



An Appropriate Model and Method of Senators' Selection for Thailand

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Abstract

This research was conducted to study the development of senator acquisition models, to compare them with other countries, to study factors influencing the success of the model and method of acquisition of senators in Thailand, and to develop a model of acquisition of senators suitable for Thailand. This research work is conducted by collecting data from interviews with 14 informants, 2 focus group discussions, and a questionnaire survey of 645 respondents, for analysis. The results from the research are as follows.

1) The development of the model of the acquisition of Thai senators begun with the appointment and change to all elected senators according to the 1997 Constitution, but there was a problem of interference from political influence. Thus, the method was changed to some elected senators and some appointed senators, but there were problems in performing duties. However, there were problems of the origin of power. Thus, the 2017 Constitution changed so that all senators are appointed. .

2) As for the models for senator acquisition for the United States, France, Japan and Malaysia, it has been found that the models can be divided into two models, namely, elected senators, namely the United States, France, Japan, and as for England and Malaysia, the method is the appointment. The model of election or appointment will have different details in each country.

3) From the study of factors influencing the success of the model of senator acquisition in Thailand, it was found to consist of three factors, namely, the candidate factor, which is especially related to the freedom from the domination by the political party, the factor of the process for obtaining senators which is the participation of the people, and the factor related to the people, the important aspect of which is readiness in terms of knowledge and understanding about senators.

4) As for the development of the model for senator acquisition suitable for Thailand, it has been found that roles and duties of senator are in accordance with the 2017 Constitution, and the feasible approach was used for nomination of senator, but there were additional issues added: 1) the nomination model by the senator selection committee that is relevant to the people; 2) the selection among themselves within the expertise group instead of cross-selection; and 3) the consideration of the group of experts suitable for Thai society.

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Introduction

Thailand has a democratic system of government with His Majesty the King as the Ruler of State in the form of the parliamentary system. In 1932 the change of government from absolute monarchy to democracy occurred. Because it was the beginning of the change, many senate members still lacked the knowledge and understanding of such a system. Therefore, the bicameral system was introduced (Phum Munsilp, 2015). This system consisted of a House of Representatives and the Senate, which was called the 'Phruethisapha', acting as a mentoring council and was specified in the 1946 Constitution onwards. A role of the Senate, that people often think about, is the consideration and approval of legal matters or scrutiny of the law which has been an important role of senators since the change of government polity.

However, there is an issue about the origin of the senators in connection with the people, and therefore the election of the senators according to the 1997 Constitution is a direct election by the people. The 1997 Constitution gives more important powers and duties to senators, such as giving advice, approving the appointment and dismissal of personnel in various organizations as required by law. As for the acquisition of senators by such means, although in line with democratic principles, but in practice, the election of senators has been criticized concerning the influences from political parties on elected senators. It is said that the parliament is characterized as "Husband and Wife Council", meaning that the husband is a member of the House of Representatives and has a wife or children or relatives elected senators who often have relationships with politicians, especially local representatives, which are the political parties' voting base in elections. However, by its powers, the Senate is a semi-auditing agency responsible for inspecting the work of these organizations. Therefore, senators cannot act independently as per the intention of the Constitution. As a result, the legislative review process is inefficient until a parliamentary dictatorship emerged. This senator election problem is fundamentally a problem from the social system of Thailand that is characterized as a patronizing society. The election has been based on a voter system with local voters and the Constitution designating provinces as constituencies. Therefore, it is an opportunity for political parties which subject to election to nominate their people, although the Constitution has stipulated that senators are not

affiliated with any political party. This causes people with knowledge, no matter how good they are, not able to win the election because of the establishment of a voting base through people representing a political party in elections. Another cause of the problem is the selection of people who are their own allies to take important positions. This lacks checks and balances on the administrative side, with the senate becoming a "rubber stamp senate" to support the legitimacy of the operations by the administration until it has become a parliamentary dictatorship as mentioned before.

The 2007 Constitution attempted to solve the problem by having the senators come from a mixed method. That is some members of the Senate is directly elected by the people of each province and others come from the selection by the Nomination Committee. This method has led to problems due to "Pla Song Nam" nature and the lack of attachment to the people, causing the 2007 Constitution to be seen as lacking the legitimacy of democratic practices. In addition, the nomination process by the Nomination Committee was seen as not having transparency, which has greatly diminished the credibility of the senator selection process. Problems with acquisition of senators in a mixed model is based on the basic concept of different responsibilities and the lack of unity in the performance of duties, which has led to conflicts among senators.

