

**The Conflict in the Four Southernmost Provinces of Thailand  
And the Roles of the Thai Parliamentary System**

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**A Paper prepared for  
The UNDP Roundtable on Parliaments  
In Conflicts and Post-conflict Situations  
2005**

## **The conflicts in the four southern provinces of Thailand and the roles of the Thai Parliamentary System.**

### **1. Introduction**

Thailand is a society where the majority of population is ethnically Thai and religiously Buddhist. Yet, there are many ethnic minorities, namely, the Chinese, the Mon, the Cambodian, Laos, Vietnamese, the Hill-tribes and the Malay. Religiously, they are Buddhist, Muslim, Christian, Hindu and others. Some of these ethnic minorities are migrants while others have been living in this land for a long time. Some of them have been assimilated into Thai cultural structure, while others keep their own culture intact. During the so-called “Nation-Building” period, the Thai government had a strong policy to assimilate all ethnic minorities into Thai culture. The government was somewhat successful for some cultural groups, but was unsuccessful for others. Such policy also led to conflicts between the government and some ethnic groups. The group, which reacted strongly to the government’s assimilation policy, is the Muslim-Malay in the southernmost provinces adjacent to the Malaysian border.

In these provinces, the majority of the population is ethnically Malay and religiously Islam. More importantly, they are not migrants to Thailand, but they have been in the area for centuries, though were brought under Thai control in the 20<sup>th</sup> Century.

It is normally understood, at least by the general Thai public, that the FOUR southernmost provinces in Thailand include Pattani, Yala, Narathiwat and Satul because the majority of the population in these four provinces is Muslim. However, when it deals with the issue of conflicts in the four southernmost provinces it does not actually include Satul province because conflicts have hardly taken place in Satul. This simple fact has raised an important and interesting question to the too-often claim that the conflicts are caused by the religious differences among the people in the region. The conflicts usually take place in Pattani, Yala, Narathiwat and occasionally in part of Songkhla, the area, which is adjacent to Pattani and Yala provinces. It is therefore important to understand that when the term “four provinces” is referred to, it does not include Satul province.

The conflicts in these four provinces have taken place in the past several decades and at this point in time, the conflicts do not seem likely to be withered away easily in the near future. Attempts have been made, by many Governments, both authoritarian and so-called democratic, in the past up to the present, to deal with the conflicts, but the conflicts continue to flare up occasionally. In the recent past, the conflicts have been escalating and more violent confrontations took place more intensively. From January 2004 up to the present time, thousands of people, including, police, soldiers, government officials, monks, etc. were brutally killed. These people are both Muslims and Buddhists. When the

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violent attacks by the local groups took place, the Central Government almost always reacted with harsh repercussions. The harsh reaction from the Central Government has been unfortunately based on the stubborn view that violent attacks were undertaken by the Malay-Muslim separatist groups. The harsh action in turn led to more conflicts and violence. It is interesting to note here that when the conflicts flared up, it was assumed that the responsibility to deal with the problems lay entirely in the hands of the Central Government. Other social institutions, both public and private, did not seem to recognize that the conflict problem in the south is the problem of the Thai society as a whole, not just the problem of the Central Government. It is also interesting to note that the Parliamentarians from both the Upper and Lower Houses hardly played any significant roles in dealing with the conflicts in the region. It is true that some parliamentarians, as individuals, as well as the individual members of a House Committee, made some efforts to find ways to help ease the conflicts. Despite the fact that there are several Upper House and Lower House Committees, which have responsibility to deal with internal conflicts, namely, the Human Rights Committee, the Social Development and Human Security Committee, the People Participation Committee etc, the efforts made by individual members of the House Committees did not seem to have any significant impact on the Government's decision on the issue. In this short paper, we shall attempt to critically describe the background of the conflicts in the four southernmost provinces in Thailand. We shall also attempt to critically analyze as to why the Thai parliamentarians, both from the Upper and Lower Houses, did not, take an active role in helping solve the conflicts in the southernmost region or the conflicts, of different nature, in other parts of the country for that matter.

## **2. The Conflicts in the four southernmost provinces in Thailand: Its background and root-causes**

The conflicts in the four southernmost provinces in Thailand have a long history. It is almost impossible to thoroughly understand the root-causes of the conflicts unless one learns about the politico-economic-cultural and social development of the region. The followings are the brief accounts of the background of the conflicts in the region.

### **2.1. Brief Political History of Patani Kingdom**

The area, known as the three southernmost provinces, namely, Pattani, Yala and Narathiwat, was once the Malay Kingdom of Patani. The Kingdom was generally believed to have been founded between the mid-14<sup>th</sup> and 15<sup>th</sup> Centuries. The adoption of Islam by its rulers has a profound impact on the course of Patani's later history because it helps

institutionalize the differences between the Malay and the Thai worlds. Prior to the adoption of Islam, the Malay and the Thai worlds were considerably blurred by their common Hindu-Buddhist heritage. Patani Kingdom was linked with Ayudhaya, the Siamese State, through trade and its tributary status. Because of this relationship, the Kingdom of Patani and the Thai State hardly had a peaceful co-existence.

During the early Bangkok or Ratanakosin era, the Siamese State, for the first time in the history of Patani, had the power to appoint the successor of the Patani Sultan, but this move created strong resentment from the Patani ruler and led to another conflict between Patani and Bangkok.

Thai direct rule of Patani had begun in earnest since the early years of the 20<sup>th</sup> century. From 1901, in line with the provincial re-organization being undertaken in the whole Kingdom, the Patani States were grouped into a collective administration, called “Boriwen Ched Huamuang” (Area of the Seven provinces). The Malay rulers of the Patani States, who had agreed to compromise their traditional political rights were retained in their posts and were only replaced by the Thai-Buddhists after their death or retirement. Their power and authority was drastically diminished. Yet, Islam continued to enjoy the patronage of the Thai rulers. In 1901, the Thai King decreed that special provisions, regarding the application of Muslim Law on matters pertaining to marriage and inheritance would be upheld for the benefit of his Malay subjects in the Patani States. In 1906, the Patani States were united into one provincial territory, called, “Momthon Patattni”, demarcated into the provinces of Pattani, Yala, Narathiwat and Saiburi. In 1932, when the Monthon system was discontinued, the Monthon Pattani was divided into the provinces of Pattani, Yala and Narathiwat until the present day.

