media.

The meaning of the constitution changed again after the Bloody May 1992, the popular demonstration against the military-led government of General Suchinda Kraprayoon. Advocates for reform and change of the "half-fruit democracy" called for the rewriting of the constitution. Finally, with the new Constitution of 1997, the idea of constitutionalism was reintroduced into the political system again. The constitution was expected to bring about political reform through the application of liberal democratic government in the country. With these political goals, the Constitution was given extensive power to regulate and control government and the public agencies as well as to provide and protect individual rights and liberties.

Table 1: Prime Ministers of Thailand, 1932-1999

1.	Phraya Manopakonnitithada	August 28, 1932-June 20, 1933
2.	Phraya Phahonphonphayuhasena	June 21, 1933-December 16, 1938
3.	Luang Phibunsongkhram	December 16, 1938-July 24, 1944
4.	Khuang Aphaiwong	August 1, 1944-August 17, 1945
5.	Thawi Bunyaket	August 31, 1945-September 17, 1945
6.	M.R. Seni Pramroj	September 17, 1945-January 31, 1946
7.	Khuang Aphaiwong	January 31, 1946-March 18, 1946
8.	Pridi Phanomyong	March 24-August 21, 1946
9.	Luang Thamrongnawasawat	August 23, 1946-November 8, 1947
10.	Khuang Aphaiwong	November 10, 1947-April 8, 1948
11.	P. Phibunsongkhram	April 8, 1948-September 16, 1957
12.	Phot Sarasin	September 21, 1957-December 26, 1957
13.	Thanom Kittikachorn	January 1, 1958-October 20, 1958
14.	Sarit Thanarat	February 9, 1959-December 8, 1963
15.	Thanom Kittikachorn	December 9, 1963-October 14, 1973
16.	Sanya Dharmasakti	October 14, 1973-February 15, 1975
17.	M.R. Seni Pramroj	February 15-March 6, 1975
18.	M.R. Kukrit Pramroj	March 14, 1975-January 12, 1976
19.	M.R. Seni Pramroj	April 20, 1976-October 6, 1976
20.	Thanin Kraivichien	October 8, 1976-October 20, 1977
21.	Kriangsak Chamanand	November 11, 1977-February 28, 1980
22.	Prem Tinsulanonda	March 3, 1980-August 4, 1988
23.	Chatichai Choonhavan	August 4, 1988-February 23, 1991
24.	Anand Panyarachun	March 2, 1991-April 7, 1992
25.	Suchinda Kraprayoon	April 7, 1992-May 24, 1992
26.	Anand Panyarachun	June 10, 1992-September 23, 1992
27.	Chuan Leekpai	September 23, 1992-July 13, 1995
28.	Banharn Silpa-archa	July 13, 1995-November 25, 1996
29.	Chavalit Yongchaiyut	November 25, 1996-November 9, 1997
30.	Chuan Leekpai	November 9, 1997-present

Table 2: Thai Constitutions, 1932-1999

1.	The Constitution of B.E. 2475(1932), temporary	June 27-December 10, 1932
2.	The Constitution of B.E. 2475(1932)	December 10, 1932-May 9, 1946
3.	The Constitution of B.E.2489(1946)	May 9, 1946-November 8, 1947
4.	The Constitution of B.E. 2490(1947),temporary	November 9, 1947-March 23, 1949
5.	The Constitution of B.E.2492(1949)	March 23, 1949-November 29, 1951
6.	The Constitution of B.E.2475 revised B.E.2495(1952)	

March 8, 1952-October 20, 1958	
7. The Constitution of B.E.2502(1959)	January 28, 1959-June 20, 1968
8. The Constitution of B.E. 2511(1968)	June 20, 1968-November 17, 1971
9. The Constitution of B.E. 2515(1972)	December 15, 1972-October 7, 1974
10. The Constitution of B.E. 2517(1974)	October 7, 1974-October 6, 1976
11. The Constitution of B.E. 2519(1976)	October 22, 1976-October 20, 1977
12. The Constitution of B.E. 2520(1977)	November 9, 1977-December 22, 1978
13. The Constitution of B.E. 2521(1978)	December 22, 1978-February 23, 1991
14. The Constitution of B.E. 2534(1991)	March 1, 1991-December 9, 1991
15. The Constitution of B.E. 2534(1991)	December 9, 1991-October 11, 1997
16. The Constitution of B.E. 2540(1997)	October 11, 1997-

