

Electoral Politics in Thailand

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Introduction

Thailand's new constitution of 1997 (B.E. 2540) set down new rules and a framework for various fundamental changes in the Thai political and administrative system. As such, great hopes for political reform towards sustainable democracy have been pinned on it. In particular, elections, as a necessary condition for democracy, have changed significantly. The intention is to have more open, fair and meaningful elections, as well as recruit qualified politicians into the political system. Moreover, elections are seen as a key mechanism for establishing new politics in Thailand. In the first election under this new system, that for the House of Representatives on 6 January 2001, positive steps were taken to meet these objectives. This chapter explores the new electoral system and evaluates the extent to which the performance of this new system contributes to political development towards democracy in Thailand.

The chapter argues that the new electoral system and the outcome of the first elections have been inspiring for political transformation. The new electoral system serves to establish a standard for clean and fair elections, while the outcome of the elections that have taken place has contributed to several major changes in the Thai political system, such as a generation shift in the political sphere and the development of political parties. However, there is still a need for improvement in the administration of electoral processes and in the provision of political education, especially to the rural public. To set this in context the chapter begins with a look at the historical development of politics and elections in Thailand before the introduction of the new constitution.

Historical Development

The first significant change in Thailand's political regime was in June 1932 when a group of junior army, navy and civilian officers (mainly Western-educated), calling themselves the People's Party, staged a coup d'état. Their demand was for a change from absolute to constitutional monarchy. Determined to avoid any bloodshed, King Prajadhipok (Rama VII [1925-1935]) agreed to the abolition of absolute monarchy and a transfer of power to a constitution-based system of government. On 10 December 1932, King Prajadhipok signed Thailand's first constitution, thus ending 800 years of absolute monarchy.

From that time until the emergence of the 1997 constitution, Thailand had 15 constitutions and 19 general elections for the House of Representatives (HoR). The first election was as early as 1933, only a year after the revolution, and the last one under the old system was in 1996 (see Table 1).

Table 1: Elections in Thailand from 1933-1996

Year of Election	Constituency Ratio of Inhabitant/MP	Method of Voting	No. of MPs	Voter Turn-out (%)	Reason for Election
1933	MMC	Indirect	78	41.45	Revolution Constitution of 1932
1937	SMC	Direct	91	40.22	End of term
1938	SMC	Direct	91	35.03	Dissolution
1946	SMC	Direct	96	32.53	Dissolution
1948	MMC	Direct	99	28.59	Coup/Constitution of 1947
1952	MMC	Direct	123	38.95	Coup/Constitution of 1932 (Amendment 1952)
1957 (Feb)	MMC	Direct	160	57.50	End of term
1957 (Dec)	MMC	Direct	160	44.07	Coup
1969	MMC	Direct	219	49.16	Constitution of 1968
1975	Small MMC	Direct	269	47.18	Constitution of 1974
1976	Small MMC	Direct	279	43.99	House Dissolution
1979	Small MMC	Direct	279	44.57	Coup/Constitution of 1978
1983	Small MMC	Direct	324	50.76	House Dissolution
1986	Small MMC	Direct	347	61.43	House Dissolution
1988	Small MMC	Direct	357	63.56	House Dissolution
1992 (Mar)	Small MMC	Direct	360	59.28	Coup/Constitution of 1991
1992 (Sep)	Small MMC	Direct	360	61.59	House Dissolution
1995	Small MMC	Direct	391	62.04	House Dissolution
1996	Small MMC	Direct	393	62.42	House Dissolution

Source: Election Division, Department of Local Administration (DOLA), Ministry of the Interior.

From 1933 to 1996, the electoral system in Thailand was changed incrementally, mainly in response to changes in the constitution. Some changes could be considered positive developments, such as the requirement of party-affiliated candidacy (1974) and the creation of the Poll Watch Committee to monitor the election process (1992). The Poll Watch Committee was established by the government in January 1992 as a politically neutral election watchdog, consisting of non-state actors, such as members of NGOs, as well as interested citizens. It was aimed at reducing vote buying, building up political

consciousness and contributing to fair elections. Despite some variations, two basic features of the Thai electoral system remained unchanged during that period. One was that elections were organized by the Ministry of the Interior. Established in the reign of King Chulalongkorn (1868-1910), the Ministry of the Interior became one of the most powerful ministries. Two departments, in particular, played a significant role. The Department of Local Administration (DOLA), through its provincial and district offices, was responsible for managing the whole electoral process (i.e. designating constituencies, determining the number of members of the HoR in a constituency, preparing voters' lists and voting stations, declaring a list of eligible candidates and counting votes), announcing the election result, promoting political awareness and encouraging people to cast their votes, as well as monitoring deviant electoral behaviour of both candidates and their canvassers, and governmental officers. The Police Department was jointly responsible for keeping orderliness during elections as well as preventing and curbing deviant electoral behaviour. The other unchanged feature was that the election system was based on a plurality system in which a candidate won an election with a simple majority. This rule was applied to both single- and multi-member constituencies. For example, in a single-member constituency, the candidate who earned the highest scores won the seat (the 'first-past-the-post' system) and in a three-member constituency, the candidates with the top three scores became members of the HoR.

From the 1933 to the 1996 elections changes to the electoral system were made in three areas: voting method, designation of constituencies and conditions of candidature.

1. *Voting Method:* An indirect voting method was used only in the first election: voters in each province chose a sub-district (*tambon*) representative who then voted for a member of the HoR of that province. From the second election onward, the voting method was changed to a direct one in which voters chose their HoR members directly.
2. *Designation of constituencies:* For the first election a multi-member constituency system was adopted. Each province, regarded as a constituency, had one member of the HoR. Any province with a population above 200,000 had an additional member of the HoR. For the second to the fourth elections a single-member constituency system was applied. Each province was divided into constituencies with the ratio of 200,000 inhabitants to one member of the HoR. The surplus above 100,000 inhabitants became another constituency. Any province with a population below 200,000 was regarded as a constituency. Under this system, voters throughout the country had an equal right to vote for one member of the HoR. For the fifth to the ninth elections there was a reversion to the multi-member constituency system. Each province was designated a constituency and had one member of the HoR. Any province with more than 200,000 inhabitants could have an additional

member of the HoR. This ratio was reduced to 150,000 inhabitants for the sixth to the ninth elections. The small multi-member constituency system was used for the tenth to the last election under the old system in 1996. A province was divided into constituencies, but each constituency could have no more than three members of the HoR. The ratio was 150,000 inhabitants to one member of the HoR. Under this system, the number of members of the HoR in each constituency varied from one to three. For example, Samut Sakhon province, designated as a constituency, had three members of the HoR. Its neighboring province, Samut Songkhom, also designated as a constituency, had only one member of the HoR.

