

THE SENATE OF THAILAND

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Abstract

The Senate is a crucial institution in Thailand's parliamentary system, playing a key role in scrutinizing legislation and balancing executive power. The development of the Thai Senate reflects the effort to strike a balance between public participation and the selection of qualified experts. Over the course of more than 90 years since the establishment of democracy in Thailand, the Senate has undergone numerous changes in its form and selection process, including appointment by the King, appointment by military juntas, indirect elections, direct elections, and a mixed system. These changes illustrate the ongoing search for a model that suits the context of Thai society. The 1997 Constitution marked a significant turning point by establishing the Senate as an entirely directly elected body. However, in practice, problems arose with political party affiliations. Consequently, the 2007 Constitution introduced a mixed system of elections and appointments. Nevertheless, challenges remained, particularly in terms of unity among Senators from different selection methods. Most recently, the 2017 Constitution redefined the Senate as a "complementary assembly" or "civic assembly," with the aim of allowing the public to participate directly in legislative functions. This reflects ongoing efforts to address past issues and to create new mechanisms for public political engagement.

Studying the development of the Thai Senate not only enhances our understanding of Thailand's political system but also highlights the challenges of balancing democratic principles, public participation, and the selection of qualified experts. Furthermore, it underscores the relationship between political power and the design of political institutions in Thailand, which is a crucial issue for the future development of Thai democracy.

Keywords: Thai Senate, political development, selection system

Introduction

The origins of the Senate idea The Senate has its roots in the ancient Roman Republic's senate (Senatus), which was established in the 6th century BC (Byrd, 1995). This council was composed of qualified aristocrats who provided advice and made decisions on political and governmental matters. Members of the senate came from powerful and socially prominent families in Roman society (Lintott, 1999). This council played a key role in determining policy and governing the state, and in making decisions that affected the Roman Empire. In medieval Europe, the concept of a higher house began to develop in several countries, particularly in the United Kingdom. The House of Lords was established in the early 14th century (Shell, 2007). This council was composed of aristocrats and clergy appointed by the monarch, and its role was to review and advise on legislation passed by the House of Commons. The House of Lords was also responsible for hearing cases and deciding major disputes (Longford, 1999). The United States Senate was established under the US Constitution in 1789 as part of a republican system of government with a division of power between the legislative, executive, and judicial branches (Swift, 1996). The US Senate is made up of members elected by each state, with each state having two senators, regardless of size or population (Sinclair,

1989). The Senate plays an important role in legislating, approving the appointment of government officials, considering treaties, and adjudicating cases of impeachment of government officials (Baker, 1995). Over the 20th and 21st centuries, several countries have reformed the Senate to better align with modern democratic principles. For example, in the United Kingdom, the House of Lords Act of 1999 was passed, which abolished the automatic succession of members of the House of Lords (Russell, 2013). Canada, meanwhile, has proposed direct election of senators, rather than appointment by the prime minister (Smith, 2003).

However, the Senate in each country has different forms and powers. In some countries, such as France, the Senate has a limited role in legislating, but has the power to check the government (Lazardeux, 2010). In other countries, such as Italy, the Senate has equal powers as the House of Representatives in legislating and controlling the government (Pasquino, 2002). The Senate plays an important role in developing and strengthening democracy in many countries, especially in countries with ethnic or regional diversity. For example, in Brazil, the Senate represents the states and helps maintain a balance between regions with different economic and social conditions (Desposato, 2006). Although the Senate plays a key role in many countries, there is debate about the necessity of this institution in modern democracies. Supporters see the Senate as an important check and balance mechanism for government, while critics see it as an obstacle to quick and effective decision-making in the governance of the country (Riker, 1992).