In 1909, after the signing of the Anglo-Siamese Treaty, Patani was no longer a Malay Kingdom, but merely a number of Malay provinces under the Thai subjugation. The history of Patani after 1909 may be regarded as the history of the Malay-Muslim minority in Thailand until today. The political history of Patani may be summed up as the history of struggle for political autonomy and sovereignty of the Malay-Muslims.

## 2.2. Brief historical background of the southern Conflicts and the Emergence of Separatist Movements

Conflicts between the Patani region and the government in Bangkok continued and were sometimes intensified after it was brought under direct Thai rule. In the early years' opposition was led by the ousted royal families and/or charismatic Islamic leaders. The frequency and intensity of the conflict varied with the extent to which governments in Bangkok sought to impose Thai cultural norms and social policies of the state on the

region. The ultra-nationalistic policies of the first Phibun Songkram government (1938 to 1944) caused bitter clashes, and thousands fled to neighbouring Malaysia. In April 1947, the charismatic religious leader, by the name of Hajji Sulong issued his famous seven demands, urging the devolution of power to Malay-Muslims in the four southern provinces (including Satun). Hajji Sulong was arrested, and this, together with the return of Phibun Songkram for a second term after a coup on April 8<sup>th</sup> 1948, led to the Dusun Nyor uprising in Narathiwat on April 28<sup>th</sup> of the same year. Some 400 Malay-Muslims and 30 police were killed in this incident. Hajji Sulong was released in 1952, but disappeared while under police custody in August 1954.

The coup led by General Sarit Thanarat in 1957 offered no respite. Sarit continued with assimilationist policies, trying particularly to assert state control over traditional Islamic learning institutions or *Pondoks*. In response, the Malay-Muslims organized in a number of covert separatist organizations with military units attached. Three major separatist groups were established, namely, the *Barisan Nasional Pembebasan Patani* (BNPP, 1959), *Barisan Revolusi Nasional* (BRN, 1963) and the Patani United Liberation Organization (PULO, in Malay, *Pertubuhan Pembebasan Patani Bersatu*, 1968). Looking forward, all split and were re-organized in the eighties. One section of the BNPP formed the *Barisan Bersatu Mujahideen Patani* (BBMP) in 1985, and it is possible that this became or merged with *Gerakan Mujahideen Islam Patani* (GMIP) when it was formed ten years later. In 1991, BNPP, BRN and PULO formed a loose coalition as *Bersatu* (United), which a PULO break away (New PULO) and GMIP may have joined later at some stage.

Insurgents received armed training in countries like Libya, Syria and in the 1980s Afganistan. At its height, separatists had more than 1,500 fighters under arms (Surin, 1985:240) and were implicated in such incidents as the bombing of Bangkok's International airport (4 June 1947), a bomb attempt during a royal visit to the south (22 September 1977) and the bombing of Had Yai train station (8 February 1980). Government buildings, particularly schools and police stations were often key targets, as were state school teachers and government officials.

In the 1980's and 1990's, in parallel with the expansion of democracy throughout Thailand and election of governments that showed greater sensitivity to Muslim cultural needs, as well as the appointment of some Muslim politicians from the region to the ministerial portfolios, conflicts in the region decreased considerably. In addition, the military-dominated administrative structures known as Civilian-Police-Military (CPM) Task Force 43 and the Southern Border Provinces Administrative Center (SBPAC), established at the beginning of the 1980's, changed the situation in the deep south. The CPM Task

Force effectively coordinated activities by security agencies. Also the SBPAC provided focus for listening to Malay-Muslim concerns and representing their interests. Besides serving as a forum where community leaders could voice their grievances, the Center was instrumental in promoting Islamic banking, permission for female Muslims in public institutions and schools to wear headscarves, and preparation for the annual Hajji pilgrimage.

### **The Recent situation**

By the late 1980's the secessionist movement had largely subsided. Nonetheless, violence still flared occasionally. In August 1993, 34 schools were torched, and there were approximately 70 violent incidents in 1997, 37 in 1998, 14 in 1999 and 28 in 2001 (Bangkok Post, 11 Nov. 2002).

The level of violence escalated in December 2001 when five police and a village defense volunteer were killed on Christmas Eve. This was followed by regular killings of police and government officials. Violence took a new apparently ethnic form on October 29, 2002, when arsonists attacked five public schools, a Buddhist temple, and a Buddhist shrine. Violence against public and security forces continued throughout 2003, leaving at least 50 dead by the year's end.

A further dramatic escalation occurred on January 4, 2004, when a group of more than 100 insurgents raided an arms depot of the 4<sup>th</sup> Army Engineers in Narathiwat. They killed four Buddhist Thais and seized a cache of 413 small arms and 2000 rounds of ammunitions. As diversionary moves, they also torched 20 public schools and burned rubber tires as well as planted fake explosives, in neighbouring Yala province.

Martial law was then declared over wide areas of Narathiwat, Yala and Pattani and extended to the entire area in February of the same year. Nonetheless, the violence continued on an almost daily basis, targeting state schools and offices, security forces, government officials and also the general public (including many Muslims). There was also an unprecedented event, three Buddhist monks were killed in late January. On April 28<sup>th</sup>, 2004, one of the bloodiest days in Patani region history took place. 107 Malay-Muslims and five security officials were killed, including 32 Malay-Muslims hiding in Pattani's historic Krue Se Mosque, in an incident a government-appointed Independent Fact-Finding Commission later described as involving "disproportionate" use of force. Most of the dead were young, and attacked security posts armed only with knives and *parang*. A further major escalation occurred on October 25, 2004, when police fired on a crowd protesting the detention of six village defense volunteers, whose shortguns had been stolen. Seven people were killed. 1300 protestors were then arrested and taken away for detention. 78 people were suffocated during transportation in crowded trucks

from the protest site in Narathiwat's Tak Bai District to the Army camps in Pattani and other provinces. From that incident onwards, violent attacks and killings occurred on a daily basis. The latest serious incidents, which deeply alarmed the government and the public throughout Thailand, were the bombings which occurred at Had Yai International airport, at the foreign-owned Supermarket in Had Yai City and at the local hotel in Songkhla City on April 3rd, 2005.