However, in the 2017 Constitution, the 250-member senator appointment model has been reinstated, which has greatly raised questions about the suitability of the senators' backgrounds in the society, including the selection of senators and the performance of duties that might be inclined towards some side in order to benefit their relatives. This is because it still has the power to consider, give advice, and approve the appointment of personnel in various organizations, similar to the 1997 Constitution and the 2007 Constitution. Also, the 2017 Constitution aims that the Senate is the mentor, or an organization that will coordinate opinions from many groups of people, not under the influence of political parties, by setting up a new method for acquiring senators, emphasizing the importance of the general public who can apply without expenses, which are too high for ordinary people, splitting senators into groups with different characteristics as much as possible in order to allow people with all qualifications to apply for the position, and to allow the candidates to have true initial participation. People are required to choose among themselves, as provided in section 107. In addition, the

2017 Constitution has also provided that each senator has a term of 5 years in office, from the date of announcement of the election results, and can hold the position for only 1 term (Constitution of the Kingdom of Thailand B.E. 2560 (A.D. 2017), 2018).

However, according to the Transitory Provision, in the first 5 years, the Senate has the duties and authority to follow up on the national reform and national strategy for the first five years, and the Senate should play a part in the selection of Prime Minister in the first 5 years as well, which has been greatly attacked by political parties and members of the House of Representatives and there has been an attempt to amend this part of the Constitution. Another problem is that after the 5-year transitory period, the alerted 200 senators can conspire with one another very easily. Thus, according to the main chapter regarding senators, after the Transitory Provision is over, senators may be elected in the form of the Economic and Social Advisory Council that has been dissolved before. It can be seen that the origin of the senators has changed from appointment to election and mixed model. However, no matter how the senators are seated, the concept that is the main foundation of the Senate consists of (Wissanu Krea-ngam, 1987):

1. Having the Senate monitor the use of the majority of votes by the House of Representatives due to distrust of the use of majority of votes;

2. Having the Senate balance or inhibit the operation by the House of Representatives due to the distrust that the House of Representatives will not work with efficiency or neatness;

3. Having the Senate scrutinize or object to the legislation of each law to be more present and accurate;

4. Having the Senate provide political opportunities for certain groups of people that may cause issues or changes in the economy, society and politics, which is considered a distribution and balance of power; and

5. Having the Senate so that different localities have their own representatives or have the Senate as their representatives directly from different localities.

In addition, the senators have the role of considering, advising and approving the appointment of personnel in organizations involved in the justice process, even if they are not directly involved in the justice process as police, prosecutors or judges. The Senate has the power to appoint high-level personnel of judicial organizations such as judges of the Supreme Administrative Court, the President of the Supreme

Administrative Court, Attorney General, the Chairman of the Auditor General and the Chairman and members of the Anti-Corruption Commission (The Secretariat of the Senate, 2015). In this regard, as a result, the provision of advice and the agreement on the appointment and dismissal of high-level personnel in judicial organizations would have impacts on policies and guidelines for personnel in the organizations inevitably. Hence, it can be said that the Senate indirectly sets policies and guidelines of justice organizations through the approval of appointment and removal of senior officers of the organizations. Including considering draft laws related to the judicial process, such as the Organic Act on the Procedures of the Constitutional Court Organic Act on Ombudsmen and the Organic Act on the Prevention and Suppression of Corruption (The Secretariat of the Senate, 2020).

The Senate has made several changes to the acquisition of senators in order to achieve greater political impartiality and independence in working. The acquisition of senators can be from appointment, election and the combination of appointment and election. However, in the provisions of the Constitution of Kingdom of Thailand B.E. 2560 (A.D. 2017), there have been discussions on the issue of the roles and authority, especially the role of the Senate in the nomination of persons for the position of the outsider prime minister. The second issue is the origin and legitimacy of the process for acquiring senators, which raises doubts about its conformity with democratic principles and representation or connection with the people. Thus, the study on the acquisition of senators appropriate to the specific context of Thailand, as well as the broader look at the factors influencing the success of the development of the model and method of senator acquisition that can help to develop the country.

Objectives

1. To study and analyze the development of models and methods for acquiring senators in Thailand.

2. To study and compare the models and methods of acquisition of senators in foreign countries.

3. To study the factors influencing the success of the model and method for acquiring the senators in Thailand.

4. To develop a model and method of senator acquisition that is suitable within the context of Thailand.

Conceptual Framework

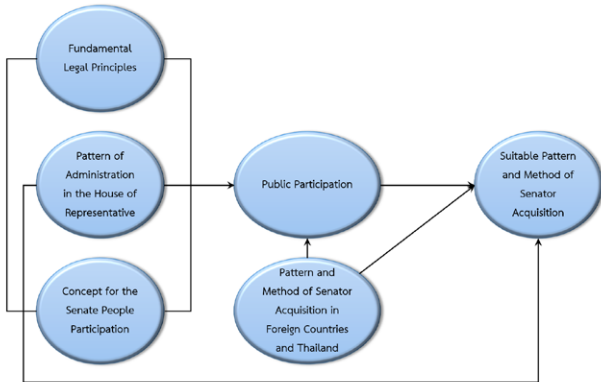


Figure 1: Conceptual Framework

Figure 1 shows the relationship among concepts included in the study such as fundamental legal principles relating to the parliamentary democracy polity, the governance model in the parliament system, the approach of the Senate, the model and method of senator acquisition in foreign countries and Thailand and the concept of participation of the people, which can lead to the proposal of model and method for senator acquisition that fits the context of Thailand.

