

A Thesis Submitted for the Degree of Doctor  
of Area Studies

Politics of Electoral Reform in Thailand  
タイにおける選挙制度改革の政治

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## **List of Acronyms**

### **Political Parties in Thailand**

BJTP	Bhumjai Thai
CP/CTP	Chart Thai/Chart Thai Pattana
CPDP	Chartpattana Peu Pandin
CPP	Chart Pattana
CPT	Communist Party of Thailand
DP	Democrat
NAP	New Aspiration
PDP	Palang Dharma
SAP	Social Action
SDP	Samakkidham
TRT/PPP/PT	Thai Rak Thai/ People's Power/ Pue Thai

### **Others**

AHRC	Asia Human Rights Commission
ATM	Automatic Teller Machine
BAAC	Bank of Agriculture and Agricultural Cooperatives
CDA	Constitutional Drafting Assembly
CDC	Constitutional Drafting Committee
CDD	Committee for Developing Democracy
CDRM/CDR	Council for Democratic Reform under the Constitutional Monarchy
CNS	Council for National Security
DOLA	Department of Local Administration
ECT	Election Commission of Thailand
ENEP	Effective Number of Electoral Parties (parties winning votes)
ENPP	Effective Number of Legislative Parties (parties winning seats)
FDP	Fund for Development of Political Parties

IDE	Institute of Developing Economies
IDEA	Institute for Democracy and Electoral Assistance
KPI	King Prajadhipok's Institute
MMD	Multi-Member District
MMP	Mixed-Member Proportional Representation
MPs	Members of Parliament
MSMV	Multi-Seat, Multiple Vote
NACC	National Anti-Corruption Commission
NGOs	Non-Government Organizations
NIDA	National Institute of Development Administration
NLA	National Legislative Assembly
NPLs	Non-Performing Loans
NSC	National Security Council
OTOP	One <i>Tambon</i> (Sub-District), One Product
PAD	People's Alliance for Democracy (the Yellow-Shirt)
PAO	Provincial Administration Organization
PDRC	People's Democratic Reform Committee
P-NET	People's Network for Elections
PR	Proportional Representation
SAO	Sub-district Administration Organization
SMD	Single-Member District
SME	Small and Medium Sized Business Entrepreneur
SNTV	Single, Non-Transferable Vote
TRCT	Truth for Reconciliation Commission of Thailand
UDD	United Front for Democracy against Dictatorship (the Red-Shirt)
WCN	Women and Constitution Network

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## **Abstract**

During the past seventeen years, there were three major changes in Thailand's electoral system. These abrupt changes raised an intriguing question of what factors constituted the resulting breakdown of electoral reform in Thailand. "Politics of Electoral Reform in Thailand" aims to describe the electoral reform process, analyze the reformers' expectations, and evaluate the effects and limitations of the attempted reform. The methodologies applied in this study are documentary analysis and field research.

Chapter 2 of this study provides the historical background to how the electoral and political reforms came about and demonstrates their roots in the long democratic transition since the transformation to Constitutional Monarchy in 1932. Then chapter 3 explores the background and agenda of the drastic 1997 electoral reform and its transformative effects. Much attention is directed at the effects of adopting proportional representation (PR) and single-member district (SMD) electoral systems. The chapter also illustrates the reform's effects on the political party system, parties' strategies, and modes of electoral competition, political engagement and voter turnout. A comparison between the 1997 and the 2007 Constitutions on the subjects of electoral systems and electoral rules is presented in chapter 4. The chapter also demonstrates that the 2007 electoral changes under the new constitution were products brought into play by traditional, conformist groups of elites. Chapter 5 proceeds to show the details of how the 2007 constitutional amendments on the electoral system, and the results of the subsequent general election in 2011, deepened conflicts that echoed disagreements on goals and expectations of what the electoral reform was supposed to accomplish. The chapter will also touch on the 2014 general election that was eventually nullified and its connotation. Chapter 6 focuses on the voters' behavior and electoral decisions. Data shown in this chapter demonstrate that electoral reform and changes have triggered political awareness among voters; voter turnouts have increased steadily, attitude towards vote buying adjusted, and more importantly, the Thai electorate in general have become more strategic voters. The evidence has shown that democratic embedment in Thailand has begun especially among the mass majority. The concluding chapter provides a critical assessment of the past electoral reform in Thailand and the fact that the conflicting goals of reformers, arbitrary imposition, and too frequent reform led to paradoxical outcomes.

“Politics of Electoral Reform in Thailand” constructs three major findings. First, the crucial consequence of the 1997 electoral reform was the driving force moving Thailand towards a front row of fledgling and transitional democracies. The upshot of the reform was an era of growing political awareness and the recognition of the people’s power in electing the government leadership and representatives of the parliament’s two houses. The 2007 electoral reform, on the contrary, shifted the focus from a reform for empowering the people to a reform for diverting the effects of the previous reform. The result was the pendulum swings from the commencement of a democratic rooting to authorizing the traditional powers in the form of unelected bodies in the political field. Not only did the electoral reform create paradoxical outcomes exceeding the reformers’ expectations, but the reformers were also governed by contradicted intentions that made the process of electoral reform a paradox in itself.

Second, the apparently positive effects of the electoral reform included the decline in political party fragmentation, a stronger core party in the government, a shift from candidate-oriented to party- and policy-oriented parties, and an increased bonding between the political parties and the electorate. However, the drawbacks manifested in diminished social inclusiveness and representation with a higher concentration of the elite classes in the parliament, continued personalized party leadership, and the dominance of big capital over political parties. Taken together, the significant changes in the mode of party competition did not convert into the institutionalization of a party system.

Third, the encouraging and disappointing effects of electoral reform were not only shaped by the mechanisms of the electoral system and electoral engineering, but also by socio-political contexts, especially the lingering, highly polarized conflicts of the past thirteen years. Despite the elite dominated reform, inconsistencies in what the reformers wanted to achieve and the recent coup d’état, the study maintains that the vital effect of electoral reform was the gradual transition to democracy. The upsurge of popular power will eventually outlast the democratic crises and undemocratic attempts to suppress it. The only way to make reform legitimate and endure is to involve the politically awakened mass majority in the process through peaceful elections.

Drawing from Thailand's past experiences in electoral reform, the study suggests seven considerations for the reform in the future. They are 1) The setting and environment of electoral reform is of great importance; 2) Assurance of inclusiveness; 3) Adequate representation; 4) Increasing government's and representatives' accountability to the voters; 5) Maintaining the importance of political parties; 6) Making elections meaningful; and 7) Being mindful of international standards.

## 要旨の和訳

タイでは大きな選挙制度改革が過去 17 年間に 3 度実施された。そうしためまぐるしい変化は、タイの選挙制度がどうなっているのかという興味をそそる。本研究は、選挙制度改革の過程を叙述し、改革担当者の狙いを分析し、改革の結果と限界を評価することを目的としている。研究に用いた方法は文献研究とフィールド・ワークである。

第 2 章は選挙制度と政治の改革が実施されることになった歴史的な背景を叙述し、1932 年の立憲君主制導入以来の長期にわたる民主化過程に改革の起源を辿る。続く第 3 章は、1997 年に実施された抜本的な選挙制度改革の背景と意図、そしてその効果について検討する。比例代表制と小選挙区制の導入の効果に特に着目する。第 3 章では、選挙制度改革が、政党制、政党の戦略、選挙運動、政治関与、投票率といったことに与えた影響についても明らかにする。第 4 章は、1997 年憲法と 2007 年憲法を、選挙制度と選挙法に関して比較検討する。第 4 章では、伝統的順応的なエリート集団が主導して、2007 年憲法のもとでの選挙制度改革を導入したことも示す。第 5 章は、2011 年に実施された選挙制度改革に関する 2007 年憲法改正の詳細と同年の総選挙の結果について示し、選挙制度改革が達成しようとした目標や期待と選挙結果との食い違いが対立の根深さを物語ることを明らかにする。第 5 章では、無効になる 2014 年総選挙とその含意にも触れる。第 6 章は投票者の行動と決定に焦点を絞る。第 6 章で用いるデータから、選挙制度改革が有権者を政治意識に目覚めさせたことがわかる。投票率が徐々に高まり、票の売買への態度を改め、もっと重要なことに、有権者全般が従来よりも戦略的な投票者になった。証拠に照らし合わせると、タイでは民主主義が根づき始めている。結論の章では、タイのこれまでの選挙制度改革を批判的に査定する。そして、改革担当者の相反する目標、恣意的な押し付け、あまりに頻繁な改革が逆説的な結果につながってきたことを明らかにする。

本研究による主な発見は次の 3 点である。第一に、1997 年の選挙制度改革は、生まれたての移行期の民主主義諸国の最前列にタイを据えるという重要な結

果を伴っていた。改革の帰結は、国民の政治的覚醒が進み、政府指導者や国会議員を選ぶ権力を国民に認める時代の到来であった。それに対して、2007年の選挙制度改革は、国民を力づける改革から、1997年の改革の効果を薄める改革へと力点を移し替えていた。このため、振り子は、民主主義の根つき始めから、非民選政治制度を通じた伝統的権力者の権限強化へと大きく振れた。選挙制度改革は改革担当者の期待を越える逆説的な結果をもたらしたばかりではなく、改革担当者が選挙制度改革の過程を矛盾に満ちたものにする相容れない意図に抱いてもいた。

第二に、選挙制度改革の明らかにプラスの効果としては、政党の離合集散の抑制、政権の核になれる強い政党の登場、候補者中心から政策中心の政党への変化、政党と有権者の結びつきの強化といった点を指摘しうる。しかしながら、マイナス面もあった。下院議員にエリート階層出身者が増えて社会的な包摂性や代表性が低下したこと、特定の個人による政党支配の継続、大手の資本家による政党支配といった点である。全体として眺めると、政党の競争方法に大きな変化が生じて、政党制の制度化にはつながらなかった。

第三に、選挙制度改革の喜ばしい効果と残念な効果は、選挙制度や選挙運動だけから生まれたのではなく、政治的社会的文脈とりわけここ13年間の著しく分極化が進んだ長引く対立にも由来していた。改革がエリート主導で進められ、改革担当者が達成しようとする目標が矛盾を内包しており、軍事クーデタが勃発したといった事情にもかかわらず、選挙制度改革のもっとも重要な効果は、民主主義にむけての着実な前進であったと本研究は主張する。わき上がる民衆の力は、数々の危機を乗り越え、民衆の力を抑え込もうとする反民主的な企てを乗り越えて、ついには勝ち残るであろう。選挙制度改革を正当で持続しうるものにする唯一の方法は、選挙という平和な方法を通じて改革過程に大衆を巻き込むことである。

選挙制度改革に関するタイの経験から、本研究は将来の改革に向けて7つの留意事項を提示したい。1) 選挙制度改革の状況や環境、2) 包摂の保証、3) 適切な代表、4) 有権者に対する政府や国会議員の説明責任の増加、5) 政党の重視、6) 選挙の尊重、7) 国際基準の遵守の7点である。

## Chapter I

### Introduction: Understanding Electoral Reform

The first major electoral reform in Thailand occurred in the midst of political reform and the promulgation of the 1997 Constitution. Only ten years past, the electoral system, rules and regulations concerning election were overturned as an aftermath of the 2006 coup d'état. The coup group supervised a re-shaping of the electoral system and related electoral laws in 2007. Nonetheless, the 2007 electoral reform was once again toppled by the 2014 coup d'état. The radical and abrupt changes to electoral reform three times in less than twenty years raised an intriguing question of what factors constituted the breakdown of electoral reform in Thailand.

“Politics of Electoral Reform in Thailand” examines this critical question in an effort to shed light on the challenges confronting the process of the electoral reform in the future. Its main aim is to describe the electoral reform process, analyze the reformers’ expectations, and evaluate the electoral reform’s effects and limitations. These issues are accorded critical importance in order to assess whether there was a deliberate intention to stall electoral reform and maintain the status quo. The contention of “Politics of Electoral Reform in Thailand” is that Thailand’s electoral reform has elevated the democratization process, fundamentally because it has produced political awareness and a sense of political efficacy among the electorates, although these important effects might not be what the reformers had expected from the beginning.

#### 1.1 Get to Know Electoral Reform

The term electoral reform refers to a wide range of issues, including the expansion of voting rights, redistribution of constituency boundaries, reconsideration of the existing electoral system, and the elimination of electoral corruption<sup>1</sup>. In fact, electoral reform does not only concern those broad issues of the system, but also specific administrative aspects of the electoral process as, such as redistricting, setting threshold levels or quota formulas, the distribution of polling places, the vote counting process, and numerous others. Because the normative objective of electoral reform usually involves a desire to enhance the

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<sup>1</sup> Pippa Norris (1995). “The Politics of Electoral Reform in Britain,” *International Political Science Review Special Issue on Electoral Reform* 16, No.1, pp. 65-78.

efficiency for conducting fair elections, a multitude of fairly uniform exercises and operations should be required to reach that goal. But in practice, the rationale, process, and effects of electoral reform can vary greatly across society and time.

## **1.2 Electoral Reform: The Cross-National Appeals**

The push for electoral reforms occurs in both democratic and undemocratic countries. Democracy is imperfect, and so in democratic countries electoral reform is a continuous and permanent process which seeks to make politics works better and be more democratic. However, not all movements for electoral reform are successful. And even past successful reforms can be re-evaluated many times as conditions change.

For example, in New Zealand, the movement for electoral reform was instigated by the perceived unfairness in electoral outcomes. The single-member district electoral system produced majority governments elected twice and consecutively with fewer popular votes than their major opponents in the 1978 and 1981 elections. The report of the Royal Commission on the Electoral System entitled “Towards a Better Democracy” in 1986 led to the call for electoral reform via referendums. In the 1992 referendum, the electorate was asked whether it wanted any change at all, and if so, to indicate the preferred new system from four options. In the second referendum held in 1993, the chosen new system was pitted against the retention of the previous system; that is, the SMD and MMP systems. As a result, the new mixed-member proportional (MMP) system was adopted to foster a clear expression of public legitimacy.<sup>2</sup>

The United Kingdom’s alternative vote referendum in May 2011 derived from a similar cause of electoral reform as the New Zealand case, but with a different result. The Conservative-Liberal Democrats formed a coalition to persuade the voters to replace the present single-member district, first passed the post electoral/plurality system with the alternative vote system in the subsequent election. The proposal was rejected by the majority electorate.

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<sup>2</sup> Jack Vowles (1995). “The Politics of Electoral Reform in New Zealand,” *International Political Science Review* 16, No.1, pp. 95-115; David Denemark (2001). “Choosing MMP in New Zealand: Explaining the 1993 Electoral Reform,” in *Mixed-Member Electoral Systems: The Best of Both Worlds?*, eds. Matthew Shugart and Martin P. Wattenburg (Oxford: Oxford University Press) pp. 70 – 94; Stephen Levine and S. Nigel Roberts (1994). “The New Zealand Electoral Referendum and General Election of 1993,” *Electoral Studies* 13, pp. 240–53.

Twenty years ago, popular discontent generated a momentum for electoral reform in Japan. In 1994, while the ruling Liberal Democratic Party (LDP) since 1955 was temporarily out of power, the Japanese Diet (parliament) passed two major political reform acts. The first law aimed to change the electoral system to elect the House of Representatives, and the second was to clean up campaign finance practices. The old electoral system, a single non-transferable vote (SNTV) from multi-member districts, was replaced by a mixed-member majoritarian (MMM) system in which the single-member district (SMD) plurality system and proportional representation (PR) seats are counted separately<sup>3</sup>. These electoral reforms produced broader-based campaigns and the SMD component of the electoral system created important incentives that led to a realignment of the party system. After the reform, the LDP needed to enter into a series of coalition governments. Nevertheless, after five general elections held under the new electoral system, the LDP continued to hold a majority in the House of Representatives.<sup>4</sup>

In less democratic countries, electoral reform is often treated as a mechanism to attain a transfer of power from an authoritarian rule to a democratically elected government. The reform in a transition to democracy tends to be more complicated and requires changes to the constitution to alter the existing balances of power. Most electoral reforms in lesser democracies turn out to be politically painful. Electoral reforms in Mexico took place about every three years since 1977. For many years Mexican electoral reform reflected the strategy of the ruling parties to change the system in an attempt to control the outcomes in their favor by preserving the dominance of the governing Institutional Revolutionary Party (PRI). Only since 1994 has the electoral reform designed by the governing party sufficiently improved to ensure fair balloting and vote counting, thus achieving major breaks with the authoritarian past.<sup>5</sup>

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<sup>3</sup> Margaret McKean and Ethan Scheiner (2000). "Japan's New Electoral System: La plus ça change..." *Electoral Studies* 19, pp. 447-477.

<sup>4</sup> Ethan Scheiner and Filippo Tronconi (2011). "Electoral Reform in Italy and Japan: Unanticipated Outcomes?," in *A Natural Experiment on Electoral Law Reform. Evaluating the Long Run Consequences of 1990s Electoral Reform in Italy and Japan*, eds. Daniela Giannetti and Bernard Grofman (New York: Springer) pp. 95-111.

<sup>5</sup> Stephen D. Morris (1995). *Political Reformism in Mexico: An Overview of Contemporary Mexican Politics* (Boulder: Lynne Rienner); Silvia Gómez Tagle (1993). "Electoral Reform and the Party System, 1977-90," in *Mexico: Dilemmas of Transition*, ed. Neil Harvey (London: Institute of Latin American Studies, University of London).

Pakistan's reform in 2010 was an effort to end eight-year military rule and constitutional distortions under General Pervez Musharraf which eroded the legitimacy of elections and warped the political system. The parliament unanimously passed the eighteenth amendment to the constitution to introduce new provisions to strengthen parliamentary democracy by ensuring the Election Commission of Pakistan (ECP), whose members were previously appointed by the President, more independence, impartiality, transparency and parliamentary oversight. In May 2010, the ECP produced a strategic five-year plan, with significant international assistance, listing fifteen broad electoral reform goals. Prolonged electoral reforms in Pakistan took place during a regime transition, begun under authoritarian conditions, and moved towards fragile democratic institutions. However, after the 2013 election, protesters demanded a new electoral reform and called for the resignation of a popularly elected civilian leader, Mr. Nawaz Sharif, who was allegedly involved in corruption.<sup>6</sup> Presently, the reform is still handicapped by uncertainty.

Brazil represents a country that has progressed further than many on democratic transition. The country was confronted by a dilemma between democracy and the ability to govern. At the beginning of electoral reform in 1985, reform process largely reflected the interests of the politicians. The congress approved a constitutional amendment to 1) lower the national and state thresholds for winning a seat in congress; 2) eliminate the military regime's ban on party-switching; 3) eliminate sanctions against legislators who broke party discipline, and 4) allow voters to split their votes in executive and legislative elections. All these reforms made it easier for small parties and regional parties to win seats and strengthened candidates vis-a-vis parties.<sup>7</sup>

In Thailand, the focus of the current work, the 1997 electoral reform initiatives derived from the desire to achieve a true break with the military's intervention in elections and to shed the 1980s-1990s perception of a "half-way democracy." However, the essentially well-meaning reformers did not have enough information to anticipate the strength or preferences of the players in the political domain. They also found that politicians and political parties tend to have a special ability to respond to reforms by

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<sup>6</sup> Yaroslav Trofimov (2013). "Election Tests Role of Pakistan Military-WSJ.com," <http://www.online.wsj.com> (Accessed September 2, 2014).

<sup>7</sup> Scott Mainwaring (1991). "Politicians, Parties, and Electoral Systems: Brazil in Comparative Perspective," *Comparative Politics* 24, No. 1 (October).

adapting in ways not anticipated by the reform architects. After only two general elections that tested the relative strengths of each group, the hoped for transition to new democracy ended up in the hands of the military.

The 2007 electoral reform was imposed during the authoritarian military government, with little input from political parties or civil society. The intent behind this reform was to prevent certain electoral outcomes from a prior electoral democratic period and to safeguard ideas and interests identified with the conventional powers. Accordingly, the 2007 electoral reform represented irrational compromises, conflicting pressures, and piecemeal directions. And because the reformers lacked reliable information about people's preferences, the reform again produced additional unanticipated consequences. Additionally, before the 2011 general election, the Democrat-led coalition government amended the 2007 Constitution to change the House of Representatives' electoral system, in the hope to give the ruling parties advantages in the upcoming election. However, the electoral results proved to be in contradiction to their expectations. In all, ambiguities and inconsistencies undermined the technical merits of the electoral reform.

The introductory chapter to this study of electoral reform in Thailand will be divided into four parts. The first part will elaborate the study's main argument. The second section, named "Questions and Contentions: Democracy and Electoral Reforms in Thailand," aims to frame the central questions of the study and to outline the succeeding chapters. The third part sets out to explore literature on electoral and political reforms, to explore the state of democracy and politics in Thailand, to focus on issues concerning elections, and to shed light on contrasting and contesting viewpoints and perspectives. The chapter concludes with a plan of the book and a summary of the chapters that follow.

### **1.3 Main Argument**

The continued struggle to establish democracy in a country without a democratic tradition, along with the juxtaposition of the frequent military coups d'état makes Thailand an interesting case among the countries that have undergone the transition to democracy as part of the third wave of global democratization.<sup>8</sup> In such cases, democratic consolidation usually starts when the political institutions (e.g., the electoral system, government,

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<sup>8</sup> For a discussion on the waves of democratic transition see Samuel Huntington (1991). *The Third Wave: Democratization in the Late Twentieth Century* (Norman: University of Oklahoma Press).

parliament, and the judicial branch) function effectively with the other constitutional organizations. Once the constitutional aspect is settled, the representation aspect should follow suit. Ideally, the political parties and party system should help maintain people's involvement in the political process. This, in turn, facilitates momentum for institutional reform and cultivates trust in the political process. Last but not least, there must be permeate a widely accepted belief that democracy is the only legitimate form of government and that democratic values would be applied to every dimension of our lives, from economic, political, to cultural and social life.

In reality, the May 22, 2014 coup made it clear that Thailand had not moved well beyond the threat of military strongman politics. Specifically, Thailand is not yet the country, in the words of Adam Przeworski, where democracy “becomes the only game in town . . . (and) all the losers want to do is to try again within the same institutions under which they have just lost.”<sup>9</sup> Based on the theoretical orientation put forth by O'Donnell, Schmitter, Whitehead,<sup>10</sup> and Dahl<sup>11</sup> which posits that a stable democratic system involves the process of making the democratic institutions and procedures a routine and persistent part of the political process, the realistic conclusion is that by all accounts Thailand has neither been approaching the minimum structural conditions for, nor made a successful and sustainable transition to a maturing democracy. At best, Thailand is at the threshold of democratic transition.

Notwithstanding, for the past ten years electoral politics appears to be entrenched in Thailand with a growing recognition that elections are the only legitimate means to power. Political parties, while still vulnerable to personality dominance and a lack of ideological distinction, are generally recognized as the inevitable and justifiable creatures for articulating political demands within the society. Despite the recent military coup, there is an acute awareness of the link between democratic legitimacy and the powers of the

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<sup>9</sup> Adam Przeworski (1991). *Democracy and the Market: Political and Economic Reforms in Eastern Europe and Latin America* (Cambridge: Cambridge University Press) p.26.

<sup>10</sup> Guillermo O'Donnell, Philippe Schmitter and Lawrence Whitehead (1986) *Transition from Authoritarian Rule: Prospects for Democracy* (Baltimore: Johns Hopkins University Press); Guillermo O'Donnell and Philippe C. Schmitter, (1986). *Transition from Authoritarian Rule: Tentative Conclusions about Uncertain Democracies* (Baltimore: Johns Hopkins University Press).

<sup>11</sup> Dahl specifies seven necessary democratic conditions, they are: elected officials, free and fair elections, inclusive suffrage, right to run for office, freedom of expression, alternative information and associational autonomy. See Robert A. Dahl (1989). *Democracy and its Critics* (New Haven: Yale University Press) pp. 220-221.

government. The demand for civilian government elected through free and fair elections is ingrained. Despite the fear of military guns and tanks, there has been a consistent call by civic groups and individual citizens for elected and responsive leaders. It is the electoral reform that brings growing mass demand for democracy. The path to democratization in Thailand will take a little longer than some other countries, and it will need to begin with the first step of electoral reform based on a genuine goal of democratic transition. The seesawing electoral reforms and the efforts to prevent democratization can only deter the process for a finite and short period of time. The illegitimate means used to hinder the popular power, conversely, will stimulate stronger desires for democratization in the long run.

The major argument of this study is twofold. First, it asserts that electoral engineering and electoral rules changes under the 1997 and 2007 Constitutions have made a profound contribution to the Thailand political and electoral landscape. The mechanical effects of the new electoral system, rules and regulations led to a number of encouraging outcomes, including a less fragmented party system, more strategic voters and candidates, and the pattern of party competition that moved from candidate-oriented to party- and policy-oriented. However, the significant changes in the mode of party competition did not convert into party institutionalization. The Thai political parties were still characterized by the personalization of party leaders and the dominance of big capital over political parties. Moreover, the electoral reform resulted in diminished social inclusiveness and representation, while there was a higher concentration of the elite classes in the parliament. All those effects were not only shaped by the mechanisms of the electoral system and electoral engineering, but also by political and social contexts, especially the lingering polarized conflicts for the past thirteen years.

Secondly, by closely scrutinizing the electoral reform and electoral rules changes, the study finds that many effects of the electoral reform were led to paradoxical and contradictory outcomes. In many aspects, the changes in the electoral system did not play out in practice as the reformers had expected. When electoral reform did not produce the effects anticipated by the constitutional drafters and social elites, new electoral rules were introduced and made operational in the hope that the new operations could influence people's behaviors, and in turn change the electoral outcomes. Despite the elite dominated reform and inconsistencies in what the reformers wanted to achieve, the study reveals that

the vital effect of electoral reform was the gradual transition to democracy. This finding paves the way to the conclusion that no matter what happens on the way to democracy, no matter how many times the coups erupt, election is the only legitimate tool in due course. The only way to make reform legitimate and endure is to involve the mass majority in the process through peaceful elections. Only when that happens, reform can stabilize opposition among political forces and provide new, effective systems of checks and balances across the political domain.

## **1.4 Questions and the Contentions: Democracy and Electoral Reform in Thailand**

This study is crafted to explore and assess the processes, the consequences, and the expectations of electoral reform in Thailand. In doing so, this study addresses three specific questions:

1. What were the consequences and effects of electoral reform?
2. Did those effects correspond to the reformers' expectations?
3. What are the limits of electoral reform in Thailand?

### **1. The Consequences and Effects of Electoral Reform**

The study found that the mechanical effects of the parallel electoral systems from an adoption of proportional representation (PR) and the single-member district (SMD) resulted in two major outcomes; namely, 1) a drastic reduction in the effective number of political parties in the parliament, and 2) the mode of party competition shifted from candidate-oriented to party-oriented.

The newly adopted SMD that came to replace the MMD in the 2001 election proved to give a huge advantage to the biggest party, particularly when translating popular votes into seats in the House of Representatives. However, this finding cannot be cited to uphold the eminent Duverger's Law which posits that an SMD plurality system tends to produce a two-party system. Duverger explains that strategic voters who do not want to waste their vote on a party that has minimal prospects to win will instead vote for a less

favorable party whose victory is more likely, in order to make their votes count.<sup>12</sup> The Thai case showed that after the installation of the SMD system, although the disproportionality between seats and votes worked in favor of the biggest party, the small and medium sized political parties still managed to survive. In the 2007 general election, the SMD system was interrupted and replaced by the MMD. A return to SMD in the 2011 general election resulted in a total of seven political parties winning seats at the constituency level. It seemed that candidates' individual fame, constituency service, and local influence were still deemed most important by the electorate.

The adoption of the PR electoral system was as important as the adoption of the SMD. The study finds that the PR electoral system, with or without a five percent threshold, worked in favor of big political parties. Under the PR system, the two biggest parties together collected more than eighty percent of the House of Representatives' seats for the past three general elections. More importantly, the PR electoral system had altered political party-voter relations, intensified electoral competition, increased voter efficacy, made politics more responsive to public demands, and generated a new kind of competitiveness in electoral politics by introducing alternative policies and candidates to the voters. The finding reveals that a new political environment in the context of a more modern party system was a product of the new electoral system. In this light, this study argues that an adoption of the parallel electoral system, a combination between the PR and simple plurality system, played an important role in giving rise to the Thaksin's political parties,<sup>13</sup> chiefly because the Thaksin's parties adjusted and responded to the new electoral rules and modes of competition faster and better than other political parties.

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<sup>12</sup> Maurice Duverger (1954). *Political Parties: Their Organization and Activity in the Modern State* (New York: Wiley); and Maurice Duverger (1986). "Duverger's Law: Forty Years Later," in *Electoral Laws and Their Political Consequences*, eds. Bernard Grofman and Arend Lijphart (New York: Agathon Press) pp. 69–84.

<sup>13</sup> Thaksin Shinawatra is a telecommunications billionaire turned politician and became enormously popular among the rural electorate, but was deeply unpopular among many Bangkokians and social elite. After his political party, Thai Rak Thai (TRT) served a full four year term and won a landslide victory in the 2005 general election, he was ousted in a military coup in September 2006, accused of corruption and abuse of power. His disbanded political parties reincarnated twice under the name the People's Power Party (PPP), and the Pue Thai Party (PT) respectively. In all, his political parties managed to win four consecutive elections in the past thirteen years. Although in exile, Thaksin continues to be considered the most powerful figure in Thailand's contemporary politics.

Notwithstanding, the study also demonstrates that electoral reform and the new electoral system, in spite of promoting the development of strong and viable national political parties, did not provide local geographic representation or ensure the fair representation of women and regional minorities. Thus, the drawback of electoral reform was less inclusiveness in people's representation. In addition, with a significant reduction in numbers of political parties elected to the House of Representatives, the goal to achieve party institutionalization was not realized. It can be said that the major failure of electoral reform was its inability to create an institutionalized political party system, characterized by durable, stabilized organizations that provide channels for public communication and are accountable to their members and voters.<sup>14</sup> Instead, Thailand has witnessed political organizations that are similar to elite enterprises. Thai political parties have become more personalized and basically serve as vehicles of political competition and control over the masses.

Nevertheless, the effects of party competitiveness and the new relationship between political parties and voters stimulated voter turnout and political engagement. Since the electoral reform in 1997, elections in Thailand have not been limited to selecting individual candidates to contest in constituency level elections as in the past. And unlike elections prior the reform when parties settled on being part of a government coalition, now major parties are competing to win the right to form a government. Although the 1997 Constitution was abolished after the 2006 coup d'état, the spirit of the 1997 institutional and electoral reform lives on and has generated a new basis for party competition by inducing political parties to pursue a more viable electoral strategy and tangible policy platforms. This, in turn, has bred a novel mode of party-voter relationship that paved way to embedding rooting of democracy in Thailand.

To put it succinctly, electoral reform has pushed a start button for Thailand's democratization process on at least three levels; 1) Despite the continued military intervention, there has been an unwavering demand by the majority of people that a prime minister must come from democratically popular election; in short, they insist that voters' decisions can no longer be ignored; 2) The emergence of policies oriented party

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<sup>14</sup> Scott P. Mainwaring and Marino Torcal (2006). "Party System Institutionalization and Party System Theory after the Third Wave of Democratization," in *Handbook of Political Parties*, eds. Richard S. Katz and William Crotty (London: Sage Publications) pp.204–5.

competition; 3) A wider public participation with a higher level of political awareness and efficacy.

## **2. Effects versus Expectations of Electoral Reform**

The electoral systems chosen during the process of electoral reform were not at all accidental. Rather, the reformers deliberately and consciously selected, changed, and re-changed the electoral system three times during the course of seventeen years with identified but varying objectives. At first the reformers wanted to achieve a stabilized political party; a stable government; the end of vote buying; and the end of the vicious cycle of military intervention. When the effects went beyond the expectation, the objectives of electoral reform were altered to preserve the status quo and to retain the power of the elite over the rising power of the electorate. Throughout the struggle to dominate the country's direction, the electoral system proved to be one of the most important institutional decisions for democratic development in Thailand. The new electoral system had a profound effect on Thailand's political life, as political competition circled around and reacted to the incentives provided by them.

The crucial revelation of this study was that electoral reform and the choice of electoral system led to consequences that were both expected as well as unanticipated when they were introduced. The socio-political context played a key part in manufacturing the effects of electoral reform and electoral system that were very divergent from the original intentions. The major unexpected consequence was that non-electoral system factors were conducive to create an overly too strong government that derived from an inability of the opposition parties to launch a meaningful censure debate against the prime minister, and the rather resolute power of the prime minister, granted by laws and buoyed by personal style. Such an effect, although in line with the reformers' initial intentions, ran against their expectations.

Another unanticipated effect was the birth of big, well-funded, conglomerate political parties that could develop party allegiance from the broad electorate. The far-reaching loyal political base guaranteed one party consecutive electoral victories for the past four general elections. The likelihood that a one-party dominant system was about to emerge certainly was not what the electoral engineers would have ever predicted, leading to discontent among the most influential segments of society.

The effects of electoral reform have alarmed the traditional conservative elite who most feared uncontrollable elected politicians. These unexpected spin-offs had begun to challenge the traditional political order and power relations. The conventional balance of powers between the elected people's representation and those appointed from a pool of aristocracy and bureaucracy was collapsing, leading to insecurity, anxiety, and uncertainty among the establishment. This domain of conflict circled primarily around electoral politics since elections had been the most important weapons of the newly awakened masses that, while facing hard obstacles, seemed to be instilled with a will power to fight for their place in a new political arrangement, which they called democracy. Consequently, the establishment and traditional elite who developed the illusion that they had lost the power to dictate what was right or wrong in this society, and their privilege would eventually be transferred into the hands of what they perceived as ignorant, uneducated masses who succumbed to the previous politicians' shrewdness by means of elections. The result was two coups d'état in eight years leading to an enduring claim that Thailand has been democracy only in form but not substance, a democracy only in name, not democracy that works, and that what is more suitable for Thailand is governance by so-called good, honest, and noble urban elites.

### **3. The Limits of Electoral Reform in Thailand**

Two limits of electoral reform in Thailand are important to understand. First, the specifics and configuration of the 1997 and 2007 electoral reforms originated from the compromise and negotiation between elitist classes, academics, and the conventional powers. In other words, elite imposition, not a people-oriented principle, was the main driving force of the electoral reform movement in Thailand. The politicians were given a relatively small role in the reform, but nevertheless directly exercised their political power, at times seeking and finding regulation loopholes and exploiting them to their advantage. When some objectives of the electoral reform were not realized, such as institutionalization of political parties, government and representative accountability, the reformers turned against the politicians and used the reforms to serve their own ends.

Secondly, the major upshot of electoral reform was perceived as a threat to the powerful traditional and ultra-conservative forces, because the reform had enabled the democratization process and significantly transformed the political landscape. The two

coups d'état illustrated that the establishment and the better off tried to preserve the status quo rather than embrace the effects of electoral reform of the past twenty years, while the socially excluded and the newly emerging middle class were more inclined to welcome the results of the past reform. In other words, it appears that the have nots seem to understand the impact of electoral reform and tend to adopt the new political environments better than the haves.<sup>15</sup>

That said, democratic principles and expectations have taken root in Thailand and there will be no turning back from this democratic advancement, even if and when Thailand has to face another coup d'état. This study, therefore, maintains that even with fierce resistance from the establishment and traditional elite, the major domain of conflict still revolves around electoral politics because it is the best and the last instrument to balance the powers across society.

## **1.5 Review Literature and Major Discourses**

The section on literature review will be divided into five parts that are essentially related to the understanding of this study. The five parts are 1) the concept of electoral reform; 2) the impact of electoral reform in Thailand; 3) electoral flaws and the myth of vote-buying; 4) moral authority over electoral democracy and 5) the inexorable change in Thailand's political landscape.

### **1. The Concept of Electoral Reform**

Electoral reform is a broad concept. Basically, it involves changes to the methods and processes of choosing elected officers and defining people's representation. As earlier stated, electoral reform does not concern only the revision of electoral systems, but it entails many aspects of politics, such as laws, rules, and regulations related to elections. There are two contentious viewpoints concerning the consequences of electoral reform. On the one hand, a substantial quantity of literature indicates that the structures of elections

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<sup>15</sup> Research found that people residing in the rural areas and have lower socio-economic status tended to be satisfied with democracy than those who live in urban areas with higher economic and social position. See Robert B. Albritton and Thawilwadee Bureekul (2000). "The Continuity of Democracy in Thailand: The 2000 Senatorial Election," Paper presented at the National Conference on Political Science and Public Administration of Thailand, December 8-10, 2000.

are a massive factor in determining the configuration of party systems in all countries.<sup>16</sup> The proposition known as Duverger's law concerning the relationship between a plurality electoral system and a two-party system is the best-known and most cited among students of electoral systems. Maurice Duverger also asserted a second proposition based on that, in many countries he examined, the proportional representation (PR) electoral system was more likely to lead to the multi-party system.<sup>17</sup> Giovanni Sartori powerfully contended that electoral rules were the most specific and easily manipulated instrument of politics.<sup>18</sup> Likewise, the IDEA has proclaimed that "The choice of electoral system is one of the most important institutional decisions for any democracy . . . but traditionally, it has been rare for electoral systems to be consciously and deliberately selected."<sup>19</sup>

On the other hand, some studies posit that electoral reforms have limited or no effects. In other words, variation in electoral institutions does not affect how elected politicians and voters behave. No matter how the rules are changed, people's engagement with politics will remain the same.<sup>20</sup> Moser and Scheiner's small unit comparative study also reveals that it is political and social context that shapes the effects of electoral rules in many key areas such as the number of parties, women's representation, and strategic voting, for example. Moser and Scheiner successfully demonstrate the problem of

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<sup>16</sup> Maurice Duverger (1954). pp 207-239.; Arend Lijphart (1994). *Electoral Systems and Party Systems: A Study of Twenty-seven Democracy, 1945-1990* (New York: Oxford University Press); Arend Lijphart and Bernard Grofman, eds. (1984). *Choosing an Electoral System: Issues and Alternatives* (New York: Praeger); Giovanni Sartori (1986). "The Influence of Electoral Systems: Faulty Laws or Faulty Method?," in *Electoral Laws and Their Political Consequences*, eds. Bernard Grofman and Arend Lijphart (New York: Agathon Press) pp.43-68; Douglas W. Rae (1971). *The Political Consequences of Electoral Laws* (New Haven: Yale University Press); Rein Taagepera and Matthew S. Shugart (1989). *Seats and Votes: The Effects and Determinants of Electoral Systems* (New Haven: Yale University Press); Russell J. Dalton, David M. Farrell, and Ian McAllister (2011). *Political Parties and Democratic Linkage: How Parties Organize Democracy* (Oxford: Oxford University Press); Steven R. Reed (1994). "Democracy and the Personal Vote: A Cautionary Tale from Japan," *Electoral Studies* Vol.13 No.1, pp.17-28; Richard S. Katz (1986). "Intraparty Preference Voting," in *Electoral Laws and Their Political Consequences* (New York: Agathon Press) pp.85-103.

<sup>17</sup> Maurice Duverger (1954). pp 21-32.

<sup>18</sup> Giovanni Sartori (1968). Political Development and Political Engineering," in *Public Policy*, eds. John D. Montgomery and Albert O. Hirschman (New York: Cambridge University Press)

<sup>19</sup> International Institute for Democracy and Electoral Assistance (2005). (Electoral System Design: The New International IDEA Handbook. Stockholm: IDEA) p. 1.

<sup>20</sup> Shaun Bowler and Todd Donovan (2013). *The Limits of Electoral Reform* (Oxford: Oxford University Press).

generalization and hold that the same electoral systems and rules when applied in different conditions can produce different outcomes. In other words, the impact of an electoral system is contingent and variable depending on the political and social context in which electoral rules operate.<sup>21</sup>

Regarding types of electoral reforms, Alan Renwick describes two different genres: majority elite imposition and elite-mass interaction.<sup>22</sup> The majority elite imposition comprises electoral reform where the ruling party or coalition alliance forces changes. This is in contrast to elite-mass interaction, where essentially changes are forced on all ruling politicians as a group, either in an acute or an incubated way, by citizens voting for different parties and vocally pressing for reforming change. Renwick perceives that the majority elite imposition way of doing things has been getting more difficult to achieve in mature liberal democracies as public interest discourse and debates are increasingly better comprehended by voters; political admiration for major parties has declined; and voting patterns are inclined towards more multi-party outcomes. On the contrary, the aptitude of the public to demand changes and reforms via referenda seems to be rising.

## **2. The Impact of Electoral Reform in Thailand**

In Thailand, the concept of electoral reform started to capture the public attention when the new electoral system was introduced under the 1997 Constitution and the results of this electoral reform culminated in the structural changes of political parties and modes of electoral competition. This is not to say that the critical changes in 1997 were an isolated movement. The attempts to correct enduring flaws of electoral democracy can be witnessed throughout several amendments to the 1991 Constitution during a period of crucial transitions from 1992 to 1996. But the adoption of the new electoral system, along

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<sup>21</sup> Robert G. Moser and Ethan Scheiner (2012). *Electoral Systems and Political Context: How the Effects of Rules Vary Across New and Established Democracies* (Cambridge: Cambridge University Press) p. 22.

<sup>22</sup> Alan Renwick (2011). *The Politics of Electoral Reform: Changing the Rules of Democracy* (Cambridge: Cambridge University Press). According to Renwick, the majority elite imposition occurred in France under Mitterrand, Italy when Berlusconi changed the electoral system in 2005, and post-war electoral system in Japan that sustained the dominance of the Liberal Democratic Party (LDP), whereas the elite-mass interaction happened in Italy via 1991 and 1993 voters' referendums to alter electoral system, the 1994 adoption of a mixed system in Japan that led to the weakening of the LDP, and the 1992 and 1993 referendums that changed New Zealand electoral system.

with the process of institutional building, was profoundly installed in 1997 and experienced for the first time after the 2001 general election. Since then, the concepts and ideas of this electoral system have been widely discussed among academics and politicians alike.<sup>23</sup> In the Thai case, it was evident that the 1997 Constitution drafters were aware of the fact that differences in electoral systems could generate subsequent variations in people's representations and patterns of party systems. However, the actual effects of the electoral system on the number of parties and their relative strength were unexpected.

Thailand could be, to some extent, classified as a majority elite imposition framework and that major changes, i.e., a switch in the voting system, unraveled the political landscape. Yoshifumi Tamada's sharp analysis on how changes in Thailand's electoral systems occurred mainly from the political elite's initiation and pressure is very helpful to understand the first point.<sup>24</sup> Tamada argues that despite it being labeled a "People's Constitution," the framers of the 1997 Constitution who pressured for electoral changes were motivated by elitist concerns that did not at all aspire to strengthen a truly people-oriented democracy. Tamada also critiques the role of the middle class in Thailand as they were not really the driving force for democracy. After the May 1992 incident<sup>25</sup> the middle class gained insurmountable influence while preventing the majority population of rural residents and urban lower class from dominating electoral outcomes. Siripan Nogsuan Sawasdee similarly contends that the 1997 Constitution was elite-oriented in

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<sup>23</sup> See for example, Sombat Chantornvong (2002). "The 1997 Constitution and the Politics of Electoral Reform," in *Reforming Thai politics*, ed. Duncan McCargo (Copenhagen: Nordic Institution of Asia Studies) pp.203-246; Robert B. Albritton and Thawilwadee Bureekul (2004). "Developing Democratic Institutions: Structures of Political Parties and Elections in Thailand," Working Paper Series: No. 17. Asian Barometer Project Office. (Taipei: National Taiwan University and Academia Sinica); James Ockey (2003). "Change and continuity in the Thai political party system," *Asian Survey* 43, No.4 pp. 663-680; Allen Hicken (2005). "Thailand: Combating Corruption through Electoral Reform," in *Electoral System Design: The New International IDEA Handbook*. International IDEA, Institute for Democracy and Electoral Assistance; Siripan Nogsuan Sawasdee (2006). *Thai Political Parties in the Age of Reform* (Bangkok: Institute of Public Policy Studies); King Prajadhipok's Institute's seminar entitled "The Appropriate Selection System of Representatives in Thailand," Project to Study the Suitable Constitution for Thailand" 28 September, 2012. Rama Garden Hotel, Bangkok, Thailand.

<sup>24</sup> Yoshifumi Tamada (2008). *Myths and Realities: The Democratization of Thai Politics* (Kyoto: Kyoto University Press).

<sup>25</sup> The May of 1992 incident refers to the popular protest against the military government of General Suchinda Kraprayoon. The incident ended up with the bloody military crackdown that resulted in many injuries, deaths, and disappearances.

nature, and that changes in the electoral system have resulted in an altering of the political party system and different modes of party competitions.<sup>26</sup> The 2007 electoral reform was an obvious case of majority elite imposition. Although there was a public referendum to approve the draft constitution, it was apparently written by a junta appointed group of drafters.<sup>27</sup> The amendment on the electoral system to the 2007 Constitution in 2011 was essentially achieved by the joined forces of the Democrat-led coalition parties. Therefore, it was another incident showing an obvious case of majority elite imposition on the change of the electoral system.<sup>28</sup>

This study asserts that effects of the reformed electoral system on the path to democratization under the 1997 Constitution were undeniable; the results have stimulated voters' efficacy and expanded the domain of party competition. However, some literature state otherwise. The counter argument maintains that the correlation is far from straightforward, especially that the impact may not be immediate. Dirk Tomsa's comparative studies of three Southeast Asian countries, and Aurel Croissant and Teresa Schächter's macro analysis, argue that while the 1997 Constitution was installed with obvious institutional exertions to transform parties to a stage of maturity by advocating programmatic political party engineering, these attempts were not quite successful. Attempts at imposing policies for the creation of national political parties had been restricted as the electorate remained shaped and embedded in localized and regional voting behavior.<sup>29</sup>

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<sup>26</sup> Siripan Nogsuan Sawasdee (2006). pp. 78-79.

<sup>27</sup> Somchai Preechasinlapakun (2013). "Dynamics and Institutionalization of Coups in the Thai Constitution," Paper presented to V.R.F. No. 483, (July), Institute of Developing Economies (IDE, JETRO), Japan.

<sup>28</sup> See Michael H. Nelson (2012). *Thailand's Election of July 3, 2011: An Overview*. Paper presented to the King Prajadhipok's Institute (KPI).

<sup>29</sup> Dirk Tomsa (2013). "What Type of party? Southeast Asian parties between clientelism and electoralism," in *Party Politics in Southeast Asia: Clientelism and electoral competition in Indonesia, Thailand and the Philippines*, eds. Dirk Tomsa and Andreas Ufen (London and New York, Routledge) p. 24; Aurel Croissant and Teresa Schächter (2008). "Die Nationalisierung politischer Parteien und Parteiensysteme in asiatischen Neo-Demokratien," *Politische Vierteljahresschrift* 49, No.4, pp. 641-668.

### 3. Electoral Flaws and the Myth of Vote-Buying

Literature concerning elections and voting behavior done before the promulgation of the 1997 Constitution and the 2001 general election mostly centered on patron-client relationships, the role of political canvassers, and money in politics. Kanok Wongtrangan maintains that the use of political canvassers (*hua khanaen*), vote buying, volunteers, and notable leaders or personalities were more important elements of campaign strategies than policy promotion.<sup>30</sup> The dominant strategy for candidates, teams and parties was to sell personal performance, not party policy or accomplishment. Moreover, there was a consensus among virtually every scholar of Thai politics that the elections were full of flaws and far from criteria set by Western standards; Christensen's work<sup>31</sup> and Ammar Siamwalla's paper<sup>32</sup> mention the use of pork barrel, Arghiros's analysis<sup>33</sup> discusses patron-client relationships, and several studies relate accounts of violence and intimidation in elections, including those by Benedict Anderson,<sup>34</sup> James Ockey,<sup>35</sup> and William Callahan.<sup>36</sup> Daniel King and Jim LoGerfo, and William Callahan in trying to associate vote buying behavior and structure of elections, reveal that the structure of elections and

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<sup>30</sup> Kanok Wongtrangan (1993). *Phakkanmuang Thai (Thai political parties)* (Bangkok: Chulalongkorn Press) p.26.

<sup>31</sup> Scott Christensen, et. al. (1993). *Thailand: The Institutional and Political Underpinnings of Growth*. World Bank; and *Constitution of the Kingdom of Thailand, B.E. 2540 (1997)*, as published in the Government Gazette, Vol. 114, Part 55a, October 11, 1997.

<sup>32</sup> Ammar Siamwalla (1997). "Can a Developing Democracy Manage Its Macroeconomy: The Case of Thailand," in *Thailand's Boom and Bust* (Bangkok: Thailand Development Research Institute).

<sup>33</sup> Daniel Arghiros (1995). *Political Structures and Strategies: A Study of Electoral Politics in Contemporary Rural Thailand*. Occasional Paper, No. 31 (Hull, England: University of Hull, Centre for South-East Asian Studies); and Daniel Arghiros (2000). "The Local Dynamics of the 'New Political Economy': A District Business Association and Its Role in Electoral Politics," in *Money and Power in Provincial Thailand*, ed. Ruth McVey (Honolulu: University of Hawaii Press).

<sup>34</sup> Benedict Anderson (1990). "Murder and Progress in Modern Siam," *New Left Review* 81, No. 2, pp. 33-48.

<sup>35</sup> James Ockey (1991). *Business Leaders, Gangsters and the Middle Class*. Ph.D. Dissertation, Cornell University; and James Ockey (2000). "The Rise of Local Power in Thailand: Provincial Crime, Elections and the Bureaucracy," in *Money and Power in Provincial Thailand*, ed. Ruth McVey (Honolulu: University of Hawaii Press).

<sup>36</sup> William A. Callahan (2000). *Pollwatching, Elections and Civil Society in Southeast Asia* (Aldershot: Ashgate Publishing).

electoral systems in Thailand is partly responsible for vote-buying.<sup>37</sup> In other words, Thailand's unusual electoral system is the suspected culprit behind vote buying and low party performance. Notwithstanding, all the works mentioned above insist on the importance of elections and definitely hold the view that elections are unavoidable for Thailand's regime.

