

yellow cards on the grounds of violating section 44 of the Electoral Law.⁹ The power of the ECT to issue yellow or red cards does not end when it endorses the election results. The ECT can continue to investigate complaints or objections and dismiss elected members of parliament for one year. For example, a yellow card was issued to the Lopburi senator who was also the speaker of the Senate. This resulted in his dismissal and he also lost in the repeat election. In the case of the HoR, the ECT issued seven elected members of the HoR with a yellow card and called a repeat election on 30 June 2001.

Such a legal mandate and the determination of the ECT to combat any violation of electoral rules has had an impact on the behaviour of candidates. A greater awareness of the Electoral Law and the power of the ECT made candidates more careful in conducting electoral campaigns. In fact, in addition to the ECT and its arms, such as the police and volunteers, the P-Net kept candidates under surveillance. Moreover, rival candidates also watched each other closely and became an informative source for the ECT and the P-Net. Some candidates did so aggressively by spying on their rivals, tapping telephone conversations, buying evidence of or information on violations of the law by rivals, or conspiring to accuse their rivals of violating the electoral law. From 400 constituencies, the ECT received 337 objections, mostly from candidates. Among the private organizations certified by the ECT as watchdogs in the election, the P-Net and the Poll Watch Foundation were the most well known and active in supervising the election process, both before and after the election. Moreover, the scope of the P-Net was not limited to candidates, but included the ECT and government offices. With limited support from the ECT, the P-Net was able to focus their monitoring operation on 206 constituencies that were considered as having a fierce competition (Srisuthiyakorn, 2001: 15). The P-Net's strategies were to report complaints to the ECT and employ media coverage. The media also played a crucial role in monitoring electoral processes. Situations or cases relating to fraud and irregularities were publicized. Media coverage was extensive in the election of the HoR, involving everything from the campaigns and activities of candidates and parties to daily analysis and discussion of parties' policies.

In addition to various actors supervising the electoral process, the introduction of a new vote counting system, in which all ballots in each constituency were tallied at a central venue, proved to be relatively successful in increasing voters'

9. Section 44 of the Electoral Law stipulates that no candidate nor any person shall commit any act to induce electors to cast a ballot for him or her or other candidates or any political party or to abstain from voting for any candidate or political party by the following means:

- i) Providing, giving, offering, promising to give or preparing to give properties or any other benefits which can be calculated in money value to any person;
- ii) Giving, offering or promising to give money, properties or any other benefits whether directly or indirectly to the community, association, foundation, temple, educational institution, asylum or any other institution;
- iii) Advertising for an election by organizing entertainment;
- iv) Treating or promising to treat any person with meals;
- v) Deceiving, forcing, threatening, intimidating, slandering or inducing misunderstanding in the popularity of any candidate or political party.

confidence in the secrecy of their votes and subsequently provided voters with greater freedom of choice. It also became clear that the new counting system made vote buying through a network of canvassers an uncertain means of winning an election. This was evidenced by the fact that many influential politicians, such as Samut Prakhon, Phetchaburi and Pathum Thani, failed in the election (*The Nation*, 8 January 2001).

New Patterns of Vote Buying and Electoral Fraud

Despite the satisfaction with the overall performance, there are still problems concerning the integrity of the electoral process. First, cheating and vote buying still exist, but methods have become more sophisticated. For example, instead of having direct contact with voters, candidates and canvassers paid vote-buying money to voters via postal orders or bank accounts. The transaction tended to be exclusive in a group of trusted voters. Another method of vote buying used was putting voters' names down as temporary employees in voting campaigns or in labour-intensive businesses such as plantations and factories. Misinformation was also a common way of cheating in this election. For example, candidates spread false information that rival candidates had been disqualified by the ECT, or orchestrated vote buying using the name of rival candidates in order to get the ECT to sanction their rivals.

Second, although the merits of the new system of vote counting are well accepted, there are some problems of transparency in the vote counting process. These include (1) the risk of ballots being tampered with during their transportation to counting centres; (2) ballots having to go through too many hands from the time the polling station is closed to the end of the counting process;¹⁰ (3) simultaneous counting at the central venue could lead to confusion, giving opportunity for on-the-spot cheating; (4) representatives of candidates and parties are able to become members of vote-counting committees; (5) the new system is harder to monitor than the old one, where ballots were counted at individual polling stations (ANFREL, 2001). Problems with the counting process led to protests by candidates and their supporters in many constituencies.

Third, the integrity of the ECT was tarnished by the partisan conduct of its local staff. At provincial, constituency and polling station levels, some local staff (provincial electoral committee, constituency director, chairperson of a polling station counting committee, etc.) were found to be acquainted with candidates and canvassers. These officers were subject to bribery and influence, making their decisions and actions biased in favour of certain candidates, for instance by turning a blind eye to violations committed by their patrons while taking a tough stance against rival candidates. Moreover, electoral fraud such as the

10. After closing time, ballots are counted at a polling station. When they arrive at a central counting venue, they are counted again. Then the two categories of ballots in each box (constituency and party list) are separated. Ballots of each category are then mixed with those from other polling stations and divided into small bags of 500 ballots each.

smuggling of ballot papers, phantom voting and tampering with ballot boxes and vote tabulations were possible with the co-operation of dishonest electoral officers.

