

# Human Rights Violations in the Southern Provinces of Thailand

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## ABSTRACT

*The ongoing conflict in Southern Provinces of Thailand is one of the most prolonged ethno-religious conflicts in Southeast Asia. Southern provinces are mostly ethnic Malay-Muslim dominated area. The root cause of the conflict is (1) human factor arising from the excessive use of power by administrative authorities, the use of violence by the insurgents and thus leading to violent retaliation by the government; (2) structural factor caused by unfair treatment in the justice system and weak local economy; and (3) cultural factor characterized by the distinct ethnic and religious identity of the local population. The Muslims of Malay descent feels threatened by Buddhist rulers besides military leaders. The ongoing insurgency has been affecting the lives of local people, Buddhists and Muslims alike, as well as government authorities, both civil and military personnel. Over the last one decade the conflict has claimed more than 6286 lives and more than 11000 casualties were recorded among both Buddhists and Muslims. The effective state policy in addressing the issue by a peaceful means is lacked. Given the fact that, Government is failed to differentiate between insurgency and separatism, the excessive use of force and denial of basic rights further aggravated the conflict and criticized by international community. In this context this paper will try to find out the role of Thai government in human rights violations in the southern provinces of Thailand. It will also make an assessment of the special laws implemented in the name of preserving internal security.*

**Keywords:** *Human rights, Muslim identity, Insurgency, Injustice and Violations.*

## I. INTRODUCTION

Being the only country in whole Southeast Asian region that was never colonized, Thailand is not an exception who followed the nation building patterns of neighboring states in post-colonial era that often resulted in forced assimilation of minorities. Also an interesting as well as surprising fact about Thailand is that it is still struggling for political stability and legitimacy of institutions. The post-colonial assimilationist policies led the country into mayhem of ethnic conflicts specifically in its Deep South, which is dominated by ethnic Malays in otherwise Buddhist majority state. With the revived insurgency since 2004 which was thought to have been quelled by the 1990s (Legaspi, 2009) along with promulgation of twenty constitution and nineteen coups, Thailand is notoriously posit a wide array of human rights violation. The innumerable extrajudicial killings, torture, arbitrary detentions, excessive use of force, intimidation, disappearance of individuals suspected to be supporting insurgents is a concern of human rights defenders worldwide (Draper, 2013). The civilians became the victim of the hands of both

government and insurgents. The growing tension between the locals that is Malay Muslim and Thai Buddhist generated a chaos and legitimacy crisis for Bangkok. The peace talks initiated by Yingluck Shinawatra government was halted by the military Junta who staged the coup against Shinawatra government in May 2014. Since then violence is continue which fluctuates from low to high or vice versa. Over one decade from 2004-2014, there has been 14,688 incidents resulting in 6286 deaths and 11,366 casualties average 571 deaths per year (Deep South Incident Database). In the month of June 2017 alone, there were 47 incidents having killed 30 people and left 42 injured (ibid). In the current military dictatorship violence has escalated again and cases of human rights abuses also growing high.

## **II. BACKGROUND**

There are around 94 percent Buddhists, 5 percent Muslims and 1 percent Christian and others out of 66 million Thai populations. The Muslim population divided into two subgroups i.e. Thai Muslims (a heterogeneous group) concentrated in Bangkok and Northern provinces while ethnic Malay Muslims resided in Southern Provinces of Thailand who formed a majority there. The Deep South consisted of changwat (provinces) Pattani, Yala, Narathiwat and Songkhla. The ethnic Malays make up of 2.9 percent of country's total population. Perhaps this may be the reason that they have been marginalized in Thai politics and booming economy (The Asia Foundation, 2013). On the contrary, prosperous Thai Muslims are holding prominent posts in government and have successfully assimilated into Thai society (Aphornsuvan, 2003). The present conflict dates back to 1902, when Malay Sultanate of Pattani came under the direct control of Siam (former name of Thailand) (ICG, Report no. 198, 2005, p.6). The border demarcation was confirmed by 1909 Anglo-Siamese treaty that led to the foundation of present day conflict. In 1932 absolute monarchy was replaced by constitutional monarchy and the country led the first ever step towards establishment of democracy. Which soon proved weak and power falls into hands of military leader? The imposition of nationalism 1939-44 under the leadership of Phibul Songkhram, based on one nation, king and religion left no room for ethnic and religious minorities to be able to preserve their distinct identity. The imposition of Buddhist laws of marriage and inheritance over Shari'a angered the ethnic Malays (Che Man, 2003). In brief, the forced assimilation policies of Phibul attacked the Malay-Muslim identity on every aspects be it education, language, attire, or religious practices (Croissant, 2005). From then onwards this dissatisfaction and alienation with policies of state, triggered the series of violence which thought to be quelled by 90s escalated in 2004 on an unprecedented level. The ethno- religious nature of conflict sometimes misleads the international community to assume it as a case of international terrorism. Also, the presence of two communities in the region may also give the expression that conflict might be an internal communal conflict. The term insurgency can be suitable for ongoing unrest. Because, it stands for “a violent struggle among state and non-state actors for legitimacy and or influence over the relevant populations” (Boonpunth, 2015). Instead of using terms like Separatism, Terrorism or communal violence, insurgency can be a perfect term to name the ongoing unrest.