The 1997 Charter was a product of the 1992 struggle to put in place a system in which the head of government, as well as the entire Senate, must come from elections. People died for the cause. The fundamental significance of elections under the 1997 Charter was clear and indisputable. Given this extreme importance, it is surprising that not many works in Thailand have studied the impact of electoral system changes on the structure of political competition and the new landscape of Thai politics. Among those outside of Thailand who have written on these changes, the transformative effects of new electoral rules are discussed by Allen Hicken, who employs comparative empirical data between the pre-and post-1997 electoral systems to assess what happened when the rules changed. Hicken's data indicate that the electoral system before 1997 shaped the incentives of candidates to employ personal (as opposed to party-centered) campaign strategies, thus undermining the value of party labels for both candidates and voters, driving candidates to cultivate personal support networks. Hicken also anticipates that new electoral system and the enforcement of anti-voting buying rules might reduce incentives for vote buying.<sup>38</sup>

Suchit Bunbongkarn and Pornsak Pongpaew's research<sup>39</sup> presumes that the rural poor are more inclined to candidate-oriented strategies and more easily bought off than their urban, well-educated counterparts seems to set the tone for the subsequent works

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<sup>37</sup> Daniel E. King and Jim LoGerfo (1996). "Thailand: Towards Democratic Stability," *Journal of Democracy* 7, No.1, pp.102-17.

<sup>38</sup> Allen Hicken (2002). *The Market for Votes in Thailand*. Paper prepared for Delivery at "Trading Political Rights: The Comparative Politics of Vote Buying," International Conference, Center for International Studies, MIT. August 26-27.

<sup>39</sup> Suchit Bunbongkarn (1990). "The Role of Major Political Forces in the Thai Political Process," in *U.S.-Thailand Relations in a New International Era*, eds. Clark D. Neher and Wiwat Mungkandi (Berkeley: Institute of East Asian Studies, University of California, Berkeley); and Suchit Bunbongkarn and Pornsak Pongpaew (1984). *Pretigam garn long kanansiang luektang kong konthai (Voting behaviors of the Thai people)* (Bangkok: Research Division Project, Chulalongkorn University).

which tend to focus on the differentiation between the behavior of urban and rural voters.<sup>40</sup> This narrative assumes that the middle classes in Bangkok and urban areas, educated and sophisticated, oppose corruption and embrace democratic values, while the uneducated masses in the rest of the country are susceptible to manipulation by unscrupulous politicians. Such an analysis started to capture the attention of the public at large and crept into the center of political discourse.

Thus, it is not surprising that the growing popularity of elected politicians and the transformation of elections from merely political rituals to actual legitimate means of choosing leadership after the two general elections in 2001 and 2004 startled the traditional unelected elite.<sup>41</sup> Their challenges to the value of electoral democracy has been linked to the questions of clean elections and vote buying, which has been the metaphor reproduced to devalue electoral democracy. Key discourse on the concepts of the “good and moral politics” of the elites versus the poor, the suffering, bewildered peoples of rural village life are central in defining vote buying and democracy in various academic works and popular media. As a result, vote buying has structured the understanding of democracy and politics in Thailand.

Prime examples of the discourse about vote-buying were put forward by the likes of Sombat Thamrongthanyawong, a former rector of the National Institute of Development Administration (NIDA), who said: “One man-one vote cannot be used with Thailand. Representative democracy needs to let the people choose good persons as their governors because the good ones exercise good power for the people. If the bad are elected, they’ll use power for their own interest, the way the Thaksin regime does today.”<sup>42</sup> Somchai Srisuttiyakorn, a former lecturer at Thammasat University, and now a member of the Election Commission of Thailand, spoke openly about the rural electorate’s behavior: “For

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<sup>40</sup> For example, Sombat Chantornvong (1993). *Luektang wikrit: Panha lae thang ok, (Thai elections in crisis: Problems and solutions)* (Bangkok: Kobfai); Thongchai Wongchaisuwan and Srida Sornsri (2005). *Samruaj tasanakati lae pretigam kong prachachon nai karn luektang February 6 2548 (A Survey on people’s attitude and behavior in the General Election, February 6, 2005)* (Bangkok: Thammasat University).

<sup>41</sup> For this particular point, James Ockey argued that people in the north and northeast began to see that they had political rights and that they could have a say in who led government. They clearly felt that TRT was responsive to their needs. But conservatives did not want a political leader with national popularity. See James Ockey (2004). *Making Democracy: Leadership, Class, Gender, and Political Participation in Thailand* (Honolulu: University of Hawaii Press) p. 183.

<sup>42</sup> Sombat Thamrongthanyawong. “A special interview,” in *Kao Sod Raiwan*. December 11, 2006.

people in rural areas, even a small amount of money is deemed valuable because typically they do not hold a job or have any incomes. They stay home, raise grandchildren, and just wait for their children who work in the cities send them back money...If they are offered even ThaiBaht100-200, they will accept it. It's better than nothing."<sup>43</sup> In a similar fashion, the popular media and communications Thammasat lecturer, Seri Wongmontha, self-assuredly stated: "300,000 votes in Bangkok are votes of quality and are better than 15,000,000 votes in the provinces which lack quality."<sup>44</sup>

#### **4. Moral Authority over Electoral Democracy**

Based on defining vote-buying and the ignorant poor as Thailand's political disease, is the campaigner who says that moral righteousness must come above democracy. The main debate focuses on whether Thailand is suitable for democracy at all versus the notion that political leadership who are capable to exercise moral authority is more appropriate for Thailand's cultural context. The foremost thinker who pioneered the idea of Thai-style politics as opposes to Western-style democracy was M.R. Kukrit Pramoj. In 1962, Kukrit argued that Thais were not ready for democracy, so choosing government by means of elections was not appropriate for the Thai people.<sup>45</sup> On this issue, Thongchai Winichakul explains that the "stories, plots, meanings and ideological values" in Thai society have been overshadowed by an elitist nationalist model until as late as 1973.<sup>46</sup> Examples of recent works that draw heavily on the superiority of moral authority over electoral democracy can be seen in Pattana Kitiarsa's and Surin Maisirikrod's writings. Pattana Kitiarsa posits that Thai culture is incompatible with the Western world because the Thais are dominated by a Buddhist-based culture that stresses the value of the nation's harmony, security, and spirituality above all. Therefore, he suggests, Thailand

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<sup>43</sup> *Thairath*, June 20, 2011.

<sup>44</sup> In a Special Seminar entitled "The Pardon Royal Decree Aggravates Thailand's Crisis" (Prarakridsadika apaiyatode sam term pratade Thai), organized by the Siam Samaki and Networks, November 8, 2011 at Suan Lumpineewan, Bangkok.

<sup>45</sup> Saichol Sattayanurak (2007). *Kukrit lae kan sang kuam pen thai 2: Yuk jom phon sarit tung tossawat 2530. (Kukrit and the construction of Thainess volume 2: From Sarit's era to 1997)* (Bangkok: Matichon).

<sup>46</sup> See Thongchai Winichakul (2005). "The Changing Landscape of the Past: New Histories in Thailand Since 1973," *Journal of Thai-Tai Studies* 1, No.1 pp. 19-61; And Thongchai Winichakul (2008). "Toppling Democracy," *Journal of Contemporary Asia* 38, No.1, pp. 11-37.

should come up with its own kind of democracy which is more practical and realistic.<sup>47</sup> Surin Maisirikrod charges that Thaksin was a leader who had “electoral power without moral authority”, and asserts that Thai-style democracy had emerged as a legitimate alternative to Western-style democracy.<sup>48</sup> Pramote Nakornthab believes that the middle class went against elections after the 2005 general election because electoral democracy gave Thaksin undeserving legitimacy.<sup>49</sup> The mainstream media also took a leading role in this debate on moral and righteousness leadership. The editorial page of “The Nation,” one of Thailand’s two English language newspapers, read: “Unfortunately, Thailand’s political system still lacks the important qualities that make a mature democracy”.<sup>50</sup>

It should be noted that the rivalry between the traditional elite and the elected leaders is not a distinctive feature of Thailand. How the members of the Thai conventional elite remain disdainful of party politics and attempt to compete with them in consolidating political power is explained in comparison with two other countries in Southeast Asia by Paige Johnson Tan. Tan asserts that the masses in Indonesia, Thailand, and the Philippines share a similarity in that they counteract the elite distrust for parties by showing their support to the new leaders.<sup>51</sup> And although many Thais would like to believe that the very negative reputation of and the relentless distrust of politicians, elections, and political parties are unique characteristics of Thailand, Dirk Tomsa and Andreas Ufen record that these beliefs is not so contrasting with the negative image of the same players in the established and developed democracies.<sup>52</sup>

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<sup>47</sup> Pattana Kitiarsa (2014). “In Defense of the Thai-Style Democracy,” Asia Research Institute, National University of Singapore. October 12, 2006.  
<http://www.ari.nus.edu.sg/showfile.asp?eventfileid=188> (Accessed April 15, 2012).

<sup>48</sup> Surin Maisirikrod (2007). “Learning from the 19 September Coup. Advancing Thai-style Democracy?,” in *Southeast Asian Affairs 2007*, eds. Daljit Singh and Lorraine C. Salazar (Singapore: Institute of Southeast Asian Studies) pp. 340-59.

<sup>49</sup> Pramote Nakornthab (2013). *Kangmajaknai jung mai ao kasat (Think you’re so good that you can forsake the King)* (Bangkok: Green Panya Yarn).

<sup>50</sup> The Editorial Page, *The Nation*, January 2, 2014.

<sup>51</sup> Paige Johnson Tan (2013). “Anti-party attitudes in Southeast Asia,” *Party Politics in Southeast Asia: Clientelism and electoral competition in Indonesia, Thailand and the Philippines*, eds. Dirk Tomsa and Andreas Ufen (London and New York: Routledge) p. 85.

<sup>52</sup> Dirk Tomsa and Andreas Ufen, eds. (2013). *Party Politics in Southeast Asia: Clientelism and electoral competition in Indonesia, Thailand and the Philippines* (London and New York: Routledge) p.2.

## 5. The Inexorable Change in Thailand's Political Landscape

Countering the widespread belief about Thailand's disease of vote-buying for which moral authority is the only remedy is an academic community which proposes a reassessment that after the adoption of the 1997 Constitution, the social and political makeup of Thailand changed noticeably. Pasuk Phongpaichit and Chris Baker stipulate that with innovations in the 1997 Constitution, especially the advent of decentralization for elective local government, people began to vote much more, not just for an MP once every few years. Voting and elections made their lives different, the scenario suggests; more people understand the value of the vote and are using it to support their own interests. Pasuk and Baker state firmly that their finding does not naively deny the existence of vote-buying, but they state it is no longer a determining factor in winning elections as in the past.<sup>53</sup> Likewise, Yukti argues that money is not a decisive factor that dictates elections by explaining the new meaning of money in rural people's perspective, which is quite different from the dominant discourse on vote buying.<sup>54</sup> William Callahan's work claims that vote buying and democracy are co-produced in various networks of power relations, and that they are not exclusively a pattern of the poor. Parallel power relations can also be found between political and economic power, urban and rural power, and official and unofficial power.<sup>55</sup>

Many recent academic works show that the landscape of Thai society has been changed and there exists a new outlook of rural voters who exercise rational decision-making based on complexity they experience in their everyday lives. Both Viengrat Nethipo's and Charles F. Keyes's works attempt to show that changes in rural areas resulted partly from a decentralization process<sup>56</sup> and Thai migrant workers who travel the

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<sup>53</sup> Pasuk Phongpaichit and Chris Baker (2013). "Vote-buying claims nothing but dangerous nonsense," in *Bangkok Post* <http://www.bangkokpost.com/opinion/opinion/383418/vote-buying-claims-nothing-but-dangerous-nonsense> (Accessed December 7, 2013).

<sup>54</sup> Yukti Mukdawijitra (2012). "Ngen maichai pajjai cheekad garn luektang" (Money is not a decisive factor in election: Anthropology of Thais' "vote buying") in *People Politics of (Post) Thaksin Era*, ed. Wasan Panyakaew (Chiang Mai: Chiang Mai University Press).

<sup>55</sup> William A. Callahan (2005). "The Discourse of Vote Buying and Political Reform in Thailand," *Pacific Affairs* 78, No.1 (Spring) pp. 95-113.

<sup>56</sup> Viengrat Nethipo (2014). "Muang kap chonabot nai krasae karnplainplang: Sangkomthai naipawakaptalapat kong songnakara prachattipattai," (Urban and rural in the changing trend: Thai society in the reversal condition of two-tale of democracy) (1 and 2) *Prachatai* <http://prachatai.com/journal/2014/01/51292> (Accessed June 10, 2014).

world to sell their labor.<sup>57</sup> Viengrat demonstrates that giving more power to the local people has enlarged people's participations in local as well as national elections, while Keyes's argument runs that worldview the experience of migrant worker brought back to their communities has transformed limited local economy into a farm industry, thus significantly altering their mode of living. In his other work, Keyes contends that the political potency of Isan people in the Northeast region is part of Thailand's transformation into a pluralist polity in which diverse interests are accommodated through a democratic political system.<sup>58</sup>

Several post-Thaksin era studies also reveal drastic changes in rural perceptions, shaped from their experiences in joining political movement like The Red-Shirts.<sup>59</sup> Instead of viewing the rural electorate as being politically backward, scholars such as Connors,<sup>60</sup> Askew<sup>61</sup> and Apichart, et al,<sup>62</sup> commonly argue that, in fact, rural voters are governed by complex set of rationales when making political choices which might be dissimilar from the urban middle class's preference and inclination. Steady economic growth of the past fifteen years resulted in gradual transformation of rural ways of life, modes of communication and consumption. All these factors have changed political awareness and self-perception of the rural people in relation to people in the society at large. The bottom line is that they now hold the view that they are capable of being members of Thailand's political arena, no more or less than those who live in the cities.

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<sup>57</sup> Charles F. Keyes (2010). "From Peasant to Cosmopolitan Villagers: Refiguring the 'Rural' in Northeastern Thailand," Paper prepared for a conference on "Revisiting Agrarian Transformation in Southeast Asia," Chiang Mai, Thailand.

<sup>58</sup> Charles F. Keyes (2013). *Finding Their Voice: Northeastern Villagers and the Thai* (Chiang Mai: Silkworm Books).

<sup>59</sup> See Chairat Charoensin-o-lan (2012). "A New Politics of Desire and Disintegration in Thailand," in *Thailand's Crisis*, eds. Michael Montesano, Pavin Chachavalpongan, and Aekapol Chongvilaivan (Singapore: Institute of Southeast Asian Studies); and Naruemon Thabchumpon and McCargo, Duncan (2011). "Urbanized Villagers in the 2010 Thai Red-Shirts Protests: Not Just Poor Farmers?," *Asian Survey* 51, No.6, pp. 993-1018.

<sup>60</sup> Michael K. Connors (2007). *Democracy and National Identity in Thailand* (Copenhagen: NIAS Press).

<sup>61</sup> Marc R. Askew (2006). *Culture and Electoral Politics in Southern Thailand* (Bangkok: King Prajadhipok's Institute).

<sup>62</sup> Apichart Sathitramai et al. (2013). *Toptuan poomitad karnmuang Thai, (Re-examine the political landscape of Thailand)* (Chiang Mai: Public Policy Studies Institution).

## 1.6 Plan of the Study

This study is composed of seven chapters. The details of each chapter are as follows:

**Chapter I: Introduction: Understanding Electoral Reform** talks about electoral reforms in various parts of the world. Then the chapter spells out the study's main argument, raises major questions aiming to frame the central arguments of the study and to outline the succeeding chapters. The third section sets out to explore literature on electoral reform, as well as discourse on democracy and politics in Thailand.

**Chapter II: Constitutional and Electoral Rule Changes, 1932-1996** provides the historical background to how the electoral and political reforms came about and demonstrates their roots in the long democratic transition since the transformation to Constitutional Monarchy in 1932. This chapter will provide details of the five episodes of Thailand's categorized political developments, each episode related to the birth and death of Thailand's first fifteen constitutions and electoral rules changes between 1932 and 1996.

**Chapter III: The 1997 Electoral Reform: New Modes of Political Competition** explores the background and agenda of the drastic 1997 electoral reform and its transformative effects. It further examines what was seen as the most important innovation of the electoral reform, changes in the electoral system. Much attention is directed at the effects of adopting proportional representation (PR) and single-member district (SMD) electoral systems. The chapter illustrates the reforms' effects on the political party system, parties' strategies, and modes of electoral competition, political engagement and voter turnout. Important concepts, such as the effective number of political parties, disproportionality, and electoral volatility will be analyzed.

**Chapter IV: The 2007 Electoral Reform: An Attempt to Divert the Previous Effects** illustrates that the 2007 electoral changes under the new constitution were products brought into play by traditional, conformist groups of elites. To legitimize their actions, a referendum was utilized. A comparison between the 1997 and the 2007 Constitutions on the subjects of electoral systems and electoral rules will be discussed.

**Chapter V: Electoral Reform Against the Backdrop of Electoral Politics** examines the impact of continued polarized conflicts on electoral reform. The chapter will show the details of how the 2007 constitutional amendments on the electoral system, and the results of the subsequent general election in 2011, deepened conflicts that echoed disagreements on goals and expectations of what the electoral reform was supposed to accomplish. The chapter will also touch on the 2014 general election that was eventually nullified and its connotation.

**Chapter VI: Electoral Decisions and Democratic Embedment** discusses the voters' behavior and electoral decisions. Data shown in this chapter demonstrate that electoral reform and changes have triggered political awareness among voters; voter turnouts have increased steadily, attitude towards vote buying adjusted, and more importantly, the Thai electorate in general have become more strategic voters. The chapter argues that electoral changes did not always result in what the reform activists, political elites, or the politicians had expected. With variations of results from the electoral reforms, evidence has shown that democratic embedment in Thailand has begun.

**Chapter VII: Conclusion: The Paradox of Electoral Reform** provides a critical assessment of the past electoral reform in Thailand and the fact that the conflicting goals of reformers, arbitrary imposition, and too frequent reforms led to paradoxical outcomes. Proposed recommendations for future institutional and electoral reform are presented.

## Chapter II

### Constitutional and Electoral Rule Changes, 1932-1996

A parliamentary democracy became the form of government in Thailand in 1932 when an alliance of military officers and social progressives overthrew King Prajadhipok's absolute reign. Thailand has since experienced a proliferation and the abolition of many parliaments, as the country has alternated between democratically-elected rule and varying degrees of military rule. Over the years, political instability has resulted in frequent general elections; the average effective terms of parliament have been only two years and seven months since 1933. From parliament's inception, successive orderly elections every four years only succeeded once during the Thaksin administration, elected in 2001, and finishing its full four-year term in 2005. One year later, the fully elected parliament came to an end with a coup in 2006.

This chapter intends to review the historical background of electoral democracy in Thailand from the beginning of the transformation to the present constitutional monarchy. Special emphasis will be put on the many changes and alterations of rules and regulations that govern electoral politics during different political environments. In Thailand, electoral systems and electoral rules have most often been prescribed in the constitutions; therefore, to understand the parameters of political parties and electoral politics, we first have to explore the history of Thailand's constitutions including the context surrounding the birth and extinction of each constitution. The chapter will focus on the first fifteen constitutions before the beginning of the 1997 electoral reform.

The main argument in this chapter is that many of the Thai constitutions have not viewed elections as means of peaceful transfers of power, or as vital mechanisms to guarantee the fundamental freedoms and contractual obligations of the people to express their preferences as elections are commonly regarded in most other countries. In fact, the main function of Thai constitutions seems to have been to assure that the current regime can remain in power. In fact, the significance of elections and the value of elected legislatures have always been countered and diminished by the appointed legislative body in the form of the Senate. Built in to most of the constitutions that allowed for a bicameral parliament were provisions by which the Senate inevitably emerged as the most powerful

player in the political structure--even more powerful than the people's elected, representative parliament.

The chapter will further posit that for all the constitutions explored in this chapter, it was rare that the parliaments and representatives of the people had much influence on drafting any of them. The common practice has been that the junta or the coup group sets up a provisional government which then appoints a drafting committee composed of "constitutional experts," usually to the exclusion of members of parliament and the public. The parliament only could become involved at the later phase when certain constitutional provisions were explicitly left to be resolved in detail by the legislatures in separate organic laws.

The chapter is divided into three major sections: Section 1) "Five Episodes of Political Development" will explore the background of each constitution, its birth and death, as well as details of the legislatures, electoral rules, and laws concerning party politics as prescribed in the fifteen constitutions (from the 1932 Constitution to the 1991 Constitution and its amendments) and four Political Parties Acts; Section 2) "Electoral Rules Changes 1933-1996" classifies the three major areas of electoral systems, candidates' qualifications, and requirements for political parties, that have been changed from time to time, including constitutional amendments related to these issues; and Section 3) "Conclusion: the Chosen Few versus the Voice and Will of the Public."

**Table 2.1: Constitutions and Elections in Thailand, 1932-2014**

Constitutions	Year of Election	Electoral System and district magnitude	No. of MPs	Unicameral /Bicameral	By Means of		No. of Senators
					MPs	Senate	
1. 1932 <sup>1</sup>	1933	MMD/province	78	Unicameral	Indirectly elected/appointed	-	-
2. 1932 <sup>2</sup>	1937	SMD	91	Unicameral	elected + }	-	-
	1932	SMD	91	Unicameral	appointed }	-	-
3. 1946	1946	SMD	96	Bicameral	elected	indirectly elected <sup>3</sup>	80
4. 1947	1948	MMD/province	99	Bicameral	elected	appointed	99
5. 1949	1952	MMD/province	123	Bicameral	elected	appointed	100
6. 1952 <sup>3</sup>	1957 Feb.	MMD/province	160	Unicameral	elected	-	-
	1957 Dec.	MMD/province	160	Unicameral	elected	-	-
7. 1959 <sup>4</sup>	-	-	-	Unicameral	appointed	-	-
8. 1968	1969	MMD/province	219	Bicameral	elected	appointed	¾ MPs
9. 1972 <sup>5</sup>	-	-	-	Unicameral	appointed	-	¾ MPs
10. 1974	1975	1-3 MMD	269	Bicameral	elected	appointed	100
	1976	1-3 MMD	279	Unicameral	elected	appointed	100
11. 1976	-	-	>300<400	Unicameral	appointed	-	-
12. 1977 <sup>6</sup>	-	-	>300<400	Bicameral	appointed	-	-
13. 1978	1979	1-3 MMD	301	Bicameral	elected	appointed	¾ MPs
	1983	1-3 MMD	324	Bicameral	elected	appointed	¾ MPs
	1986	1-3 MMD	347	Bicameral	elected	appointed	¾ MPs
	1988	1-3 MMD	357	Unicameral	elected	appointed	¾ MPs
14. 1991 <sup>7</sup>	-	-	-	Bicameral	appointed	-	-
15. 1991	1992 Mar.	1-3 MMD	360	Bicameral	elected	appointed	270
	1992 Sept.	1-3 MMD	360	Bicameral	elected	appointed	270
	1995	1-3 MMD	391	Bicameral	elected	appointed	270
	1996	1-3 MMD	393	Bicameral	elected	appointed	270
16. 1997	2001	SMD+PR	500 (400+100)	Bicameral	elected	elected	200
	2004	SMD+PR	500 (400+100)	Bicameral	elected	elected	200
	2005	SMD+PR	500 (400+100)	Unicameral	elected	elected	200
17. 2006 <sup>8</sup>	-	-	-	Bicameral	appointed	-	-
18. 2007	2007	MMD+PR (8 clusters)	480 (400+80)	Bicameral	elected	half elected,	150
	2011	SMD+PR	500 (375+125)	Unicameral	elected	half selected	(76+74)
19. 2014 <sup>9</sup>	-	-	-		appointed	-	200

Source: Author's own compilation.

1. Temporary Charter, June 24, 1932
2. The Constitution of the Siam Kingdom, December 10, 1932
3. The Constitution of the Kingdom of Thailand 1932 (Revised, March 8, 1952)
4. Charter for Governing the Kingdom 1959
5. Temporary Charter for Governing the Kingdom 1972
6. Charter for Governing the Kingdom 1977
7. Charter for Governing the Kingdom 1991
8. The Interim Constitution of Kingdom of Thailand 2006
9. The Interim Constitution of Kingdom of Thailand 2014

## 2.1 Five Episodes of Political Development

In relation to elections, political parties, electoral and democratic reform, this chapter discusses historical events (see also Table 2.1) into five periods as follows:

### 1. The Struggle to Establish Democratic Rules, 1932-1947

In 1932, after the overthrow of absolute monarchy, seventy-eight members of the People's Assembly and a fifteen-member executive body named the People's Committee of Siam were initially appointed by the coup group, or the People's Party (*Khana Ratsadon*). It was planned that after ten years, or after half the population had completed four years of primary education, the Assembly would be completely elected.<sup>63</sup> In the first election, an indirect voting method was applied. Voters in each province chose a sub-district (*tambon*) representative who then voted for his province's Member of the House. The first direct election occurred in the second election on November 7, 1937 to elect half of the People's Assembly, using a plurality, single-member district method. Women were granted the right to vote and could run for elections for the first time. The election results showed that eight of the seventy-eight elected MPs were military, while fifty-three of the appointed members of the Assembly were military.<sup>64</sup>

There were three constitutions during this period, namely; 1) the Temporary Charter, June 24, 1932, at which time the People's Party (*Khana Ratsadon*) was registered; 2) the "permanent" constitution of the Siam Kingdom which King Prajadhipok (Rama VII) gave his consent to and signed on December 10, 1932; and 3) the 1946 Constitution. After the permanent 1932 Constitution came into use, the Nationalist Party (*Kana Chard*)<sup>65</sup> was officially registered on January 7, 1933. However, the first prime minister, Praya Manopakorn, was requested that all political parties be abolished. Praya Manopakorn complied by disbanding all political parties in April 1933.

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<sup>63</sup> See Walter F. Vella (1995). *The Impact of the West on Government in Thailand* (Berkeley: Berkeley University of California Press) p. 371; Eiji Murashima (1991). "Democracy and the Development of Political Parties in Thailand, 1932-1945," in *The Making of Modern Thai Political Parties*, eds. Eiji Murashima, Nakharin Mektrairat, and Somkiat Wanthana, Joint Research Program Series No. 86, Institute of Developing Economies, Tokyo, 1991, chapter 1.

<sup>64</sup> Kenneth P. Landon (1955). *Thailand in Transition* (Chicago: University of Chicago Press) pp. 65-67.

<sup>65</sup> The Kana Chard had Luang Vichitvadakan, Phraya Thonawanikmontri, and Phraya Senasongkhram as leaders. See Eiji Murashima (1991). pp. 23-24.

The 1946 Constitution was drafted by the elected legislatures to honor the new King, King Ananda Mahidol (Rama IIX), who had just turned twenty and returned to Thailand in 1945. A ninety-six-member House of Representatives, for the first time fully elected by the people, came into being under the 1946 Constitution (Section 29).<sup>66</sup> An eighty-member Senate was also established. Senators were to be “indirectly elected” by the people (referring to the elected MPs) for a term of six years (Section 24 and 26). The constitution stipulated that a senator must be at least forty years old and hold a bachelor’s degree or its equivalent for no less than five years, or hold a certain ranking in the bureaucracy, or be a former MP (Section 25). Active government and military officers were prohibited from being a member of parliament, or a cabinet member, thus reducing the power of the military and the bureaucrats.

Significantly, the 1946 Constitution recognized the rights of the people to form a political party (Section 14). In this way competitive party politics finally emerged. Seven political parties were organized to run for the 1946 general election, specifically: the *Kasikamakorn* (Agro-Labour) Party; the *Parchacon* (Citizen) Party; the *Sangkomniyom prachatipathai heng chart* (National Social Democracy Party; the *Sahakorn* (Cooperation) Party; the Democrat Party, and the *Kaw Na* (Progressive) Party. The *Kaw Na* Party was formed by royalist politicians close to M.R. Kukrit Pramoj<sup>67</sup> thus paving the way for members of the royal family to re-enter the political scene.

From this perspective, the 1946 Constitution was widely praised to be the most democratic constitution in Thailand. After the death of King Ananda Mahidol, there was a military coup d’état on November 8, 1947 that led to the abolition of the 1946 Constitution. As a result, the elected Prime Minister Pridi Bhanomyog, was forced to leave the country.

## **2. Royalists vs. the Military, 1947-1957**

The 1947 military junta’s temporary constitution changed the district magnitude from a single-member district to a multi-member district system. Simultaneously the

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<sup>66</sup> Paul Chambers (2002). *Good governance, political stability, and constitutionalism in Thailand 2002: The state of democratic consolidation five years after the implementation of the 1997 Constitution* (Bangkok: King Prajadhipok’s Institute).

<sup>67</sup> Kramol Tongdhamachart (1982). *Toward a Political Party Theory in Thai Perspective* (Singapore: Maruzen Asia) p. 11 and Appendix, p. 41.

minimum age of electoral candidates was raised from twenty years old under the 1932 temporary Constitution to 35 (See Section 11 (2) of the 1932 temporary Constitution and Section 38 of the 1947 temporary Constitution). Moreover, the ban on civil servants and military officers from serving in the parliament and cabinet was lifted, permitting a military-bureaucratic encroachment. After a while, the Constitution of 1949 was promulgated on January 23, 1949 as a permanent instrument to replace the temporary 1947 Charter.

The 1949 Constitution was drafted by a committee headed by Seni Pramoj from the Democrat Party and raised the status of the monarch to the most powerful position since the overthrow of the absolute monarchy in 1932.<sup>68</sup> Several other critical changes were contained in the 1949 Constitution: The Supreme Council of State was transformed into a Privy Council with all nine members to be selected by the King (Section 13). The Privy Council would also be responsible to name an heir to the throne, not the parliament (Section 25). The Speaker of the Senate was the President of the parliament (Section 74). The King's veto power was strengthened; a two-thirds vote of parliament would be needed to overrule it (Section 77). The King also gained the power to call for an amendment to the constitution by means of public referendum (Section 173). Section 92 of the 1949 Constitution stated that an electoral candidate must be at least thirty years old of age and have attained no lower than a primary education or its equivalent. This pro-royalist 1949 Constitution was strongly opposed by the elected Members of the National Assembly. Nevertheless it was finally approved with the support of the royally appointed members.<sup>69</sup>

However, the military, led by Field Marshal Plaek Pibulsongkram, seized power again on November 29, 1951 and abrogated the 1949 Constitution, presumably to cut down the coalition between the palace and the growing pro-royalist group.<sup>70</sup> A single 123-member National Assembly was installed instead; most of them were military and police officers. The 1952 Constitution was a revision of the 1932 Constitution with some alterations. Prime Minister Field Marshal Plaek Pibulsongkram promulgated the first Political Parties Act in Thai history on September 26, 1955. He stated that he hoped

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<sup>68</sup> Kobkua Suwannathat-Pian (2003). *Kings, Country and Constitutions: Thailand's Political Development, 1932-2000* (London: Routledge Curzon).

<sup>69</sup> *Ibid.* p. 50.

<sup>70</sup> Clark D. Neher (1974). "Thailand," in *Southeast Asia: Documents of Political Development and Change*, ed. Roger M. Smith (Ithaca: Cornell University Press) pp. 29-45.

political parties would be important instruments of a democratic process that provided a mechanism for the people to air their grievances and redress and express their views.<sup>71</sup> In his effort to bring Western style political practice into Thai politics, Field Marshal Plaek also initiated weekly press conferences and public-speaking in the form of Hyde Park orators for the first time in Thailand. Under the Political Parties Act B.E. 2498 (1955),<sup>72</sup> 500 eligible voters or ten MPs could form a political party by registering with the Ministry of Interior. The party could be dissolved by the Supreme Court if it was found violating public peace or morality.

Two interesting outcomes followed. First, government and military officials were allowed to form and operate political parties; second, the suppression against the Communist Party of Thailand (the CPT) which had been organized as underground party in 1942 and surfaced in 1946, started.<sup>73</sup> The Political Parties Act led to the establishment and registration of thirty parties between 1955 and 1958, including Field Marshal Plaek's *Serimanangkasila* Party that became a government party. During the Act's years, two elections were held for half of the legislatures in February 1957 and again in December 1957, both using a multi-member district system with a whole province counted as one constituency. Interestingly, during this period, the pro-royalist group attacked the government for rigging the election results, while the military-led government claimed that the pro-royalist Democrat Party received funds from the palace.<sup>74</sup>

### **3. Sixteen Years of Military Dominance, 1957-1973**

The National Assembly along with the 1952 Constitution were abolished after General Sarit Dhanarajata declared martial law and starting ruling via a Revolutionary Council on October 20, 1958.<sup>75</sup> The pinnacle of the domination of military force occurred

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<sup>71</sup> Siri Premjit (1963). *Prawattisart Thai nai rabob prachadhipatai sarmsib pee (Thai history in the 30 years of democratic regime)* (Bangkok: Feungnakorn Press) pp. 429-430.

<sup>72</sup> Since the 1997 Constitution, the Political Parties Act is called "The Organic Act on Political Parties.

<sup>73</sup> On this issue see Kramol Tongdhamachart (1982). p.13.

<sup>74</sup> Kevin Hewison. "Thai-Style Democracy: A Conservative Struggle for Thailand's Politics" Paper presented at the Faculty of Political Science, Chulalongkorn University, June 26, 2009. *Prachatai* <http://www.prachatai.com/english/node/1292> (Accessed June 30, 2012).

<sup>75</sup> Nattapol Jaijing contends that the revolutionary spirit of the People's Party came to an absolute end in 1957 as a consequence of the Sarit's 1957 coup d'état. See Nattapol Jaijing (2013). *Kor fanfai nai fan un leuchue: Kwamklenwai kong kabuankarn patipak patiwat Siam 2475-2500 (To*

between 1958 and 1968 during which time parliament was entirely abolished. A Temporary Charter<sup>76</sup> was promulgated in February 1959 and lasted for nine years until General Thanom, Sarit's successor, was pressured to promulgate a new constitution in 1968. The 1959 Charter provided the prime minister with near absolute power and political parties were banned. At the same time, an appointed unicameral parliament, consisting of 240 mostly military, was installed. The 1959 Charter contained only twenty articles, making it the shortest charter in Thai history.<sup>77</sup>

Under Sarit's near absolute rule, the dictum "Nation-Religion-King" was popularized. Its major characteristic was a combination of the Thai ancient paternalism and Buddhism's benevolence. It is noteworthy that Sarit had restored the role of the monarch to be involved with the Thai public and the people's lives. Royal visits to the rural areas were regularly scheduled. It was evident that throughout Sarit and Thanom's government, the monarchy was re-established as a principal national institution.<sup>78</sup>

Under Field Marshal Thanom's 1968 Constitution, a bicameral parliament was formed, with an elected 219-member House and a royally appointed 164-member Senate, mostly military. A candidate for the House was required to be at least thirty years old with a primary school degree or equivalent. However, members of the House were prohibited from being cabinet members. The power of the non-elected body was eminent. The Senate Speaker was also the President of the parliament, and the Senate could delay any legislation for up to a year.

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*dream the impossible dream: The anti-siamese revolution movement 1932-1957* (Bangkok: Fah Diew Garn) p. 200.

<sup>76</sup> Somchai Preechasinlapakun explains the difference between constitution and charter (*Tammanoon karn pokkrong*) in Thailand as following: "while a constitution is expected to be the permanent rule, a charter has traditionally been temporary instrument, promulgated following military coups. However, some charters, for example General Sarit's 1959 Charter, was in use for many years." See Somchai Preechasinlapakun (2013). p. 4-5.

<sup>77</sup> Section 17 of the Charter for the Administration of the Kingdom 1959 that gave the absolute power to the prime minister was abolished after the promulgation of the 1968 Constitution, but was restored under the 1972 Constitution when Field Marshal staged a coup against his own government. See Anchalee Maneeroj (2011). "Rat Thai kap kwam runerang 2475-pajjuban," (Thai state and violence 1932-present) in *Fah Diew Garn* 9, No. 2 (April-June) p. 29.

<sup>78</sup> Thak Chaloeemtiarana (2007). *Thailand: the Politics of Despotism Paternalism* (Chiang Mai: Silkworm); Kevin Hewison (2009). "Thai-Style Democracy: A Conservative Struggle for Thailand's Politics." Paper presented at the Faculty of Political Science, Chulalongkorn University, June 26, 2009. *Prachatai*. <http://www.prachatai.com/english/node/1292>. (Accessed June 30, 2012).

The second Political Parties Act was also enacted in 1968 and was in use until 1971. The difference between the first and the second Political Parties Acts was that the second made it more difficult to form a political party, requiring two steps that could take a whole year. Moreover, a political party would be dissolved if its number of members fell to less than 500, and if the party failed to have its candidate elected in two consecutive general elections.<sup>79</sup> Within this time, there were only seventeen parties running in the elections. And because the Political Party Act did not ban military and government officials from organizing political parties, General Thanom thus formed *Saha Prajathai* Party to legitimize his power. The election was held in February 1969 with twelve political parties and some independent candidates elected to the House of Representatives. Thanom's *Saha Prajathai* won most seats in the House. However, because of grave political conflicts mainly within the *Saha Prajathai* Party, Thanom staged a coup against his own government on television in November 1971, throwing away the constitution, declaring martial law, dissolving the parliament and the cabinet. The government was subsequently under the control of the "three tyrants" of Thanom (prime minister, Supreme Commander, Defense and Foreign Minister), Praphas Charusatien (Deputy Premier, Interior Minister, Chief of Police, Army Commander), and Narong, Thanom's son and Praphas's son-in-law. The Thanom government also staged a strong attack against the Communist Party with Praphas as the Head of the Communist Suppression Operations Command.

In December 1972, a new Charter comparable to Sarit's 1959 Charter was announced. Political parties were prohibited, and a wholly King-appointed unicameral 299-member National Legislative Assembly was established. Legislators needed to be at least thirty-five years of age and have Thai nationality by birth (Section 9). The record showed that 200 out of 299 were military and police officers.

Sarit's legacy and the "three tyrants" rule was brought to an end when a wide-scale student movement was transformed into a national movement against the autocratic government in what has been known as the October 1973 uprising.<sup>80</sup> Thanom, Praphas and

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<sup>79</sup> Political Parties Act, B.E. 1968 (2511), as published in The Government Gazette Vol. 85, Section 94, October, 15 1968, pp.731-751.

<sup>80</sup> For details, see for example, Saneh Chamarik (2001). "Karn muang Thai kap karn patiwat tulakom," (Thai politics and the October revolution) in *Jark 14 October to 6 October (From 14 October to 6 October)* eds. Charnwit Kaset Siri and Thamronsakdi Petchlertanand 3<sup>rd</sup> edition

Narong resigned. The King appointed Sanya Dhammasakdi, dean of the Faculty of Law and Rector of Thammasat University as prime minister.

#### **4. Politics after the 1973 Student Uprising (1973-1992)**

The birth of the 1974 Constitution was different from that of the previous constitutions; it was drafted by a Constitutional Drafting Committee, widely known as *Sapa Sanarm Mar* (or the Race Course Council). The committee, appointed by Prime Minister Sanya Dhammasakdi, consisted of Justice Minister Prakob Hutasin and a number of academics. The drafted charter was scrutinized by a 100-person convention nominated by a 299-person committee who were elected by a royally appointed 2,347 group of people<sup>81</sup> and not by the parliament because there was a concern that the parliamentary members then were all appointed by the Thanom administration. At first Thanom's Parliament and the royally appointed 2,347 members of the National Council co-existed, thus creating a state of dualism in the legislative power, which was unconstitutional. Eventually, the royal decrees to dissolve the parliament and to appoint the National Council were issued, countersigned by the newly appointed Prime Minister Sanya Dhammasakdi. The draft was approved by the convention and promulgated on October 7, 1974. With all attempts, the 1974 Constitution could only sway part of the power from a non-elected body to the elected legislature.<sup>82</sup> For the first time, a constitution required that the PM must be an elected MP and at least half of cabinet members must be MPs or

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(Bangkok: The Foundation for the Promotion of Social Sciences and Humanities Textbooks Project) pp, 1-48; John L.S. Girling (1981). *Thailand: Society and Politics* (Ithaca: Cornell University Press); and Likhit Dhiravegin (1992). *Demi-Democracy: The Evolution of the Thai Political System* (Singapore: Times Academic Press).

<sup>81</sup> In order to get a 299 member committee, the 2,347 group of people voted among themselves, each had 100 votes; the 299 members who got top votes were elected Members of the National Legislation. It was recorded that their elections were fiercely contested by employing all tactics, such as mutually exchange of votes, renting a hotel room together, setting up a banquet. A group of *Kamnans* (heads of the *Tambon*) who were displeased with the vote-trading, and business-like transaction process even walked out of the room.

<sup>82</sup> Remarkably, the first draft encountered strong challenge from the royalist members of the convention. In fact, the 1974 Constitution was a result of pressure from a conservative wing of the drafting committee. Thus the executive branch and the royal powers were granted greater control than previously allowed in the first draft. Some contents prescribed in the first draft were: the Senate was appointed by the elected House, not by the King, with the countersignature of the Privy Council President; A simple majority, not two-thirds, could overrule the royal veto; All cabinet members must be MPs; A popular referendum needed to approve the draft prior to the King's approval.

senators. However, the power of the royal appointed Senate remained; it could delay any laws for six months. And it was the President of the Privy Council, not the prime minister, who countersigned the appointment of the Senate. The 1974 Constitution for the first time put a ban on independent candidates running for parliamentary seats (Section 117 and 127). From 1974 to 1976, the third Political Parties Act B.E. 2517 (1974) was promulgated, and almost sixty parties were registered. Although the Act of 1974 increased the number of a political party's members to 1,000, it abandoned the requirement that a party must have its candidate elected in order to maintain its legal status. There were twenty-two parties contesting the January 1975 general elections, but none won a majority.

The October 6, 1976 bloody unrest resulted in yet another military coup and a massacre. A new constitution promulgated in 1976 clamped down on open politics and the 1973 democratic atmosphere.<sup>83</sup> The 1976 Constitution gave the prime minister nearly complete power. Elections and political parties were prohibited. Instead, a unicameral National Assembly appointed by the King was installed, filled with bureaucrats and military officers. Notably, the King was endowed with a new prerogative -- the power to initiate legislation in the Assembly (Section 20). The monarch-appointed prime minister, Thanin Kraivichien, a former Supreme Court judge, increased penalties for and the scope of lese-majesty law,<sup>84</sup> and exercised a ban on media and political activities, especially those viewed as related to communist ideology. He was perceived as a hardline royalist and governed Thailand under a strict, repressive rule. In 1977, the military again staged a coup removing Thanin from premiership and replaced the 1976 Constitution with the 1977 Charter. Then again, its content was almost the same as the 1976 Constitution. Thanin was later appointed a member of the Privy Council by the King.

The 1978 Constitution drafted during the martial law under Kriangsak Administration replaced the 1977 Charter. The constitution instituted a bicameral National Assembly, consisting of an elected 301-member House of Representatives and an appointed 225-member Senate (three-fourths of the MPs). The 1978 Constitution came with many key provisions retrieved from Thanom's 1968 Constitution. While most of the previous constitutions allowed the Privy Council President to countersign the Royal

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<sup>83</sup> Charnwit Kasetsiri and Thamronsakdi Petchlertanand, eds. (2001). pp. 12-15.

<sup>84</sup> See David Streckfuss (1995). "Kings in the Age of Nations: The Paradox of Lèse-Majesté as Political Crime in Thailand" in *Comparative Studies in Society and History* 37, No. 3, pp. 445-475.

Declaration appointing senators, under the 1978 Constitution, it was the premier, not the King, who appointed the Senate. The Speaker of the Senate was the President of the parliament who had the sole power to approve the cabinet appointed by the prime minister. The House could submit a no-confidence debate; however, the Senate could obstruct such attempt.

In a general election held in April 1979, political parties were banned. Thus only “political groups” were contesting for this election. Notably, the “alien father” (born from a non-Thai citizen father) clauses of the Election Bill, which were deemed discriminatory, were added. Kriangsak was able to retain power mainly because of the solid support from his appointed senators. He only received eighty-nine votes out of 301 elected MPs, but the 1978 Constitution required majority votes from both the House of Representatives and the Senate (entire parliament) to select a prime minister. This, *de facto*, meant that the 1978 Constitution shut the door for the elected MPs to form the government by increasing the power of the Senate.<sup>85</sup> Moreover, the 1978 Constitution, unlike the 1974 Constitution did not require cabinet members to be selected from elected MPs.

After Kriangsak resigned because of the failed oil price policies resulted in a near no-confidence vote in the House, General Prem Tinsulanond was appointed prime minister. Throughout the tenure of the 1978 Constitution, four general elections were held. The fourth Political Parties Act B.E. 2524 (1981) was enforced before the 1983 general election, allowing political parties to contest the election in their formal names. The 1981 Political Parties Act was very evident in its effort to encourage the building of big institutionalized political parties; it demanded that a political party must have at least 5,000 initial members, spread in all five regions with a minimum of fifty members in each province, and each party branch had to enlist 100 members or more.

From then until the end of Prime Minister Prem Tinsulanond’s term in 1988, state power was mainly held by the military, civilian bureaucrats, and technocratic experts. During this period, there were competitive elections, but forming a government required a three to five party-coalition. Coalition parties, however, could never decide who would be the country’s leader, and they inevitably turned to General Prem to take the premiership

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<sup>85</sup> Ross Prizzia (1985). *Thailand in Transition: The Role of Opposition Force* (Hawaii, University of Hawaii Press) p. 94-98.

and other key ministerial portfolios.<sup>86</sup> The prevailing political wisdom during this period was that the Premier could only be someone who had the support of three elements in the society: the blessing of the monarchical institution, approval from the military organization, and acceptance from a coalition of political parties.

General Prem led three administrations without contesting a single election. In 1988 Prem dissolved the parliament and called for a general election. Again, leaders of the winning political parties came to General Prem, but he declined. Consequently Chartchai Choonhavan, head of Chart Thai Party that won the most seats in the House, was selected the prime minister. And General Prem was appointed President of the Privy Council. In February 23, 1991, Army Commander Suchinda Kraprayoon staged a coup d'état, replacing the 1978 Constitution with Charter for Governing the Kingdom 1991. A unicameral National Assembly was appointed and Anand Panyarachun was named prime minister with a task to draft a new constitution. The draft favored the power of appointed Senate over an elected House and contained a clause allowing a military leader to become a prime minister was strongly opposed by the public at Sanam Luang during November 1991. Two general elections were held in 1992.<sup>87</sup> The first election in March was highly subjected to military manipulation and resulted in the victory of political parties that supported General Suchinda to the premiership. In other words, the election was only held to legitimize General Suchinda as prime minister. A people's uprising against the Suchinda government led to a violent confrontation between the military and the protestors in May 1992. The mayhem came to an end only after King Bhumibol reproached Premier Suchinda Kraprayoon and had Chamlong Srimuang, Suchinda's fiercest opponent, on his knees in the Palace before the TV cameras in May 1992. The monarch's role as a conciliator during the 1992 bloodshed was well received by the public. A new election was carried out in September 1992, resulting in a victory for the Democrat Party and a civilian-led government.

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<sup>86</sup> Chai-Anan Samudavanija calls the political system circa the 1980s a "stable semidemocracy." See Chai-Anan Samudavanija (1995). "Thailand: A Stable Semidemocracy," in *Politics in Developing Countries: Comparing Experiences with Democracy*, eds. Larry Diamond, Juan J. Linz, and Seymour Martin Lipset, 2<sup>nd</sup> edition (Boulder, Colorado: Lynne Rienner) pp. 323-67.

<sup>87</sup> For details of these two elections see Surin Maisirikrod (1992). *Thailand's Two General Elections in 1992: Democracy Sustained* (Singapore: Institute of Southeast Asian Studies).

After the 1991 coup that led to the May 1992 bloodshed incidents and the re-installment of civilian government at the end, it was believed that a head of the army no longer suitable was to head the government. The government, in theory at least, had been less vulnerable to military coups d'état, partly due to the growing resistance from the public as people started to associate a coup d'état with twisted democratic development and economic ruin. Amidst that political atmosphere, a spirit for democratic reform began.

### **5. The Spirit of Democratic Reform, 1992-1996**

After the 1992 May incident, Anand Panyarachun was asked to serve as interim prime minister for another term until a general election could be held. Anand advocated several important constitutional amendments; these included requiring that future prime ministers must be Members of the House of Representatives and reducing the power of the Senate, which was both unelected and dominated by the military and traditional elites. These changes were accomplished by replacing the Speaker of the Senate with the Speaker of the House as President of the parliament when holding joint sessions at the National Assembly. Anand also established the Poll Watch Committee to monitor the electoral process with the hope of creating more free and fair elections in Thailand.

The September 1992 general election resulted in the victory of the Democrat Party. Chuan Leekpai, an elected MP from Trang Province, was named prime minister. In 1993, the House of Representatives created the Ad Hoc Committee for Constitutional Reform which was responsible for reviewing the 1991 Constitution. After the fall of the Chuan government, two more elections were held, one in 1995 and another in 1996. Although the governments were short-lived, these two elections produced democratically elected leaderships. The Banharn Silpa-archa government during 1995-1996 was able to push through several significant amendments to the 1991 Constitution. They set a limit to the numbers of the cabinet members to no more than forty-eight, including the prime minister; required that the nomination of the prime minister must be signed by the Speaker of the House of Representatives; required that political parties must field candidates at least one-fourth (decreased from one-half previously) of the whole House members, and equal to numbers of the House members in that district; stipulated that after a House dissolution, a general election must be held within sixty days; reduced the voting age for the first time from twenty to eighteen years old; established the election commission, parliamentary

ombudsman, and administrative court; and, finally, the 1996 amendment to the 1991 Constitution called for the creation of an entirely new constitution by a ninety-nine-member Constitution Drafting Assembly (see Table 2.2).

In this light, one can say that political reform actually started even before the passage of the 1997 Constitution, mainly as a result of public pressure to break out of the vicious cycle of military intervention.

