

# Processual Factors of the Chronic Conflict and (Its) Transitional Justice in Thailand

Jutharat Ua-amnoey

*Faculty of Political Science*

Chulalongkorn University

jutharat.u@chula.ac.th

## Abstract

Due to the recent conflicts and events of violence in Thailand, especially during April-May, 2010, there has been an immeasurable loss and damage to Thai society. To address these concerns, the Truth for Reconciliation Commission of Thailand or TRCT, assigned me and my staff to address the root causes of the conflict. This research is a qualitative synthesis which used meta-analysis methods in conducting research about research, focus on contrasting and combining results from 5 different studies. Then summarized, synthesized, and analyzed all sources of data to explain how the conflict was occurring, by using the Ury's conception. Finally, we can explain the relationship among the basic structure; the pillars that balanced the social structure and stopped the conflict from developing into violence in the past; the era of globalization that led to broad economic, political, and social changes; and the aggravating factor that escalated the conflict and violence. In hoping that understanding the processual factors of the chronic conflict should be an important part in starting the transitional justice process in Thailand.

[Thammasat Review, Volume 17, No.1, 2014]

**Keywords:** Conflict, Transitional Justice, Reconciliation, Thailand

## Introduction

Due to the recent conflicts and events of violence in Thailand, especially during April and May, 2010, there has been an immeasurable loss and damage to the nation and all Thai people have been affected. Still, there have been lingering questions and doubts in the minds of Thai people and among the international community about the truth surrounding these events. To address these concerns, there is a need for investigation and fact-finding to uncover the truth about the violent events and their antecedents, including violence associated with political demonstrations, violations of human rights, deaths, physical and mental injury, property damage, and other forms of damage. Such an investigation should clarify the root causes of the problems that have developed and caused social polarization, tensions and political conflict.

For this reason, it is appropriate to establish a commission comprised of independent and impartial experts that will operate according to the powers and duties, framework, and time frame stipulated in this Regulation; called the “Regulation of the Office of the Prime Minister on the Truth for National Reconciliation B.E. 2553 (2010)”.<sup>(1)</sup> Thus, “Commission” means the Truth for Reconciliation Commission of Thailand or TRCT, which has, among others, an important duty to “...2) Provide for research and clarify the root causes of the division and violence, in terms of their legal, political and historical aspects.” TRCT assigned this duty to the Sub-commission on Research and Academic Affairs, which I am one of both the commission and the sub-commission and have responsibility to carry out this research, which try to explain the relationship among the basic structure; the pillars that balanced the social structure and stopped the conflict from developing into violence in the past; the era of globalization that led to broad economic, political, and social changes; and the aggravating factor that escalated the conflict and violence. How those long lasting conflicts were related to each other and could have influenced the incidents of violence during April - May 2010 in Thailand. We hope that the knowledge and understanding about the processual factors of the long lasting conflicts should be an important part in starting the transitional justice process in Thailand.

## Research Methodology and Procedures

This research is a qualitative synthesis which used meta-analysis methods in conducting research about research, which focus on contrasting and combining results from 5 different studies, in the hope of identifying patterns among the results of the study, sources of disagreement among those results, or other interesting relationships that may come to light in the context of multiple studies.

In carrying out this research, TRCT Sub-commissions employed 6 focus groups, both in Bangkok and in the provinces; 2 public forums; and a presentation of research results. These activities stressed participation of academics, particularly from both sides of the conflict; the public and people from all sectors and both sides of society. Data was collected, problems identified, opinions were listened to, so TRCT Sub-commissions established a framework for research which was organized around five topics, namely: 1) Unequal Power Structure in Thai Society by Thanet Aphornsuvan and a group from Thammasat University; 2) Political Violence: Social and Cultural Dynamics and Solutions by Surichai Wungaeo and a group from Chulalongkorn University; 3) The System of Justice and Violent Political Incidents: Problems and Solutions by Pokpong Srisanit and a group from Thammasat University; 4) Reform of Security Organizations by Supanida Pungpaka from Kasetsart University; and 5) Legal Limitations to the Exercise of Freedom of the Press in Presenting News and Information by Wanida Sangsarapun from Bangkok University.

Then, knowledge gained from these five research topics which took around 8 months to complete; was combined with the 12 other research findings of all TRCT Sub-commissions and those 15 research findings of other related agencies, together with case studies of Truth for Reconciliation Commissions (TRC) in five countries on three continents; i.e. South Africa, Sri Lanka, Liberia, Chile and Timor Leste; which were analyzed by Doe.Samuel on his report to TRCT, named “Comparative Review of Conflict Root Cause Analysis by Truth and Reconciliation Commissions.”

