

## Transitional Justice Thailand Working Group

20 Feb 2017, PSU Pattani

The Forum from Transitional Justice Thailand working group was organized on 20 February 2017 at Songklanakarin University, Pattani Province.



The forum started by Mr.Somchai Homlaor delivered opening remark and Dr. Srisomppo Jitpilomsri, Peace Center at PSU Pattani also delivered the closing speech. The panel of the forum consisted of Mr.Chamnan Chanruang, Dr. Poom Moolsilpa, Mr. Romadon, representative of Ministry of Justice, correction department, Asia Forum and victim family. The participants for the forum consisted of representative from Ministry of Justice, correction department, Internal Security Commander Region 4, local NGOs and activists, religion group, and local people. More than 70 people show up for the forum. The discussion was also shown live by Deep South Watch Facebook page and there more than 2,400 people watches the video. Ms. Pornpen Khongkachonkiet is MC of the event.

Pattani is one of the three southernmost provinces affected by violence in the south of Thailand. The unrest in the region was continuing for the last 13 years. People in the area are affected, the government has been pouring fund to the south in trying to bring peace and reconciliation to the region. The commissioner for peace talk was set up, special law and regulations put in place, and compensation pay to the victims of violence. Many rights groups in the region are working on TJ already which make it the best place to introduce the Transitional Justice Thailand working group project.

Under the Thai context, we have two different conflicts and violence. First is politically related, which causing the clashes between the supporter of the political parties. It has been many

clashed, and for the last forty years, many protesters died from the violence relating to political protest. However, the real investigation was never taking place. The primary focus after the clashed always been focusing on reconciliation of both parties.

The second context is the conflict and violence in the Deep South. In this respect resulting in many suspects being tortured for confession. Collateral damage was compensated but the same mistake such as arbitrary arrest, torture still happen by the same organization. This means it is important that Transitional Justice framework being put in place and make known to the member of society and make available should anyone need to use it.

For people affected by any conflict or violence must know the truth and the healing process can start for the victims. For the institutional reform can be initiated so the same mistake or illegal method would not be used ever again. The work toward prosecution of the perpetrator can be started. In Thailand when authorities were talking about reform they only focus on reform of law but not pay attention to other frameworks and sometimes do not understand what the reform is. Most people were only interpreting under their understanding. It is vital to figure out what is the reform and what is it for before it can be commissioning successfully. Truth need to come out as is important to understand the violence so the government can apply the rights police in solving the conflict. The most important voice is especially for the voice of the victims, civilian who are most affected by the violence because they will have to stay in the area after any policies to solve the conflict are launch.

Opening remark by Mr. Somchai Homlaor member of Transitional Justice Thailand



The grandchildren of the victim sharing experience of her lost



The forum was a 3:30 hours long and covering 5 different topics as follow;

1. History of Violence toward Civilians and Transitional Justice: By Mr. Chamnan Chanruang



Focusing on the history of the violence in the world and Thailand. Highlighting the cause of the violence happened around the world. The history of the political conflict and violence which was a normal occurrence in Thailand. So far there was not much investigation going into any of the incidents. The role of Army is further deepening fraction of a political party. The failure of Judiciary Institute to address the issue with its authority. Transitional Justice has been used in Thailand but it was not comprehensive, and the different organization does it independently without collaboration. The use of amnesty was also happening right after the violence in exchange for the agreement of both political parties for a peaceful society. The truth seeking focus only on peace and order for the society but never pay attention to the justice aspect. The government chose the answer for the society by saying that peaceful society is better than speaking of the hurtful truth. He suggests that the amnesty can be useful but not only one way to apply it and must not be the ultimatum. The amnesty must not use with the crime against humanity, war crime or genocide. It is important also for Thailand to work toward initiating truth-seeking commissioner for all the violence happened.

2. Truth - seeking and reconciliation in Thailand context: By Dr. Poom Moolsilpa

Given a lecture on the reconciliation and reform attempt of the Thai government. Focusing on the history of the successful story from around the world. Providing the example method used by many truth commissions from around the world and those set up by the Thai government as an attempt to reconcile and reform the society.

In the past when the commission's work on the reconciliation and reform they mostly focus on using or amendment of law which is not entirely correct. We need to look deeper into the society character. It is crucial to make people feel that it is everybody business to make the reconciliation happen. Must not make a mistake by dismissing any remarks by any organization that aim to help build peace. It is important to acknowledge that reconciliation is important, and all the commissions set up in the history need to use Transitional Justice as its framework, which was also happening in the past.



However, the attention has not been paying equal to all keys components, truth-seeking, prosecution, recommendation, and institutional reform. Making the reoccurrence of conflicts and violence in Thailand, especially political aspect which happens in almost every ten years. The most important in using TJ is that to ensure that all must be equally protected under the same law.

All the country that successfully conciliated were all use TJ as part of the process. However, they also tailor the TJ into their country context. When the truth and conciliation commissioner understand the conflict, and it is easy to set out the approach. Many countries wanted the truth and not the prosecution and if the people in high ranking responsible for the conflict and violence were prosecuted. This approach derived from the principle that in the future those perpetrators are still the member of society and they have to live in cohabitant.