In sum, all of Thailand's constitutions have preserved the constitutional monarchy as the form of the state. As shown in Table 2.1, however, the past constitutions of Thailand were widely different in terms of the strength of the legislature as opposed to the strength of the executive, the power of the monarch, whether the legislature was appointed or elected, and the laws governing elections and political parties. Based on the history of constitutions provided in the previous section, Thailand's constitutions and charters during 1932-1991 can be categorized into three groups, namely the relatively liberal constitutions, the semi-authoritarian/conservative constitutions, and the authoritative constitutions.

1. Major characteristic of the relatively liberal constitutions (1946, 1974, 1991 after the 1996 amendments):

- a. Giving the people more democratic rights and expanding opportunities to encourage broader political participation, such as lower age and lower education requirements in contesting elections.
- b. Instituting a bicameral parliament with a condition that members of the House of Representatives must be elected.
- c. Giving stronger power to the elected House of Representatives.
- d. Requiring that a prime minister must be a member of parliament and could not hold a military or government position.

2. Major characteristic of the semi-authoritarian/conservative constitutions (June 1932, December 1932,<sup>88</sup> 1947, 1949, 1952, 1968, 1978, December 1991):

- a. Setting more restrictions for political participation, such as higher qualifications of candidates for the House, including a higher age requirement.
- b. Instituting the appointed senators for the Upper House.
- c. Designating that the appointed Senate had more power than that of the House of Representatives, i.e., the co-power with the elected House of Representatives to select the prime minister (by whom they were appointed) and the power to participate in and deter a no-confidence motion, the Speaker of the Senate was the President of the parliament.
- d. Allowing that a non-elected person was able to be appointed prime minister, thus the prime minister could be either a military leader or a figurehead of the military or the palace.

3. Major characteristic of the authoritative constitutions (1959, 1972, 1976, 1977, March 1991):

- a. Banning political parties and elections.
- b. Setting up a unicameral parliament, completely appointed, consisting mainly of soldiers and bureaucrats, or allowing for no legislature at all. The 1959 and the 1972 Constitutions stated that the prime minister must not be a member of parliament.
- c. Giving the executive absolute or near absolute power.
- d. Limiting the power to appoint the prime minister in the hands of the Monarch.

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<sup>88</sup> Both the June and the December 1932 Constitutions did not require that a prime minister must be a member of the Parliament. However, the power of the House under the December 1932 Constitution was weaker. The House could be resolved by the royal decree, whereas the power of the executive branch and especially of the King had been increased. See Nakarin Mektrairat (1992). *Karn patiwat Siam por sor 2475 (The 1932 Siamese Revolution)* (Bangkok: The Foundation for the Promotion of Social Sciences and Humanities Textbooks Project) pp. 236-237.

The most striking feature in exploring history of the Thai constitutions is the existence and the influence of the royally appointed Senate. The power of elected representatives had always been balanced by appointed senators apparently loyal to either the military leaders or the palace. The dominant role of a non-elected Senate was especially pronounced under the 1968 and the 1978 Constitutions. Under the 1968 Constitution, the Senate Speaker was the President of the parliament; the Senate could delay the legislation for up to a year; while, the House could not call a no-confidence vote. The 1978 Constitution required a majority of the entire parliament, counting as well the appointed senators (then by the prime minister) to give approval in forming a government, and the Speaker of the Senate was the President of the parliament. A prevailing role of the Senate had resulted in a volatile and powerless House of Representatives since the earliest stages of democratic development in Thailand.

There were political maneuvers by reform-oriented politicians and political parties to achieve successive, orderly elections every four years and ensure a popularly elected Senate, but they all culminated in failure.<sup>89</sup> The 1997 Constitution was the first to instate a fully elected Senate in Thailand (see Chapter 3). Having senators that came directly from the choices of the people was one reason why many viewed the 1997 Constitution as the most democratic in Thailand's history. Several attempts before 1996 and the 2006 coup d'état, along with the drafting of the 2007 Constitution to repeal the limitation of military involvement in politics, indicated that the military and traditional elites never abandoned their attempts to revoke various political and constitutional reforms to uphold their role in the future of Thai politics. The continued attempts to revoke political reforms of installing the fully elected Senate will be discussed in Chapter 4 and 6.

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<sup>89</sup> Surin Maisirikrod (1992). pp. 100-101.

**Table 2.2: Constitutional Amendments on Major Issues, 1932-1991**

Constitution	Amendment Date	Areas of Amendments	Contents
1932	Oct. 4, 1940	-Term for appointed Member of the House	-Expand the term for type 2 Members of the House from 10 to 20 years, citing the war eruption as a reason
1947	Dec. 9, 1947	-District magnitude  -Candidate qualification	-Change from SMD to MMD, the whole province as an electoral district  -A candidate must be 35 years old or older
1974	Jan. 23, 1975	-Increase power of the PM	-the prime minister, not the President of the Privy Council, countersigned the royal appointment of the Senate
1978	Aug. 14, 1985	-District magnitude	-Change from provincial MMD to 1-3 MMD (150,000 population: 1 MP)
1978	Aug. 30, 1989	-Increase power of the House	-Speaker of the House, instead of the Senate, is President of the parliament and in a joint-meeting, House rules will be used
1991	Jun. 30, 1992	-Increase power and jurisdiction of the House (2 <sup>nd</sup> attempt)  -Decrease power of the Senate	-Speaker of the House, instead of the Senate is President of the parliament  -Increase House session from once to twice a year  -Terminate the Senate power in staging a vote of no-confidence debate over the cabinet
1991	Sept. 12, 1992	-Promote electoral democracy	-A prime minister must be a Member of the House
1991	Feb. 10, 1996	-Nearly the whole constitution, Section 24-211 was altered  -Limit number of cabinet members  -Power of Speaker of the House  -Political parties    -Grace period after a House dissolution  -Voter qualification  -Establishment of Independent Organization	-Specify qualifications of the House Members and the Senate   -A cabinet is to be composed of no more than 48 members, including a prime minister  -A nomination of the PM must be signed by the Speaker of the House  -Political parties must field candidates at least 1/4 of the whole House members, and equal to numbers of the Hose members in that district  -After a House dissolution, a general election must be held within 60 days  -Change in voting age from 20 to 18 years old  -Emergence of the election commission, parliamentary ombudsman, and administrative court
1991	Oct. 22, 1996	-Forming a Constitutional Drafting Committee	-A Constitutional Drafting Committee was to draft a new constitution which needed to be approved by the people by means of referendum

Source: Author's own compilation.

## 2.2 Changes to Electoral Rules, 1933-1996

The elections and subsequent formation of civilian governments in the past were perceived as significant steps toward democratization in Thailand. However, there have been many occasions that the military and the traditional elites repealed several democratic reforms in the constitutions and altered the election rules to stall the growth of electoral democracy and political participation. Specifically, for the electoral rules, from the 1933 to the 1996 election changes were made in three major areas: electoral systems and voting method; candidates' qualifications' and, requirements on political parties. The consistent feature from 1933-1996 has been the election management.

**2.2.1 Electoral systems and voting methods** In the first election in 1933, an indirect voting method was used. Voters in each province chose a sub-district (*tambon*) representative who then voted for a member of the House of that province.<sup>90</sup> A multi-member constituency system was also adopted. Each province was considered a constituency and had one member of the House. A province with a population of more than 200,000 had an additional member.

All elections afterward have been a direct vote to choose members of the House of Representatives. In the second (1937), third (1938), and fourth (1946) elections, the single-member district (SMD) electoral system was applied. Each province was divided into electoral districts with the ratio of one MP to each 200,000 people. A surplus which exceeded 100,000 people would be regarded as another constituency. Any province with a population under 200,000 was also considered a constituency. Voters throughout the country had equal rights to vote; every voter voted for one candidate.

In the 1948, 1952, and twice in 1957 elections, Thailand employed the multi-member district (MMD), or a multi-seat, multiple vote (MSMV) plurality electoral system in which a whole province was a constituency. From 1958-1968, elections were prohibited. When they resumed again in 1969, the multi-member district with a province as a constituency was used again. During this period, the ratio of 200,000 people to one MP was applied. The election process was interrupted again during 1972-1974 under Thanom's martial law.

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<sup>90</sup> On this issue, see Orathai Kokpol (2002). "Electoral Politics in Thailand," in *Electoral Politics in Southeast and East Asia*, ed. Aurel Croissant (Singapore: Friedrich-Ebert-Stiftung) p. 280.

Once the election was resuscitated again in 1975, a multi-member district with one-third representatives was employed and continued to be used until the electoral reforms in 1997. The ratio was reduced to 150,000 inhabitants to one MP. Specifically, electoral districts were broken down into one, two and three seat districts. In a province with four MPs the province would be divided into two districts, each with two seats. A province with eight MPs would be separated into three districts of 3, 3 and 2 MPs. Voters were allowed to vote for as many candidates as there were MPs in a district. The winner(s) were the candidates who received the top votes on the basis of the plurality system (first-past-the-post system). Voters could not give all their votes for one candidate. However, they could split their votes between candidates from different parties. At the same time, they could partially abstain, or cast only one or two votes, although they might have three votes.

**2.2.2 Candidate qualifications** The qualifications for candidacy have been changed many times. The more liberal constitutions tended to lower the qualification of the elected representatives, while the conservative/semi-authoritative constitutions imposed more restrictions on electoral participation. The minimum age of a candidate varied from twenty under the 1932 temporary Constitution to thirty-five years under the more conservative 1947, 1949, 1968, and 1972 Constitutions. The minimum age was set at twenty-five years for the tenth election under the 1974 Constitution and twenty-five has been the rule since.

The 1974 Constitution made it obligatory for the first time for a candidate to be a member of a political party. This requisite derived from the 1969 election results when about seventy-two MPs were elected as independent candidates.<sup>91</sup> The large group of independent candidates became a problem because with their “blackmail ability” they could change the course of government by choosing to oppose or support it. The hefty quantity of individual MPs plus the multitude of political parties had produced the first coalition government in Thailand.<sup>92</sup>

In addition to party-affiliation, the 1974 Constitution also required constituency-affiliation for a candidature for the first time. It provided that a candidate in a constituency must have at least one of the following qualifications: (1) be a registered resident in that

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<sup>91</sup> Election Results of the 1969 General Elections, the Election Division, Department of Local Administration (DOLA), Ministry of Interior.

<sup>92</sup> Ross Prizzia (1985). p. 90-91.

constituency; (2) be a former Member of the House in that constituency; (3) be born in that constituency; (4) have studied at an educational institution in that constituency; or (5) have served in an official capacity in that constituency.<sup>93</sup>

**2.2.3 Requirements for political parties** The 1978 Constitution imposed a new obligation on political parties; each political party had to field candidates for at least half the number of member of the House of Representatives. This prerequisite remained in use for four general elections, namely in 1979, 1983, 1986 and 1988. For example, in the 1983 general election, there were 325 MPs, thus each party had to field up to 162 candidates, while in the 1988 election, a party needed to contest at least 178 candidates for the total of 357 parliamentary seats.

However, this prerequisite put small parties at a disadvantage; because of their lack of money and electoral viability, they and their candidates could not adequately contest the elections. In an attempt to make the playing field fairer again, the 1991 Constitution lowered the number of candidates that needed to be named to one fourth of the total number of members of the House of Representatives. This condition was applied for the general elections in 1992 (twice), 1995 and 1996. To elaborate, in the 1995 general election, each political party had to contest at least –ninety-eight candidates for the total of 391 seats.<sup>94</sup> Additionally, in running for elections, political parties were compelled to field a whole team of candidates for any district they wished to contest; i.e., they were obligated to file three candidates in a district with three MPs. The fact was that most of the constituencies in Thailand were three seats constituencies; for example, in the 1996 election, there were 88 three-seat, 61 two-seat, and 7 one-seat constituencies. Therefore, the new rule actually set another hurdle for smaller political parties to field a sufficient number of electable candidates. As a result, some political parties were forced to hire “ghost” or phony candidates to fulfill this obligation, while some voters seemed to regard

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<sup>93</sup> Orathai Kokpol (2002). p. 282.

<sup>94</sup> See Wichitra Funglatta (1987). *Rattatammanoon lae kotmai tee kiewkong (The constitution and related laws)* (Bangkok: Thammasat University Press); and Manut Watthanakomen (1986). *Khomunphunthan phakkanmuang patchuban lae phakkanmuang kap kanluaktang pee 2522-2529. (Basic data on contemporary political parties and on political parties in the elections of 1979-1986)* ( Bangkok: Social Science Association of Thailand).

their three votes as too many choices to deal with. Thus the second and third votes often became surplus or useless votes.<sup>95</sup>

**2.2.4 Election management** Throughout the changes in requirements, election management remained largely unchanged. Elections were organized by the Ministry of Interior, the Department of Local Administration (DOLA) and the Police Department. DOLA was in charge of the whole electoral process, including calculating the number of MPs in each constituency based on the populations numbers; assigning constituencies; arranging voters' lists and voting stations; counting votes; and, announcing the election results. The Ministry of Interior was mainly responsible for getting out the vote and monitoring electoral fraud and vote buying. The Police Department was accountable for maintaining order and preventing violence and unusual behavior during elections.

On March, 22 1992, the Committee to Administer and Investigate Elections of the House of Representatives was created under Prime Minister Anand's guidance. This body came out of the need to create a central and independent body to regulate and manage elections. And under the 1997 Constitution, Thailand eventually had an independent organization to supervise the operation and process of elections entitled the Election Commission of Thailand (see Chapter 3).

### **2.3 Conclusion: The Chosen Few versus the Voice and Will of the Public**

Unlike many other countries where people had to fight for the right to vote, the Thai people were given universal suffrage right from the start. However, Thailand experienced many coups d'états and violent turmoil before elections were generally perceived as indispensable and necessary elements in its political system. This chapter demonstrated that of all nineteen elections before the adoption of the 1997 Constitution, only the 1946, 1975, 1976, September 1992, 1995 and 1996 elections could be considered elections in a relatively democratic atmosphere meant to generate a democratic and peaceful transfer of power. The remainders were either elections held with the purpose of justifying the military's rules and to ensure that current leaders would remain in power by putting their own men in the parliament, or they were elections carried out by pseudo- or

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<sup>95</sup> Sombat Chantornvong (1993); William A. Callahan (2000).

half-democratic regimes for which election outcomes did not result in popularly elected heads of government.

Based on the fact that Thailand came up with a new constitution nearly every five years, it can be inferred that the basic contractual agreement and rules of the game in a society have not yet been set. Therefore, the rules of the game could always be altered to better suit the benefits of those currently in power. As a result, after seventy-two years Thailand's democratic system can still be considered in its nascent stage, and the direction of the country has never totally been set by the representatives of the people according to the people's guidance and desire. This chapter has shown that the country's constitutions were not written based on the general consensus among the various groups in the public, but instead by "the chosen few," mainly the elite who assumed they knew better and imposed on the public their personal views about how Thais should think, behave, and live their lives. As a result, Thailand's political systems and processes are still under the control of and driven by the Thai elite and traditional rulers.

For all fifteen constitutions reviewed in this chapter, the public as well as the elected legislatures have played a minimal role in designing electoral rules, electoral systems, and shaping institutional organizations. It is not an exaggeration to say that Thai constitutions rarely reflected the wishes and interests of the Thai public. In the past, Thai voters were hardly aware of their fundamental rights in voicing their demands and participating in crucial political debates and systems. On top of that, the politicians showed little interest for what would benefit the society, especially in times of crisis. Yet, through it all, more and more the Thai people learned to express their views about which direction the country was heading. They started to show that they, not the elite and the chosen few, have the right to determine what should be best for their lives.

That being said, the public's efforts to elude the lingering military domination that culminated in the 1997 electoral reform signal a significant turning point in Thai politics after the 1932 Siamese Revolution and the October 1973 uprising. This study argues that the 1997 electoral reform and its legacy, albeit facing many setbacks, was one of the major factors that paved way for Thailand's democratization. The background of how this electoral reform came about, the expectations, and the actual effects of the reform will be thoroughly explored in the next chapter.

## Chapter III

### The 1997 Electoral Reform: New Modes of Political Competition

The core subjects of this chapter are the contents of electoral reform occurred under the 1997 Constitution and the analysis of the impacts of all these new electoral mechanisms and arrangements on Thai politics. Part I outlines background, process, and public support of the 1997 political reform that gave birth to electoral reform. Part II examines the crucial features of the electoral reform as well as the expected objectives. Then Part III evaluates the influences of electoral reform on the political environment, party system, structure of electoral competition, special attention will be paid to the outcomes of the elections.

#### PART I: Background, Process, and Public Participation

As has been demonstrated in Chapter 2, the 1997 movement for political reform stemmed from the May 1992 Democracy Movement. Since then there have been several attempts to avert military domination; five amendments under the 1991 Constitution were brought up in the aftermath of the events of May, 1992, signaled a momentous period of reformism and set the stage for profound changes. Because the electoral reform in 1997 was generated in the womb of the 1997 Constitution, it is imperative to understand the context of why and how the constitution came about. Details of and debates on process and content of the 1997 Constitution have been documented in various sources.<sup>96</sup> Followings are brief account of the 1997 Constitutional drafting's background and process.

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<sup>96</sup> Amon Chantara-Somboon (1994). *Constitutionalism: Thang ok khong prathet Thai (Constitutionalism: The solution for Thailand)* (Bangkok: Institute of Public Policy Studies); Borwornsak Uwanno and Wayne D. Burns (1998). "The Thai Constitution of 1997: Sources and Process," *University of British Columbia Law Review* 32, pp. 227–247; Michael Kelly Connors (1999). "Political Reform and the State in Thailand," *Journal of Contemporary Asia* 29, No. 4, pp. 202–206; Pinai Nanakorn (2002). "Re-Making of the constitution in Thailand," *Singapore Journal of International & Comparative Law*, No. 6, pp. 90–115; Michael Kelly Connors (2002). "Framing the 'People's Constitution'," in *Reforming Thai Politics*, ed. Duncan McCargo (Copenhagen: NIAS) pp. 37–57; Michael Kelly Connors (2007). pp. 153–82.

### 3.1 The Background

The reform movement began to gather momentum in 1992, and in 1993 the House of Representatives nominated an ad hoc committee with a specific mandate to explore the steps needed for fundamental political reform. In 1995, the Constitutional Reform committee submitted a report just as the ruling coalition of Prime Minister Chuan Leekpai came to an end. Among the touchy subjects that triggered debate in the parliament were: How to accomplish this reform?; Who would be engaged in drafting the constitution?; And how would that drafting body be formed? The discussion dictated most of parliamentary debates for 1995 and 1996. The 1996 general election results led to the formation of Prime Minister Banharn Silpa-archa administration with accusations that the new government would seek to overturn the reform proposal. Eventually, the parliament passed a constitution Amendment Bill in October 1996, or the 16<sup>th</sup> amendment of the 1991 Constitution. The Amendment Bill on Article 211 stipulated the call for drafting a new constitution and granted the formation of a Constitutional Drafting Assembly (CDA). The success to materialize the Drafting Assembly was widely credited to Prawase Wasi, a reformist advocate and patron to many non-government organizations (NGOs), who gathered the urban alliance among academics, technocrats, and social activists, labeling its name “the Committee for Developing Democracy (CDD).”<sup>97</sup>

### 3.2 The Process

The parliament at the commencement of the Chavalit Yongchaiyuth government voted to select the members of the Constitutional Drafting Assembly (CDA). The CDA was consisted of ninety-nine members: seventy-six were directly elected from each of the provinces, while the rest (twenty-three) were academics in public law, political science and public administration and state officers with manifest experienced in administering country.<sup>98</sup> Three steps were applied to select the provincial CDA; first, people who wanted to be a part of the drafting process could apply to be assembly candidates at a provincial level; secondly, ten candidates per province were elected among themselves, thus a total of

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<sup>97</sup> See Michael Kelly Connors (1999). pp. 202–206; J.R. Klein (2001). *Public Participation in the new Thai political contest*. Unpublished paper presented at the KPI Congress II. Pattaya: Thailand.

<sup>98</sup> For a full list of the 99 CDA members, see “Rai chue 99 samachiksapa rang rattatammanoon poo ja srang pravattisart patrioop karnmuang” (List of the 99 Constitutional Drafting Assemblies who will make history of political reform). *Matichon Sudsapda*, December, 31 1996 (17/854) p. 16.

760 candidates across country; thirdly, the parliament selected the final seventy-six candidates, one from each province.

A list of academics and experts was prepared by the Assembly of Universities, and then selected by the parliament. The CDA, headed by Uthai Pimchaichon, an ex-Speaker of the House of Representatives, then was divided into five committees; most of these committee Chairmen were renowned scholars, signifying immense influence from academic viewpoints. The Constitutional Drafting Committee (CDC), chaired by Anand Panyarachun an ex-prime minister well-respected among urban residents, directly responsible to prepare a draft constitution.<sup>99</sup> The formula was designed to safeguard politicians' interference in the process.

The CDA was to review documents submitted by various pressure groups and NGO's, conduct public hearings to guarantee that the deliberation was not limited to the Bangkokians, and at the end, to tender a draft constitution to the parliament within 240 days. The Secretary of the CDC, Borwornsak Uwanno, explained that the task of the CDA was "...all about decoding what the people are saying and producing a legal document..."<sup>100</sup>

When the CDC completed a first draft in May, 1997, a series of public hearings were organized by the provincial members of the CDA.<sup>101</sup> Then the CDA members submitted their own recommendations for amending the draft constitution. The parliament could not amend the final draft; it could only approve or reject it in its entirety.<sup>102</sup> If the parliament voted short of a majority, a public referendum would be held. A simple majority of eligible voters would be sufficient to approve it.<sup>103</sup>

The final draft was approved by the parliament in July, in time before the deadline on August 15, 1997.<sup>104</sup> In the end, the Chavalit government decided that if its coalition was

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<sup>99</sup> Michael Kelly Connors (1999). pp. 212-226.

<sup>100</sup> Borwornsak Uwanno. An interview on September, 23 1998, appeared on *Thailand Law Forum* <http://www.thailawforum.com/articles/constburns2.html> (Accessed November 9, 2013).

<sup>101</sup> *Loc. Cit.*

<sup>102</sup> Björn Dressel (2009). "Thailand's Elusive Quest for a Workable Constitution, 1997–2007," *Contemporary Southeast Asia* 31, No. 2, pp. 296–325.

<sup>103</sup> Borwornsak Uwanno and Wayne D. Burns (1998). pp. 232-235.

<sup>104</sup> *Ibid.* pp. 246–47.

to survive the debate over the draft in the parliament it would have to comply to its passage.<sup>105</sup> On September 27, 1997 the draft won parliamentary approval in a joint sitting of the House of Representatives and the Senate with 518 votes for, sixteen against, and seventeen abstentions. The King put his signature to the constitution on October 11, 1997 and the draft constitution became law. After 241 days of drafting, Thailand's 17<sup>th</sup> Constitution, a twelve-chapter, seventeen-part, 336-section constitution was put into effect. It was remarkable that the whole process went through four administrations, the Anand's ignited the idea, the Chuan's set up the Constitutional Reform committee, the Banharn's passed a constitution Amendment Bill to allow the formation of the CDA, and the Chavalit's finally finished and approved the draft.

### 3.3 Public Participation

It is recorded that the process of constitutional drafting in 1997 was full of firm public support and pressure from grass root movements even before the selection of the CDA. Some participation was displayed by means of rally; an Assembly of the Poor marched on Bangkok's street during the debate; farmers demanding justice for loss of land voiced their grievances. On the other side, there were evidences showing that many forces were working both in the parliament and behind the scenes to derail the drafting process.

Among supporters of the reform were, for example, the Women and Constitution Network (WCN),<sup>106</sup> the Association of the Handicap of Thailand, while the opposition were groups of village and *tambon* heads, government officers under the Interior Ministry, as well as members of the New Aspiration Party, a political party that led the coalition government at that time. Sanoh Tienthong uttered that "I couldn't sleep for days...I have lived closely to our neighboring countries, witnessing the end of their nation. I don't want

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<sup>105</sup> Chavalit personally changed his stand from opposing the draft to pushing for the passage. For an analysis, see "Wikrao Big Jew lang plian tatee tor rattatammanoon jak free vote soo danhai pan" (An analysis on 'Big Jew' after a changed signal on the constitution from free vote to push for a passage). *Matichon Sudsapda*, August, 5 1997 (17/855) p.16. During that time, the Chavalit Yongchaiyuth government found itself in the middle of an unprecedented Asian economic and financial crisis. Encountered pressure from many political movements, he decided to resign on November 6, 1997.

<sup>106</sup> Philippe Doneys (2002). "Political Reform through the Public Sphere: Women's Groups and the Fabric of Governance," in *Reforming Thai Politics*, ed. Duncan McCargo (Copenhagen: NIAS) pp. 163–82.

that to happen in our country, if the parliament passed this draft constitution.”<sup>107</sup> The advocate of the reform used the green flag, green stickers, wearing green T-shirt as their symbolic gesture,<sup>108</sup> whereas the yellow flag served as the opposition’s emblem. A well-known comic strip, Chai Ratchawat, drew the Constitutional Monument on the green background to exhibit his support for the reform.

With the powerful lobby from social activists and political community in Bangkok, along with the endorsement of the media, the reformist movement gained wider public support. Attempts by the opposition to derail the movement fell short.<sup>109</sup> Even though with careful investigation, the 1997 Constitution was essentially a product of elite-driven attainment, it was undeniable that there were a lot of efforts to bring people from various groups and diverse backgrounds into the drafting process. Thus it was not entirely a mistake that the constitution was usually referred to as “the People’s Constitution.”

## **PART II: Elements and Intentions of Electoral Reform**

Elements of electoral reform in Thailand refer to factors such as electoral systems, legal rules, electoral mechanisms and arrangements. The following section depicts a variety of aspects concerning electoral reform introduced under the 1997 Constitution,<sup>110</sup> the Organic Act on the Election of Members of the House of Representatives and Senators, B.E. 2541 (1998),<sup>111</sup> and the Organic Act on Political Parties, B.E. 2541 (1998).<sup>112</sup> Subsequent part examines the impact of electoral reform on electoral results, structure of party competition, and other dimension of institution reform.

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<sup>107</sup> Sanoh Tienthong, *Thai Rath*, August 10, 1997. However, with massive public pressure, Sanoh himself voted “Yes” to approve the draft on September 27, 1997. The moment was so memorable for many Thai political junkies.

<sup>108</sup> *Bangkok Post* and *The Nation*, September 25, 1997.

<sup>109</sup> Chaowana Traimas and Jochen Hoerth (2008). “Thailand - Another New Constitution as a Way Out of the Vicious Cycle?,” in *Constitutionalism in Southeast Asia*, eds. Clauspeter Hill and Jörg Menzel (Singapore: Konrad-Adenauer-Stiftung) pp. 301-325.

<sup>110</sup> Constitution of the Kingdom of Thailand B.E. 2540 (1997), as published in the Government Gazette, Vol. 114, Part 55a, dated 11<sup>th</sup> October B.E. 2540 (1997).

<sup>111</sup> The Organic Act on the Election of Members of the House of Representatives and Senators, B.E. 2541 (1998) as published in the Government Gazette Vol. 115, Part 35a, dated 9<sup>th</sup> June B.E. 2541 (1998).

<sup>112</sup> The Organic Act on Political Parties, B.E. 2541 (1998) as published in the Government Gazette Vol. 115, Part 35 a, dated 9<sup>th</sup> June B.E. 2541 (1998).

### 3.4 Introducing New Electoral System

The big challenge for the constitutional drafter at that time was to reform Thailand's electoral system in order to curb vote buying and electoral fraud and to strengthen the party system.

Prior to 1997, Thailand used the plurality, multi-member constituency system to elect the House of Representatives, while the Senate was entirely appointed. The electoral districts were divided into one-, two- and three-seat districts. Voters were to vote for as many candidates as there were seats in a district and they tended to vote for candidates rather than parties. They could not cast all their votes for a single candidate, but could split their votes between candidates from different parties.

In 1997 Thailand adopted the new system for electing members of the House of Representatives, known as the "mixed electoral system." The new system was put in effect on January 6, 2001 general election. Of the 500 members of parliament, 100 were elected nationwide through a proportional representation system with five percent threshold and the other 400 were chosen through a single-member constituency plurality system (Section 98-100 of the 1997 Constitution). To be specific, the proportional representation system used in Thailand should be called a "combination" or "parallel" electoral system. It was unlike the 'mixed system' used in Germany or New Zealand<sup>113</sup> because votes from the constituency basis and the national party list system were counted separately.<sup>114</sup>

#### 1. Proportional Representation (PR) System

The basic principle of proportional representation is that seats are won in proportion to the votes received by parties or individuals. PR systems are based on multi-member electorates, whereas most plurality (first past the post) systems are based on single-member electorates. The reason is simple--a single member cannot be proportionally divided. Election under a PR system is not a matter of winning a plurality or

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<sup>113</sup> David Denmark (1996). "Thinking Ahead to Mixed-Member Proportional Representation: Party Strategies and Election Campaigning under New Zealand's New Electoral Law," in *Party Politics* (London: Sage Publications) pp. 409-420.

<sup>114</sup> Andre Blais and Louis Massicotte, Louis (1996). "Electoral system," in *Comparing democracies: Elections and voting in global perspective*, eds. Lawrence LeDuc, Richard Niemi, and Pippa Norris (London: Sage Publication) pp. 49-81.

a majority of the total votes of the electorate as a whole but a matter of achieving a proportion of the votes.

The Thai PR system with the largest remainder formula required each political party to prepare an open list of candidates comprising not more than 100 persons. The lists were to be submitted to the election commission on the date of application for candidacy in the election. The names must not be repeated on the lists of candidates of other parties or the list of constituency candidates. Any party receiving less than five percent of the total votes would not have its candidates elected and its votes would be eliminated. The remaining votes were divided by 100 to determine the number of votes needed for each candidate. The number of party list representatives that each party may appoint was calculated by dividing the votes each party obtained by the number of votes needed for one party list candidate (that was, remaining votes divided by 100). If the number or representatives appointed by this method came to less than 100 persons, the parties having the most remaining votes would share the remaining seats.<sup>115</sup>

According to Kanin Boonsuwan, Spokesman and Member of the Drafting Committee for 1997 Constitution, the initiation of PR system was expected to deter vote-buying, if not a total eradication.<sup>116</sup> The mechanism of PR system in Thailand was designed to make the cost of vote-buying too expensive for any party to endure because the size of constituency was too large (the whole country) for anyone or any party to buy votes outright. Additionally, the PR system gave a party leader more control over the party's candidates and their positioning at the beginning of the list, thus strengthening the party and party system. More importantly, it also provided an opportunity for a party leader to choose candidates for their knowledge and quality rather than focus on candidates only well known in their constituencies, and/or their "electability."<sup>117</sup> Recruiting

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<sup>115</sup> Sirpan Nogsuan Sawasdee (2006). p.52

<sup>116</sup> Kanin Boonsuwan (1997). *Rattatammanoon kong prachachon: Ha sip kamtamkap sor sor ror (The People's constitution: Fifty questions with a constitutional drafter)* (Bangkok: Constitutional Drafter Committee) pp.55-56.

<sup>117</sup> The electability (the prospect for electoral success) in the Thai connotation is best explained by Rangsan Thanaphonphan. Rangsan describes that the incumbent politicians possess 'brand name capital' from being in the political realm longer. Thus, they have made their names memorable by "pork barrel" politics. Because of this, it is difficult for the new faces to break through "brand loyalty" and be elected. See Rangsan Thanaphonphan (2002). *Sate tasart rattatammanoon. (The Constitution Economy)* (Bangkok: The Thailand Research Fund) p.193.

personalities who were well known nationwide helped raise the profile of the party. In practice, most of the party list candidates were largely from Bangkok, as such the PR system was criticized for providing more chance for political parties to draw financial support from the rich and the powerful, while the provincial characters were basically being ignored. Party list members who became ministers were replaced by the next name on the list. This prevented by-elections as in the case of ministers appointed from a constituency basis. Therefore, the candidates at the head of the party list were either potential or shadow cabinet members. This allowed voters to feel they were indirectly choosing the executives while directly choosing the legislature. On this point, Prudhisan Jumbala summed it up nicely that, “Since Ministers can also come from the party list, the provision stands to be an incentive for parties to put senior party men and competent people on the party list---party list members who become ministers are replaced by the next on the list, whereas a [by-election] is required for those appointed from constituency seats”.<sup>118</sup>

Moreover, a system of seat allocation, based on proportion of votes each party received, was more fairly in determining the winners. All these were seen as measure to strengthen the party system. However, the leaders of the smaller parties in parliament had shown disapproval sentiment towards the PR system.<sup>119</sup>

## **2. Single-Member District (SMD), Plurality System**

Thailand’s electoral system before the 1997 Constitution was a plurality system version of a multi-member district (constituency). Members of the House of Representatives were elected from the whole nation every four years. The number of MPs from each province was calculated from the number of eligible voters, which was divided into multi-member constituencies each of which represented 150,000 voters. Each constituency could have between one to three MPs, and the voters would have as many votes as there were MPs in that constituency. The top vote getters in each constituency were elected.<sup>120</sup> In a three-member constituency, for example, the three candidates who

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<sup>118</sup> Prudhisan Jumbala (1998). “Thailand: Constitutional Reform Amidst Economic Crisis,” *Southeast Asian Affairs*, pp. 275.

<sup>119</sup> Borwornsak Uwanno and Wayne D. Burns (1998). pp. 243-246.

<sup>120</sup> Note that the plurality system, multi-member constituency used in Thailand prior to the 1997 Constitution differed from the Japanese single non-transferable vote system (SNTV). The Japanese

polled the highest voters were declared winners. The crucial point of this process was that candidates could be elected individually. Accordingly, three candidates from three different political parties could be elected from the same district.

The single-member constituency was chosen in place of the old multi-member constituency primarily because voters from every constituency would have equal right to vote, that is one vote, whereas in the former multi-member method, voters had one to three votes, depending on how large their districts were. A smaller in size of constituency would bring MP closer to their constituents. The drafters of the 1997 Constitution thus hoped that through electoral reform they could encourage the development of party cohesion and meaningful party labels, as well as bolster the incentives of candidates and politicians to respond to broad, national constituencies.

The single ballot, single-member constituency system was seen as fairer than the old multi-member constituency method because each voter in every constituency had one equal vote. This is the simplest system for voters, candidates, parties, and those involved in transforming votes into seats. The candidate who obtained the highest number of votes won the seat in that constituency. In the constitutional drafters' opinion, the single-member constituency system would favor small parties since they could win parliamentary seats if they concentrated their support in certain areas. Besides, the smaller constituency could bring members of parliament closer to their constituents, and a candidate could manage to win the seat with less than fifty percent of the votes. Put another way, a candidate could win a seat despite the fact that more than half of the voters did not want him or her to be their representative.

### **3.5 First Time Popular Election to the Senate**

In the past, the Thai Senate was appointed by the prime minister, mainly from the pool of bureaucracy. They have proven to be an obstacle rather than support for the legislative process. The meeting records of the CDA showed that the subject on how to design the new Senate were discussed in length many times, with an optimal goal set forth

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election law, before the reformation in 1994, divided the country into 123 election districts which elected the 486 members of the Lower House. Each of these districts elected from three to five members, *with each voter voting for only one candidate*. See Gerald L. Curtis (1971). *Election Campaign Japanese Style* (New York: Columbia University Press). In effect, this is usually regarded as a special case of limited vote (LV). See Arend Lijphart (1994). pp. 39-46.

by Anand Panyarachun (the CDC's chair) as to invent "a group of wise people to review the legislation initiated by the House of Representative, who also equipped with the power to scrutinize and impeach politicians."<sup>121</sup>

Eventually, the 1997 Constitution provided for an elected Senate for the first time in Thailand's history. Two hundred senators were elected using the single non-transferable vote (SNTV) system in both single-senator provincial constituencies and multi-senator provincial constituencies (for example, Mae Hongson had one senator, Bangkok had eighteen senators and Nakorn Ratchasima had eight). And since the constitutional drafters wanted the Senate to maintain as an impartial body, senators were prohibited from having affiliation to a political party and were not allowed to campaign for election. The intention was to separate the House and the Senate, and to assign the senator above politics status. The main responsibility of the Senate was the role of selecting members of the organs under the constitution, namely the Election Commission, the Ombudsmen, the State Audit, the National Counter Corruption Commission, the National Human Rights Commission, the Constitutional Courts, and the Administrative Court.

A senatorial candidate must be at least forty years old and hold at least a bachelor's degree. According to the constitution's Sections 169 and 174, the Senate could only amend or approve a bill passed on to it by the House of Representatives. It was not allowed to propose a bill. The senators could not be appointed members of cabinet. In order to provide continuity and security of status, the term of the Senate was six years and the prime minister could not dissolve it. The elected Senate could not repeat their tenure as two terms consecutively.

The first senatorial election in Thailand was held on March 4, 2000. The second election of senators took place on April 19, 2006. The military coup d'état on September 19, 2006, led to the dissolution of the Senate and the House of Representatives before the end of their term.

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<sup>121</sup> The CDA's meeting report on June 2-3, 1997.

### **3.6 Electoral Regulations and Mechanisms of the 1997 Constitution**

Besides the introduction of new electoral system, there were novel requirements on electoral mechanism and some legal rules were also revised. The core objective of the constitution drafters was to establish legal mechanisms that would help institutionalize a stable and relatively transparent form of representative politics. Details are as followings.

**3.6.1 Compulsory voting** Mandatory voting was introduced for the first time in Thailand. The drafter hoped that by imposing voting as duty, voters were obliged to go to a polling station, in turn it would induce a high turnout. Compulsory voting measure intended to fight against buying votes because it would make vote buying so costly as to not be proficient any more. Voters who could not go to vote, must notify the appropriate cause at least seven days prior to the election day. Failure to do resulted in losing the rights to receive some benefits provided by the state and also his or her rights to contest in the election next time. All these rights would be restored once a person attend the subsequently election.

**3.6.2 “The abstain,” or “Vote No” option on ballot papers** Because the 1997 Constitution made voting mandatory regulation, it was deemed reasonable to provide an abstain choice on ballot papers in case a voter might not desire to cast a vote for any candidate. Section 56 of the Organic Act on the Election of Members of the House of Representatives and Senators, B.E. 2541 (1998) stated that “in the case where a voter intends to cast a vote for no candidate nor party list of any political party, the voter shall mark a cross in the space for indicating the intention to cast a vote for non-voting.” The abstention ballot paper was also counted and the number of persons intending to cast votes for non-voting shall be announced (Section 70 of the same law).The significance of the abstention ballot was it could be interpreted as the rejection of the election, or of the political party, if only one party competed for votes.

**3.6.3 Twenty percent of votes requirement** A related innovation on electoral regulation was the provision that in any constituency, if there was only one candidate standing for an election and such candidate received votes less than twenty percent of the total number of voters in that constituency, the Election Commission must hold a new election in such constituency (Section 74 the Organic Act on the Election of Members of the House of Representatives and Senators, B.E. 2541 (1998). A new election must be

arranged until a candidate received more than twenty percent of the votes, or there were more than one candidate competed in that constituency. This requirement had proved to be crucial for the turning point of Thai politics before the 2006 coup d'état, the statement will be elaborated in the upcoming section.

**3.6.4 Voter qualifications** The fifth amendment of the 1991 Constitution, in February 1996 has lowered voting age to eighteen years old, this condition was maintained under the 1997 Constitution. But more to this, the constitution also required that to qualify to vote a person needed to have his or her name appeared on the house register in the constituency for not less than ninety days up to the election day. This step aimed at preventing electoral fraud from “ghost voters.” Ghost voters are techniques commonly employed by candidates by paying persons to cast votes for those who already dead, or in fact are ineligible to vote. This requirement was an attempt to inspect voter lists before the election to make sure that all of the listed voters are valid.

The 1997 Constitution, for the first time, expanded the rights to vote to shelter those who were residences outside the constituency, as well as who had been resided outside the country. As a result, an eligible voter no longer had to return to their hometown to exercise his or her rights to vote. Yet, in this advance polling, voters still cast a ballot of their original constituency, not a ballot of their current residence.

**3.6.5 Candidate qualifications** Section 107 of the 1997 Constitution stipulated the qualifications for a candidate in an election of members of the House of Representative as follows: 1) being of Thai nationality by birth; 2) being not less than twenty-five years of age on the election day; 3) having graduated with not lower than a bachelor's degree or its equivalent except for the case of having been a member of the House of Representatives or a senator before; 4) being a member of any and only one political party for a consecutive period of not less than ninety days, up to the date of applying for candidacy in an election. Additionally, the constitution specified that membership in the House of Representatives shall be terminated upon an MP's resignation from membership of his or her political party or his or her political party passing a resolution to that effect (Section 118).

This means, first of all, that independent candidates were prohibited from contesting the elections. The obligation for a candidate to run under a party banner had historical reasons. In the past, independent candidates, once they were elected, used to

swing from one party to another, asking for money or positions in return for their support in the parliament. Fred W. Riggs' comment on this subject is concise and accurate: "Independents are candidates who basically act on their own, relying on their own resources and the help of friends and relatives to seek the votes of the electorate. A very substantial number of candidates in the Thai elections between 1932 and 1975 professed no party affiliation, and for others who did the connection was purely nominal. Most of the time, party membership became something that acquired its main significance *after*, not *before*, an election."<sup>122</sup>

There was no doubt that the constitutional drafters viewed independent candidates as negative indicators of the institutionalization of the party system. The contradiction was that only independent candidate was allowed to contest the senatorial election. For the advocates of a strong party system, independents lack the coherence of political procedures and bases of support. They do not constitute a complex and autonomous political organization.<sup>123</sup> Furthermore, a high proportion of votes garnered by independent candidates would indicate the incapacity of the party system to articulate and/or aggregate interests.

The 1997 Constitution was not the first Thai constitution that required a candidate to run under a political party's banner. All former constitutions, except the constitutional law of June 1932, the 1949, and the 1968 Constitutions, prohibited independent candidates from contesting the elections. And although the 1932, the 1946, the 1947, and the 1952 Constitutions did not directly stipulate that a candidate for the House of Representatives must be affiliated with a political party, such a prerequisite appeared in the election laws under the constitutions. The 1997 Constitution was notable as the first to make the condition that a candidate must be a member of any and only one political party for a consecutive period of not less than ninety days.

Regarding educational requirement for candidates running for members of parliament, the Constitutional drafters' intention was to improve the feature of the

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<sup>122</sup> Fred W. Riggs (1966). *Thailand: The Modernization of a Bureaucratic Polity* (Honolulu: East-West Center Press) p.169.

<sup>123</sup> Samuel Huntington (1968). *Political Order in Changing Societies* (New Haven: Yale University Press) chapter 1.

parliament and quality of politicians. It was meant to “encourage better-known and more respectable personalities to enter politics.”<sup>124</sup>

**3.6.6 Single designated place for counting the votes** A new method of counting the votes at a central site, instead of at each polling station as previous elections was brought into effect.<sup>125</sup> According to Kanin Boonsuwan,<sup>126</sup> the CDA hoped that by mixing votes from every polling station, counting the votes and announcing the winner in one single place, it would be more difficult for political canvassers to evaluate the effectiveness of vote buying. If the votes were counted at a polling station, canvassers could easily intimidate voters and calculate if the people who accepted money did vote for them or not. The attempt to make casting one’s vote as secret as possible was a mechanism created with a high hope to promote free election and to alleviate vote buying by making the process of ballot counting less visible, hence more difficult to be observed by parties and candidates’ canvasser. Therefore, hopefully, the election would be more free and fair for all candidates.

**3.6.7 Support provided by the state** The constitution also mandated that in order to ensure honesty, fairness, and equal opportunities among candidates and political parties in an election, the state was obligated to provide the followings.<sup>127</sup>

- 1) Preparing places for posting notices and posters relating to the election in public places owned by the State.
- 2) Publishing and supplying to persons having the right to vote documents relating to the election.
- 3) Providing places for election campaigns to candidates in the election.
- 4) Allocating radio and television broadcasting time to political parties.
- 5) Other activities specified by Notifications of the Election Commission.

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<sup>124</sup> Sombat Chantornvong (2002). pp. 203-22.

<sup>125</sup> For the Senatorial election, votes were still counted at the polling stations because the electoral district was too large (the whole province) and that would take too much time to count and announce the winner at a single place.

<sup>126</sup> Kanin Boonsuwan (1997). pp. 9-11.

<sup>127</sup> As indicated under Section 113 of the 1997 Constitution.

**3.6.8 The Election Commission of Thailand (ECT)** The ECT was created to act as a central and independent agency to administer, manage, regulate and oversee elections, functions previously performed by Department of Government, Ministry of Interior. Beyond responsible for administering all the electoral processes in the Kingdom of Thailand, an Election Commission was endowed with wide-ranging investigative and prosecutorial powers to investigate and summons people the Commissioners suspected of breaking the election laws. If misconduct behaviors were detected, the ECT had the sole authority to call for a re-count, or if necessary call for new elections after issuing cheating cards; a yellow card for a candidate suspicious of committing an electoral fraud, and a red card to disqualify a candidate from election, even when such a candidate received most votes in the constituency.

More to that, all party officials, including branch chairpersons, must declare their assets and liabilities to the ECT, regardless of whether or not they hold public office. The laws mandated annual party audits and financial reports that detailed all expenditures and the amounts and sources of all contributions, and these reports must be made available to the public. A spending limitation of THB1 million for individual candidates was also placed on parties during the campaign period. The ECT's extensive powers also included the power to investigate the finances and donor lists of all political parties, and to educate the public on the importance of democracy and elections.

**3.6.9 Incentive for party building** The 1997 Constitution, not only introduced new electoral laws and a new electoral system, but also a new Political Parties Act and political party finance rules. One key objective of the Organic Law on Political Parties was to strengthen parties by forcing them to broaden their membership base. It specified that to be able to participate in an election, a party must have a minimum of 5,000 members spread around the country's four regions. In each region, at least five provinces must have fifty members. Furthermore, each party must have at least one party branch in each of the four regions (section 29 of Political Parties Act).

The 1997 Constitution was Thailand's first constitution that laid ground on the basis of state subsidies. Under the 1998 Political Parties Act, political parties were entitled to receive state financial support, which has been called "the Fund for

Development of Political Parties (FDP).”<sup>128</sup> Allocation of financial support, according to the 1997 electoral reform, was based on four criteria: thirty-five percent on the number of MPs in the House; thirty percent on the number of party list votes obtained in the preceding general elections; twenty percent on the number of members in the party; and fifteen percent on the number of branches the party has. A political party that received a subsidy must make a report on the expenses paid from the subsidy during the calendar year and submit to the ECT.

The intention in inventing FDP was to reduce parties’ dependent on the financial hand-outs of their leaders and/or on the narrow interests that finance them. This has been a major issue in Thailand because the Political Party Act always forbids registered organizations such as labor unions, trade and professional associations to support parties or engage in explicit political affairs such as campaigning. Thus, alliances between parties and certain social groupings have been curtailed.

From the initiation of the FDP in 1998 to 2005, more than THB2,000 million was spent to subsidize political parties’ activities in the name of public party funding. But, it did not lead to political party institutionalization as intended. A good example of the FDP’s failure in giving incentive for party building was *Kaset Mahachon* Party, later known as *Thai Pen Thai* Party. The party received more than THB41 million during 1999-2005, but never won any seat in the House of Representatives.

### **3.7 Other Innovations Concerning Institutional Reform**

In addition to those various aspects of electoral reform initiated under the 1997 Constitution, the constitution also brought in some other innovations aimed at institutional reform and especially strengthening the government. The innovations that should be mentioned are:<sup>129</sup>

**3.7.1 Inventing codes of conduct for politicians** Parliamentarians were prohibited from receiving state concessions or monopolies and Ministers must transfer corporate holdings into blind trusts. An asset and liability reporting mechanism was established for

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<sup>128</sup> State financial support to parties was firstly instituted by the Political Parties Act, 1998 under the 1997 Constitution.

<sup>129</sup> Borwornsak Uwanno. An interview on Sept 23, 1998, appeared on *Thailand Law Forum*. <http://www.thailawforum.com/articles/constburns2.html>. (Accessed November 9, 2013).

all politicians and senior bureaucrats and a National Anti-Corruption Commission was (NACC) given the power to investigate and charge any official suspected of being unusually wealthy.

**3.7.2 Strengthening the executive branch and the prime minister** The 1997 Constitution limited number of cabinet members, including the prime minister, to thirty-six. They remained in office as long as they retained the confidence of the House. They had the power to recommend the dissolution of the House, but no power to recommend the dissolution of the Senate.

A two-fifth vote of the existing members of the House was required for a vote of a no confidence debate to be initiated against a prime minister. Such a motion must also contain the name of the next prime minister who would replace the current one, in case the vote was successful. A no confidence motion against an individual Minister could be initiated with one-fifth of the signatures of the House members. A successful vote of no confidence required a majority of one half of the total number of existing members of the House of Representatives.

**3.7.3 Separation of executive and legislative functions** The previous constitution that permitted a Minister to retain his seat in the House of Representatives and still become a Minister on the Council of Ministers was seen as encouraging conflict among the coalition parties and weakening the PM. The 1997 Constitution although permitting MP's to become Ministers, prohibits them from retaining their seats in parliament.

**3.7.4 Efforts to make the law-making function more effective** Due to the inefficiency of the previous law-making process, the 1997 Constitution created several measures to render the legislature more productive. Before, the parliament was in session twice a year, each for ninety days. Under the new regime, two sessions of 120 days have been instituted. The second of these will be devoted to the passage of legislation, interpellations and removals from office of public officials.

**3.7.5 Enhance people's participation** Direct citizen participation in the political process was provided for in a number of provisions. Fifty thousand electors could submit a piece of legislation to parliament, or could ask the Senate to remove high officials in three levels of government if they should appear "unusually wealthy", or in instances where such individuals exercised their powers unconstitutionally (section 303-307). However, the

term “direct citizen participation” here was quite misleading because the final decision in approving the law submitted by the people still belonged to the parliament; and it was the Senate’s judgment whether to remove the high-rank officers complained by the people.

### **PART III: The Effects of the Electoral Reform**

The most crucial question addressed by this chapter is: What are the effects of the electoral reform on the environment and development of Thai political parties? This section analyzes the impact of the new electoral system, electoral rules and arrangements on electoral results, structure of political competition, and the general context of Thai politics.