3. *Conditions of candidature:* The qualifications for candidacy changed over time. The minimum age of a candidate varied between 20 and 30 years before being set at 25 years for the tenth election under the 1974 constitution. This constitution also made it obligatory for the first time for a candidate to be a member of a political party. The 1978 constitution (from the twelfth to the fifteenth elections) added that each political party had to present at least half the number of HoR candidates as there were seats in the HoR. Because this created problems for small parties, the 1991 constitution (from the sixteenth to the nineteenth elections) changed this condition by providing that each political party had now only to present a list of at least one third the number of candidates as there were seats in the HoR. In addition to party-affiliation, this constitution also made constituency-affiliation a condition for candidature for the first time. It provided that a candidate in a constituency must have one of the following qualifications: (1) be registered resident in that constituency; (2) be a former member of the HoR in that constituency; (3) be born in that constituency; (4) have studied in an education institution in that constituency; or (5) have been in official service in that constituency.

Although the first general election was held only a year after the absolute monarchy had been overthrown, and although there were another 18 general elections which all guaranteed universal suffrage, elections did not play as significant a role in the Thai political system as could be expected in a democratic country. Out of 19 elections, only those in 1946, 1975, 1976, September 1992, 1995 and 1996 were held in a democratic environment with the expectation of political changes to follow. The others were held either under military rule or under a semi-democratic regime, and were a show to provide a façade of legitimacy for military or military-dominated governments. Elections served to allow the military leaders to put their own men in the elected HoR, thus ensuring its support for their continued hold on power. Political participation was limited. Although the military remained in control, they preferred to make their regime appear legitimate. As a result, Thai politics fell into a vicious cycle: first there was a coup in which the military took over, sometimes with a civilian prime minister as front man. Then a new constitution was promulgated and an election was held to legitimize the military leader and his government. Then

another military faction staged a coup to alternate power in government. This cycle repeated itself many times, as shown in Table 1, especially under military rule. Several elections were held as a result of military coups and new constitutions.

Elections started to make an impact when Chatchai Choonhavan, a member of the HoR, became the first elected prime minister in 1988. His party won a majority of votes and General Prem Tinsulanond refused to accept another term as prime minister.¹ The more open political atmosphere since 1976 contributed to the transition from military-led to democratic government. There were regular elections: while the 1978 constitution was in force, there were four general elections. Political parties operated openly and there was press freedom. Although there were two aborted coup attempts during this period, the military became somewhat more professional and it was expected that this would be the end of military intervention in Thai politics. As a result, the 1991 coup came as a shock. In a return to their old ways, military leaders appointed a civilian prime minister (Anand Panyarachun), promulgated the new constitution of 1992 and held the February 1992 election to legitimize General Suchinda Kraprayoon as prime minister. This vicious cycle was broken when, after only 48 days in office, he was driven from power in May 1992 by massive demonstrations of Thais throughout the kingdom, which led to the massacre of civilian demonstrators by military and police agents that became known as the Black May of 1992. After that Anand was asked to serve as interim prime minister until elections could be held. He pushed through several constitutional amendments, in particular one that required that the prime minister be an elected member of the HoR. He also established the Poll Watch Committee to monitor the electoral process. Elections were held in September 1992 with the Democrat Party emerging victorious. Chuan Leekpai became prime minister. Two more elections were held under the 1992 constitution: the 1995 and 1996 elections. In these elections the voting age was changed from 20 to 18 years. Both elections gave birth to democratically elected governments.

Even though elections became a process in which voters selected their political leadership, they were marred by corrupt electoral behaviour and manipulation by influential local leaders: vote buying, cheating, the partisan conduct of government officers and violence. Thailand had turned to money politics. Money-dumping through vote-buying became a common feature of elections in Thailand, especially in rural areas. It is believed, particularly among scholars, activists and the urban middle class, that electoral venalities resulted in the return of unqualified politicians to the corridors of power. These politicians could give rise to a corrupt and unqualified government. These problems led to calls for clean and fair elections and the need for reform, not only of the electoral

1. General Prem was prime minister from 1980-1988. He had previously served as army commander-in-chief and defence minister. He enjoyed the support of important military factions, political parties and the King. During his rule, Thailand's economy grew, making him a popular leader.

system but also of the political system as a whole. Public pressure for political reform was intensified by the economic crisis in the late 1990s. Political reform actually started with the passage of the 1997 constitution.

Introduction to the New Electoral System

Problems in past elections, such as vote buying, cheating and the partisan conduct of government officers, together with the aspiration to establish new politics in Thailand through the electoral process led to the restructuring of the electoral system. The new electoral system, introduced by the 1997 constitution along with three organic laws,² differs from previous systems in various ways.

Combination of Plurality and Proportional Electoral Systems

According to the new 1997 constitution, people elect not only the House of Representatives but also the Senate. Each has its own electoral system. The Senate has 200 members who serve a single six-year term. For the election of senators a multi-member system in constituencies is used. Each province is regarded as a constituency. Depending on the number of inhabitants, a province can have more than one senator. The number of senators per province is determined by a specific formula that tries to achieve a fair representation of the population for each province (see Box 1). A voter has the right to cast a ballot for only one candidate in his/her constituency, even if a province has more than one senator. The winners are determined by simple majority. Where a province qualifies to have more than one senator, the candidates who receive the highest number of votes are elected as senators.