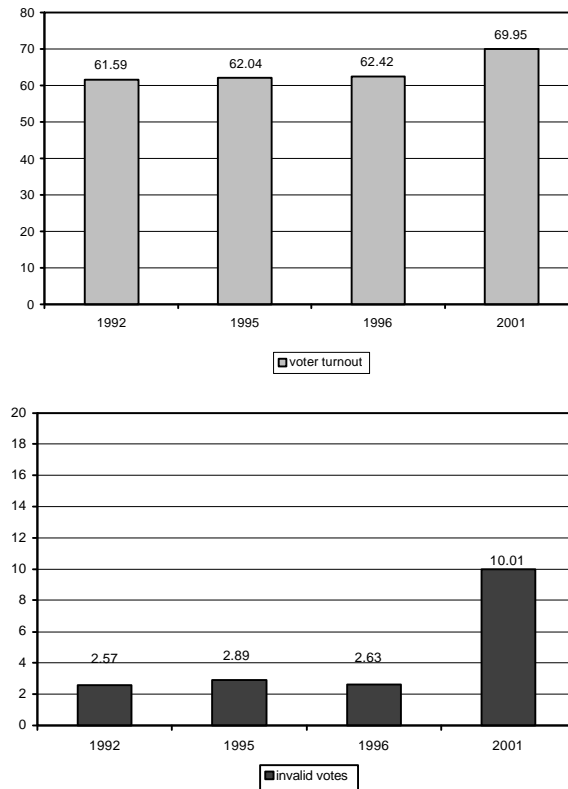
Meaningful Elections: High Voter Turn-out

Does the result of the HoR election reflect meaningful political participation of citizens? The picture is contradictory. On the bright side, there was a higher rate of voter turn-out than before (see Figure 3). This was due to various factors. First, voting was compulsory for citizens, with penalties for those who failed to vote. The provision of advance voting also facilitated the high voter turn-out, with 83.32 per cent of those registered for advance voting going to the polls. Second, since it was the first general election for members of the HoR, there was a high level of public enthusiasm for the new electoral system. Various government and private organizations made concerted efforts to educate people about the new rules and encourage participation in the election. For example, the Department of Local Administration launched a nation-wide campaign called 'Raising the Democratic Flag'. The ECT and P-Net also included political education in their missions. The ECT spent about 200 million Baht (US\$4.44 million) on educating the public about the new electoral processes.¹¹ Third, for the people, the 2001 election was not only an election of members of the HoR but also of the prime minister and the government. The constitution provides that the prime minister must be a member of the HoR. Voters had a clear choice of two different styles of leadership and two different lines of policy platforms. There was intense competition between the Thai-Rak-Thai Party under the leadership of Thaksin Shinawatra and the Democrat Party under the leadership of former Prime Minister Chuan Leekpai. Both parties employed various campaign activities to attract support, including an extensive recruitment of party members and offering candidates with high credentials, especially those on party lists, big rallies and advertising campaigns through the media, posters and billboards. The intense competition caught the public's attention and made people enthusiastic about exercising their voting rights.

Nevertheless, the voter turn-out has to be analysed with some caution. Despite the fact that the rate was higher than in previous elections, as many as 12 million eligible voters (30 per cent) did not vote in this election. Given the fact that voting was an obligation by law with the penalty of revocation of political rights, and that advance voting was provided, this reflects that for a number of people political rights do not matter. Political apathy does still exist.

11. Data was requested from the Secretariat of the ECT.

Figure 3: Voter Turn-out and Invalid Votes in the 1992, 1995, 1996 and 2001 Election of the HoR



Source: DOLA, 1992a, 1995, and 1996.

Another issue of concern is the high number of invalid ballots (see Figure 3). A total of 2,992,081 ballots were declared invalid in the constituency election, accounting for 10.01 per cent of total voter turn-out, while only 745,829 party-list ballots were invalid, or 2.49 per cent of total voter turn-out. Many invalid ballots in the constituency election had marks (X) on a number that had no candidate.¹² This happened because constituency candidates carried the number of their parties, but parties did not field candidates in every constituency. Additionally, it was found that the high number of invalid ballots was related to the number of illiterate voters. For instance, invalid ballots accounted for 28 per cent of total ballots in a constituency in Chiang Mai Province where most voters are illiterate people from hill tribes (*Bangkok Post*, 28 January 2001). In addition, invalid ballots were caused by the lack of information about

12. I made this observation at several counting centres on 6 and 7 January 2001.

constituency candidates for voters living or working outside their registered constituencies. According to the report of the Asian Network for Free Elections (ANFREL), 'most voters who cast ballots during the advance voting period in Bangkok had no clue about candidates in their home constituencies. At their designated central voting stations, they found the information boards provided by the ECT were not of much help to decide whom to vote for. It only gave the candidates' numbers and affirmed their qualification as candidates. Many voters said that the information boards would be more helpful if the candidates' background and their party policy in brief were included. Some of them had to call home to inquire about the candidates in their constituencies from family members while a number of them decided to forego casting ballots for constituency candidates and only marked party-list ballots (ANFREL, 2001: 24). These problems reflect the fact that voters were not well prepared (in terms of being aware of contesting parties' policies and credentials of candidates) for quality voting.

The last issue is the growing concern about unequal competition between small and large parties due to unequal financial resources and media attention. The problem was that only major parties received media attention or could afford to spend money on media coverage. It was found that major parties spent heavily on the media. For example, the Thai-Rak-Thai Party ranked as the biggest spender on political advertisements during the election. It spent 60.9 million Baht or US\$1.35 million. The next five parties in line were the Rassadorn Party (29.5 million Baht or US\$650,000), the Chat Pattana Party (25.5 million Baht or US\$560,000), the Chart Thai Party (23.5 million Baht or US\$520,000), the New Aspiration Party (20.1 million Baht or US\$450,000) and the Democrat Party (5.8 million Baht or US\$120,000) (*The Nation*, 12 January 2001). Due to lack of funding and an inability to get media coverage to help convey their party policies to the people, small parties were ignored and forgotten. This situation gave the large parties an advantage which was reflected in the results of the HoR election.

High Budget and Repetitive Voting

In terms of administration and efficiency, as it was the first general election under the new rules and as the ECT had only recently been implemented, there were several management problems. First, inadequate and untrained staff were reported to be a cause of delay and chaos in many constituencies. As the ECT itself only had 523 permanent officers, 152 officers at the central office and 423 officers at provincial offices (ECT, 2000: 6), most of the one million staff that the ECT used in organizing the election were temporary employees and government officers who had been seconded from government agencies. Therefore, in addition to the problem of the availability of government officers, providing training to a vast number of staff nation-wide was difficult. Second, the staff problem was worsened by confused information over rules and procedures. The rules and regulations issued by the central ECT were perceived differently by the PEC, which caused confusion among local staff, candidates and people.