First, let’s focus on the change of electoral systems and its implication. Electoral systems can be treated as both dependent and independent variables. If we treat electoral systems as dependent variables, then we must try to evaluate the following questions: How do electoral systems come about? Why do they change? And who will benefit from the change of the electoral system? As independent variables, electoral systems have a major impact not only on the distribution of seats in the legislature, thus affects the number of parties (in other words, they help construct party systems), but also on the ways in which parties operate and compete within that party system.<sup>130</sup> Electoral laws influence whether smaller parties formed in a political system, what sort of say these parties will have in administering the country, and whether such parties continue to exist at all. In this light, electoral systems and electoral rules are devices that structure the competition within the system. Moreover, indirectly through those party systems, electoral systems help shape executive-legislative relations.<sup>131</sup>

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<sup>130</sup> For an overview, see for example; Maurice Duverger (1954); Douglas Rae (1971); Arend Lijphart (1994); Andre Blais and Louis Massicotte (2001). “Electoral Participation,” in *Comparing Democracies 2: Elections and Voting in Global Perspective*, eds. Lawrence LeDuc, Richard G. Niemi and Pippa Norris (London: Sage Publications); Giovanni Sartori (1986). pp. 43-68.

<sup>131</sup> Giovanni Sartori (1997). *Comparative Constitutional Engineering: An Inquiry into Structures, Incentives and Outcomes* (New York: New York University Press) chapter 1, 3, and 4.

### 3.8 The 1997 Electoral Reform and Consequences

Although there were no specific provisions in the 1997 Constitution or other electoral laws that encourage the emergence of strong one-party government, the 2001 and 2005 electoral results (Table 3.1) seemed very much to indicate that small parties were in decline, facing difficulties to survive. To be specific, only major parties were able to make electoral appeals under a proportional representation system that revolved around the new need to maximize party list votes across the country. Small parties lacked resources and thus had a poor chance of national-level victory. In other words, the obvious result of the electoral system change was that politics and the electoral competition domain were no longer limited to the province and to the candidate's specific constituency. Parties were moving towards policy competition, mass media, modern technology and a national agenda.

**Table 3.1: Election Results, the 2001 and 2005 General Elections**

Political Parties	2001 Electoral Results				2005 Electoral Results			
	Number of Seats				Number of Seats			
	District	PR	Total	% of Votes	District	PR	Total	% of Votes
Thai Rak Thai	200	48	248	40.64%	310	67	377	61.17%
Democrat	97	31	128	26.58%	70	26	96	23.22%
Chart Thai	35	6	41	5.32%	18	7	25	6.64%
New Aspiration	28	8	36	7.02%	-	-	-	-
Chart Pattana	22	7	29	6.13%	-	-	-	-
Seridham	14	0	14	2.82%	-	-	-	-
Rassadorn	2	0	2	1.25%	-	-	-	-
Tin Thai	1	0	1	2.11%	-	-	-	-
Social Action	1	0	1	0.20%	-	-	-	-
Mahachon	-	-	-	-	2	0	2	4.34%
<b>TOTAL</b>	400	100	500	85.89%	400	100	500	95.33%

Source: Author's calculation based on data from the Election Commission of Thailand.

There are two related points worth examining here. First is the threshold or five percent minimum requirement. Second is the magnitude of the electoral district.

The first point to be made is that while in general the proportional representation system tends to be inclusive by offering more chances for minor parties than the plurality system, under Thailand's proportional representation system very small parties suffered from the five percent threshold.<sup>132</sup> Small parties, some even with representation in the constituency basis, were eliminated (see Table 3.2 below). In the 2001 election, the five big parties that won seats from the PR system collected altogether only 85.69 percent of the national popular vote. That means as many as 14.3 percent of votes, or approximately 4,095,686 eligible votes, were wasted. In 2005, the three parties that won seats via the proportional representation system collected altogether 91.02 percent of the nation's popular votes. Exactly 2,782,849 votes tallied for party list candidates were wasted. In effect, this causes under-representation of small parties.

Such an effect depends fundamentally on the way proportional seats are allocated. In the Thai case, as in Japan and Russia, proportional seats are allocated separately from single-member district seats and not to compensate for disproportionality at the constituency level as in Germany, New Zealand, or Mexico.<sup>133</sup> Therefore, the results are likely to be far less proportional.<sup>134</sup> In Russia, for example, using a five percent threshold, the unrepresented vote was as high as fifty-one percent in the 1995 elections.<sup>135</sup> In Japan, by contrast, without a threshold, a party with as little as three percent of proportional votes can win a seat.<sup>136</sup>

Table 3.2 indicates the consequence of the electoral threshold. Had the minimum requirement been lowered to one percent, there would have been nine parties with candidates in the House of Representatives instead of five. Wasted votes would have been reduced to only 6.94 percent nationwide. It was obvious that the five percent threshold was

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<sup>132</sup> Note that several countries using the PR system also apply thresholds to eliminate very small parties before the quota is set. For example, Argentina, Greece and Spain use a 3 percent threshold; Czech Republic, Mozambique and Russia use 5 percent; while Poland sets up its threshold as high as 7 percent. See Lawrence LeDuc, Richard G. Niemi and Pippa Norris, eds. (1996). *Comparing Democracies: Elections and Voting in Global Perspective* (London: Sage Publications) pp. 13-15.

<sup>133</sup> Andre Blais and Louis Massicotte (1996). pp. 65-67.

<sup>134</sup> Giovanni Sartori (1997). pp. 19-74.

<sup>135</sup> Andre Blais and Louis Massicotte (1996). pp. 62.

<sup>136</sup> Ray Christensen (1998). "The Effect of Electoral Reforms on Campaign Practices in Japan: Putting New Wine into Old Bottles," *Asian Survey* XXXVIII 10, pp. 88.

intended to deter the fragmentation of parties and to create majorities capable of governing.

**Table 3.2: PR Votes and Eliminated Parties, the January 6, 2001 General Election**

<b>Political Party</b>	<b>PR Votes</b>	<b>% of Votes</b>
Thai Rak Thai (TRT)	11,634,485	40.64
Democrat (DP)	7,610,789	26.58
Chart Thai (CP)	1,523,807	5.32
New Aspiration (NAP)	2,008,498	7.02
Chart Pattana	1,755,476	6.13
<b>Total votes of 5 parties that won PR seats</b>	<b>24,533,515</b>	<b>85.69</b>
Seridham	807,902	2.82
Tin Thai	604,029	2.11
Rassadorn	356,831	1.25
Thai Citizen	339,462	1.19
<b>Total votes of 9 parties (4 parties won constituency seats but were eliminated in PR)</b>	<b>26,641,739</b>	<b>93.06</b>
<b>Other 28 Parties</b>	<b>1,987,463</b>	<b>6.94</b>
<b>Grand Total</b>	<b>28,629,202</b>	<b>100.00</b>

Source: Author's calculation based on data from the Election Commission of Thailand.

For all those parties that had their candidates represented in the proportional representation system, all obtained a higher percentage of seats compared to the percentage of the popular vote they received nationwide (see Table 3.3) because the small parties that could not meet the five percent threshold. Thai Rak Thai benefited most from the Proportional Representation system, getting 7.4 percent more of its candidates elected than its actual vote share in 2001, and 5.8 percent in 2005. The Democrats came in second in gaining a larger share of seats than their share of the popular vote. Evidently, big political parties in Thailand were benefiting more from the PR system than the smaller ones. A major drawback of the PR system with a high threshold was that ideological based political parties and parties representing marginalized groups such as, peasants, workers,

minority religious, or progressive leftist are automatically excluded to obtain seats in the parliament.

**Table 3.3: PR Votes and Seats, the 2001 and 2005 General Elections**

Political Parties	2001			2005		
	% of PR votes	% of seats	Difference	% of PR votes	% of seats	Difference
Thai Rak Thai	40.6	48.00	+7.4	61.17	67.0	+5.83
Democrat	26.7	31.00	+3.3	23.22	26.0	+2.78
New Aspiration	7.0	8.00	+1.0	-	-	-
Chart Pattana	6.1	7.00	+ 0.9	3.34	-	-
Chart Thai	5.3	6.00	+0.7	6.64	7.0	+0.36
Mahachon <sup>137</sup>	-	-	-	4.34	0.00	-4.34

Source: Author's calculation based on data from the Election Commission of Thailand.

The second point relevant to the proportional representation system was that the district magnitude for Thailand's electoral system was very large; that was, the whole kingdom was one constituency.<sup>138</sup> Accordingly, parties were propelled to appeal to nationwide electorates and campaigned everywhere across the country. This measure essentially favored big, well-funded parties.<sup>139</sup> In the 2001 general election only the five largest parties, namely the Thai Rak Thai, Democrat, Chart Thai, New Aspiration, and Chart Pattana were able to put the optimal 100 candidates on their party lists, while locally concentrated parties and the smaller ones could not manage to do so. Many parties could only name one or two candidates on the list. In effect, threshold and district magnitude strongly reduced the degree of proportionality of the PR system in Thailand. Consequently, the smaller parties continued to obtain representation well below that of

<sup>137</sup> The Mahachon Party, albeit founded through a merger between the Democrat Party defectors and the former Rassadorn Party and thus composed of incumbent MPs and well-known personnel, still lacked the credibility and linkage between the party's representatives and constituents. Consequently, the party could manage only 4.33 percent (1,345,631 party list votes); hence, its party leader and prominent party figures who contested on the party list were not elected.

<sup>138</sup> Most countries, i.e., Spain, Japan, and Italy opt to proportional formulae with smaller district magnitude by dividing the country into several small constituencies.

<sup>139</sup> Douglas W. Rae (1971).

their electoral support. The upshots of threshold and district magnitude together with factors of size and resources were even more pronounced in the 2005 general election.

In terms of the electoral system and its ability to represent the electorates, it should be noted that the PR system might well produce voter frustration. Under the PR system, legislative seats were allocated from party lists according to each party's proportion of the total national vote. Thus, individual MPs did not necessarily identify with, nor could they be held accountable to, the electorates in a specific geographic constituency. The consequence was a lack of linkage between representatives and constituents.<sup>140</sup>

Regarding the newly adopted single-member constituencies, plurality system, this study finds that by using single-seat constituencies, the intensity of competition in constituency races among all major and minor political parties was accelerated. The geographical boundaries were increased as minor parties were unable to succeed on the proportional representation basis. In fielding candidates for the constituency system, small parties needed to concentrate on target areas of especially high concentrations of their support base, while ignoring other low-appeal areas to reduce expenditures on campaign activities, canvassing, leafleting and billboards. With financial restrictions and rational calculations, parties tended to run candidates only in districts where they had strong bases and more chances to win.

As it happened, party strengths varied from region to region. Therefore no political parties in Thailand, except Thai Rak Thai in the 2001 and 2005 elections, have attempted to field candidates in all 400 constituencies across the country. A close inspection of the 2005 general election revealed that the newly established Mahachon Party was a casualty in the electoral race in the single-member constituency plurality system. Most candidates of the Mahachon Party came in second behind TRT in the north and northeast. However, runners-up do not count in the "first past the post" system. Only two of its 302 constituency candidates won in northeastern region.

An interesting fact not many people realized was that the effect of over-representation by a big party was stronger under the single-member constituencies,

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<sup>140</sup> It has been argued that this lack of linkage between representatives and constituents reduces the prospects for the consolidation of democratic rule, especially in agrarian societies where representation is based on face-to-face contact in the countryside. See Joel D. Barkan (1995). "Elections in Agrarian Societies," *Journal of Democracy* 6, No. 4, pp. 106-116.

plurality system, as compared to the PR system. Table 3.4 illustrates that the difference between constituency votes TRT received and parliamentary seats TRT was allocated was wider under the single-member constituency system than under the PR system. This was especially true for the 2005 general election where TRT was only the party benefited from the single-member constituency system, gaining about +22 point difference more than constituency votes the party actually won.

In this light, not only the PR system led to the vulnerabilities of small parties, the change from a multi-member constituency system to a single-member, single ballot system, the strength of individual candidates in a small constituency was also put to the test. More particularly, an intention of the constitutional drafter to reduce fragmentation of parties was undeniably fulfilled. However, a political system with a “too” strong party in a form of Thai Rak Thai party might not what the drafter had hoped for.

**Table 3.4: Constituency Votes and Seats, the 2001 and 2005 General Elections**

Political Parties	2001			2005		
	% of constituency votes	% of seats	Difference	% of constituency votes	% of seats	Difference
Thai Rak Thai	36.64	50.00	+13.36	55.49	77.50	+22.01
Democrat	25.81	24.25	-1.56	24.95	17.50	-7.45
New Aspiration	9.57	7.00	-2.57	-	-	-
Chart Pattana	8.85	5.50	-3.35	-	-	-
Chart Thai	8.55	8.75	+0.25	10.53	4.50	-6.03
Mahachon	-	-	-	7.51	0.50	-7.01

Source: Author’s calculation based on data from the Election Commission of Thailand.

### 3.9 The Evaluation of New Electoral Rules and Regulations under Electoral Reform

All the rules governing electoral process marked a new context, new environment, new opportunities and new constraint for political participation, as well as political competition. However, as we shall see, the improved aims on paper didn't always translate into improved implementation in practice. This part will focus on issues and subjects that directly concern the electoral system, electoral laws, and political parties. The core inquiries involve questions on; What did all the changes in rules and regulations governing elections, politicians, and political parties mean politically? What were some of the political trends that had emerged from these changes? Here are some suppositions:

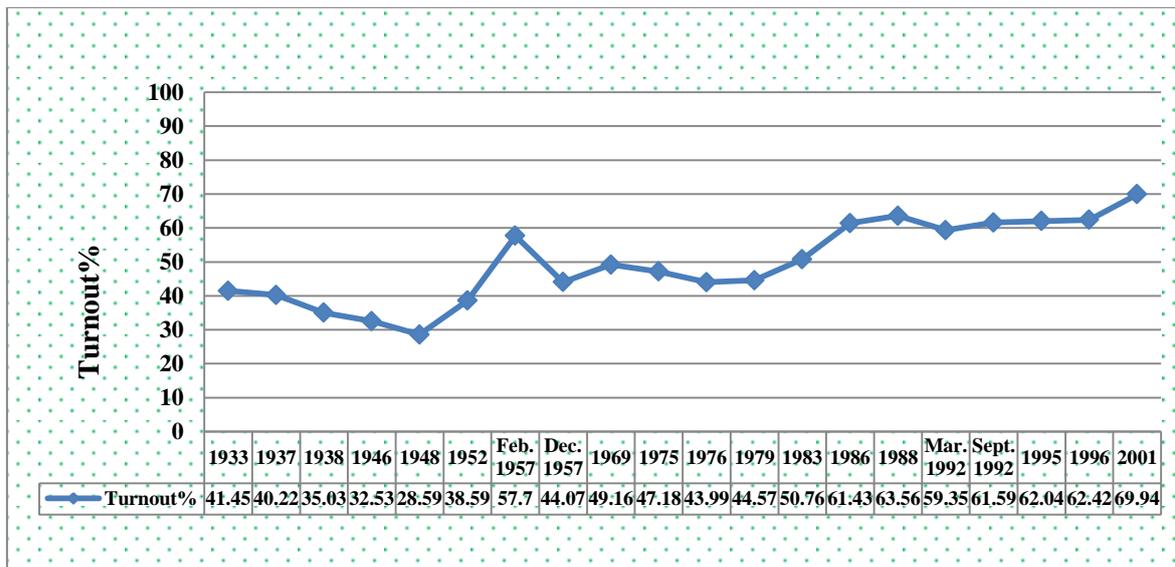
1. Many studies reveal that legal rules for voting such as compulsory or mandatory voting evidently impacts voter turnout. The strength of the effect depends upon how strictly such regulations and any associated sanctions are implemented and enforced. Implementation ranges from minimal de facto enforcement to the imposition of various sanctions. Fines are most common, although other punishments include the denial of official documents such as passports, identity cards, driver's licenses or government benefits and even occasionally the threat of imprisonment for a criminal offense.<sup>141</sup>

Likewise in Thailand, mandatory voting regulation seemed to have positive correlation on voter turnout. Figure 3.1 indicates that general elections before the electoral reform produced relatively low voter turnouts. Noticeably, voter turnouts in Thailand have been on the rise since 1995, but a significant change could be observed since the introduction of the compulsory vote was in effect the first time in the 2001 general election.

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<sup>141</sup> Wolfgang Hirczy (1994). "The Impact of Mandatory Voting Laws on Turnout: A Quasi Experimental Approach," *Electoral Studies* 13, No. 1, pp. 64-76; Arend Lijphart (1997). "Unequal participation: democracies unresolved dilemma," *American Political Science Review* 91, pp. 1-14; Wolfgang Hirczy (2000). "Compulsory Voting," in *The International Encyclopedia of Elections*, ed. Richard Rose (Washington DC: CQ Press); Maria Gratschew (2002). "Compulsory Voting," in *Voter Participation since 1945* (International IDEA. Stockholm: International IDEA).

**Figure 3.1: Voter Turnout in General Elections, 1933-2001**



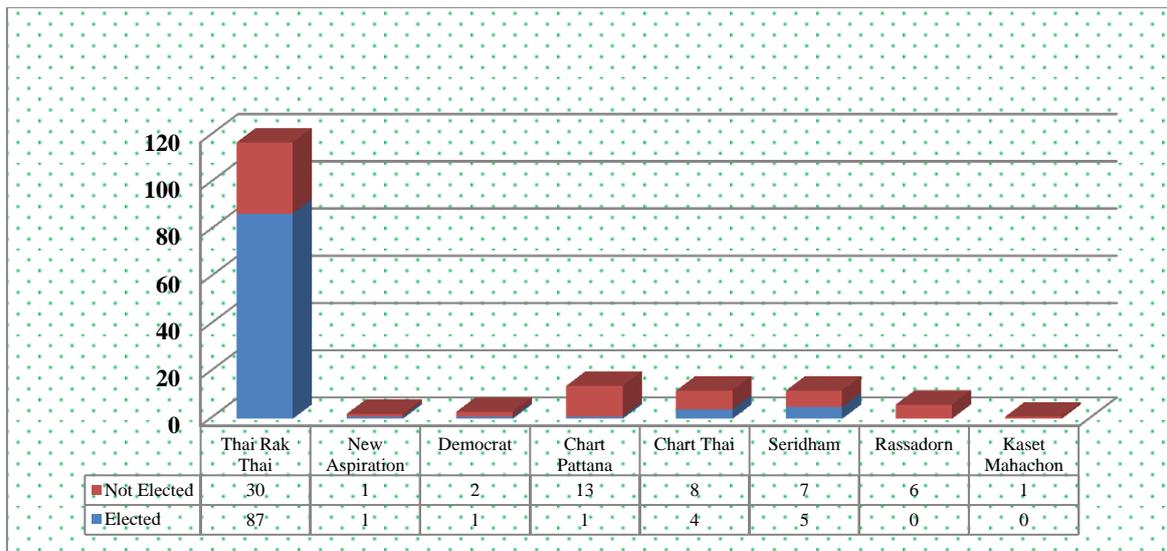
Source: Author's calculation based on data from Department of Local Administration, Ministry of Interior (1933-1996) and the Election Commission of Thailand (2001).

However, the weak punishment as to not able to receive government benefits did not seem convincing enough for people who did not care to vote from the first place. Implementation was more strictly enforced when aspiring candidates were denied the rights to contest the elections when they failed to vote in the previous election. This has been found the case for several hopeful politicians.

2. A major impact of the requirement that an MP be a party member for at least ninety days was that an ex-MP had to remain with his/her old party even if the House of Representatives was dissolved. In case of a full-term election, an MP who wanted to change affiliation could do so only by resigning from the old party and becoming a member of the new one ninety days before election day. Such defections were not easy, however, because big parties did not easily accept new faces whose strongholds might overlap their existing members, unless there was some gain to the party.

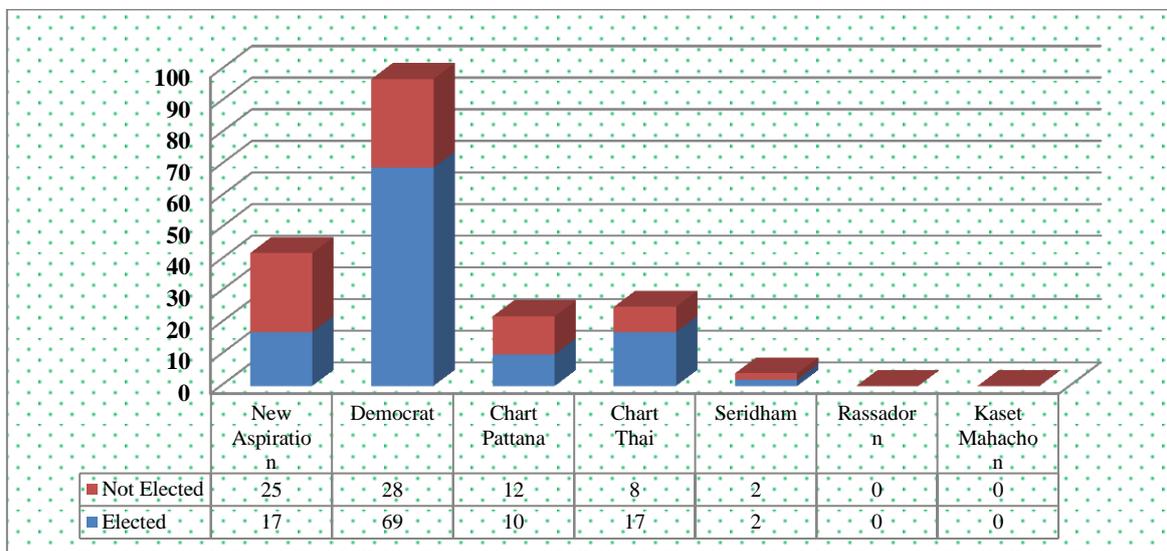
Thus, the measure allowed a party more control over its candidates and prevented horse trading among parties. At first glance, it thus seemed that the 1997 Constitution set up impediments to prevent MPs from switching parties. In practice, however, there had been prevalent party switching both before and after the elections. The numbers of MPs switching party affiliation is shown in Figure 3.2 and Figure 3.3 below.

**Figure 3.2: Number of Candidates Switched from Other Parties before 2001**



Source: Author's calculation based on data from the Election Commission of Thailand and various sources.

**Figure 3.3: Number of the 1996 Incumbents Ran under the Same Party, the 2001 General Election**



Source: Author's calculation based on data from the Election Commission of Thailand and various sources.

More strikingly, a new form of party switching was executed in a form of party mergers. Within four years after the 2001 election, there were at least four major mergers, all done with TRT, namely, a merger between Seridham (14 MPs) with TRT, a merger

between Tin Thai (1 MP) with TRT, a merger between New Aspiration Party (36 MPs) with TRT, and finally a merger between Chart Pattana (29 MPs) with TRT. In addition, two large factions of the Chart Thai Party also defected to stay with TRT. Therefore, TRT entered the 2005 election race with the most number of incumbent candidates (328 MPs) under the party banner.

3. The 1997 Constitution’s stipulation that a candidate for the National Assembly must possess not lower than a bachelor’s degree or its equivalent reflected educational bias; only five percent of the Thai adult population has graduated from a university and most of them reside or work in Bangkok.<sup>142</sup> Under this rule, half of former candidates were disqualified and excluded (See Table 3.5). In effect, MPs were drawn from the higher social strata.

**Table 3.5: Percentage of Candidates with Non-Bachelor Degree, 1992-1996**

1992		1995		1996	
Contested (%)	Elected (%)	Contested (%)	Elected (%)	Contested (%)	Elected (%)
53.3	31.0	42.1	27.4	50.8	26.5

Source: From Prof. Yoshifumi Tamada’s presentation at Chulalongkorn University, September 5, 2001.

Intentionally or not, the 1997 electoral reform was breeding a new class of politicians who were not “connected” to the majority of society. With the constitution’s requirement of compulsory voting, in essence, most people got the discouraging message that “As a Thai citizen, it is your duty to vote. But you cannot compete in the elections.” Rangsana Thanaphonphan called the measures that required candidates to have a party affiliation and a bachelor degree a “barrier to entry.” And this in effect led to an imperfection of competition in the political market.<sup>143</sup> Politics and elections thus became “business” for a certain group of people while barring significant and meaningful participation from the people at the grassroots and lower social strata.

<sup>142</sup> Information provided by Office of the Commission for Higher Education, Ministry of Education indicates that in 2002, there were the total of 168,105 people, aged 25-74 in Thailand receiving a Bachelor degree and its equivalent, a Master degree and a Ph.D. For more detail see Yoshifumi Tamada (2008). pp. 196-197.

<sup>143</sup> RangsanaThanaphonphan (2002). p. 158.

4. The problems concerning regulations of electoral process and politicians are not only how to regulate, but also how to make rules and laws acceptable by political actors. Although by all accounts the ECT served as a model of enforcement, it would be naive to conclude that the ECT could solve all problems concerning vote-buying. On the contrary, it was apparent that many violations continued to take place.

In practice, politicians found another, even a better method to commit an electoral fraud. It was reported that the ballot boxes were exchanged during transporting them to be counted at a designated place. This mechanism to prevent vote buying turned out to give birth to another type of cheats.<sup>144</sup> Methods of vote-buying and vote-rigging included ghost voters going to polls in place of eligible voters; certain candidate numbers being already marked on the ballots handed to voters; the person authorized to read out the number of the chosen candidate intentionally giving another name; and ballot boxes being replaced or opened and some ballots being removed on the way from the polling unit to the vote-counting center.

5. As for the ECT's role of managing and enforcing the political party regulations, the ECT demonstrated its authority in many ways. From the beginning, the ECT had adopted a highly interventionist approach to the elections. In the 2000 Senate election, the 2001, and 2005 general elections for Members of the House of Representatives, the ECT had forced re-election in several constituencies, and disqualified many candidates involved in vote-buying or rigging, by giving yellow and red cards. It had sent party dissolution requests to the Constitutional Court because those parties failed to abide by the regulations.

That being said, the expansive powers granted to the Election Commission to regulate parties' activities, organize elections and investigate election disputes had always been a source of controversy in every elections. The biggest concern was the fear for arbitrary enforcements and selective efforts to harm a particular party or candidate. Given the tight timeline for the ECT to view evidences and decide on the electoral fraud charges, it was impossible for them to make unquestionable decisions.

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<sup>144</sup> Interview with Udom Kraiwattanusorn, a former TRT's MP from Samut Sakorn, and executive party member. January 16, 2013.

6. The effort of electoral reforms was full of contradictions, especially when it came to an attempt to build a strong and viable party system. It seemed at first that the 1997 Constitution had made it easier for political parties to emerge. Only fifteen members could set up a political party (Section 328). And unlike before, a party was not automatically dissolved if none of its candidates got elected.<sup>145</sup> Yet, there were also several articles in the Act that made it difficult for small parties to survive or be successful in contesting the elections. This could be seen in the Organic Law on Political Parties and the Organic Law on Elections, which empowered the ECT with oversight authority for applying stringent regulations for the operations of political parties.

The membership and branch requirements had proved to be unrealistic. The fact indicated that from the establishment of the election commission in 1998 to oversee the operation of political parties, fifty-one parties were terminated through 2004. The reason most frequently cited for party termination was that parties were unable to record 5,000 members and four branches within 180 days after registering with the election commission.<sup>146</sup>

In reality, political party local units and membership rarely existed in Thailand. This was not a unique characteristic of Thai political parties. Political parties' increasing detachment from society is a topic of concern in the study of political parties around the world, including in the United States, Western Europe and Asia. Declines in party membership worldwide have been documented since the early 1980s.<sup>147</sup> In Thailand, although political parties in large cities did have some party branches, their organizational activity was confined to practical purposes of electoral campaigning. More significantly, the notion of membership remained extremely vague. All the parties claimed a certain number of registered members since it was required by law, but conceded that they did not maintain membership records and that the annual payment of dues was an exception rather than the rule. Thai political parties in actual practice were essentially what Riggs refers to

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<sup>145</sup> The former Political Parties Act of 1981 contained several articles that would cripple small parties. Specifically, a party must be dissolved if it failed to send candidates to contest at least half of all seats in the House, or was unsuccessful in getting their candidates elected. Thus, small parties usually found it difficult to have enough financial backup to meet these requirements. This article implied that a political party must be a national and not just a regional party.

<sup>146</sup> Journal of Political Party Relations, the Election Commission of Thailand. 8, Vol. 6, 2003, p. 7.

<sup>147</sup> Peter Mair and Ingrid van Biezen (2001. "Party Membership in Twenty European Democracies, 1980-2000," *Party Politics* 7 (January), pp. 5-21.

as “affiliation-oriented”; individuals can join parties without any extensive prior screening and they need not pay dues to remain in good standing.<sup>148</sup> At the end, the operation of a party depended on influential persons (whose name, prestige, and connections could provide a backing for candidates and secured them votes), canvassers and experts (who knew how to handle the electors and how to organize a campaign), and financiers (who could provide financial resources for the campaign) to strengthen its party activities. These people, at times, were defectors from other parties.

In addition, the incentives for party building also had negative effects on small parties. Parties with a small number of MPs were faced with obstacles in introducing a bill. The 1997 Constitution mandated that a member of the House of Representatives may introduce a bill or an organic law bill only if the political party of which he or she was a member had passed a resolution approving the introduction thereof and the bill was endorsed by not less than twenty members of the House of Representatives (Section 169). Therefore, small parties, sometimes, could only circumvent these restrictions imposed by law and the constitutions by merging with a larger party.

### **3.10 Implications of the 1997 Electoral Reform**

Like it or not, the 1997 electoral reform was the first crucial step in transforming Thailand into new modes of political competition with a new meaning of party politics. The followings are the new inclination arose from the introduction of the 1997 electoral reform.

#### **1. Moving towards a two-party system, or even one-dominant party system**

This statement was verified by the fact that effective number of parties in the legislature fell dramatically from an average of 6.2 before 1997 to 3.1 in 2001 and 1.6 in 2005. The obvious effect of the multi-member constituency plurality system used before the electoral reform was that most Thai political parties in the past were medium-sized parties (for example, three parties accounted for about fifty percent of MPs) and small parties were the second largest group (see Table 3.6).

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<sup>148</sup> Fred W. Riggs (1968). “Comparative Politics and the Study of Political Parties: A Structural Approach,” in *Approaches to the Study of Party Organization*, ed. William J. Crotty (Boston: Allyn and Bacon).

And since in the past, no political party ever won the majority of the MPs, these small and medium-sized parties had great bargaining power and high potential to be in the coalition government. But this was no longer the case after the changes of electoral system where after the 2005 general election, the TRT managed to control the majority seats in the House of Representatives, thus was able to form a single-party government.

**Table 3.6: Three Political Parties that Won the Most Seats in General Elections, 1975-2001**

<u>Election Year</u>	<b>Parties with the most seats (%)</b>	<b>Parties with the second most seats (%)</b>	<b>Parties with the third most seats (%)</b>	<b>Numbers of Parties with less than 20 seats</b>
January 26, 1975	Democrat	Social Justice	Chart Thai	
269 seats	72 seats 26.76%	45 seats 16.72 %	28 seats 10.4 %	19
April 4, 1976	Democrat	Chart Thai	Social Action	
279 seats	114 seats 40.8%	56 seats 20.07%	45 seats 16.12%	15
April 22, 1979	Social Action	Chart Thai	Democrat	
301 seats	83 seats 27.57 %	38 seats 12.62 %	32 seats 10.63 %	7+ 63 Independents
April 18, 1983	Social Action	Chart Thai	Democrat	
324 seats	92 seats / 28.39 %	73 seats 22.53 %	56 seats 17.28 %	6
July 27, 1986	Democrat	Chart Thai	Social Action	
347 seats	100 seats 28.81 %	63 seats 18.15 %	51 seats 14.69 %	10
July 24, 1988	Chart Thai	Social Action	Democrat	
357 seats	87 seats 24.37 %	54 seats 15.12 %	48 seats 13.44 %	9
March 22, 1992	Samakkidham	Chart Thai	New Aspiration	
360 seats	79 seats 21.94%	74 seats 20.55%	72 seats 20%	5
September 13, 1992	Democrat	Chart Thai	Chart Pattana	
360 seats	79 seats 21.94 %	77 seats 21.38 %	60 seats 16.66 %	5
July 2, 1995	Chart Thai	Democrat	New Aspiration	
391 seats	92 seats 23.53 %	86 seats 21.99 %	57 seats 14.57 %	5
November 17, 1996	New Aspiration	Democrat	Chart Pattana	
393 seats	125 seats 31.80 %	123 seats 31.29 %	52 seats 13.23 %	6
January 6, 2001	Thai Rak Thai	Democrat	Chart Thai	
500 seats	248 seats 49.60 %	128 seats 25.60%	41 seats 8.20%	4
February 6, 2005	Thai Rak Thai	Democrat	Chart Thai	
500 seats	377 seats 75.4 %	96 seats 19.2 %	25 seats 5.0 %	1

Source: Author's calculation based on data from the Secretariat of the House of Representatives and the Election Commission of Thailand.

On this point, it should be cautious that the number of small parties in parliament has been decreasing significantly since the July 1988 general election. In four consecutive elections before the 2001 election, there have been only five to six parties with fewer than twenty MPs.

**2. The increased importance of party labels and party leaders in electoral politics** For the first time in Thai electoral history, political parties, led primarily by the TRT, put significant effort into developing coordinated party-centered electoral strategies. Parties began to differentiate themselves in terms of their policy platforms and their commitment in implementing them. Among the notable policies were the THB30 (about US\$ 0.70) per visit universal healthcare scheme, and the *Ua Arr-torn* (We Care) program served to boost the government's popularity among the urban poor with handouts of low-priced goods and services such as houses, apartments, motorcycles, and insurance policies. Economic reorientation directed at grassroots activities and domestic markets to assist farmers and workers. These reorientation included providing one million baht (US\$30,000 funding from the Government Saving Bank) to each of Thailand's 77,000 villages, a three-year debt moratorium for farmers owing US\$2,500 or less to the state-run Bank of Agriculture and Agricultural Cooperatives (BAAC), a government-promoted One *Tambon* (sub-district), One Product (OTOP) scheme to encourage entrepreneurialism, small- and medium-sized business in provincial areas. All these were microeconomic policies aiming at rejuvenating the rural sector. The Thai Asset Management Corporation was developed to restructure the debts of commercial banks and to help them on their nonperforming loans (NPLs).<sup>149</sup> Perpetual social problems such as illegal drug were vigorously addressed, local bosses were neutralized, and the underground lottery rackets were brought into the national lottery system.

Moreover, unlike previous elections where parties settled to being part of a government coalition, they competed to win the right to form a government. During the 2005 general election TRT claimed that "a vote for TRT was a vote for Prime Minister

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<sup>149</sup> The problem of NPLs was a result of the 1997 financial crisis when many banks were encumbered with bad loans. The debt-restructuring program that helped approximately 15,000 debtors consumed the budget of more than THB767 billion.

Thaksin Shinawatra to lead the country with his particular style of leadership.”<sup>150</sup> The Democrat and Mahachon parties also put forward their leaders as Thailand’s next prime minister.<sup>151</sup> A critical issue regarding electing the government leader under the PR system was that an elected party leader, like Prime Minister Thaksin, could claim a popular mandate more than ever before because he was elected from voters of the whole Kingdom of Thailand. Moreover, Prime Minister Thaksin declared on many occasions prior to the 2005 elections, such as during the Thai Rak Thai’s Annual Meeting in April 27, 2003 and the party’s seminar for election preparation in December 27, 2003, that TRT will be the only party forming the government in many long years. Such a high approval rating and an assertive leadership style were seen as a challenge to the traditional power of Thailand.

**3. A significant change in parties’ strategies and electoral campaigns** Political parties could no longer focus on geographic and regional areas as they did in the single-member constituency electoral system. To win in the party list votes, they needed to wage a national campaign. We had witnessed that the government ministers, and prominent party figures for non-government parties accompanied constituency candidates in campaigning across the country.<sup>152</sup> For that reason, party strategies and election campaigning are inevitably influenced by electoral laws. And because in the proportional representation system, electoral messages must be targeted at voters everywhere, and not purely in areas of party’s strongholds, one of the significant implications of the change was greater reliance on television as the predominant conveyor of campaign messages to voters.

Furthermore, under the PR system party leaders had steadily gained control over the candidate selection process. In the multi-member constituency electoral system, prior 1997 Constitution, MPs got votes from their good deeds at the local level. Accordingly, political standing of the candidates was not controlled by party leaders. To a large extent, parties’ candidates were pre-picked by faction leaders. MPs under the proportional representation, instead of being responsible for addressing the needs of specific localities,

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<sup>150</sup> *Bangkok Post*, January 31, 2005.

<sup>151</sup> The leader of the Chart Thai party, on the contrary, stood as a constituency candidate, foregoing the opportunity to become prime minister and showing the party’s willingness to ally with other major parties.

<sup>152</sup> *The Nation*, January 30, 2005.

their political careers depended primarily on satisfying their party's leadership, which determined their ranking on the party list for the election.

**4. The widening role of the mass media in elections and the professionalization of electoral campaigns** The use of the mass media to convey campaign messages was not a significant factor in Thailand's electoral exercises before the 2001 general election. Before the 1995 general election, political advertisements were not even permitted on television. However, changes in the law and technological advances in radio, television, mobile telephone, and the Internet, had given political parties and the electorate with new and powerful information capabilities with dramatic consequences. These changes altered patterns of communication, social interaction, and raised the political parties' and their leaders' ability to communicate. Specifically, these changes enabled centrally created messages and programs to be transmitted to large communities, thereby creating larger audiences for party politics.

In 2000, with 90.6 percent of Thai households having a television according to the 2004 data of the National Statistics Office (up from 67.9 percent in 1990) and with use of radio in decline (from 81.3 percent in 1990 to 76.7 in 2000), parties had made television coverage an essential part of their campaign. During the 2005 campaign period, TRT benefited most from television coverage. A survey conducted by ABAC Poll between January 26-30, 2005 found that during evening news programs on six free television channels, news about TRT's campaign activities appeared most frequently (270 times) followed far behind by the Democrat Party (160 times), and the coalition party, Chart Thai (102 times).<sup>153</sup>

The new and remarkable transformation of how electoral campaigns were done during the 2005 election was seen in the increased reliance on professional agency and media advertising companies to promote and publicize parties' activities, performance and platform. The media-oriented campaigns with its general theme, slogans and symbols were formulated based on careful research of the audience's listening, reading, and especially, viewing habits. Media campaign plans included themes, unified messages, and color schemes that cover everything, from the fraction-of-a-page newspaper advertisement to the color of a poster's backdrop.

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<sup>153</sup> *The Nation*, February 2, 2005.

**5. The use of policy platform as vote-getting tool** Since the success of TRT in using policy platform as vote-getting strategy in the 2001 general election, Thai political parties were trying to propose to the electorate clearer platforms and programmatic policies. Though when critically examined, all these policies manifested populist tendencies. Before, all parties' policies looked alike and sounded alike. But TRT developed policies that were clear, concise and designed to appeal to all sectors in the society. In other words, TRT was able to convert voters' prismatic urgent demands into specific policy alternatives and give them political expression during the campaign period.

### **3.11 Conclusion: Beyond or Less than Expectations?**

During almost nine years of using the 1997 Constitution certain aspects in solving political problems in the past were succeeded; various arrangements, and innovative regulations of the 1997 electoral reform operated as envisioned by the Constitutional drafters, especially a strong intent to break the cycle of unsteady, insecure coalition administration, and to create a stable, policy-oriented government in its place. After only four years of implementing, Thailand had witnessed, unprecedentedly, a coalition government that could finish a full-four year term, and then a single-party government with executive stability.

However, as many said that the 1997 electoral reform were full of contradictions,<sup>154</sup> the reform achievements, thus, were seen as ambiguous and inconsistency. It appeared that in the area of stability, the consequences of actual practices and operation of the electoral reform exceeded initial intentions and expectations, while the reformist aspirations for accountability in governance and people participation were not as accomplished. The biggest surprise beyond the expectations of the electoral architects was the moving toward a single-party dominant with majoritarian dynamic. Within this context, the ruling TRT party and governments were criticized of being too powerful, while a self-assured party and government leaders were exposed to limited scrutiny. The first elected Senate was denounced of being full of the wives, children, cousins, and associates of politicians, as well as a large contingent of the government officials, many with close ties to party leaders and cliques of Members of House of

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<sup>154</sup> See for example Duncan McCargo (1998). "Alternative Meaning of Political Reform in Contemporary Thailand," *The Copenhagen Journal of Asian Studies* 13, pp. 5–30; Michael Kelly Connors (1999). pp. 202-206.

Representatives. Thus, instead of acting as “a dog watcher institution” and maintaining itself above politics position as assigned,<sup>155</sup> the elected Senate was mostly drawn to play a supporting role for the executive branch. This might reflect the problem of accountability and system of checks and balances; a dimension that seemed to be the weakest point in the 1997 electoral reform.

Furthermore, some rules and regulations under the 1997 electoral reform had led to redundant and unpredictable circumstances, i.e., the candidates’ education requirement, several unsuccessful attempts to curtail vote-buying and electoral frauds, and political parties’ obligations. In addition, institutional disparities designed in an endeavor to complete electoral reform had resulted in a significant inequity in people’s abilities to participate in various organizations, or to participate as equals. At the same time, the problems regarding institutionalization of political party entrenched in a nature of business politics seemed to be more intensified, while the equilibrium between solidity and leadership of the prime minister, and checking and balancing systems had been trembled.

It turned out that all these novel conversions were not what elite and conservative elements in Thailand were looking for.<sup>156</sup> Sadly and unfortunately, the result of dissatisfied reform led to another round of electoral engineering, a topic that will be discussed in the next chapter.

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<sup>155</sup> Roland Rich (2013). “Thailand- who will guard the guardian?,” in *Parties and Parliaments in Southeast Asia: Non-partisan chambers in Indonesia, the Philippines and Thailand* (New York: Routledge) pp. 83-130.

<sup>156</sup> Alex Martinez Kuhonta (2008). “The Paradox of Thailand’s 1997 ‘People’s Constitution’: Be Careful What You Wish For,” *Asian Survey* XLVIII, No. 3, pp. 373-392.

## Chapter IV

### **The 2007 Electoral Reform: An Attempt to Divert the Previous Effects**

The struggle among elite classes to take control of the direction of electoral system changes testified to the fact that to gain political power in Thailand, it is imperative to fight for electoral success. The process of electoral reform and electoral system changes in Thailand were brought about by different channels and initiated from various environments. This chapter explains how and why the 2007 electoral reform was instigated and also attempts to depict the consequences of the reform on the development of Thai politics.

#### **PART I: Background, Process, and Public Participation**

As shown in Chapter 3, the establishment of the Thai Rak Thai (TRT) Party in 1998 was quite a phenomenon which since then has led to crucial transformations of Thailand's political competitions and environments. For the record, the first Thaksin government, a coalition between TRT and Chart Thai Parties, made history by being the first elected administration to complete a four-year term, and after the 2005 general election, TRT became a single-party administration, the first time since 1957. While TRT was successful in terms of electoral politics, its leader, Thaksin, was accused of abusing the country's system of checks and balances and bending government policy to benefit his family's businesses.<sup>157</sup>

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<sup>157</sup> It was reported that from 2003-2004, the Shinawatra family were Thailand's largest stockholders, with holdings of THB31.54 billion (about US\$ 90 million) in the stock market. This was a more than seventy percent increase from their stock shares in the previous year. Deputy Minister of Interior and Thai Rak Thai party's executive board member, Mr. Pracha Maleenon and his family were second behind the Shinawatras in riches, with combined stock holdings of THB20.58 billion. The Damaphong family, ex-PM Thaksin's in-laws, came third with THB15.26 billion.

## 4.1 The Background

One year after the 2005 electoral landslide victory by TRT, discontent among the Thai middle class against the Thaksin administration grew quickly. A coalition of protestors against ex-PM Thaksin called the People's Alliance for Democracy (PAD), led by media-mogul Sondhi Limthongkul, was a chief player in Thailand's 2005-2006 political struggles. On February 24, 2006 Thaksin dissolved the parliament just a year after being re-elected. He then called for a new House election on April 2, 2006. The April election was boycotted by the opposition, leading to unopposed TRT's candidates for thirty-eight seats failing to get the necessary quorum of twenty percent of eligible votes required by the Constitution. On May 8, 2006, the Supreme Court disqualified the April election (The decision no. 9/2006) and later jailed three members of the Election Commission who were found guilty of arranging the ballot boxes in a fashion that favored the government.

The September 2006 coup d'état, led by General Sonthi Boonyaratglin, brought an end to Prime Minister Thaksin Shinawatra's government. The military junta offered several justifications for the coup, including the Thaksin government's alleged creation of an "unprecedented rift in society:" plans to provoke violence; corruption; nepotism interference in independent agencies and insults to the King. Following the ouster of the Thaksin administration, the junta took several major actions: they asked to be called the Council for Democratic Reform under the Constitutional Monarchy (CDRM/CDR); declared martial law; repealed the 1997 Constitution; dissolved both Houses of Parliament, the government and the Constitution Court; ordered restrictions on broadcasting and the press, television, radio, press and the Internet placed restrictions on political meetings and political parties, as well as on freedom of expression in the form of public gatherings; and barred the establishment of new parties. In May 2007, the TRT was disbanded by the Constitutional Tribunal's verdict on the April 2006 electoral fraud charges, and its 111 party executives, including Thaksin, were banned from running for political posts for five years.<sup>158</sup> Notably, the Democrat Party was also charged by the Constitutional Tribunal, but was acquitted of all charges.

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<sup>158</sup> TRT was found guilty of conspiring to gain administrative power by illegal means. The verdict found two key executive members guilty of hiring two parties to illegally amend their party

An interim charter was promulgated on October 1, 2006 and retired General Surayud Chulanont, a member of Privy Council, was appointed the 24<sup>th</sup> Prime Minister of Thailand. On October 12, 2006, the king appointed a 242-member National Legislative Assembly (NLA), a new body which acted as the country's parliament. Under the interim charter, the Assembly could question cabinet members on policy but had no power to remove them from office. It was widely criticized for being dominated by military leaders with critics calling it a "rubber stamp" and a "chamber of generals".<sup>159</sup>

#### 4.2 The Process

The 2007 Constitution drafting process was harshly criticized. It was rather obvious that the junta promulgated an interim charter with an aim to keep control over the drafting process for the new constitution. With the aid of Sections 19, 20, 22 and 24 of the Interim Charter B.E. 2549 (2006), the Council for National Security (CNS), as the junta renamed themselves, controlled the process of choosing the essential group of commissioners who were to draft the constitution. Regarding the constitutional drafting ritual, the process was as follows:

The process began in December 2006. At first, the CNS appointed a 2,000 member National Assembly<sup>160</sup> which in seven days had to select 200 members to be candidates. Then the Council of National Security picked 100 members out of 200 to the Constitution Drafting Assembly (CDA) to be royally appointed. Noranit Sethabutr, a former rector of Thammasat University was selected CDA Chairperson. The 100 CDA members appointed twenty-five members of a Drafting Committee who could not be CDA members. The Chairman of the CNS appointed another ten members.<sup>161</sup> In essence, the thirty-five drafters comprised the Constitution Drafting Committee (CDC) in charge of drafting the constitution. Members of the Constitution Drafting Committee (CDC) were required to be

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membership records to meet a requirement that a candidate must be a member of a political party for not less than ninety days, thus allowing the parties' candidates to compete in the election in constituencies where TRT's candidates previously ran without a challenge from other parties. According to the 1997 Constitution, if only one candidate contested an election, that candidate needed a necessary quorum of twenty percent of eligible votes to be pronounced the winner.

<sup>159</sup> *The Nation*, October 12, 2006.

<sup>160</sup> With qualifications as follows: 1. Thai nationality by birth 2. Not less than eighteen years of age.

<sup>161</sup> Legal Office, Office of Secretariat of the Senate.

either a university lecturer, or have held a position equivalent to a director-general, or a former senator or a member of parliament. The CDC was chaired by Prasong Soonsiri, former National Security Council Head. Somkit Lertpaithoon of Thammasat University and Charas Suwanmala, Dean of the Political Science Faculty, Chulalongkorn University, were among the CDC members.

This process gave the junta complete control both over the drafting process and its outcome. As an example, Section 32 of the Charter gave the CNS the power to hold a joint meeting with the Council of Ministers in order to select and revise any one of the previous constitutions of Thailand and present it to the King for Royal Signature and subsequent promulgation as the new constitution. During the drafting period, General Sonthi raised several core issues for the drafters to take into consideration while shaping the draft constitution. Among other issues, he wanted the commissioners to restrict the prime minister to serving a maximum of two terms, to make it easier to launch a vote of no confidence and to transform the Senate from an all-elected body to an organ which was largely appointed by a selection committee.

The drafters finally met the 180 days deadline and largely complied with the junta's guidelines.<sup>162</sup> On August 19, 2007, Thailand's first-ever constitutional referendum was organized and subsequently endorsed the country's 18<sup>th</sup> Constitution. The final count of ballots cast in the 2007 plebiscite found that based on a 57.61 voter turnout, 14,727,360 or 57.81 percent voted yes, while 10,747,441 or 42.19 percent voted no and the remainder were invalid.<sup>163</sup>

### **4.3 Public Participation**

Although the CDC was required to explain the differences between the 2007 draft and the 1997 Constitution, to present the draft to major state agencies and universities and to promote and hold public hearings, the involvement of the general public was limited. The role of political parties in the drafting process was also restricted; only four party

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<sup>162</sup> Chawana Trimas (2006). "Rattatamanoon mai kong Thai kap korsanue naikarn sang kwam samart tang karnmuang karn pokrong pratate," (Thailand's new constitution and the recommendation to build governing capability for the country) in *The Compilation of Academic Articles, Series 6*. (Bangkok: Office of the Constitutional Court).

<sup>163</sup> Data provided by the Election Commission of Thailand.

representatives were allowed to take part, and parties' comments and observations were hardly taken into account.

