

## **Some Aspects of the Modern Japanese State in Comparison with Thailand**

Ho Viet Hanh\*

In recent years, along with the trend of promoting friendly relations between nations, there has been the stepping up of comparative research and study in the construction and development of countries. As a nation with little land and no notable natural resources, Japan has recorded brilliant success in economic development, making this country to be the subject of study for many scholars. Most of their works, when touching upon the reason for Japanese success, have demonstrated in various levels the role of the State. Besides, there have been not a few works considering the political system, the State, main parties, political organizations, etc. of Japan as their main subjects for further direct study. But despite this there is still no full understanding of today's Japanese State, on the contrary, day by day many problems appear to require additional discussion and deeper examination.

For this reason after more than two month's work in the Japanese Studies Center under the Institute of East Asian Studies of Thammasat University, Thailand, which provided a factual basis, especially regarding the great role of Thailand's King, which in Vietnam I might not fully see, I set myself the task to examine today's Japanese State in comparison with the Thai one. Due to my stay being not long and my capacity somewhat limited, this paper may not fully meet the reader's expectations.

In general, the Japanese State's power is similar to that of any modern nation. However, the distribution of power, means of organization, and leadership style all have differences due to cultural requirements, the natural condition of Japan, etc. Following are some of our observations in a comparison with the modern Thai State.

Japanese contemporary history is considered to begin in 1868, with the initiation of political reform. The Meiji Constitution, issued in 1889, made Japan a constitutional monarchy, although the constitution stipulated power concentration in the Emperor's hands. The modern Japanese State is built on the basis of the constitution promulgated on 3rd November 1946 which came into force on 3rd May 1947".<sup>12</sup> Despite that, during the nearly 50 years which have passed, many amendments have been made to its details and many articles in fact have ceased to be implemented, for example, the end of article 9, "...Land, sea and air forces, as well as

---

\* Center for Japan Studies, Vietnam

other war potential will never be maintained.<sup>3</sup> The recent sending of Japanese troops overseas has violated the whole first part of this article.

Figure 1 shows the organization of the modern Japan State on the basis of the 1947 constitution. We will discuss details in the following sections.

### 1. The Emperor's role

The 1947 Constitution stipulated that the Emperor would be considered as a symbol in the political system. This is shown in the fact of his being obliged to participate in a number of activities under the name of the State but he indeed has no power. The first article of the Constitution stated: "The Emperor shall be the symbol of the state and of the Unity of the people, deriving his position from the will of the people with whom resides sovereign power..."<sup>4</sup> This brings to mind the role of patriarch or chieftain of a tribe in the age of early man's social state, before the existence of the modern state. But this is an awkward position for the Japanese Emperor who does not live in such an age but in the present era with the existence of a state of very great power. It is ridiculous to compare his role with that of Thailand's King. Article 3 of the Thai Constitution states: "The King as a Head of the State shall exercise such power through the National Assembly, the Council of Ministers and the Court in accordance with the provision of this Constitution."<sup>5</sup> Other provisions in Thailand's Constitution have provided the King with very great power which is only a dream of the past to the present Japanese Emperor. Assisting the Thailand King in his job is the entire privy Council and "the selection and appointment as well as removal of a privy councilor shall depend entirely upon the Royal prerogative".<sup>6</sup> Meanwhile, the Japan Emperor has no power over the government, he appoints the Prime Minister according to a Congressional decision, the Supreme Court President as per cabinet proposal, and has no freedom even theoretically, while the Thai King retains such power to a rather full extent.<sup>7</sup> Today's Japanese Emperor does his tasks of proclaiming law, convening the National Assembly, dissolving the National Assembly, proclaiming elections, confirming the dissolution of the Council of Ministers, receiving foreign ambassadors, chiefs of states, and other rites. But he does these tasks as a machine with no authority to refuse or act other than required by the Diet and the Cabinet.