For example, staff at some polling stations were not aware of the procedure of affixing authenticity stickers to ballot boxes as a counter-fraud measure until the ECT gave an instruction by radio to every polling station. Third, the ECT's high budget gave cause for concern. They spent almost 5,000 million Baht (approximately US\$111 million) on conducting both elections.¹³ This is very high compared to the approximately 700-900 million Baht (US\$15.5-20 million) spent by the Ministry of the Interior per election in the past. The high budget was partly attributed to repeat elections. As mentioned, it took five rounds of election to fulfil the quorum of 200 senators and two rounds of election to fill all the seats in the HoR. In addition to the high budget, repeat elections caused political apathy or boredom to set in. The rate of voter turn-out, for example, decreased from 71.89 per cent in the first round of the Senate elections to 31.40 per cent in the fifth round.

The Contribution of the New Electoral System and Elections to the Performance of the Political System

Elections are not an end in themselves. In Thailand the new electoral system is expected to be instrumental in the establishment of new politics. So are we seeing new politics in Thailand after the general elections of senators and members of the HoR? It may be too early to answer this conclusively since this was the first election of its kind to be held under the new electoral system and in the context of the 1997 constitution. At this stage, the new electoral system and both elections have contributed to several major changes in the Thai political system. However, whether these changes will lead to new politics or not still remains to be seen.

A Shift of Political Generation

The new electoral system has changed the personnel of parliamentary politics. The senators are now elected rather than appointed. This allows some variation of senators' backgrounds. At the 2000 senatorial election, the domination of the old force of bureaucratic polity (military and civilian officers) was diminished with the rise in the number of NGO representatives, activists, politicians and professionals, such as lawyers and medical doctors.¹⁴ For example, out of Bangkok's 18 senatorial seats, eight were won by NGO representatives and activists, while five went to senior bureaucrats, professionals, modern businesspersons and executives. Most of them were new faces in politics and all of them had at least a bachelor's degree.

13. The ECT spent 2,336,546,893 Baht on the 2000 Senate election and 2,344,909,200 Baht on the 2001 HoR election. The information on the budget of the 2001 HoR election is from the Secretariat of the ECT.

14. The percentage of senators with a background as retired bureaucrats decreased from 43.96 per cent to 27.96 per cent; lawyers increased from 2.56 per cent to 11.85 per cent; medical doctors increased from 0.37 per cent to 4.29 per cent; and politicians increased from 0.37 per cent to 9.01 per cent.

Table 7: Backgrounds of First Time Members of the HoR in the 2001 Election

Items	Description	Number	
		No.	%
Type of HoR Member	Party-list members	36	15.32
	Constituency members	199	84.68
Gender	Female	30	12.77
	Male	205	87.23
Political Parties	Thai-Rak-Thai	132	56.17
	Democrat	50	21.28
	New Aspiration	14	5.96
	Chart Thai	18	7.66
	Chat Pattana	13	5.53
	Others	8	3.4
Age	25-35	45	19.15
	36-45	107	45.53
	46-55	53	22.55
	56 and above	30	12.77

Source: The Secretariat of the HoR.

The generational shift is clear in the case of members of the HoR. At the 1996 election, for example, around a third of the total HoR's seats changed hands, passing to first-time members of the HoR (DOLA, 1996), whereas at the 2001 election, almost half were newcomers. There were 235 first-time members of the HoR, accounting for 49 per cent of total seats.¹⁵ Table 7 above illustrates the backgrounds of these new members of the HoR. More than half of them belonged to the Thai-Rak-Thai Party. And on the whole they were younger and more highly educated. Compared to previous elections, the educational background of members of the HoR at the 2001 election improved significantly. Members with a master's degree increased from 17.39 per cent in the 1996 election to 41.20 per cent in the 2001 election, while members with an education below a bachelor's degree decreased from 27.36 per cent in the 1996 election to 14.00 per cent in the 2001 election. In particular, the party-list system allowed well-known and capable figures to enter politics whose chances of being elected under the old system would have been small. Examples included Purachai Piumsombun (Minister of the Interior), Surapong Suebwonglee (Deputy Minister of Public Health) and Pongthep Thepkarnchana (Minister of Justice). Out of the 100 party-list members of the HoR, 43 per cent had a master's degree and 17 per cent had a Ph.D. This shift is considered a positive contribution to the development of a new political system, not only because new people with new ideas, attitudes and political culture have been brought in, but also because old

15. Data on the first-time members of the HoR is from the Secretariat of the HoR.

and patronage politics have been swept out. However, some critics have played down the contribution of the new breed of politician since many of them are sons and daughters of influential politicians. It is argued that this was in fact a hereditary shift or dynasty succession.¹⁶

Active Senators

Prior to the 1997 constitution, the focus of parliamentary politics was on the HoR while the Senate was passive, mainly consisting of military and civilian officers and key businesspersons who acted as supporters of the prime minister who had appointed them. The 1997 constitution and the new electoral rules changed this political landscape. As a result of the election, the backgrounds of senators expanded to include new forces in politics such as NGO representatives, activists and urban professionals. In addition, the Senate became a political institution responsive and accountable to the needs and demands of the public, and a channel for people's participation. As elected senators are not members of parties, they can act independently for the public interest. Therefore, the new Senate is seen to be playing an active role in examining bills and monitoring the government. This new role is beneficial to the performance of the political system, especially in the current situation in which parties from the government side (in particular the Thai-Rak-Thai Party) dominate the HoR and the members of the HoR are bound by parties' rules and decisions. The opposition force is also weak. The Senate provides an extra level for checking and examining governmental decisions.