The interim constitution specified that the draft constitution had to be ratified by a public referendum.<sup>164</sup> To accommodate that requirement, on July 31, 2007 nineteen millions copies of the constitutional draft were published and disseminated to the public. The referendum voters were given only nineteen days to read and comprehend 309 Sections, a total of 196 pages of the 2007 Constitution before the referendum day August 19, 2007.<sup>165</sup> However, one must bear in mind Section 32 of the Interim Charter would have allowed the junta to adopt any of the previous Constitutions of the Kingdom of Thailand if the people had rejected the proposed new Constitution. In addition, the interim government passed a law that made criticism of the draft or opposition to the constitutional referendum a criminal act. From July 2007 onward, the ban against campaigning criticisms of the Constitution was enforced. Still, there were a few campaigns to "Vote No," such as the one organized by progressive public intellectuals under the name "the People Front."<sup>166</sup> However, political parties were not allowed to persuade voters to cast ballots for or against the proposed Constitution, and on the day of the referendum people in thirty-five provinces were under martial law. As the Asia Human Rights Commission (AHRC) put it, "Even if the law was to be amended to allow 'factual' campaigning on the referendum, it is clear that the main purpose of the law is to intimidate and silence persons who don't share the official view."<sup>167</sup>

By contrast, the administration, by using significant public funds, strongly advocated a "Yes" vote, which also ostensibly offered the prospect of an early general election and a handover to a civilian government. In August 2007, Prime Minister Surayud Chulanont led cabinet ministers, senior government officials, and 100,000 people dressed

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<sup>164</sup> This innovation was first suggested in the draft 1974 Constitution, but was rejected by a royally-appointed Constitutional Convention.

<sup>165</sup> The 2006 Interim Constitution stipulated that the referendum must be held in no sooner than fifteen days, but no later than thirty days once the draft was completed.

<sup>166</sup> Rattapong Pinyosopon. "Prachamati: rab ruh mairup rangrattatamanoon 2550 yutitam jing ruh?" (The Referendum to approve the 2007 Constitution: yes or no, is it really fair?), in *Prachatai*, August 8, 2007. <http://prachatai.com/journal/2007/08/13774>. (Accessed December 5, 2012).

<sup>167</sup> Daniel Ten Kate, "Thailand on Spin Cycle," *Asiasentinel*, July 11, 2007. [http://www.asiasentinel.com/index2.php?option=com\\_content&do\\_pdf=1&id=574](http://www.asiasentinel.com/index2.php?option=com_content&do_pdf=1&id=574). (Accessed June 29, 2014).

in yellow from seventeen central provinces in a referendum campaign rally. In trying to gain support for the referendum, the CNS ran a campaign with the slogan “*Love the King. Revere the King. Vote in the referendum. Accept the 2007 draft charter.*” At the end of one-year transitional period under the control of a military junta, the general election was held on December 23, 2007.

## **PART II: Elements and Intentions of the 2007 Electoral Reform**

The 2007 Constitution and subsequent organic laws on elections, political parties, and the Election Commission yielded a number of controversial changes with hopes to amend the effects of the previous reform. Many of these changes were aimed at weakening the executive branch and the elected bodies in the parliament in reaction to the TRT’s considerable influence.

### **4.4 Electoral System Change under the 2007 Constitution**

The Constitution set up a new electoral system. As discussed in Chapter 2, under the 1997 Constitution, the House of Representatives was elected in single-member district (SMD--400 members of parliament) and through a proportional representation system (PR--100 members of parliament) based on a nationwide constituency. The new constitution maintained the number of 400 MPs elected under the multi-member district system (MMD) and reduced the number of representatives elected under the proportional system to eighty by introducing eight electoral zones, ten MPs each.

#### **1. The Electoral Zones of the PR System and the Termination of the Five Percent Threshold**

In the PR system, all provinces were grouped into eight provincial clusters, each of which was considered a constituency with ten representatives. Each provincial cluster consisted of adjacent provinces, and all provincial clusters had similar total populations. One province could only be in a single constituency, not shared by two or more clusters. In this system, each voter chose one political party, and the ten members from a provincial cluster were determined in proportion to the number of votes each party received.

The apportioning of provincial clusters was seen by some as a means to destroy some political parties' voting bases, while favoring other parties by mixing unlikely provinces from different regions together. For example, Constituency 2 combined Khon Kaen and Chaiyapoom in the Northeastern region with Nakorn Sawan, Utai Thani, and Pijit in the lower North region; Constituency 5 put together Nakorn Ratchasima, Sra Kaew, a Northeastern province with Rayong, Chonburi and Nakorn Nayok provinces in the Eastern region; and Constituency 7, the most dubious, lumped Southern provinces such as Chumporn and Prajuab with Supanburi, Angtong, Shingburi, the stronghold provinces of the Chart Thai party.<sup>168</sup> The Democrat Party seemed to take the biggest advantage from this arrangement because essentially the electoral bases of TRT and Chart Thai were diluted by this gerrymandering.<sup>169</sup>

The 1997 Constitution's requirement that parties must win at least five percent of the votes from the party lists to secure representation in the House of Representatives, a provision which put small parties at a disadvantage, was removed. Additionally, the 2007 Constitution *suggested* that every political party must base the selection of its candidates on equality of sex, among other factors. However, no political parties observed and abided by this requirement.

## **2. Return to the Multi-Member District System (MMD)**

The single-member district, plurality system introduced in the 1997 electoral reform was seen as among the major causes of the rise of the TRT's single-party government. This system provided a clear-cut choice for voters between two main parties, thus giving the advantage to the largest party, clearly favoring the TRT. In this light, the single-member constituency under the 1997 Constitution built in disadvantages for third and minority parties. More significantly, this state of affairs was blamed for establishing strong cabinet administrations which were too strong unrestrained by coalition partners' bargaining power. An overly strong TRT government was not what the elite class had ever bargained for.

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<sup>168</sup> See the resolution of the Election Commission of Thailand in the meeting no.90/2550, announced October 26, 2007.

<sup>169</sup> The Democrat Party's leader considered the change to the electoral system an improvement on the 1997 Constitution. "Draft gets Democrats' Vote," *The Nation*, July 9, 2007.

Therefore, the 2007 Constitution reintroduced the multi-member constituency system calling for 400 MPs -- the system that had been in place for a long time before it was replaced by elections on a single-member constituency basis, as stipulated in the 1997 Constitution. Under Thailand's MMD system, each constituency had one to three representatives. Any province that was represented by three House members was considered one constituency, but a province that had to be represented by more than three House members would have more than one constituency. If, however, there were not enough representatives for a constituency to have three House members, a constituency could then comprise one or two representatives. The number of candidates from each political party running in a constituency must equal the number of House seats in the respective constituency. For example, if a constituency had three representatives, a political party must field three candidates, no more or less. A political party did not have to run in all constituencies. Each candidate had to choose to run either in the constituency-based election or the proportional representation system. In the constituency-based vote, the number of candidates an eligible voter could select equaled the number of representatives in his or her constituency. For example, a voter in a constituency of one, two, or three representatives could cast one, two, or three votes, respectively.

#### **4.5 The Senate: A Half Elected, Half Selected Chamber**

The military junta's view was that the directly elected Senate under the 1997 Constitution was a source of nepotism among politicians and had contaminated its impartial image. Thus, comprehensive changes were made to the Senate, which played a vital role in nomination of the independent organizations and impeachment of elected officers.

Initially, the military government proposed that the entire upper house of the parliament-- that is, the Senate, should be appointed. Widespread public opposition, along with strong criticism from both the TRT and Democrat parties, was able to force a compromise, which resulted in a crossbreed system. The total of 200 senators under the 1997 Constitution was reduced to 150 members, seventy-six of whom were directly elected, using the first past the post electoral system in which a province was counted as a single constituency with every province being represented by one senator. The remaining seats were filled by appointees selected by a seven-member Senate

Selection Committee.<sup>170</sup> In essence, these senators would be selected by the people they were expected to approve when assuming positions on the independent commissions. In other words, the senators and the independent agencies chose each other. This new rule of partially selected Senate was largely seen as an outright conflict of interest.

Both the 1997 and 2007 Constitutions mandated that senators had to be at least forty years old and hold at least a Bachelor's degree (Section 115, Constitution 2007). The 2007 Constitution also maintained a requirement that a senator could not be a member of a political party, was to serve for a term of six years, and to serve for a two consecutive term was forbidden (Section 117, and 115, the 2007 Constitution). Similar to the previous constitution, the 2007 Charter stated that the Senate could remove government officers by three-fifth votes (Sections 270-74). And Section 271 stipulated that 20,000 eligible voters could petition the Speaker of the Senate to remove high ranking government officers, including the prime minister, while the 1997 Constitution did not allow for such a removal request by the people. To prevent the so called "husband and wife parliament," whereby lawmakers from the same family clan were elected to both the House of Representatives and the Senate, the 2007 Constitution required that a senator must not be an ascendant, a spouse, a son, or a daughter of an MP or a person holding a political position (Section 115, the 2007 Constitution).

#### **4.6 Electoral Regulations and Mechanisms of the 2007 Constitution**

The electoral reform under the 2007 Constitution retained a system of compulsory attendance at elections. This measure was complemented by allowing those who resided outside their hometowns to vote, with a condition that these people must register for early-voting. The 2007 electoral reform also kept the requirement that a qualified voter must have his or her name appear on the house register in the constituency for not less than ninety days before election day. However, in addition to keeping several elements of the electoral system, several changes in the rules and

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<sup>170</sup> The Committee, heavily influenced by the Judicial branch, was composed of President of the Constitutional Court, Chairman of the Election Commission, Chairman of the National Counter Corruption Commission, Chairman of the State Audit Commission, Chairman of the Ombudsman, a Judge of the Supreme Court of Justice, and a Judge of the Supreme Administrative Court. It was noteworthy that the judiciary had a duty to appoint the senators and the Senate had a right to impeach the court judges.

regulations governing elections and the electoral operations were instituted by the 2007 electoral reform. The significant modifications are as follows:

**4.6.1 The abstention option and the twenty percent of votes requirement** The 2007 Constitution maintained the 1997 Constitution's requirement that if there was only one candidate running for an election, such candidate must receive at least twenty percent of the total number of voters in that constituency. But the Organic Act on Election of Members of the House of Representatives and Installation of Senators B.E. 2550 (2007), Section 88 (2) went further by stipulating that the certified winner must obtain a total number of votes that exceeds votes cast on abstention ballots.

**4.6.2 Candidate qualifications** The 1997 Constitution which required that both Members of the House of Representatives and the Senate hold a Bachelor's degree or its equivalent. Faced with harsh criticism that such a prerequisite reflected a bias towards the majority poor of Thais who lacked opportunities to pursue higher education, the 2007 Constitution only required candidates for the Senate to have at least a Bachelor's degree. Under the 2007 Constitution, independent candidates running for the House of Representatives were still prohibited. A major reason for this provision was that individual MPs without party affiliation were considered a major cause of government instability. This was based on experiences in the past when independent MPs tended to demand money and other benefits in exchange for voting to support the government. On the contrary, if the opposition gave more enticement, they turned to oppose the government. Their highly volatile and unpredictable behaviors could lead to dissolution of the House of Representatives.

A notable difference between 1997 and 2007 concerning candidate qualifications was that the 1997 Constitution required that any candidate for the House must be a member of a political party for not less than ninety days before the registration date for an election. This provision aimed to prevent the bidding of MPs during the pre-election period where parties sought incumbents and rich candidates to run under their aegis. Under the 2007 Constitution, candidates for the House of Representatives needed to be a party member for merely thirty days before election day, if the elections were called after dissolution of the House thus allowing more time for candidates to "select" a party. It

was put forth that this change would lessen the influence of parties over the candidates. In other words, the 2007 Constitution made it easier for politicians to switch political parties.

**4.6.3 Counting the votes at each polling station** Under the 1997 Constitution, votes counting had to be done openly in only one designated place in each constituency after the closing of the poll. All the ballot boxes of each polling station in the constituency were transported to the vote counting center, and once all the ballot boxes arrived and were checked, the ballots were mixed and the counting started. This procedure was put in place because counting at the individual polling stations was viewed as more prone to vote buying. It was assumed that mixing all ballots before counting would deny the canvassers the means of checking how voters cast their votes in each location. Thus, voters would feel free and secure to cast their votes according to their actual political leanings.

However, the pundits and politicians alike claimed this process was very time consuming when compared to counting at the individual polling stations. Moreover, massive electoral frauds occurred while the ballot boxes were transported to the central vote counting locations. Thus, the 2007 Constitution returned to the original method of counting votes at each polling station.

**4.6.4 Support provided by the state** Support by the state for the electoral process was mostly similar between the two Constitutions; the divergence was that the 2007 Constitution mandated that there shall not be any notice or posters relating to an election for which the scope or number did not comply with the rules prescribed by the Election Commission. Furthermore, it was mandated that the ECT shall provide specific locations for posting election notices and posters in public areas owned by the state, and that those locations would be sufficient and equal for all candidates and political parties.

The 2007 law also prohibited political parties to advertise their electoral campaign on radio or television throughout the year. Instead, free media coverage would be provided by the state, via state radio and television. All political parties contesting the elections could publicize and promote party platforms and activities during the campaign period, and outside of campaign season three times a year. This measure was aimed at restraining the influence of well-funded political parties that could spend almost unlimited money buying advertising time on television to get wider public attention.

**4.6.5 The Election Commission of Thailand (ECT)** The role stipulated for the ECT was very similar in the two constitutions. Primarily the ECT was empowered to determine the limit on expenditures which, for the 2007 elections, was set at THB1.5 million (US\$ 450,000). Each constituency candidate could spend no more than THB1.5 million, and each party could spend no more than THB1.5 million multiplied by the number of party list candidates being fielded by that party. Furthermore, all expenditures had to fall within these categories: application for candidacy, employment of staff, rent, utilities, transportation, procurement, media advertising, billboards, flyers, publications, and postage.

Moreover, the ECT was given exclusive jurisdiction within the first thirty days after the elections to either disqualify winning candidates where convincing evidence indicated they had violated the election laws, informally called issuing a “red card,” or call for repeat elections without disqualifying candidates where results were in question, called issuing a “yellow card.”

**4.6.6 Incentives for Party Building** As elaborated in Chapter 3, the 1997 Constitution was Thailand’s first constitution that provided state subsidies for the development of political parties under the 1998 Political Parties Act. Revisions of the Fund for Development of Political Parties (FDP) were made under the Organic Act on Political Parties 2007 (B.E. 2550), based more on parties’ performances and electoral successes in the previous election. The annual subsidy, according to the 2007 electoral reform, was distributed based on four criteria: forty percent on the number of MPs in the House; forty percent on the number of party list votes obtained in the preceding general election; ten percent on the number of party members who paid annual membership fees; and ten percent on the number of branches the party had. The eligible political party had to put forth its candidates at the latest general election of members of the House of Representatives and receive votes on either a party list or a constituency basis not less than 0.5 percent of the aggregate of votes cast under each system.

Based on the Organic Act on Political Parties 2007, a political party could be formed by a group of at least fifteen Thai citizens not younger than twenty years old. After registering with the President of the ECT, who acted as the registrar, the

party had to recruit at least 5,000 members and establish one branch in each region of the country within 180 days of registration. If a party failed to do so, it would be dissolved by the Constitutional Court. It should be noted that Peu Pandin, Ruamjai Thai, Chart Pattana, and Machima Thippathai ran for the 2007 election without fulfilling this requirement. The requirements under Thailand's Political Parties Acts to enroll party members and set up party's branches can be analyzed from two opposite viewpoints: On one hand, they provided an impetus for political parties to develop their electoral bases and channels to create linkages with the people. On the other hand, these prerequisites made it difficult for small political parties without sufficient funds to survive; recruiting 5,000 or more party members and establish branches nationwide needed reliable resources and income, which most small parties do not have.

The FDP undoubtedly provided a good incentive for parties to register their members<sup>171</sup> and branches with the ECT in order to maximize their share of the funding, but in reality, the political parties often presented unsubstantiated, presumably exaggerated numbers of party members and branches to the ECT, while the ECT did not have the apparatus to efficiently check the reported numbers. As a consequence, the figures on membership should not be taken at face value. The ECT later revealed that some people had been reported as members of several political parties at the same time. From 2008 onward, the ECT attempted to verify reported numbers by requiring fingerprints on the application form, photos and copies of ID cards, as well as household registrations. The DP's and the CP's records of party membership had been around over two and one million, respectively. The tendency for parties to claim larger memberships could also be viewed as attempts by parties to enhance their public image and reputation as Thai intellectuals and the national media are likely to place a more positive value on the traditional notion of a mass appeal party. In essence, the parties did not recruit members

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<sup>171</sup> The concept of political party membership in Thailand is different from what it means in the West. In general, Thai political parties collect no membership fees (as do some European parties) and there is no tradition among the general public to offer voluntary service or contribute money to political parties. The DP is the only party that collects THB20 (about 60 cents) for entrance fee and THB20 for annual fee and requires its cabinet ministers, MPs and all committee members to donate monthly five percent of their salary (about THB5,000 or US\$60 ) for constituency MPs and ten percent of salary (about THB10,000 THB or US\$320) for ministers, party list MPs and committee members. The TRT and the CP did not collect an entrance fee.

for support in terms of membership fees, volunteer party work, or to broaden their pool of potential candidates, but more so as a source of political legitimization to parties.<sup>172</sup>

The TRT paid a lot of attention to building its membership base at the beginning (Table 4.1). TRT party members were drawn to the party by a direct sales method through party canvassers, prospective candidates, and MPs. As a result, in 2006, after its 2005 landslide electoral victory, the TRT's membership was as high as 14,432,383 or 32.38 percent of the electors. That year, the total number of party memberships recorded by the ECT was the highest ever. However, the TRT's membership was expunged along with the abolition of the party in 2006. Since then the party spent almost no effort on recording its membership with the ECT.

**Table 4.1: Party Membership and Party Branches, 2001, 2005, and 2007**

Party	No. of Membership (2001)	No. of Membership (2005)	No. of Membership (2007)	Party Branches (2001)	Party Branches (2005)	Party Branches (2007)
TRT/PPP	6,249,777	14,394,404	59,099	4	10	4
Democrat	2,587,992	2,825,314	2,844,178	170	195	194
Chart Thai	810,928	1,075,703	1,111,335	10	17	14
Peu Pandin	/	/	18	/	/	-
Ruamjai Thai CP	/	/	29	/	/	-
Machima Thippathai	/	/	20	/	/	-
Pracharaj	/	/	9,954	/	/	5
Mahachon	/	1,460,095	2,336,879	-	31	10
Total	9,648,697	19,755,516	6,361,512	184	253	227
Others	9,152,702	1,349,893	1,176,010	1,200	781	342
<b>TOTAL</b>	18,801,399	21,105,409	7,537,522	1,384	1,034	569

Source: Author's calculation based on data from the Election Commission of Thailand.

The Organic Act on Political Parties 2007 also stipulated that in running for the elections, parties may field as many candidates as they wish and if none of their

<sup>172</sup> Paul W. Chambers and Aurel Croissant (2010). "Monopolizing, Mutualizing, or Muddling Through: Factions Party Management in Contemporary Thailand," *Journal of Current Southeast Asian Affairs* 29, No. 3, pp. 3-33.

candidates were elected, parties could continue to exist. This provision helped small parties to survive. But if the political party failed to nominate a candidate for the general election for the House of Representatives for two consecutive terms or eight consecutive years, such political party would lose its status. And in response to the merger between TRT and other parties, the 2007 act made the merger of political parties illegal.

Regarding donations to political parties, all donations had to be recorded using the form prescribed by the ECT. Donations of THB10,000 (US\$ 3,000) or more to a political party required the disclosure of donors' names for examination. In addition, a person or a juristic person could not make a donation exceeding THB10 million (US\$ 30,000) per year to one particular political party. A political party could not receive donation from a person who was not a Thai national, and Section 58 of the Political Parties Act 2007 provided voters a channel to donate money through the indication of intent on their annual personal income tax forms. Each taxpayer could identify the name of a political party to receive an annual donation of THB100 (Approximately US\$ 3.50).

Still, despite these presumed safeguards, there were always ways to make covert and illegal donations unknown to the public and the ECT.

**Table 4.2: Party Finance Figures** (US dollars)

(Numbers in parentheses are approximate percentage of total income of that party)

	<b>DP</b>	<b>CP</b>	<b>TRT/PPP</b>
	<b>2008</b>	<b>2008</b>	<b>2008</b>
Total income US\$	8,835,350	333,040	3,145,450
Specific Items (percentage)			
-Membership dues	94,894 (1.07 %)	-	-
-Party MPs	1,154,920 (13.07 %)	-	-
-Donations	6,170,109 (69.84%)	53,333 (16.01 %)	1,650,666 (52.47 %)
-State subsidies	1,415,427 (16.02 %)	279,710 (83.99 %)	1,494,786 (47.53 %)

Source: Author's calculation based on data from the Election Commission of Thailand.

**Table 4.3: Comparison of Donations and State Subsidies (US dollars)**

Year	DP		CP/CTP		TRT/PPP/PT	
	Donation	State Subsidies	Donation	State Subsidies	Donation	State Subsidies
2000	4,898,850	NA	5,049,066	NA	12,857,448	NA
2004	549,901	1,814,646	1,306,422	581,023	6,305,586	3,451,610
2008	6,170,109	1,415,427	53,333	279,710	1,650,666	1,494,786
2010	737,328	1,100,000	165,000	14,138*	500,552	14,938*

Source: Author's calculation based on data from the Election Commission of Thailand.

Note\* The small amount of state subsidies granted to the CTP and the PT in 2010 was a result of the dissolution of the CP and the PPP at the end of 2008.

To say the least, state subsidies in Thailand had not achieved much by 2010. The total amount of state funding was far too small to cover parties' expenses. In 2008, the PPP, with the most seats in the House and biggest number of party list votes, received the largest share of state funding, but it was still less than the party's reported donations (see Table 4.2). Besides, in reality the proportion between the party's donations and state subsidies was much bigger than what appeared in Table 4.3 given that illicit donations were not disclosed. The state subsidies did actually help small parties like the CP because they collected a much smaller amount of donations. As shown, state financing accounted for 83.99 percent of the CP's income, while the DP acquired more than US\$1.4 million from state subsidies; nevertheless, this sum accounted for only sixteen percent of the DP's total income because the DP reported contributions were much higher. It should be cautioned that donation figures appearing in the above tables, though provided by the ECT, did not mirror the actual donations from benefactors, which actually were far greater than those officially reported to the ECT.

Remarkably, the Political Parties Act forbids registered organizations such as labor unions, trade and professional associations to support parties or to engage in explicit political affairs such as campaigning. Thus, alliances between parties and certain social groupings were effectively curtailed which left the parties dependent on the financial hand-outs of their leaders and/or on the narrow interests that finance them. In fact, donations from party leaders and business sectors had been the main source of income for political

parties -- Some leaders were even known as Mr. or Mrs. ATM (automatic teller machine), i.e., Banham of the CP, or Khunying Pojamarn, Thaksin's ex-wife.

#### **4.7 Other Related Adjustments to Institutional Reforms**

The 2007 Constitution, the organic laws on elections, and political parties sought to regulate more political parties' activities by including relatively severe penalties for election violations. Additionally, there were some significant laws applied to politicians, the structure of government, and executive-legislative relations. They are categorized as follows:

**4.7.1 Applying more rigid rules on politicians** Party leaders, executive committee members, branch committee members, and MPs of political parties were required to submit accounts showing assets and liabilities not only of themselves, but also their spouses and any dependent children within thirty days from the date of taking office and within thirty days after vacating office. This was a significant change from the 1997 Constitution, under which wives and children under twenty were not required to declare their assets. The measure aimed to prevent corruption and provide proof of the accumulation of unusual wealth. The 2007 Constitution also prohibited politicians or their nominees from holding stocks or being the owner of media and communication companies in an obvious rebuke to Thaksin.

In addition, under the 2007 Constitutional provisions of Chapter XII, Part 2 headlined "Conflict of Interests", the PM, MPs, senators and all politicians could no longer receive any concessions from the state, a government agency or a state enterprise, hold any position in a partnership, a company or an organization carrying on business, and could not be an employee of any other person.

Lastly, Chapter XII, Part 3, stated that officials whose wealth indicated their involvement in corruption, malfeasance in office, or an intentional exercise of power contrary to the provisions of the constitution or law, or if they seriously violated or failed to comply with ethical standards, they could be removed from office by the Senate (20,000 electors or one-fourth of MPs could ask the Senate to remove a prime minister and elected politicians). These provisions also applied to certain judges and Presidents of certain courts.

**4.7.2 Weakening the executive branch and the power of the prime minister** The 2007 electoral reform created a new provision to restrict a prime minister to serving a maximum of eight years or two consecutive terms, and to prevent a government from acting as a caretaker administration after dissolving the parliament. Furthermore, the reform required that the next general election must be held within forty-five days after the House of Representatives came to the end of its term, and sixty days after the House of Representatives was dissolved. The rationale was to bind the representatives to their constituencies all the time and to shorten the time during which they could spend money. These measures were direct reactions to alleged problems of the preceding era.

Under the 1997 Constitution, a motion of no confidence<sup>173</sup> against the prime minister had to be proposed and signed by at least three-fifths of House members, while the 2007 Constitution required only one-fifth of the MPs (ninety-six MPs) to launch a censor debate against the prime minister and one-sixth of the House (eighty MPs) for a vote of confidence concerning cabinet members. And after two years, only half of the opposition parties were needed to launch a censor debate.

Furthermore, the 2007 Constitution allowed a minister to retain a seat in the House while taking a ministerial post. The 1997 Constitution was considered as giving an advantage to the prime minister in controlling the cabinet members by prohibiting the MPs from retaining their seats in the parliament while becoming members of the Council of Ministers. Because they would become ordinary citizens if sacked, they would not dare to displease the prime minister.

**4.7.3 Dissolution of political party and banning its executive members** The 2007 electoral reform made it unbelievably easy to dissolve political parties. If a senior member of a political party was found guilty of electoral crimes, the entire party was to be disbanded if that person was found to have acted on its behalf. Or a party was to be disbanded if its leaders failed to file an annual report on party activities on time. And if a party was dissolved, all the executive members of the party would be

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<sup>173</sup> Although a motion of no confidence gives members of parliament a good opportunity to attack particular ministers or the whole cabinet, no government in Thailand was ever bested by the National Assembly through a motion of no confidence. The government's majority support in parliament makes this very difficult to achieve in practice.

prohibited from entering politics for five years. This measure was intended as “strong medicine” to fight against dirty and corrupted politicians.

### **PART III: The Outcomes of the 2007 Electoral Reform**

In the December 23, 2007 general election, thirty-one political parties had registered candidates to run for the proportional-based elections, while thirty-nine parties fielded candidates in the constituency-based elections. The dissolution of TRT and the banning of its 111 executive members by the Constitutional Tribunal led to formations of several new political parties.

But, the TRT, despite being banned from politics, refused to give in; they reincarnated and contested the 2007 election under the *Palang Prachachon* Party banner (The People’s Power Party or the PPP). The PPP was led by the former Bangkok Governor, Mr. Samak Sundaravej, who was formerly *Prachakorn Thai* Party’s leader. The party comprised mostly former members of Thai Rak Thai; as many as 171 of the PPP’s candidates were Thai Rak Thai’s incumbent MPs (see Table 4.4), explaining the almost instant strength of the party.

**Table 4.4: Number of Incumbents Switching Parties before the 2007 General Election**

Incumbent Moved To	People’s Power		Peu Pandin		Ruamjai Thai Chart Pattana		Palang Pandin Thai		Pracharaj		Machima Thippa thai		Chart Thai		Democrat	
	C	P	C	P	C	P	C	P	C	P	C	P	C	P	C	P
TRT	153	18	26	3	11	3	2	2	10	1	13	13	11	2	2	2
Democrat	-	-	-	1	1	-	-	-	-	-	-	-	-	-	-	-
Mahachon	-	-	-	-	1	-	-	-	-	-	-	-	1	-	-	-
Chart Thai	2	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total	175		30		16		4		11		26		13		4	

C = Constituency level

P = Proportional Representation level

Source: Author’s calculation based on data from the Election Commission of Thailand, newspapers, and other sources.

Before the 2007 election, the Democrats were perceived as the party with a potential to lead the next government. Such perception had attracted various supporters, including; the owner of Thai Insurance Company, a long-time Democrat's patron; numerous business conglomerates such as the C.P. Group, the largest business conglomerate in Thailand which reportedly donated more than THB60 million by using different company names; the Central Group; the Singh Beer Group; and the Saha Pat Group. Although many parties were contesting in the 2007 general election, only seven parties, mostly with TRT's former executive members pulling strings from behind the scenes, were considered viable parties and got elected.

#### **4.8 The 2007 Electoral Reform and Consequences**

As stated above, the 1997 Constitution's five percent requirement, which had put small parties at a disadvantage, was removed in 2007. Changes in the electoral system were believed to promote smaller parties' election chances and erode the TRT (the PPP) electoral advantages. The 2007 electoral results (Table 4.5) demonstrate that without the five percent threshold, four smaller parties besides TRT/PPP and the DP were able to gain seats under the PR system. However, the change of the electoral system and rules in 2007 did not provide for many significant changes in electoral politics. Major electoral outcomes were as follows:

**Table 4.5: Election Results, the December 23, 2007 General Election**

Parties	Constituency			Proportional			TOTAL
	Votes	%	Seats	Votes	%	Seats	
People's Power	26,293,456	36.87	199	12,331,381	41.08	34	233
Democrat	21,745,696	30.36	131	12,138,960	40.44	33	164
Chart Thai	6,363,475	8.73	30	1,545,282	4.04	4	34
Peu Pandin	6,599,422	9.10	17	1,981,021	5.33	7	24
Ruamjai Thai Chart Pattana	3,395,197	4.70	8	948,544	2.47	1	9
Machima Thippathai	3,844,673	5.43	11	528,464	1.49	0	11
Pracharaj	1,632,795	2.21	4	750,158	1.36	1	5
Others	1,897,953	2.60	—	1,626,234	3.79	—	0
Valid votes	71,772,667	100	400	35,535,767	100	80	480
No Votes				906,216	2.32		
Invalid Votes				2,539,429	6.51		
Total Turnout				38,981,412	74.49		

Source: Author's calculation based on data from the Election Commission of Thailand.

Most votes won by the PPP came from the TRT's traditionally strong base in the Northeast, where Thailand's rural majority lives and were believed to have benefited most from the Thaksin administration's populist policies. The TRT/PPP won most seats here, ninety-seven out of 132 seats. And the TRT/PPP continued to control the North, winning forty-eight out of seventy-one seats. All the new parties (Machima Thippathai, Ruamjai Thai Chart Pattana, Peu Pandin and Pracharaj) managed to collect only five seats altogether in the northern region. The DP had had a southern base for twenty-five years and its support bases were still concentrated in the South. Thaksin Shinawatra's parties, although triumphant elsewhere in Thailand, always faced stubborn opposition in the South. The DP won forty-nine, lost only seven seats with 86.17 percent of proportional votes in the southern zone, while the TRT/PPP garnered only two seats and 8.31 percent of the PR

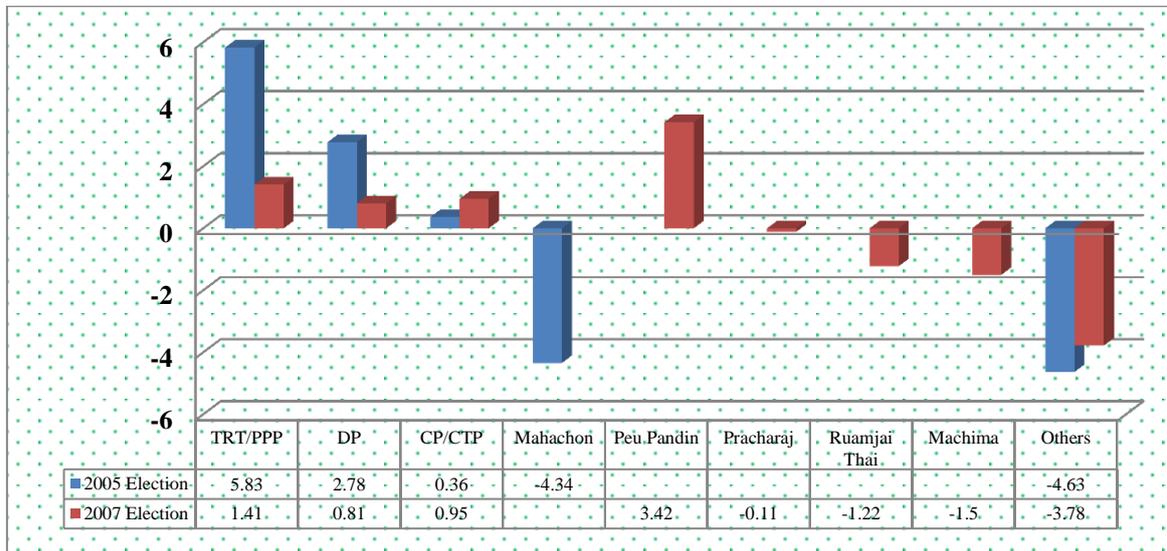
votes. Bangkok was still the battle field between the TRT/PPP and the DP. It had been considered the dead-zone for other parties since the 2001 elections, but in this election, the DP made significant gains in Bangkok, winning twenty-seven out of thirty-six seats, along with many constituencies in the eastern seaboard, and the lower North -- all areas where they had some footing in the past. The five seats won by the DP in the northeast region, specifically Ubon Rajathani and two surrounding provinces, came from candidates' personal networks and connections in their constituencies.

In general, the division of seats between the TRT/PPP, the DP and the CP copied the pattern of the 2001 and 2005 elections. However, this study finds that although the electoral system change did not result in a defeat of the Thaksin's party, it allowed the DP and smaller parties to obtain more seats. For proportional votes, besides the three parties that won the PR seats from the last general election, five more parties, namely Peu Pandin, Chart Thai, Ruamjai Thai Chart Pattana, Machima Thippathai, and Pracharaj managed to win seats from their share of votes, 5.33, 4.04, 2.47, 1.50, and 1.36 percent, respectively. If the threshold was set at five percent as it was under the 1997 Constitution, these parties' list MPs would have been eliminated, except those from Peu Pandin. Most noteworthy, unlike the two previous general elections in 2001 and 2005, this time around the DP won nearly as many proportional votes as the TRT/PPP: DP's 12,138,980 votes versus TRT/PPP's 12,331,381 votes (see Table 4.5 and Figure 4.1). Equally interesting was the advantage the TRT once benefited from the SMD was reduced when the electoral system was switched back to the MMD. A comparison of the seat and vote differences between the 2007 and the previous election revealed that only the TRT/PPP and DP were rewarded more seats than their share of constituency votes. But the big surplus the TRT/PPP used to obtain during the SMD electoral system was decreased from +22.01 to +12.88, and while the DP suffered the most under the SMD (-7.45) it gained more seats compared to its share of votes (+2.64) under the MMD (Figure 4.2).

Common characteristics shared by the four newly formed parties were that they won in constituencies with incumbent candidates (even those who formerly ran under other parties' banners) and where their parties' leaders had support bases. Outside each party leaders' strongholds, the four new parties together won only about sixteen seats via the constituency basis, and only 10.66 percent from the PR system implying that they were

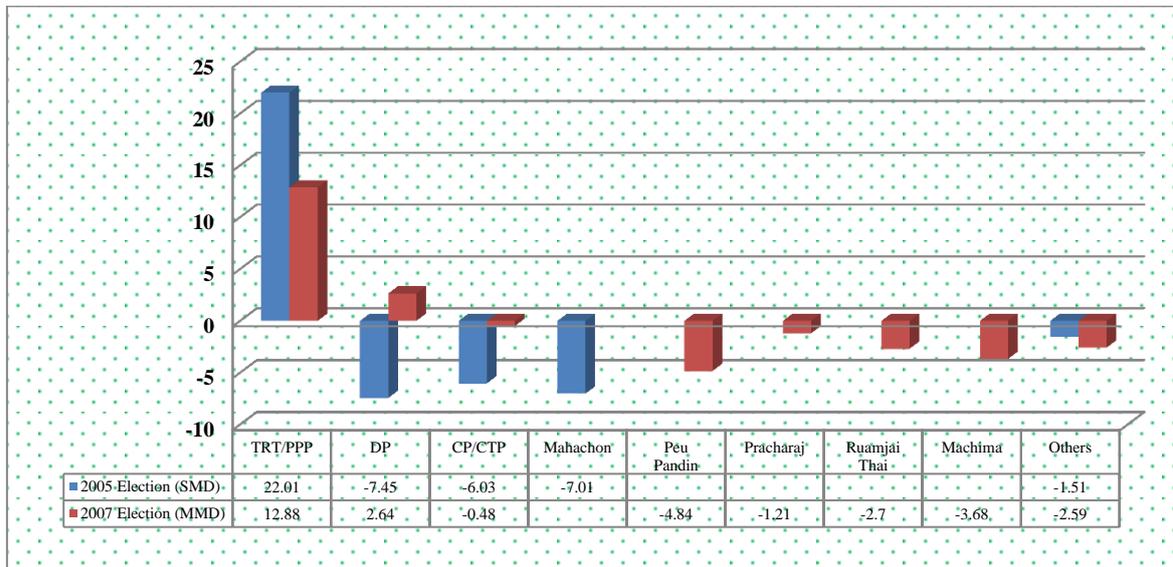
not national parties, but small chains of isolated family-owned political parties focusing in particular vicinities.

**Figure: 4.1: Seats-Votes Differences (%): A Comparison between PR with and without Five Percent Threshold**



Source: Author's calculation based on data from the Election Commission of Thailand.

**Figure 4.2: Seats-Votes Differences (%): A Comparison between SMD and MMD**



Source: Author's calculation based on data from the Election Commission of Thailand.

## 4.9 The 2007 Electoral Reform and the Senate

The April 19, 2006 senatorial election was held under the conditions of the 1997 Constitution, and this election saw a 62.5 percent voter turnout. The continued electoral victories by candidates unofficially supported by the TRT led to repulsion among the party's opponents and a great fear that the TRT could increase its domination over the Upper House. On September 19, 2006 the newly selected Senate was terminated along with the 1997 Constitution. The 2007 electoral reformers felt that Thailand's 2000-2006 elected Senate was a failed experiment. The reformers had hoped that the newly engineered system of half-elected, half-selected senators would be less partisan and more efficient in performing its duties,<sup>174</sup> but their best intentions were thwarted.

As stated earlier, according to the 2007 Constitution, the Senate consisted of 150 members. Each province was regarded as one constituency, and one senator was elected from each province. As there were seventy-six provinces in Thailand at that time, seventy-six senators were elected and each of them represented one province. The other group of the Senate was composed of seventy-four members, selected by the Senator Selection Committee, which comprised seven members. These members included the President of the Constitutional Court, the Chairman of the Election Commission of Thailand, the Chairman of the Ombudsman, the Chairman of the National Counter Corruption Commission, the Chairman of the State Audit Commission, a judge in the Supreme Court of Justice, and a judge in the Supreme Administrative Court.

**4.9.1 The elected senators** The senatorial election, as a product of the 2007 electoral reform, was held on March 2, 2008. Voter turnout was only fifty-six percent, despite a mandatory voting requirement. It should be re-emphasized that Section 115 (5) of the 2007 Constitution prohibited ancestors, spouses or children of current MPs from running as senators. Still, relatives and cronies of House members did contest the election,<sup>175</sup> and many elected senators were found to have political linkages with several

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<sup>174</sup> Paul W. Chambers (2009). "Superfluous, Mischievous or Emancipating? Thailand's Evolving Senate Today," *Journal of Current Southeast Asian Affairs* 28, No. 3, pp. 3-80.

<sup>175</sup> Sucheera Pinijparakarn. "Relatives of MPs Seek Senate Roles," *The Nation*, January 31, 2008. <http://www.nationmultimedia.com>. (Accessed June 25, 2012).

political parties.<sup>176</sup> The senatorial election outcome reflected a strong and obvious contradiction to what the electoral architects had planned and anticipated.

**4.9.2 The selected senators** The group of seventy-four non-elected senators were chosen by a selection panel. Nominations for these seats were made by five professional groups: 1) the Government and Former Bureaucrats sector; 2) the Academic sector including the Foundation of Oct 14; 3) the Professional sector; 4) the Private sector; and 5) others, such as the Southern People’s Association. Then a panel appointed by the Electoral Commission inspected the nominees’ credentials before forwarding the nominations to the selection panel. On January 2, 2008, the Election Commission endorsed the seventy-four senators selected from the nominations. The selected senators were considered to be very close to the outgoing military administration

**Table: 4.6: Occupational Backgrounds of Elected and Selected Senators, 2008**

	<b>Bureaucrats</b>	<b>Business People</b>	<b>Politicians</b>	<b>Others</b>	<b>Total</b>
<b>Elected</b>	34 (Military/Police 9)	17	19	6	76
<b>Selected</b>	45 (Military/Police 14)	17	0	12	74
<b>Total</b>	150				
	Male 126		Female 24		

Source: Author’s calculation based on data from the Secretariat of the Senate.

One can deduce that half-elected, half-selected Senate was a backward move for democracy and that the traditional bureaucracy and the military had regained significant influence over the Senate (Table 4.6).

<sup>176</sup> Manop Thip-osod and Mongkol Bangprapa. “Upper House: Speaker’s Post Already Sparking Big Divisions,” *Bangkok Post*, March 4, 2008. <http://www.bangkokpost.com>. (Accessed July 1, 2014).

#### **4.10 Implications of the 2007 Electoral Reform**

From the 2007 general election results, the effective number of parties had increased from 1.6 in 2005 to 2.73. But it was the DP who benefited the most from the new adjustments, trailing the TRT/PPP by a couple of hundred thousand votes, or less than one percentage point under the PR system, far less than in the previous election (Table 4.5).

Dividing the country into eight PR constituencies was designed to disperse the PR system votes among smaller parties, and more particularly to prevent anyone from claiming to be popularly elected by the whole country. The change in district magnitude by making districts smaller seemed to help the newly formed Peu Pandin, while Chart Thai was hurt the most. In all, the inability of small- and medium-sized parties to adapt to the changing terrain of electoral competition and to develop a national vision that reached out to the majority of voters, resulted in fewer votes at the PR level than at the constituency level among all small- and medium-sized parties. Only parties that could adjust to the new electoral system and the new dynamics of the party system were considered viable and electable.

The return of the multi-member constituency, plurality system under the 2007 electoral reform, with a hope of helping small- and medium-sized political parties win more seats, thus reducing the influence of major parties like the TRT/PPP, seemed to have backfired. The 2007 electoral results showed that fewer and fewer people tended to split their votes and were more likely to vote for a package of candidates from the same party. Out of 157 constituencies, voters in ninety-seven constituencies voted straight tickets; forty-eight constituencies for the TRT/PPP, thirty-nine for the DP, six for the CP, two for Peu Pandin, and one constituency each for Ruamjai Thai Chart Pattana, and Pracharaj. This was a vast increase from sixty-five out of 156 constituencies in the 1996 general election, and forty-five out of 155 constituencies in the 1995 general election, the two previous general elections using the multi-member constituency system. (This point will be elaborated in Table 5.1).

Despite the success of TRT/PPP at the polls, the party faced yet two more strikes as upshots of the 2007 electoral reform. First in September, 2008, the then Prime Minister Samak was judged by the Constitutional Court of conflict of interest; being an employee

of a private company and hosting a cooking show while holding a PM position. The removal of Prime Minister Samak brought Somchai Wongsawat, Thaksin's brother-in-law to the premiership. The second blow from the 2007 electoral reform's hit the TRT/PPP again on December 2, 2008, when Yongyuth Tiypairat, the PPP's executive member and a party list MP who previously was elected Speaker of the House of Representatives, was found guilty of electoral fraud of giving money to ten *kamnans* (heads of sub-districts) to buy votes in the Mae Chan district of Chiang Rai province. Yongyuth's election rights were extinguished for five years by the Supreme Court. Since Yongyuth was a party executive member, the Constitutional Court used the opportunity to hand down a verdict to dissolve the PPP.

Along with the People's Power Party, the Chart Thai Party, the second longest-running political party was dissolved by the Constitutional Court on the charge that one of its executive members was found guilty of electoral fraud. Its members, mostly family members of the head of the CP, were banned from politics for five years. The Chart Thai Pattana (CTP) was then organized as "the nominee" of the former parties. Likewise, Machima Thippathai was dissolved by the Constitutional Court following allegations of electoral fraud charged by the Election Commission of Thailand.

The dissolution of three political parties at the same time allowed the former opposition, the DP, to form and lead a coalition government. Following the party's dissolution, party leaders and most of its MP's declined to support the TRT/PPP's new Pue Thai (PT) party, instead switching their support to the DP. This was accomplished mainly through the establishment of the Bhumjai Thai Party, defectors from the TRT/PPP.<sup>177</sup> On December 15, 2008, the party and its thirty-two MPs joined the DP in forming a six-party coalition government under Prime Minister Abhisit Vejjajiva.

#### **4.11 Conclusion: Electoral Reform as Strong Medicine**

The obvious intention of the 2007 electoral reform was to reverse the effects of an election system and electoral reforms put into place under the 1997 Constitution. The key features of electoral engineering that the constitution drafters perceived as the threats to Thailand's democracy were strong political parties and a strong executive. Therefore, the

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<sup>177</sup> A widespread rumor was that the formation of the Democratic-led coalition government had the military to thank.

drafters applied “strong medicine” to get rid of features which were deemed the main reasons that Thailand’s political development stalled.

This “strong medicine” included: (1) Alterations of the electoral system, namely from a single-member to a multi-member constituency electoral system, and from a nationwide party list to an eight cluster party list system. The aim of these changes was to reduce the popularity of major parties by giving more chance of winning parliamentary seats to smaller parties; (2) Replacing the full Senate direct election with a half-elected, half-selected 150 person Senate; (3) Inventing measures to ban parties’ executive members and to dissolve political parties if an executive member was found guilty of electoral fraud; (4) Making it easier for the members of the House of Representatives to launch a motion of no-confidence against the Prime Minister and the executive branch; and, (5) Claiming to increase channels for people’s participation in politics by reducing the number of voters required to initiate a legislation from 50,000 to only 10,000 voters. In addition, only 20,000 eligible voters were needed for requesting the Senate to recall elected politicians.

In summation, it should be noted that the 2007 Constitution was the only charter in the Thai history under which a referendum was passed. Ironically, many people expressed their opposition to the 2007 Constitution on the grounds that it resulted from the 2006 coup. Moreover, the 2007 Constitution was regarded by many as an overall muddle. It was full of ambiguity, vagueness and blatant deliberation to overturn the mounting force of electoral politics. The promulgation and implementation of the new electoral reform under the new Constitution was not, as promised, a product of a political consensus which could lead to a settlement among various groups within a society and bring the end of the protracted political deadlock, but rather a force of further divisiveness. As a consequence, the conflicts between the traditional powers, emphasizing politics of morality and goodness, versus the elected politicians, continued. Both sides employed the 2007 Constitution as their weapons in a continuing struggle waged on their election battle fields.

## Chapter V

### Electoral Reform Against the Backdrop of Ethical Politics

After the seesawing changes of the electoral system for the past thirteen years, the argument concerning electoral reform had not yet been settled by 2011, when a new administration made yet more significant amendments to the electoral system. The chapter will show that because of lingering polarized conflicts, amendments to the 2007 electoral system derived mostly from the political context of enhancing the political power of the politicians then in office. However, the changes did not generate the expected results because independent agencies such as the Constitutional Court, the National Counter Corruption Commission, and the Election Commission, the products of political reform, stepped in to playing leading roles in removing what they deemed to be an unethical, although elected government. The result of their actions was a decline in parliamentary power prompted by the preeminent domination of the independent agencies set up by the 1997 and 2007 Constitutions.<sup>178</sup>

This chapter consists of two major parts. Part I deals with the modification to the electoral system under the 2007 Constitution. The background, process, and results of the amendments will be discussed, and the new design of the electoral system and its consequences will be analyzed. Part II focuses on the battle to control electoral politics in Thailand. It discusses the functions of the unelected products of the political reform. In times of political struggles, democratic principles were de-emphasized; instead ethical judgment and moral compass were employed as the nation's guiding lights. Ethical politics in normative terms appeals to popular wisdom, not to popular prejudice. It exists in the tension between the rights and interests of the majority and recognition of the minority to achieve redistributive justice. However, the focus of ethical politics in Thailand has been about personal values over the power of the people. And more essentially, ethical politics in Thailand is being used not only to make politics become more effective, but also to displace electoral politics. In this light, the role of the

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<sup>178</sup> See for example, Michael K. Connors (1999) pp. 202-206; Duncan McCargo (2003). "Balancing the checks: Thailand's paralyzed politics post 1997," *Journal of East Asian Studies* 3, pp. 129-52.

independent organizations in checking the performance of and putting pressure on the elected bodies to resign will be explored.

## **PART I: The Modification of the Electoral System before the 2011**

### **General Election**

Vowing to make it a dynamic document and adaptable to the changing circumstances, the constitutional drafters had incorporated Section 291<sup>179</sup> in the 2007 Constitution which dealt with the procedure of amendment. Since the 2007 general election onward, all governments had attempted to amend the 2007 Constitution. The People's Power Party (PPP) proposed the amendment as part of its campaign policy. Among the propositions to amend the 2007 Constitution, the most controversial subject was Section 237--dissolution of party if its executive members were found guilty of electoral fraud. This amendment was particularly controversial because the then governing PPP wanted to prevent a similar fate as their predecessor TRT party, which was dissolved in 2007.<sup>180</sup> Additionally, Section 309 of the 2007 Constitution was also fiercely criticized as un-democratic in providing eternal immunity for the actions and decisions of the coup group, both in the past and the future. The PPP's efforts at amendment of the constitution had not yet been put in place because former Prime Minister Samak Sundaravej was disqualified by the verdict of the Constitutional Court,<sup>181</sup> while former Prime Minister Somchai Wongsawat's premiership was ended after the PPP was dissolved in 2008.<sup>182</sup>

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<sup>179</sup> According to Section 291 of the 2007 Constitution, an amendment of the constitution must be proposed by the Council of Ministers, members of the House of Representatives of not less than one-fifth of the total number of the existing members, or members of both Houses of not less than one-fifth of the existing members, or persons having the right to vote of not less than fifty thousand in number. The voting in the third and final reading shall be by roll call and open voting, and its promulgation as the constitution must be approved by votes of more than one-half of the total number of the existing members of both Houses.