On the other hand, Thailand's King has real power. For example, provision 78 of Thailand Constitution states that after the Congress has approved a law for submission to the King "If the King refuses to assent to the bill and either returns it to the National Assembly or does not return it within ninety days, the National Assembly resolves to reaffirm the bill with the votes of not less than two-thirds of the total number of members of both Houses, the Prime Minister shall present such bill to the King for signature once again. If the King does not sign and return the bill within

thirty days, the Prime Minister shall cause the bill to be promulgated as an Act in the government Gazette as if the King had signed it".<sup>8</sup>

However, there have been cases of the "symbolic" Japanese Emperor acquiring very real effect. For example, during his visits to the US in 1973 and to Eastern Europe in 1971, he was welcomed as the true representative of Japan, as those countries would like to promote friendly relations with Japan. This could be done by any chief of state of Japan.

Now let us consider a little the role of "chieftain of the tribe" which the Japanese Emperor has with his people. According to an extensive public opinion poll and social investigation throughout the country organized by the Government, a questionnaire received the following returns: Question: "What do you think the Emperor's role should be?", 37.5% answered "As it is"; 12.9%: "Let the Emperor get a few political powers"; 1.1%: "Give back to the Emperor his pre-war position"; only 7% answered "Abolish the Emperor's role". Question: "What do you think of the Emperor's regime?" 24% answered "Not interested" with 40% between the ages of 20-29.

In the 1975 public opinion and social investigation with university students as subjects, for the question "Do you think the existence or non-existence of an Emperor is good?" 22% chose the answer: "Existence is good"; 32.2% "Existence or non-existence is all right"; 27% answered "Non-existence is good".<sup>9</sup> Such investigations have shown that the Emperor has a certain effect in today's Japanese society in his capacity as "tribal chieftain". His status is greater with the old than with the young. It has also been shown that the Emperor's influence among the public has been decreasing day by day and such this decrease results from his personal behavior. In this regard, when making a comparison between the Japanese Emperor and the Thai King, there are big differences. Is it due to the fact that Thailand has undergone a revolution transforming an absolute monarchy to a constitutional monarchy in a peaceful way? The building of its society has not experienced any foreign influences and in the dramatic events in Thailand (there have been continuous military coups d'état) the King himself, with his prestige, has assisted the country to quickly stabilize and develop.

During my two month stay in Thailand, through contacts with the public, I heard and witnessed charitable acts by the King and Princess. Public concern about the King's health was shown by their walk around the palace on the occasion of Song Khan Festival which made me aware of the Thai King's great prestige among the population.

In brief, at present the Japanese Emperor is not a “leader of the nation” or “national head” but a “country symbol”. Like most other political personages or country heads, the Emperor has no power, not even in theory. Therefore, making a comparison, Thailand’s King has the greatest role among the world’s Kings while the Japanese Emperor has very small political significance. We may say that he has the image of a personage with the least power among other political personages in other comparable political systems.

## **2. The Cabinet’s position**

We may say that through 38 years of continuous power holding, from 1955 to 1994, the Liberal Democratic Party holds the Prime Ministership, therefore, the true power of Japan is concentrated in the Cabinet with the Prime Minister as the head. This is different to Thailand since, while the Japanese Prime Minister has to share his power with the Diet only, Thailand’s Prime Minister shares such power with the King.<sup>10</sup> Putting it another way, Japan’s Prime Minister in day-to-day activities has more power than Thailand’s Prime Minister. But we have to add that the Thai Constitution has not yet clearly specified Cabinet power. Moreover, there are relatively big differences between theory and practice that are beyond the scope of this paper.

In Japan, since the new constitution, the Emperor has been the national symbol and the Prime Minister the true head of the State: Provision 65 of the Constitution states: “Executive power shall rest in the Cabinet”.<sup>11</sup> According to the Constitution, the Japan Cabinet has very real power. It administers state works through a large team of officials in 53 ministries and main offices. Moreover, it is the body entitled to draft bills and amend the Constitution. We may see the Japan Cabinet power in the following areas :

- Executive right
  - Supervising State administration (Provision 72)
  - Managing foreign relation affairs and treaties (Provision 73)
  - Managing financial policies (Provision 83, 87)
  - Promulgating laws and regulations of the Cabinet (Provision 73)
- Legislative right
  - Submitting bills to the National Assembly
  - Preparing the estimate of the State budget
  - Making a report of State expenditure to the National Assembly
  - Tending “proposals” to the Emperor of the schedule for upcoming National Assemblies (Provision 7)
  - Promulgation of laws