In analyzing processual factors of the long lasting conflict, which being a part of scenario of the conflict root causes; meta-analysis methods were used to summarize, synthesize, and analyze all sources of data to explain how the conflict was occurring by using the Ury conception.

## Theoretical Review and Frameworks

The causal theories implicitly and explicitly drawn upon by the 5 different studies discussed in this research include peace building, transitional justice concept, and the 4-level conflict analysis framework. Other concepts and theories that are briefly discussed are:

1. Peace Building: The concept of peace-building was introduced in 1975 in the article “Three Approaches to Peace: Peacekeeping Peacemaking and Peace-building,” by Johan Galtung (2010), a new-era peace researcher. Galtung presented structural peace-building as the way to create sustainable peace by identifying the root causes of conflict that lead to violence and conducting activities to correct the problems that cause conflict using models from peace studies to bring about change and end conflict through peaceful means (United Nations, 2010). Peace-building became more widely accepted after 1992, when the United Nations Secretary General called for “An Agenda for Peace,” maintaining that the United Nations and the international community have a responsibility to manage conflict in the form of preventive diplomacy, peacemaking and peacekeeping. Consequently, the concept of peace-building became known and is used today to manage conflict in the world community.

2. Transitional Justice: Transitional Justice links together the two concepts – transition and justice. Transition is the process of political transformation/change in a society; for example from authoritarian or repressive rule to democracy; or the transition from social conflict to peace and stability. Transitional justice (Greif, 2010) is a process implemented in response to serious human rights violations. It is a mechanism for bringing peace, reconciliation and democracy to a society and moving it forward without the reoccurrence of violent events. This process was devised in the late 1980’s in response to political changes in Latin America and Eastern Europe. The objective was to bring justice to the region after widespread human rights violations by old regimes. Later, transitional justice was implemented in many countries that had experienced serious conflict, such as Argentina, Chile, South Africa, El Salvador, Haiti, and East Timor.

Countries implement transitional justice when the normal system of justice cannot be applied to situations of conflict that are more complicated than general crime and when there are many people involved in the incidents, both victims and perpetrators. In situations such as this, enforcing criminal law and the normal system of criminal justice based on punishment of offenders may not lead to overcoming the conflict and bringing peace to the society. Transitional justice develops from

looking for a way to overcome the conflict and this can normally be achieved in many different ways. The experiences of other countries show that one or many of the following measures can be implemented depending on what is appropriate to the situation in each country.

2.1 Criminal Prosecution: the prosecution of perpetrators, who must be held accountable for violent events in the past. This is a factor in preventing a recurrence of such violence.

2.2 Truth Seeking: the process of establishing the truth through investigation, inquiry, and truth-seeking about incidents that have occurred (focus on the past) so as to disclose the truth to victims or to the families of victims and to society in general about the events, as well as available options for affected individuals to express their concerns.

2.3 Restoration programs: providing assistance, compensation, and treatment to individuals affected by violent events. Restoration can include treatment of mental and physical wounds, compensation for damaged property, and official/state apologies.

2.4 Memorialization of victims: the process whereby society recognizes people and events and raises a moral consciousness about the past violent events to help prevent it from happening again. It could be in the form of a museum or a memorial.

2.5 Institution reform: the process of reforming institutes and agencies that are responsible for human rights violations; for example military personnel, police, media, judicial agencies, etc.; to help prevent those institutes or agencies from employing the same procedures which may again cause violence.

2.6 Reconciliation: bringing the society out of a state of conflict, reconciling differences, and promoting harmony among the people.

3. The 4-Level Conflict Analysis framework of Ury (2000) is composed of:

3.1 Latent Tension: is discord that has not yet shown visible symptoms of conflict. Society does not recognize that there is a conflict or that the discord is a problem that could develop into a conflict. This level of discord is still within the bounds where action could be taken to prevent it from developing into a conflict.

3.2 Overt Conflict: is conflict clearly seen as hostility or antagonism in society. It is caused by imbalance in power, injustice and unequal benefits. This conflict situation is still within the bounds where it could be managed, and a neutral party or arbitrator could be used to resolve or end it.

3.3 Power Struggle: is conflict that creates tension or produces a confrontation between two parties vying for power. As the problem gets worse and tension increases, the situation requires intervention to keep the conflict from escalating. Mediation or more intensive efforts to manage the conflict must be used.