The hardcore approach administered by former Prime Minister Thaksin Shinawatra to handle the insurgency has widely been criticized. His mishandling and wrong calculation of the insurgency led to further increase in level and

scale of violence. The very first incidence of insurgency occurred in 2001, when bombing at 9 different places were reported in southern provinces. The rapid escalation of violent incidents occurred in 2004 when 1,154 incidents were recorded in that year. In 2007 alone 2,475 incidents were reported. The incidents dropped down slightly in 2010-11 which again saw an increase in 2013 having 1,639 incidents of violence (Boonpunth, 2015).

### **III. INCIDENTS OF HUMAN RIGHTS VIOLATION IN SOUTHERN PROVINCES**

The most acknowledged reason behind the violence has been considered as human rights abuses perpetrated by both state security forces as well as insurgents against Malay Muslims of the southern provinces. This argument based on the element that discrimination against Malays derived from Thai officials. Given the fact that Malays believed to be disloyal and lack of available identity except ‘Thai’ attributed to the ongoing conflict in Deep South. The ignorance and lack of understanding the nature of conflict make it difficult to find any possible political solution (Thangsupvattana, 2009). In 2002 civilians was charged and beaten up brutally by police when they were demonstrating peacefully at Hat Yai against the construction of gas pipeline (Smith, 2004). The inhumane incidents of Kru Se Mosque and Tak Bai and later disappearance of a Muslim lawyer named Somchai Neelapaijit are seen as poor treatments towards Malay Muslims. From 2002 to 2011, there were 22 cases of disappearances of Malay Muslim men aged under 30s were recorded where 33 people were found guilty but no perpetrator got punishment. Ironically no perpetrators of torture and killing of Muslims were held responsible by the Thai state (Boonpunth, 2015).

### **IV. CAUSES OF INSURGENCY**

The historical factors that kept alive in the memories of people never led to forget that the region was once an autonomous sultanate. The forced assimilation denial of identity in public discourse made people alienated from the main stream Thailand especially Bangkok. Secondly, the cultural issues like- compulsory medium of education as Thai in government schools, increasing trend of Pondok education as an alternative, a distinct way of life made it difficult to create an understanding among the Malays and rest of the people. Thirdly, the underdevelopment and economic marginalization of the region create a rift between center and Deep South. Fourthly, the dubious policies and methods of Thaksin Shinawatra to handle the insurgency in south like: putting emergency decrees and dissolution SBPAC in 2002 and CPM 43 in 2004 proved disastrous for Malay Muslims. Fifth and most important one is lack of decentralization: the denial of Malay Muslims a role in policy making in local government further aggravated the dissatisfaction among local people. Worthy to mention that the religious as well as ethnic aspect of Muslim grievances in the southern provinces has always been triggered by discontent at Bangkok’s refusal to accept the unity in diversity.

### **V. LAWS THAT APPLIED IN SOUTHERN PROVINCES**

1) Martial Law: the law that enforced in 2004, authorized armed forces to carry out search and arrest without warrant. According to the decree, the suspect can be detained for seven days even without charge. Also the

suspect would face military court than court of justice. The army was given higher power than the other state agencies to control the region. The armed forces did not allow public gatherings; it could disperse the gatherings without notice. The detainees were denied judicial process, legal aid also the medical assistance (Pusittrakul, 2014 and Boonpunth, 2015).