- Juridical right
  - Appointing the Supreme Court President (Provision 6)
  - Appointing Tribunal judges (Provision 79, 80)<sup>12</sup>

In the meantime, Thailand's Cabinet has only a number of rights, as follows:

- Executive right
  - Managing State administrative affairs (Provision 146,151)
- Legislative right
  - Participating in Upper or Lower Chamber Assembly even in the case they are not members and being allowed to present opinions
  - Proposing to the General Assembly how to settle problems still unresolved (Provision 153)
  - Approving emergency law (Provision 157)

Therefore, we may say that the extent of the Thai Cabinet's rights as stated in the Convention is limited as compared with that of Japan. This is due to the Thailand Cabinet having above it the King who stands as the Head of State. However, in practice, the matter is not so simple.

Within the year, with its loss of the majority of seats in the National Assembly, the power of the Liberal Democratic Party and Japanese Cabinet has decreased because, although the power of nation management belongs to the Cabinet, it itself is governed by another body, so that the National Assembly is now facing a crisis in which the Prime Minister, with his seat not yet warned up, has to seek stability through redistribution of power in Diet and Cabinet positions according to the strength of each party and in a rational manner. Such a problem had previously been faced by the LDP but it did little due to its holding power too long. The rearrangement of valuable positions in the present Japan Cabinet has met with debate. Here we agree with Leisenson's distribution:

1. Prime Minister
2. Minister of Finance
3. Minister of Commerce and Industry, Minister of Agriculture, Minister of Communication, Minister of Construction
4. Minister of Foreign Affairs, Deputy Prime Minister, Minister of Prime Minister's Office
5. Minister of Education, Minister of Social Welfare, Minister of Post, Minister of Home Affairs
6. Director of Administrative Management Agency, Minister of Science and Technology<sup>13</sup>

The Prime Minister heads the Cabinet with very great powers, including the right to:

1. appoint and dismiss Cabinet members without National Assembly approval
2. manage all administration
3. approve Cabinet laws and decisions together with ministers in charge of related areas
4. settle disputes between Cabinet members
5. dismiss the whole Cabinet upon resignation

Meanwhile, in Thailand, the appointment of the Prime Minister and the Prime Minister's Council is the task of the King and the Chairman of the National Assembly. When taking office, the Prime Minister and his Ministers have to swear allegiance to the King. Once again, this shows the very small role of the Thai Cabinet as compared with the Japanese Cabinet. However, because the Japan Prime Minister's role is too great, a contradiction has appeared recently in that no one gets true power as there have been very quick changes of Prime Minister. Such provides the Americans with good grounds to attribute the deadlock of US-Japan commercial talks to the absence of a person in Japan with true power to resolve the problem.

The Japan Prime Minister is entitled to select his cabinet, therefore he proceeds first to arrange positions in the Cabinet and organize powerful figures in teams to co-ordinate their actions. Such actions are soon implemented after the National Assembly vote for approval but are not delayed by the Emperor's approval since, as mentioned, the Emperor is obliged to accept proposals of the National Assembly and can never act differently. Moreover, the Prime Minister may change Cabinet members at any time he deems it necessary. He also does not need to wait for a resolution by the National Assembly.

Concerning its relations with the National Assembly, the present Japanese Cabinet has to bear responsibility before the Lower Chamber alone and not the whole Congress and, moreover, not the Upper Chamber. Provision 69 of the Constitution specifies: "If the House of Representatives passes a no-confidence resolution or rejects a confidence resolution, the Cabinet shall resign en masse, unless the House of Representatives is dissolved within ten days."<sup>14</sup> This means that, after receiving a no-confidence resolution by the House of Representative, the Cabinet has two options. First, new immediate organization, second, dissolution of the House of Representatives. Regarding a new election after dissolution, the Convention states: "When there is a vacancy in the post of Prime Minister, or upon the first convocation of the Diet after a general election of members of the House of Representatives, the Cabinet shall resign en masse."<sup>15</sup> The second option of dissolution of the Cabinet is obligatory even in the case of the Party supporting the Government winning the election. Such has happened throughout 38 years of power by the Liberal Democratic Party.