There is not a fixed way apply TJ, but the most important thing is to remember that victim is the crucial part of truth and reconciliation process. Victims are the most affected, and they need to be heard both of their stories and their need to be rehabilitated. The victim will be the one able to say which approach is the justest. The commissioner must be carefully selected and must be a knowledgeable person, resourceful, patient and impartial, so the conciliation and reform have a chance of becoming successful.

3. Mr. Romdon Panjor was covering 'Is violence in Pattani, civilian and Transitional Justice.' The violence in the south of Thailand is different from other places in Thailand, and it is ongoing. The violence in the south for the past 13 years causing 6,446 people killed, 70 percent are civilians. In the time of ongoing conflict, the common judiciary system is not appropriate to handle the massive violation of human rights.



Many countries launched ad-hoc tribunals to take cases relating to the violence. In the south of Thailand, the case going to court is called security cases. Transitional Justice has also been used in the Deep South. There were many mechanisms launched and used by the government in the Deep South. Many mechanisms were used independently. The victims were compensated, many perpetrators prosecuted, under these two frameworks, the truth is also coming out in its process. Despite the fact that reparation is not only of financial compensation but also can be in the forms of official public apology, acknowledgment of the violence, the memorial day for the victims, Thailand is only focusing on financial compensation.

The most difficult thing to do here in the south is the institutional reform. It is something all people working in TJ needed to realize that to prevent the reoccurrence of mass violation of human rights these four frameworks must be used seriously. People who claim to want peace for the region must work together. The government must listen to the NGOs, and the NGOs need to cooperate with the authorities. Furthermore, the government must listen to the insurgent groups of what they have to say maybe then the peace process can happen. All parties must be heard. Thailand we have a lot of resources, there were reports of violence, and many commissions initiated, we need to be resourceful.

4. The representative of Ministry of Justice, who is now working in the correction department.

What is the transitioning, when is the time of transitioning and how do we know if it successfully transitions? However, because of the prolonged violence in the south making people living in fear of being attacked by the insurgency and many do not trust the government to be able to protect

them. As many time their son, brother, dad would be picked up by the authorities and do not tell them where those arrested held. People in the south set up a community group call 'community justice or CJ.' The CJ will be the where people go to when they face a difficult situation and needed help. The government also improve the functioning of the group as well. At the same time government create the scheme where they help provide financial compensation and legal aid to who fallen suspect security cases and need a legal assistant.



##### 5. The representative of Asia Foundation, Ms. Wipa Phusahut.

It is important to specify who the justice is for. Because there are many people affected by the violence. The next important thing is the transition, what we are transitioning to. How are we going to create the peace using Transitional Justice in the Thailand context is which is very complex and difficult. Of cause TJ can use in the middle of the ongoing violence, when is the appropriate time to use. In any conflict, there are conditions that we need to know before we start working on building peace because if we use the wrong method, it can create more damage than good. Therefore, studying the character of the conflict is the best way to start. More importantly, studying what the Transitional Justice is before use to prevent the misunderstanding.



There are four keys component of TJ which are easy to fail if there is no political will from the government who are in power. Additionally, any process that is going to use if lacking people support it is not going to work as well. Educating is important especially education to society making them understand why we need TJ, why the truth must come out, why prosecuting perpetrator is important, and what is wrong with the institution why is the need of reform. Member of the Society is the group that is going to indicate what policies the government must pay attention. Therefore preparing the people in the society for any new method suggested is important. To evolve it need time. Thailand has a lot of good law but it never been used, is it necessary that we introduce new tools when we have a lot of useful tools that never been used. The efficient use of the tools happens when we understand the tools and the context. It like an artist; the skill can reach perfection by practice. Therefore, TJ is important and it can works so we can start now and improve yourself and the tools in the process.

Notes:

1. Although it is a good initiative, the forum was too short and not enough time to cover the topics to discuss each topic in details.
2. There were a different group of people making it difficult to simplify the topics. The local people are not able to understand the topic and do not understand the need of TJ.
3. A critic from the people watches the live video is that the speakers did not directly address the topic in the context of the Deep South, which refers to 1.
4. There is a misconception that Transitional Justice only can happen when there is a massive violation of human right, and Thailand doesn't need TJ.

5. There is a misconception that Transitional Justice can happen only after the massive violation already ended.

6. The forum did not touch upon the prosecution of the perpetrator who was the authorities who violate human rights in time of conflict such as police or soldier who torture suspects for confession.

Link to the video of the forum:

<https://www.facebook.com/173200599359779/videos/1533421186671040/?pnref=story>

Link to powerpoint use in the forum:

<http://www.deepsouthwatch.org/node/10328>

Appendix

### **Translation of the program**

#### **A penal discussion on**

#### **“Violence Against Civilians and Transitional Justice”**

**20 February 2017 2.00 pm -5.00 pm**

**At Sri Wangsa Auditorium, Faculty of Political Science, Prince of Songkla University, Pattani Campus**

**By Transitional Justice Thailand (TJ Thailand)**

In situations of severe social or political conflict, civilians are usually subjected to various forms of violence from both parties to the conflict, e.g. protest crackdown, war on drug, genocide, attacks against women or children, or civilians who are not directly involved in the violent conflict, rape, torture, and abduction or enforced disappearance etc. Violence against civilians could be committed by both state and non-state actors, and after the incident there are always victims and people affected by it. The society seeks answers to what causes the violence, by whom, who are the effected, how to handle the wrongdoers and the effected, and lastly, how to build a peaceful society and sustainable development and how to prevent such situations of violence.