- 2) Emergency decree: on 19 July 2005, Martial Law was replaced by this decree which gave power to police and ministry of interior besides military. This law has been responsible for many incidents of human rights violations. This decree enforced if the government designated an area as ‘under state of emergency’ which can be renewed every three months. It authorized to detain suspects for seven days without access to court. The location of detention was to be decided by military which could be other than police station or anywhere. The decree resulted in human rights violation for example: deprivation of liberty of the arrested person by putting limits on their rights to seek legal aid, medical personnel and family. Only protection that can be provided by this decree could be when the military, police and officers jointly signed a request for a judicial warrant (ibid). Former Prime Minister Anand Panyarachun called this decree as the license to kill people because after the release many people disappeared and never returned. The Sections 16 and 17 granted impunity of action to the officers and courts often gave ruling in favor of them (ICG, 2008). In the aftermath of 2014 military coup, the Martial law and Emergency decree have been applied frequently in many parts of the country along with Deep South. The laws together gave vast power to officials. A suspect held for seven days under martial law could be detained for another 30 days under emergency decree.
- 3) Internal Security Act 2008: The Internal Security Operation Command (ISOC) was formed under this law, which had to be responsible maintain internal security. The ISOC Region 4 covers the four districts in Songkhla province. According to International Commission of Jurists, this Act does not pose a threat to human rights and the rule of law on the same level as the Martial Law Act 1914 and State of Emergency Decree 2005. ISOC defined internal security as “any threat of disorder, destruction, and loss of life, limb or property of the people or the state” (cited in ICG, 2009). This law provided the guideline for arrest and investigation. The section 21 of the law empower the ISOC director to drop or pardon the accused after the rehabilitation or training of 6 months under military supervision with the condition that accused would pleaded guilty. The consent of court was made mandatory. The dubious character of accepting wrongdoings was concern of human rights violation in wake of using force by officials in order to obtain confession. This move was claimed to be a step towards granting amnesty to suspects and insurgents. But the issue of getting forced consent for training and rejection on the part of accused was not tolerated by officials. The consent issue could thus lead to human rights violations (Pusittrakul, 2014).

## **VI. IMPLICATION OF THESE LAWS AND THE STATUS OF HUMAN RIGHTS**

- 1) he authorities curtail a number of freedoms and rights of the people in the name of implementing these laws for security concerns. However, no criteria were fixed for using force given the fact that government invoked these laws out of necessity and proportionality.

- 2) These laws resulted in gross violation of human rights, such as torture or other cruel, inhuman and ill treatment of civilians and detainees. Many reports indicated the use of torture during interrogation. Around 80 per cent of suspects have been tortured while in custody; most of them were punched, kicked, hit with combat boots or other hard objects; some of them were assaulted, suffocated by plastic bag and other cruel treatment (ICJ, 2010).
- 3) The authorities were given power to hold any suspect in custody for 30–37 days by using the powers of those special laws. This concerns the fundamental legal safeguard for detainees – the access to court, lawyers, family or medical assistance (ibid).
- 4) These laws also exempted the authorities from liability, which may shield the authorities who violate human rights. According to Zachary Abuza (2011) there are provisions of impunity in the security laws, namely:
  - Section 7 of Martial Law Act combines with its Annex to give broad scope to jurisdiction of the military court, which may be used to exclude the possibility of trying military authorities in civilian courts.
  - Section 16 of the Martial Law Act also prevents a compensation claim against individual officials.
  - Section 16 of the State of Emergency Decree excludes the jurisdiction of the Administrative Court.
  - Section 17 of the State of Emergency Decree exempts the competent authorities from civil, criminal and disciplinary liability for the acts of good faith. But those acts have to be based upon non-discrimination, necessity and reasonableness. The provision does not exclude the possibility of compensation but raises the issue concerning what is a reasonable act on the part of the authorities.
  - Section 23 of ISA accepts the jurisdiction of the Court of Justice but totally excludes the jurisdiction of the Administrative Court (ibid).