As for Thailand, things are a little different. The appointment of the Prime Minister is subject to the King's authority, as noted above, and dissolution of the House of Representative, as stated in Thailand's Constitution, Provision 101, is the right of the King, not the Prime Minister.

### 3. Japan Diet

The Japan Diet comprises two Houses of Councilors with 252 seats and the House of Representatives with 512 seats (see Figure 3). The House of Representative's term of office is four years and may be dissolved earlier. The House of Councilor's term of office is 6 years and after 3 years there is selection of half of its members. The members of both Houses are selected through election. Taking Thailand's Congress for comparison, we may see a rather big difference. The Thailand Convention states: "The seats are composed of members appointed by the King. The number of Senators shall not exceed three-fourths of the total number of members of the House of Representatives". "Membership of the Senate is six years from the date of appointment by the King. In the initial stage, one-third of the total number of Senators shall retire by drawing lots after two years in office. At the end of the period of four years from the date of appointment by the King, one-half of the Senators shall remain in office after drawing lots ... The King shall have the prerogative to re-appoint the persons retiring from the roles of Senate and House of Representatives members which are equal.<sup>16</sup> However, in some areas, such as passing bills or confidence resolution, the House of Representatives power seems to be higher but this is not shown clearly enough. In Japan, a difference in power between the two Houses is obvious, although both Houses' members are elected with a different way of voting. The Convention has given the House of Representative greater power than the House of Councilors in some areas of special importance such as promulgation of law, approval of the budget, consideration of treaties and selection of the Prime Minister.

The relationship between the two Japanese Houses vis-a-vis the Cabinet also has differences as indicated above. The relationship between the House of Representatives and the Cabinet seems to be of near equality in power. The House of Representatives may approve a no-confidence resolution against the Cabinet and push it to resign. Conversely, the Cabinet by its power may dissolve the House of Representatives to organize a selection before its withdrawal. The crisis of nearly two years in Japan has made these events occur continuously.

The Japan House of Councilors' power is much smaller than touched upon above. Here, differences in opinion, if any, are always advantageous to the House of Representatives side. In any other problems, the House of Representatives has the right not to take account of the Senate's voice with two-thirds of approving votes.

Given the limited power of the House of Councilors, in a period of great political change as in the two recent years with no political party occupying the majority of seats in the House of Representatives, the role of the House of Councilors has very likely become more important.

When there is a law to be approved the Cabinet, knowing the difficulty of getting two-thirds of the Lower House members' approving votes, immediately has to undertake compromising actions to acquire the House of Councilors' approval. Any Cabinet bill is obliged to receive the examination of the two Houses and approval from the Diet.

In order to undertake a thorough examination of a bill, the Diet's Houses must have specialized organs for specific matters. A bill shall be transferred to the responsible committee for consideration and opinions before the bill's submission for voting at the Diet. Today, the House of Japan Diet has 16 Committees, as follows:

1. Foreign Affairs
2. Finance
3. Education
4. Welfare and Labor
5. Agriculture, Forestry, Local Administration and Fisheries
6. Commerce and Industry
7. Transport
8. Communication
9. Construction
10. Budget
11. Accounting
12. House of Management
13. Discipline
14. Cabinet
15. Judicial Affairs<sup>17</sup>

The scope of activities of these committees is approved by the House of Representatives with a majority of votes. These committees examine bills on the basis of information channeled from the Cabinet, officers from related ministries, etc. After these committees have enough information and reviewed it, they submit the bill to both Houses of the Diet. Upon the basis of proposals from these committees, the House of Representatives proceeds to vote approval or rejection. If passed, the bill shall be transferred to the House of Councilors for consideration and voting to pass or not to pass. If not passed, the bill shall be returned to the House of Representatives. At that time, the House of Representatives may try to find a way for amendment to get the House of Councilor's approval or the House of Representatives will approve with two-thirds of its member's votes. Particularly in the cases of budget bills, treaties with foreign countries, or the House of Councilors



submitting no further opinions about other bills within 30 days, the House of Representatives needs only to pass the bill with a normal majority of votes. Bills must bear the signature of the Prime Minister, Emperor and Minister in charge. These persons themselves are not allowed to vote for the bill after the Diet has approved it.<sup>18</sup>