As of the present day, the violent incidents do not seem to have ceased despite the fact that the government has made several attempts to deal with the problems, but with not much success.

### 2.3. The Socio-Cultural Structure of the Three Southernmost Provinces

Of the estimated five million Muslims in Thailand, approximately 3 millions or so reside in the three provinces. The Muslim population in these three provinces is ethnically Malay and they identify themselves as *nayu*. Their lingua franca is a Malay dialect, referred to locally as *Yawi* language. The Malay-Muslim population constitutes approximately 80 percent of the total population in these three provinces. Patani region is, for the Malay-Muslims, the cradle of Islam, second only to Mecca and they are extremely proud of being Patani Muslims vis-à-vis being Thai Muslims. Currently there are a few hundred *Masjids* or mosques in these three provinces, which indicate that the Muslims in the region are serious practitioners of Islam. Besides, there are also many different "institutions", where Islamic learning constantly takes place. For example, there are 1,343 *Tadikas*, which stands for "Taman didikkan kanak kanak", meaning an informal institution, where young children are taught Islam. There are 249 traditional *Pondoks*, the 'residential institution', where adults come to study Islam with the respected Muslim Gurus. In addition, there are well over 800 schools, private and public, teaching Islamic studies. There is one private Islamic College, financially supported by some Arab governments and private Islamic organizations. There is one Islamic Studies College in the public university. Culturally, they are practicing Islamic and Malay traditions and customs i.e. in their birth, marriage and death ceremonies. Inter-marriage with the Buddhist Thais hardly happens. They dress in Malay fashion and almost always wear headscarves. Some younger female generations even cover their faces like those in the Arab world. Their strict practices of Islamic and Malay cultures and customs apparently distinguish them from the Buddhist Thais and other ethnic groups in the region. In the past, the Malay-Muslims and the Buddhist Thais at the village levels were reported to have had a fairly close relationship because they shared some moral values that revolve around meritorious and sinful acts. It was therefore natural that the Muslim-Malays and the

Buddhist Thais at the village level hardly had serious conflicts based on religious differences.

The Malay-Muslims and the Buddhist Thais began to be suspicious of each other when they were politicized either by the Thai Governments, or by the Malay-Muslim separatist movements.

#### 2.4. The Economic Structure of the Three Southernmost Provinces.

The population in these three southernmost provinces consists of three major ethnic groups, namely the Thai, Chinese and Malay. In terms of number, the Malay is the biggest. However, the economy in the region is mainly in the hands of the Thai-Chinese group. In the public sector, the majority is the Buddhist Thai or the Thai-Chinese. The Muslim-Malay is largely engaged in small fishing activities in the coastal areas and in small-holdings of rubber trees. Some are engaged in small local trading. However, in the recent past, an increasing number of the Muslim-Malays have entered the public sector, particularly in teaching and health services. Yet, on the whole, the Muslim-Malay is the poorest among the three groups. As a region, it is probably the poorest among the fourteen southern provinces. The statistics from the Office of National Economic and Social Development Board (NESDB) in 2004 show that in 2002 the number of poor people in the three provinces was higher than in other southern provinces (approximately 60% of the total number of southern population) and the GNP of the population in these provinces was TH Baht 2,600 per month<sup>1</sup>. The GNP of the population in Narathiwat was the lowest in all southern provinces (Approximately TH Baht 2,224<sup>2</sup> per month). The economic structure of this region is basically agricultural. There are a few factories related to seafood processing, natural rubber products and palm oil production. In some urban bordering towns, like Betong and Su-ngai Kolok Districts in Yala and Narathiwat, tourism is one of the main income-generating activities due to the popularity of the places among a great number of Malaysians and Singaporeans. As the statistics from NESDB in 2001 show agriculture accounts for 47.1 %, Manufacturing 6.9 %, trade 14.6 %, services 10.3 %, banking 1.6 %, and others 19.5 % of the production structure. However, it is reported that there are various kinds of so-called 'shadow' economies, for example, the cross-border smuggling of goods from Malaysia, illegal petroleum trade, drug trade, gambling and prostitution. Therefore, there are different kinds of organized crime groups working in this region. It is also reported that the "influential people" in this region are

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<sup>1</sup> This is approximately USD 65

directly or indirectly backed up by either the high-ranking officials,... civil, police as well as military or by the politicians,...local and national.

### **3. Possible causes of conflicts and violence in the southern region**

There are many studies and analyses concerning the root-causes of conflicts and violence in the three Muslim-dominated southern provinces. The conclusions of these studies and analyses point to the factors such as religio-cultural differences, economic disparity, competition for resources among different ethnic groups, and the imposition of certain government policies. This conclusion has given the impression that the conflict is between or among ethnic and religio-cultural groups. This impression has eventually become a “standard explanation” for the conflict problem in the region. To be sure, cultural and religious insensitivity has contributed to the conflict. But the conflict is not between the Buddhist Thai and the Muslim-Malay in the region, it is the conflict between the central government and a group of local Muslim-Malay leaders, who are politically, ethnically and culturally conscious. Many social and economic policies that have been implemented in the region have negatively affected the Muslim-Malays, particularly their leaders, politically, economically, ethnically and culturally. It is not only the internal factors that help create conflict between the local Muslim-Malays and the central government, there are external forces also at work. The recent Islamic resurgence all over the World as a reaction to Globalization, economic injustice, Western neo-liberalism as well as the political hegemony of the West has also played an important part. When the present Thai government actively supports these ideologies and practices, the negative impact has seriously affected the disadvantaged groups in society, particularly the Muslim-Malays in the region. The support of the present Thai government, covertly and openly, for the American and the British governments in the Iraq War has angered the Muslim-Malays even more. Many violent actions believed to be undertaken by the militant Muslim-Malay groups could be attributed to these causes. However, there is some evidence, which seems to indicate that many violent incidents that have taken place in the region were not carried out by the Muslim-Militants, but by other organized groups in the region itself. They may be those of the organized crime groups, or they may be those, whose political and economic interests were threatened by the recent government policies, i.e. the arrest and the killing of drug dealers, the arrest of local influential people and the like. Some observers even go as far as to suggest that some of the recent violent actions were undertaken by the police or the military in order to exercise their power to regain their

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<sup>2</sup> USD 5.5

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authority in order to control the southernmost region. These observations may be true or untrue, it has yet to be confirmed, but the important point here is that the conflict in the south is extremely complex and dynamic. It is therefore quite dangerous to make the definite conclusion with regard to its root-causes. It is widely accepted by both the academe and practitioners that more systematic and deep critical analysis is required before any sustainable peaceful solution is possible.