Research Methodology

This research uses the sequential exploratory mixed design with the following details.

1. Population and Samples: The population in this study are divided into three groups, namely, academics, stakeholders in the acquisition of senators such as senators, representatives, electoral commission and drafters of the Constitution, and the last group is the public in general. The qualitative data was attained from 14 samples selected with purposive sampling technique consisting of members of the Constituent Assembly, senator and former senator of the House of Representatives, legal scholar and scholars in political science whilst the quantitative samples are 645 people selected with convenient random sampling technique.

2. Research Instruments: In this research, data was collected by questionnaire and interview script, which have been checked and modified in accordance with the Advisor.

3. Collection of Data: Qualitative data was collected by in-depth interviews with all of the 3 groups of informants according to the triangulation principle. The quantitative data were collected from the participants

in the activities by the Senate during May 2022 and October 2022, for 645 people in total. The information obtained was used for the arrangements of 2 focus group discussions, the first was a discussion with the group of people who give in-depth interviews and the other a discussion for the public.

4. Data Analysis: The analysis consisted of content analysis, analytic induction, and typology and taxonomy techniques. Meanwhile, quantitative data were analyzed by regression analysis. All the data were summarized together in order to obtain the model and method of senator acquisition suitable for the context of Thailand.

Results

1. Results of the analysis of the development of the model and method of senator acquisition for the Senate of Thailand

The development of models and methods of the acquisition of Thai senators can be divided into two important periods. The first period was after the change of polity in 1932 and before the 1997 Constitution, i.e., at the beginning period. The original change was to establish in the form of a unicameral parliament with the House of Assembly as a mentor council and later in the 1946 Constitution, the Senate was established. The model and method of the acquisition of Thai senators in the early stages was the appointment by His Majesty the King. The senators in this period had a duty that focused on scrutinizing the law.

The second period is from the 1997 Constitution onwards, in which the 1997 Constitution stipulated the model of acquisition. The 200 senators were elected and the essential powers and responsibilities were set. The Senate would consider, give advice and give opinions on the appointment and removal of personnel in various organizations such as the Election Commission, judges of constitutional court and judges of the Administrative Court. The election of senators was criticized for the bias towards political parties, which was an important reason for selecting people who were members of their own parties to hold important positions. Later, the 2007 Constitution was implemented in order to solve problems from the election as in 1997 Constitution. All 150 senators held positions in the office in 2 ways, namely, from direct election by the people in each province and from the selection by the Nomination Committee. However, the model and method as in the 2007 Constitution had problems and caused inconsistency in

the operation, due to the nature of the so-called, “Pla Song Nam (fish of two water)” and the lack of attachment to the people who own sovereign power, but the senators still had the same power as the senators who came from the election, with the powers and duties as in the 1997 Constitution still existing and increasingly present in the 2007 Constitution.

The 2017 Constitution reverted to the 250-member senator appointment model, which has raised questions about its suitability, including the performance of duties that may favor the allies because there are still the power to consider, give advice and approve the appointment of persons in important positions. The 2017 Constitution returns to using the model of appointing senators with the intention that the Senate will be the mentor council. It is an organization that coordinates opinions from diverse people, bringing their knowledge and experiences together to improve and develop the country, not subject to the political ideology of a political party. In order that the enactment of the law will be considered from various aspects, it should be considered that at the end of the Transitory Provision, the nomination of senators must be from a cross-selection among 20 professional groups. It has been noticeable whether people from different occupational groups know and can select truly competent people from other professional groups or not. Another important issue is the blocking of political votes as has already happened in the selection of senators according to the 2007 Constitution.

All methods of senator acquisition, including appointment, election, recruitment, and mixed methods, have been used, leaving only the British form of heredity or office that has not yet been applied. One thing that the drafter of the 1997 Constitution has sought to achieve was public participation. From the interviews, focus group discussions and questionnaire surveys, it is clear that no matter what form of information, the public always wants to be involved very much. Therefore, it is an important issue that must be taken into account in order to facilitate the public participation and to build the acceptance of the model and method of senator acquisition in the future.

2. Results from the study on and the comparisons with the pattern and method of senator acquisition in foreign countries

From the study of models and methods of senator acquisition in foreign countries such as England, the United States, France, Japan and Malaysia, the

findings are as follows.

1. Models and methods of senator acquisition have included the appointment by family line, office, direct election and election by local representatives. The model used by each country has been studied and analyzed to be suitable for that country. The models of appointment in England and Malaysia are different in details. It can be said that England senators come from the appointment, characterized as the “council of bureaucrats” that come from the descendants of nobles and high ranking priests. It is an appointment using blood relations which is different from principles commonly used today. Meanwhile, senators in Malaysia are from the elections and appointments on behalf of representatives from various states in the Federation of Malaysia. At the same time, the other countries, which are the United States, France and Japan use the election method with differences that can be summarized as follows. In the United States, two members of the Senate are elected in each state. In France, senators are elected through local representatives. In Japan, the elected senators are divided into two groups. Senators in the first group come from provincial zoning system based on the proportion of the populations in each province, and senators in the second group are from national election through the proportional system under the proportional representation system. However, the aforementioned models and methods cannot be directly applied to Thailand, as there are empirical problems in the 1997, 2007 and 2017 Constitutions that Thailand cannot use any model in particular and cannot use 2 methods to acquire senators. All senators must come from the same method and have connections with the people.