Let us take the approval of bills or similar resolutions under the Thai General Assembly's power for comparison. The process of passing a bill submitted from the Thai Cabinet to the two Houses is somewhat similar to that of Japan. But here, the House of Representatives needs only more than the half of its members to approve and is capable of bypassing the veto of the National Assembly.<sup>19</sup>

From that point only, we may feel that the Thai House of Representatives has greater power than that of Japan, but in fact it does not. There are matters relating to the bill's approval which need to get the opinion of the Constitutional Tribunal and a series of common sessions by both Houses to discuss problems in which the strength of a vote from the Lower House or the Upper House is somewhat equal. Concretely speaking, the two Houses of Thailand have to meet in common session to settle the following matters:

- 1) Approval of the appointment of Regent
- 2) Making of solemn declaration by the Regent before the National Assembly
- 3) Amendment of the Palace law on Succession B.E. 2647
- 4) Approval of the succession of the Throne
- 5) Reconsideration of a bill
- 6) Approval of the Prorogation of Session
- 7) Opening of the Session of the National Assembly
- 8) Interpretation of the Constitution
- 9) Announcement of policies
- 10) General debate
- 11) Approval of Treaty
- 12) Approval of members of the Constitutional Tribunal
- 13) Amendment of the Constitution.<sup>20</sup>

Moreover, even if the Thai House of Representatives has bypassed the pending veto of the Senate with over half the number of votes, the bill is not automatically recognized as a law but it must be submitted to the King and "If the King refuses his assent to a bill and returns it to the National Assembly resolve to reaffirm the bill with votes of not less than two-thirds of the total number of the members of both Houses, the Prime Minister shall present such bill to the King for signature once again. If the King does not sign and returns the bill within thirty days, the Prime Minister shall cause the bill to be promulgated as an act in the Government Gazette as if the King had signed it."<sup>21</sup> Therefore, we may see that the power of

Thailand's House of Representatives is much smaller than the power of present Japanese House of Representatives.

#### 4. Court (Judicial organs)

Japan's Constitution stipulates that the Cabinet appoints tribunal budgets of the Supreme Court (see Figure 4 for Japanese court system) and the Emperor appoints the President of the Supreme Court, subject to approval by the Cabinet.<sup>22</sup> But in the meantime, it states: "The appointment of the judges of the Supreme Court shall be received by the House of Representatives following their appointment, and shall be reviewed again at the first general election of members of the House of Representatives after a lapse of ten years, and in the same manner thereafter."<sup>23</sup> Considering such a stipulation, Professor Tsuneo Inako has concluded that it has not been among the most successful in the Japanese Constitution due to the fact that most of the voters do not have enough information about the Supreme Court as well as its judges and thereby have generally no opinion when voting for the House of Representatives.

Almost always there are only about 10% of voters who express an opinion about dismissing a certain judge of the Supreme Court. Such a procedure has given people the impression that judges of the Supreme Court appointed by the Cabinet are approved by a big majority of voters.<sup>24</sup>

Japan's Constitution also states in Provision 81: "The Supreme Court is the court of last resort with power to determine the constitutionality of any law, order, regulation or official Act". Here there is obviously unclarity in stipulating the power of the Supreme Court to supervise the Constitution. Using such a stipulation, there are cases of suits being filed to the tribunal by Japanese citizens concerning legal violation of their interests. Among these suits, there have been cases in which the Lower Court agreed to the wrongness of the provision as shown by the plaintiff. But in most such cases the trial outcome of the Lower Court has been overturned. However, such events have had their positive effects. First, there is the awakening awareness of bad intentions in violating people's interests and law and, second, it helps to heighten the judicial sense of Japanese, a people who are not yet in the habit of rejecting laws as in other developed countries. As regard to judges of the Lower Court, the Constitution stipulates: "The judges of the Lower Courts shall be appointed by the Cabinet from a list of persons nominated by the Supreme Court. All such judges shall hold office for a term of ten years with privilege of re-appointment, provided that they shall retire upon attainment of the age as fixed by law."<sup>25</sup>