<sup>180</sup> "Historical Rulings: TRT Dissolved," *The Nation*. May 31, 2007.  
[http://www.nationmultimedia.com/2007/05/31/headlines/headlines\\_30035657.php](http://www.nationmultimedia.com/2007/05/31/headlines/headlines_30035657.php). (Accessed June 29, 2014).

<sup>181</sup> "Samak Disqualified," *The Nation*. September 21, 2008.  
[http://www.nationmultimedia.com/2008/09/09/headlines/headlines\\_30082964.php](http://www.nationmultimedia.com/2008/09/09/headlines/headlines_30082964.php). (Accessed September 12, 2014).

<sup>182</sup> Matthew Weaver. *The Guardian*. December 2, 2008.  
<http://www.theguardian.com/world/2008/dec/02/analysis-thailand-government-judicial-coup>. (Accessed January 11, 2012).

## 5.1 The Background

After the PPP was disbanded, the Democrat-led government came to power on December 17, 2008.<sup>183</sup> Talk among the new coalition parties began on whether or not to change certain articles of the 2007 Constitution. It seemed that the coalition partners were demanding changes, especially concerning the electoral system, but the DP was very reluctant to consider them. Before any concrete decision was made, the United Front for Democracy against Dictatorship (the UDD also commonly known as the Red-Shirts) led massive protests in March and April 2009. These major anti-government rallies resumed again during March–May 2010. The protesters insisted that Prime Minister Abhisit must dissolve the parliament and call a new general election. The government refused to comply before it had amended the constitution. After the negotiations between the UDD protesters and the Abhisit government ended in deadlock, the rallies eventually led to violent and deadly clashes with the military forces.<sup>184</sup>

After the May 19, 2010 crackdown, two extremely opposing perceptions of the incident continued to exist; while the Red-Shirt supporters described it as “the Abhisit government and soldiers killed innocent demonstrators,” many Bangkokians and the DP devotees preferred to view it as “the unruly mob, even armed terrorists, burned down Bangkok,” thus justifying the government crackdown. And these two conflicting perceptions continue to dominate Thailand’s political arena in many other ways.

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<sup>183</sup> At that time, there were rumors that the military top-brass was behind the formation of the Democrat-led government by pressuring other parties to ally with the Democrat Party. On this issue see, Wassana Nanuam. “Govt hopefuls rendezvous with Anupong ‘the manager,’” *Bangkok Post*, December, 11 2008; and Pravit Rojanaphruk. “Questions loom over new prime minister’s legitimacy,” *The Nation*, December 17, 2008. See also the denial of this accusation: “Abhisit rejects claims Army made him PM,” *The Nation*, June 7, 2011.

<http://www.nationmultimedia.com/national/Abhisit-rejects-claims-Army-made-him-PM-30157187.html>. (Accessed May 1, 2014).

<sup>184</sup> For a detailed account of the Red-Shirt protests and some analyses on which the Red-Shirts are, see for example, Naruemon Thabchumpon and Duncan Mccargo (2011). pp. 993-1018; Michael H. Nelson (2011). “Thailand’s Legitimacy Conflict between the Red-Shirt Protesters and the Abhisit Government: Aspects of a Complex Political Struggle,” *Themenschwerpunkte*. 1/2011, pp. 14-18. <http://www.security-and-peace.de/archiv/PDF/2011-1/nelson.pdf>. (Accessed October 1, 2013); James Stent. “Thoughts on Thailand’s Turmoil.” June 30 2010. <http://blogs.reuters.com/andrew-marshall/2010/06/30/thoughts-on-thailands-turmoil-by-james-stent/>. (Accessed August 1, 2010); and Thongchai Winichakul. “The germs: The red’s infection of the Thai political body,” *New Mandala*. May 3, 2010. <http://asiapacific.anu.edu.au/newmandala/2010/05/03/thongchai-winichakul-on-the-red-germs/>. (Accessed June, 1, 2013).

## 5.2 The Process

In the aftermath of the May 19, 2010 crackdown, the parliament issued an order on May 3, 2010 to appoint five parliamentary committees as part of the national reconciliation plan, and to answer the calls for amending the constitution. The five proposed committees were as follows:

(1) The Thailand Reform Committee, chaired by former Prime Minister Anand Panyarachun, was to find solutions enable means of economic and social structural reform.

(2) The National Assembly Reform Committee, chaired by Professor Dr. Prawase Wasi was to promote and encourage people to participate in the reform. The Provincial Assembly was established to collect input from the people. This committee was to work in parallel and cooperatively with the Thailand Reform Committee.

(3) The Truth for Reconciliation Commission of Thailand (TRCT), chaired by Professor Dr. Kanit Na Nakorn, was responsible to discern authentic and conclusive means of national reconciliation that would lead to harmony in the nation.

(4) The Media Reform Committee, led by Associate Professor Yubol Benjarongkit, Dean of Faculty of Communication Arts, Chulalongkorn University, was responsible to develop ethical principles and standards of media.

(5) The Committee to Consider the Direction for Amending the Constitution, chaired by Professor Sombat Thamrongthanyawong, President of the National Institute of Development (NIDA), was set up on June 9, 2010. The main function of this committee was to work further on the recommendations proposed by the parliamentary committee on constitutional amendments, and it ended up consisting of eighteen academics.<sup>185</sup> These eighteen committee members reflected the dominance of academics in revising the constitution; the farmers, workers, NGOs activists, and the business sectors were excluded,

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<sup>185</sup> Sombat was publicly seen as an academic who shared the political outlook of the People's Alliance for Democracy (PAD). Many academics sitting on the committee were also seen as having a similar outlook. The eighteen academics included Somkit Lertpaithoon, Nakarin Mektrairat, Wutthisan Tanchai (these three also sat on the CDC in 2007), Thienchai Na Nakorn, Chaiya Yimwilai, Tawee Surarueththikun, Siriwat Supornpaiboon, Pichai Rattanadilok Na Puket, Sakda Tanitkoon, Banjerd Singkaneti, Jade Donavanik, Soontorn Maneesawat, Supachai Yawaprapas, Sawang Boonchalermwipas, Charas Suwanmala, Prasart Subka, and Nantawat Boramanant, who later withdrew from the committee.

following the long standing custom in Thailand that academics render their services regarding legal and constitutional drafting to whomever controls political power.

According to Sombat, the Committee Chair,<sup>186</sup> the committee worked on three main issues: To study constitutional amendments based on the six recommendations put forward by the parliamentary committee as well as additional issues; namely, to strengthen the democratic political system and to promote public participation in these processes, which would include public hearings on constitutional amendments, as well as communications to promote public understanding on relevant issues. The parliament scrutinized the two drafts sponsored by the government which sought to amend Sections 93 to 98 and Section 190 which related to the electoral system for choosing members of parliament. They involved changes from the multi-member constituency system (MMD) to the single-member constituency system (SMD), and the modification of the proportional representation system (PR), from electing eighty MPs from eight provincial clusters, to the election of 100 MPs on a national party list basis. Section 190 concerned parliamentary approval for international treaties requiring a strict parliamentary screening of all international agreements that could affect the country's economic, social, and security affairs.

Notably, the Abhisit Government did not propose an amendment to Section 237, which required a political party to be dissolved if any of its executive members were found guilty of election fraud as a ploy to free political parties and politicians from the election commission's judgment and the judicial verdict. On February 11, 2011 the joint sitting of parliament passed two constitutional amendments in their third readings. Just before the voting started, the opposition PT Party, which earlier refused to participate in any process of amending the constitution because the party wanted to bring back the 1997 Constitution, walked out of the chamber to express their dissatisfaction.<sup>187</sup>

Employing the simple-majority parliamentary process, seven sections in the 2007 Constitution were modified. The amended version of Section 190 to alter the previously rigorous parliamentary consent on international treaties would require an organic law to

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<sup>186</sup> The Government Public Relations Department. "Progress on Political Reform and Constitutional Amendments" June 23, 2010. [http://thailand.prd.go.th/view\\_news.php?id=5107&a=2](http://thailand.prd.go.th/view_news.php?id=5107&a=2). (Accessed September 1, 2014).

<sup>187</sup> *Bangkok Post*, February 11, 2011.

specify types of agreements which need approval. The amendments of Section 93-98 stated that the MMD electoral system would be changed into the SMD system. The number of constituency-based MPs would be reduced from 400 to 375, while the party list would return to a national list and the number of the party list MPs would be increased from 100 to 125.

Prime Minister Abhisit then forwarded the bills for royal endorsement within twenty days as specified in Section 150 of the Constitution, and the laws were published in the Royal Gazette on March 3, 2011. On May 9, Prime Minister Abhisit announced that he would dissolve the lower house to hold an election on July 3, 2011.<sup>188</sup>

### **5.3 Public Participation**

Many critics were concerned by what they saw as the relatively poor record of people's participation in voicing their opinions. Some believed that issues concerning constitution were too difficult for ordinary people to understand. By contrast, others suggested that voters were well aware of what was involved, citing the vigorous debates between the pro- and anti- amendment parties as evidence. More to the point, it is likely that the overall effects of these political maneuvers to alter the electoral system right before the general election really only reflected the self-interests of the MPs who disputed election rules that could hinder their chances to be elected and increase the strength of their parties. It had been widely argued that the main benefactors of the two amended sections under the constitution were the politicians themselves, not the people, and that the politicians were more interested in fulfilling their individual aspirations than the needs of the people. There was an element of truth in this criticism. The expectations of various political parties, and what parties actually benefited most out from these amendments, are discussed in the following section.

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<sup>188</sup> "Thai PM announces date for general election," *Aljazeera English*. May 9, 2011. <http://www.aljazeera.com/news/asia-pacific/2011/05/201159114618532376.html>. (Accessed June 8, 2012).

## 5.4 Redesigning the Electoral System

The major points of contention in relation to the proposed electoral system were that the constituency MPs were to be elected by the SMD again and the party list MPs would return to the national list, but devoid of the re-adoption of the five percent threshold. The most divisive issue was that the committee proposed to decrease the number of constituency MPs from 400 to 375, while simultaneously increasing the number of party list MPs from eighty to 125. Therefore, the total number of MPs would return to five hundred, the same number as in the 1997 Constitution. These changes were designed to strengthen political parties, deter vote-buying, and bolster executive power.<sup>189</sup> Markedly, there were inconsistencies between the mindsets of the constitutional drafters (the CDC) in 2007 and the Sombat committee in 2011. Whereas the CDC argued that larger constituencies as in a multi-constituency system would reduce vote buying, Sombat maintained that it was the smaller districts that would produce the desired outcome. Moreover, Sombat reasoned that vote-buying was rampant among constituency candidates, but was more difficult in the party list system. Hence, the Committee to Consider the Direction for Amending the Constitution enlarged the party list MPs to 125, compared to the 100 in the 1997 Constitution.

Significant differences existed among political parties on these issues, Medium- and small-sized partners in a coalition government were clear in their stance from the beginning that they supported the electoral system in the 1997 Constitution, but of course, without the five percent threshold under the PR system. The Bhumjai Thai (BJTP) and the Chart Thai Pattana (CTP) parties proposed a formula of 400 single-member district MPs with an additional 100 MPs under the party list system. They also recommended that 200 senators come from popular election. Likewise, the Pue Thai (PT) maintained its position of bringing back the 1997 Constitution.<sup>190</sup> On the contrary, as to be expected, the Democrat (DP) took a far different stance, and even among members of the DP there were diverse opinions. Abhisit's personal position was that he disagreed with the SMD and rather preferred a larger-sized constituency electoral system.<sup>191</sup> Two former party leaders, Chuan Leekpai and Banyat Bantadtan, also voiced their disapproval of the SMD electoral

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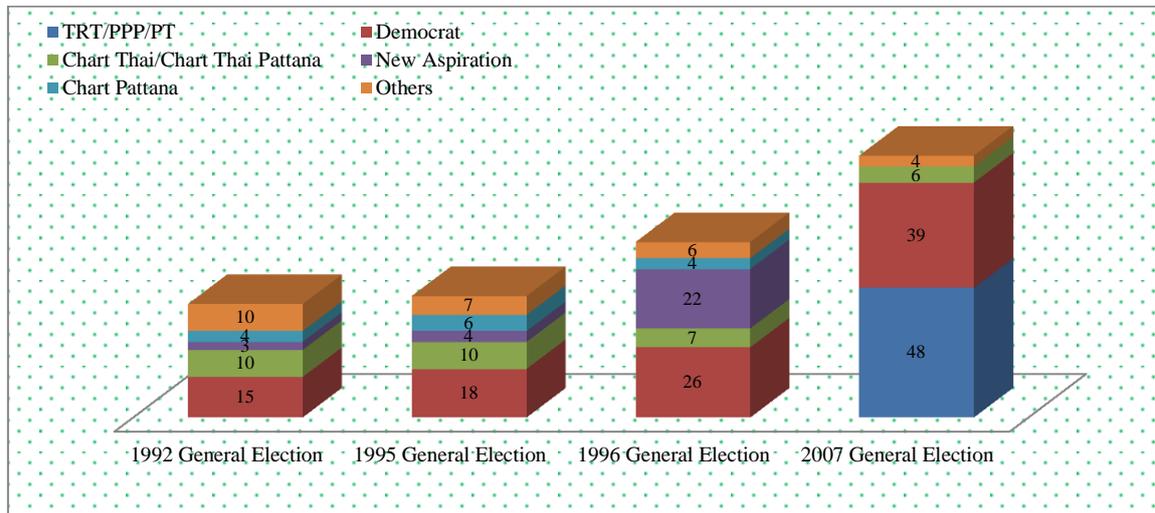
<sup>189</sup> Sombat Thamrongthanyawong, "a special interview," *Kao Sod Raiwan*. March, 2 2011, No. 20, Vol. 7398, p.3.

<sup>190</sup> "Bhumjai Thai Put forward Single-Member District," *Matichon*. May 8, 2009.

<sup>191</sup> Abhisit Vejjajiva in Television Program "PM Abhisit Meets Thais," November 21, 2010.

system because they posited that the smaller districts would make it easier to buy votes, buy state power, and buy Thailand. It was believed that the change of electoral system this way would benefit small-and medium-sized parties the most.<sup>192</sup>

**Figure 5.1: Numbers of Constituencies with Straight-Ticket Voting in the General Elections using Multi-Member District System**



Source: Author’s calculation based on data from Department of Local Administration, Ministry of Interior (1992-1996) and the Election Commission of Thailand (2007).

Based on the statistics presented in Figure 5.1, the practice of straight-party voting, or voting for candidates of the same party, have become more and more common, increasing from 29.6 percent to 61.8 percent over the past fifteen years. In this light, it was not a surprise that small- and medium-sized parties in the coalition government pushed for a return to a single-member constituency model for fear that voters would only choose candidates from the two big parties, especially under the two-camp, Yellow-Shirts vs. Red-Shirts divisive political situation. Moreover, in a larger district, political parties were not only required to have more money for launching their electoral campaigns, they would also be forced to field up to three candidates in one electoral district. It had already been difficult for political parties to attract experienced candidates who possessed personal charisma and other qualities that resonated with voters, but under the new rule, the candidates with the most viability and electability would naturally select to run with political parties with the greatest chance to form a government. This certainly put small-

<sup>192</sup> Lom Plian Tid. “Column mai hade pratate Thai” (The Remark on Thailand),” *Thairath*, November 22, 2010, p. 5.

and-medium sized political parties at a disadvantage since they could no longer hope to tag along as a second or third winner in split-ticket voting.

Regarding the 125 MPs countrywide party list system, it was widely speculated that the enlargement of PR representation would be most advantageous for the DP. In the 2007 general election, the DP won thirty-three seats with 40.44 percent under the PR system, while the PPP won thirty-four with 41.08 percent. The increased popularity of the DP under the PR system, with less than a one percent margin from its counterpart, gave the DP renewed hope that they might have a chance to form a government after the 2011 general election.<sup>193</sup>

Sombat and his fellow drafting committee members argued that this 375 to 125 constituency/party list formula was good for Thai politics and political parties in the long run<sup>194</sup> because it would lead to electoral campaigns based on the needs of people and policies, instead of on candidates' personalities. Furthermore, this system better indicated that the MPs were representatives of all Thai people and not just of electors in a certain constituency. Some committee members went as far as advocating a 250 to 250 ratio, or in the future to get rid of the constituency MPs altogether and only use the PR system.<sup>195</sup>

This particular proposition came under strong criticism from the beginning and its rationale seemingly contradicted the motivation behind the 2007 Constitution. Those who followed Thai politics closely would recollect one of many accusations against ex-Prime Minister Thaksin that set the stage for the 2006 coup d'état was that Thaksin governed Thailand in a way that resembled the presidential system. The evidence cited to support this allegation included the difficulty in scrutinizing and curbing executive power, the

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<sup>193</sup> This could have happened if the PT did not receive an outright majority of seats in the House of Representatives and other parties refused to join the PT's coalition.

<sup>194</sup> Sombat and Banjerd Singkaneti revealed that they had talked about the "Popular Party System". In this new system, the leader of the political party with the highest number of party list votes would have the right to form the government, regardless of the numbers of constituency MPs. The prime minister would no longer come from a vote in the House of Representatives. The executive and the legislature would be strictly separated. The government would have no right to dissolve the House, while the House still would have the right to hold a debate against the PM and his Ministers, but could not vote them out of office. This should make the executive strong, while the MPs' independence would be secured by not requiring them to be members of any political party (*Maitichon*, February 19, 2011).

<sup>195</sup> See Thawee Suraruetthikun. "Sor sor bap Thai," (Thai-styled MPs) *Siam Rath*, January 11, 2011.

increased control of the prime minister over the cabinet members, and especially the nationwide party list system under the 1997 Constitution that had allowed Thaksin to claim legitimacy via national elections.<sup>196</sup> The fears about a too strong executive and party system were apparent in many sections of the 2007 Constitution. Yet the committee proposed the opposite, not only by eliminating eight provincial clusters, but also by expanding the number of MPs in the nationwide PR system.

The question of who benefited most from this change was also debatable. As the biggest party, the PT should have been the main beneficiary of the increased number of MPs under the PR system. Yet, shrinking the constituency MPs while enlarging the PR counterpart was thought to be a political move, intended to profit the DP and weaken the then opposition PT. The basis for this speculation was the fact that sixteen of the constituency-based seats eliminated were located in the North and Northeast which had been dominated by the TRT/PPP/PT, whereas only eight constituency-based seats were removed from Southern and Central Thailand, where the DP was strongest. Surapong Tovijakchaikul, then a Pue Thai MP from Chiang Mai, furiously disagreed with this change by asking “Who are you to propose like this? You are not an MP. Definitely, the MPs won’t accept this [a reduction of the constituency MPs to 375]. Most MPs don’t want to contest in the PR system. They want to meet with and be able to solve the people’s problems.”<sup>197</sup>

No doubt that small coalition of partners and some senators also found the formula objectionable. Banharn Silpa-archa and Sanan Kajornprasart of the CTP, along with Poomin Lertiraprasert, a spokesperson for the Peu Pandin Party<sup>198</sup> were among those who were especially vocal against cutting of the number of constituency House members claiming small political parties would not benefit from a larger PR proportion. The criticism continued that the increase of party list MPs would make future politics mechanically revolve around the competition between two major parties. Moreover, the loss of twenty-five constituency MPs would weaken political parties that focused on the attractiveness of individual candidates, rather than their parties’ banner. The voter base of

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<sup>196</sup> This charge was made by, for example, Suthep Thueksuban, former deputy prime minister and the DP’s Secretary General. See “Thaksin hopes to be President of Thailand,” *The Nation*, February 8, 2009.

<sup>197</sup> *Thai Post*, August 20, 2010.

<sup>198</sup> *Thai Post*, January 11, 2011

senators would also be affected as most of elected senators had relied on the MPs' political base. The clash of opinions caused the DP to threaten its coalition partners that if the draft did not get parliamentary approval, they would have to contest the election under the 2007 electoral system, a situation which suited the DP just fine.

The final outcome of the 2011 amendments on the electoral system reflected halfway compromise settlement among the government partners. Everyone got what they fairly hoped for, the DP got their enlargement of the PR system, and the small coalition political parties were satisfied with the return to the SMD, and the fact that the threshold would not be reintroduced. It is appealing to examine the 2011 election results to evaluate if the consequences of the constitutional amendments corresponded to for the expectations placed on them.

### **5.5 The 2011 Electoral Results: The Expected and the Unexpected**

What made this election different from those in the past were deep political divisions among the Thais that was borne out of a political crisis in April 2006 and culminated in the government's crackdown on the Red-Shirt protesters in May 2010. As a result, the July 3, 2011 general was burdened with high expectations to resolve the past conflicts and not only the simple exercise of the voters' rights.<sup>199</sup> (For further detailed analysis of the 2011 general election see Chapter 6).

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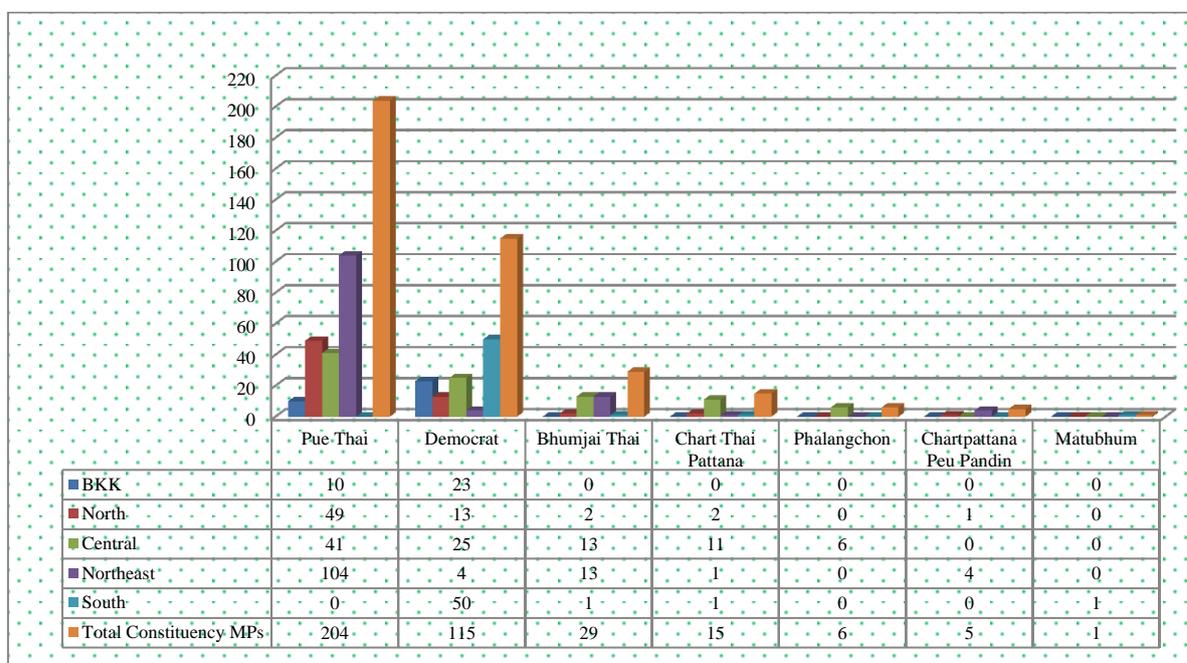
<sup>199</sup> Michael H. Nelson (2012). *Thailand's Election of July 3, 2011: An Overview*. Paper presented to the King Prajadhipok's Institute (KPI), p. 17.

**Table 5.1: Election Results, the July 3, 2011 General Election**

Parties	Constituency			Party list			TOTAL	
	Votes	%	Seats	Votes	%	Seats	Seats	%
Pue Thai	14,272,771	44.94	204	15,752,470	48.42	61	265	53.0
Democrat	10,138,045	31.92	115	11,435,640	35.15	44	159	31.8
Bhumjai Thai	3,523,331	11.09	29	1,281,652	3.94	5	34	6.8
Chart Thai Pattana	1,534,027	4.83	15	907,106	2.79	4	19	3.8
Palangchon	246,879	0.78	6	178,042	0.55	1	7	1.4
Chartpattana Peu Pandin	1,258,464	3.96	5	495,762	1.52	2	7	1.4
Rak Thai	-	-	0	998,668	3.07	4	4	0.8
Matubhum	369,526	1.16	1	251,674	0.77	1	2	0.4
Rak Santi	138,758	0.44	0	284,100	0.87	1	1	0.2
Mahachon	-	-	0	133,752	0.41	1	1	0.2
New Democracy	992	0	0	125,753	0.39	1	1	0.2
Other parties	278,175	0.88	0	690,608	2.12	0	0	0
Valid Votes	31,760,968	100	375	32,535,227	100	125	500	100

Source: Author's calculation based on data from the Election Commission of Thailand.

**Figure 5.2: Number of Constituency MPs by Region, the 2011 General Election**



Source: Author's calculation based on data from the Election Commission of Thailand.

The election results shown in Table 5.2 reveal that Pue Thai running with Yingluck Shinawatra, Thaksin's younger sister, as the first candidate on the party list, won the majority seats in the House of Representatives, 265 out of 500, or fifty-three percent of the total MPs. The PT gained considerably more votes, both from the SMD and the PR system, than in the previous election. On the contrary, the Democrat Party found its constituency MPs decreased and lost ground on the PR system as well. This must have come as a surprise to many DP leaders. Suthep Thueksuban, the party's Secretary General also known as the "king-maker" or the "architect of government," estimated that the DP would win more than 200 seats, specifically fifty-five seats under the PR system, plus 150 constituency MPs.<sup>200</sup> This statement showed how confident the party was after the enlargement of the party list MPs. It turned out that Suthep's estimation was far off the mark. The party received only forty-four PR MPs, and 115 constituency seats, and the next day after the election, Abhisit stepped down as the party's leader. However, on August 6, he was re-elected as the DP leader with the support of 96 percent of eligible voters at the party's assembly.<sup>201</sup>

As mentioned earlier, in the previous election, the DP's party list MPs and votes were nearly on par with those of the People's Power Party (Thai Rak Thai/Pue Thai)'s. This, coupled with an assumption that the PT with a new face and inexperienced leadership would not gain more than fifty percent of total MPs in the House of Representatives gave the DP much hope that they would be able to form a coalition government again. Certainly, the DP underestimated the essentially changed political situation. In the 2007 general election, the PPP was seen as Thaksin's nominee, and Thaksin's credibility was publicly tarnished. In contrast, the DP was highly promoted as a post-coup, better option. In this election, however, the DP and Abhisit himself had to face the consequences of the military assault on the protests in May 2010, an incident which led to a decline of the party's popularity especially among the North and the Northeast voters who were the majority electorate in Thailand.

It appeared that people in the Northeast actually increased their support for the PT even in the midst of a fierce competition against the two parties with strong political bases in this region namely, the newly founded Bhumjai Thai Party, and "the old wine in a new

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<sup>200</sup> *Matichon*, April 19, 2011.

<sup>201</sup> "Abhisit re-elected as Democrat Leader," *The Nation*, August 6, 2011.

bottle” Chartpattana Peu Pandin Parties (See Figure 5.2). The rise of PT’s seats in this region was noticeable, gaining seven more seats for a total of 104 MPs in 2011 as opposed to ninety-seven in the 2007 election. Figure 5.2 also attests the notion that the political parties have been firmly regionalized. The origin or hometown of that party’s leader and the presence of regional politicians in the executive committee or among the rank and file of party leadership played major parts in boosting the standing of the party in that part of the country. These party leaders usually paid greater attention to the regions of their support bases during election periods, thus reinforcing political conscious and a sense of regionalism.

The BJTP, founded in 2008 mainly from defectors of the PPP (TRT/PT) who declared a royalist stand along with a populist platform drawn primarily from Thaksin’s TRT, received 11.09 percent of the constituency votes and acquired thirty-four parliamentary seats that accounted for 6.8 percent of the total 500. Undoubtedly, this made the BJTP the third largest party in its first election. But the BJTP collected only 3.94 percent from the PR system. The CTP, once a government party during the 1990s, found its popularity shrank drastically in the 2011 general election, especially in terms of the national votes, receiving only 2.79 percent or four seats. The collection of seasoned politicians under the newly named Chartpattana Peu Pandin Party did poorly at the polls, obtaining only 1.52 percent of the PR votes that was equal to two seats, while the provincial/regional party, Phalangchon, received less than one percent of the nationwide votes with six constituency seats (Table 5.2).

The election results revealed that the medium-sized parties suffered most from the enlargement of the nationwide PR system. Although people voted for individual candidates from the smaller parties, when it came to the PR ballot they strictly chose between the PT and the DP. To be specific, out of 375 constituencies, the PT won the PR votes in 242 constituencies, the DP won in 128 constituencies, the CTP won in three, and the BJTP won in only two constituencies. With 48.42 percent of the popular votes won by the PT and 35.15 percent by the DP, these two parties ended up with the biggest share of the total 125 seats (Table 5.2). The two parties combined yielded more than 83 percent of popular votes and parliamentary seats. Interestingly, because of the elimination of the five percent requirement and the return to a one national party list system, many small political parties were contesting in this election. And because the threshold was not reintroduced,

small parties, namely the Mahachon and New Democracy parties, did not even win a single constituency MP, even though they had an opportunity to get their MPs on the PR system with only 0.39 and 0.41 percent of national votes respectively. The self-proclaimed anti-establishment Rak Thai Party, with a sex industry mogul as its leader, strategically contested only in the PR system and was able to win 3.07 percent of votes and occupied four of the 500 seats in the House of Representatives.

The collapse of the third party votes was also notable at the constituency level. The return of the single-member district (SMD) after the amendments did not seem to render the small- and medium- sized parties more chance to win seats as they had anticipated. The BJTP and the Chartpattana Peu Pandin won only in their stronghold districts where candidates and/or party leaders were already popular. The CTP's constituency votes plunged from 8.86 percent in 2007 to 4.83 percent in 2011, obtaining only fifteen seats this time, as compared to thirty seats in 2007 (See Table 4.3 and Table 5.2).

The 2011 election results made it clear that Thailand was moving more and more towards a two-party dominant system. However, this did not result in a one-party government. The PT although winning 265 seats, a margin big enough to run a single party government, chose to form a coalition government with four other parties to control 299 votes out of 500 in the House of Representatives.<sup>202</sup> Notwithstanding, the strength of the government based on the parliamentary support could not withstand the external risk that went beyond the parliamentary process.

## **PART II: The Battle to Control Electoral Politics**

Because electoral reform was not totally isolated from the wider political environment, it always took place in the context of political reform at large. Given the fact that the main driving force of the electoral reform movement in Thailand originated from the compromise and negotiation between elitist classes, academics, and the conventional powers, political reform in fact transferred an extraordinary amount of power from elected institutions to the judiciaries and the watchdog agencies in order to check the rising power of the electorate. The power of the judges and independent organizations became a primary means of preserving traditional elite and its middle-class hegemonic status quo.

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<sup>202</sup> "Pue Thai Takes Command," *Bangkok Post*, July 4, 2011.  
<http://www.bangkokpost.com/print/245363/>. (Accessed September 2, 2014).

Two incidents will be explored to support the statement that before the May 22, 2014 military coup d'état, there were fierce political struggles to control the direction and competition among electoral politics. These two episodes were: 1) The attempt to alter the composition of the Senate; and 2) The nullification of the February 2, 2014 general election.

### **5.6 The Attempt to Alter the Composition of the Senate**

No episode better explains the polarized conflicts between the elected politics and the ethical politics than the prolonged attempts to amend the 2007 Constitution under the Yingluck government. Regarding the issue of the 2007 constitutional amendment, the PT had declared its original intention not to merely amend the constitution, but to appoint the Constitutional Drafting Committee (CDC) to oversee the process of rewriting an entirely new constitution, likely to be modeled after the 1997 Constitution. This specific objective was clearly announced by Thaksin himself on April 23, 2011.<sup>203</sup> He also went on to say that after the CDC proposed the draft charter to the parliament, it would need approval by means of a popular referendum. This declaration was adopted by the Yingluck's team as campaign policy during the 2011 general election.<sup>204</sup> However, the campaign promise of rewriting/amending the constitution by the elected government was fiercely countered by the judicial power and extra-parliamentary forces in the name of moral/ethical democracy.

The first attempt to produce a whole new constitution was rejected by a Constitutional Court verdict on February 9, 2012.<sup>205</sup> Then the second phrase began in May, 2013; the joint force of House members combined with the Senate passed proposals to amend Sections 111-112, 115-118 and 120. The proposed amendments aimed to have every senator elected and none selected.<sup>206</sup>

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<sup>203</sup> Thaksin's phone-in during the UDD's meeting at Thammasat, Rangsit Center Meeting Hall, April 23, 2011.

<sup>204</sup> To confirm this statement, see "Noppadol affirms appoint the CDC to amending the constitution according to campaign policy," *Daily News*, December 6, 2012.

<sup>205</sup> "Charter court urged to drop amendment inquiry," *The Nation*, July 2, 2012.

<http://www.nationmultimedia.com/politics/Charter-court-urged-to-drop-amendment-inquiry-30185296.html>. (Access September 19, 2014).

<sup>206</sup> Along with the composition of the Senate, the PT also wanted to modify Section 190 to soften the requirement that all treaties and contracts signed with another country would need to be approved by the parliament, and Section 237 which concerned dissolution of a political party. The

To counter the PT's endeavor, forty (mostly selected) senators requested the Constitutional Court to examine whether an attempt to amend these sections in the constitution was legal.<sup>207</sup> They also asked the Court to dissolve the ruling party and other parties that supported the amendment process.<sup>208</sup>

In November 2013, the Constitutional Court ruled that an effort to amend the 2007 Constitution in trying to make the Senate fully elected and lift a ban that prohibited close family members of incumbent MPs and political officeholders, such as parents, spouses and children, from contesting for a senatorial post<sup>209</sup> would destroy the checks and balances system and repeat the mistake of the 1997 Constitution. The Court maintained that the fully elected Senate was an annex of the House of Representatives, then derisively labeled "a parliament of spouses," or "husband and wife parliament (in Thai--*Sapa Pua-Mia*). Table 5.2 shows there were twenty-one family clans with family members in the House of Representatives and the Senate at the same time. Fifty-three out of 700 MPs and senators were parents, spouses, or relatives from the same family clans during the period 2000-2006.

The Constitutional Court also pointed to missteps in the amendment process when the documents used for deliberation (the first reading) and voting (the third reading) were different. Some MPs from PT also took exception to the use of electronic voting cards in place of colleagues who were not present in the meeting to vote on their behalf. The Court ruled that voting for other members while they were absent constituted unconstitutional efforts to seize power and in violation of Section 68 of the 2007 Constitution.<sup>210</sup>

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new version was supposed to regard vote-buying as an individual's, not a collective responsibility, thus making it harder to dissolve a political party.

<sup>207</sup> Besides an appeal from a group of forty senators, there were four other petitions which asked the Constitutional Court to rule against the ruling party. The four petitions were filed by Warin Thiamcharas (a former senator and a coordinator for People's Network for Elections—P-NET), Somjet Boonthanom (a selected senator), the People's Alliance for Democracy (PAD), and the Democrat Party.

<sup>208</sup> "Thai court to examine charter amendment legality," *Associated Press*, April 4, 2013. <http://www.uncharted-amendments-thailands-constitutional-changes-in-legal-limbo-again/>. (Accessed May 5, 2013).

<sup>209</sup> Attayuth Bootsripoom. "Amendment would see power shift, not Senate reform," *The Nation*. August 8, 2013. <http://www.nationmultimedia.com/politics/Amendment-would-see-power-shift-not-Senate-reform-30213196.html>. (Accessed May 1, 2014).

<sup>210</sup> The relevant part of Section 68 reads, "No person shall exercise the rights and liberties prescribed in the constitution to overthrow the democratic regime of government with the King as

Consequently, the amendment bill which sought to cancel the authority of the Senate Selection Committee to select the senators, who were regarded by many as representing the traditional elite, and to return to the fully elected representatives was aborted. Not only the effort was terminated, the National Anti-Corruption Commission (NACC) indicted those MPs and senators who voted to have the constitution amended for corruption and misdemeanors.<sup>211</sup> The indictment by the NACC raised some serious questions: If voting for a constitution amendment was regarded an act against the constitution, how possibly could any constitutional amendments be proposed in the future? And why didn't the Constitutional Court simply strike down the amendment as is common practice in other democratic countries?

**Table 5.2: Close Family Members of MPs and Senators, 2000-2006**

No. of MPs and senators with family members as lawmakers	No. of family clans in the parliament	Nature of Relationship	No. Law Makers
53 out of 700 (7.57%)	21 family clans	Sister-Brother	15
		Husband-Wife	3
		Father-Son-Daughter	2
		Cousin	1

Source: Author's calculation based on data from the Secretariat of the House of Representatives and the Secretariat of the Senate.

### **The Selected Senate in 2011 and the Senatorial Election in 2014**

The process for senatorial elections under the 2007 Constitution was employed for the second time on February 25, 2011.<sup>212</sup> Although the term of the Senate was fixed at six years and the Senate could not be dissolved under any circumstances, Section 297 stipulated that at the initial stage, selected senators shall hold office for a period of three years. And once the elected senators had finished their service at the end of a six years term, the election for seventy-seven senators from one province each was held on March

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Head of State under this constitution or to acquire the power to rule the country by any means which is not in accordance with the modes provided in this constitution”.

<sup>211</sup> “NACC indicts 36 senators for graft,” *Bangkok Post*, April, 30, 2014, p.1.

<sup>212</sup> The Official Announcement by the Election Commission of Thailand, February 19, 2011.

30, 2014. The seventy-seven elected senators were placed with another seventy-three selected colleagues to comprise Thailand's Upper House. Table 5.3 displays the occupational breakdown of the selected and elected senators. More than half of the selected senators (thirty-eight out of seventy-three) had a bureaucratic background, while the majority of senators chosen by election (thirty-two out of seventy-seven) identified themselves as politicians. It should be noted that senators with business backgrounds were relatively high in both categories. It is rather apparent that senators from the bureaucratic social class have been the elite's preference. The experience in the struggle to change the composition of the Senate revealed a decided preference among elites for a selected body which could be relied upon to safeguard the institutional pillars of power, entrenched elites, military, bureaucrats, and the judiciary.

**Table 5.3: Occupational Background of Selected Senators in 2011 and Elected Senators in 2014**

Occupation	Bureaucrats	Business	Politicians	Lawyers	Media	Farmers	Others	Total
Elected	18	14*	32 -National 7** -Local 25***	4	2	-	7	77
Selected	38 -Military 9 -Police 6 -Others 13	19	0	5	3	2	6	73

Source: Author's calculation based on data from the Secretariat of the Senate and information provided by *Thairath*, March 31, 2014, p.12.

\* Most businesspersons were identified as chairpersons or members of the Provincial Chamber of Commerce and Provincial Board of Industry, or contractors.

\*\* This group consisted of former MPs, senators or ministers affiliated with several political parties.

\*\*\*This group was composed of Chief and Deputy-Chief Executives of the Provincial Administration Organization (PAO), or Chief Executives of Sub-district Administration Organizations (SAO), or mayors.

## 5.7 The Nullification of the February 2, 2014 General Election

It began with the introduction of an Amnesty Bill<sup>213</sup> that allegedly would have allowed ex-Prime Minister Thaksin, in exile for a conviction on corruption charges, to come home free of guilt; at the same time, the bill would have granted amnesty to the leaders responsible for suppressing the Red-Shirt demonstrators in 2010. The bill was in fact opposed by both the pro- and anti-Yingluck government groups. Although the legislation was dropped unanimously by the Senate,<sup>214</sup> the protest was not ended. The whistle-blowing flash mobs quickly turned into a series of large rallies. Prime Minister Yingluck responded by calling a snap election, blessed by a Royal Decree issued on December 9, 2013. But the anti-government protesters who called themselves “the People’s Democratic Reform Committee,” (PDRC) were not satisfied with a new election. The PDRC instead demanded an unelected “People’s Council” and indeterminate reform before any election and until the deemed that Thailand had achieved a complete democracy. At the same time, the DP announced that they would boycott the election and did not field their candidates in one single constituency. They insisted that a general election should not happen until after a complete national reform was implemented.<sup>215</sup>

During the candidate registration period, there were twenty-eight electoral districts in nine southern provinces, namely Krabi, Chumporn, Trang, Pang-nga, Pattalung, Puket, Ranong, Songkla, and Suratthani, where no political parties could enroll their candidacies due to blockades by the anti-government protesters. On the election day, many voting booths in the South and Bangkok were interrupted by protesters, while voting in the North and Northeast were completed. The Election Commission did not declare electoral results claiming the election was inconclusive, reasoning that announcing the results would influence voters who did not get to cast their votes in those obstructed electoral districts.

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<sup>213</sup> “Plan for huge rally against amnesty bill,” *The Nation*, October 21, 2013, p.1

<sup>214</sup> *Bangkok Post*, November 12, 2013.

<sup>215</sup> Thomas Fuller. “Thai Opposition Party Will Boycott February Elections as Large Protests Continue,” *The New York Times, Asia Pacific*, December 21, 2013.

**Table 5.4: Comparison of Voter Turnout, Spoiled Ballots, and Vote No, 2005-2014**

	2005		2006 (nullified)		2007		2011		2014 (polling in 68 provinces)	
No. of Electorate	44,572,101		44,778,628		44,002,593		46,939,549		43,024,786	
No. of Voter Turnout (%)	32,341,330 72.56		28,998,364 64.76		32,792,246 74.52		35,220,208 75.03		20,530,359 47.72	
Spoiled Ballots (%)	PR	Con	PR	Con	PR	Con	PR	Con	PR	Con
	2.8	5.99	5.78	13.03	5.56	2.56	4.90	5.79	-	11.97
Vote “No” (%)	1.11	2.29	31.12	33.14	2.85	4.58	2.72	4.03	-	16.69

Source: Author’s calculation based on data from the Election Commission of Thailand.

The full data on the February 2, 2014 general election was never provided. The following is an attempt to interpret the official results of the election at the constituency level, without the party list vote, released by the Election Commission of Thailand. The figures in Table 5.4 show the turnout, valid votes, spoiled ballot papers, and the number who checked the “vote no” box in comparison with the four previous general elections. The data for the 2014 general election excluded the nine southern provinces where voting was not completed. In Bangkok the voting booths were abandoned in three constituencies, and the election was only partially completed in two constituencies. Compared to previous general elections, the overall turnout was lower and the number of spoiled and “no” votes was remarkably high, except for the 2006 general election which was eventually nullified. In the 2011 general election, the PAD movement campaigned for a no vote, yet the vote no ballots were only 2.72 and 4.03 percent in the PR and SMD system respectively. The most striking record of anti-voting was in the 2006 general election when the spoiled and vote no ballots were as high as thirteen and thirty-three percent respectively. Back then the numbers of no votes, campaigned for by the DP and the CP, clearly meant a vote against Thaksin and his TRT party. It should be noted that the high figures of no votes should have been interpreted as voters who supported the election, but preferred not to vote for any candidates or any political parties. In fact, the sizeable numbers of spoiled ballots should not be interpreted to mean voters did not know how to vote, but rather in part should be regarded as a means to express voters’ discontent towards the candidates and political

parties. The fact that they turned up on at all on election day represented their support for electoral democracy.

**Table 5.5: Voter Turnout, Spoiled Ballots, and Vote No, the 2014 General Election**

	<b>North (all 16 provinces)</b>	<b>Central (all 25 provinces)</b>	<b>South (only 6 provinces)</b>	<b>Northeast (all 20 provinces)</b>	<b>Bangkok (without 516 voting booths)</b>
No. of Electorate	8,526,095	12,222,346	1,616,841	16,250,384	4,369,120
No. of Voter Turnout (%)	56.02	41.05	36.75	55.31	25.94
Spoiled Ballots (%)	16.05	13.05	16.53	9.41	8.02
Vote “No” (%)	21.19	23.31	19.72	9.55	23.52

Source: Author’s calculation based on data from the Election Commission of Thailand.

Table 5.5 indicates that in the North, Pue Thai’s heartland, the number of spoiled ballots combined with no votes was higher than elsewhere, at more than thirty-seven percent of the total votes cast. The low proportion of spoiled and no vote ballots in the Northeast indicated the strongest support for the ruling PT came from this region. In the Central region, the total of valid votes in 2014 was less than the PT’s votes in 2011. One can assume that the PT lost its popularity heavily in that region. Although the PT’s votes were drastically reduced as a result of people’s discontent, they gained more seats in the House of Representatives because in the SMD system the party that received most votes won. Without the DP in the race, the PT would have easily won against small- and medium-sized political parties. Moreover, in the PR system, spoiled and no vote ballots were eliminated; therefore, the PT benefited and earned the surplus seats.

Shortly, the Constitutional Court nullified the February 2, 2014 general election.<sup>216</sup> The Court concluded that “There were not elections in the twenty-eight constituencies and there were not even candidates so it could be deemed that on February 2 there was not an election on the same day nationwide. This violated Article 108 (2) of the 2007 Constitution.”<sup>217</sup> The decision to void the election could be interpreted as a step by a larger

<sup>216</sup> A complaint was filed by Mr. Kittipong Kamolthammawong, a law lecturer at Thammasat University, to the Office of Ombudsman who then forwarded the petition to the Constitutional Court.

<sup>217</sup> Article 108 (2) of the 2007 Constitution states: “The King has the prerogative to dissolve the House of Representatives for a new election of members of the House. The dissolution of the

effort by the watchdog agencies working in chorus to take control of the direction of electoral politics.<sup>218</sup>

## 5.8 The Elected Bodies Eclipsed by the Independent Commissions under the Constitution

On May 7, 2014, the Supreme Administrative Court ruled that a caretaker Prime Minister Yingluck Shinawatra abused her power by transferring a chief of the National Security Council (NSC) to the inactive position of prime minister's adviser in 2011, a move that allowed her relative to become a national police chief.<sup>219</sup> After the court's ruling, the prime minister and nine other Ministers were ordered to step down.<sup>220</sup> One day later, the National Anti-Corruption Commission (NACC) recommended that the Senate impeach Yingluck on the basis of misconduct in administering the government's rice-pledging policy,<sup>221</sup> claiming that she had failed to halt the rice mortgage program after it was found to be incurring heavy losses due to possible corruption.<sup>222</sup> The removal of Yingluck had been the third time since 2007 that the Constitutional Court removed a popularly elected prime minister associated with Thaksin political parties.<sup>223</sup> Undeniably, the events surrounding the dissolutions of the TRT, the PPP, and the deposing of the

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House of Representatives shall be made in the form of a Royal Decree in which the day for a new general election must be fixed for not less than forty-five days but not more than sixty days as from the day the House of Representatives has been dissolved and such election day must be the same throughout the Kingdom. The dissolution of the House of Representatives may be made only once under the same circumstance.”

<sup>218</sup> Such a verdict is relevant for future elections. If some group of people obstructs voting in a single constituency, would this be a reason for a general election to be nullified? This verdict has set a precedent that jeopardizes the validity of elections in the long run.

<sup>219</sup> “Supreme Administrative Court rules in favor of Thawil,” *The Nation*, March 7, 2014. <http://www.nationmultimedia.com/politics/Supreme-Administrative-Court-rules-in-favour-of-Th-30228625.html>. (Accessed September 12, 2014).

<sup>220</sup> “Yingluck, 9 ministers removed from office,” *Bangkok Post*, May 7, 2014

<sup>221</sup> The then Prime Minister Yingluck Shinawatra implemented the rice pledging scheme immediately after the 2011 election to give Thai farmers the opportunity to sell their rice to the government at a higher price for their crops than they would obtain by selling them at market rates. The goal was to increase rice prices to safeguard farmers from middlemen. However, the scheme was accused of being plagued with massive corruption. The loss was estimated at Baht660 billion.

<sup>222</sup> “NACC decides to impeach Yingluck,” *Bangkok Post*, May 8, 2014.

<sup>223</sup> To recall the two incidents, after a military coup d'état overthrew the Thaksin administration in September 2006, the TRT was dissolved in 2007 and reincarnated into the PPP. The prime minister from the PPP was disqualified in 2008 by the Constitutional Court on the grounds that he received salary from a private company for his cooking show on television. Then the Court dissolved the PPP in December 2008 citing that the party's executive member was found guilty of vote buying.

Samak government by court decisions were extraordinary. There is perhaps no other developed or developing country in which similar chains of events have occurred. The court has been widely criticized as it exercised what many perceive as an overly broad scope of power.

### **5.9 Conclusion: Moral Politics; A Suitable Means to Control Electoral Democracy?**

It was palpable that Thailand was on a collision course between those who advocated electoral democracy and others who were in favor of unelected ruling elite based on what they saw as righteous moral authority. This study accepts that there is something muddled in Thailand's attempts at electoral democracy. The grievances of the PDRC protestors, i.e., corruption, nepotism, arrogance of power, weak rule of law, were real and legitimate. The reform in the past aimed at curtailing the power and influence of elected politicians by checking them with independent agencies. The growing influence of the established commissions under the 2007 Constitution could be seen as a response to the rising power of the elected bodies.

However, this study views that there is also a grave problem with this approach. The reform that reaffirmed conventional ethics and morality has led to a spiraling and intensification of the patronage that functions by spreading rewards into personal networks of the social elite. This process has alienated the majority Thais who are not among the association of the urban traditional elite. More than that, those independent agencies are not accountable or derived from the people. What is needed is the opposite: The best way to reduce vote-buying is to empower the great mass of people, politically and economically, so they are independent from the influence of the patronage network, able to defend their rights and interests against cunning politicians. In other words, Thailand needs more elections and more democracy, not less.

As shown in Chapter 6, the urban elites wrongly presumed that money dispensed during elections would directly determine voting outcomes. In fact, the rural voters of the past decades have become much more politically educated, engaged, and efficacious. To create a healthy democratic society, people must have faith in elections. The more the elections are free, fair, and transparent, the stronger and more trusting the people's commitment will be towards democratic institutions.

