

Independent Study Title : An Analysis of the Legal Issues on the House of Representatives
Dissolution: A Case Study of Thailand

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ABSTRACT

This independent study is aimed at investigating legal problems on powers and condition for dissolution of the House of Representatives provided by the provisions of the Constitution of the Kingdom of Thailand. The paper is intended to review political issues relating to such dissolutions in Thailand since the major change in government on 24 June 1932 until now and also exploring concepts, theories and legal criteria relating to dissolution in other jurisdictions such as the UK and Japan in order to understand the existing problems and to propose approaches to amendment of the provisions relating to dissolution of the House of Representatives in Thailand.

From the study, it indicates that most of the Thai Constitutions provide the criteria for dissolution in only one article which is often written in a vague text inviting interpretation and leading to practical problems such as the Constitution of Thailand B.E.2550, Article 108. So, after reviewing such article and dissolutions totaling 11 times in Thailand and comparing with dissolutions happened in the UK and Japan, problems arisen out of the provisions of the constitution can be described as follows:

1. Problems relating to power to order for dissolution of the House of Representatives. From the provision of the constitution, such power vests in the King. However, in practice, it will be initiated by the executive by proposing recommendation to the King for ordering dissolution. It is, therefore, important to consider who has power to give such recommendation for dissolution as the constitution does not make it clear in this regard. With reference to practice in the past, the Prime Minister will use his sole discretion before submitting

his recommendation for dissolution to the King without making any consultation to or seeking for approval from the Council of Minister based on joint responsibility for the government affairs. If it is the case, a problem will be further arisen out that whether the Acting Prime Minister is able to submit recommendation for dissolution to the King. From the study, it indicates that the Acting Prime Minister has no power to submit such recommendation to the King as the same manner as a person holding the title of the Prime Minister while the Council of Minister as Acting Council of Minister should only limit its executive power as necessary as possible for daily or routine function to maintain public interest.

2. Problems relating to condition for dissolution. The provisions of the constitution do not clearly provide the conditions for dissolution as to which circumstances warrant dissolution and hence allow the executive to broadly exercise its discretion for dissolution. This has long been brought the critics concerning appropriateness and legitimacy in exercising of such power by the executive as dissolution made with unjustifiable reason can more likely lead the politic to the dead end rather than solution.

From the above mentioned problems, it is, therefore, suggested to amend relevant articles of the constitution relating to dissolution of the House of Representatives to provide clearer and more proper provisions. A reason is that the as dissolution is an act precluded from check and balance by the judicial power according to the theory of the act of government and consequently requires the executive by the Prime Minister should exercise his power concerning dissolution in accordance with the purpose of the constitution and customs in parliamentary system.