Table 3: Coups, Rebellions, and Revolutions

1. Military Coup	June 20, 1933
2. Boworadet Rebellion	October 11, 1933
3. Songsuradet Rebellion	January 29, 1939
4. Military Coup	November 8, 1947
5. Military Coup	October 1, 1948
6. "Grand Palace Coup"	February 26, 1949
7. "Manhattan Coup"	June 29, 1951
8. "Silent Coup"	November 29, 1951
9. Military Coup	September 16, 1957
10. Military Coup	October 20, 1958
11. Military Coup	November 17, 1971
12. Military Coup	October 6, 1976
13. Military Coup	March 26, 1977
14. Military Coup	October 20, 1977
15. Military Rebellion	April 1, 1981
16. Military Coup	September 9, 1985
17. Military Coup	February 23, 1991

## 2.2 The New Constitution of 1997

### A Political Reform.

After the Bloody May 1992, the public was again reminded that the mere existence of Parliament and elections did not always work to the benefit of the people. The unexpected occurrence of the coup in 1991 made people more pessimistic about the progress and development of democracy in the country. Since the control and prevention of military from intervention in national politics and government was almost impossible, the last hope therefore was to rely on a sound and efficient democratic system of government. But the general election in 1995, held after the restoration of a civilian government, almost dashed this hope, because of the widespread occurrence of vote-buying all over the country together with other forms of electoral corruption. Electoral politics was becoming increasingly controlled by an alliance of so-called 'professional politicians', provincial Mafia, unsavoury business interests, large companies, and third-rate ex-soldiers and bureaucrats. In order to cope with the new trend of democratization under a globalized economy, a more responsive and accountable government and Parliament was needed. This could be done through rigorous reform and improving the existing institutions, for example, the House of Representatives, the Senate, the judiciary, political parties and local governments, so that they could become more responsible and accountable to the people. In the long run this political reform would produce an immunity in the political system, so that extra-constitutional interventions could not be justified. Under such hopes and fears, people began to call for a true reform of the political system.

### **2.3 Drafting the New Constitution**

The Speaker of the House of Representatives set up the Democratic Development Committee (DDC) on June 9, 1994. The goal was to study the possibility of political reform. The move was precipitated by the hunger strike of Lt. Chalard Vorachat, a former MP and political activist, in front of the Parliament. Chalard started his hunger protest on May 25, 1994 and ended it on July 31, 1994, after the government and opposition conceded to the popular demand of revising the existing constitution which was written in 1991 under the influence of the National Peace Keeping Council. Consequently, Parliament passed the fifth amendment to the Constitution of 1991 in February 1995. It was an attempt to revise and amend some sections of the constitution which were regarded as undemocratic. But further effort to really revise and amend the whole constitution according to the wish of the people by Parliament seemed to be deadlocked. Then during the new government led by Banharn Silpa-archa (r July 13, 1995-November 25, 1996), the Political Reform Committee was appointed to find a way to achieve the goal of political reform. The solution was finally found in the 6th Amendment of the Constitution passed on October 22, 1996. According to this amendment, the making of a whole new constitution by a special committee outside the National Assembly was stipulated. The National Assembly elected the Constitution Drafting Assembly (CDA), which consisted of ninety-nine members. Seventy-six of them were representatives elected from all provinces and 23 members were chosen from the ranks of academicians and qualified persons. This Assembly's duty was to prepare a draft of a new Constitution. In the drafting process, the Assembly paid special attention to the wishes of people all over the country. A process of public consultation took place on a nation-wide basis, co-ordinated by the public relations committee. Public hearings were held, and input solicited. The proposed ideas and principles to be discussed in the draft Constitution had to do with the essential substance of promoting and protecting rights and liberties of the people. Equally important in achieving electoral reform was public participation in governance and monitoring the exercise of State power. Finally the Constitution Drafting Assembly completed the work within 233 days and the Constitution was promulgated on October 11, 1997.

### **2.4 The Principles of Government**

The Constitution of 1997 is not only the embodiment of the aspirations of Thai people for a democratic system of government, but it also reflects the struggle of the people to advance and achieve the democratic cause in Thai society. The Constitution identifies main principles of government: the form of the state, the structure of government, the separation of powers, the protection of individual rights and liberty, and the amendment of the constitution. The significant change in the Constitution regarding the political structure of the country is seen in the change from representative democracy to participatory democracy. This can be seen in many sections of the Constitution that allow people to participate in the process of appointment of the independent commissions such as the Election Commission, the Administrative Court and the Ombudsman. Furthermore, it also allows people to recall certain members of Parliament and ministers and to propose draft bills to Parliament. The Constitution makes clear that sovereign power belongs to the people and only the people can legitimately use this power.

The main objectives of the Constitution are to uphold the principle of the democratic regime of government with the king as head of the state and to bring about happiness, prosperity, and dignity to the people. The Constitution also recognizes that sovereign power is derived from the Thai people.