## Chapter VI

### Electoral Decisions and Democratic Embedment

Elections in Thailand in the modern era have produced many analyses, speculations, and even accusation. Even though the past elections in Thailand have been widely scrutinized in detail by journalists and academics, questions about the meaning of the electoral choices and the long term implication of the election's results remain unanswered. It is for these reasons that this chapter attempts not simply to describe the electoral campaigns and discuss the election results, but also to explore the wider issues of voting patterns and shed some light on the numerous erroneous perceptions concerning electoral decisions of the Thai voters.

The aims of this chapter is three-fold: First, to examine the state of elections, political parties, and voters in Thailand; second, to argue against the common belief that the majority of the Thai electorate in rural areas is ignorant, bewildered, and bought off when exercising their voting rights,<sup>224</sup> and to show instead that the relationship between politicians and voters is not solely based on money or personal connections, but rather is a complex relationship rooted in trust and variety of expectations; and third, to make the contention that contrary to the mainstream view, the Thais in many rural constituencies act as strategic voters; that is, they vote for a top competitor to maintain their patronage relationship while at the same time casting their ballot for the symbolic power of their political stands and policy preferences. It will be shown that these assertions are grounded in research and survey data obtained during the two general elections in 2007 and 2011.

The chapter will proceed in five parts. First, it will assess the state of electoral turnout and voter participation. Second, the chapter will offer a fact-based understanding of reduction and stabilization of political parties in Thailand. Third, it will explore social characteristics and profiles of the electors of the two big parties, namely Pue Thai and

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<sup>224</sup> An excellent recapitulation of the fabrication of financially poor electorates with educationally and morally poverty can be seen in Prajak Kongkirati (2012). "Mayakati lae karn muang kong nitan sornjai wahduay kwam ngo jon jep kong poo lurktang chonnabot," (The myth and political parable of the rural electorate's stupidity, poverty, and suffering) in *Karn muang wa duey karn luek tang: Watagam amnaj lae polawat chonnabot Thai (Politics of elections: the discourse on power and the dynamics of the rural Thailand.)* (Nontaburi: Fah Diew Garn) pp. 3-42.

Democrat. Fourth, factors that guide people's voting choices and patterns in Thailand will be examined. Finally, the chapter will identify major obstacles to electoral democracy and suggest some possible measures to make democracy work more efficiently in Thailand. Let us take each of these in order.

### **6.1 Electoral Turnout and the Voters**

For the past two decades, Thais have voted in relatively large numbers (see Table 6.1) and contested elections more forcefully. One logical reason to account for the steady increase in voter turnout is that elections have become a meaningful tool in choosing the national leader. For Thailand, this is democracy in a new context. Among Thailand's nineteen constitutions (as of 2014), only four constitutions, namely the 1974 Constitution, the 1991 (the fourth amendment in 1992), the 1997, and the 2007 Constitution, have a requirement that the prime minister must come from a popular election.<sup>225</sup> One can assume that by taking the election of the prime minister out of the hands of an elite network and putting it in the hands of the people, Thai voters have been stimulated into showing a greater interest in politics and elections. Previously, democracy was largely seen as a symbolic process of marking the ballots without paying much heed to what voters actually wanted. Now the government is experiencing a new element of democracy; that is, the power of the individual voter. Even seemingly uneducated and underprivileged voters felt empowered and wanted to have their votes counted. Overall, people were very much aware of the power of their votes. On this subject, it should be noted that results of every general election showed that Bangkok, where the best-educated people in the country are concentrated, has never experienced high voter turnout, compared with other regions, especially the Northeast, which is usually described as the poorest region of the country.

That being said, the fact that under the 1997 and 2007 Constitutions, voting was compulsory for eligible voters aged eighteen and over should not be ignored. This measure

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<sup>225</sup> It should be noted that the 1974, 1992, and 1997 Constitutions were initiated in an open-politics atmosphere after the student-led uprising, and the people's protests were victorious over the military rule. The 2007 Constitution, although promulgated by the military, maintained the requirement that the prime minister must be an elected representative. This can be interpreted as an indication that the force moving toward democratization is getting stronger.

was designed in order to guarantee a high turnout,<sup>226</sup> hoping to fight against prevalent vote buying. Thus explains a sharp rise in voter turnout since 2001.

When it came to the election campaign during the 2011 general election, the level of enthusiasm was high from the beginning. Headline on the news read, for example: “people are excitedly to get an ID card for voting”<sup>227</sup> and “high advance voting 2.4 million.”<sup>228</sup> The 2011 voter turnout was highest in the history so far, that was at seventy-five percent. Noted that about three percent of people who answered the survey questions claimed that they went to the poll stations, but were denied to votes for some legal reasons.<sup>229</sup>

The key to higher popular participation was the mind-set that ordinary voter, not the elite, is in the driving seat of choosing the country’s prime minister. Campaign for the July election was vibrant and full of character, largely fuelled by the ongoing conflicts and the bloody crash between the protesters and the military in 2010. In many areas, it was a festive atmosphere, filled with the symbolic colors of each party. The quantities of campaign posters and the billboard were telling indication of how competitive this election was.<sup>230</sup> Most posters and billboards showed how each party would make life better from their populist policies.

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<sup>226</sup> Kanin Boonsuwan (1997). pp.55-56.

<sup>227</sup> News (online edition) *MCOT*.

[http://www.mcot.net/cfcustom%20/cache\\_page/218637.html](http://www.mcot.net/cfcustom%20/cache_page/218637.html) (Accessed July 2, 2011).

<sup>228</sup> *Kom Chad Luek*. <http://www.komchadluek.net/detail/20110603/99428/ขอลเลือกตั้งล่วงหน้า2.4ล.คนกทม.นำโด้ง.html>. (Accessed September 29, 2012).

<sup>229</sup> Siripan Nogsuan Sawasdee (2012a). *Prudtikam karn lurktang lae karn mee suanruam tang karn muang pai tai satanagarn kwam kat yang, karn lurktang July 3, 2554 (Voting behavior and pattern of political participation of the Thai electorate in the conflict situation, July 3, 2011 general election)*, A research paper presented to the Election Commission of Thailand, p. 96.

<sup>230</sup> “Karn muang ruang paie see (sarn),” (Politics of billboard) *Siam Intelligence Unit*. <http://www.siamintelligence.com/election-campaign-board/>. (Accessed November 12, 2012).

**Table 6.1: Voter Turnout in General Elections, 1992-2011**

Election Year	Mar. 1992	Sept. 1992	1995	1996	2001	2005	2007	2011
Turnout	59.35%	61.59%	62.04%	62.42%	69.94%	72.60%	74.49%	75.03%

Source: Department of Local Administration, Ministry of Interior (1992-1996) and the Election Commission of Thailand (2001-2011).

## **6.2 The Reduction and Stabilization of Political Parties**

The general perception is that the reduction in number of political parties was solely an effect of the operation of the Thai Rak Thai (TRT) party. In fact, Table 6.2 shows that the reduction and stabilization of parties was noticeable in the September 1992 election when major parties, namely, the Democrat, the Chart Thai, and the New Aspiration parties, won forty-seven percent of votes, combined with the Palang Dharma party that won most seats in its history, the four parties accounted for sixty-three percent of the voters. In 1995 the top two parties garnered forty-five percent of popular votes. The top two parties, namely Democrat and Chart Thai Parties, combined for more than fifty percent of votes in the 1996 general election. That year, the Democrat and the New Aspiration parties together receive 60.83 percent of votes.

Obviously, the fragmentation of a multi-party system that once dominated Thailand's political landscape was altered rather drastically after the 2001 general election. Table 6.3 reveals that the Effective Number of Legislative Parties<sup>231</sup> (ENPP, or number of parliamentary seats won by parties) drops from five to seven points during 1983-1988 to only 3.1 in 2001. The ENPP fell to its lowest mark at 1.6 in 2005. The ENPP, or the number of electoral votes won by parties, was a little higher, signifying the disproportionality between votes won and seats gained by political parties. A simple interpretation is that big parties have benefited from vote-seat differences.

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<sup>231</sup> The effective number of parties is the approximate, but fair index that makes international comparisons possible. Because political parties competing in a political system do not have equal strength, the effective number of parties is usually lower than the actual number of parties. For explanation of the effective number of parties see Markku Laakso and Rein Taagepera (1979). "Effective Number of Parties: A Measure with Application to West Europe," *Comparative Political Studies* 12, pp. 3-27.

The rise of TRT with its concrete, “can make it happen” policies was widely seen as a major reason responsible for the reduction in numbers of political parties. This is partly true. Thaksin and TRT were elected in part because they promised alternative policies to the ineffective coalition governments which previously dominated Thai politics. Thaksin and TRT’s platforms were seen as remedies for the grievances of the rich from the 1997 economic crisis and for the poor from a long-term imbalance of socio-political-economic development that heavily concentrated in Bangkok. A landslide victory in the 2005 general election confirmed Thaksin and TRT’s popularity.

However, one should not overlook the effect of the 1997 Constitution and the change in the electoral systems that gave a necessary context to the rise of Thaksin and the Thai Rak Thai. The change to single-member districts and the proportional representation (PR) system requiring a five percent threshold made it nearly impossible for small parties to contest the 2001 and 2005 general elections.<sup>232</sup> The return to a multi-member constituency system, and the removal of the five percent threshold, along with the reduction in size of electoral districts under the PR system that grouped all provinces into eight provincial clusters, increased the effective number of parties in the 2007 general election to 2.73. The July 2011 general election brought back the single-member constituency system, and a larger PR’s electoral district, that made the whole kingdom as one constituency used previously under the 1997 Constitution. This modification trimmed down the effective number of parties to 2.58, while the effective number of parties, calculated by popular votes in the 2011 election was at 3.13 (Table 6.3).

It is remarkable that the alterations to the electoral system under the 2007 Constitution did not affect the effective number of parties that much. It would not be too exaggerated in saying that Thaksin and TRT changed the way political parties operate<sup>233</sup> and the pattern of electoral competition in Thailand in ways that are hard to reverse.

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<sup>232</sup> Allen Hicken (2005); Siripan Nogsuan Sawasdee (2012b). “Thailand,” in *Political Parties and Democracy: Contemporary Western Europe and Asia*, eds. Takashi Inoguchi and Jean Blondel (New York: Palgrave Macmillan) pp. 143-164.

<sup>233</sup> Yoshifumi Tamada (2008); Pasuk Phongpaichit and Chris Baker (2009); Kevin Hewison (2010). “Thaksin Shinawatra and the reshaping of Thai politics,” *Contemporary Politics* 16, No. 2, pp. 119-33.

**Table 6.2: Proportion of Votes (%) Obtained by Parties, 1992-2011**

Election Year	DP	CP/CTP	SAP	PDP	NAP	SDP	CPP	TRT/PPP/ PT	Proportions of votes by top two parties
Mar. 1992	9.39%	16.07%	7.14%	10.26%	19.90%	17.61	-	-	<b>37.51</b>
Sept. 1992	19.21%	15.12%	3.72%	15.94%	13.21%	-	14.55%	-	<b>35.15</b>
1995	22.30%	22.76%	3.98%	7.62%	12.33%	-	11.97%	-	<b>45.06</b>
1996	31.79%	9.90%	5.36%	-	29.04%	-	12.39%	-	<b>60.83</b>
2001									
District	26.23%	8.58%	-	-	9.25%	-	8.93%	36.97%	<b>63.20</b>
PR	26.58%	5.32%	-	-	7.02%	-	6.13%	40.64%	<b>67.22</b>
2005									
District	22.44%	9.77%	-	-	-	-	-	50.98%	<b>73.42</b>
PR	22.29%	6.37%	-	-	-	-	-	58.72%	<b>81.01</b>
2007									
District	30.21%	8.86%	-	-	-	-	-	36.83%	<b>67.04</b>
PR	40.45%	4.04%	-	-	-	-	-	41.08%	<b>81.53</b>
2011									
District	31.92%	4.83%	-	-	-	-	3.96%	44.94%	<b>76.86</b>
PR	35.15%	2.79%	-	-	-	-	1.52%	48.42%	<b>83.57</b>

Source: Author's calculation based on data from Department of Local Administration, Ministry of Interior (1992-1996) and the Election Commission of Thailand (2001-2011).

Note: DP = Democrat                      CP/CTP = Chart Thai/Chart Thai Pattana                      SAP = Social Action  
PDP = Palang Dharma                      NAP = New Aspiration                      SDP = Samakkidham  
CPP = Chart Pattana                      TRT/PPP/PT = Thai Rak Thai/ People's Power/ Pue Thai

**Table 6.3: Effective Number of Parties, 1983-2011**

	<b>Parliamentary Fragmentation</b>	<b>Electoral Fragmentation</b>
<b>Election Year</b>	<b>ENPP (Seats)</b>	<b>ENEP (Votes)</b>
1983	5.6	7.2
1986	6.1	8.0
1988	7.6	9.8
Mar. 1992	6.0	6.6
Sept. 1992	6.1	6.7
1995	6.4	6.9
1996	4.3	4.6
2001	3.1	4.4
2005	1.6	2.6
2007	2.73	3.99
2011	2.58	3.13

Source: Author's calculation based on data from Department of Local Administration, Ministry of Interior (1983-1996) and the Election Commission of Thailand (2001-2011).

### **6.3 Social and Economic Bases of Political Parties**

Demographics and social stratification are important determinants of preferences and allegiances in politics.<sup>234</sup> The relationship between social, economic, class and educational factors enable us to analyze the geographical scope of political participation.<sup>235</sup> But academic studies today have shown little interest in documenting relationships between demographics and patterns of voting to shed light on the sociological profiles of political parties in Thailand.

<sup>234</sup> Pini Laptanatorn (1995). *Karn suksa taubongchee satanaparb tang sattakitsangkorm nai sangkom Thai*, (The study of indicators of socio-economic status in the Thai society) (Bangkok: Social Research Institute Chulalongkorn University) pp. 109-110.

<sup>235</sup> Sydney Verba, Nie Norman, and Jae-On Kim (1978). *Participation and Political Equality: A Seven-Nation Comparison*. London (New York, Melbourne: Cambridge University Press).

The data shown in Table 6.4 were obtained from two surveys; first, a survey of the 2007 Referendum and the December 23, 2007 general election, conducted between January 1-18, 2008,<sup>236</sup> and second, a survey of the July 3, 2011 election, conducted between July 10-30, 2011.<sup>237</sup> Social characteristics included in the studies covered gender, age, education, occupation, income, and residential area. The surveys not only treated politics as a dependent variable influenced by socio-economic factors, but also as an independent variable that affects levels of political participation through different political parties and linkages between parties and voters.

Based on the two surveys, the most striking differences between the Democrat (DP)'s and the Thai Rak Thai (People's Power/Pue Thai—TRT/PPP/PT)'s support bases were in the categories of educational background and occupation. People who voted for the DP tend to have better and relatively more sophisticated education than those who voted for the TRT/PPP/PT. Remarkably, the general election in 2011, voters having a bachelor degree and higher turned to vote more for the TRT/PPP/PT in a noticeable number, from an average of thirty percent to more than forty percent in the B.A. category, and more than fifty percent in the beyond B.A. group. By contrast, among those who voted for the DP, voters with a bachelor degree and supporters of the party with higher education than a bachelor degree cast their votes less for the DP in the 2011 general election than in 2007.

In terms of occupation, the DP supporters generally came from government and state enterprise sectors, while the TRT/PPP/PT largely based their support on low-income occupations, e.g., workers, farmers and small business owners. In terms of income, it was unfortunate that this study could not obtain information on income demographics in the 2011 general election. In 2007, the survey results revealed that the income support bases for the DP voters were higher than for people who voted for the TRT/PPP/PT. In terms of residential area, apparently the two parties have a contrasting group of support base; those who resided in the cities were more likely to vote for the DP, while the TRT/PPP/PT's support groups resided mostly in the villages and outside urban vicinities.

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<sup>236</sup> Siripan Nogsuan Sawasdee (2008). "*Karn samruad kwam kidhen karn tam prachamati lae karn lurk tang December 23, 2550*" (*A survey of the 2007 referendum and the December 23, 2007 general election*) A research paper presented to Thailand Democracy Watch, Faculty of Political Science, Chulalongkorn University.

<sup>237</sup> Siripan Nogsuan Sawasdee (2012a).

It should not be a surprise to see socio-economic factors, such as income, education, occupation, and residential area correlate with the DP and the TRT's electoral support bases. Voters who were workers and farmers, residing in villages with inferior incomes and lesser education tended to vote more for the TRT/PPP/PT reflecting the power of policies as vote getting tools. Those who inclined to vote for the TRT/PPP/PT were believed to have benefited most from the Thaksin administration's platform policies. This is actually straightforward logic, voting for policies, voting to get benefits. These aspects of the voting patterns should be interpreted to indicate that these voters were astute, calculating, and employing their own sets of judgment, not that they were dumb, being bought and manipulated as widely believed. This issue will be discussed further in section 4 below, "The Voters' Perspective on Vote-Buying."

As far as age as a determinant of party preference, one would assume that the older party like the DP should receive support from the older generation, but the surveys reveal that people aged fifty and older tended to vote for the TRT/PPP/PT, whereas the biggest group that supported the DP were voters aged twenty-nine and younger. Visibly, the TRT/PPP/PT attracted more young voters in the 2011 election than in 2007. In both the 2007 and 2011 elections, the young voters were the dominant supporters, when compared with other age groups, of the DP. A probable assumption is that voters aged eighteen to twenty-nine was a group of people that benefited less from Thaksin's popular policies, such as universal healthcare, village funds, and SML project. Moreover, most of voters from this generation exercised their first voting rights after the 2006 coup d'état when Thaksin and TRT's portrayal was widely scrutinized and tarnished. This study believes that this young generation was not yet enchanted by any party in particular. The question is whether the DP will be able to retain the support of this cohort in the future elections.

When examining gender-wise, it is shown that among its support base, females tended to vote for the DP more than males, while the TRT/PPP/PT received more votes from men. The gender demographic support groups for the DP and the TRT/PPP/PT were similar for both the 2007 and 2011 general elections. Even with Miss Yingluck Shinawatra running as a prospective female prime minister, the TRT/PPP/PT's strong support came mostly from male voters, not female. A plausible rationale to this finding might be that women tend to be more inclined to a conventional stance than men when it comes to politics, judging from the fact that women are less likely to contest elections. Therefore,

the conservative image of the DP (see the analysis of Table 6.6 below) seems to have been better suited to the majority of women voters. Also one should not overlook the fact that the DP's party leader, Abhisit Vejjajiva is young, good-looking, photogenic, and eloquent. These qualities were believed to help attracting female voters to the DP. Obviously, these presuppositions on relationship between age and gender demographic groups and voting patterns need further empirical research to verify.

In Thailand, religion has not been a significant variable in voting behavior because Thailand's population is intensely homogeneously Buddhist (about ninety-five percent), with a small Muslim minority (two-four percent, depending on various estimates) concentrated in the South. In the 2011 general election, the newly formed Matubhum party, led by General Sonthi Boonyaratglin—the 2006 coup leader and a Muslim himself - - contested the election with an image of a Muslim party, managed to win one constituency seat in Pattani, and one seat from the PR votes nationwide. However, a close examination of the Matubhum revealed that the party did not advocate any rights of the Muslim in particular.<sup>238</sup> The Matubhum received the PR votes in the second place in Pattani and Narathiwat provinces, while the DP came first in other province in the South. The PT was a runner up in every province including Yala, another province with a Muslim majority.

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<sup>238</sup> See Matubhum Party's website <http://www.matubhum.or.th/main/content.php?page=content&category=3&id=2>. (Accessed June 6, 2013).

**Table 6.4: Social and Economic Bases of Parties, 2007 and 2011**

Social Characteristics of the Electors	DP		TRT/PPP/PT	
	2007	2011	2007	2011
<b>Gender</b>				
Male	40.2	32.8	47.8	55.1
Female	45.4	42.6	42.6	46.9
<b>Age</b>				
18-29	45.2	39.7	39.5	47.4
30-39	45.2	37.6	42.5	50.0
40-49	40.7	37.5	49.0	51.2
50-59	38.3	37.5	52.4	51.2
60+	40.9	37.7	47.0	55.7
<b>Education</b>				
Primary school or lower	32.6	35.6	56.3	55.2
Secondary/vocational school	40.3	34.7	45.6	54.5
B.A.	60.4	46.5	28.4	40.1
Beyond B.A.	57.3	32.3	33.3	50.3
<b>Occupation</b>				
Government/State Enterprise	59.7	37.7	25.8	48.4
Employees	46.4	36.3	40.1	49.4
Business/Self-Employed	46.0	44.7	43.1	44.4
Farmers	32.6	26.1	57.1	66.6
Workers	31.5	34.0	57.7	55.0
Others	50.6	48.5	34.8	40.0
<b>Monthly Income</b>				
Lower than 10,000 Thai baht	36.3		51.2	
10,001-50,000 Thai baht	53.1	NA	35.6	NA
50,001-100,000 Thai baht	42.1		47.7	
More than 100,000 Thai baht	82.4		17.6	
<b>Residential Area</b>				
City	50.4	62.5	36.9	30.1
Municipal	40.2	40.1	45.4	46.0
Village	39.8	29.1	49.4	61.9

Source: Author's surveys of the December 23, 2007 and the July 3, 2011 general elections.

The already established salient factor concerning political support bases is the pattern of regionalism<sup>239</sup> which began to emerge at the time of the 1992 general election and has become a general trend since. Table 6.5 shows differences in parties' electoral strongholds in the 2007 and 2011 general elections. The DP has had a Southern base since the June 26, 1975 general election when the party won fifteen out of twenty-six seats, accounting for 41.66 percent. The DP started to strongly dominate the South in the 1992 election, when it controlled eighty percent of the parliamentary seats in the South. Its support bases are still concentrated in the Southern region. The CP continues to have a strong base in the Central region where the party leader's clan and allies are solid, winning most seats there. The TRT/PPP/PT's traditional stronghold has been in the Northeast and the North, where Thailand's rural majority lives. Bangkok is the battlefield between the TRT/PPP/PT and the DP, and has been considered a "dead-zone" for other parties since the 2001 general election. It should also be noted that the TRT received more substantial support from the Bangkok electorate than the DP during the 2001 and 2005 general elections; the TRT won twenty-nine and thirty-two seats respectively while the DP received only eight, and as low as four seats in 2005. A shift of the Bangkok voting pattern to the DP occurred after the 2006 coup d'état when twenty-seven out of thirty-three of the DP's candidates got elected, and then again twenty-three of the DP's candidates won against ten from the PT in 2011.

Regionalism in Thai electoral politics is typically associated with the origin or hometown of that party's leader. The former DP leader, Chuan Leekpai, is a native of Trang province in the Southern region. Banharn's hometown is in Supanburi, in the central part of Thailand, accounting for the CP's iron grip in that region. Chiang Mai in the North is Thaksin's birthplace. A key reason TRT/PPP/PT have been so well accepted by people in the Northeast region is partly due to the fact that many TRT's candidates were former NAP and CPP MPs whose bases had been in the Northeast region before merging with the TRT. As a consequence, the stark rise of TRT's seats in the Northeast began in the 2005 general election. Additionally, the TRT took a high road profile from the beginning, appearing to be a party of wealthy businessman who were devoted to bettering the lives of the Northern and Northeastern poor. One can say that Thaksin's image and gestures

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<sup>239</sup> Worapat Weerapattanakoop. "Regional Voting," *New Mandala*, January, 7, 2008. <http://asiapacific.anu.edu.au/newmandala/2011/07/04/regional-voting>. (Accessed March 8, 2012).

reinforced both political consciousness and a sense of regionalism. The PT's 2011 campaign platform built on the success of the TRT's and the PPP's, included a list of economic policies that were aimed at rural and the lower end of the economic spectrum voters, residing mostly in the North and the Northeast. These included a promise to raise the minimum wage to THB300 across country, rice mortgage, high-speed train, for example. It was not a mistake to say that the PT secured its most critical party's base through its economic platform that made voters felt their needs were responded by immediate and kind attention.

Another crucial explanation for the popularity of the Thaksin's parties in these two regions might be the pattern of mass sentiment voting. People in these two regions feel they have been neglected for so long as a result of Thailand's internal colonization pattern of development which has been highly centralized in Bangkok in all dimensions whether economics, politics, and culture. After the 2006 coup d'état and the abrupt dismissal of Samak's and Somchai's governments their voting choices have been stolen. The majority voters in the North and the Northeast have come to perceive the parties' political stance as the parties fighting for justice of the people in the lower spectrum. The 2010 April-May suppression of the Red-Shirt protests in the heart of Bangkok was particularly relevant and is considered here a factor influencing voting decisions.

**Table 6.5: Regional Strongholds of the TRT, DP, and CP**

Party/ Election Year	Bangkok	North	Central	Northeast	South	Total
TRT 2001	29	54	47	69	1	200
TRT 2005	32	71	80	126	1	310
PPP 2007	9	48	43	97	2	199
PT 2011	10	49	41	104	0	204
DP 2001	8	16	19	6	48	97
DP 2005	4	4	10	2	50	70
DP 2007	27	13	37	5	49	131
DP 2011	23	13	25	4	50	115
CP 2001	0	3	20	10	0	34
CP 2005	1	0	10	6	1	18
CP 2007	-	5	17	6	2	30
CTP 2011	-	2	11	1	1	15

Source: Author's calculation based on data from the Election Commission of Thailand.

Ideologically, the major political parties in Thailand are mostly right-of-center. At least since the downfall of the left in the early 1980s, Thai parties generally have not divided along class, ethnic, or ideological lines. Basically, Thailand’s political parties are “catch-all,” meaning they cut across these socio-economic divisions and capture votes from all strata of the population. The Department of Political Science, Duke University, reports on this phenomenon in “Expert Survey on Linkages between Citizen and Politicians in Comparative Context, 2009” concerning the issue of left-right positions of political parties in Thailand as follows:

**Table 6.6: Left-Right Positions of the PPP (TRT), DP, and CP**

Question: Parties’ left-right scores? (1=most left; 10=most right)			
	DP	CP	PPP
Experts’ Mean Scores	8.13	8.83	6.43
Standard deviation of expert scores	1.64	1.17	2.07
Non-response rate/don’t know/no clear position	0.11	0.33	0.22

Source: Duke University, reports on this phenomenon in “Expert Survey on Linkages between Citizen and Politicians in Comparative Context, 2009.”

The above-mentioned report concludes that all Thai political parties score as very right-wing, the highest score belonging to the Peua Pandin at 9.20, while the PPP (TRT/PT) was the most left-wing party with a score of 6.43. This finding suggests an extremely skewed, rightist oriented ideological spectrum in Thai politics.

#### **6.4 The Voters’ Perspective on Vote-Buying and Voting Patterns**

For many years, the stereotype that the Thai electorates, especially in the rural area, has limited capacity to think rationally, and thus are easily bought has been an important component in the assault on electoral democracy. Research findings of the 1980-1990’s era typically reinforced the belief that the uneducated, poor rural electorate tended to focus on candidate personalities rather than parties’ policies, and because they were poor and uneducated, they were easily bought and manipulated.<sup>240</sup> Most recent studies also build on

<sup>240</sup> Suchit Bunbongkarn and Pornsak Pongpaew (1984). p. 150, 227; Thongchai Wongchaisuwan and Tienchai Wongchaisuwan (1986). *Karn mee suanruam tang karnmuang kong prachachon*

the same premise that vote buying is an effective strategy for mobilizing electoral support among low-income, underprivileged and uneducated people. The stereotype continues to posit that because poor rural electorates have little money and are therefore powerless, they become willing targets of cunning politicians who utilize both direct tactics of vote-buying, such as handing cash for a vote, and indirect schemes such as promises to resolve personal problems and provide community infrastructure.<sup>241</sup>

The promoters of the vote-buying stereotype are prevalent in articles, journalist commentaries, speeches, and interviews. A common view is, for example, “Thaksin’s party candidates had big money bags—in fact far more than those of all other parties’ candidates combined” and that in any general election, money is the decisive factor for winning seats.<sup>242</sup> Under such a dominant mode of thinking expounded by prominent scholars and popular media, the meaning of democracy has been consistently devalued by spreading the belief that people are being sucked into the corruption of money politics. Unfortunately, most of the times, these assertions are based on sentiment and speculation rather than rational evidence.

Recently, many studies reveal that the fixation that money is a decisive factor for winning seats ignores any contemplation that reciprocity between politicians and voters is entrenched in a more multi-dimensional relationship and is subject to various sets of moral evaluations.<sup>243</sup> The clash of opinion between the pro-electoral democracy camp and

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*chan klang*, (A research report on political participation of the middle class) (Bangkok: The Secretariat Office of the House of Representatives).

<sup>241</sup> Charnsak Tawil (1991). *Karn sue-kai kanan siang lurktang: karn lurktang July 27 2529 nai tambon Sangbadan ampur Somdej jangwat Karasin (Vote-buying: The July 27 general election 1991 in tambon Sangbadan, Somdej district, Karasin province)* A Master Degree Thesis in Political Science, Department of Government Faculty of Political Science (Bangkok: Thammasat University); Satitorn Tananitichote (2002). *Krabuan karn lurk tang lae pajjai nai karn tad sin jai lurk tang samachig sapaputanrassadorn, (Electoral process and factors effecting electoral decision for the House of Representatives)* A King Prajadhipok’s research paper (Nontaburi: King Prajadhipok Institute).

<sup>242</sup> Khien Theeravit (2010). “The Myth of Thaksin’s Popularity,” *Thai World Affairs*. Institute of Asian Studies, Chulalongkorn University. October 12, 2010.

<sup>243</sup> William A Callahan (2005). pp. 95-113; Andrew Walker (2008). “The rural constitution and the everyday politics of elections in Northern Thailand,” *Journal of Contemporary Asia* 38, No. 1, (February) pp. 84–105; Katherine A. Bowie (2008). “Vote Buying and Village Outrage in an Election in Northern Thailand: Recent Legal Reforms in Historical Context,” *The Journal of Asian Studies* 67, No. 2 (May), pp. 469–511; Prajak Kongkirati (2012). pp. 3-42; Chang Noi. “The facts

morality-concerned supporters has continued to intensify, creating deep social division in Thailand. This study, while acknowledging that some vote buying does exist, based on detailed survey analysis combined with local studies of selected constituencies, holds that the complexities of vote-buying cannot be understood as merely a method of winning elections illegally, and that the relationships between politicians and voters are not motivated solely by money. Besides, the judgment about whether or not a relationship solely based on money is often a very difficult one; those who condemn such relationships often rely on shallow judgments rather than comprehensive understanding.

In a survey during the 2011 general election, 6,558 respondents from seventy-six constituencies in twenty-two provinces<sup>244</sup> across the country were asked whether receiving money engenders feeling of obligation to vote for a particular party or candidate. The results compiled in Table 6.7 show that only 10.1 percent of the full sample admitted that receiving money engendered the feeling of obligation to vote. The obligation to vote for a particular candidate/party if receiving money was found to be lowest among the Bangkok voters--2.1 percent, and the highest--19.3 percent among the Southerners. Only 7.6 percent of the voters living in the Northeast region, the region with the least income, divulged that they would vote in exchange for money. It was also the case that the higher percentage of urban voters as compared to their rural counterparts admitted to feel obligated to vote for a particular party if receiving money, namely 12.3 percent urban against 9.3 percent rural dwellers.

This study cautions that the study of vote buying presents some challenges. First, the numbers of respondents were small and the study did not cover every province in Thailand. Second and more importantly, people who received money and handouts from candidates and canvassers may be reluctant to acknowledge this conduct. Thus, this study is hesitant to infer that only ten percent of voters were really induced by money. Therefore,

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about vote-buying and the patronage system,” *The Nation*, September 1, 2008. [http://www.nationmultimedia.com/2008/09/01/opinion/opinion\\_30082102.php](http://www.nationmultimedia.com/2008/09/01/opinion/opinion_30082102.php). (Accessed October 1, 2012).

<sup>244</sup> The twenty-two provinces included: Bangkok, Karnjanaburi, Chonburi, Ayudhaya, Rajaburi, Samutpragarn, Chiang Rai, Chiang Mai, Tak, Sukhothai, Pitsanulok, Konkaen, Nakorn Rajasima, Buriram, Yasotorn, Udon Thani, Ubon Rachatani, Nakornsritammrath, Prajublikirakan, Songkla, Surat Thani, and Pattani.

this study regards the results here as suggestive rather than conclusive and these figures defined a range, rather than a precise point-estimate, of the assessment of vote buying.

Table 6.8 below shows that when the respondents were asked who were the most influential for their voting choice, most of the voters, 97.8 percent claimed that they made electoral decision by themselves. Family and friends came as the second and third factors, 47.4 and 26.7 percent respectively. The role of the “middlemen,” such as canvassers, village heads, and local politicians, once commonly thought to be prominent when rural voters made voting decisions,<sup>245</sup> were found to have a much lesser effect on the voters’ choice than commonly thought. Still, as this study is hesitant to infer that only ten percent of voters were convinced by money, it is also cautious to infer, for the same reasons, that merely about thirteen percent of electorates were influenced by the middlemen in making electoral decisions.

The political conflicts in the past eight years have brought forth a great deal of speculation on the political affiliations of the Red- and the Yellow-Shirts when it came to voting at the polls. According to the research findings, 17.3 percent of voters professed they were influenced by political movements; among voters who declared movements influenced their votes, 67.3 percent identified the movement as the UDD (or the Red-Shirt movement), while 24.8 percent answered it was the PAD (the Yellow-Shirts) that influenced their decisions.

**Table 6.7: Does Receiving Money Engender Feeling of Obligation to Vote for a Specific Party or Candidate?**

	22 provinces %	Bangkok %	North %	Northeast %	Central %	Southern %	Urban %	Rural %
Feeling obligation to vote if receiving money	10.1	2.1	7.0	7.6	12.2	19.3	12.3	9.3

Source: Author’s survey of the July 3, 2011 general election.

<sup>245</sup> Pichai Rattanadilok na Phuket (1998). *Chonchan kap karn luektang, (Elite class and elections)* (Bangkok: Center for Research and Textbook, Krirk University).

**Table 6.8: Most Influential Person in Making Electoral Decision**

<b>Influential person in making electoral decision</b>	<b>Important</b>	<b>Most important</b>
Oneself	97.8	91.1
Family	47.4	4.6
Friend	26.7	1.5
Canvasser	12.8	0.8
Village and Tambon head	13.3	0.3
Local politician	13.3	0.2
Government officers	12.9	0.1
Religious leaders	10.7	0.3
Movements	17.3	1.1
-UDD (Red-Shirts)	67.3	
-PAD (Yellow-Shirts)	24.7	
-Others	8.0	

Source: Author's survey of the July 3, 2011 general election.

The survey results did not clearly define any particular demographics concerning what population segment would most likely constitute the profile of vote sellers. There was only a tiny difference between genders; female respondents acknowledged they were influenced more by money (10.2 against 10.0 percent). As expected, more of the sampled population with lower levels of education answered money engendered them to vote (12.5 of voters with primary school educations against approximately 9.3 of those with high school degrees and beyond). Surprisingly, young electorates, aged 18-29, were the most likely to vote because of a feeling obligation from receiving money (11.4 percent). A possible explanation is that voters aged 18-29 mostly entered the electorate after the 2006 coup d'état and the Thaksin era, therefore this group of electorate was strongly affected by political divisions and conflicts, so perhaps got fed up with endless internal fighting and had not yet developed a sentiment of party loyalty. In this light they could be more easily swayed by material rewards, as compared to people aged 30-59, who declared on an average of 9.6 percent that money inspired their vote choice. Respondents age 60 and over ranked second (10.3 percent) in feeling obligation to vote if receiving money. An

explanation might be that this group of the older generation was, more than other groups, governed by a normative obligation to respond in kind to the campaign money as a gift. These sketchy propositions certainly need more substantive research data to support them.

To avoid simplifying the complicated and multi-faceted subject of vote-buying, some issues needed to be reflected upon: First, the interface between party sympathies and vote buying. People who adopted party loyalty and a deep identification might have received money, but they may not consider the deed vote buying because they retained their habit of supporting the party anyway. Similarly, when people voted for their choice of individual preference and still accepted money from him/her, they might not deem this action vote-buying. Secondly, if people can be certain that their votes are secret, according to the principle of secret ballot, are they more likely to “take money with one hand, and vote with the other hand?” In other words, voters accept money and then vote as they please. In this scenario, if candidates and parties were unable to monitor voters,<sup>246</sup> would vote-buying be naturally reduced? Thirdly, there has been a new symptom of a patronage culture that vote mobilization is carried on throughout the year, not only during electoral period. This is done in a fashion of taking the voters on tour for a sight-seeing using the local administration’s budget, or resolving personal problems.

Our study in chosen constituencies reveals that the middlemen who do their jobs remarkably well are those who have broad associations and can identify reciprocal individuals within the community. If they cannot construct a network of trust by generating acquaintances among people, no matter how much money they spend they would not win the voters’ decision. Whether this dependence relationship between voters and political parties is a suitable strategy in a society rooted in inequality before political parties could develop into responsible political institutions,<sup>247</sup> or whether it is just as

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<sup>246</sup> The attempts to resolve the problem of intimidation by increasing voters’ confidence in the secrecy of their choices can be seen under the 1997 Constitution with a stipulation that votes from all polling stations should be mixed, counted and results announced at a single place, instead of at each polling station. By doing so, it is believed that canvassers could not be checked if they delivered votes as promised. However, this measure induced another kind of electoral fraud, an exchange of ballot boxes during transport. Thus the 2007 Constitution went back to vote counting at each polling station (see details in Chapter 3 and 4).

<sup>247</sup> James C. Scott (1969). “Corruption, Machine Politics, and Political Change,” *American Political Science Review* 63, No. 4, pp. 1142–58; Herbert Kitschelt (2000). “Linkages between

excuse for political parties to take advantage of the less fortunate voters<sup>248</sup> is a subject for debate.

**Table 6.9: The Margin of Winning in Constituency Level, the 2011 General Election**

	Won more than 10,000 votes*	Won less than 10,000 votes*	Notes
Bangkok	7	26	In district 5, PT received only 678 votes more than the DP
Central	50	48	Only in Patumtani and Nontaburi that the PT won a straight ticket in the whole province. PT won Supanburi district 5, a stronghold of Banharn.
South	48	8	All 8 districts situated in 4 Muslim provinces. In Yala district 2, the DP received 48 votes more than the PT
North	35	1	This was district 2 in Utradit where PT won
Northeast	97	29	-
East	15	11	-
Total	252	123	375 constituencies

Source: Author's calculation based on data from the Election Commission of Thailand.

\*The Average population in each district was 170,342 per one MP. The total population of the Kingdom of Thailand on December 31, 2011 was 67,878,267.

An analysis of electoral results in Table 6.9 is displayed to counter a false claim about vote-buying. The 2011 general election results revealed that the elected candidates in 252 out of 375 constituencies won with a large margin of more than 10,000 votes, especially in the North, the South, and the Northeast regions. This pattern of the margin of victory would not have been occurred if vote buying is a determining factor of the election

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Citizens and Politicians in Democratic Polities,” *Comparative Political Studies* 33, Nos. 6–7, pp. 845–79.

<sup>248</sup> Jonathan Fox (1994). “The Difficult Transition from Clientelism to Citizenship: Lessons from Mexico,” *World Politics* 46, No. 2, pp. 151–84; Guillermo O’Donnell (1996). “Another Institutionalization: Latin America and Elsewhere.” Kellogg Institute Working Paper #222. Notre Dame, Indiana: Kellogg Institute for International Studies.

results. A simple explanation is most politicians are conniving; they would have calculated well on how many votes needed to win an election before spending a large sum of money to buy votes. In other words, they did not need many surplus votes as shown in Table 6.9. Rather, the massive win was a reflection of sentimental and policy oriented voting.

In all, this study does not deny the existence and persistence of vote-buying. Neither does it overlook the role of the middlemen and political canvassers in electoral politics. Certainly, some candidates still hand out money, but the point is that money is no longer determine the election results. Pasuk and Chris Baker sum it up sharply: “more people understand the value of the vote, and are using it in their own interest”.<sup>249</sup>

Analyzing the past electoral results reflects that voting patterns in Thailand could, in fact, be changing. One reason vote-buying has been less effective is rooted in the emergence of the new middle class, composed mostly from people living in the areas previously known as the rural villages; nowadays the large part of these locales have been developed beyond their poverty-stricken image. This new and emerging middle class have more incomes, along with a better standard of living from the global market developmental strategies of the last decade.<sup>250</sup> The new rural middle class have become more and more politically mobilized and do not as easily succumb to selling their votes as many Thais commonly believe; rather, they increasingly vote for reasons besides money. And in many ways, these people have become politically astute when it comes to voting.

The most important factor that seems to guide people’s voting choice during the general election has been the recognition that their vote is a vote to select the country’s prime minister. Because of this, these voters are more and more aware of the power of their vote. Moreover, electoral competition and policy-based campaigns for the past 15 years have awakened the rural people to the idea that politics after all is about their daily living. A more caring, more responsive government is what the Thai voters are asking for. Thus, for a party to be successful at the polls, they must cultivate what Alagappa called

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<sup>249</sup> Pasuk Phongpaichit and Chris Baker. “Vote-buying claims nothing but dangerous nonsense,” *Bangkok Post*. December 6, 2013. <http://www.bangkokpost.com/opinion/opinion/383418/vote-buying-claims-nothing-but-dangerous-nonsense>. (Accessed December 7, 2013).

<sup>250</sup> Chairat Chareonsinoran (2011). “Kabuan karn seu dang kap karn prabplien puenti tang karn muang,” (The Red-Shirt movement and the adjustment of political space) *Parn*, April 3-September 2011, pp. 288-291; Nidhi Eassriwong (2009). *Rakya sang barn chonchan klang sang muang*, (The glass-root build a house the middle class build a nation) (Bangkok: Matichon Publications).

“performance legitimacy” which requires the proper and effective use of policies and political power.<sup>251</sup> In this new outlook, voting for a constituency representative might not be a priority for the voters. In effect, party loyalties were being formed (see the analysis of Table 6.4 above). As a result, the dominant characteristic of an exclusive brand of local elite that perpetuate patronage politics has become less successful.<sup>252</sup> The previous belief that people running for office are elected not because of their political parties’ platforms, but more because of who they are is being put to the test.

Based on the reasons and evidences elaborated above, this study contends that the preponderance of money politics still remains in the local elections where policy based campaign has not been employed. In national elections, widespread use of money still exists, however it is no longer a determining factor of winning an election. Overall, a good example of voters’ behavioral changes could be seen through their inclination to vote for parties’ policies more than in the past. Although this study insists that candidate-oriented still played a significant role in Thailand and could not yet be written off, party-oriented has definitely emerged and was here to stay.

**Table 6.10: Numbers of Party-Line Votes and Split-Ticket Votes, 375 Constituencies**

PT won SMD and PR	DP won SMD and PR	CTP won SMD and PR	BJTP won SMD and PR	DP won SMD/ PT won PR	PT won SMD/ DP won PR	Other parties won SMD / PT won PR	Other parties won SMD/ DP won PR
200 constituencies	108 constituencies	3 constituencies	2 constituencies	7 constituencies	4 constituencies	35 constituencies	16 constituencies
						BJTP 20	BJTP 7
						CTP 8	CTP 4
						CPP 5	Phalangchon 4
						Phalangchon 2	Matubhum 1

Source: Author’s calculation based on data from the Election Commission of Thailand.

<sup>251</sup> Muthiah Alagappa, ed. (1995). *Political Legitimacy in Southeast Asia: The Quest for Moral Authority* (Stanford: Stanford University Press).

<sup>252</sup> For an argument on the lessening influence of former local elites in the North, see Nuttakorn Vititanon. 2008. “Prutigam garn lurktang kong kon muang,” (The electoral behavior of kon muang -- the Northern people), *Prachatai*. <http://prachatai.com/journal/2008/01/15396>. (Accessed June 25, 2012).

The 2011 general electoral results in Table 6.2 demonstrate that the two big parties combined for more than eighty-three percent of votes under the proportional representation (PR) system. But their share of constituency votes under the plurality, single-member district (SMD) system was visibly less; they received seventy-six percent altogether. In the reverse direction, the medium-sized parties, (i.e., Bhumjai Thai, Chart Thai Pattana, Phalangchon, and Chartpattana Peu Pandin) all acquired constituency votes in a considerable amount more than their shares of votes under the PR system. This signified the inability of these parties to develop into parties of the whole country, and not simply regional or provincial parties. Nevertheless, the party list system without the five percent threshold allowed several newly created small parties to get seats in the parliament with less than 1 percent of the votes. Rak Thai was an outstanding case for a newly established party that could attract a fair share of votes across the country; its 3.07 percent of votes under the PR system was more than those obtained by some formerly established parties. The success of Rak Thai was mainly due to the personal fame of its leader, Chuwit Kamolvisit.

Splitting constituency and party list votes could be cited as evidence proving voters thought carefully about their electoral decisions. Table 6.10 attests to the possibility that now Thai voters are governed by two not necessary contrasting deliberations. In as many as fifty-one constituencies, people voted for candidates from smaller parties, while casting their party list vote for either the PT, or the DP. And in eleven electoral districts, people voted split-ticket between the PT's and the DP's individual contender and list. The PT and the DP were the prime opponents against other parties when competing under the PR system; in thirty-five electoral districts, people cast their party list votes for PT, constituency votes for other parties, and voters in sixteen electoral districts voted for the DP party list while choosing other parties' individual candidates. The meaning was, under the PR system the electorates focused more on whom they wanted to lead the government. Whereas at the constituency level, voters were more likely to choose the candidate whose personality was closer to their liking and those who spent more time and resources on constituency work. Division between party list and constituency votes was predominant in provinces where the medium-sized parties fielded a well-known candidate with a strong-grip electoral base, such as in Rajaburi, Supanburi, Prajeenburi, Buriram provinces, and some districts in Nakorn Rajasima, and Bangkok, for example.

Split-ticket voting behavior proves that close, concentrated relationships between candidates and constituents were still meaningful when it came to casting constituency votes. The Phalangchon Party was a good example of a party with an effective approach in contesting the 2011 general election. Phalangchon received barely 0.55 percent of the vote nationwide, obtaining just one seat under the party list system because its national popularity was slim, but six out of its eleven constituency candidates got elected from only 0.78 percent of all constituency votes. Phalangchon's successful strategy was contesting elections only in their stronghold areas around Chonburi province. Specifically, personalities were still competing fiercely against party policies for votes at the district levels. This interpretation was even more accentuated during the by-elections where party-line voting was less meaningful because they were not elections to choose who governed the country.

Regardless of the strength of personalities over political parties or vice versa, the emerging trend toward more informed political choices most likely reflects the development of a more politically mature population that is not easily swayed by vote-buying and personality driven candidates. In all, many Thai rural voters have become strategic voters in making electoral decisions.

### **6.5 Conclusion: The Task of Making Democracy Work**

Regardless of one's view on vote-buying, more and more, it has become more likely that voters who are offered campaign money to accept it and then, in the privacy of the voting booth, vote for the party whose program or candidate is most appealing. If it is clear that many voters followed this pattern, the parties would conclude that handing money will be too costly and fruitless, and might eventually abandon the practice. A sign that money politics is becoming less effective is the amount of money paid did not always determine who won recent election.

For many Thais, the electoral results in the past two decades, particularly after the 1996 coup d'état, echoed the victory of popular will. The electoral results also reflected a yearning for a more effective, responsible government with uncompromising integrity. Elections are now acquiring more public recognition as a procedural element that forms the basis of such political legitimacy. However, with the contrasting values systems among

Thais, lopsided levels of economic and social status, and a pre-existing hierarchical societal structure, the task of making democracy work appears to be more complicated.

Even with the success of the elections, the problems plaguing elections and democracy in Thailand remain. Two of these stand out, namely:

1. The first problem is that in Thailand elections do not seem to settle political predicaments and crises of legitimacy. In other words, in a society that is beset by social divisions, those who lose the contest at the polls are not always ready to accept the election results. There are all too frequent efforts to grasp political power by other undemocratic and violent means, often accompanied by claims they do that because the political regime is corrupted by elected politicians who buy votes. They usually assemble aid and support from unelected actors in society, such as the military and society elites. Or on other occasions, people and society are held captive by those who want political change according to their test without paying any respect to the rule of law, or the democratic process, or waiting until the next election comes. The rival factions battle to show who can mobilize bigger crowds on the streets. Social divides in Thailand are apparent. The challenge is acutely divided between the tradition social elites in Bangkok and urban middle class, who are habitually cynical about politicians and the merit of electoral politics, against the rural mass, who are relentless in voting and favor electoral democracy.<sup>253</sup> For the past many years, Thailand has witnessed the gatherings of people protesting in the streets to demand accountability from government leaders, and even to compel them out of office, in spite of their electoral mandate. The persistent fear is that at any time fundamental divisions within society and a disrespect for the election results can lead to some radical ways that are atypical conducts in other democracies to resolve differences in Thailand.

2. It seems that although Thailand has been able to hold elections, the ability of the political structure and political process to safeguard the abuse of power and make government and political elites accountable is still minimal. Elections thus turn out to be a practice of allotting all of the power to the winners. The best performers at the election polls are able to capture a very large share of the rewards, while the remaining competitors are left with very few mechanisms to ensure the elected leaders' integrity, efficiency and

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<sup>253</sup> Robert B. Albritton and Thawilwadee Bureekul (2000).

performance legitimacy. If this condition is allowed to continue, it may eventually demoralize the importance and meaning of having elections. Without competent and accountable political institutions and reforming the party system, elections can remain only an empty shell.

To alleviate these messy conditions, political parties, as being part and parcel of democracy and elections, must act as channels for people to voice their demands, and prove potent at defending democratic principles. The deficiency of dedicated political parties to correct the political system that has been embedded in conventional hierarchical structure and patronage relationships will only lead to continual and perpetual suspicions of electoral values and merits. What political parties need to do is to overturn the weak institutions that have been held hostage by a few oligarchs that have impeded democracy, elections, and participatory politics. And Thailand would certainly be better off if political parties are forced to compete on the grounds of programs and performance so that a broader spectrum of people can profit from the benefits provided by programmatic parties. A voter will benefit from valuable programs whether or not he or she votes for the party that offers it. And it is the public good that the parties should be promoting.