3.4 Destructive Violence: is conflict that has developed into violent encounters and use of force in society that are forms of “direct violence.” This is the highest level of conflict and beyond the capacity of the three conflict management methods: prevention, resolution and containment. This level of conflict brings about violence and losses that cannot be estimated.

Based on the 4 levels of conflict, up until violence occurs, different ways of managing conflict are needed. If the wrong method or tool is used, then it might not be possible to resolve the problem. For example, once the conflict becomes violent, negotiation might not be able to manage it but only prevent the conflict or violence from becoming worse or expanding. Other measures would need to be used later.

## Finding: Processual Factors of the Chronic Conflict in Thailand (Ua-amnoey et.al, 2013)

In considering the social conflict in Thailand, we have focused on analyzing the root causes of the conflict - how it started and how it gradually escalated into violence - by looking at the economic, social, and political context. This analysis selects important incidents that occurred at different times to illustrate the underlying factors that impelled, from whatever direction, the conflict to become violent. The analytical framework was summarized as follows:

1. Period of latent tension: the beginnings or initial growth of the conflict before the conflict became apparent, the root causes of the conflict were a mix of many inter-related factors. Thai society has always had inequality in its economic and social structure. This is reflected in the differences between urban and rural society and the differences between the industrial sector and the agricultural sector. For example, there is unequal ownership of resources and unfair distribution of earnings; the policies and management mechanisms of the government have not created a fair society; and law enforcement and justice procedures do not correspond to the rule of law. Social inequality such as this gave rise to at least two social classes most easily referred to as the “governing class”, those with economic and political power, and the “governed class”, the majority who lived under the control of the governing class.

This unequal power relationship in itself creates conflict. However, in the past this conflict was not apparent and did not express itself in any form of violence. Society was able to maintain a balance or equilibrium social structure through the three pillars: 1) the Thai political culture and a misunderstanding of the law of Karma; 2) a “Half-democracy” politics and negotiated power and benefits among the governing class and military; and 3) the role of the state as a welfare or managed state among the group of beneficiaries.

2. Period of overt conflict: When Thai society entered the era of globalization that led to broad economic, political, and social changes; a major adjustment occurred in society which impacted on the original social structure and transformed the existing conflict into a violent one when supported by the following factors and motivators.

2.1 Changes in socio-economic structure: Research found that during the period just mentioned, the government proceeded with policies aimed at leading the country into an era of full capitalism which gave rise to groups of “new capitalists” and “old capitalists”. This brought about a movement of capital and labor, and to an expansion of development in the region which affected the growth of the rural production base and increased employment opportunities and other economic opportunities. As a result, the people became more economically self-reliant. It is possible that this increased economic power made the original “governed class” more confident in their value and worth. They came to know their rights and duties and to develop a sense of being “citizens”. The role of the government also changed; and the state changed from being a managed or benefactor state to being more of a welfare state.

2.2 Changes in political structure: Declaration of the Constitution of the Kingdom of Thailand B.E. 2540 (1997) established many criteria and new benchmarks for politics and governance at that time. These included giving more opportunities to the people for participation in the governing of the country and in acting as a check on state power so as to build transparency in the political system and make it more stable and efficient. This was accompanied by reforms to the system of justice. In addition, this Constitution promoted and protected the rights and freedom of the people and included clear confirmation of citizen’s rights. This thinking stressed that the people were correct in believing that, no matter what their level or status, they were the owners of political power, should participate in politics, and should have a policy of expanding political and economic power in their local area. This new concept destabilized the old way of thinking and clearly revealed a conflict between the classes-between the “new capitalists” and “old capitalists”. These “liberal concepts and concepts of citizenship” along with “culture of the people”, “grass roots movements” and “the leader class” evolved into a conflict that became apparent.



During the same period, Thailand was facing an economic crisis. This provided an opportunity for the new capitalists to gain power in the running of the country. They were supported by the grassroots movements through a policy of populism which led to the popularity and confidence in leaders that implemented policies and ways of administration that focused on ability and decisiveness. It is a pity that this social change opened the door to broad policy-based corruption. An example of this can be seen in the “hidden assets case”. This can be seen as a turning point in the swell of dissatisfaction with the government of Pol. Lt. Col. Thaksin Shinawatra, spearheaded by the People’s Alliance for Democracy (PAD) who used these issues as a basis for demanding that the government of that time step down. This led to violent and persistent conflict between groups of “supporters” and groups of “opponents”.