2. The powers and duties of senators can be summarized into 4 aspects. The first aspect is the legislative powers or duty to propose and scrutinize drafted laws, which is regarded as the main duty for the Senate in every country. As for the power and duty to amend and complement the Constitutions as in England and Malaysia, such roles of senators must mainly be collaborated with the House of Representatives. As for the authority to check and control the administration of state, it is usually done by questioning and establishing committees. However, there are differences in details; for instance, the Senate in the United States will have the authority of approving and controlling the use of the budget whilst the Senate in France will have the jurisdiction authority to inspect and control the Criminal High Court, and the Senate in Japan has the power to

investigate and make inquiries to the cabinet in the event of corruption. In relation to the judiciary, it is especially clear in case of the Senate in England that has power to act as the highest court in civil and criminal cases, to investigate and make judgment on corruption of ministers, and to be a member of parliament. In addition, in every country, the Senate also has the power to nominate people for important positions in the judicial process. As for other functions, they are similar such as giving opinions on the making of treaties with foreign countries or declaration of war.

3. Results from the study on the success of the model and method of senator acquisition in Thailand

Factors affecting success of the acquisition of senators can be divided into 3 important areas. The first area is the applicant. The applicant should be over 40 years old so that they will have the experiences and maturity in work, including matters of expertise, which requires time to practice in order to acquire expertise. There is also an issue to be noted, which is if the selected senator is a competent expert, the provision that a senator can serve only one term may cause the country to lose the opportunity to get talented and good people to work. The next issue is the independence of candidates, which means they must not be associated with political parties. If candidates for senators are not under the influence of political parties, it is the best way. However, it is extremely difficult in practice, which makes the election of senators unsuitable for the context of Thai politic.

The second area is the process of acquiring senators, which is clear that elections at this time has not yet been suitable for Thailand. However, even by the selection by the nomination committee, there are always doubts concerning the nomination committee's honesty and the senators' connection with people. This results in a lack of legitimacy in performing duties. This study has presented an example of the model and method of senator acquisition in Section 4 of the research results. In addition, in accordance with the 2017 Constitution, it is possible to recruit senators from 20 groups of expertise. It is therefore noted whether 20 groups are appropriate and cover all the expertise necessary to screen, inspect or perform duties as senators in the context of today's society of Thailand or not.

The last area concerns the public or people. It is about participation. Even though the model and method is the recruitment or indirect election, it must allow people to participate in representing themselves,

which is the demonstration and delegation of their rights to the person they authorize as senate selection committee is one way to alleviate criticism about the lack of participation of the public in the process of acquisition of senators. In addition, when amending the constitution or proposing laws related to roles and responsibilities and the acquisition of senators, which may include the voting to allow people to certify this process. However, information, knowledge and understanding of the roles and responsibilities of senators in all aspects must be provided thoroughly, as well as clear differences with representatives because it will be a variable that makes people understand and accept or reject the process rationally, not as directed by political parties or influential people.

As for regression analysis, the prediction equations are as follows:

1) The unnormalized equation is $SUC = 1.249 + 0.170ROL - 0.163CAD + 0.522PAR + 0.210PRO + e$

2) The normalized equation is $SUC = 0.172ROL - 0.189CAD + 0.470PAR + 0.251PRO + e$

Where ROL means an opinion about the role and authority;

CAD means senate candidate factor;

PAR means Public Participation Factor;

PRO means Senate Acquisition Factor; and

SUC means Probability of Success.

All independent variables could explain 47.60% of the variance of SUC.

4. Development of model and method of acquisition of senators suitable for Thailand

The results from the analysis of the model and method for the acquisition of the senators suitable for Thailand show that there are 6 important issues that should be considered: 1) Roles and responsibilities of senators must be clear and people must understand the differences between senators and representatives; 2) The origins of senators should be linked to people; 3) The method of senator acquisition must be the same for all senators; 4) The senators must be experts in various fields necessary for the development of the country and the solving of the nation's problems; 5) The method of the senator acquisition must be influenced by political parties as little as possible; and 6) Only the direct election by the people or the appointment is inappropriate for the context and needs of the people in Thailand. I, the researcher, has presented 2 models and methods of senator acquisition that are suitable for Thailand as shown in Figures 1 and 2.