Development of Political Parties

As a result of the new electoral system and the elections that have taken place under it, Thailand is seen as moving towards ideological or policy-driven politics with fewer parties. Under the new electoral rules, especially the combination of plurality and proportional representation systems, old style political parties, which were primarily groupings of individuals, networks of patrons, or provincial businessperson-politicians and clients, without attractive and feasible policy platforms or party images, have a small chance of survival. The 2001 election saw an intense competition between two large political parties with different platforms and groups of supporters. On the one side was the Democrat Party, the oldest party in Thailand, with roots going back to a royalist faction in the immediate post-war era. Under the leadership of Chuan Leekpai, and with the support of the Bangkok wing of the party,¹⁷ the Democrat Party had been transformed from a largely provincially based party that was

16. For example, Banharn Silpa-archa (the leader of the Chart Thai Party) brought in his son in Suphanburi Province; Siriwat Kajohnprasart succeeded his father, Sanan Kajohnpasart (former secretary-general of the Democrat Party and former minister of the interior), in Pichit Province; Sanoh Thienthong (chairman of advisers of the Thai-Rak-Thai Party) brought in his nephew and niece in Sa Kaew Province.

17. This included Supachai Panitchapakdi (former deputy prime minister and minister of commerce), Tarrin Nimmanhaeminda (former finance minister) and Aphisit Vechacheva (former minister of the Prime Minister's Office).

dominated by southern politicians in the early 1990s, to a party that stood for globalization, financial liberalization and the maintenance of Thailand's open economy at the end of the decade. The Party had a base of support among business and white-collar middle-class people, who either saw their interests best served by globalization, or were attracted by the image of internationalism and modernity (Phongpaichit and Baker, 2000). On the other side stood the Thai-Rak-Thai Party, founded by Thaksin Shinawatra¹⁸ in late 1998 to capture the reaction to the Democrat Party's urban bias and commitment to globalization and liberalization. The Party sought support from businesspersons and rural farmers who felt they had been neglected during the economic crisis, social conservatives concerned with the consequences of greater foreign penetration and dissident activities. Thaksin presented himself in a national campaign as a more visionary alternative to Chuan Leekpai of the Democrat Party. His party's platform was to make an economic revival through a mixture of local entrepreneurship, local craft heritage and high technology. In addition, the Thai-Rak-Thai Party was launched close to the 2001 elections with concrete populist programmes to broaden popular support, including a three-year moratorium for rural debt, a 30-Baht universal health care programme, a one-million-Baht village fund and a people's bank. These policies and programmes were very appealing to the public and the result was the landslide victory of the Thai-Rak-Thai Party.

The public, including the media and scholars, paid more attention to party policies than ever before. Many surveys found that party policy was a major factor in voter choice. This is likely to compel political parties to develop more feasible and appealing political platforms and to get messages across to the people. However, such capabilities seem limited to large parties.

The failure of medium and small parties was another significant factor in these elections. The Prachakorn Thai Party, for example, did not win a single seat, while the Sereetham Party won 14 constituency seats but no party-list seats, and the Rassadorn Party only gained one constituency seat. This has resulted in a trend for smaller parties to merge into a few large parties because they simply cannot survive under the new circumstances. Both the Sereetham Party and, more recently, the New Aspiration Party have merged with the Thai-Rak-Thai Party.

Political Stability and Stable Government

A fundamental problem in the Thai political system had been political instability. This was partly due to the fact that no single party had ever dominated the HoR, a situation that resulted in unstable coalition governments.

18. Thaksin Shinawatra was a successful businessman. Most of his wealth was made from monopolistic concessions to supply telecommunications services. In the 1990s, he joined Chamlong's declining Palang Tham Party, serving as minister of foreign affairs and briefly as party leader. But in 1998, he quit and formed the new Thai-Rak-Thai Party.

After the 1995 election, for example, Prime Minister Banharn Silpa-archa of the Chart Thai Party formed a coalition government of seven political parties which lasted only a year. During 1996-2001, there were two prime ministers and three cabinets. These frequent changes in government or cabinet reshuffles were often due to conflicts or break-ups with coalition partners. This situation weakened the decisive power of the prime minister in bargaining with coalition partners over cabinet composition and the administration of national policies because he had to maintain the stability of the coalition government. Therefore, when the Thai-Rak-Thai Party made history by becoming the first dominant party in the HoR with 248 seats, the potential for political stability appealed to everybody.

So far, the domination of a single party in the HoR has brought about stability. The Thai-Rak-Thai Party formed a coalition government of three parties (the Thai-Rak-Thai Party [248], the Chart Thai Party [41] and the New Aspiration Party [36]), with a comfortable majority of 325 seats in the HoR under the premiership of Thaksin Shinawatra. The support of 248 seats and 11 million votes throughout the country on the party-list system provided Thaksin with a clear mandate and strong power in bargaining with coalition partners in forming a government. He emerged as a strong and decisive leader. In terms of governmental policies, he stated clearly that coalition partners must fall in with the Thai-Rak-Thai Party's policy platform. Therefore, Thai-Rak-Thai Party policies were transformed into government policies. Thus far, Prime Minister Thaksin has kept his campaign promises by putting several policies and programmes into practice. For example, after only three months of his administration, the pilot project for the 30-Baht universal health care programme was initially launched in six provinces and was implemented nation-wide in October 2001, the Bank of Agriculture and Co-operation initiated a three-year debt moratorium for small-scale farmers and the Village Fund project was launched throughout the country in July 2001. In addition, Thaksin's government has declared a war on drugs and poverty, and has implemented a social re-engineering policy.

In terms of cabinet composition, Prime Minister Thaksin did not compromise with coalition partners. Responding to public demand, he announced that his cabinet would be from party-list members of the HoR or qualified outsiders. His determination made this possible. No exceptions were made, even for Banharn Silpa-archa, former prime minister and the leader of the Chart Thai Party, and other key Chart Thai Party people, since they were constituency members of the HoR. The 1997 constitution does not prohibit constituency members of the HoR from being ministers, but this is the intention of the constitution. To make a separation between legislative and executive power, it provides that members of the cabinet should lose their HoR mandate when joining the cabinet, thus creating a vacant seat in the HoR. In the case that a party-list member of the HoR is appointed a minister, the next candidate on the

list of that party will automatically refill the vacant seat. But if a constituency member of the HoR is appointed a minister, a by-election has to be held, the cost of which has to be borne by that person, and the party risks losing the seat to another party's candidate. In addition, with the high number of Thai-Rak-Thai Party seats in the HoR, Prime Minister Thaksin was able to reject politicians proposed by coalition partners for the cabinet who were unpopular or had a bad image. Most of his cabinet's members were acceptable to the public.