2.3 Changes in social communication and media: Looking at the conflict from a different angle, the media was another factor that encouraged the conflict to spread. The development of communication technology gave rise to a rapid increase in the number of people participating in alternative mass media channels which made communication easy and required little investment. This included the “new media model” of online social networks and community radio. These provided more communication alternatives, including channels for two-way communication which were independent and beyond the control of the state. These forms of communication were used for political benefit by political groups or political supporters and created confusion among the general public who listened to the news broadcasts at a time when the main media channels were under the control of the state and were making one-sided news broadcasts to the public in support of the state. “Political Communication” was sponsored by the state as a tool to make demands on various groups.

3. Period of power struggle: When the conflict appeared, it gave rise to two clearly opposing groups in the struggle for power; a struggle which eventually turned violent. Following, are explanations of some of the factors which made the conflict become violent.

3.1 A different understanding of democracy: While one group believed democracy was the voice of the majority, democracy is tangible, a matter of majority rule and policies that respond to the needs of the majority. For them, winning an election means absolute power over the state administration. This group was the National United Front of Democracy against Dictatorship (UDD), which believed that government had to have policies that responded to the needs of grassroots people. This resulted in a majority government from the election that claimed they were the legitimate people's representative according to the majority rule principle of democracy, regardless of corruption. The other believed democracy was an issue of legitimacy, transparency, accountability, and a willingness of those holding state power to be monitored at any time.

The different beliefs of the two groups led to different ways of putting democracy into action. The People's Alliance for Democracy (PAD) believed that true democracy had to be legitimate, free of corruption and demonstrably transparent, so the holders of state power must be accountable. This principle necessitates reviewing the government's work. Having such different basic beliefs meant choosing to look at democracy only in a way that supported each group's opinion, which was only half the truth, while rejecting the truth of the other side. This made it hard to find common ground in trying to resolve the conflict, which eventually developed into violence. So, this different belief bring emerging conflict situation to tension.

3.2 An increase in political media channels and private media channels: The "new media model" enabled many people to disseminate information without any screening or inspection. Political propaganda or hate speech could be constantly disseminated among a wide circle of people quite easily and quickly through private communication channels such as online social networks and web-boards.

When conflict began to appear, mass media were an aggravating factor that escalated the conflict and violence. Since mainstream media is under state control, the information they presented to the public was one-sided, supporting the government's side while not presenting negative information about it. This allowed "political media" to be a tool for other sides to raise grievances in ways that included aspects of reality TV. Technological advances had made it possible for media consumers to appear on shows or provide news in a number of ways, such as

by sharing their opinion through short messages (SMS), which is a 2-way communication medium that allows greater public participation in the media. As a result, a network of major social relationships at all levels has come into being. These processes have changed the role of media consumers from receivers of 1-way communications into 2-way communication participants: sender and receiver. Moreover, there are also alternative media and individual media, for example social networks and community radio stations, that are not under state control and that might take sides in politics.

3.3 The coup d'état on September 19th 2006: On 19th September 2006 the Council for Democratic Reform under Constitutional Monarchy (CDRM), under the leadership of Gen. Sondhi Bunyarataklin, carried out a coup d'état and seized administrative power from Pol. Lt. Col. Thaksin Shinawatra. Even though some groups supported the coup, especially in the Bangkok area, where people were tired of the political disorder from Pol. Lt. Col. Thaksin's administration and the preceding election felt there was no other way to quickly solve this problem, it was a catalyst for the violence that erupted later. This is because society believes that coups are abnormal transitions of power that go against democracy, and are therefore unacceptable. Despite the argument that without the coup, violence and loss might have been greater, events reflect how well the use of violence against violence creates violence. Additionally, the coup raised doubts about Thailand being a legal state, because of the military's obvious interference in politics, which has negatively affected the development of democracy.

3.4 Uncertainty about the rule of law in Thailand: There was a lack of confidence in the whole legal system and system of justice. Society doubted that agencies within the system of justice were independent and free from political interference. This had been a point of continual criticism since the declaration of the Constitution of the Kingdom of Thailand B.E. 2540 (1997), particularly regarding the "hidden assets case" in 2001 in which the Constitutional Court "twisted" the law. The court used votes of constitutional judges who had already decided that the case did not fall under the jurisdiction of the Constitutional Court, and therefore made no final decision in the case, and combined these votes with other votes on a decision that Pol. Lt. Col. Thaksin Shinawatra was innocent of wrong-doing and then summarized the decision as a majority decision. There were also announcements by the Council for Democratic Reform under Constitutional Monarchy (CDRM) which were clearly counter to the rule of law. Also, appointing people that were previously adversaries to carry out an investigation; or the Constitution of the Kingdom of

Thailand B.E. 2550 (2007), article 309, which refers to amnesty (for the coup de'tat faction), and article 237 relating to the dissolution of political parties and revocation of voting rights of executives of political parties that have been dissolved, have been criticized as against the principle of proportionality and appropriateness to the offence.