Box 1: Formula to Establish the Number of Senators per Province

All persons having the right to vote at an election of senators may cast a ballot for one candidate in their constituency. In the election of senators, each *changwat* (province) is to be regarded as one constituency. In the case where a *changwat* has more than one senatorial seat, the candidates who receive the highest number of votes in descending order will be elected as senators up to the number of seats available. Under the constitution, the number of senatorial seats in each *changwat* is determined in accordance with the procedure set out in section 102, paragraph 2. In short, the following calculation is made:

$$\text{QUOTA} = \frac{\text{POPULATION OF THAILAND}}{200} = X$$

2. The Organic Law on the Electoral Commission of Thailand of 1998, the Organic Law on the Election of Members of the HoR and the Senate of 1998 and the Organic Law on Political Parties of 1998.

Each *changwat* that has a population less than X shall have one senator, otherwise the number of senators shall be determined in accordance with the following procedure:

$$\frac{\text{POPULATION IN CHANGWAT}}{X} = \frac{\text{NUMBER OF SENATORS} + \text{FRACTION REMAINING}}{X}$$

If the number of members of the Senate is still less than 200, an additional senator should be allocated to each *changwat* with the largest fraction remaining, in descending order, until the quota of 200 has been fulfilled.

Source: www.etc.go.th

While the plurality system is used for the election of senators, the new election system of the HoR is a combination of plurality and proportional systems. The 1997 constitution provides that the HoR consists of 500 members: Of these, 100 are elected on a party-ticket (closed and blocked list) and 400 are elected on a constituency basis. For the latter, the first-past-the-post rule in a single-member constituency is used. A province is divided into smaller constituencies of approximately equal population that send one representative each to the HoR. A voter casts a ballot for one candidate in his/her constituency. Section 102 of the 1997 constitution establishes the exact formula by which provinces are divided into constituencies (see Box 2).

Box 2: Formula to Establish the Number of HoR Constituencies per Province

$$\text{QUOTA} = \frac{\text{COUNTRY INHABITANTS}}{400} = 154,154 \text{ INHABITANTS}$$

$$\frac{\text{PROVINCIAL INHABITANTS}}{\text{QUOTA}} = \text{NUMBER OF CONSTITUENCIES} + \frac{\text{FRACTION}}{\text{QUOTA}}$$

The reference used for the calculation is the annual census preceding the election year. A constituency is added to the provinces with the highest fractions, calculated above, in descending order, until the total number of constituencies reaches 400.

Within a province, constituencies are delimited so that each one forms a single area with approximately equal population.

Source: www.etc.go.th

The motive for having a single-member constituency is to make constituencies smaller compared to the three-member constituencies of the past. It is believed that the influence of vote canvassers and vote buying is reduced in a small

constituency because a candidate can present him/herself directly to the electorate. Moreover, in a single-member constituency the member of the HoR tends to be closer to the constituents and is more accountable to them.

One of the new aspects of the electoral system is the application of the proportional rule for the election of the party-list members of the HoR. This initiative is aimed at reflecting the political will of all voters, since every vote is counted. It is believed that a party-list system also provides an opportunity for good and capable individuals, who are not keen on the style of political campaigns used in a constituency, to become members of the HoR. Moreover, the party-list system alleviates the problem of constituency members of the HoR championing local interests, as happened in the past. Since party-list members of the HoR are elected by votes throughout the country, with the whole territory of Thailand is regarded as the constituency, they are seen as representing the country rather than a constituency. The prime minister and the cabinet are expected to come from the party-list members of the HoR. For the election of party-list members of the HoR, each political party submits a list of not more than 100 candidates to the Election Commission before the date when the application for candidacy in the constituency election commences. Conditions for the party list include: (1) names of candidates should be placed in numerical order; (2) candidates cannot be listed by other political parties in their party lists, or stand as candidates in the constituency elections; and (3) candidates on the list should be drawn equitably from various regions (section 99 of the 1997 constitution). These party lists appear on the ballot and voters must select one. Any political party receiving less than 5 per cent of the total number of votes throughout the country cannot have candidates elected on a party-list basis, and lists of candidates of these political parties and votes received are not counted in the determination of the proportional number of members of the HoR (section 100 of the 1997 constitution). This rule was introduced to reduce the high party fragmentation in the HoR that is the side effect of a proportional system.

Vote Count at a Single Place

Another new aspect of the electoral system concerns vote counting. In previous elections, votes were counted at the polling stations. This is still true for the election of senators. But for the election of members of the HoR, the 1997 constitution stipulates that in each constituency, votes from all polling stations should be counted and results announced publicly at a single place, instead of at each polling station (section 104). This is aimed at resolving the problem of vote buying and intimidation, and promoting free elections by increasing voters' confidence in the secrecy of their votes. It is also believed that vote counting at a single place makes vote-buying through the network of canvassers very risky and ineffective for a candidate because, as ballots from every polling station are mixed, it is impossible to check whether or not canvassers have delivered votes as promised. Vote counting is still conducted at polling stations for the election

of senators because the large size of each constituency (province), makes it difficult and unwieldy to count votes in one place.

Voting as a Duty

For the first time, voting is obligatory by law under penalty (section 68 of the 1997 constitution). The failure to fulfil this duty, without notifying the authorities of the appropriate cause of this failure, is subject to the revocation of political rights as follows: (1) the right to petition an election of members of the HoR, senators, local administrators, members of the local assembly, and village and sub-district headpersons; (2) the right to be a candidate in an election of members of the HoR, senators, local administrators, members of the local assembly, and village and sub-district headpersons; (3) the right to request from the National Assembly the consideration of new laws under the law on public request for the introduction of bills; (4) the right to request from the local assembly the issuance of local ordinances under the law on public request for the introduction of local ordinances; (5) the right to request from the Senate a resolution for removing a person under the organic law on counter corruption; and (6) the right to request for the removal from office of a member of the local assembly or a local administration under the law on voting for the removal of a member of the local assembly or a local administrator. This loss of political rights is for a period from the election day on which a voter fails to vote to the next election day of an election at any level in which this voter is eligible to vote. The reason voting has been made a duty is to encourage as many people as possible to go to the polls. It is believed that a high voter turn-out alleviates the problem of vote buying to some extent because it makes it more expensive and difficult to manage. Moreover, since it is a duty for eligible voters to go to the polls, cheating by bringing in phantom votes or buying abstention (buying and holding identification cards of supporters of rival candidates until an election is over) is made more difficult. Although voting is obligatory, this does not mean that voters are forced to vote for a specific candidate or a political party. The choice of 'no intention to vote' is included on the ballot.