Popular Attitudes

A major change in Thai politics has been the rise of civil society, which is exerting greater control over the politics of the nation. This is not a result of the new electoral system and elections. On the contrary, the political changes that have taken place, including the passage of the 1997 constitution and the introduction of the new electoral system as well as its performance, were driven by a wave of urban pressure which aimed to transform politics. The 1997 constitution became known as the 'People's Constitution' as public participation was intensive in the process of drafting and passing it. The outcome of the elections also reflected the changing popular attitude toward politics.

Previously Thailand was a relatively apolitical society. People and groups had a minimal role in politics due to the centralized nature of the Thai state and Thai social characteristics and culture. In a predominantly agricultural society, most Thais maintained the traditional belief that politics was a matter for rulers. The right of citizens to control the state had not been promoted. Moreover, major Thai values, such as respect for seniority, compromise, the avoidance of conflict and open criticism, and personalism, are not conducive to the emergence of an active civil society. Against these constraints, civil society has incrementally inserted itself into politics and has become a major force in Thai politics. Its power was made evident when the mass demonstrations of civic groups against the appointment of General Suchinada as non-elected prime minister led to the political crisis of 13 to 17 May 1992. This crisis reduced the role of the military in politics, while expanding the political space for the popular sector. NGOs, or private organizations, gained momentum and quickly became the most active and effective opposition outside the formal political process.

In the late 1990s, stimulated by the economic crisis, the role of civil society in politics was intensified, as evidenced by the call for the resignation of Prime Minister Chavalit Yongchaiyudh in 1997 and the impetus behind the passing of the constitution in the same year. Both were driven by urban opinion expressed through the press, street demonstrations and the modern business lobby. There was considerable objection to the constitution draft from various institutional powers, including politicians, army, senators, judges and bureaucrats, as it

represented an overhaul of the whole political system.¹⁹ Confronted with these hostile attitudes, the Constitutional Drafting Assembly (CDA) sought support from civil society, especially businesspersons and the broader urban middle class, who saw political corruption and bad government as the root cause of the economic crisis and demanded political and bureaucratic reform. As a result, a movement to support the passage of the constitution emerged. For example, activist groups threatened mass demonstrations if the draft was rejected. White-collar workers staged demonstrations in Bangkok's business district. Green flags were used to symbolize support for the passage of the constitution. There were counter-demonstrations of village officers and village boy scouts in favour of rejection. With widespread public pressure, the constitution was passed on 27 September 1997 with 518 voting in favour of it and only 2 members of the HoR and 16 senators voting against it (Phongpaichit and Baker, 2000: 122).

The rise of people politics was reflected not only in the passage of the constitution, but also in its content. The constitution promotes the expansion of direct political participation of the people and private organizations. It enables laws to be initiated and petitions for the removal of the prime minister, ministers, members of the HoR, senators and public officers to be filed by 50,000 signatories. It also provides for referendums as a means of public consultation and promotes the participation of private organizations in the political system, such as the supervisory role of private organizations in elections and the advisory role of private organizations in national planning, consumer protection and environmental management.

The passage of the constitution emboldened public political activism which has become an important force in the political system. Therefore, unlike previous elections, both elections were held in a political atmosphere of public activism. Public enthusiasm and expectations were high, especially among the urban middle class. Recognizing the changing atmosphere and the importance of public opinion, the ECT developed a clever technique. Before any major move, a commissioner met the press and casually mentioned the plan. Then, he waited for the feedback before acting (*The Nation*, 6 January 2001). In addition to the expression of public opinion through the media and activist platforms, public activism was reflected by the rise of private organizations supervising the election process, like the Poll Watch Foundation and P-Net. Their personnel were volunteers, primarily urban professionals such as NGO activists, teachers, lawyers, university professors, retired bureaucrats and medical doctors. Active political participation was also evidenced by the more than 2000 cases of fraud

19. For example, the leader of the Prachakorn Thai Party (Samak Sundaravej) argued that the new constitution would create divisions in society and would not change the country for the better. The army chief objected to provisions about opposing coups, and to the liberalization of the media. The police chiefs objected to restrictions on police procedures. Senators objected to provisions for elections. Judges criticized proposals for new courts. The Ministry of the Interior objected to decentralization, police reform and the transfer of the conduct of elections to an independent election commission (Phongpaichit and Baker, 2000: 120).

and irregularities reported by the public to the ECT and the P-Net. The media watched over every step of the electoral process. After the 2001 election, public opinion also influenced Prime Minister Thaksin's choice of cabinet members – politicians who were unpopular or had a bad image were rejected. Recently, when key members of the HoR and entertainment business-owners attacked the minister of the interior over his social engineering policy aimed at strengthening controls on entertainment places in order to fight drugs and crime, the public came out in support of the minister in several ways: turning car lights on as a symbol of support, expressing their opinion through the media, organizing platforms and giving flowers. These reflect a new dimension to Thai politics.

Proposals for the Improvement of the Electoral System

Although it appears that the new electoral system can serve to maintain the standard of clean and fair elections, and that the elections have produced positive changes in the political system, there is agreement among candidates, the media and academics that the electoral system still has some weaknesses, mainly to do with the administration of the electoral process. Vote counting was one such problem. Unclear counting results led to protests against the election outcome, chaos in some constituencies and repeat elections, resulting in increasing abstentions and high expenses. Furthermore there were still incidents concerning the use of money and intimidation to influence voters, and complaints about the lack of political neutrality of election officers. In order to overcome these problems and be assured of a better electoral process in the future, four areas of improvement are essential:

1. The need to strengthen the capacity of the ECT to fulfil its mandate: There has been much criticism concerning the work of the ECT in conducting elections. Such complaints include the lack of proper understanding of the voting process among election officials, improper conduct of the vote counting process and, the most serious one, the lack of political neutrality of election staff. Some argue that these problems occurred because the ECT undertook too many activities itself: issuing electoral rules and orders, providing political education, managing the election process and investigating complaints and objections. It is proposed that the ECT should not *hold* elections but rather *control* elections held by other agencies. However, there is no proposed agency suitable for conducting elections under the control of the ECT and certainly the Ministry of the Interior is not a viable choice because of the lack of public trust.