Concerning the extent of power of the Courts, including the Supreme Court and Lower Courts, it is stipulated in Provision 76 of the Constitution: "The whole judicial power is vested in a Supreme Court and in such inferior courts as are

estimated by law. No extraordinary Tribunal shall be established, nor shall any organ or agency of the Executive be given final judicial power. All judges shall be independent in the exercise of their conscience and shall be bound only by this Constitution and the laws".<sup>26</sup>

Providing the Court with the right to consider the constitutionality of all laws in such a manner has brought the opinion that the court is placed above the Diet and it may be the instrument of the government to apply pressure on the Diet and thereby limit democracy. But if we look back to the time when the new Constitution appeared, we see that very few cases of the constitutionality of juridical documents have been considered by the Supreme Court. Suits filed by citizens concerning anti-democratic points of regulation are often not accepted by the Supreme Court as mentioned above and it is in this that the Supreme Court impedes the democratic character of the Japanese.

We now compare the court system of Thailand with that of Japan. In the extent of power, we see some major differences.

First, Thailand has two categories of courts that Japan does not: they are the Constitutional Tribunal and the Military Tribunal. Provision 184 of Thailand's Constitution stipulates: "The Constitutional Tribunal is composed of the President of the National Assembly, the President of the Supreme Court, the Director General of the Public Prosecution Department and four other persons appointed by the National Assembly from qualified persons. The President of the National Assembly shall be President of the Constitutional Tribunal."<sup>27</sup> Members appointed to the Constitutional Tribunal by the National Assembly are not Senators or members of the House of Representatives or of local government authorities. The Juridical Tribunal has the responsibility to consider the constitutionality of laws but Provision 141 of the Constitution stipulates: "If there is a problem which requires an interpretation of the Constitution it is the power and duty of the National Assembly to make the interpretation and the interpretation shall be regarded as final."<sup>28</sup>

Second, the King appoints and dismisses the President and judges of courts on the basis of the Juridical Council's opinion. The judges consider and pass a verdict according to the law and in the name of the King.

The above matters show that the Thailand courts bear more ties than the Japan ones, in other words, they have less power, though in both court systems, the court presidents are independent and pass their verdicts based on law.

## **5. The independent nature of and the dependence of local administration on central administration.**

One of the changes to the 1947 Japan Constitution is that it contains provisions on the independence of localities. Provisions 93 and 94 of the Constitution state: "Local entities shall have the right to enact their own regulations within law."<sup>29</sup> "The chief executive officers of all local public entities, the members of their assemblies, and such other local officials as may be determined by law shall be elected by direct popular vote within their several committees".<sup>30</sup>

At present, Japan has 655 cities, 2,003 towns and 587 villages. Japanese administration has 3 levels comprising central, provincial,<sup>31</sup> town and village administrations. Districts in large cities have no regulations for self-management. There are no self management committees. The head of the district administrative body is appointed by the city mayor. This means the cities have less power than the towns and villages in issuing and implementing policies in their areas. But the different criteria for classification seem at present very difficult to observe in Japan. People generally define the city as a place with high population density, the village as an agricultural area, and the town as an intermediary area between the two. But due to transformation of areas being so quick now in Japan, many changes and mixes have occurred in areas, so it is very difficult to identify what is city and what is village. At present, the city population of Japan totals around 100 million, with the remaining living in the countryside. Now the administration of small areas such as small cities, town and villages covers not only the area of the population center but also surrounding areas. As a result, there are cities in which there exist mountainous areas without people such as Kyoto, for example.

We see the 1947 law on local management has brought about many activities and tasks for the localities such as public order in the area, population stabilization, protection of welfare and health, the management and construction of parks, roads, squares, public business enterprises, the management and construction of schools, hospitals, kindergartens, and the problem of temporary residents in the locality. But such things do not show that, in practice, local administration can be independent in settling all of its main problems for, in fact, it is only one third autonomous. Here we may indicate the causes of local dependence on the center in the implementation of its affairs.