In addition, the Thai Senate was established during the reign of King Chulalongkorn, who initiated the establishment of the Council of State to perform legislative duties and the Privy Council (His Majesty's Advisor) to be a political institution to perform legislative duties with the composition of the members, powers and duties of the parliament. The parliament is called the Parliament, modeled after England. His Majesty is determined to lay the foundation for the implementation of the parliament's methods. After the change of government and the promulgation of the Constitution of 1932, the first set of members of the House of Representatives was appointed, which consisted of two types of members (the same number): members of type 1 who were elected and members of type 2 who were appointed. The purpose of appointing members of type 2 was to be mentors to help members of type 1 so that their work would benefit the country and the people. (Committee for the production of the book "Thai Senate", 2009) The Constitution of the Kingdom of Thailand B.E. 2489 is the third constitution of the country. It was promulgated on May 10, 1946, stipulating the use of a bicameral system for the first time, i.e., the parliament consisted of elected representatives and the Senate. It comes from indirect elections with the hope that Thailand will have a primary institution that screens the work of the House of Representatives and prevents the House of Representatives from working on legislation too quickly and without carefulness, which would unintentionally cause damage to the country and society as a whole. (Phumi Munsin and Champhunut Tangthaworn, 2015)

The Senate is an important institution in the Thai parliamentary system. It plays a role in scrutinizing laws and balancing the power of the executive branch (Likhit Thirawakin, 2007). The process of acquiring the Thai Senate has been continuously developing and changing from the past to the present. Studying the development of the Thai Senate is very important for understanding the Thai political system because the Senate is an organization that plays an important role in checking the use of state power and scrutinizing laws (Somkid Lertpaitoon,

2008). In addition, the form of acquiring senators also reflects political ideas and allocation of power in each era (Thanet Charoenmuang, 2019). And throughout the more than 90 years since the establishment of democracy in Thailand, the Senate has gone through many changes in its form and acquisition methods, including appointment by the King, appointment by the coup group, indirect election, direct election, and mixed system (Bowonsak Uwanno, 2005). These changes reflect the attempt to find a form that is appropriate for the context of Thai society. An analysis of the development of the Thai Senate also helps to understand the challenges in striking a balance between democratic principles, public participation and the acquisition of knowledgeable and competent persons (Amorn Raksa Sat, 2001). It also reflects the relationship between political power and the design of political institutions in Thailand.

However, the senators are considered representatives of the people in the same way as the members of the House of Representatives. Originally, the senators acted as a mentor to the members of the House of Representatives. The Constitution of the Kingdom of Thailand B.E. 2540 attempted to change the origin of the Senate to be directly elected by the people, just like the members of the House of Representatives. However, past actions found that the election of senators must be based on the political system for the benefit of election campaigns. Therefore, the candidates for senators were connected to political parties. Later, the Constitution of the Kingdom of Thailand B.E. 2550 attempted to change the origin of senators by using a mixed system, i.e., some from direct election of the people and some from selection. However, in the past, it was found that it did not solve the original problem and instead increased the problem because the work of the senators, who were of different types, was not unified. Therefore, in the drafting of the Constitution of the Kingdom of Thailand, B.E. 2560, the drafters of the constitution changed the status of the senators to be a “ full council or citizen council ” or a council where the people can directly perform legislative duties (Panarat Maschamadol , Entering the position of senators according to the Constitution of the Kingdom of Thailand, B.E. 2560, “Retrieved on August 14 , 2567”).

Number of senators

The Constitution provides for the Senate to consist of 200 members (Section 107) who are selected by the people who have knowledge, expertise, experience or various statuses. However, at the beginning of its implementation, the Constitution provided for the Senate to consist of 250 members , who are appointed by the King upon the advice of the National Council for Peace and Order (Section 269).