Advance and Overseas Voting

To complement the obligation of voting, there is, for the first time, a provision for advance and overseas voting. Advance voting is provided for eligible voters living or working outside their registered constituencies. Such voters are required to register for advance voting with the designated administration authority as determined by the Electoral Commission of Thailand (ECT). Eligible voters can then cast their ballots at central polling places outside their original constituencies ahead of the actual election. A similar arrangement is in place for overseas voting. Eligible voters living overseas are allowed to vote by mail or in person at designated polling places in the foreign countries in which they live. Prior registration is also required.

Conditions of Candidature

Candidates standing for election to the HoR must have the following qualifications: (1) have Thai nationality by birth; (2) be at least 25 years on the election day; (3) hold a degree not lower than a bachelor's degree or equivalent, except in the case of former members of the HoR or former members of the Senate; or (4) be a member of any and only one political party for a consecutive period of not less than 90 days prior to the date of applying for candidacy in an election. Moreover, candidates in a constituency election must possess one or more of the following qualifications: (1) have had his/her name included in the house register in the provinces where he/she is standing for election for a consecutive period of not less than one year up to the date of applying for candidacy; (2) have been a member of the HoR in the province where he/she is standing for election, or a member of a local assembly, or a local administrator of his/her province; (3) have been born in the province where he/she is standing for an election; (4) have studied in any education institution situated in the province where he/she is standing for election for a consecutive period of not less than two academic years; or (5) have been in official service before, or have had his/her name appear in the house register in the province where he/she is standing for election for a consecutive period of not less than two years.

This is the first time that a candidate in an election is required to hold at least a bachelor's degree or equivalent. In the past, the educational qualification of candidates in an election was not specified except in the case of candidates whose fathers were foreigners. This change is in response to a call from the public during the period of drafting the constitution that members of the HoR and the Senate should have an adequate education so as to be able to perform their responsibilities effectively. Moreover, it is expected that the requirement of a bachelor's degree will improve the quality of members of the National Assembly as a whole. Former members of the HoR and the Senate are exempted from this requirement because they have already had working experience in parliament. Another reason for this exception was to get support for the passage of the 1997 Constitution Bill from members of the HoR and the Senate whose educational qualifications were below a bachelor's degree.

The requirement that a candidate must be a member of a political party for at least 90 days is also a first. This is aimed at strengthening political parties and preventing party switching. In the past, party switching was common. Members of the HoR defected from their political parties just before an election if other parties offered more financial support or appeared more popular. Frequent party switching made politicians undisciplined and at the same time weakened political parties. As a result, most political parties were formed ad hoc. This provision is expected to discourage members of the HoR from switching parties because if they want to defect, they have to resign from their current parties to become members of other parties at least 90 days before the date of applying for candidacy in an election. Failure to do so would disqualify them as members of

the HoR. The attempt to develop and strengthen political parties also includes, for the first time, the establishment of the Political Party Fund, under the administration of the ECT, to support the activities of political parties.

The qualifications for candidates standing for election as senators differ as follows: (1) the age of a candidate should not be less than 40 years old; (2) a candidate's educational qualification should not be lower than a bachelor's degree without exception; (3) a candidate should not be a member of, or holder of another position in a political party; (4) a candidate, who is or has been a member of the HoR, must terminate his or her membership not less than one year before candidacy. These qualifications, especially the last two, reflect the intention of the 1997 constitution to create a new Senate that is elected by the people but politically impartial. This is because the Senate is entrusted with important responsibilities including the examination of bills, the resolution to remove key officers from office and the recruitment of commissioners of independent organizations such as the ECT, the National Counter Corruption Commission and the Constitutional Court. To promote the neutrality of the Senate, the law also prevents candidates in senatorial election from campaigning. They can only introduce themselves in limited ways.

Electoral Commission of Thailand

Another fundamental change in the electoral system is the establishment of an independent organization, the Electoral Commission of Thailand (ECT), to replace the Ministry of the Interior in the task of organizing elections. There was agreement that the electoral system of the past was not conducive to just, clean and fair elections. One reason was that members of the civil service, especially those belonging to the Ministry of the Interior, were seen as allowing themselves to be used to benefit certain political interests. Moreover, the Ministry did not seem to be able to combat vote buying and the practice of village and sub-district headpersons being used as canvassers. One attempt to remedy this problem was the establishment of the Poll Watch Committee in January 1992 to monitor electoral processes. But it had only limited success. In 1994, the Democracy Development Committee (DDC) presented a framework for political reform, which proposed the transfer of responsibility of organizing elections from the permanent bureaucracy to an independent and politically neutral commission. In 1995, a new committee, the Political Reform Committee, was established to review the DDC's proposals for political reform in order to produce the Political Development Plan. This plan proposed the establishment of an electoral commission, but its role was to be limited to supervision initially. In the medium-term, over a period of five years, the task of the electoral commission would expand to include control and administration of elections. As it turned out, the Constitution Drafting Assembly planned an immediate change. According to the 1997 constitution (section 144), the ECT is responsible for holding, or causing to be held, in an honest and fair manner, the election of members of the HoR, senators, members of local assemblies and local

administrators, including voting in a referendum. The ECT is also the political-party registrar and is responsible for the Political Party Development Fund.³

The ECT must have an independent administration and the government has the mandate to provide an adequate budget both for day-to-day operations and for the conduct of elections. The ECT consists of a chairman and another four commissioners appointed by the King on the advice of the Senate. All members have to be persons with apparent political impartiality and integrity. The electoral commissioners serve a seven-year term and can serve for only one term. The objective of this is to promote the freedom and neutrality of electoral commissioners without the concern of reappointment. Qualifications of electoral commissioners include (1) being of Thai nationality by birth; (2) being not less than 40 years old on the nomination day; (3) holding a degree not lower than a bachelor's degree or its equivalent; (4) not being under any of the prohibitions set down in the constitution;⁴ (5) not being a member of the HoR or the Senate, a political official, a member of a local assembly, or a local administrator; (6) not being or have been a member of, or holding any other position in a political party throughout the period of five years preceding the holding of office; (7) not being an ombudsman, a member of the National Human Rights Commission, a judge of the constitutional court, a judge of the administrative court, a member of the National Counter Corruption Commission or a member of the State Audit Commission.