- 1) Central bodies establish many branches in the localities and these branches' activities depend on upper management in central bodies and not on the initiative of local administrations.
- 2) Such problems as the management of the police force depend on self-management committees at provincial level, and construction and the



organization of schools are under the jurisdiction of various levels of self-management councils, but related central executive bodies, such as the Ministry of Home Affairs and the Ministry of Education have a great deal of power in leading and inspecting related branches throughout the country. Such things make local authorities competence in management in these fields nominal.

- 3) Local administrations are assigned decision-making and tasks by central bodies but the devising of policies and methods to realize them depend on central control and not local bodies themselves. Every year, the quantity of assigned work increases and the implementation of these day by day influences activities under the self-management committee's administration.
- 4) According to Japanese tax law, within the tax law structure, tax collected by the locality comprises only an insignificant part, which makes the self-management committee severely short of financial resources, so that its activities depend on state subsidies. When dealing with this matter the Encyclopedia of Japan published by the Cambridge University Press noted: "Local finances, for example, are largely under firm central control. While the localities accounted for 75% of all public expenditure, in 1990 local revenues contributed only 36%. The central government makes up the difference through such methods as the disbursement of Treasury grants and the local allocation tax. Though localities have steadily increased their direct influence over Central Government policy affecting regional affair, in some areas, control over finance remains a major problem in center-local relations."<sup>32</sup>
- 5) Central authority has the right to allocate finance in the development of fixed areas of the country, therefore, it takes advantage of this situation to strongly interfere in the activities under local authority administration. Besides, economic branches of a public nature with vital significance such as electricity and gas belong to private firms and, in many cities, so do public transport means such as railways, buses, trams, etc. Therefore, in industrial cities, the true masters of these are not the population but the big private enterprises located in these cities.

However, according to the stipulation of the 1947 Constitution, local self management committees, despite limitations in many aspects of their activities, still have remarkable independence. People living in these areas are capable of realizing their will through local authority. This may be clearly seen in times when the politicians have progressive plans for the people, since the people do not ape servily the central authorities in elections of mayors and province chiefs. Under their leadership, the self management committee generally places the interests of people living in the area above the interests of private capitalist groups or the subjective desire of the central authority. However, seeing the overall development of Japan since after World War II, most leading individuals of self-management local organs -

mayors and province heads - have been working within central administrative mechanisms and now receive support to be placed in office by these mechanisms or those who actively support central government.

Comparing the extent of local authority dependence on central authority in Japan and Thailand, we see that Japanese local authority has one-third autonomy, but according to the Constitution, its dependence may still be less than the Thai one. In Thailand, the central authority can directly interfere in the appointment of local leaders. The Thai Convention states: "Local government shall consist of a local assembly and administrative committee or local administrations". "Members of a local assembly shall be basically elected. Members shall be appointed only in case of necessity in accordance with the provision of law, and whose number must be less than the number of elected members". "A local is basically elected. A local administrative committee or local administrators shall be appointed only in case of necessity as provided by law".<sup>33</sup>

## 6. Conclusion

Today's Japanese State has been built according to the Western contemporary model. It is an artificial combination of Western constitutional thought and Japanese political and cultural history. But it is interesting that while Japan's State is built according to a model drawn out by the American MacArthur it has helped Japan successfully manage its society and increase its economy to a high degree.

The Japanese model of state still maintains the Emperor but withdraws all his power, however, we may not dismiss today's Emperor as having no significance in Japanese political life. On the contrary, the position makes practical sense and in a number of situations is fairly important.

Three bodies closely related in today's Japanese State are the Diet, the Cabinet and the Court. Although there have been discussions about the effectiveness of this arrangement, it has shown its effective in the society. In recent political changes, the role of the Diet has shown its power over the Cabinet and is the power center of today's Japanese State. The Court has been less known and the institution has to be studied in many aspects, but it has demonstrated its independent role vis-a-vis the two other parts of the State particularly in such a time of political events as at present, when the Cabinet often has no majority of votes or stable support.

The role of local administration will become increasingly important for the settlement of problems in their management area. However, it still depends to a considerable extent on the central administration.

Making a general comparison between the Japanese State and the Thai State, we see that both states seem to be constitutional monarchies, but there is a basic difference. While the Japanese State maintains its constitutional monarchy as an outer cover for its contemporary capitalist state, the Thai State holds true to the original meaning of the “constitutional monarchy” concept.