3.5 The judicial activism: When the balance of power between the executive and legislative branches was lost, that is, the executive and legislative branches were effectively the same because the members of the House of Representative who chose the prime minister were from the same party, the judicial branch took on a greater role in maintaining a balance. This resulted in debate and refusal to accept judicial mechanisms, and to attacks on their role. This created the condition that society lacked an impartial rule keeper in a conflict situation.

3.6 Interference in independent organizations: Independent organizations were criticized as being inefficient and susceptible to political interference which made the performance of their duties neither transparent nor impartial.

Since 1997, these bodies have had a duty to function as mechanisms for investigating the use of state power, but they have not been as efficient as they should be. Some were accused of not being neutral or transparent in performing their duties because of political interference, especially the Constitutional Court, the Administrative Court, the Election Commission and the National Anti-Corruption Commission, and this became a factor in the political conflict. One of the main reason these bodies were criticized for interference stemmed from the procedure for selecting members, because the 1997 Constitution of the Kingdom of Thailand stipulated that political party representatives would comprise of the nomination committee, and most of the representatives came from the government side, enabling them to reject anyone they did not want. Moreover, the Senate, which selected nominees to fill the positions, had associations with members of the House of Representative, so political sides could influence the Senate. As a result, the 2007 Constitution of the Kingdom of Thailand significantly changed the principles for selecting members of the independent bodies by decreasing the proportion of politicians and increasing the number of judicial appointees to the nomination committee, and decreasing the Senate's power to merely approving the list submitted by the committee. However, the amendment of the selection process by increasing the role of the judiciary, together with many decisions of the Constitutional Court and Administrative Court, led to these judicial bodies being seen

as having a greater role in resolving political conflicts and using judicial power to political advantage, leading to controversy over judicial activism.

3.7 Exaggerated accusations by the holders of State power against opponents: Exaggerated accusations, especially accusations of terrorism against protestors and detaining them for violating orders given under the Emergency Decree B.E. 2548 (2005), gave rise to feelings of spite and rancor and led to an escalation in violence.

3.8 Creation of a perception that justice was administered with a double standard: References were made to interference in the system of justice, both in law enforcement and in the duties of an independent organization. This created doubt about the rule of law and made some people feel that they had not been treated fairly by the system of justice.

3.9 References to the Monarchy made for political benefit: People who played a part in the conflict tried to maintain their own status by referring to the Monarchy or drawing the Monarchy in as a political issue to build legitimacy with the public for their political movement. This included acting in ways that intruded or impacted on the Monarchy. Lèse majesté laws were used as a tool to attack opponents and claim that they were not loyal to the Monarchy so as to build legitimacy for their own side and show that their aim was to safeguard the Monarchy. People criticized in this way then felt resentment which in turn had a negative impact on the Monarchy and efforts were made to make the Monarchy appear merely symbolic. Also, ideas began to circulate that the Privy Council was interfering in politics.

3.10 Society's lack of knowledge on how to manage conflict through peaceful means: resulted in the concerned parties trying to solve the conflict with violence. Opponents of the group holding state power focused on provoking violence in the belief that once a violent incident occurred, the state would use force to suppress the opposing party. Both sides shared the belief that the party that used force first would lose. For example, protestors rallied and marched, daring those in power to suppress them, while state power holders who needed to maintain their power were tempted to use force to suppress or disperse the gatherings, using the excuse of preventing violence. Such phenomena reflect the society's lack of knowledge in how to deal with conflict in a peaceful way that would prevent the use of violence.

3.11 Use of the military to manage conflict: Using the military to control the conflict and manage protestors in April 2009 and again in April-May 2010 was contrary to the role of the military who are trained to fight enemies invading the country, not to manage protestors that have different beliefs or ideologies. Lack of professional expertise and the popularity of the agency that had to suppress the opposing side was a factor that encouraged the expansion of violence.

3.12 Phone-ins from Pol. Lt. Col. Thaksin Shinawatra (former prime minister) had the effect of increasing arrogance among his supporters while increasing opposition and mistrust among the opposing side.