This article supports the role of the ECT in organizing elections and the new electoral rules set by the 1997 constitution. Both elections were the first implementation of the new system; therefore, the extent to which the new electoral

rules have *really* changed the behaviour of politicians, the political system and the public is still unknown. The next election will be an important one to prove the effectiveness of the new electoral rules and the ECT. It is certain that the work of the ECT will be more difficult in the next election because political parties and politicians will have learned their way around the new rules by finding loopholes in the electoral law and adopting more sophisticated techniques of cheating and winning elections. In such a situation, the institutional strength of the ECT, as the agency upholding the integrity of the elections, is indispensable. Two elements are crucial for strengthening the capacity of the ECT: personnel and the structure of the administrative system.

First, the ECT's personnel is a crucial factor in the efficiency and effectiveness of electoral administration. Second, the legitimacy and trustworthiness of the ECT depends on its personnel. Successful election administration hinges on two key players: electoral commissioners and provincial electoral commissioners. They have to be competent, trustworthy and politically neutral. The existing recruitment process for electoral commissioners through the selection committee needs to be improved in terms of transparency. Qualifications and standards should be made public.²⁰ The recruitment process of provincial electoral commissioners has to be monitored in order to ensure their political neutrality and administrative competence. In addition, there is a need to develop the capability of provincial electoral commissioners in terms of their leadership and management skills as well as their understanding of the electoral law and procedures. In addition, the ECT has to ensure that large numbers of operational staff, mainly at polling stations and counting places, understand rules and procedures. Accusations of partiality arose because operational staff did not follow every instruction properly.²¹ Staff need more education and systematic training to ensure a consistent and fair voting process.

The centralization of decision-making in the ECT was viewed as another obstacle to the successful administration of elections. The decision-making power was in the hands of electoral commissioners in Bangkok. The PEC had only a small degree of discretion, which meant that most problems and ambiguities had to be forwarded to the central office of the ECT. This caused a work overload and delays at the central office and also weakened the development of the capability of the ECT's provincial branches. There is a need to decentralize by giving more power to provincial branches as well as developing their capacity. Furthermore, communication links within the ECT (the central ECT, provincial and

20. This was demonstrated when the ECT recruited new members to replace the first commissioners whose term ended in July 2001. The selection process itself, as well as the final appointments were highly controversial. The new chairperson of the ECT is, in fact, a former senator who had been disqualified by the previous ECT.

21. For example, staff at a polling station were supposed to fill out information forms concerning the number of voters, the number of unused ballot papers, the time of delivery of the ballot boxes and the names of those who accompanied the boxes to the counting station. However, some did not complete all the information and some gave incorrect information. In one case a candidate was allowed into the restricted area in the counting place, and in others relatives of candidates were appointed as counting committees. These cases can be interpreted either as electoral cheating with the co-operation of operational staff or as carelessness.

constituency levels) have to be strengthened to avoid break-downs in communication. In addition, to avoid repeat elections, the system of investigation has to be more efficient so that the ECT can disqualify cheating candidates before the polling day.

2. The need to achieve greater co-operation between the ECT and other government organizations: In addition to building the internal strength of the ECT, there is a need to develop greater co-operation between the ECT and other organizations. As illustrated earlier, the ECT has only a small number of permanent staff. It is certain that the success of electoral administration depends on the co-operation of concerned organizations, such as the Ministry of the Interior, the Ministry of Education, the Royal Police Bureau and others. Their co-operation was weak at the local level. Some local staff from other agencies had low morals and work commitment. They also lacked a clear understanding of electoral rules and procedures. Manuals have to be developed and training programmes need to be action-oriented. Therefore, the sense of partnership between the ECT and other agencies has to be developed, especially at provincial and constituency levels.

3. The need to develop civic groups or private organizations: The new electoral system entrusts private organizations with a supervisory role in the election process. Even though a more public activism is emerging, there are only a few civic organizations with experience in monitoring elections. In addition, these organizations only exist during elections. Their participants tend to be temporary. In order to strengthen the capacity of these private organizations, there is a need to support the formation of civic groups with an interest in democratic development. In addition, the existing civic groups or private organizations should be encouraged to include democratic development as part of their missions. The network of civic groups and private organizations such as P-Net should be strengthened. There is also a need to develop oversight partnership with the ECT.

4. The need to provide political education for the public: People, or voters, are crucial components in the electoral system. Active and informed voters contribute to the quality of elections and are also the most effective measure against vote buying and electoral fraud. However, making Thai citizens politically active is a tough job and will take a long time. Before the 2000 senate election and the 2001 general election, there were concerted efforts to inform voters about the new electoral rules and processes, but these attempts ceased after the election. This reflects a weakness in the provision of political education in Thailand. There is a lack of continuity. Only during elections are there campaigns on clean and fair elections or the importance of elections. In addition to lacking understanding of the new electoral rules, some voters still maintain traditional values which are in conflict with democratic thinking, such as respect for seniority, personalism and avoidance of conflict and open criticism (Kokpol et al., 2001).