The above provisions provided the authorities impunity for their actions lead to human rights violations on the part of authorities. On the other side of spectrum, the indiscriminate acts of violence perpetuated by insurgents on civilians should not be ignored. Therefore, the easy access of judiciary to assess the allegation against both authorities and insurgent is necessary to ensure the rule of law for all. In order to assess the situation and providing some ideas on step towards peace, the National Reconciliation Commission (NRC) was established in 2005. In its report NRC stated that “people in the area are affected by the insurgency, in terms of their lives and property, physically and emotionally, through direct personal experience and that of relatives But only a few have received redress” ( NRC,2006). It further recommended that issues of human rights violation needs to be tackled with utmost priority (ibid). In brief the enforcement of special laws is a contributing factor to violence in the South (NHRC, 2011).

The last Military Coup of May 2014 led by General Prayut Chan-o-cha, under the name of National Council for Peace and Order (NCPO) overthrew the elected government of Yingluck Shinawatra. On 1<sup>st</sup> April 201, martial law was replaced by NCPO Order No. 3/2015. This was issued under the article 44 of the NCPO-imposed interim constitution. The article grants the junta government utmost power to curb “acts deemed harmful to national peace and stability” (Human Rights Report, 2015). Further, the article 48 grants immunity to coup leaders for their pre or post-coup actions ignoring the legality of those actions.

It is pertinent to mention that constraints on civil liberties under NCPO, the most constant human rights problems are abuses by armed forces and local defense volunteers in the southern provinces and occasional excessive use of force by security forces (police and military), including harassing or abusing criminal suspects, detainees, and prisoners (ibid).

## **VII.CONCLUSION**

Despite the fact that Thailand has never been colonized by western powers who are notorious for policy of divide and rule, Thailand has failed to acknowledge the ethnic minorities residing in its territory from a long time. The Buddhist state based on the concept of one nation, religion and king lacked in providing equal treatment to ethnic Malay Muslims who formed a majority in southern province of Thailand. The only available model of citizenship denied any identity except being ‘thai’. This thainess has become problematic and source of humiliation for Muslims in the Deep South which is at war with Thai state since 1902, when Malay Sultanate of Pattani came under the direct control of Siam. Under the rule of General Phibul Songkhram 1939-44, the assimilationist policies left no room for ethnic and religious minorities to be able to preserve their distinct identity. The enforcement of Thai laws over Sharia generated utmost anger among Malay Muslims. The waves of resistant movements opposing Thai state resulted in a protracted social conflict with sporadic periods of violence. The situation has further been exacerbated by the fact that Thai state lacks knowledge and understanding of the religious and ethnic complexities of the region. The reoccurrence of violence in 2001 which intensified in 2004 have been ongoing till present day. The conflict claimed more than 6000 lives. The administrative machinery of Thai state sought to excessive use of power in order to curb the insurgency without liability. The enforcement of special laws such as Martial Law 1914, the Emergency Decree 2005, and the Internal Security Act of 2008 gave rise to human rights violations as these laws have vested authorities with exceptional power without safeguard against possible abuse. These laws granted state agencies the exceptional powers to detain suspects for investigating. Often investigation carried out on an undisclosed location with denial of medical and legal aid or access to contact family members. Also the treatment of person below 18 years is not matching with international norms. Irony reaches at its peak when officials responsible for abusing human rights got immunity from judiciary. The cases of torture, disappearance, extra judicial killings and denial of human rights have been justified by state agencies in the name of protecting internal security. While insurgents have often sought to justify their violent actions as retribution for state-sponsored abuses and the prevailing culture of impunity. In the infamous 2004 attack on Kru Se Mosque which resulted in killing of 32 men by security personnel despite the order of government to end the scuffle by peaceful means, is viewed as the case of human rights violation. In another incident at Tak Bai district of Narathiwat district in 2004, the security forces believed to be responsible for death of 86 civilians who were suffocated after being loaded into trucks while taking them to army camp for interrogation. The infamous disappearance of well-known Muslim lawyer Somchai Neelapaijit, the torturous death of Yapha Kaseng in 2008 and many other human rights activists are yet to be concluded. The popular belief among Malay Muslims is that the government will not provide them justice for violation and abuse of human rights.

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