In February 2008, after the People Power Party won the election and formed the government, Pol. Lt. Col. Thaksin Shinawatra, former prime minister, returned to the country for the first time since power was seized from him in September 2006. He presented himself to the Supreme Court's Criminal Division for Persons Holding Political Positions to hear charges against him in the corruption case regarding land on Ratchadapisek Road, and he presented himself to the Attorney General in connection with the case concerning concealment of the shareholding structure of SC Asset Plc. But he left the country again during prosecution of the Ratchadapisek land corruption case and failed to appear in court in August 2008. That was the reason why he utilized Phone-ins.

3.13 Cultural turbulence that expressed hatred and reinforced the existing conflict. For example, the Phua Thai Party would be called the Phao Thai (burn Thailand) Party, and the Democratic (Prachathipat) Party would be called the Prachawibat (civil disaster) Party. In addition, people started to act out their hatred and provoked one another by using partial truths, deepening the division between groups and intensifying the conflict.

3.14 Raising the stakes in the conflict: Stakes in the conflict were raised and it took on the characteristic of "winner takes all". This made each party feel that they could not lose because the stakes were too high and harsh revenge would follow if they lost. Moreover; forces were being mobilized and masses of people were making uncompromising demands on their adversaries. The first side in the Protests was instigated by the People's Alliance for Democracy. A protest against the government of Prime Minister Samak Soonthoravej, which had a policy to amend the 2007 Constitution of the Kingdom of Thailand, which resulted from the coup d'état, took place in the Makkawan Rangsan Bridge area. This later escalated into a protest to topple Mr. Samak's government. The protesters declared that they would remove the "Thaksin regime" and oust the delinquent puppet government, and they

succeeded in seizing Government House and a number of other government venues including the National Broadcasting Service of Thailand (NBT) television station and the Public Relations Department. In support of the demand that Mr. Somchai Wongsawasdi and his Cabinet resign immediately without conditions, protesters blockaded Parliament on September 24th 2008. When the parliamentary session was postponed, they went and blockaded Don Muang Airport, which was being used as the temporary Government House, and then they moved on to Suvarnabhumi Airport to pressure the government. The other side to Protest was by the National United Front for Democracy against Dictatorship (UDD). In January 2009, the UDD launched a protest against the government of Prime Minister Abhisit Vejjajiva, which it claimed was illegitimate. The “Red across the land” event began at Sanam Luang and then moved to Government House to make demands. The protesters made 4 demands: 1) prosecution of the People’s Alliance for Democracy; 2) removal of Mr. Kasit Phiromya from his position as Minister of Foreign Affairs; 3) restoration of the 1997 Constitution of the Kingdom of Thailand; and 4) dissolution of Parliament. On April 11th 2009, UDD protesters led by Mr. Arisaman Pongruangrong went to protest against Prime Minister Abhisit at the Royal Cliff Beach Resort in Pattaya, Chonburi Province, which was the venue for the ASEAN Summit. They clashed with the “Blue Shirt” group, which blocked the way of the Red Shirt group. But protesters led by Mr. Arisaman forced their way into the resort, thereby interrupting the ASEAN meeting. The government and ASEAN postponed the meeting, and the government declared an extreme emergency situation in Pattaya and Chonburi until the leaders from the other countries returned home safely.

3.15 The Constitution of the Kingdom of Thailand B.E. 2550 (2007) and the issue of amending the constitution: The constitution became an issue, and a factor in transforming the conflict into violence, because some people continued to give importance to the 1997 Constitution of the Kingdom of Thailand as the “People’s Constitution” and had a negative attitude towards the 2007 Constitution. Once parliament was restored, they called for amendments to the 2007 Constitution, which critics claimed had many problems. Criticisms included: judicial power had no review mechanism, while legislative and executive power could be reviewed; public problems could not be solved as the constitution gave more power to local governments than the central government; Section 190 stipulated that international agreements and commitments must pass a parliamentary mechanism, leaving the government unable to do its job; provisions related to the dissolution of political parties in Article 237 do not comply with the rule of law; independent bodies set up under the constitution have too much power; some senators are not elected; and

amnesty for the revolutionary council based on Section 309. The attempt to amend the 2007 Constitution met with opposition from groups that did not agree with this, leading to increased conflict and violence.