It is however, quite positive that the present government has finally decided to appoint the National Reconciliation Committee, headed by the former widely respected Prime Minister, Anan Punyarachun, to help find ways to resolve the conflict in a peaceful manner. This Committee was appointed in March 2005 and it may take quite some time before any practical plan of action would be systematically undertaken and even longer for it to successfully materialize.

#### **4. The Governments' Measures to Cope with the Conflict**

The Royal Thai government in the past up until now has taken a firm position that the Thai nation is inseparable. Consequently, any proposal or demand put forth by the Muslim-Malays in the Southern region to the Central government has been viewed by the authorities as an act of separatism by the Muslim-Malays and the reaction from the authorities has almost always been very swift and strong. This naturally has led to retaliation. Besides using military and police forces in dealing with the conflict, the Thai governments in the past tried to implement certain projects in the region. For example, the educational and training programs for the Muslim-Malay community leaders, the training and support for the villagers to perform what is called the "village self defense groups", provision of special quotas for Muslim-Malay students to study, with full scholarship, at the higher educational institutions, provision of support for the Muslim-Malays to undertake pilgrimage to Mecca, provision of financial support to build the central mosques in these provinces, building new educational institutions in the region, improvement of infra-structure, and so on. In some governments, some Muslim-Malays were appointed in important positions at the port folio level and to some high-ranking official positions. Yet, the conflict has at best been only contained, but never resolved. At the same time some Muslim militant groups reacted to the government's projects and measures to keep the fighting momentum going, in the hope that they could gain support from the masses in putting pressure on the governments to yield to their demand. This naturally led to more conflict. Some Muslim-Malays as well as some Thai politicians thought that if the Muslim-Malays participated more in the constitutional politics, the militant groups would eventually stop their underground activities. Consequently, the

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Political Party, the Aspiration Party or *Harappan Baru* was formed, led by the former Commander-in-Chief of the Army, General Chavalit Yongchaiyuth. This party has many Muslim-Malays as the Board members of the Party and when this Party formed the Government, some of the Muslim-Malays were appointed to ministerial positions. This Party has been accepted with high regards by the Muslim-Malays. Unfortunately, the Party was finally merged with the Thai Rak Thai Party, the present government, which is not well accepted by the Muslim-Malays. The present government at first viewed the conflict in the region as the operations of the ordinary organized crime groups. Consequently, the government changed its policy to deal with the southern situation. However, when the situation became worsen years later, the government viewed the situation in the southern region as the operations of the Muslim-Malay separatist groups once again. Consequently, the government approach to the conflict has been harsh and non-compromising.

Various suggestions have been raised by the local academicians and civil society for the government to soften its approach towards the Muslim-Malays by using more humane and peaceful measures to solve the conflict. Unfortunately, the government did not heed such suggestions until the situation escalated to the point, which clearly indicated that the government policy to solve the conflict in the southern region had come to an impasse. The government then decided to appoint the National Reconciliation Committee, led by the former Prime Minister, Anan Punyarachun, to help mediate the conflict. It is at this point too soon to make any conclusion whether the task of the NRC will be successful.

### **Alternative Ways to Help Solve or Minimize the Conflict**

From the past, the amounting evidence has clearly shown that the government or the Executive Branch alone is unable to successfully cope with the conflict. The more the government attempts to solve the conflict through various means, the more violence is unfortunately created. Under the democratic system, where the check and balance mechanism is in place, it is quite naturally expected that other Branches, especially the Legislative Branch or the Parliament, would be able to take an active role in helping the Executive Branch to solve or minimize the conflict. However, it is necessary to carefully look at the powers and duties of the Parliament or the National Assembly under the present Constitution to analyze whether it is actually able to perform its duties effectively in dealing with this matter.

## **5. Powers and Duties of the National Assembly**

As mentioned earlier, whenever any problems within society take place, it is assumed that only the Executive Branch or the Government should take full responsibility in solving such problems. While this is correct because it is the basic responsibility of the government, it is also true that other sectors of society have the duty to help solve societal problems. In a society where a so-called “Representative Democracy” is adopted as a form of government, all members who are elected by the people as their “representatives” who must act with responsibility to solve the problems of the society. In a society where “Participatory Democracy” is adopted as a form of government, not only those who are elected, but also the voters must be active in helping solve the problems of the society. Currently, Thailand adopted the “Representative Democracy” model, it is therefore the “representatives” must act in the name of the people to solve the societal problems. However, as we have observed, the members of the House of Representatives and the members of the Senate, who are directly elected by the people, did not seem to perform their duties effectively in the case of the southern conflicts. It is therefore important to closely look at their powers and duties.

The current Constitution of the Kingdom of Thailand is, as agreed by many, one of the most progressive constitution in the south east asian region. The Administrative and the Legislative branches have separate functions and there is a controlling mechanism through a check-and-balance system. In addition, there are several independent organizations, which operate in accordance with the Constitution, namely, the Constitutional Court, the Administrative Courts, the Human Rights Commission, the Ombudsman etc. to help protect the rights of the people and to make sure that the administrative and the Legislative branches are transparent and perform according to Constitutional provisions.