The form of the state is a kingdom. Before the democratic revolution in 1932, the Thai kingdom was ruled under an absolute monarchy. Since then the kingdom has changed into a constitutional monarchical regime. Another important characteristic of the Thai state is that it is a unitary state and an undivisible kingdom. This form of the state is unchangeable as stipulated in

section 313 paragraph 2: "any amendment to the Constitution that will result in the modification or change the nature of the constitutional monarchical regime or the form of the state shall not be permitted." The sovereign power belongs to the Thai people whereas the king as head of state exercises such power through the National Assembly, the Council of Ministers and the Courts in accordance with the provisions of this Constitution.

The structure of government consists of the central administration and the regional administration. The central administration, which operates under the basic concept of centralization, consists of the Office of the Prime Minister, ministries and departments. The regional administration, on the other hand, operates more on the principle of decentralization which means that the central government divides and delegates some of its power and authority in decision making to its representatives from various departments and ministries who work at the provincial level. These representatives, who are government officials, perform their duties according to the laws, regulations and orders determined by the central government. At this level of administration, there are provinces, districts, subdistricts and villages.

The executive, legislature, and judiciary are independent in their respective functions and duties. The House of Representatives exercises its check on the government by initiating motions on members of the cabinet and, in important policy matters, requesting a vote of confidence on the government. The Council of Ministers or cabinet has the duty to administer the country with the approval of the legislature. Finally, the courts perform their duties and responsibilities independently from the other two branches of government.

Another important principle introduced in the 1997 Constitution is the supervision and control of the use of power by the government and its agencies. There are rules and regulations regarding the wealth and behavior of politicians who are in office. Many new commissions and organizations independent from government and the bureaucracy have been created to monitor the running of the government and public services. The qualifications of members of the National Assembly and the cabinet have been raised to meet the popular demand for better public servants.

Rights and dignity of the people are a major section in the Constitution. In addition to the protection of individual rights and liberty, the Constitution also includes community and children rights as well as equality of the sexes. The people can monitor and recall certain members of the House and the cabinet. In order to guarantee justice for people, an administrative court is set up to decide cases between people and government agencies.

### **2.5 Provision for Amendment**

An amendment of the Constitution will be done within the National Assembly. The Constitution section 313 stipulates that the cabinet or the National Assembly may initiate an amendment of the constitution. One-fifth of the total number of members of the House of Representatives or one-fifth of the total number of members of both the House and Senate are required in order to propose an amendment. The members of the House of Representatives may individually or jointly propose such a motion only in accordance with the resolution of the political party to which they belong. Any amendment that will result in the modification of or change in the nature of the constitutional monarchical regime or the form of the state is prohibited.

To make sure that the political reforms are undertaken by the government, the transitory provisional section of the Constitution stipulates that any change or amendment of this Constitution or its organic laws can be done only after five years from the date of the promulgation of this Constitution. Furthermore, changes or amendments must come from the Election Commission, the Constitutional Court, or the National Counter Corruption Commission which has the power to submit to the National Assembly or the Council of Ministers a report presenting opinions on the amendment of this Constitution or other laws.

### **2.6 The Bill of Rights**

The Constitution of 1997, for the first time, stipulates that human dignity, not only the rights and liberties of an individual, must be protected. There are many new rights introduced in this Constitution. This is a reflection of changes in the political and social environment in the country following the rapid expansion and growth of the economy in the 1990s. It also demonstrates the response of Thai people towards global trends and developments. Chief among these rights are individual rights, community rights, rights of children, the elderly, handicapped people's rights, and equality of the sexes. Freedoms of information, the right to public health and education and consumer rights are also recognized. In all, there are 40 rights compared to only nine rights in the Constitution of 1932.

Regarding rights and liberties of the individual, the new Constitution of 1997 states that a person shall enjoy the right and liberty in his or her own person regarding one's dignity, reputation and privacy, including a person's family rights. A person has the liberty of dwelling, of travelling and the liberty of making a choice about his or her residence within the Kingdom. The right to practice any religion, to private property and inheritance, together with the right of expression, of association, and of information are also recognized.

People have the right to vote, to run in an election, to form a political party, and to have access to government information. The airwaves are also a common resource and cannot be monopolized by the government. People also have the equal right to utilize and make use of the frequencies. People are granted rights to sue the government and public agencies, and to lodge complaints with the Human Rights Commission and the Ombudsman. In criminal cases and other cases, legal procedures must not violate the accused person's rights to a fair trial and investigation.

Another area of rights in the 1997 Constitution is the protection and promotion of individuals' self-development. Section 42 states that "a person shall enjoy an academic freedom. Education, training, learning, teaching, researching and disseminating such research according to academic principles shall be protected provided that it is not contrary to his or her civic duties or good morals." People shall have equal right to public education for the duration of not less than twelve years without charge.