4. Period of destructive violence: When all factors tiding and hitching strain in the right time and place, the violence was sparking. The truth about the violent incidents during April–May 2010 is very complicated. The events can be separated into 10 occurrences: 1) The violence at the Thaicom satellite station on 9 April 2010; 2) The violence on 10 April 2010, including the death of a Japanese cameraman; 3) The violence around the National Memorial on 28 April 2010; 4) The death of Maj. Gen. Khattiya Sawasdipol on 13 May 2010; 5) The violence in the Bonkai area near Lumpini Park, Silom Road and Rama IV Road, separated into incidents before and during the blockade between 13 May and 18 May 2010; 6) The violence in the Ratchaprarop-Makkasan-Dindaeng area, separated into incidents before and during the blockade between 13 May and 18 May 2010; 7) The violence on 19 May 2010, including the death of an Italian cameraman; 8) Incidents at the Pathumwanaram Temple on 19 May 2010; 9) Burning of buildings in Bangkok; and 10) Demonstrations and burning of buildings in several provinces. TRCT has determined that during the violent incidents during April and May, 92 people lost their lives and no less than 1,500 people were injured.

## Conclusion

The explanation of how the conflict and incidents of violence during April–May 2010 could have happened in Thailand and how those processual factors of the chronicle conflict are related to each other: Starting from the problems and disagreements that gave rise to conflict through to when the conflict turned violent, the factors involved were interrelated and aggravated one another. The violence therefore, did not arise from any single factor but had a composite nature, from a complicated mix of factors. These factors were so entwined that they could not be separated and were always in a state of flux.

It can be seen that the crisis, conflict and violence, especially during April–May 2010, which might have looked like just a struggle between people who believed strongly in different ideologies, was really a conflict deep with problems related to economic, social, class and political structures. This long-standing tension might have started from people or groups that clearly had different ways of thinking, and were suspicious of attempts by any other party to make changes in society. Fearing that change would affect the benefits they enjoyed and the power that they held, they resisted change in order to maintain the status quo.



Such tension combined with structural socio-economic problems, inequality among social classes, and intervention by the military in politics through a coup, the use of media as a tool in fanning conflict, and weakness in democratic and judicial mechanisms, especially criticism that state mechanisms were not consistent with the rule of law. It is clear that the resulting crisis in Thailand was the result of a complex web of problems that no single factor could explain .

These factors were at work continually after the coup d'état, which both sides cited as justification in their power struggle to run the country. As a result, for more than 5 years the 2 sides and their supporters alternated between being in power and trying to oust the other side and reclaim power. The cited factors can be seen as the fuel that kept the conflict and violence fuelled and expanding, and continues to feed it even now.

In searching into the facts of incidents and the processual factors of the chronic conflict revealed that the crisis and conflict that led to violence, especially during April-May 2010, although appearing to be between individuals or groups, is in fact a conflict deeply rooted in the basic social, economic, and political structure of our country. This structure has led to distrust between various groups in Thai society. Some distrust the status quo and others oppose changes so as to maintain the status quo. This type of conflict; when conjoined with the problems in the socio-economic structure, including social inequality; along with weak democratic mechanisms, rule of law, and system of justice; and use of the media to incite conflict; gave rise to a crisis and conflict that is interlinked and complicated.

There is no single factor because that can explain the conflict. This clearly reveals that Thai society is “a society in transition”. All parties need to know and understand the processual factors of the conflict so that a way can be found for Thai people to come together and find a solution to the problem based on the economic and social structure of our society. This will enable us to overcome the conflict and bring about reconciliation, which is an important part of the Transitional Justice process in Thailand.

However, the principles of transitional justice do not cancel out those of the (existing) system of justice. They provide a flexible mechanism that is appropriate to Thai society as it passes through this period of conflict. In implementing the principles of transitional justice, we must start from a disclosure of the truth and establish a process whereby the groups affected by the conflict and society at large can be informed. The truth that is disclosed will enable us to decide whether legal proceedings should be commenced or whether responsibility should be shown in

some other way which may not involve legal action. It will also lead us to decide whether amnesty should be given for actions in those incidents or not. It may also help us decide what should be done in order to find a way out of the conflict that is acceptable to all sides. During this process of finding our way, suitable restoration should be provided to all those who were affected by the violence.

## **Recommendations**

Incidents of unrest and violence that have occurred, especially during April-May 2010, have brought about a tremendous loss to Thailand. We are very concerned about this on-going conflict as there are many factors that could lead to a proliferation of the conflict and escalation into violence in the future. We request that all parties realize that the great loss and damage our country has sustained is because of the conflict and division within our society. We should use the crisis that has occurred in the past to remind us of these losses and the need for us to come together and foster an environment that can stop our country from falling into such violence again. This means that we must help each other to overcome the conflict and bring about reconciliation.