Transitional justice (TJ) is a set of ideas to approach the problems by utilizing four principles as tools to restore peace in the society, particularly for the society during transition period – from a violent society ruled by the authoritarian where there are widespread and extensive abuses of human rights and rule of law, to a peaceful and democratic society. These principles are truth-seeking process, reparation, prosecution and institutional reform. The society has the right to acknowledge the violations of human rights, especially in the form of serious crimes, or the victims should be provided redress and remedies including compensation for the past act of violence, the offenders should accordingly be prosecuted, and finally, the involved organizations or institutes, whether directly or indirectly, deserve the reformation to prevent the recurrence of such situations. Those principles is the linkage to the past situations of violence, and they also handle the current situation in order to prevent the rights of the victims or the effected from being neglected as well as to prevent such abuses to reoccur in the future. Hence, this is an approach to create sustainable peace in the society.

The concept of TJ initially came from Latin America as the countries in the region were going through a transition period from totalitarian societies during the Cold War to democratic societies. Subsequently the concept of TJ became widely used in South Africa, East Asia and Eastern Europe. Furthermore, TJ was taken into account as a tool for peace-building post civil wars, struggles for freedom and democracy to reconcile in the preparation of peace agreements worldwide including Bangsamoro (Filipino), Aceh (Indonesia), Sri Lanka, Nepal, and East Timor. The UN forces or international forces also use the concept of TJ to reorganize during the operation of peacekeeping in failed states. However, there is no ultimate answer to foresee whether such agreements and operations will be succeeded because the degree of complexity and intensity vary in each conflict. It requires different elements for the society to overcome conflicts, but at least the reasonable usage of these four principles by all the parties indicates the united idea of not leaving anyone behind, especially the victims.

This panel discussion offers a wide range of debates on the subject regarding TJ based on the principles, lessons, ideas and guidance on how to apply it in different contexts in Thai society, of which have been gathered through experiences and knowledge from trainings and workshops with Asia Justice and Human Rights (Ajar) in several Asian countries. TJ Thailand is a newly established working group with an initial idea to create better understanding of the theory and the implementation of TJ in Thai society, both in central and southernmost provinces. Moreover, this panel discussion is a first official launch of the working group TJ Thailand. The date for a panel discussion on “Violence against Civilians and Transitional Justice” is on Monday, February 20, 2017, 2.00 pm – 5.00 pm at Sriwangsa Auditorium, Faculty of Political Science, Prince of Songkla University, Pattani Campus.

20 February 2017 1.30 pm -5.00 pm

At Sriwangsa Auditorium, Faculty of Political Science, Prince of Songkla University, Pattani Campus

1.30 pm – 2.00 pm      Registration

2.00 pm – 2.30 pm      Opening speech by the dean or a representative. A presentation of TJ Thailand by Somchai Homlaor, CrCF senior legal advisor and the representative of TJ Thailand

2.30 pm – 2.40 pm      Reminiscences of “Grandmother Kluen Sangampai” by Duangsuda Sangaumpai (grand daughter of a social activist in Pattani Province)

2.40 pm – 4.15 pm      A panel discussion on “Violence against Civilians and Justice During the Transition Period” (95 minutes)

1. History of violence against civilians in Thai society and transitional justice

Mr. Chamnan Chanruang, Faculty of Political Science and Public Administration, Chiang Mai University

2. Transitional justice and the current situation of the reconciliation

Asst. Profs. Dr. Poom Moolsilpa, Associate Dean at School of Law, Assumption University

3. Civilians in conflicts in Thailand’s southern border/Pattani and transitional justice

Mr. Romdor Panjor, Editor of the Deep South Watch

4. The role of local civil society

Chairman of Civil society of the Southernmost Thailand

5. Transitional justice and peace-building from the public

Ms. Yupa Pusahat, Representative of the Asia Foundation

6. Transitional justice in practice

the victims of violence against civilians in the Southernmost Thailand network\* and representative of the women's group\*

7. The provision of justice and peace-building

Representative of state authority\*

Moderated by Mrs. Fareeda Panjor, research professor at Center for Conflict Studies and Cultural Diversity, Prince of Songkla University, Pattani Campus.

4.15 pm – 4.45 pm      Q & A

4.45 pm                      Closing speech by Assoc. Prof. Dr. Srisomphop Chitphiomsri

For further coordination or related inquiries, please contact Ms. Nadthasiri Bergman, TJ Thailand Coordination Officer at Tel. 0851208077

For RSVP, <https://goo.gl/forms/p4GcrL2BuYJ5EOKe2>

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