The origin and entry into office of the Senate members

The Constitution in the permanent chapter stipulates that the origin of the Senate shall come from the selection of persons who have knowledge, expertise, experience, occupation, characteristics or common interests, or who work or have worked in various areas of society. In dividing the groups, it shall be divided in a manner that allows all citizens who have the right to apply to be elected to be in any group (Section 107). Meanwhile, the interim chapter stipulates that the origin of the Senate in the initial term shall come from selection and appointment to be carried out in accordance with the following criteria and methods:

(1) There shall be a Senate selection committee, appointed by the National Council for Peace and Order from qualified persons with knowledge and experience in various fields and who are politically neutral, consisting of not less than nine but not more than twelve persons,

whose duties include selecting persons who are suitable to be Senate members in accordance with the criteria and methods, with details as follows:

(g) The Election Commission shall proceed with the selection of two hundred senators in accordance with Section 107 in accordance with the Organic Act on the Acquisition of Senators. The process shall be completed no less than fifteen days before the date of the election of members of the House of Representatives in accordance with Section 268 , and the names shall be submitted to the National Council for Peace and Order.

(b) The Senate Selection Committee shall select no more than four hundred persons with appropriate knowledge and abilities that will be beneficial to the performance of duties of the Senate and the reform of the country in accordance with the methods determined by the Senate Selection Committee and submit the list of names to the National Council for Peace and Order. The process must be completed no later than the time specified in (a).

(c) The National Council for Peace and Order shall select persons selected under (a) from a list of names received from the Election Commission, totaling fifty persons, and shall select a reserve list of fifty persons. Such selection shall take into account persons from all groups thoroughly, and shall select persons from the list selected under (b) totaling one hundred and ninety-four persons, together with the person holding the position of Permanent Secretary of the Ministry of Defense, Commander-in-Chief of the Armed Forces. The Commander-in-Chief of the Army, the Commander-in-Chief of the Navy, the Commander-in-Chief of the Air Force and the Commander-in-Chief of the National Police, totaling two hundred and fifty persons, and selecting a reserve list from the list of names selected in accordance with (b), totaling fifty persons. This must be completed within three days from the announcement of the results of the election of members of the House of Representatives in accordance with Section 268.

(2) The content of Section 108 (c) - Disqualifications (6) in the part concerning the past holding the position of Minister shall not apply to a person holding the position of Senator who was selected in accordance with (1) (c), and the content of Section 108 (c) - Disqualifications (2), Section 184 (1) and Section 185 shall not apply to a person who has been appointed as a Senator by position.

(3) The National Council for Peace and Order shall submit the list of two hundred and fifty persons selected under (1) (c) to His Majesty the King for royal appointment, and the Head of the National Council for Peace and Order shall sign in response to the royal command.

The duties of the Senate under the Constitution of the Kingdom of Thailand B.E. 2560

Since the Constitution of the Kingdom of Thailand, the role and power of the Senate have been limited. Most of them are limited to being a mentor council for requesting general debates in the Senate. And the duty to appoint people to various important positions, such as appointing judges of the Constitutional Court, appointing judges of the Supreme Administrative Court, appointing judges of the Court of Justice and the Administrative Court, as well as appointing people to positions in independent organizations under the Constitution, such as the Election Commission, the Ombudsman, the National Anti-Corruption Commission, the State Audit Commission. Later, when the Constitution of the Kingdom of Thailand B.E. 2560 was drafted, the role of the Senate was redefined by changing the role of the senators to not be a mentor council for the members of the House of Representatives as before, but to be a “ complementary council ” that will help consider the draft laws that have been considered by the members of the House of Representatives in all aspects because they

are knowledgeable, specialized, and experienced or have worked in various fields from various sectors of society. In addition, the power and duty to appoint people to positions in various independent organizations are still maintained.

1. Powers and duties of the Senate

The Constitution stipulates the roles and duties of the Senate, both personal duties and duties that must be exercised in conjunction with the House of Representatives, as follows:

1.1 Representing the Thai people

Members of the House of Representatives and the Senate are not bound by any mandate, assignment or influence and must perform their duties with honesty and integrity for the benefit of the country and the well-being of the people as a whole, without conflicts of interest (Section 114).