There is a need to provide political education to voters in democracy and the significance of political reform on a sustainable basis, with a particular focus on the rural population. There are two reasons for this. First, most campaigns or political education programmes tended to concentrate at provincial and district levels. Information did not reach people in villages or remote areas. This is evidenced by the high number of invalid ballots in the villages of hill tribe people in Chiang Mai Province. Second, as mentioned, Thailand has experienced a rise in public political activism; however, participants of this force tend to be middle-class groups with urban professions. The rural population remains politically passive. There is a gap between urban and rural populations (Boonbongkarn, 1996b, Laothamatas, 1996). They have different definitions of good politicians and elections. Rural voters living in circumstances of poverty and scarcity tend to lack a free view. They are captives of the local patronage system and inevitably give their votes to local bosses. Provincial politicians are relatively free of any sanctions imposed by the electorate as long as they funnel some budget patronage back into their constituencies. This reflects the need to provide political education to the rural population to give them a clear understanding of elections and the role and duties of members of parliament.

In addition to focusing on the rural population, the forms of political education have to be changed. Most voter education programmes, including the ECT's, used one-way communication through publications such as posters, brochures and open letters. These methods were useful for disseminating information about the polling date and the method of voting, but they did not have an impact on voters' behaviour. In addition, they excluded illiterate people. In the design of these programmes, constraints faced by rural voters, such as illiteracy, time and language, have to be taken into consideration. Political education programmes should emphasize an interactive learning process within communities rather than one-off training sessions or meetings. Local civic groups, such as co-operative groups, women's groups, village funds and village civil society groups can be effective channels in the political learning process.

There is also a need to encourage women to join politics since there is still a low rate of female members of parliament. Despite efforts to support women in politics, the number of female candidates in the 2001 election was lower than that in the 1996 election. There is a need to find out more about the obstacles to women joining politics: culture, perception of women, party politics and the electoral system. From my own observation, a single-member constituency system may have an impact on female candidates. Further studies should be conducted in order to set up appropriate supporting programmes and remove obstacles.

External Support for Reforms

Two foreign actors have played an active role in the election process: ANFREL and the Asia Foundation. ANFREL was formed in 1997. It is a Bangkok-based regional network of election monitoring and human rights organizations whose general mandate and objective is to support initiatives towards democratization in Asia. It came about as a special project of Forum Asia. Its mission is to build the capacity of local groups through training for and supporting the monitoring of elections, lobbying and the dissemination of election-related information. As the first regional network in this field, it has rich experience and has developed expertise. The Poll Watch Foundation is also a part of this network.

Its involvement in the electoral process in Thailand can be divided into three areas. First, it provided technical assistance to both the P-Net and the ECT, mainly through study tours, experience sharing and provision of information such as research on electoral law or other election-related issues. However, the working relationship with the ECT tended to be informal since Dr Gothom Arya, an electoral commissioner, was a founding member of ANFREL. Second, ANFREL, in support of the P-Net and the Poll Watch Foundation, performed an election monitoring role. This included observer missions. In particular, from 2 to 7 January, ANFREL deployed 43 international observers from 17 countries to observe the electoral process in 28 provinces. This was useful not only for detecting irregularities but also for sharing with Thai partners the experience of administering and monitoring democratic elections. Third, ANFREL, in co-operation with the ECT and the P-Net, organized a grass-roots forum, which involved various stakeholders of constituency elections. This was an attempt to raise public awareness and participation. However, this was only done in a few constituencies.

The Asia Foundation, funded by the American Congress, is a non-profit organization that has maintained a continuous presence in Thailand since 1954. Early programmes focused on social welfare and basic human development needs. Beginning in the 1980s, the Foundation provided support to democratic institution-building and economic reform activities, with the aims of strengthening the role of the National Assembly in democratic governance and the participation of civic groups in public policy formulation. Presently the Foundation aims to promote the achievement of the reforms embodied in the 1997 constitution. The Foundation's programmes support civic participation, the upholding of constitutional supremacy and the enhancement of good governance and respect for human rights.

As a part of its mission to support the achievement of political reform, the Foundation provided financial support of 2.15 million Baht to the Poll Watch Foundation and the P-Net for conducting electoral monitoring in the 2001 election. In addition, the Foundation supported voter education activities in

the 2000 senatorial elections and 2001 HoR elections. In collaboration with the Women and the Constitution Network, the Foundation's staff designed a participatory training model and materials for voter educators involved in educating Thai citizens to become active and informed voters. The Foundation also trained 296 master trainers and 2,040 voter education trainers. The ECT, government agencies, academic institutions and civic organizations adopted the materials and drew on the Foundation's trainees to conduct voter education activities nation-wide.

Broadly speaking, the role of foreign agencies in the elections in Thailand was minimal. With the need for the improvements already mentioned, there are various areas in which foreign agencies can provide support. The strongest need for assistance is in the area of monitoring elections and the development of private organizations as watchdogs of the election process. Even though the ECT has the mandate to support private organizations, this support is still inadequate to conduct an efficient supervisory role. In addition, with the absolute power of the ECT in elections, a checks and balances system should be established outside the parliamentary system. Therefore, the electoral monitoring of private organizations should be conducted independently from the ECT to a certain degree. At this stage, compared to the ECT and political parties or candidates, the capacities of local private organizations in this field are weaker in terms of personnel, finance and technical knowledge. Capacity-building and professional training for electoral monitors would help strengthen the emerging role of civil society groups and organizations in monitoring elections and promote their participation in politics. The Poll Watch Foundation and the P-Net already have a number of local groups working in this field under their network. In addition, private organizations can co-operate with foreign agencies without any legal constraints. They have also had experience working with foreign agencies before. A key resource person in this field would be Dr Gothom Arya, a former electoral commissioner who was responsible for the public participation of the ECT. He has a background as an activist and rich experience as an electoral commissioner.

Another area that needs foreign assistance is the provision of political education to the public. As mentioned, the most efficient safeguard against election fraud and irregularities is an active and informed public. It is also the foundation of a meaningful election and effective political system. Before the establishment of the ECT, no particular agency was responsible for providing political education. In the 2000 senator elections and 2001 general elections, in addition to the ECT who has a direct responsibility in this area, numerous public and private agencies focused their efforts on encouraging voters to exercise their rights and duties and informing them about the new voting system. However, these efforts were temporary and only informative. The ECT accepts that it has to pay more attention to providing political education to the public. But considering its limited resources and vast responsibilities for conducting elections of local

councils throughout the country, the ECT does not have adequate resources to pay much attention to this area.²² In addition, the provision of political education needs a new strategy, not only for providing the public with information but also for making them aware of their constitutional rights and duties, giving them a deep understanding of the democratic way of living and the interlocking relationship between the political, social and economic factors which have an impact on themselves and the nation. This would go a long way towards changing public attitudes and behaviour. Assistance in this area could include designing political education for the rural population with activities that are participatory or action-oriented and are conducted on a sustainable basis.