Concerning its internal organization, the ECT is divided into five sections including general administration, investigation and adjudication, electoral administration, public participation, and political party affairs and referendums (ECT, 2000). Each commissioner is responsible for one section. Apart from the central office in Bangkok, the ECT has provincial branches, called Provincial Electoral Commissions (PEC). The ECT appoints the PECs. Each PEC has five, seven, or nine members, depending on the size of the province. The bulk of the ECT's work is done at the provincial level: preparing and checking the voter lists, identifying polling stations, recruiting and training polling station committees, determining and organizing a central place for counting votes, etc. The ECT's permanent organization ends at the provincial level with the PECs and their offices. Temporary positions, such as the constituency directors, exist only during elections of the HoR. In addition to its own manpower, during elections the ECT has the power to ask government officers, employees of a state agency, state enterprise or local government or other state officials to perform all necessary acts for organizing an election.

3. The Political Party Development Fund provides public funding to political parties according to certain key conditions as laid down in part 2, article 56-64 of the Political Party Law of 1998.

4. The prohibitions are in section 106 and section 109 (1), (2), (4), (5), (6), (7), (13) and (16) of the 1997 constitution.

Distinguished Power of the ECT

Apart from the intention to make the ECT independent and impartial, as seen above, the 1997 constitution strengthens the ECT by equipping it with a distinct power that the Ministry of the Interior never had when holding previous elections. In the past, petitions or cases against candidates who violated the election law were taken to a normal court. This normally took a long time to investigate and since such violations were done in secrecy and concerned parties were involved on a voluntary basis, the cases were usually dropped because of inadequate evidence. As a result, candidates were not motivated to respect the law. To correct this problem, the 1997 constitution empowers the ECT to investigate complaints of electoral fraud and irregularities, or objections to the results on the basis that the election in a particular constituency has been improper and unlawful, lodged by a voter, candidate or political party. With convincing evidence of a violation or irregularities, the ECT has the power to disqualify candidates and political parties, to cancel the results, to dismiss elected candidates, to revoke election rights of any person on the grounds of election fraud and to order a new election in any or all polling stations (sections 145 and 147). The resolution of the ECT is final. This distinctive power of the ECT is intended to be both a preventive and a corrective measure in dealing with problems of electoral fraud.

Supervisory Function of Private Organizations in the Electoral Process

The ECT alone cannot fulfil the mission of organizing a clean and fair election. Within the new electoral system private organizations also have a role to play. The 1997 constitution provides that the ECT can entrust private agencies with duties. The ECT is also obliged by law to work with private organizations or non-governmental organizations in two areas: providing political education to the people, and supervising and ensuring the integrity of the electoral process. The supervisory role of private organizations is not totally new in the Thai electoral system. As previously mentioned, the Poll Watch Committee was set up in 1992 with the same intention. But in the new electoral system, private organizations wanting to take part in the supervision of the electoral process have to make a request to the ECT. After checking their political impartiality, the ECT will appoint and support them to perform supervisory tasks in an election. Three private bodies are well-known in this matter: the Poll Watch Foundation for Democracy in Thailand, the People's Network for Election in Thailand (P-Net) and the Provincial Private Organization Co-ordinating Centre. The Poll Watch Foundation and the P-Net exist separately by name, but the General Secretary of the Poll Watch Foundation is also the co-ordinator of the P-Net. The Poll Watch Foundation is actually a successor of the Poll Watch Committee. The Foundation has the approval of the ECT to monitor electoral processes. The P-Net is a creation of the Poll Watch Foundation as a network of local private organizations. In other words, P-Net is the operating network of the Poll Watch Foundation. While the Poll Watch and P-Net are independent

from the ECT, the Provincial Private Organization Co-ordinating Centre is the people wing of the ECT. This is the co-ordinating centre for local private organizations endorsed by the ECT to operate at the provincial and constituency levels.

It is clear from the above that the 1997 constitution provides for an electoral system that is very different from what Thailand used to have in terms of electoral form, key actors, conditions of candidature and the role of citizens and private organizations in the electoral process. The next section looks at the performance of this new electoral system: to what extent it is conducive to open, clean, fair and meaningful elections.

Performance of the Electoral System

Since the instalment of the new electoral system, two elections have been conducted. One was the election of senators on 4 March 2000 and the other was the election of members of the HoR on 6 January 2001. In relative terms, both elections produced acceptable results. Electoral fraud and irregularities were closely monitored. The public applauded the ECT for using its powers to disqualify candidates before the elections, as well as elected candidates after the elections on the grounds of cheating and violation of the electoral law. However, there are lessons to be learned and problems to be resolved, especially concerning the management of elections, repeat elections, the integrity of the PEC and the high budget. Before evaluating the new electoral system in terms of openness, fairness and meaningfulness, the results of both elections are examined.

The Results of the Election of Senators

The election of senators on 6 March 2000 was significant for two reasons. First, it was the first senatorial election in Thailand, and second, it was the first election under the new constitution. According to the ECT, there were 42,557,583 eligible voters in the country. Every province was designated a constituency – 76 in all. For advance and overseas voting, the ECT set up 413 central polling stations in the country and 76 polling stations in foreign countries. For the Senate, 1,521 candidates were competing for 200 seats: 1,408 males (92.57 per cent) and 113 females (7.43 per cent). The voter turn-out was 30,593,259 (71.89 per cent). The rate of invalid ballots and no-intention-to-vote ballots was 6.29 per cent and 3.51 per cent, respectively. Only 1.44 per cent of eligible voters cast ballots in advance voting (25-29 February 2000). For overseas voting (16-26 February 2000), 26,058 voters registered but the voter turn-out was only 39.53 per cent. The ECT endorsed the results of 122 elected candidates in the first round. Repeat elections were called on 29 April 2000 in 35 constituencies. The ECT backed the results of 66 elected candidates and called a new round of elections on 4 June 2000. In this repeat election, the ECT approved the results of

eight elected candidates. Three more elected candidates were approved in the fourth (24 June and 9 July) and fifth (22 July) rounds of elections. It took five rounds of elections over a span of five months (March to July) to complete the quorum of 200 members (ECT, 2000: 33-57).