1.2 Power to participate in parliamentary meetings

The Constitution stipulates that there shall be two ordinary sessions of the National Assembly each year, each session shall last for a period of one hundred and twenty days, but the King may grant royal permission to extend the period (Section 121, paragraph two). However, members of the House of Representatives and the Senate of both Houses combined, or members of the House of Representatives of not less than one-third of the total number of members of both Houses, have the right to submit a petition to the President of the National Assembly to submit the matter to the King for a royal proclamation to convene an extraordinary session of the National Assembly (Section 123, paragraph one).

The parliamentary session is considered important in performing the duties of the members of the Thai parliament. Therefore, the constitution stipulates that a senator who is absent from the session for more than one-fourth of the number of days in the session, which is not less than one hundred and twenty days, without permission from the President of the Senate, shall have his/her membership terminated (Section 111(5)). In terms of the parliamentary session, the constitution stipulates only the immunity for senators, which is different from members of the House of Representatives who receive both privileges and immunity during the parliamentary session. As for immunity, it is stipulated in the provisions of Section 125. During the session, no member of the House of Representatives or the Senate may be arrested, detained, or summoned for investigation as a suspect in a criminal case, unless permission is obtained from the House of which he/she is a member, or the arrest is made while the offense has been committed.

2. Consideration and scrutiny of laws

The Constitution of the Kingdom of Thailand provides that the Senate has the duty and power to both consider laws together with the House of Representatives as the parliament and to screen laws that the House of Representatives has voted to approve, as follows:

2.1 Consideration of the draft organic law

In considering the draft organic law, Section 132 of the Constitution of the Kingdom of Thailand stipulates that the proposal of the draft organic law must be submitted to the parliament and the parliament must hold a joint meeting to consider the draft organic law within 180 days. The voting in the third reading must have the approval votes of more than half of the total number of members of the parliament. If the joint meeting of the parliament

does not complete the consideration within the specified time, it shall be deemed that the parliament has approved the draft of the proposer.

Note: For the voting of the draft organic law in the first reading, the principle acceptance stage, and the second reading, the section sequencing stage, the majority vote of the parliament shall be considered.

2.2 Screening of draft bills

1. General Act Draft In proposing a bill to the House of Representatives first, when the House of Representatives has considered the bill and voted to approve it, the House of Representatives shall submit the bill to the Senate. The Senate must complete its consideration of the proposed bill within 60 days. However, if the bill is a financial bill, the consideration must be completed within 30 days, unless the Senate votes to extend the period as a special case, which must not exceed 30 days. Such days shall mean the days of the session and shall start from the day the bill reaches the Senate. However, such period shall not include the period during which the Constitutional Court is considering the bill. If the Senate does not complete its consideration of the bill within the specified period, it shall be deemed that the Senate has approved the bill.

2. Draft bill on the budget expenditure Draft Budget Act for the Fiscal Year The additional budget bill and the budget transfer bill of the House of Representatives must be considered and completed within 105 days from the date the bill reaches the House of Representatives. If the House of Representatives does not complete its consideration within the specified period, it shall be deemed that the House of Representatives approves the bill and shall submit the bill to the Senate for consideration. In the Senate's consideration, the Senate must approve or disapprove the bill within 20 days from the date the bill reaches the Senate, without any amendments. If the specified period has elapsed, it shall be deemed that the Senate approves the bill. In such case and in the case where the Senate approves, the Prime Minister shall submit it to the King for royal signature.

2.3 Approval of the Royal Decree

A royal decree is a law issued by the King to be enforced as follows: The Act on the advice of the Cabinet, by the approval of the Royal Decree, is divided into 2 cases as follows:

1. General Decree This can be done only when the Cabinet deems it an urgent and necessary case that cannot be avoided for the purpose of maintaining national security, public security, national economic security, or averting public disasters.

