

## **Abstract**

In the past, the Constitution of the Kingdom of Thailand contained no provision according an opportunity to the people to participate both directly and indirectly in the process of removing political office holders, until the promulgation of the Constitution of the Kingdom of Thailand B.E. 2540, which contained a provision that accorded for the first time an opportunity to the people to participate in the inspection and removal of political office holders at both local and national levels. Although the Constitution of the Kingdom of Thailand B.E. 2550 was subsequently promulgated, the said provision still exists. However, both the Constitutions above contain many problems and controversies in both theoretical and legal terms because the provisions of both the Constitutions of the Kingdom of Thailand have granted to the people the power to participate in two processes of removing political office holders, that is, impeachment and recall.

The objective of the preparation of this thesis is to study the process of removing political office holders in Thailand, especially the impeachment and recall processes under the Constitution of the Kingdom of Thailand B.E. 2540 and the Constitution of the Kingdom of Thailand B.E. 2550, including the Act Governing the Casting of Votes to Remove Local Council Members or Local Administrators B.E. 1999 and the Act Accompanying the Constitution Governing National Corruption Prevention and Suppression B.E. 1999, and to study concepts and provisions of foreign Constitutions for the purpose of analyzing the condition of problems arising in points of Thai law relating to the removal of political office holders by means of impeachment and recall in theoretical and legal terms. The studies have been performed in comparison with foreign Constitutions which employ both of these mechanisms widely. Following the studies, it was found that the Constitutions of the Kingdom of Thailand B.E. 2540 and B.E. 2550 contain provisions whereby people can subscribe their names to file a request for the impeachment of high-ranking political office holders including high-ranking senior officials. The impeachment process of Thailand differs from that of other countries, such

as, the United States of America, France, the United Kingdom (England), etc. Most of these countries use the impeachment method solely via their Parliament and usually use this method against only high-ranking political office holders, whereas Thailand uses the impeachment process in a mixed form between impeachment and recall. In particular, the subscription of names for impeachment is similar to the first step of the recall process in foreign countries.

In addition, both the Constitutions have also adapted the form of recall for application to the removal of political office holders at local level, especially regarding the Act Governing the Casting of Votes to Remove Local Council Members or Local Administrators B.E. 1999, which is similar in form to the laws of some States in the U.S.A. and some Latin American countries but contains some differences in terms of conditions, such as, causes of recall, request filing procedures, signature gathering period, and method of electing replacements of those who have been recalled, etc.

A problem found following the studies it was found that there are some problems arising from the adoption of the recall process for use in Thailand, for example, the cause(s) of the recall remain(s) unclear, the proportion of the subscribers of names for a request for votes on the recall of a local council member or local administrator remains inappropriate and difficult for practice, etc.

Moreover, it was found that both the Constitutions have accorded an opportunity to the people to participate in impeachments of high-ranking political office holders including senior officials and that the term “removal” has been used against high-ranking and local political office holders to the extent that people and society misunderstood it widely.

According to the results of these studies, it was therefore proposed that the provisions of law concerning the said matter be revised. In particular, in the provisions of both the Constitutions the terms concerning the removal process should be defined and differentiated to prevent confusion between “impeachment” and “recall” so that this would lead to a proper and appropriate course of practice in accordance with the spirits of the Constitution and democratic regime on a later occasion.