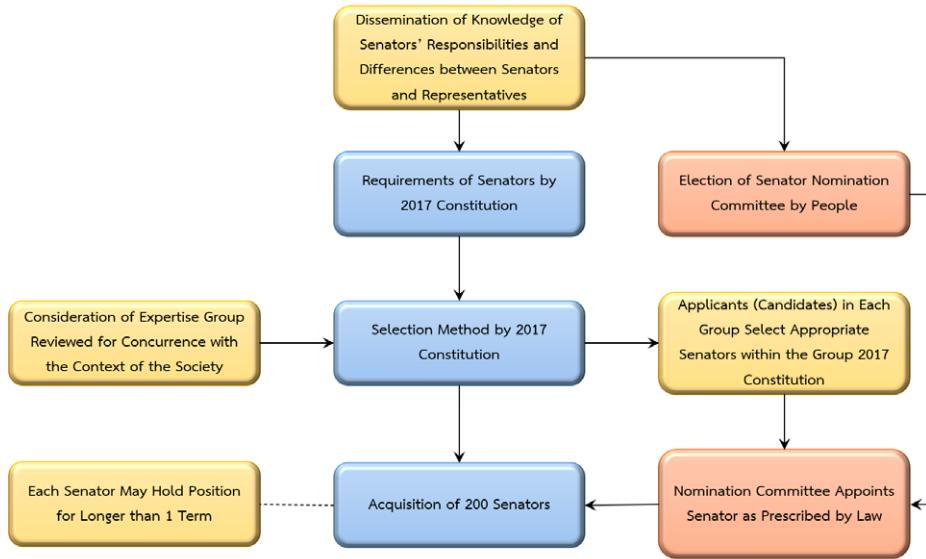


Figure 1: Diagram of the model and method of senator acquisition suitable for Thailand by “the election of senators by the people”

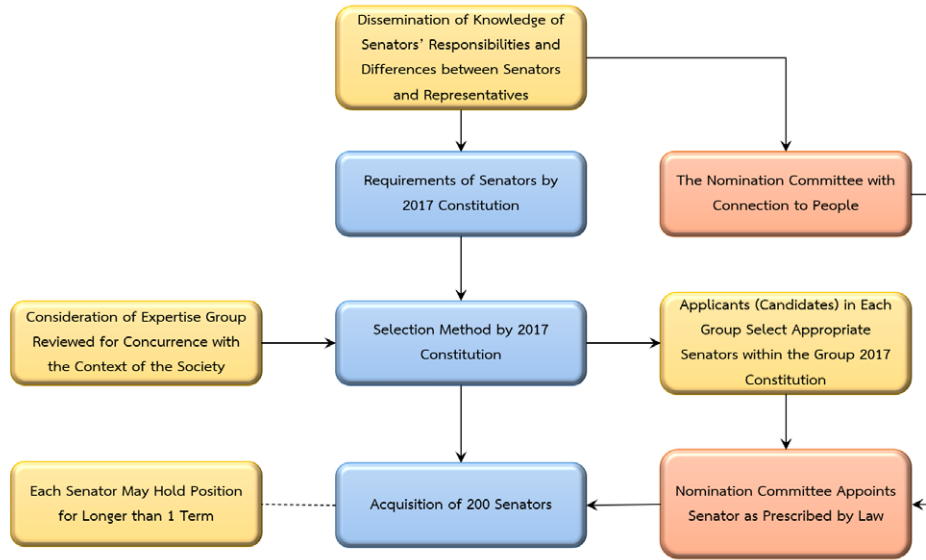


Figure 2: Diagram of the model and method of senator acquisition suitable for Thailand by “the appointment of senators by the Nomination Committee with connection to people”

From Figures 1 and 2, the models and methods of the acquisition of senators suitable within the context of Thailand are still based on the 2017 Constitution. However, some recommendations have been added to address key points from the data collection, such as the election of the Senator Nomination Committee, which creates public participation or the appointment of the Nomination Committee by people who are connected

with the public, in-group selection instead of cross-selection and the permission for each senator to hold the position for more than 1 term.

Discussion

The models and methods of the acquisition of senators that are suitable for the Thai contexts include the following considerations.

1. Considerations for the application of the concepts of the models and methods of senator acquisition between foreign countries and Thailand with important issues as follows.

1.1 Roles and duties of senators: It was found that the four most important roles of senators are as follows. The role as the screening council: A common role of the Senates of all the five studied is the role as a legislative screening party to consider and give opinions on pros and cons of various drafted laws from the House of Representatives. In addition, some countries have the Senate consider bills jointly between the two parties. This screening role is the exercise of legislative power, which includes scrutinizing both Acts and laws in general, consideration a bill relating to finance that increases or affects the budget, and proposing constitutional amendments. As for the power and responsibility to amend the constitution in England and Malaysia, senators must primarily act in conjunction with the House of Representatives. This is consistent with Wissanu Krea-ngam (1987) who has concluded that to have the Senate is to have a party to inspect or critique laws to be more circumspect and accurate. Even though members of the House of Representatives are highly competent at present, they are still in interest groups called political parties, which sometimes, and in some cases, the proposal of certain laws may not be for the benefit of the people but only for the benefit of certain groups. This is the duty of the Senate to screen and prevent damage to the country as a whole. In the past, many bills have been scrutinized, such as the Justice Fund Act B.E. 2558, the Act on Establishment of the Criminal Court for Corruption and Misconduct, B.E. 2559, the Organic Act on Criminal Procedure for Persons Holding Political Positions, 2017, the Organic Act on the Procedures of the Constitutional Court, 2018, the Court Police Officer Act, 2019, and the Criminal Procedure Code Amendment Act, etc. ((The Secretariat of the Senate, 2019; The Secretariat of the Senate, 2020)