2. Royal Decree on taxes or currency to be done when the Cabinet sees that there is a need to have a law regarding taxes or currency which must be considered urgently and secretly in order to protect the interests of the country. At the next parliamentary meeting, the Cabinet shall propose such royal decree. To the Parliament for consideration without delay. If it is outside the session and waiting to open the ordinary session would be a delay, the Cabinet must proceed to call an extraordinary session of the Parliament to consider whether to approve or disapprove the Emergency Decree without delay. If the House of Representatives does not approve it, or the House of Representatives approves it but the Senate does not approve it and the House of Representatives confirms the approval with a vote of not more than half of the total number of members of the House of Representatives, the Emergency Decree shall lapse, but this shall not affect the activities that were carried out during the period in which the Emergency Decree was in force.

2.4 Amendments to the Constitution

An amendment to the Constitution that changes the democratic regime with the King as Head of State or changes the form of the state shall not be made. A motion to amend the Constitution must come from the Cabinet or from members of the House of Representatives comprising not less than one-fifth of the total number of members of the House of Representatives or from members of the House of Representatives and the Senate comprising not less than 1/5 of the total number of members of both houses, or from citizens who have the right to vote, not less than 50,000 people according to the law on the petition for legislation

A motion for amendment must be submitted as a draft of the Constitution amendment to the Parliament and for the Parliament to consider it in three readings. Voting in the first reading, the acceptance of principle stage, shall be by roll call and open voting, and the number of votes in favor of the amendment must be not less than half of the total number of members of both Houses, in which no less than one-third of the total number of members of the Senate must agree. One - third of the total number of members of the Senate.

The consideration in the second reading is considered in order of articles. The voting in this second reading is based on a majority vote. When the consideration in the second reading is complete, wait for 15 days. After this period has elapsed, the parliament will consider the third reading.

Voting in the third and final reading shall be by roll call and open voting, and there must be a vote of approval for its enactment as the constitution of more than half of the total number of members of both Houses, of which no less than one percent must be members of the House of Representatives from political parties whose members do not hold the positions of minister, Speaker of the House of Representatives, or Deputy Speaker of the House of Representatives. 20 of all political parties combined and with no less than 20 senators agreeing 1 in 3 Of the total number of existing members of the Senate

Note: The Senate under the Constitution of the Kingdom of Thailand, B.E. 2560 It has no power to remove a person from office, which is different from the power of the Senate under the Constitution of the Kingdom of Thailand, B.E. 2540 and B.E. 2550 , which provides that the Senate has the power to remove a person from office.

Summarize

The process of establishing the Senate in Thailand has continuously evolved from the past to the present, reflecting changes in politics and ideology in governing the country. In the early days, the Senate was usually appointed by the King on the advice of the government, reflecting the influence of the executive on the legislature.

A major change occurred in the 1997 Constitution, considered the People's Constitution, which stipulated that the Senate be entirely directly elected, marking a significant step towards a more complete democracy. The people directly participate in selecting their representatives to the Senate, although there is still a requirement that candidates must not be affiliated with a political party in order to maintain the Senate's neutrality and independence.

Later, in the 2007 Constitution, the format of the Senate was changed to a mixed system of election and selection, reflecting an attempt to strike a balance between public participation and the acquisition of individuals with specialized knowledge and expertise. Having a Senate that comes from both channels is intended to create a more effective check and balance on the government's operations.

Most recently, the 2017 Constitution changed the process for forming the Senate again, requiring that the Senate be entirely elected, with an emphasis on recruiting individuals with knowledge, expertise, and experience in various fields. This change reflects the idea that the Senate should be a council composed of qualified individuals who can effectively advise and monitor the government's operations. However, this change has been criticized as potentially reducing democratic principles and public participation.

However, the evolution of the process for forming the Thai Senate reflects an attempt to strike a balance between popular participation, the acquisition of qualified persons, and the maintenance of political stability. Each constitution has attempted to adapt this process to suit the political and social context of each time. There is a shift between three main concepts: citizen participation, expertise and political stability. There is still debate about the most appropriate model for Thailand and it will remain a key issue in the future development of Thai democracy.

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