The National Assembly consists of the Senate and the House of Representatives. Joint or separate sittings of the National Assembly shall be in accordance with the provision of the Constitution. The Speaker of the House of Representatives is President of the National Assembly. The President of the Senate is Vice President of the National Assembly. A bill may be enacted as law only by and with the advice and consent of the National Assembly. After a bill has been approved by the

National Assembly, the Prime Minister shall present it to the King for signature within thirty days as from the date he receives such bill, and it shall come into force as an Act upon its publication in the Government Gazette. If the King refuses His assent to a bill and either returns it to the National Assembly or does not return it within ninety days, the National Assembly must re-deliberate on such bill. If the National Assembly resolves to affirm the bill with the votes of not less than two-thirds of the total number of existing

members of both Houses, the Prime Minister shall present such bill to the King for His 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.

Powers and Duties of the National Assembly of Thailand can be broken down into three major aspects, namely,

- (1) Power and Duties to Promulgate Laws.
- (2) Powers and duties to control the administration of the State affairs.
- (3) Power and Duties to give approval of important issues.

### *1. Power and Duties to Promulgate the Laws*

The power and duties of the National Assembly to promulgate laws to govern the nation is the main task of the institution. This is so, as laws are required to manage and rule the state, to ensure rights and liberties, equal rights and justice within society. Therefore, the promulgation of laws must be for the greater good of the people, to ensure that their rights and benefits are protected and upheld. It is for this reason that the National Assembly is charged with taking the aspirations of the people and ensuring that they are achieved.

### *2. Powers and duties to control the administration of the State affairs*

The administration of the State affairs process is an important principle in the parliamentary system. By and large, the constitution has defined the relationship between the legislative and administrative branches of government, and each has its own powers and authorities, controlled by a check-and-balance system to ensure fairness and honesty. The administrative branch has the power to dissolve parliament for new general elections, at the same time, the legislative branch of government has the power to control the administrative branch. Under the current constitution, the House of Representatives and the Senate have the power to control the administration of State affairs. There are several methods by which the House of Representatives and the Senate can interrogate and introduce debates of no-confidence to remove the Prime Minister or individual minister, namely.

#### 2.1 Interpellation

Any member of the Senate or the House of Representatives has the right to interpolate a minister on any matter within the scope of his authority. The member so doing must submit a written interpellation in advance to the President, or the Speaker, of the associated chamber. Such interpellation may address matters of fact of policy. The answer to the interpellation shall be

printed in the Government Gazette or provided at a sitting of each chamber. Only the interpellation of the Leader of the Opposition or the interpellation which the President or the Speaker, as the case may be, deems that it is an urgent matter or concerning public interest or useful for State administration.

## 2.2. Initiation of a debate to put forward a motion of no-confidence in the Prime Minister or individual ministers.

To initiate a debate of no-confidence in the Prime Minister, it is required that not less than two-fifths of the total number of existing members of the House of Representatives have the right to submit a motion for a general debate for the purpose of passing a vote of no-confidence in the Prime Minister. Such motion must nominate the suitable next Prime Minister. When the motion has been submitted, the dissolution of the House of Representatives shall not be permitted, unless that motion is withdrawn or the resolution is passed being supported by a vote of not less than half of the total number of existing members of the House of Representatives. Members of the House of Representatives of not less than one-fifth of the total number of existing members of the House of Representatives have the right to submit a motion for a general debate for the purpose of passing a vote of no-confidence in the Prime Minister.

In the submission of the motion for a general debate of no-confidence in the Prime Minister or individual minister, if it is concerned with the behavior of the Prime Minister, which involves circumstances of unusual healthiness, exhibits a sign of malfeasance in office or intentionally violates the provisions of the Constitution or law, a supporting request for the removal of that person from his or her position must be filed with the Senate. If no such supporting request is made, the action cannot proceed. A minimum of one-fourth of the total number of existing members of the House of Representatives, or a total of not less than 50,000 eligible voters may initiate this action with the President of the Senate.

If general debate is concluded with a resolution not to pass over the agenda of the general debate, the House of Representatives shall pass a vote of confidence or no-confidence. Voting in such a case shall not take place on the date of the conclusion of the debate. The vote of no-confidence must be passed by more than one half of the total number of existing members of the House of Representatives. In the case where a vote of no-confidence is passed by not more than one-half of the total number of existing members of the House of representatives, the members of the House of Representatives who submit the

motion for general debate shall no longer have the right to submit another motion for a general debate for the purpose of passing a vote of no-confidence in the Prime Minister throughout the session.

The current constitution of the Kingdom of Thailand can propose a general debate, if that motion is supported by at least three-fifths of the total number of existing members of the Senate. The debate will call on ministers to present facts or provide information on important issues related to the administration of the Senate. Such a special session without a previously approved motion can be held only once during any parliamentary session. In addition, the National Assembly also has numerous committees; both standing and Ad-hoc committees to find facts relating to a wide variety of issues. The activities of these committees fall within powers and duties of the National Assembly in order to ensure transparency and to supervise the work of the administrative branch.

### *3. Power and duties to give approval of important issues.*

The Constitution stipulates that the National Assembly has powers and duties to address important issues such as the appointment of the Regent, the closing of parliamentary session before its deadline, declaration of war, entering into certain contracts with other nations, etc. In addition, the Constitution of the Kingdom of Thailand empowers the National Assembly to select members from various organizations. The King shall appoint the nominees upon recommendation from the Senate and the King also has Royal Command to remove political appointees such as the Ombudsman, and the National Human Rights Commission.

## **6. Powers and Duties of the Senate.**

The Senate currently consists of two hundred members, elected directly by the people in each Changwat, which is regarded as one constituency.

The Senate has the following powers and duties.

- (1) The Legislation
- (2) The Control of the Administration of the State Affairs
- (3) The Approval of the Important Issues
- (4) The Consideration of Selection, Appointment, Recommendation and Approval of Persons in the Inspection Organs
- (5) The Removal from Office
- (6) Other Roles, powers and duties

In this paper, we shall discuss only the powers and duties that are related to the conflict issues.

### 1. *The Legislation*

The Senate has the power for the following:

- 1.1. The Consideration of the bills or the organic law bills
- 1.2. The Consideration of Annual Appropriations bill
- 1.3. The Consideration of bills or bills which the Council of Ministers indicated in the policies announced to the National Assembly as necessary to the administration of the state affairs in cases where the House of Representatives disapproves with a vote of less than half of the total number of the existing members of the House of Representatives.
- 1.4. The Approval of the Emergency Decree
- 1.5. The Consideration of the Constitutional Amendment in the Joint Sitting of the National Assembly.