1.2 Role as an audit council. This is another important role that the public highly expects the outcomes. It is a role in checking the utilization of power of the representatives in passing a bill such as checking the use of legislative power. This role also balances the use of power or restrain the exercise of power of the House of Representatives or the government in order to prevent them from causing risk to individuals or society as a whole. However, concerning the exercise of the legislative power, sometimes the government with

the majority votes in the parliament often relies on voting for a resolution, which may be called “parliamentary dictatorship” because that law may cause trouble or benefit specific individuals or groups. Hence, it is the duty of the Senate to point out the disadvantages and effects of these to the National Assembly and the people and to take into account the good governance that the National Assembly should have and practice properly. Concerning the use of administrative authority, both the representatives and the government need be audited. In foreign countries, the audit can be performed in two ways. The first way is as a commission which has been set according to the mission of the government, both as a general commission to operate throughout the term of the Senate and as a special committee to examine a particular matter. Regardless of the form, the main functions of the committee include auditing, collecting information and forwarding it to those who have the next duty to take action. From this performance, many people may misunderstand that the Senate’s main job is solving problems. However, the Senate can call for and make inquiries from those agencies to be followed-up. The second performance is to create topics or discussions without consensus, which is a form that the Senates of many countries often undertake to investigate certain issues that arise at that moment, which the state must clarify not only to the Senate but also to the public. Thus, this can be seen as a role and duty for a quasi-inspection council, which is an important role. It is very important because it leads to benefits for or impacts on people from the operation of the state. It is a counterbalance to the power of the legislative and administrative parties to ensure that all parties exercise their power according to intentions of the people truly.

1.3 Role of using judicial power and giving various opinions. This role is unique. In other words, responsibilities related to the jurisdiction is extremely clear, especially in case of the Senate in England where the Senate serves as the supreme court in civil and criminal cases. and the investigation and determination of corruption by ministers and parliamentarians. However, as for other countries, the Senates only act by summoning the relevant parties to give information and to present their opinions to the National Assembly so that the agency that use the judicial authority will make further consideration. In addition, with respect to the provision of opinions, all countries that have been studied in this research project, also give the Senate the power to nominate people for important positions in the

justice system such as judges and prosecutors, as well as the power concerning the making of treaties with foreign countries. Thus, it is apparent that concerning the use of judiciary power by the Senate, apart from England, the other countries in this study require the Senate to collect and provide opinions for punishment or dismissal before transferring the matter to the in-charge agency.

1.4 The role as the council to represent the local is particularly prominent in France where the Senate represents provinces and areas that are under the administration by France and citizens outside the country. This role of the Senates of other countries is not prominent because each country has local representative in a decentralized manner to work for the local area only, whether the representation is in the scale of provinces, cities or territories. However, a local representative is not in the capacity of national representation like the Senate. Their roles have been clearly separated from each other. Therefore, this model does not exist in other countries.

2. Origin of the Senate: From the study on data of the five foreign countries, the findings are as follows.

2.1 The Senators from the appointment. Regardless of the source of the appointment, the missing key point that is the importance of democracy is "Participation." This is because there has been no connection with the people. However, there are some powers to decide the offense or discharge those whom people have chosen; for example, the Senate or the House of Lords in England is the highest court to make judgment for the offenses of the members. The House of Representatives, who have been elected by the people. Therefore, there has been a conflict concerning the use of power which has created dissatisfaction for those adherent to democracy in which elections are highly desirable. The appointment may be easy and it is not wasting the budget. If people who are good, competent, talented, moral and ethical, primarily focus on building and maintaining the interests of the country, are appointed, the Senate will become good and work with efficiency and quality. On the contrary, if the senators who put their personal interests before the common interests, and have no ability or morality, the operations of the Senate would be difficult and cause damage to the country accordingly. Therefore, it can be seen that the model of appointment of the senators is extremely important because it will determine the quality and direction of the Senate.

2.2 The Senators from Election. Countries with elected senators in this study include the United States, France and Japan. There are some differences that can be summarized as follows. In the United States, the senators are directly elected by the people representing an equal number of states. Each state has 2 senators whether it is a large state or a small state. As for France, the election of the senators is partial, using the province as a constituency and there are also senators representing French people outside the country, which is a special method. The high commission of French people outside the country nominates people and lets the Senate vote to accept or to deny the 12 nominees. As for Japan, senators who come from the election will be divided into two groups, the first group of senators come from province-based local zoning system, and based on the number of populations in each province. The other group of senators are elected with the proportional system in the national level.