The new sections on communal rights and liberties are those dealing with community rights, the preservation of natural resources and self-government. For example, section 46 states that, "Persons so assembling as to be a traditional community shall have the right to conserve or restore their customs, local knowledge, arts or good culture of their community and of the nation and participate in the management, maintenance, preservation and exploitation of natural resources and the environment in a balanced fashion and persistently as provided by law."

Furthermore, the Constitution provides a mechanism by which the people can monitor and recall certain members of the House and the Cabinet. In protecting people's justice, an administrative court will be set up to decide cases between people and government agencies and personnel.

Finally, for the first time, the Constitution grants people "the right to resist peacefully any act committed for the acquisition of power to rule the country by a means which is not in accordance with the modes provided in this Constitution." (section 65)

## **2.7 Checks and Balances**

One of the major principles of the 1997 Constitution that captured public attention was the supervision and control of the government and its agencies by the people. The executive branch, which is composed of the ministries and departments that receive policies from the government for implementation, is considerably larger than the legislative and judicial branches. The 1997 Constitution, however, creates many new commissions and courts to supervise and control the use of government power and authority. There are six new commissions to perform such duties. The Election Commission, the Ombudsmen, the National Human Rights Commission,



the Constitutional Court, the National Prevention and Counter Corruption Commission, and the National Comptroller Commission.

The Ombudsmen have the power and duty to inquire into complaint in the following cases: (a) failure to perform in compliance with the law or performance beyond powers and duties as provided by the law of a government official, an official or employee of a state agency, state enterprise or local government organization; (b) performance of or omission to perform duties of a government official, an official or employee of a state agency, state enterprise or local government organization, which unjustly causes injuries to the complainant.

## **2.8 The Separation of Powers**

The principle of the separation of powers is mainly concerned with the idea of creating a stable government and maintaining the protection of individual rights and freedom from the abuse of government powers. In practice, the separation of powers leads to the introduction of a parliamentary form of government and presidential system. Underlying this is the distribution of power among the executive, legislative and judicial branches. The separation of powers is not the division of sovereign power but the separation of the exercise of that power. In practice there is no government that absolutely separates the three branches of powers from one another mainly because they are all related and dependent upon one another. In fact, the efficiency of parliamentary government lies in the close union, the nearly complete fusion, of the executive and the legislative powers.

This fusion takes place in the cabinet. The House of Representatives choose the prime minister. Once elected the prime minister exerts powers of administration by nominating the ministers and selecting the cabinet over which he presides. Then the cabinet exerts a special control over the House of Representatives through their policies. The cabinet members cannot at the same time be members of the House of Representatives or government officials. In conducting the government policies, the executive is accountable to the legislature, which can exercise a vote of confidence to check the government. In return the government has the power to dissolve the parliament.

The right of dissolution which the government possesses makes it into an executive which can annihilate the legislature, as well as an executive which is the nominee of the legislature. The stability and efficiency of parliamentary government thus rests on the collective responsibility of the cabinet combined with the threat of dissolution of the parliament.

## **2.9 Elections**

The Constitution makes it a duty for the people to vote in a general election. Failure to do so is punishable by law. This requirement stems from people's wishes to construct a people's democratic government free from the vote buying and selling which has dominated elections in the past. Thus voting is a compulsory not voluntary act. For the first time, the people will elect the Senate, which is given more power in the National Assembly. People will directly elect the Senate. The Senate has the power to recall and investigate politicians. To guarantee the neutrality of the Senate, senators are required to not affiliate with any political party, and no campaign for the election is allowed.

MPs come from both direct popular election and from a party-list, which accounts for one fifth of the total number of MPs. The reason for the introduction of party-list MPs is to allow certain professionals to be able to be elected into parliament without having to spend a huge amount of money in the campaign like the ordinary MP. This will open more avenues for some groups of people to be able to have their own representatives through the party-list scheme. Also this is a chance to see whether direct election of executives will work or not because only political parties will nominate the party-list. Another new mechanism is the establishment of the Election Commission, instead of the Interior Ministry, to oversee elections.

In conclusion, it can be seen that the significance of the constitution in Thai political history and government is its function to serve the stability of the regime. In this sense, the Thai constitutions represented realities of power relations more than being the source of political legitimacy. The 1997 Constitution, however, intends to introduce a change from representative democracy to participatory democracy. This can be seen in the establishment of the independent commissions such as the Election Commission, the Administrative Court and the Ombudsman. People's power is recognized so that they can recall certain members of Parliament and ministers and propose draft bills to Parliament. Individual rights and liberties are expanded together with communal rights. The principles and practices of checks and balances and the separation of powers figure prominently in the Constitution. The 1997 Constitution therefore makes clear that sovereign power belongs to the people and only the people can legitimately use this power.