One may say that political changes in today’s Japan make it an attractive subject of study because here is the stage where the roles of all parts composing it is seen most clearly in practice. Therefore, here is a good opportunity to consider the level of success of the Western model plus Japanese culture in the State organization. To examine today’s Japanese State in comparison with other contemporary states, such as Thailand’s State, seems to be very useful for us to understand thoroughly the Japanese State. This paper is only a beginning. It is certain that the writer will have to investigate further to be able to meet the reader’s expectations.

Thammasat, April 26, 1995.

## Notes

- 
- <sup>1</sup> Everybody knows that this, under the different name of “Mac Orthru Constitution”, was an artificial foreign construction which Japan was obliged to accept.
  - <sup>2</sup> EHS Law Bulletin Series Japan; Vol. 1; Eibun Horei Sha; p.2.
  - <sup>3</sup> The Constitution of Japan; ESH Law Bulletin Series Japan; No. 1000; 1948; Eibun Horei Sha; Article 9.
  - <sup>4</sup> As per annotation 2, art. 1.
  - <sup>5</sup> Constitution of the Kingdom of Thailand; Government Gazette, Vol. 95, Part 146; Special Issue, dated 22nd December B.E. 2521 (1978).
  - <sup>6</sup> As per annotation 4, art 11.
  - <sup>7</sup> This is clearly shown in provisions 146, 175, 176 of Thailand’s Constitution
  - <sup>8</sup> As per annotation 4, art 78.
  - <sup>9</sup> See Tsuneo Inako: Understanding of Japan Law (in Vietnamese: Tim hieu phap luat Nhat Ban) - Hanoi Social Science Publishing House, 1993, pp. 229-230.
  - <sup>10</sup> We may clearly see this aspect when reading Provision 157 of Thailand’s Constitution. See Figure 2 to get an overall view of the Japanese Cabinet mechanism.
  - <sup>11</sup> As per annotation 2, art 65.
  - <sup>12</sup> See: Warren Tsumeishi, Japanese political style, New York; 1966; pp. 42-43.
  - <sup>13</sup> Michael Leiserson, “Faction and Coalitions in one-party Japan”; American Political Science Review 62; 1968; p. 43.
  - <sup>14</sup> As per annotation 2, art 69.
  - <sup>15</sup> As per annotation 4, art 84, p. 851.
  - <sup>16</sup> Thailand’s Constitution of 1978 stated that the Senate Chairman is the Congress Chairman and that of the House of Representatives is the Congress Deputy Chairman. Amendment has only been made after 10 years, in 1989. Is it a sign of lesser democracy in Thailand as compared with Japan?
  - <sup>17</sup> See Warren Tsumeishi, Japanese political style; New York, 1966; p. 93 and Theodore Tactnelly, Politics and Government in Japan; Boston, 1972; p. 181.
  - <sup>18</sup> See: Frank Longson, Politics in Japan; Boston, 1967; p. 163.
  - <sup>19</sup> As per annotation 4, art 125, 126, 127 and 128.



- 
- <sup>20</sup> As per annotation 4, art 143.
- <sup>21</sup> As per annotation 4, art 78.
- <sup>22</sup> In fact, the right to appoint all the members of Supreme Court belongs to the Cabinet since the Emperor is not allowed to reject Cabinet's proposals.
- <sup>23</sup> As per annotation 2, art 79.
- <sup>24</sup> See annotation 7, p. 224 (in Vietnamese)
- <sup>25</sup> As per annotation 2, art 80.
- <sup>26</sup> As per annotation 2, art 76.
- <sup>27</sup> As per annotation 2, art 184.
- <sup>28</sup> As per annotation 2, art 141.
- <sup>29</sup> As per annotation 2, art 94.
- <sup>30</sup> As per annotation 2, art 93.
- <sup>31</sup> At present, Japan has 47 cities including Tokyo capital, Hokkaide island city, two capital outskirts and 43 others.
- <sup>32</sup> Richard Bowring and Peter Kornicki; ed. The Cambridge Encyclopedia of Japan; Cambridge University Press, 1991; p. 314.
- <sup>33</sup> As per annotation 4, art 181, 182 and 183.