There are various ways to channel assistance. The ECT is one channel because it is responsible for this task. However, forms of assistance or support have to be discussed because, according to the ECT law, the government's function is to provide sufficient resources for the operation of the ECT (section 34). This is interpreted as prohibiting the ECT from receiving financial support from other sources. Another channel could be academic institutions, whose strengths lie in their resources to design programmes and develop learning materials. Foreign assistance could also be channelled to government agencies. The Ministry of the Interior would be suitable in this field, particularly for targeting the rural population. In particular, the Department of Local Administration (DOLA) and the Department of Community Development not only have personnel at the local level but also have experience working with various local civic groups. Although DOLA has been released from conducting elections for the Senate, the HoR and local councils, it is still responsible for the election of village and sub-district headpersons (*Kamnan* and *Phuyaiban*); therefore, it has a strong interest in this area. The Department of Community Development aims to develop the potential of rural communities in terms of social and economic development. The possibility of including political development in its work should be explored as another channel. The Ministry of Education, through the Department of Non-formal Education, is also a potential channel. Its strength lies in its expertise in non-formal learning methods and its operation in rural areas.

Conclusion and Evaluation

The late 1990s have been a time of immense change in Thai politics, both in the institutional structure and in the alignment of political forces. Political reform embodied in the 1997 constitution has started to take effect. In particular, the new electoral system, which was put in place with the three organic laws on the Electoral Commission of Thailand of 1998, the Election of Members of the HoR and the Senate of 1998 and the Political Parties of 1998, is expected to correct the problems of past elections by producing clear, fair and meaningful elections.

22. The Organic Bill on the Election of Members of Local Councils is in parliament. When it is passed, the ECT will be responsible for the election of more than 60,000 local councils.

The new electoral system was put to test for the first time in the 2000 Senate and 2001 HoR elections. The outcomes of both elections have been inspiring for political transformation toward a sustainable democracy. The new polling agency and electoral rules are serving to establish a standard for clean and fair elections. The ECT, which replaced the Ministry of the Interior in organizing both elections, is seen as putting great effort into ensuring the integrity of the election process. The power of the ECT to nullify electoral results and call for a repeat election has proved adequate in making candidates more aware of the Electoral Law. Decisions of the ECT to cancel electoral results on the ground of cheating were widely praised by the public as a show of political courage and commitment to democratic reforms. The role of private organizations such as the Poll Watch Foundation and the P-Net was found to be useful in monitoring the election process and upholding its integrity. Public enthusiasm and support of the new system were also evident in the high voter turn-out and concerted efforts of various public and private organizations playing a part in voter education campaigns. In addition, the introduction of a new vote counting system, in which all ballots in each constituency were tallied at a central venue, proved to be relatively successful in increasing voters' confidence in the secrecy of their votes and subsequently providing voters with greater freedom of choice. This is evident by the fact that many influential provincial politicians failed in this election.

The outcome of both elections also contributed to several major changes in the Thai political system. First, there was a political generation shift. In the senatorial election, the domination of the old forces of bureaucratic polity was reduced through the rise of new forces of NGO representatives, activists, politicians and professionals. In the HoR, a political generation shift was evidenced by the fact that 49 per cent of the seats were filled by generally younger and more highly educated newcomers. It is expected that the new generation of politicians will sweep out the old patronage culture from parliamentary politics. Second, the election has changed the Senate from a passive to an active political institution. The Senate also provides another channel for political participation and acts as a mechanism for checks and balances on the government. Third, there is a move towards fewer parties and more ideological or policy-driven politics in Thailand. The outcome of the elections will lead to the development of political parties in terms of policy platform, image, calibre of candidates, membership and leadership to enable them to survive under the new electoral system. Fourth, strong leadership and stable government are seen to be emerging from the election with the domination of one single party, the Thai-Rak-Thai Party, in the HoR. Elections will become a channel for people to influence public policy and select their political leadership since Thai-Rak-Thai's policy is being transformed into government policy. Lastly, there is a rise of public activism especially in urban areas. The expression of public opinion and criticism through the media and protests has become a major force in politics and has a significant influence on government decision-making.

Despite several changes there are a number of lessons to be learned and problems to be solved, especially concerning the administration of the electoral process. It is recommended that the electoral system should be improved in four areas. First, there is a need to strengthen the capability of the ECT, particularly in terms of its personnel, administrative system and technical management of the electoral process. The ECT's key staff have to be capable, trustworthy and politically neutral. The recruitment process of electoral commissioners and provincial electoral commissioners has to be more transparent. Decentralization of decision-making and administration to provincial branches should be initiated. Second, there is a need to achieve greater co-operation between the ECT and other agencies. A sense of partnership among concerned parties should be developed. Third, the capability and expertise of private organizations as watchdogs of elections should be developed. These private organizations should be independent from the ECT at a certain level because they should monitor the work of the ECT. Lastly, there is a need to provide political education to the rural public. Political education activities should be participatory and action-oriented.

This is not an end. A new system needs practice. At this stage, with the Senate and HoR elections so recent, it is too early to tell whether any real changes have taken place as a result of the new electoral system. The next election will be an important one in proving the effectiveness of the new electoral system.

List of Abbreviations

ANFREL - Asian Network for Free Elections
CDA - Constitutional Drafting Assembly
DDC - Democracy Development Committee
DOLA - Department of Local Administration
ECT - Electoral Commission of Thailand
HoR - House of Representatives
PEC - Provincial Electoral Commission
P-Net - People's Network for Elections

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