

Abstract

The Ombudsmen of Thailand was first established in the Constitution of the Kingdom of Thailand B.E. 2540 (1997), namely “the Parliamentary Ombudsmen”. Its main duty was to investigate public complaints about maladministration of legal and illegal administrative procedures, while other Thai investigation organizations were set up to examine on illegal administrative actions only.

The main principle of the Ombudsmen was to control government agencies by taking a remedial action to solve a dispute between a government agency and an individual, also to prevent problems reverse by dissolving maladministration causing from legislations and administrative unreasonable procedures. Therefore, roles of the Ombudsmen were to control a government sector by problems solving and problems preventing methods which were parallel run. However, Thai ombudsmen had no power to force but to give recommendations only. Since they took powers of the Executive, the Legislation and a social sanction to push improvement for government agencies, the Ombudsmen needed to announce their reports to public.

However, during the 1997 Constitution term, the Ombudsmen had never shown their achievements to public even though numerous of laws were passed to support their powers. As they more focused on being “the mediator” between government agencies and individuals than being “the examiner” of their recommendations accomplishment as well as they paid no attention to institute constitutional cases, Thai Ombudsmen can perform their roles on problems solving but not problems preventing.

Later, the Constitution of the Kingdom of Thailand B.E. 2550 (2007) has been enacted. It has increased the Ombudsmen’s power to examine ethics of political office holders and public officials without concerning about problems on status and roles of the Ombudsmen occurred during the 1997 Constitution use. These may conflict with a principle of the separation of power as political office holders are the Legislative who

appointed the Ombudsmen and public officials are part of the Executive who hold exclusively right to control public officials' ethics. In addition, the 2007 Constitution has provided the Ombudsmen new task to monitor compliance with the Constitution; this may not consistent with the main duty of the Ombudsmen.

The Ombudsmen's responsibility under the 2007 Constitution to examine political office holders' ethics caused effect to their name; as a result a word "Parliamentary" was cut off and the Legislatives has no more power to appoint them. Thai Ombudsmen are therefore no longer the Parliamentary Ombudsmen. These cause difficulty to explain legal position, grounds for power, and fairness of using power of the Ombudsmen.

My suggestions are the Ombudsmen should be assigned by the Parliament to give grounds for their powers; also their authority on ethics checking of political office holders and public officials should be eliminated from the 2007 Constitution. Besides, monitoring compliance with the Constitution should not be their duty. Finally, the Ombudsmen should be more active in order to improve their roles on being both the examiner and the problem solver.