Notwithstanding, even if political parties and elections did have some problems, and the elected governments did avoid being held accountable, this remediable condition should, by no means, support any excuse and contemplation of a return to the authoritarian, unelected leadership. An affirmation of electoral democracy in the midst of political turbulences has been a good indication that democracy is the desirable political system for most informed Thai citizens. The people's spirit that wish for a democratic process to last indefinitely will be the best immune mechanism to a reversal to an authoritarian rule in the future.

## **Chapter VII**

### **Conclusion: The Paradox of Electoral Reform**

The central point of this study is that many effects of changes made to the electoral system and rules of the initial electoral reform in 1997 differed from what the political reformers had anticipated. The study argues that the unpredictable consequences led to another conscious reform to alter the unexpected results. But the ongoing reforms tended to create paradoxical outcomes. In the end, even the intentions of the reform became contradictory to the original purposes set by the political architects. That said, the study strongly argues that although the electoral reform has been overwhelmed with paradoxical intentions and outcomes as well as damaged by temporary erosion and breakdown, the reform has consequentially incited a relentless quest for democratization in Thailand. This expedition to democratization can only be temporarily deterred, but cannot be prevented in the long term. After all, a path to democratization process in Thailand is foreseeable and it will have to be pushed forward by earnest intentions and efforts to achieve democratic consolidation. To elaborate the issue of paradoxes of electoral reform, this chapter is divided into four parts: Firstly, the Origins of the 1997 and 2007 Electoral Reforms and Their Paradoxical Intentions; secondly, Electoral Reforms and Outcomes Paradox; thirdly, Factors Contributing to the Varied Outcomes of Electoral Reforms in Thailand; and lastly, the Conclusion: Which Way Forward?

#### **7.1 The Origins of the 1997 and 2007 Electoral Reforms and Their Paradoxical Intentions**

As shown in this study, there were several changes in electoral rules during the 82 years of Thailand's constitutional monarchy, characterized by the alternation between authoritarian rule and limited electoral democracy. The vital struggle for political and electoral reform was carried out after the 1992 Black May incident. The movement for reform first manifested in 1992 when the parliament passed two significant amendments to the 1991 Constitution (See Table 2.2). The first amendment required that the President of joint sessions of parliament must be the elected Speaker of the House of Representatives, and could not be the Speaker of the non-elected Senate as before. This was an attempt to shift the power from an unelected Senate, dominated by the bureaucrats and military

clique, to elected representatives. The second amendment set a requirement that a prime minister must be an elected member of the House of Representatives. This amendment aimed to assure that the circumstances which led to the 1992 protests would not be repeated and emphasized the importance of Thailand's struggle to shed off a long time image of a "half" or "semi" democratic country. The initiative received widespread public support, gained momentum through 1996, and culminated in the electoral reform of the 1997 Constitution.

An ad hoc committee for constitutional reform was then established by the House of Representatives in order to address and resolve the underlying problems. The following features outline four major areas concerning elections and political parties inherent in Thai politics that the reformers wanted to restructure.<sup>254</sup>

### **1. Poorly Institutionalized and Fragmented Political Party System**

In Thailand, nearly every election came with newly formed parties, mostly set up to foster their party leaders to the premiership. As a result, the rate of dead and dying political parties has been very high throughout Thailand's history of limited electoral democracy. Thai political parties have mainly been the instruments of ambitious leaders to obtain political power and for military leaders to pave the way for military generals into the political arena rather than the parties being organizations with apparent ideologies or political views. The endemic problems inhibiting the effectiveness and power of Thai political parties include lack of ideology, lack of discipline, numerous cliques and factions, instability, discontinuity and disruption, lack of organization, lack of funding, and finally, incoherent coalition governments.<sup>255</sup> Moreover, a popular assumption among Thai academics during the 1980s-1990s focused on the notion that a multi-party system had negative effects on public attitudes toward political parties and on government stability.<sup>256</sup> Therefore, among the many aims of the political reform was the intention to have a stable government with strong executive power.

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<sup>254</sup> See Borwornsak Uwanno and Wayne D. Burns. *The Thai Constitution of 1997 Sources and Process*, <http://www.thailawforum.com/articles/constburns1.html>. (Access November 9, 2013).

<sup>255</sup> Siripan Nogsuan Sawasdee (2012). "Thailand," in *Political Parties and Democracy: Contemporary Western Europe and Asia*, eds. Jean Blondel and Takashi Inoguchi (New York: Palgrave Macmillan) Chapter 9.

<sup>256</sup> Kramol Tonngdhamachart (1982).

## **2. Instability of Civilian Government and the Inefficiency of Political Institutions**

Coalition governments were seen as the main source of continual instability. By and large elected governments, in contrast to the military junta regimes, have been very insecure. Their tenure was marked by conflict and factionalism, resulting in frequent turnovers and legislative gridlock. Elected civilian governments survived only as long as the coalition parties in the House of Representatives endured. Each party in the coalition wanted a key ministry portfolio and the fights for the “super-ministries,” those with the biggest shares of the state budget, too often led to government instability.

## **3. Vote-Buying and Electoral Fraud**

Many Thais have been convinced that the very heart of problems with democracy in Thailand was vote-buying and electoral fraud. The impression of politicians with luggage full of cash in the rural areas during election periods have been forever imprinted in the mindset of many Thais. The poor and uneducated rural voters were seen as susceptible to bribery by wicked candidates, thus being blamed for sending corrupt politicians, who wanted to reclaim the cost of electioneering, to the parliament. These myths fostered the belief that the rural voters helped to perpetuate a system of patronage and corruption.

## **4. The Vicious Cycle and the Necessity of Democratic Implantation**

The military coup overthrow of a civilian government in 1947 marked the beginning of a vicious cycle in Thai politics,<sup>257</sup> a cycle which has repeated itself up to the last coup d'état on May 22, 2014. Most Thai prime ministers were non-elected and only survived under the wing of a strong military clique. The military-formed governments were composed mostly of members from the bureaucracy and military personnel. Reformers hoped that electoral changes would produce policy-oriented voters and political parties, a cohesive, responsive party system, and efficient government that could eventually end interference by the military. Put simply, the electoral designers expected that electoral engineering would advance the development of democracy in Thailand.

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<sup>257</sup> Sutachai Yimprasert was the first to publicly assert this statement in a seminar entitled “100 Years Anniversary: Constitutions, Revolts, and Coups d'état, Politics of Modern Siam 1911,” on September 15-16, 2007 at Sri Burapha Hall, Thammasat University.

Despite many outcomes conformed to the reformers' expectations, the first reform lasted only nine years. In 2006 the military junta ousted the Thaksin government, invalidated the Constitution, and all political institutions were temporary terminated. The new panel for electoral engineering was set up under the military's guidance. The committee, filled with law and political science academics, and social elite, drafted the 2007 Constitution with considerable changes to the electoral system, organic laws on elections and political parties, hoping to fix the unsatisfactory electoral effects of the previous reform. To be specific, the significant changes included: new electoral zones based on a system of proportional representation and termination of five percent threshold; the return of multi-member constituency system; lowering the number of House votes needed to launch a censure debate against the prime minister; fully replacing elected senators with half elected, half selected members; and, a complete reversal of the original method of counting the ballots at each polling station.

One can say that the initial electoral reform in 1997 had worked too well, generating the outcomes that were instead regarded as problematic and undesirable by the traditional elite who wanted to safeguard Thailand's status quo. The 2007 electoral reform's intentions significantly diverted from the original reform's core principles, reflected in major changes that were markedly different. The two reforms could be considered paradoxical because their incongruous outcomes rendered a pendulum effect of the reluctant electoral reforms. Intriguingly, the basis of the initial electoral reform in 1997 remains until today.

## **7.2 Electoral Reforms and the Paradoxical Outcomes**

The new measures under the 1997 Constitution represented attempts to engineer greater democracy in Thailand. However, the architects of reforms did not seem to have anticipated the potential side-effects of their design. Thailand's new constitution was haunted by the law of unintended consequences, by which laws, rules, and regulations designed to promote political stability threaten to have the opposite effect. The electoral exercises had resulted in unexpected outcomes and some outcomes were perceived as irregularities and undesirable for Thai politics. In other words, the results of electoral reform were non-linear. The paradoxical outcomes were a combination of contradictory

features and qualities. The four areas elaborated below define the paradoxical outcomes from the electoral reforms’:

The paradox first came to light in the area of institutionalization of the party system. The major effects of electoral reforms on this issue were found in two categories, namely (1) the effect of electoral reform on party systems; and (2) the effect of electoral reform on representation and inclusiveness.

### **1. The Effect of Electoral Reform on Party Systems**

As noted above, the view that the multi-party system had negative effects on public attitude toward political parties and on political stability was established; therefore, among the many aims of the political reform of this period was an intention to generate institutionalized political parties. The intended result was the number of political parties was reduced primarily due to the mechanical effects of the electoral system, which are the direct consequences of the electoral formula, i.e. shares of votes and shares of seats.

The motivation behind the adoption of the mixed electoral system was not different from that of many other countries around the world. A common aspiration was the hope and expectation that the combination of PR and SMD electoral systems would produce a balance between two types of desirable outcomes. In theory, the pure PR electoral rules would favor small group representation. When it was applied in Thailand for the first time in 2001 general election, the PR rules came along with a five percent threshold; therefore, instead of inducing representation from various group, it actually reduced the number of small- and medium-sized parties in the House of Representatives. Similarly, the SMD system which in theory favors big political parties,<sup>258</sup> when combined with the PR balloting, affected voters’ behavior and electoral outcomes in a way that actually aggravated the advantage of the big parties.

The paradox became apparent when the predicted results of the electoral system were combined with the socio-political and contextual foundations of Thailand’s party politics. The outcome mirrored a significant divergence from what had been anticipated. The parties’ policy platforms, which played a major role in the PR balloting, had shaped

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<sup>258</sup> Arend Lijphart (1994); Giovanni Sartori (1997). *Comparative Constitutional Engineering: An Inquiry into Structures, Incentives and Outcomes* (New York: New York University Press) p. 75.

voters' attitudes when deciding to cast their votes for individual candidates. The popularity of the political party was translated into vital political credit for constituency candidates. To be specific, both the district-level competition and the proportional representation races produced a drastic change in the effective number of parties, reducing it even more after Thai voters and politicians gained experiences under the new electoral system. Consequently, electoral fragmentation (ENEP) dropped to 2.6, and the effective number of parties (fragmentation for parliamentary seats or ENPP) was significantly decreased to the lowest point at 1.6 after the general election in 2005. It was not a mistake that Thailand's political party system became less fragmented, and during 2004-2005 was even called one party dominant.<sup>259</sup>

Noticeably, even when a change in the constituency system from SMD to MMD occurred in the 2007 general election, the effective number of parties only increased to 2.73. This figure was much less than the effective number of parties prior to the initial electoral reform in 1997 when the figure was around six to seven point (See Table 6.3). This demonstrated that a made-to-order electoral system of the 2007 electoral reform did not result in a restoration of the pre-1997 party system or a successful prevention of the domineering power of the Thaksin camp's political parties.

## **2. The Effect of Electoral Reform on Representation and Inclusiveness**

The paradoxical effects caused by attempts to institutionalize party system was an indicator that the use of legal regulations created disincentives for party building, thus restricting representation of the traditionally marginalized minorities in the parliament, such as ethnic and ideologically based groups. Moreover, the rules under the 1997 Constitution led to unintended negative consequences for participation by establishing barriers limiting a certain group of people, particularly those without a bachelor's degree, from running for election.<sup>260</sup> Although only senators were required to have a bachelor's degree under the 2007 Constitution, a rise in the average level of education among legislators was noticeable, especially the rise in the number of MPs holding master's

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<sup>259</sup> Aurel Croissant. "Electoral Reform and Party System in East Asian Democracies: A Comparative Analysis with Implications for Thailand," Publication in PDF file. Bangkok: Friedrich-Ebert-Stiftung, <http://library.fes.de/pdf-files/bueros/thailand/07041.pdf>, p.18 (Accessed May 20, 2013).

<sup>260</sup> Rangsan Thanaphonphan (2002). p.158.

degrees (See Figure 7.1 below). This undoubtedly reflected educational bias. Politics and elections thus became “the business” of a certain group of people while barring others at the grassroots and the lower social strata from a significant and meaningful participation. The escalation in average level of education among Thai MPs could also be interpreted as an indication that the parliament was increasingly dominated by a small group of social elites. Despite what might be viewed as affirmative impacts of additional schooling and increasing political professionalism to the growing convoluted procedure of drafting, debating and voting on legislation, their real values were limited. House members still spend more time performing constituency work in their electoral districts than laboring on legislation since most still hold the view that constituency work and upholding electoral bases is the decisive factor to get re-elected and promoted in their political careers. Therefore, constituency work continued to dictate much of the House’s chores notwithstanding a political era portrayed as one in which local pork barrel politics were being transformed into national policy competitions.

Figure 7.2 below indicates the composition of the parliament in terms of occupation since 1986. The number of members with previous service in the business and political arenas has grown significantly. Accounts of various local and national elections since 2001 highlighted two features of Thailand’s parliament. First, a large number of politicians and numerous members of long-entrenched political families won most elections. Secondly, most of these politicians and clans have been known to enjoy not only political longevity but also economic dominance. The relative congestion of certain a limited range of social groups in parliamentary members reflected a low degree of political inclusion, a criteria used for measuring genuine democratic systems.<sup>261</sup>

In addition, while party voting became more important and a less fragmented party system was quickly achieved, the anticipated incentives for institutionalized party building did not materialize. There were disappointments over the absence of conditions necessary for the institutionalization of a party system expected from electoral reform, such as less-personalized party leaders,<sup>262</sup> candidate recruitments, bottom up policy initiation, and party

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<sup>261</sup> Robert A. Dahl. (1998). *On Democracy* (New Haven: Yale University Press) pp. 37-38; Dalton, R., et al. (2005). “Advanced Democracies and the New Politics,” *Journal of Democracy* 15, No. 1 (January), pp.124-138.

<sup>262</sup> Indicators of the concepts of personalized leaders suggested by Blondel, Thiebaut and Inoguchi include: (1) appointment patterns of ministerial and executive positions surrounding leaders and (2)

membership. Instead of building enduring institutionalized political parties, parties exited and entered the system at a high rate so that every new election witnessed newly formed political parties.<sup>263</sup> The frequent cabinet reshuffles during each administration were also a marker of faction politics. This practice revealed a lack of party loyalty among the parliamentarians with a resulting destabilizing effect on the party system.

Noticeably, the proportion of the legislature made up of women still remained low and the women more likely won election under the SMD races, rather than under the PR. The statistic revealed that the parallel (SMD/MMD and PR) electoral system in Thailand produced the principle outcomes contrary to what scholars tended to expect from such rules. The figure in Table 7.1 below shed some light on this point. It should also be noted that the party dissolutions and banning of their executive members after the 2006 coup and again on December 2, 2008 might be a factor contributing to an increase of women legislators in the parliament during 2007 and 2011. A possible explanation is that women candidates came to replace the parliamentary seats formerly occupied by their male family members.

The last point concerning party institutionalization is the establishment of the Fund for Development of Political Parties (FDP). The FDP aimed to give political parties incentive to expand their membership and local branches. The thinking went that with increased membership and more local branches, political parties could develop wider linkages with the electorate. However, the operation of the FDP proved to be ineffective, and the results contradicted its intention. The political parties presented unsubstantiated, presumably exaggerated numbers of party members and branches in order to get state subsidies. Most money went to big, well-funded political parties, while many small parties, although receiving a substantial amount of funding, did not have a good understanding of or a concrete direction to achieve party building.

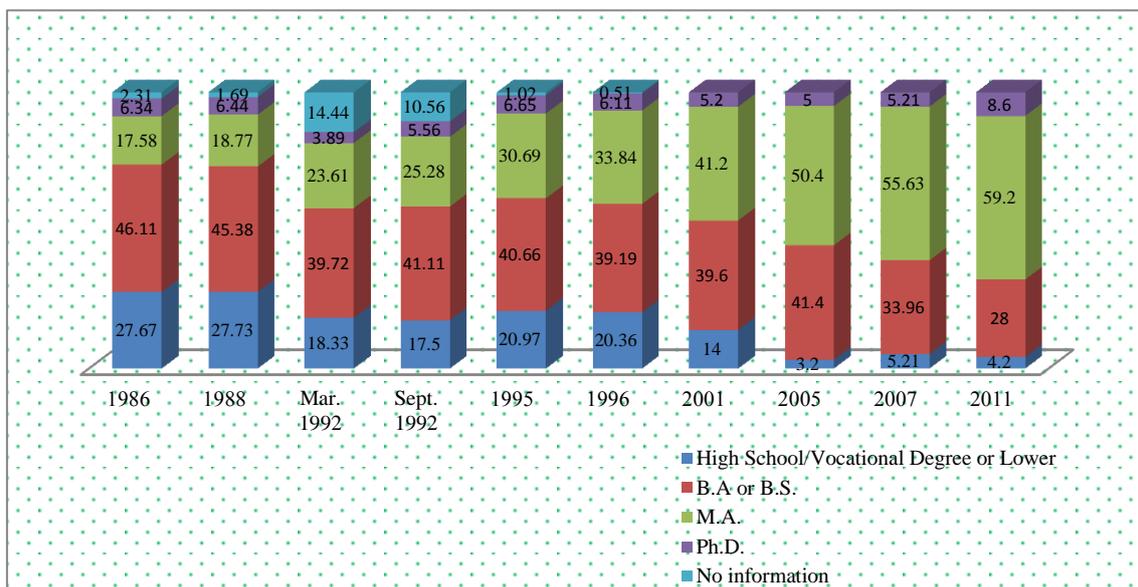
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a certain mix of oratorical appeal, good looks, and charisma. See Jean Blondel and Jean-Louis Thiebaut, eds. (2009). *Political Leadership, Parties, and Citizens: The Personalization of Leadership* (London: Routledge); and Takashi Inoguchi (2009). "Japan: The Personalization of Politics—Koizumi and Japanese Politics," in *Political Leadership, Parties and Citizens: The Personalization of Leadership*, eds. Jean Blondel and Jean-Louis Thiebaut (London: Routledge) pp.209-228.

<sup>263</sup> Siripan Nogsuan Sawasdee (2012). Chapter 9.

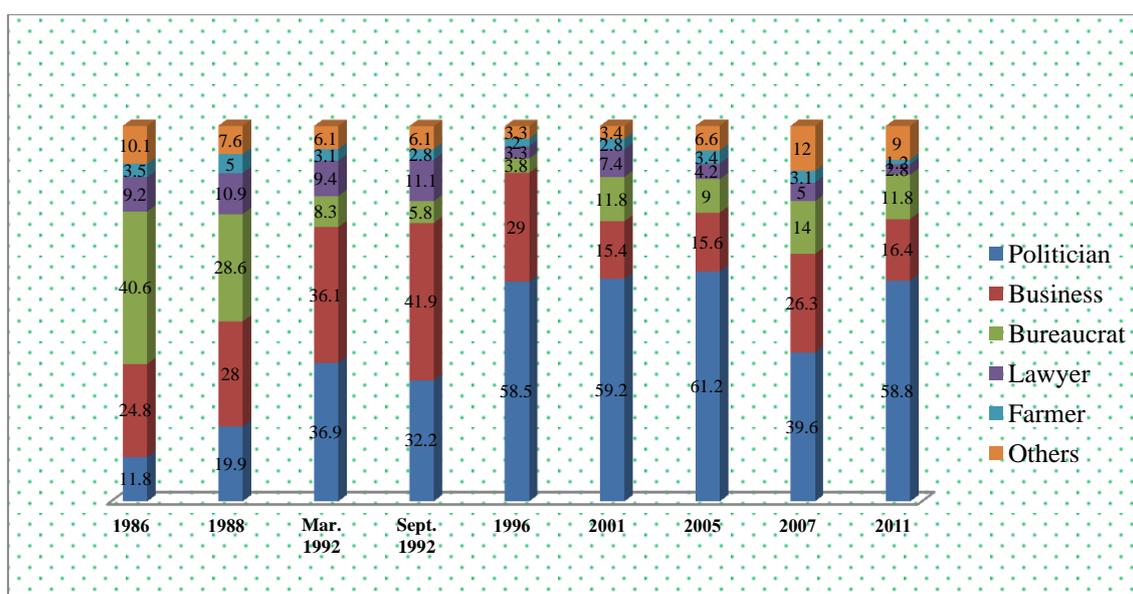
To sum up, the electoral reform had regressive effects on people’s representation, social inclusiveness, and party institutionalization. As this analysis shows, electoral reform created a bias in the proportionality of vote-seat translation, in the manner that fostered bonus seats for big major parties. The overall outcome was, therefore, lesser representation and more pronounced deficiency of inclusiveness. The state funding for political party development initiated without thoughtful guidance and operative monitoring mechanisms turned out to be merely another instrument for dispensing people’s tax money, instead of providing incentives for institutionalizing political parties.

**Figure 7.1: Educations of Elected MPs, 1986-2011**



Source: Author’s calculation based on data from the Secretariat of the House of Representatives and the Election Commission of Thailand.

**Figure 7.2: Occupations of Elected MPs, 1986-2011**



Source: Author's calculation based on data from the Secretariat of the House of Representatives and the Election Commission of Thailand.

**Table 7.1: Legislators who are Women, 1995-2011**

Proportion of Legislators who are Women, 1995-2011								
Election Date	Party List MPs			District MPs			Total Women House Members	Total MPs
	Total	Men	Women	Total	Men	Women		
Jul. 1995	No Party List System			391	367	24 (6.14%)	24 (6.14%)	391
Nov. 1996	No Party List System			393	371	22 (5.60%)	22 (5.60%)	393
Jan. 2001	100	93	7 (7%)	400	361	39 (9.75%)	46 (9.20%)	500
Feb. 2004	100	94	6 (6%)	400	353	47 (11.75%)	53 (10.60%)	500
Dec. 2007	80	73	7 (8.75%)	375	351	49 (12.25%)	56 (11.67%)	480
Jul. 2011	125	106	19 (15.20%)	375	315	60 (16.00%)	79 (15.8%)	500

Source: Author's calculation based on data from Department of Local Administration, Ministry of Interior (1995 and 1996) and from the Election Commission of Thailand (2001-2011).

The second area of outcomes paradox concerns a desire for a strong and stable government. As earlier stated, the instability and ineffectiveness of Thailand's governments were widely perceived in relation to friction and conflict among coalition

members. Coalition governments in the past usually suffered from a lack of common policy and coordinated program implementation. Some of the most important policy areas had been fragmented into different ministries and allocated to the representatives of various parties. Accordingly, the country was run by mini-governments, rather than by an effective coalition. The instability of a fragmented coalition government had been cited as a principal reason hindering political development in Thailand.

Although there were no specific provisions in the constitution or other electoral laws that encouraged the emergence of strong party government, it was believed the electoral reform produced a too strong executive branch beyond expectations of the reformers. The stipulation that helped facilitate a strong executive was based in the 1997 Constitution's requirement that 200 out of 500 members of the House of Representatives were needed to submit a motion for a general debate for the purpose of passing a vote of no-confidence on the prime minister (Section 185). The difficulty set in place for members of parliament to scrutinize and curb executive power had reduced the opposition to near insignificance. The root of this perception can be associated with the historic landslide victory of Thai Rak Thai in the 2005 general election that led to an unprecedented single-party government, controlling 377 out of 500 seats. Accordingly less than 200 votes occupied by the opposition could not launch a censure debate to scrutinize the prime minister. The 2007 Constitution tried to turn the scene around by making it easier for the opposition to open a vote of no confidence, only 100 out of 500 votes is needed to launch a censure debate against the prime minister and after two years, only half of the opposition parties was required to launch a censure debate. Yet, the effects of electoral reform that facilitated a strong government maintained.

As discussed above, the electoral reform, electoral system and rules had produced unprecedented enablement of one party to win the majority votes<sup>264</sup> in the House of Representatives. Accordingly, even when coalition governments were formed, as large

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<sup>264</sup> Certainly, a one-party majority is not the only mechanism that produces stable and responsive government. Conversely, a coalition government's ability to initiate and pass legislations is not always inferior to a one-party government. A wide-ranging collaboration from parties within a coalition government sometime enables more effective policies. Arend Lijphart believes that successful policy making requires a steady government, not quite a strong one. See Arend Lijphart (1984). *Democracies: Patterns of Majoritarian and Consensus Government in Twenty-One Countries* (New Haven: Yale University Press) p. 156.

alliances were preferred to withstand possible defections of the allied parties, the core party could become more powerful than its coalition partners because the core party could assume power without the support of other parties. This was unlike a coalition government in the past where smaller parties gained more influence far beyond their numerical strength. In other words, there was a correlation between the decline of party system fragmentation and cabinet durability.

The inclination towards a stable government, ironically, turned out to be a threat to the traditional elite. In many occasions the party government, whether it be a single-party or a coalition government, was dubbed “a tyranny of the majority” and “a parliamentary dictatorship”. The opposition claimed that the legislative branch did not have an effective mechanism to check on the prime minister’s decisions and the government’s actions; therefore, protests on the streets were rallied in order to scrutinize the government outside the parliamentary domain. The two major street demonstrations, first in 2005 and second in 2013, finally culminated in the overthrow of the seemingly stable elected government by the military juntas in 2006 and 2014 consecutively.

In sum, a paradoxical effect of a strong government, indirectly produced by the electoral reform, was that the reformers saw it as a threatening outcome. Eventually, an unstable pattern of party competitions returned as a result of new rules and regulations of a new constitution drafted under the military-led government, forever acting as an ultimate political arbitrator.

The third paradoxical outcome derives from the efforts to curb vote buying through electoral reform. To realize this aim, the PR electoral system was introduced with a hope that a large district magnitude, i.e., the whole country as one constituency, would be make it too difficult for any candidate or any party to buy votes. In this scenario, to win in the party list votes, political parties needed to wage a national campaign, which would include much larger-scale and more expensive vote buying.

Two paradoxes emerged. (1) Even it has been established that the PR system, mechanically and practically, helped obstruct vote buying, many Thais were still held on to a perception that national level vote buying was more frequent and prevalent. (2) Party policies encouraged by the PR system as a new vote getting strategy and mechanism, were

ironically perceived as political parties' novel creations to buy votes. These policies have thus been blamed for Thailand's failed democracy, among other major causes.

It was argued that Thailand's electoral system prior the electoral reform (Multi-Member District) and the short-lived multi-party coalition cabinets created disincentives for voters to count on promises of future benefits,<sup>265</sup> thus making the immediacy of vote buying more attractive.<sup>266</sup> Likewise, vote buying and personal networks of canvassers were methods of choice for many candidates because party brands and platforms were not electable commodities.

Electoral reform did generate a new basis for party competition by altering the incentives and capabilities of voters and candidates to trade votes for money by promoting policy platform as a viable vote-getting strategy. For this reason, it was the 1997 Constitution that set the stage for the rise of Thaksin Shinawatra as he was able to adjust to and effectively take advantage of the new electoral rules more so than other politicians and parties. After the success of Thaksin's parties in employing policies as vote-getting tools, other Thai political parties tried to propose to the electorate clearer platforms and programmatic policies. However, when critically examined, all these policies manifested similar disposition without specific ideological inclinations.

The increased popularity of the parties' policies raised a concern that the policy promises and implementation could lead to the creation of a new hierarchical clientelism, in which political parties were patrons. Evidently, parties that could use their control of public resources to distribute benefits such as jobs, subsidies, infrastructures, and housing projects, as well as to access financial aid were in a better position to exchange clientele based materials for electoral support. Patronage from this perspective meant how political party leaders sought to use public institutions and public resources for their own ends, and how a variety of favors were exchanged for votes.

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<sup>265</sup> Thai party programs in the past have been vague or even nonexistent, and party leaders convinced voters not with ideology or platforms, but simply with promises that the party would join a coalition and hold cabinet posts.

<sup>266</sup> Allen D. Hicken (2002). "The Market for Votes in Thailand," Paper presented in "Trading Political Rights: The Comparative Politics of Vote Buying", Center for International Studies, MIT. August 26-27, 2002.

The last paradoxical outcome to be discussed here is the most consequential one. The essential elements of the electoral reform under the 1997 Constitution were the stipulation that a prime minister must be elected and that the previously appointed Senate was to be replaced by 200 members directly elected by the people for the first time. The Senate's most important powers and duties were oversight of legislation, along with the selection, appointment, recommendation, or approval of persons to hold positions in the independent bodies as well as removal of key persons from office. For nine years after the enactment of the 1997 Constitution, the prime minister, and the bicameral parliament, comprised of the Senate and the House of Representatives, all came from the popular elections.

Accordingly, the far-reaching effect of the electoral reform had been to the awaken electorate. When people were given the ability to choose their political leaders and meaningfully expressed their opinions about the government, they came to realize that the power lay in their hands when they voted. Since then voter turnout had increased significantly (See Table 6.1). Thailand witnessed the empowerment of groups of people across regions, education, income, gender, and class, who wanted to exercise their rights in the political arena. As the result of electoral reform, people came to be aware of the value of their votes and wanted their electoral choices to be respected.

However, the politicized electorate was perceived as a potential drawback by the polity. The politicized and awakened populace definitely produced effects that the architects of the political reform did not expect.<sup>267</sup> The reformers narrowly perceived that the effects of electoral reform gave rise to Thaksin and his nominee parties, and that the electoral awareness only fostered this dominance because the opposition parties had failed to win elections for the last two decades. A close tie between Thaksin's political parties and the mass electorate led the military and traditional elite to presume that people's resentment towards the government would never lead to voting for a change of government. In other words, they did not believe in using an election as a penalty against the government in which voters punish elected politicians as a consequence of government corruption or governance failure. Electoral reform, in the electoral engineers' eyes, was merely an instrument giving rise to the elected immoral authority. The beginning trends of

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<sup>267</sup> Duncan McCargo (2002). "Introduction: Understanding Political Reform in Thailand," in *Reforming Thai Politics*, ed. Duncan McCargo (Copenhagen: NIAS).

strong voter-party linkages that should have been considered a good sign to cultivate lasting preference for political parties in neo-democratic countries like Thailand came to an end twice as the results of the two coups d'état. The abrupt ending of the nascent bonding between political parties and social groups prevented the possibility that the resentful electorate might eventually punish the government they elected.

The 2007 electoral reformers, in practice chosen by the military juntas, were governed by a different approach to electoral engineering. The foundation of the 2007 electoral reformers was a deep distrust and suspicion of the elected politicians, and was expressed in the constitution's outlining of dominant checks and balances of the elected bodies by unelected independent organizations. The new aim of the electoral architects was to decrease the newly arisen popular power by interrupting the democratic electoral process.

In this light, this study contends that the electoral reform under the 1997 Constitution was a move to stress change and to implant democracy as an aftermath of the 1992 Black May incident after the 1991 coup d'état, while the electoral reform under the 2007 Constitution reflected the ruling elite's desire to revive traditional Thai political structure to counter the growing democratization process and to stop an upsurge of popular power. The amendments to the 2007 Constitution in 2011 were really merely electoral changes aimed at giving electoral advantage to the ruling parties. However, the irony was that repeated reforms had awakened the electorate and implanted political consciousness even more deeply. It is hard to believe that the populace will easily forsake their struggle for equal rights, dignity, and respect anytime soon.

In a nutshell, the most vital paradoxical effects of electoral reforms, regardless of electoral results, have been the proliferation of a populace with heightened politically consciousness and the resulting continued attempts by the elites to suppress this rising awareness.

Table 7.2 summarizes the major argument of this chapter so far; that is, the effects of electoral reform deviated from the initial goals. A series of efforts were made to shape the outcomes paradoxes with the hope that expected results would be attained.

**Table 7.2: Electoral Reform, Goals, Measures, and Effects**

<b>Year /Reform Origin</b>	<b>Goals</b>	<b>Reform Measures</b>	<b>Effects</b>
1997: Movement aimed at preventing military intervention and supporting a democratic experiment; an aftermath of the 1991 coup d'état and the 1992 Black May incident	1. Less fragmented party system, thus encouraging strong, durable government	-PR countrywide district (5 % threshold) + SMD	-Number of parties winning election decreased significantly -First single-party government
	2. Better institutionalized political parties	- PR to promote party-centered electoral competition - A bachelor degree required for contesting election - Establishment of the Fund for Development of Political Parties	- More personalized party leadership - Less inclusiveness - Exclusion of non-bachelor degree holders from the electoral arena - Unrealistic numbers of party members and party branches were shown to get party funding
	3. Reduce vote-buying	- Designate a central place for ballot counting in each district - ECT to serve as independent electoral management body -Limit campaign expense at 1.5 million baht	- Vote rigging by switching ballot boxes during transport - Red and Yellow cards issued by the ECT delayed electoral results -Induce electoral violations because the limit was too low for actual expense
	4. Installment of Democracy	- PM must be elected - Direct popular election for Senate	- Popular empowerment - Awaken populace and bonding between parties and electorate
2007: A product of the 2006 coup d'état, instigated by the anti-Thaksin mass demonstrations	1. Restore multi-party system, thus induce coalition government	- PR (8 electoral zones, no threshold)+MMD	- More parties winning parliamentary seats - Coalition government
	2. Prevent any politician from claiming legitimacy based on popularly elected national votes	- PR was divided in 8 electoral zones, 10 MPs each, no threshold	- MPs elected from PR came from one electoral zone, not from the whole country.
	3. Reduce vote-buying	- Ballot counting at each polling place	- A claim that electoral canvassers could monitor voters' choice
	4. Derail electoral democracy	- Half elected, half selected Senate	- Empowering roles of the unelected bodies
2011: The 2007 Constitution Amendment before the 2011 general election	Hope to increase the electability of the parties in the coalition government (Give the ruling parties electoral advantage)	- Return to the country-wide PR system with an expansion to 125 seats and no threshold - Bring back SMD	-The previous opposition party (Thaksin's party) won 53% of seats under PR and the majority seats under the SMD

Source: Author's own compilation.

### **7.3 Factors Contributing to the Varied Outcomes of Electoral Reform in Thailand**

The findings of this study are two-fold. Firstly, this study reveals that the electoral engineering has caused significant changes in the mode of electoral competition, as well as the sheer number and relative size of political parties in the House of Representatives. However, the study much less firmly supports the assumption that electoral engineering is a useful tool to manufacture a more stable and better institutionalized party system. Secondly, the findings of this study advocate an assertion that electoral reform in Thailand, despite its inconsistent and hesitant intentions, promoted the democratization process by implanting seeds of political awareness and efficacy in the people's psyches and spirits.

Two variables can be identified as significant factors shaping those consequences of electoral reform. They are: (1) The mechanical factors of the electoral system; and (2) The socio-political contexts in which the elections operated. More emphasis will be placed on the second factor.

#### **1. Mechanical Factors of the Electoral System**

Democratic rules of the process are initially and practically shaped by electoral systems. Electoral systems and electoral rules are often perceived by players in the process as the easiest and most productive political institutions to manipulate. It is the mechanical factors of the electoral rules that determine how to translate the votes cast in a general election into seats in the parliament. Therefore, the choice of electoral systems can change who is elected and which political party will form the government, and whether the government will be a single-party or a coalition government. The mechanical factors of electoral systems, in large part, determine the type of party system which develops, specifically, the number and the size of political parties in the parliament.

In Thailand, the mechanical factors, namely the electoral system, rules, formulae, ballot structure, and district magnitude altered the distribution of votes, the seats share received by each party, and the degree of disproportionality among political parties. The detailed analysis in Chapter 3 demonstrates that under the SMD electoral system the biggest political party benefited the most, receiving a disproportionately high share of

seats,<sup>268</sup> while all other parties received fewer seats than their vote shares (Table 3.4 and Table 7.3 below). Large sized political parties also profited greatly from the PR system, with or without a five percent threshold; their shares of seats were always higher than their shares of votes, at the expense of smaller parties. The result was that party system fragmentation was reduced drastically. The resulting manifestation was a decline in the effective number of parties, and proportions of votes earned by top two political parties have increased significantly from 60.83 percent in the 1996 general election, which was held before the electoral reform, to 83.57 percent after the 2011 general election (See Table 6.2). Consequently, party competition was diminished to the point that the traditional elite felt threatened.

**Table 7.3: Seats-Votes Differences in Four General Elections after Electoral Reform**

Parties	General Election 2001		General Election 2004		General Election 2007		General Election 2011	
	Seat-Votes SMD	Seats-Votes PR (5% threshold)	Seat-Votes SMD	Seats-Votes PR (5% threshold)	Seat-Votes MMD	Seats-Votes PR (8 zones no threshold)	Seats-Votes SMD	Seats-Votes PR (no threshold)
TRT/ PPP/PT	+13.36	+7.36	+22.01	+5.83	+12.88	+1.41	+9.46	+4.58
DP	-1.56	+4.42	-7.45	+2.78	+2.64	+0.81	-1.32	-3.25
CT/CTP	+0.25	+0.68	-6.03	+0.36	-0.48	+0.95	-0.83	+1.01
Total parties that won House seats	9	5	4	3	7	6	7	11

Source: Author's calculation based on data from the Election Commission of Thailand.

<sup>268</sup> Thai Rak Thai gained twenty-two more seats than their share of constituency votes (percentage), while all other parties were allocated fewer seats than their share of constituency votes under the SMD system in the 2005 general election. See Chapter 3.

Thailand's electoral system, especially the PR or party list, also influenced the way political parties campaigned throughout the country and the relation of political leaders with the national electorate. In turn, this shaped the broader political climate. The political parties have developed greater bonds to wider social groups, well-defined programmatic appeal, and strong connections to reliable and stable core constituencies. The results were most obvious in less fluid electoral contests, specifically lower party volatility between elections. To be specific, the electoral reform allowed the political parties to structure the votes more effectively. However, a traditional trait of Thai political parties persisted and still inhibited its efficacy; most political parties in Thailand were still perceived as a leader-centric, and still thought of as Thaksin's, Banharn's, or Chuwit's personal asset.

Electoral and institutional reformers in Thailand were right when they thought they could use electoral formula to manipulate the fragmentation of party systems, but what they did not imagine was that a less fragmented party system did not always translate into party institutionalization.

## **2. Socio-Political Factors**

Several comparative studies demonstrate that there are problems in generalization of electoral systems and their consequences. Specifically, the same electoral systems and rules when applied in different conditions can produce different outcomes. It is stipulated that the effects of electoral systems are not only influenced by their own mechanical factors, but also affected by the socio-political context in which they operate, and many times have created outcomes diverted from the original expectation.<sup>269</sup>

After the 2006 coup, there were attempts to create a different political environment in order to construct a more competitive party system. However, even with the new structure of political competition, the electoral results ran counter to expectations. By changing the electoral system from SMD to MMD and terminating the PR threshold in the 2007 general election, the effective numbers of political parties were indeed increased from 1.6 to 2.73, but not to a degree that could change political outcomes (See Table 6.3). There was no significant party proliferation in the MMD tier. The electoral designers who

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<sup>269</sup> Robert G. Moser and Ethan Scheiner (2012). p. 22; Bernard Grofman, Shaun Bowler and André Blais, eds. (2009). *Mechanical and Psychological Effects of Duverger's Law: Evidence from Canada, India, the U.K. and the U.S.* (New York: Springer).

presumed that returning to MMD would bring back the same results of the multi-party system as Thailand once was during the 1980s-1990s were totally wrong.

What the electoral architects did not anticipate was how the prolonged political conflicts and context influenced the effects of electoral rules. This study contends that deep and continued social conflicts for the past ten years had become a factor that constrained the number of viable parties and electable candidates. Specifically, the persisting intense polarization of color-coded politics encouraged strategic voter behavior. The strategic voters in this political environment voted in a way that hindered the possibility of new political parties to emerge and reduced the possibility to win by the political parties outside the two-colored political antagonists, red versus yellow. In many constituencies, candidates who did not run under the umbrella of the two big adversary political parties had a very small chance of winning office. Some voters cast their votes to prevent the other party from winning; they voted not because they liked the party they voted for, but because they hated the other party more. In other cases, there were those who wanted to avoid wasting their votes by not electing parties or candidates with no real chances of winning.

The parallel electoral system which was a combination of the PR and SMD/MMD systems also provided the conditions necessary for strategic behavior by political parties and voters. Those voters who wanted to see the leader of their choice become the head of government would cast their two votes, PR and constituency ballots for the same party, even when they felt the electability of the candidate was low. This was because in the midst of polarized political conflicts, party voting overshadowed personal voting. In such an atmosphere, additional political parties had a difficult time to contest effectively, not to mention to win the election at all. This type of voting strategy is believed to produce a psychological effect which influences both voters and parties to strategically adapt their behavior.<sup>270</sup> The psychological effect on parties meant that some regionalized political parties, such as Phalangchon and Chartpattana Peu Pandin, chose not to invest too much in the national party list race, instead spending resources at the constituency levels in which their chances of success were much higher.

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<sup>270</sup> R. Michael Alvares and Jonathan Nagler (2000). "A new approach for modeling strategic voting in multiparty elections," in *British Journal of Political Science* 30, No. 01, pp. 57-75; Bernard Grofman, Shaun Bowler and André Blais, eds. (2009).

Another aspect of the socio-political context that the electoral designers did not foresee was the way non-institutionalized party system opened up a political opportunity that allowed a big business party to merge small- and medium-sized parties under its wings. Several party mergers and massive party switching were strongly supported the assertion that political context mitigated the way electoral institutions affected outcomes. The phenomenon was a reflection that political actors' behavior could alter the effects of electoral rules, especially when they tried to exploit the electoral rules to their advantage. This was particularly true when electoral behavior and political etiquette has not been settled. All those occurrences put the limits on institutional engineering.

That said, this study is in disagreement with the claim that party politics dominated by big business was an effect of electoral reform. This study holds the view that a larger amount of money was needed for a capital-intensive party management. The trends of an increasingly complex entwining between money and politics included the widening role of the mass and social media in elections and the professionalization of electoral campaigns. It seemed that ill-planned and poorly executed old-style campaigning was likely to deliver defeat. Money in politics attracted a series of complaints and raised concerns about untoward and unwarranted influences of money during the election period.

In sum, the electoral rules and electoral system could alter political outcomes, but the effects were also greatly determined by socio-political contexts and environments. The effects caused by the socio-political context were difficult to control. Therefore, these effects tend to exceed the electoral reformers' expectations and imaginations. The most crucial effect to surpass expectations was the upsurge of popular power. This study believes that if Thailand's electoral democracy was not halted twice by military juntas, once in 2006 and again in 2014, the effects of electoral engineering would have eventually created an equilibrium suitable and desirable for the of the majority people.

## 7.4 Conclusion: Which Way Forward?

The effects of the electoral system and its reform proved to be very different from the goals and expectations of the reformers to the extent that they have caused the “paradox of electoral reform.” The paradox of electoral reform in Thailand lies in the fact that their effects have led to changes and dynamics facilitating the democratic transition, changes and dynamics which occurred too quickly and too forcefully for the societal elites to handle and adjust themselves to. The consequences were series of coups d’état in September 2006 and May 2014 respectively. The double coups d’état within eight years reflected the last resource of the elite to apply an extra-democratic means to delay and detour Thailand’s route to democracy.

We may expect more coups d’état, some of them dangerous in the extreme, to emerge during this long period of Thailand’s transition to democracy. The mere existence of a dysfunctional tendency, such as the relatively slow adaptability of authoritarian structures, does not automatically bring about its disappearance. However, the military will eventually have to yield to a public pressure for a new round of electoral reform as the military politics is viewed as restricted and temporary. The perception that elections are the only legitimate means for assuming political power is elevated. The longing for a specific set of reform and the new institutional order that can generate democratization is embedded. The reform, in turn, will bring about the momentous and uncontrollable changes to Thailand’s political landscape. The effects of repeated electoral reform will destroy the structures in which the authoritarian power is embedded. In this light, it is possible to predict that each coup d’état and military politics will sow the seeds of its own destruction, and democratization will gradually engulf it.

General Prayuth Chan-ocha, the 2014 coup leader and prime minister, stressed through national television broadcasting system the necessity to reform politics, especially to revamp the electoral system.<sup>271</sup> His directive reflected the massive impacts of past

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<sup>271</sup> The three goals announced by the leader of the National Council for Peace and Order (NCPO) included: 1) The efforts to achieve national reconciliation within a time frame of two to three months; 2) The use of a temporary constitution. A legislative council will be established to select the prime minister, appoint cabinet members to administer the country and write the constitution; and 3) Rules and regulations will be amended in order to have a good, honest and moral leader to govern the country. This will probably take approximately one year. General Prayuth Chan-ocha’s

electoral reform on the altered landscape of Thai politics and on the shift in the balances of power. It is suggested that the general principles that should be used as guidelines to future electoral reform, derived from this study's findings are as follows:

**1. The setting and environment of electoral reforms are of great importance**

Actually they are as important as the electoral engineering itself. The simple explanation is that electoral reform is primarily a political process, not an assignment for which some technical experts or academics can fabricate one correct solution. The crafting of electoral and political reform is a crucial task. Experience shows that sometimes the choices of electoral system were made by reform architects who lacked knowledge and information and did not recognize the consequences of different electoral systems, formulae, and rules. Or sometimes, electoral reformers used their knowledge to promote designs they thought would work to their own partisan benefit. Even when electoral reforms and the electoral systems were selected to improve democratic consolidation and without partisan advantage, some effects of reform might not be as expected. To avoid public resentment, the approach to electoral reform therefore must generate extensive public debate and allow participation from various groups in a society as broad and comprehensive as possible. In the end, the reform must be approved by the general public to assure its legitimacy and increase popular ownership.

**2. Electoral reform should include an assurance of inclusiveness** One of the 1997 electoral reform's weakest features was that it fundamentally set up a barrier to exclude people without a bachelor's degree from running in elections for both Houses of the parliament. This negative aspect of the reform not surprisingly drew a lot of criticism. The electoral reform will be widely accepted as impartial and legitimate only if it encourages and assures inclusiveness of various groups in the political domain. The mechanisms of the electoral system and electoral rules should not purposely exclude anyone or any one group from contesting or voting in the elections. In other words, electoral reform should be a neutral mechanism for all political parties and candidates. It should not overtly discriminate against any political grouping.

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speech on national television. May 30, 2014. See also Thomas Fuller. "Junta Sets Year's Goals for Its Rule in Thailand," *The New York Times, Asia Pacific*, May 30, 2014.

**3. Electoral reform should assure adequate representation** Thailand's SMD and MMD electoral systems guarantee geographical representation. People in each electoral district, province, and region have their MPs in the House of Representatives whom they choose and who are theoretically accountable to their local constituencies. However, the concept of descriptive representation was totally ignored in the process; descriptive representation means that the legislature should reflect the people in the country as a whole. The party list or proportional representation system includes mechanisms to diversify the list to include candidates from all spectrums, classes, identities, genders, social status, religious affiliation, and ethnic groups. So far, the political parties' lists mostly concentrate on parties' executives, seasoned politicians and parties' big funders. Accordingly, the PR list in the past could not be said to adequately represent the will of the people, not to mention it created an enormous ideological distance between voters and their MPs.

**4. Electoral reform should increase government's and representatives' accountability to the voters** Experiences in Thailand show that an absence of accountability may very well lead to government instability unless government and representatives are accountable and responsible to the voters' preferences and concerns. Thus, electoral reform should be designed in a manner that allows voters to throw out of members of government or parties in a coalition that failed to deliver. At the same time, electoral reform should include a mechanism that provides the electorate with effective means to recall their MPs if they betray their campaign promises, or act incompetently, or become involved in corruption while in office.

**5. Electoral reform should maintain the importance of political parties** There is extensive evidence suggesting that a country can endure crises and challenges better if it is endowed with strong and effective political parties. Therefore, electoral reform and the electoral system should promote a strong and stable party system rather than encouraging party fragmentation.

It should be noted that a strong political party is totally different from an autonomous party that serves as a vehicle for an individual political leader. Electoral reform should promote the development of parties that appeal for support outside their own core political base with broad political values, cross-cutting social cleavages, and

policy orientations. Drawing from Thailand's experiences, it would be of great benefit if electoral reform can persuade people to look for alternative parties with potential abilities, instead of voting as usual for the same political party.

**6. Electoral reform should make elections meaningful** In the past, elections in Thailand had little influence on the formation of governments or on government policy. Those hollow elections did not mean much for people. After the 1997 electoral reform, voters got to choose their prime ministers, MPs, and senators. Accordingly, they started to feel that their everyday lives were directly affected by the results of the elections which represented the meaningfulness of elections in the eyes of the people. The legitimacy and meaning of elections will be reduced if the voters perceive that election produce inconsequential outcomes such as powerless legislatures, or that elections are unfair contesting grounds for the players.

**7. Election reform should be mindful of international standards** When it comes to the democratic system and elections, Thais should not claim their society's unique and distinguished attributes. The universal benchmark for qualified elections include: the principles of free, fair, secret ballots; universal adult suffrage; one person-one vote equality; and periodic elections.

Above all, the common ground that democracy is necessary for Thailand's long-term health should be agreed upon. A legitimate electoral reform is a necessary part of an institutionalized democratic regime. The enduring purposes of electoral reform should aim at developing political institutions which are strong enough to promote sustainable democracy, but flexible enough to respond to changing situations and reflect Thailand's political realities. Those who want to undertake an electoral reform should develop as much expertise as possible. Trusting a country's crucial mission to a committee of amateurs will produce negatively unexpected and contradictory consequences. The reformers also should plan creatively for as many difficult contingencies as possible. And finally, the survival of electoral reform in Thailand will depend mostly on two factors: namely, how well the reform represents the people in a society, and how effectively it addresses and resolves the country's problems. Therefore, the participatory process and technical merits of the reform are the two utmost important aspects for electoral reform.

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### **Interview**

Interview with Udom Kraiwattanusorn, a former TRT's MP from Samut Sakorn, and executive party member. January 16, 2013.