### 2. *The control of the Administration of the State Affairs.*

The control of the administration of the state affairs refers to the control and inspection of the works of the Executive in accordance with the announcement of its policies to the National Assembly including the constitutional provisions and rating laws. The power to control the administration of the state affairs therefore becomes a significant power in the democratic government under the parliamentary system. This power is vested in the House indicated by the powers and duties in the constitution, although the Constitution provides this power to the House of Representatives only. In certain periods the Constitution provides this power to both Houses.

For the Senate, the Constitution provides the power to control the administration of the state affairs with the following means.

- 2.1. The Interpellation
- 2.2. The general debate
- 2.3. The establishment of the committees

#### 2.1. The Interpellation

Every member of the Senate has the right to interpellate a Minister on any matter within the scope of his or her authority, but the Minister has the right to refuse to answer if it the Council of Ministers is of the opinion that the matter should not yet be disclosed on the ground of safety or vital interest of the Senate. The answer on the interpellation shall be given in the Government Gazette or at the sitting of the Senate.

#### 2.2. The General Debate in the Senate

Members of the Senate of not less than three-fifths of the total number of the existing members of the Senate have the right to submit a motion for general debate in the Senate for the purpose of requesting the Council of Ministers to give statements of facts or explain the important problems in connection with the administration of the state affairs without a resolution to be passed. The motion for general debate may be submitted only once in each session.

### 2.3. The Establishment of Committees

The Senate has the power to select and appoint members to constitute ad hoc committees in order to inquire into or study any matter within the powers and duties of the House and to report to the House. For the Committees' practice, the committees have the power to demand documents from any person or summon any person to give statements of facts or opinion.

## 7. Powers and Duties of the Ombudsman

According to the Organic law on Ombudsman, the mandate of the Ombudsman is as follows:

- (1) Consider and investigate complaints when;
  - 1.1. A civil servant, member or employee of a government body, state agency, state enterprise or local government violates the law or exceeds the jurisdiction of his or her authority;
  - 1.2. When an action or inaction by civil servant, member of employee of a government agency, state enterprise or local government causes harm, damage or injustice to an individual or to the general public, whether or not this action or inaction is within his or her jurisdiction; or
  - 1.3. The law warrants investigation
- (2) To submit reports, comments, and recommendations to the National Assembly
- (3) If, in the opinion of the Ombudsmen, a law, regulation, or action of individual under Section 16 (1) is in violation of the Constitution, the Ombudsmen shall refer the matter to either Constitutional Court or an Administrative Tribunal, as appropriate, for further review.
- (4) Any complaint not within the jurisdiction of the Ombudsman or not accepted for consideration by the Ombudsmen under Section 25 may be referred by the Ombudsmen to the appropriate government body,
- (5) Notify the authorities concerned in government departments, independent agencies, and state enterprises about the suggested procedures and provisions so that the agency concerned will be able to adjust and amend the related laws,

regulations, orders, or Cabinet Resolution. If it is a Cabinet resolution, the Ombudsman has to report it to the Cabinet.

- (6) If the evidence found indicates that an officer, who was the source of the complaint, is guilty of criminal, disciplinary, or corruption charges, notify the agency of the officer concerned in order for them to undertake further investigation. The chief of the agency has to report on progress of the investigation to the Ombudsman, every three months.
- (7) Request government departments, independent agencies, and state enterprises to submit facts, evidence, witnesses, and related documents to the Office of the Ombudsman in order to support an investigation. Request the Attorney General's Officer, investigating officer to fulfill examination by providing information
- (8) Issues related to the rules and regulations under the Organic Law on Ombudsmen 1999.

#### **8. The Potentials and limitations of the Thai Parliament in dealing with the southern conflict**

The present Parliament or the National Assembly has full legitimacy, as a representative of the people, because the members of the Parliament were directly elected by the people in the General Election. In addition, considering the powers and duties of the National Assembly, the Senate and the Ombudsman, as stated in the Constitution, it is clear that in theory or in principle, these institutions could play a vital role in dealing with the issues of conflict within Thai society because these institutions have powers and duties, which may be used to support the Executive Branch to solve the conflicts in the southernmost provinces. The potentials of the Parliament could also be further strengthened to perform its main task. However, in practice, there are many limitations, which make it very difficult for these institutions to play their roles effectively. The serious drawback of the present Parliament is that there is no genuine separation between the Executive Branch and the Legislative Branch. As Dr. Suchit Boonbongkarn, an architect of the Constitution and a former Constitutional Court Justice puts it (The Nation: June 8:2005: pp.5A), "the problem is, we have a one-party government with too many House members, which means that other parties have little room to maintain the proper mechanisms of democracy. Such strong government leads to a situation where it is next to impossible to censure a minister suspected of corruption, not to mention initiating a no-confidence debate on the prime minister, a move that requires at least 200 House members to support it. Another problem is the independent agencies themselves. They are supposed to scrutinize the government, but in reality they are not truly

independent...when the government, with too many House members in hand, will ruin the check and balance system..." In a nutshell, the Thai present Parliament is, as Michel Foucault, a French philosopher, puts it, a theater. The members of the Parliament simply perform their roles for the public to see via the televised programmes, but no real decision is made in the Parliament. The real decision is made somewhere else. "A closer examination of parliamentary mechanisms supports such assertion.

### **8.1. Ombudsman**

This institution has in theory powers and duties to support the government to effectively solve the conflict problems in the society, but in practice, this Office has very limited number of personnel and budget. In addition, the selection process, which must be approved by the Senate, is not genuinely independent from government influence because many Senators have close connection with the Government Party. Even if the Ombudsman is recognized by the public as an individual of honesty and integrity. An individual with knowledge and experience in administration, it is very difficult in the Thai cultural context to expect that these members would perform their responsibilities independently from those who support them. In addition, there are only three Ombudsmen in the office. Given their important and huge responsibilities, it is almost impossible for the Ombudsmen to perform their task effectively. If this institution is assisted in terms of personnel, qualitatively as well as quantitatively, and sufficient budget, this institution could make a great deal of contribution in dealing with conflict issues, particularly the conflict in the south.