The Results of the Election of Members of the HoR

After the dissolution of the HoR on 9 November 2000 by Prime Minister Chuan Leekpai, an election was called on 6 January 2001. This was the twentieth general election of the HoR, but the first general election of members of the HoR to be held under the new constitution. It was also the first time Thai people had elected members of the HoR on a constituency basis and on a party-list basis. In practice, a voter, after checking his/her identification and signing his/her name, is given two ballots: one for the election of a constituency member of the HoR and one for the election of party-list members of the HoR. Candidates representing parties in constituencies are given numbers that correspond with the numbers in the party list. For example, if the number of the Thai-Rak-Thai Party on the party list is seven, every candidate representing the Thai-Rak Thai Party in every constituency is given the number seven. A voter elects one candidate in one ballot and one party list in another. A voter's choice of candidate and party list need not correspond. Voting hours are from 8.30 a.m. to 3.00 p.m.

According to the ECT,⁵ there were 42,759,001 eligible voters⁶ in the election for members of the HoR. The country was divided into 400 constituencies with an average of 154,154 inhabitants per member of the HoR. The ECT set up 476 central polling stations for advance voting (29-30 December) and 78 central polling stations in 66 countries for overseas voting (3-30 December). There were 2,782 candidates for the constituency election: 2,430 (87.35 per cent) males and 352 (12.65 per cent) females. They represented 39 political parties. Only the Thai-Rak-Thai Party nominated candidates in every constituency. The Democrat Party nominated candidates in 398 constituencies. For the party-list election, 37 political parties submitted their party lists of candidates. There were 940 candidates: 792 (84.26 per cent) males and 148 (15.74 per cent) females. Only five parties had 100 candidates on their party lists. These were the New Aspiration Party, the Thai-Rak-Thai Party, the Chart Thai Party, the Democrat Party and the Chart Pattana Party.

The voter turn-out rate was 64.94 per cent. For the advance voting, 275,692 voters registered and voter turn-out was 83.32 per cent. For overseas voting, there were 40,670 registered voters, but only 35.70 per cent went to the polls. In the constituency election, the rates of invalid and no-intention-to-vote ballots were 10.01 per cent and 3.35 per cent, respectively, and in the case of the party-list election, 2.49 per cent and 1.77 per cent, respectively.

5. The result of the 2001 election is available through the ECT website at www.ect.go.th

6. The number of inhabitants in the year preceding the year of election was 61,661,701.

Table 2 shows the results of the party-list election. Out of 37 parties, only five received more than 5 per cent of the total number of votes country-wide. With the proportion of 245,335.15 votes per member of the HoR,⁷ the Thai-Rak-Thai Party won a majority with 48 seats. The Democrat Party came in second with 31 seats, while the New Aspiration, Chart Pattana and Chart Thai parties netted eight, seven and six seats, respectively.

Table 2: Results of the Election of Party-list Members of the HoR (31 January 2001)

Party-list Number	Political Party	Scores	%	No. of MPs		
				M	F	Total
5	New Aspiration Party	2,008,948	7.0171	8	-	8
7	Thai-Rak-Thai Party	11,634,495	40.6386	45	3	48
9	Chart Thai Party	1,523,807	5.3226	5	1	6
16	Democrat Party	7,610,789	26.5840	29	2	31
21	Chart Pattana Party	1,755,476	6.13	6	1	7

Source: Adapted from data at www.ect.go.th

Table 3: Results of the January 2001 General Election of Members of the HoR, by Political Party (2 February 2001)

Political Party	Number of Constituency Seats		Number of Party-list Seats		Total Seats Won			
	No.	%	No.	%	M	F	Total	
							No.	%
Thai-Rak-Thai	200	50.00	48	48	222	26	248	49.6
Democrat	97	24.25	31	31	116	12	128	25.6
Chart Thai	35	8.75	6	6	36	5	41	8.2
New Aspiration	28	7.00	8	8	36	-	36	7.2
Chart Pattana	22	5.50	7	7	27	2	29	5.8
Liberal Democratic Party of the People	14	3.50	-	-	14	-	14	2.8
Party of the People	2	0.50	-	-	1	1	2	0.4
Social Action Party	1	0.25	-	-	1	-	1	0.2
Thai Motherland Party	1	0.25	-	-	1	-	1	0.2
Total	400	100	100	100	454	46	500	100

Source: Adapted from data at www.ect.go.th

7. This proportion is determined by the division of the total votes of the five parties receiving more than 5 per cent of votes (that is 24,533,515 votes) by the number of party-list members of the HoR (100).

The ECT endorsed 338 elected candidates in the first round of elections and called for a new round of elections in 62 constituencies on 29 January and ordered repeat elections in 11 polling stations in the Nakhon Nayok Province constituency on 1 February. On 2 February 2001, the election of the 400 constituency members of the HoR was completed. The ECT was under pressure to complete elections for the 500 quorum of the HoR within 30 days from the 6 January polling day according to the provisions of the electoral law. However, the ECT could continue to investigate complaints or objections concerning fraud and irregularities in the electoral process and could dismiss elected members of the HoR within a year. As shown in Table 3, the Thai-Rak-Thai Party won a majority of 200 seats. Again, the Democrat Party came in second with 97 seats. As a result, the Thai-Rak-Thai Party has in total 248 members of the HoR, followed by the Democrat Party with 128 members of the HoR.

