Abstract

Dissolution of the Parliament is a political tool of the democratic parliamentary system and the democratic Semi-presidential system for balancing the legislative power and the executive power. Both sides have an inseparable relationship because each intertwines in the exercising of power of the other as well as both sides have an influence on the exercising of power of the other. While the legislative branch (the House of Representatives) has a power to control and examine the government's work by filing a no-confidence motion in the Parliament, the executive branch has a power to dissolve the Parliament for the new election. This is a power to suppress the check by the Parliament that should be responsible for people, not an unreasonable control. Furthermore, the dissolution of the Parliament is also an appeal of dispute between the legislative branch and the executive branch so people, the real owner of power, can decide such dispute which side they agree with. In case of a conflict within the executive branch, the Parliament can be dissolved so as to appeal such dispute to people. Additionally, other objectives for the dissolution of the Parliament are to gain advantage in the next election as well as to be a way out for the political dead-end. In short, the dissolution of the Parliament is very important.

Hence, in order to understand the principles concerning the dissolution of the Parliament in each country, which may have either similar or different form and legal provision, this thesis studies on the dissolution of the Parliament in England, Germany and France, all of which has different form of dissolution. These various viewpoints lead to wider and better understanding in the dissolution of the Parliament. Since each pattern of dissolution has its good and bad points, one pattern may fit in one country but may not suit for another country. It is difficult to claim which pattern is the most appropriate because history, background, political development, way of thinking and practice of people in each country have impact on the ought-to-be form of the dissolution of the Parliament. Consequently, there is a very little chance that each

country will have the same of similar history, background, political development, way of thinking and practice of people.

With regard to Thailand, the first constitution mentioning about the dissolution of the Parliament was the Constitution of the Kingdom of Siam, B.E. 2475 (1932). Thereafter each constitution, including the Constitution of the Kingdom of Thailand, B.E. 2550 (2007), the current one, has provisions on the dissolution of the Parliament. Their details on the dissolution of the Parliament are similar, that is, the King has the prerogative to dissolve the Parliament for a new election of members of the Parliament. The dissolution of the Parliament shall be made in the form of a Royal Decree in which the day for a new general election must be fixed and the Parliament can be dissolved one time by the same occasion.

Nonetheless, the provision on the dissolution of the Parliament mentions only that the King has the prerogative to dissolve the Parliament and that a Royal Decree has to fix the date of new general election. Hence, the only specified restriction of the prerogative is the Parliament cannot be repeatedly dissolved in the same event. This causes various debates on, namely, the issue regarding the person who can advise for the dissolution of the Parliament, whether this person will be the Prime Minister alone, the Cabinet or the Acting Prime Minister. What are the reasons for the dissolution of the Parliament? Are there any conditions or restrictions? Moreover, the duration eligible to dissolve the Parliament and the case relating to the dissolution of the Parliament are also issues. These problems may be used as a political tool when there is a widely political conflict.

From the study and analysis on the problem regarding the dissolution of the Parliament, this author views that there should amend and add provisions on the dissolution of the Parliament, particularly in the person entitled to advise the King to dissolve the Parliament for a new election of members of the Parliament so as to be unambiguous. It should be a power of the Prime Minister because in the current practice, the Prime Minister is the person advising for dissolution. It should further elaborate that before advising, the Prime Minister should discuss with the Cabinet.

However, such discussion and opinion of the Cabinet does not have any binding effect. It should also mention that the Acting Prime Minister has a power to dissolve the Parliament because the Acting Prime Minister should have the same power as the Prime Minister in every aspect. With regard to the reasons for the dissolution of the Parliament, it should prescribe the prohibitions on the dissolution of the Parliament in order to protect the exercise of power for oneself. For instance, it should ban the dissolution of the Parliament if there is a personal reason of the Prime Minister or any Minister which does not relate to the Parliament. However, it should not specify the provision to other reasons other than the abovementioned reason such as the reason, restriction, duration and prosecution because the dissolution of the Parliament, a political issue, should be neither limited by any condition nor checked by the Court. Another important reason is that once there is the dissolution of the Parliament, people, themselves will be the decision maker.