### **8.2. The Senate**

The Senate is supposed to be an institution with great integrity and honesty. It is very clear from its powers and duties that the Senate could effectively help support the government to deal with the conflict in the south. The Senate has, in theory, the power to prevent the government from undertaking violent action against the Muslim people through various means as stipulated in the Constitution. Also, the President of the Senate has the duty to give advice to the Prime Minister for the referendum in the issues affecting national or public interests. The Senate has power even to remove the Ministers or Prime Minister from the office, if they exercise their power contrary to the provisions of the Constitution or laws.

The question is why the Senate has not performed its task and responsibilities as it is supposed to perform. The intensive interviews with some active and progressive Senators and the studies carried out by Noranit Setabutr et al (2003) as well as undertaken by Montri Roobsuwan et al (2003) reveal the fact that the Senate is not truly independent from the political parties' connections. The majority of the Senators are part

of the Government's entourage. These senators support the government policies and actions as if they are members of the Government's Political Party. They never perform their task honestly and with integrity as they are supposed to perform according to their powers and duties. The analysis of the data gathered from interviews with some senators indicated quite clearly that of the 200 present senators, less than 15 % of them are truly independent from the political parties. Some senators are even the spouses of government M.P's or cabinet members. Consequently, when the government uses violent means to crush the Muslim-Malays in the southernmost provinces, most Senators are not against it. There are few Senators, who are politically partial and work with honesty and integrity, interpellate the government and speak in public against the government policies concerning the Muslim-Malay issues, but their voices were unheard by the government because the majority of the Senators strongly support the government. Some committees, for example, the Foreign Committee, Environment Committee, Social development and Human Security Committee have visited the area and investigated the incidents in order to give advice to the government, but to no avail.

This inherent problem is very difficult to solve because the Election Commission at all levels have not been effective in preventing the violation of the election laws by candidates. Worse still, some of the Commission members were overtly or openly supported by the government party. In addition, because of the fact that the majority of the Senators have some connection with the Government Political Party, it has not been possible for the Senate to submit a motion for a general debate in the Senate for the purposes of requesting the Council of Ministers to give statements of facts or explain the situation in the southernmost provinces.

When the Senate is not truly independent from the Political Parties, it is impossible to effectively exercise its power to control the administration of the State affairs. Hence, the Senate has not been able to really control the Administration concerning the conflict in the southernmost provinces. This limitation is extremely difficult to eliminate in the present system.

Another limitation of the Senate regarding the dealing with the conflict in the south is that the Senate has limited budget and, worse, the limited budget is used for other purposes.

### **8.3. The House of Representatives**

In theory, the House of Representatives, like the Senate, must perform its duties in accordance with honesty and with integrity for the common interests of the Thai people. However, in practice, the great majority of the House of Representatives (377 out of 500) belong to the Government Party. Under the leadership of Thai Rak Thai party, it is very clear that the Members of Parliament, who belong to this party, have no or very little

chance to voice their opinion independently. They must obey the Party line strictly. The members of the Opposition Parties on the other hand constitute less than the legal requirement to submit a motion for no-confidence debate. Therefore, the power of the House of Representatives is much less effective because the majority of its members vote to support the Government's policies and actions. The members of the House, who belong to the Opposition Parties, may interpellate the individual Ministers, but it is not effective at all because it is defeated by the majority votes in the National Assembly. In addition, most members of the House of Representatives have either no genuine interest or no deep knowledge about the conflict in the southernmost provinces. They therefore support the government policies and action without much understanding of the situations or they are simply indifferent to the situation.

From the above analysis, it is clear that under the present circumstances, the Parliament as an institution has a very serious limitation in performing their duties independently from the government control. It is believed that unless, the Opposition parties gain more support from the people and the Members of the House of Representatives, on the Opposition side, and the Senators are better equipped and enter the political arena with a higher degree of sincerity and integrity, the role of the Parliament, as an institution, in dealing with serious matters like the internal conflicts, is hardly possible.

## **9. Can the present Parliamentary System be strengthened to perform its task more effectively and efficiently?**

In principle, there are various ways, which the Parliament as an institution as well as the parliamentarians as individuals may be assisted to develop their potentials and minimize their limitations to effectively perform their task as stipulated in the Constitution. From our analysis of the data collected from the Parliamentary documents and from the interviews with some Members of the Houses, it indicates that the following activities or projects may be undertaken.

9.1. Strengthening and developing the Parliament, as an institution, by providing financial support to each Parliamentary Committee in terms of hiring qualified staff to help in collection, analysis and making recommendations to the Committee so that the Committee would be able to work with strong evidence-based proposals.

9.2. Improvement of the Management Information System of the Parliament, including its library system. This may be done by providing more financial support to buy modern information and computer technologies (ICT), relevant

books and journals, Thai and foreign. In addition, support to hire the best-qualified personnel to help effectively prepare ready-to-use information sets for the Parliamentarians. Without such mechanisms, it would be unrealistic to expect that the relevant information and knowledge would be used by the members of the Houses.

- 9.3. Support the internship Programme by providing fund for the Parliament to have interns to assist the House members in matters that are needed. Any member of the Houses must however request the interns with written proposal for approval.
- 9.4. Study and/or visitation Programmes for the conflict-related Parliamentary Committees to meet with and learn from similar Parliamentary Committees in the countries where the internal conflicts exist.
- 9.5. Support the individual Parliamentarians and the Parliamentary Committees to work closer with some relatively independent organizations such as, the Council of the Supervisors for National Social and Economic Development Board; the Council of Rural Community Leaders; the King Pokklao Institute; the Thailand Development Research institute; the universities; the Law Society and the independent media.
- 9.6. Support the Ombudsman by providing qualified staff and funds for this mechanism to be able to perform its task more effectively and with wider issues. The Ombudsman actually has a great potential to help deal with the conflict in the southernmost provinces, if it has sufficient support in terms of funding and qualified personnel. It could also be supported to work more closely with the civil society and other social institutions.