Women and Farmers Under-represented

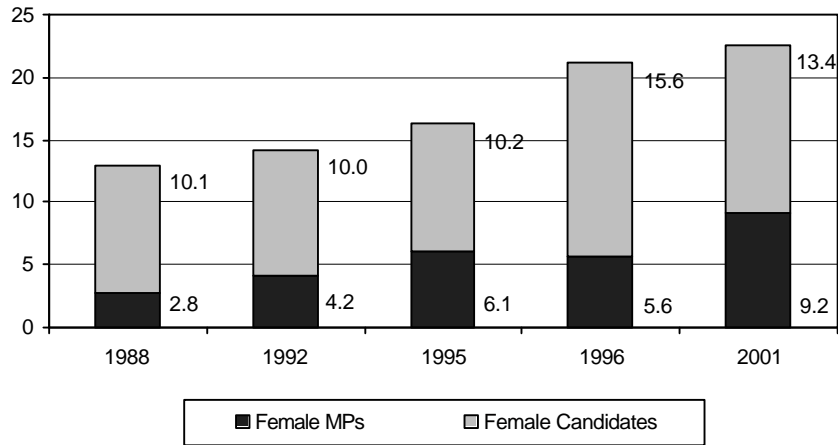
Given the results of the election of the HoR and the Senate, the question is whether the new electoral system allows every citizen to participate and to what extent the elected members are representatives of the people. By law, the electoral system grants equal political rights to all groups of citizens. Every Thai citizen who is at least 18 years of age, irrespective of gender, religion, language and occupation, has the right to vote. There is no institutional arrangement to guarantee a certain level of political representation of particular social groups. One reason is that Thai society has a high degree of homogeneity. Social conflict based on race, ethnic group, or religion is not a serious issue in Thailand. Instead, there is a requirement that the party list of each party should consist of candidates equitably distributed over all the regions of the country. The qualifying conditions for voters and candidates, such as age, education and party-affiliation, are not discriminatory, but are aimed at improving the quality of members of the HoR and the Senate, and politics as a whole.

Table 4: Gender Breakdown of Members of the HoR and the Senate

Election	Male		Female		Total	
	No.	%	No.	%	No.	%
Members of the HoR	454	90.8	46	9.2	500	100
<i>Constituency basis</i>	361	90.25	39	9.75	400	100
<i>Party-list basis</i>	93	93	7	7	100	100
Senators*	179	89.5	21	10.5	100	100

* Data as at 15 September 2000.
Source: Adapted from data at www.ect.go.th

Figure 1: Percentage of Female Candidates and Members of the HoR in the Elections, 1988 to 2001



Source: Table 4 and DOLA, Ministry of the Interior, 1988, 1992b, 1995 and 1996.

However, a closer look at the social and occupational backgrounds of candidates and members of the HoR reflects that women and farmers are not well represented in the HoR and the Senate. Currently, the number of males and females in the population is almost equal.⁸ But the number of female candidates in both elections was quite low. Out of 3,722 candidates running for the HoR and 1,521 candidates running for the Senate, only 13.43 per cent and 7.40 per cent were females, respectively. The results of the elections show that only 21 senators (10.50 per cent) and 46 members of the HoR (9.20 per cent) are female (see Table 4). The proportion of female constituency members of the HoR (9.75 per cent) is higher than that of female party-list members (7.00 per cent). This is due to the fact that, despite the higher number of female party-list candidates than female constituency candidates, only a few female candidates were placed in the top ranks of party lists. For example, the Thai-Rak-Thai Party, the Chart Thai Party and the Democrat Party had only one female candidate in the top twenty, while the New Aspiration Party and the Chart Pattana Party had two candidates. Large parties such as the Thai-Rak-Thai Party and the Democrat Party had a total of four and nine female candidates on their party lists, respectively. It is clear that no party paid serious attention to the promotion of the role of women in politics in recruiting candidates. It also reflects that women's issues are not attractive to the electorate. The results of both elections show a higher number of female members of the HoR and the Senate compared to previous elections; however, the proportion of female members of the HoR and the Senate is still very low at under 10 per cent. Such data reflects that the

8. According to *Mahidol Population Gazette*, 10(1), July 2001, the total population is 62,127,000. The male population is 30,848,000 and the female population is 31,279,000.

new electoral system may not have a negative effect on women, but it is inadequate for increasing female representation in the HoR and the Senate at an acceptable rate.

Farmers are also under-represented considering the majority of Thai people earn their living in the agricultural sector. Table 5 shows that out of 3,722 candidates in the HoR election, only 97 candidates (2.6 per cent) were farmers and only 1.8 per cent, or nine out of 500 members of the HoR are farmers. The Senate's election shows a similar picture. Out of 1,521 candidates, only 3.6 per cent or 55 candidates earned their living as farmers. Only 5 per cent of 200 senators are farmers (ECT, 2000: 122). Table 5 also illustrates that the majority of candidates and members of the HoR were businesspersons, civil servants or politicians.

Table 5: Occupational Backgrounds of Candidates and Members of the HoR in the 2001 Election

Occupation	Constituency Basis		Party-list Basis		Total	
	Candidates	MPs	Candidates	MPs	Candidates	MPs
Businessperson	550 (19.77%)	108 (27.00%)	168 (17.87%)	21 (21.00%)	718 (19.29%)	129 (25.8%)
Civil servant	498 (17.90%)	50 (12.50%)	181 (19.26%)	12 (12%)	679 (18.24%)	62 (12.4%)
Politician	286 (10.28%)	116 (29.00%)	49 (5.21%)	41 (41%)	335 (9.00%)	157 (31.4%)
Lawyer	370 (13.30%)	29 (7.25%)	65 (6.91%)	6 (6.00%)	435 (11.69%)	35 (7.00%)
Employee	153 (5.50%)	12 (3.00%)	125 (13.30%)	2 (2.00%)	278 (7.47%)	14 (2.80%)
Trader	151 (5.43%)	18 (4.50%)	31 (3.30%)	1 (1.00%)	182 (4.89%)	19 (3.80%)
Retired civil servant	100 (3.59%)	5 (1.25%)	114 (12.13%)	6 (6.00%)	214 (5.75%)	11 (2.20%)
Farmer	84 (3.02%)	9 (2.25%)	13 (1.38%)	-	97 (2.61%)	9 (1.8%)
Political official	68 (2.44%)	8 (2.00%)	46 (4.89%)	2 (2.00%)	114 (3.06%)	10 (2.00%)
Independent professional	60 (2.16%)	3 (0.75%)	21 (2.23%)	-	81 (2.18%)	3 (0.6%)
Nurse	25 (0.90%)	11 (2.75%)	7 (0.74%)	-	32 (0.86%)	11 (2.20%)
Public enterprise employee	20 (0.72%)	1 (0.25%)	12 (1.28%)	-	32 (0.86%)	1 (0.20%)
Local government employee	14 (0.50%)	6 (1.50%)	2 (0.21%)	-	16 (0.43%)	6 (1.2%)
Others	403 (13.49%)	24 (6.00%)	106 (11.28%)	9 (9.00%)	509 (13.67%)	33 (6.60%)
Total	2,782 (100%)	400 (100%)	940 (100%)	100 (100%)	3,722 (100%)	500 (100%)