Thus, it can be noted that, regardless of the country's electoral model, the power to elect members of the Senate rests with the people, however, there are differences in details of different acquisition methods. Nevertheless, it is important for the acquired senators to understand the roles of the Senate to represent the entire country, not just particular local areas. This is an important point that the Senate has to clarify to the public. The acquisition of senators through the election method have issues that should be considered. First, a large budget is spent on each election. The high cost of election is borne to the state, compared with the appointment.

The second point is that elections cannot guarantee the acquisition of senators with the proper expertise, but it ensures the acquisition of senators whom the public likes. This issue is important because the expectation toward the senators is quite high. They need to be good, capable and virtuous; but the election is about the base of interest groups like political parties. Therefore, even those who are good and capable can lose to professional politicians. This may be regarded as a failure of the acquisition of senators from full election because the acquired senators will fall under the influence of the political parties.

The third issue is the domination of the political party. This is because in an election, it is inevitable to rely on political bases of a political party in an area, no matter what level the election is. Consequently, the use of the base of a political party leads to reciprocal

benefits. Political contributions from representatives for senators reduces the strictness in the scrutiny on laws for the benefit of allies. The reduction of strictness of the scrutiny reduces the strictness in monitoring the use of administrative power of the state and reduces efficiency in monitoring the National Assembly. Finally, it will lead to “parliamentary dictatorship” and corruption. All that happened is not for the benefit of the people but only for the benefit of certain individuals and certain groups. The Senate must consider freedom and the welfare of the people is of paramount importance (Menser, 2018).

Therefore, from the review of the acquisition of senators in the aforementioned countries, it has been found that there are two main models of senator acquisition: appointment and election. However, regardless of the models implemented in the 5 countries, there are different strengths and weaknesses that affect the acquisition of senators, especially the issue of people and influences from political parties on the Senate.

3. Concerning Thai political context and model of acquisition of senators in Thailand

The essences of political context of Thailand that have led to the model and method of acquisition of senators consist of some issues to consider. The first issue is the readiness of the public for the regime of a dual chamber with the Senate to balance the exercise of legislative power and to check the exercise of administrative power. Many people often say that “I want democracy. I want an election,” but when asked further whether they want the senators to be elected like what happened according to the 1997 Constitution or not, they will answer that they do not nor do they want a “Husband and wife council” like what happened in the past. Therefore, it is necessary to explain and build public understanding that if people still have attitudes and understanding that are under the influence of the political parties in any way, the election of senators will give the people who are no different from the members of the House of Representatives, who are related to political parties, and have political bases from the political parties. Eventually, such senators will lead to failure in performing duties and occurrence of “parliamentary dictatorship.” From the context of Thai society, it cannot be denied that political parties have influences extremely important to the election, and people's attitude towards elections is not different from the past. It is necessary to wait for younger people in the next generation to understand the necessity and become aware of the roles and responsibilities of the senators that are genuine and

not under the influence of any political party, in order to make the election truly concur with the intentions of the law. Furthermore, it also cannot be denied that huge amounts of money are spent on each election. This includes buying votes. Although there is no clear official evidence, in fact, villagers and people in the provinces know the truth clearly and firmly, assuring that when the votes are sold the buyer will get something in return, whether by secretly paneling in policies, bills, or projects.

The second issue concerning the context of Thai society is the building of people's understanding of the roles and responsibilities of the senators and how they are different from the roles of members of the House of Representatives. Many people understand that the Senate must listen to villagers and solve their problems. Some people have even said, “Nowadays, I still don't know who the senator of their province or district is,” which shows that there are many people that have greatly misunderstood the acquisition and the roles of senators. This is especially true for people in rural areas in the provinces. It is therefore important for relevant agencies to publicize the roles, duties and purposes of having the Senate. People must understand that senators are only intermediaries for receiving complaints from the people, seeking accurate and reliable information and forwarding this information to relevant agencies for further actions, and also responsible for the amendments and screening of laws along with members of the House of Representatives and the checking of the works of the administrative party in the form of a committee through interrogation only. The Senate does not perform the same function as the members of the House of Representatives who actually go to local areas to help the locals directly. Therefore, it is apparent that the duties of the Senate members are the duties as representatives of the country (Panarat Maschamadol, 2017), not any particular group or community. Therefore, the dissemination of information through both formal and non-formal education is an important solution to this problem and to make people aware of the importance of the quality of the Senate, including the impact that will happen if there is any corruption in the course of the acquisition of senators. This should be implanted in people since their young ages. It is seen that this problem has truly occurred at the foundation of society, which not only affects the administration and politic but also affects the overall operation and the development of the country as well.

The third factor is the cooperation of political

parties in blocking votes in the selection of senators. This has happened in the nomination of senators by the 2007 Constitution. Even though it was the selection within the group of experts, it was not possible to avoid the interference from people from political parties. There was the offer or promise of benefits in order that people from the political parties would be elected senators. which is an issue that had arisen and was widely known by the public. As a result, some of the appointed senators were under the influence of political parties as elected senators.