These activities or projects, if effectively carried out, would greatly enhance the capacities of the Parliament as an institution and those of the Members of the Houses as individuals in the long run because it is part of the political development process. However, under the present government, it is quite unrealistic to expect that the Members of the Houses, who are members of and those with some connection with the government party, will perform their task independently from the government.

Another alternative way to help strengthening the capacities of the members of the Parliament as individuals, particularly, those who are politically independent and try to perform their task with sincerity and integrity. These members are presently the Senators, who have no connections with any political parties. Some of them are the Chairs of some Parliamentary Committees. These Senators have worked with different civic groups outside the Parliament in the hope to empower the people so that they would be able to

actively take part in the socio-economic and political matters. The civic groups help supply them with hard evidence from the ground. In addition these Senators are actively working with the local NGO's in matters related to issues of Human Rights, Community Rights, the Rights of the minorities and so on. If these activities are constantly supported, these Senators would be able to continue working with the civil society and would be also able to expand the activities to cover more people and communities. Some Senators went as far as to argue that under the present circumstances, the Parliament as an institution, no matter how much support they get, would not be able to perform their task effectively in dealing with the conflict in southernmost provinces. Consequently, it was proposed that financial support from the international organizations would be best spent to empower the peoples' organizations through some individual Senators. They strongly believe that if the peoples' organizations and the civil society become politically stronger, through strong networking, and by thoroughly understanding the complexities and dynamics of the conflicts in the southern region, they would support the Senators and the Parliamentary Committees to resolve the conflicts problems in the country. They also believe that even without support from the Parliament, the civil society and other social institutions may be able to help solve the conflicts by themselves. At present, it is quite unfortunate that the civil society and the people organizations are not that politically strong because the present government has in a very subtle way weakened these organizations. It is believed that if the civil society works closely with the members of the Senate, it will have more room to carry out their activities. Furthermore, it is believed that when the civil society becomes stronger and bigger in scale, it will not only play a more active role in matters related to conflicts, but they will also elect the Members of the Parliament intelligently in the future general election.

We are also of the opinion that, given the present political climate in Thailand, another possible and practical way for the international organizations to effectively contribute to the development of the Thai Parliamentary system is to provide constant support to the Provincial Administrative Organizations (PAO's), the Tambol Administrative Organizations (TAO's) and the Municipalities all over the country. These organizations have their own "Assembly" and if these assemblies are sufficiently strengthened and developed, they would be able to successfully tackle the problems in their localities. For example, if the Assembly system of the PAO's, the Tao's and the Municipalities in the southernmost provinces are sufficiently strengthened, the conflicts in the region may be solved or at least minimized by these organizations' mechanism. We therefore suggest that the UNDP and other external donors seriously consider this alternative.

## **10. The Possible Contributions of the International Organizations for the Strengthening of the Parliamentary System in Thailand**

In the past and, to some degree at present, the Thai Parliament has been, directly and indirectly, supported in different forms to develop its capacity as an institution by some international as well as foreign funding agencies. For example, the technical assistance of the Konrad Adenauer Stiftung, through the Social Sciences Association of Thailand and through the Public Policy Institute, the support from the Asia Foundation for different training and programmes and research projects, through the universities and the government agencies; the UNDP-supported projects, through the King Pok Klao Institute; the USAID-supported programmes, through the universities and the governmental as well as non-governmental organizations and so on. Despite the fact that these supports yielded some positive effects for the improvement of the Thai Parliamentary System, the effects are, unfortunately, not sustainable. It was in part because the input was piecemeal and fragmented. The intensity of these supports is minimal and the continuity of the support is limited. In addition, these supports are, with few exceptions, not directly related to the conflict issues. Consequently, the Parliamentarians and the Parliament itself are not well-equipped to deal with the conflict issues in southern Thailand. As the entry point for the international organizations to help support the programmes, which would help strengthen the Thai Parliamentary system, we would suggest that the UNDP helps coordinate all the external donors, which have offices in Thailand and discuss with them the possibility of supporting the programmes for this purpose and after that the UNDP in collaboration with some local organizations, i.e. the KPI or other academic institutions, meet and discuss with various Parliamentary Committees to identify their needs and potentialities. Then, the external donors could decide in which areas they could provide support and how, so that their support would be most effective and the outcomes would be sustainable. As for the international organizations, which have no offices in Thailand, the UNDP may help organize the consultative meetings between those organizations and the Parliamentary Committees so that the needs and potentialities may be identified and the supports may be agreed upon.

We believe that the international organizations, especially those under the UN system, could play a significant role in the attempts to build and develop the capacities of the Parliament mechanisms. However, as outsiders, international organizations should, as a strategy, not impose their ideas or ideologies on any society, if their supported programmes are expected to have positive impact. In addition, international organizations must not be involved with party politics and should be sensitive to the local beliefs and


customs. We strongly believe that the international support would be most effective and likely to be sustainable, if the support is long-term and the intensity of the support is sufficient. Furthermore, the international support for the Projects must be sufficiently flexible to make them effectively work under the rapidly changing environment.

## **10. Concluding Remarks**

In the recent past, Thailand has been faced with various kinds of conflicts all over the country. These conflicts are caused by the competition for public resources, like forestry, river, coastal area, fisheries, ethnicity etc. The government has to deal with these conflicts constantly. However, the government alone cannot cope with the conflict situations effectively because some individual Ministers, the politicians and the high ranking officials have vested interest in these matters. It is therefore very important to help support the Parliament or some elements of the Parliamentary structure to become strong enough to be able to help resolve the problem within their jurisdictions. Under the peculiar political conditions at present, where the government Party is extremely strong and is controlling both the Senate and the House of the Representatives, it is difficult to expect the Parliament to perform its task effectively. Consequently, it may be better for any international organizations to be selective in supporting the members of the Parliament to strengthen their power and duties. It is suggested that international organizations may consider supporting projects, which some energetic and active M.P.'s work with the people and the civic groups in the localities. Also, it is suggested that the support to the "parliamentary system" be provided at the provincial, the City and the Tambol levels be seriously considered. It is our hope that through the civil society and some active members of the Houses, the aged-old conflict in the southernmost provinces would be resolved peacefully and sustainably.

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