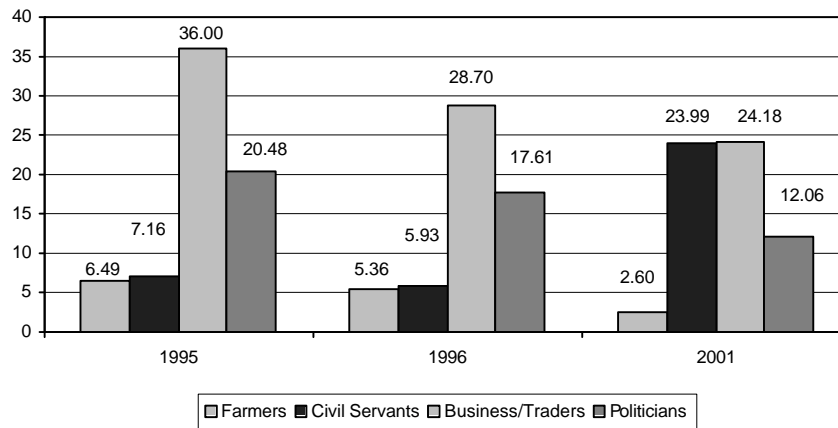
Source: Adapted from data at www.ect.go.th

Table 6: Selected Occupational Backgrounds of Candidates and Members of the HoR in the 1995, 1996 and 2001 Elections (as % of total)

Occupation	1995 election		1996 election		2001 election	
	Candidates	MPs	Candidates	MPs	Candidates	MPs
Farmer	6.49	3.00	5.36	2.00	2.60	1.80
Retired/Civil Servant	7.16	3.00	5.93	3.80	23.99	14.60
Businessperson/Trader	36.00	29.4	28.70	29.00	24.18	29.60
Politician	20.48	53.19	17.61	58.52	12.06	33.40

Source: Table 5 and DOLA, 1995 and 1996.

Figure 2: Selected Occupations of Candidates of the HoR in the 1995, 1996 and 2001 Elections



Source: Table 6.

It is notable that the percentage of candidates and members of the HoR with agricultural backgrounds in the 2001 election was lower than in previous elections (see Table 6 and Figure 2). From 5.36 per cent in the 1996 election it dropped to only 2.60 per cent in the 2001 election. It is also interesting to see the dramatic increase of candidates with civil service backgrounds from 5.93 per cent in the 1996 election to 23.99 per cent in the 2001 election. It is quite clear that this change is a function of the new requirement of a bachelor's degree as the minimum educational level of candidature. Most farmers are poor and have a compulsory level of education at best. Very few have degrees. Therefore, while the requirement of a bachelor's degree aims to improve the quality of the members of the HoR and the Senate, it has a negative impact on social groups with a low level of education such, as farmers, industrial workers and informal

sector workers, because it excludes the majority of them from the right to stand as a candidate in an election. This has reduced the already low representation of these groups even further. In contrast, this requirement favours civil servants as the most educated group in Thai society, as witnessed by the rise in the number and percentage of candidates with civil service backgrounds. The fact that under 10 per cent of Thai people with passive voting rights hold bachelors' degrees brings into question whether this requirement for candidacy obstructs democratic representation.

The Power of the ECT: Yellow and Red Cards

To what extent does the new electoral system support clean and fair elections? The new electoral system has been designed with the goal of combatting fraud and irregularities and upholding the integrity of the electoral process. The low quality of the electoral system in the past was seen as a root cause of the cronyism, corruption and lack of professionalism and ethics that characterized members of parliament. With this goal in mind, the ECT has been given full responsibility for conducting clean and fair elections. The public seems to be satisfied with the results of elections generally, compared with previous elections. At this stage, it appears that the new polling agency, and the new rules and regulations can serve to establish a standard of clean and fair elections. Cheating at the polls has become more difficult. The ECT is seen to be making serious attempts to ensure the integrity of the election process; for example, by requesting that the Royal Police Bureau transfers politically partial police officers to inactive posts, by affixing authenticity stickers on ballots as a counter-fraud measure and by supporting private volunteers to monitor the electoral process.

The most powerful measure in discouraging dishonest candidates is the legal mandate of the ECT to investigate complaints of any behaviour violating the Electoral Law and to cancel electoral results and call for a repeat election. In practice, the ECT used this authority by issuing red or yellow cards to candidates who had violated electoral rules, in much the same way as is done in a football match. If an elected candidate is suspected of cheating but the ECT cannot prove this beyond doubt, the candidate is issued with a yellow card, which invalidates the election results but allows the candidate to contest in a new round of election. Candidates or elected candidates who are given red cards are disfranchised of their voting rights for a year and barred from participating in subsequent rounds of elections. The issuing of yellow or red cards requires a unanimous decision by the five commissioners of the ECT. Handing out red cards to candidates also requires approval from the Council of State. In the Senate election, only yellow cards were handed out. In the 2001 HoR election, four candidates were issued red cards before polling day. After the election, the ECT ordered a repeat election in 62 constituencies in which eight elected candidates had received red cards and 52 elected candidates had received