For the above reasons and the consideration of the model of senator acquisition according to the 2017 Constitution, it has been found that in the main provision, the senator acquisition model attempts to be the recruitment from a cross of expertise groups whereby 20 expertise groups are defined as professional groups. The first problematic issue concerns the division of the groups because it was intended to be based on expertise so that the acquired senators will have knowledge and competence that match with the need for the development of the country. However, at present we have to admit that the changes in the social context are dramatic and rapid, but it has been found that the aforementioned division has led to the acquisition of a great number of state officials, compared with other professional groups. Thus, the 20 professional groups may need be revised for the next nomination. In addition, the qualifications and expertise of people who will be added in each group must be clear and empirical; for example, some candidates have served as state officials, such as police officers for their entire lives until their retirement, but they apply as representatives of the farmers' group. The second issue is the selection of candidates among groups. As for this issue, even though the constitutional drafters intended to prevent the upcoming blocking against vote, at the same time it creates a new problem. That is people from the same professional group should know who is really good and has real expertise. However, how can people outside the group or industry know what important aspects that a person has expertise in and how to know who is really competent. This may affect the selection of the right person to become a senator. The final issue concerns the vote blocking, as happened in the 2007 Constitutional nomination. Even though the 2017 Constitution attempts to allow cross-selection in order to prevent vote blocking, in reality, it seems to be difficult to do and may not be practical. From the inquiry for opinions from academics and related people, vote blocking can be carried out as well as internal recruitment in the 2550 Constitutional

nomination, by contacting and rewarding candidates in a sufficient number whilst the number of the candidates is not great compared with the number of people to give votes. This is easier to do and the results of the nomination can be controlled in a better manner than the people's election. Therefore, it can be seen that the model of the selection of senators in accordance with Article 102 of the 2017 Constitution cannot truly solve the vote blocking problem from the cross selection among groups.

The last issue is the patronage system in Thai society. Thai society is a society of kinship. There have been mutual assistance and a network of voters as the base in an election. There is the brotherly system where assistances are provided in the hierarchical manner. Thus, the repayment to show gratitude, the consideration and even the fear to powerful people who can be both advantageous and disadvantageous is inevitable. This has led to the agreement for benefits in exchange for choosing or not choosing anyone to become a senator in the model of nomination according to the 2017 Constitution that tries to find a solution to problems concerning reciprocal benefits that will occur. The patronage system has been with Thai society for a long period of time and is difficult to avoid in the actual working environs. Even though there are criticism, if it is not a force majeure or a social concern, it is difficult to become an issue in society. However, this situation may improve slightly with the presence of online communities with more access to information, which will lead to the fact that can be used for accusing some people or groups of people that give benefits to their allies and take national benefits as their personal benefits (Bangkokbiznews, 2019).

In summary, the social and political contexts of Thailand have great effects on the acquisition of senators. In terms of people's knowledge and understanding of the roles and responsibilities of senators and their differences from members of the House of Representatives, models of nomination in which vote blocking can occur and patronage system in Thai society with reciprocal benefits.

Suggestion

1. Legal Suggestion: Guidelines for the acquisition of senators according to research findings are that it is necessary to amend two important laws are as follows: 1) the Constitution of the Kingdom of Thailand B.E. 2560 (A.D. 2017), with the key Article that must be amended first being Article 107; and 2) the Constitutional Act on

Acquisition of Senators, B.E. 2561 (A.D. 2018), with the key Articles that must be amended first being Article 4, Article 11, Article 24 with the complementation of Item (4) with the content concerning the appointment of the nomination committee that is connected to the people and the new Article to follow Article 30, specifying the duties of the Nominating Committee that are related to the public. However, if there is any amendment, it is necessary to review the content of all the relevant Articles, with this suggestion presenting the Articles to be amended in the early phase.

2. Suggestions for the Application of the Findings from the Study

2.1 Data from this research can be used as information for consideration in the drafting of laws, rules or regulations, designing of a model and method of acquisition of senators suitable for Thailand.

2.2 The information from this research can be used as guidelines for the preparation of policy or plan to encourage people participation in the acquisition of senators suitable for Thailand.

2.3 The data from this research has suggested an issue to consider, which is the understanding of the people regarding the roles, powers and duties of the senators and the representatives, which can cause confusion to certain extents. Therefore, there should be plans or projects to publicize and make the aforementioned roles and responsibilities to be clearer, so that people can understand the differences between the Senate and the House of Representatives.

3. Recommendation for Further Studies

1. In any further study, the researcher may study additional information from other countries with contexts or political and governance styles similar to Thailand.

2. In any further research work, the researcher may conduct the synthesis of factors influencing the success of senator acquisition model and method in Thailand, in order to be more diversified and comprehensive, and to be analyzed in a structure, which will lead to the understanding of more diversified and comprehensive dimensions.

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