From the focus groups, both in Bangkok and in the provinces; public forums; comments by expertise readers and audience in the presentation of research results; recommendations from the five topics of research; and this qualitative synthesis, we gave recommendation to TRCT, the Government and society to contain some situations, to resolve the cause factors that might escalate the next conflict and to solve the conflict in the future by prevention, relating to the adoption of transitional justice, that are:

### 1. Recommendation to contain some situations in urgent:

1.1 All parties must refrain from any action that would create conflict or destroy the atmosphere for reconciliation. This includes refraining from disseminating information that would incite hatred and violence.

1.2 Protesters must exercise their right to assembly in strict accordance with the framework of the law and must refrain from inciting hatred and violence. They must take into consideration the rights and freedom of the public and other people that did not join in the demonstration.

1.3 The government must refrain from using the military to solve problems connected with political conflict or public demonstrations.

1.4 The government must prepare sufficient good quality equipment to manage demonstrations.

1.5 The state arranges for offenders to be dealt with by the system of justice which must be fair, unbiased, and consistent in its application of the law. Agencies in the system of justice must respect the rights and freedoms of accused persons, defendants, and the injured.

1.6 The state provides restoration in a systematic and organized manner. It covers the various forms of damage in ways not limited to financial restitution.

1.7 The state should provide restoration to those unfairly dealt with in criminal proceedings and provide all necessary humanitarian assistance to them. All parties should review their role and actions in the conflict that occurred and leaders of all involved parties should apologize to the public. This is particularly true for government leaders as the state was at fault in managing the conflict and allowed it to escalate into violence. They should also express their intention not to allow such violence to occur again.

1.8 The military and military leaders must be neutral and not become involved in politics, not carry out coup de'tats, and not interfere in politics in any way.

1.9 Officials that must control public gatherings must proceed according to recognized international principles and respect the rights and freedom of the people.

1.10 The media must stop presenting news that aggravates or encourages hatred.

1.11 The media must be careful in presenting information and must be accountable to the people by presenting news to the public that is factual, complete, and circumspect according to the ethical framework of their profession.

2. Recommendation to resolve the cause factors that might escalate the next conflict

2.1 Political groups should promote political parties that have a policy of social reform that stresses equality of the people and consider the benefit to the nation as a whole as their fundamental principle.

2.2 The state should provide restoration to those unfairly dealt with in criminal proceedings and provide all necessary humanitarian assistance to them. All parties should review their role and actions in the conflict that occurred and leaders of all involved parties should apologize to the public. This is particularly true for government leaders as the state was at fault in managing the conflict and allowed it to escalate into violence. They should also express their intention not to allow such violence to occur again.

2.3 The state must safeguard and guarantee the basic human rights and freedom of the people including protection against violations against those rights.

2.4 The state promotes transparent and independent investigation of wrongdoing using mechanisms that are impartial and open to the public.

2.5 The state and the system of justice should lead society in choosing non-violent ways to manage conflict. These institutions should be careful not to become those which destroy the rule of law and neglect the rights of the people.

2.6 The state should help the people understand and appreciate the benefits of amnesty and forgiveness.

2.7 The state builds understanding of the basic principles of the democratic system, rights and freedoms enshrined in the constitution, and obligations between countries relating to the human rights of the people.

2.8 The state must improve the system of controlling military weapons and make it more efficient. Also it must implement stringent measures to eliminate the problem of illegal weapons.

2.9 The state should inform the public about the rights, freedom, and roles of the media and also about the media's responsibilities toward society and the people.

2.10 The media should play a role in mitigating conflict within the country by being a forum for the public to exchange opinions.

2.11 Professional media organizations perform the duty of investigating and taking action against professional wrong-doing.

3. Recommendation to solve the conflict in the future by prevention

3.1 All parties focus on genuinely supporting the rule of law. The government and its agencies follow the rule of law in governing the country so as to solve the problem of conflict and build an enduring reconciliation for the country.

3.2 The utmost caution must be exercised in the passing of any amnesty law. Offences covered and conditions of the amnesty must be clearly established and detailing the specific actions by various people that would be covered under such amnesty. Further, all parties should be able to participate in making such decisions.

3.3 The government promotes learning and understanding of the root causes of the conflict so as to find a way to come together to solve the basic problems as well as the problems inherent in our social structure.

3.4 The state should initiate changes to the existing power structure to expedite development which is equal to that of the government sector.

3.5 The state should reduce the role of centralized administration. It should decentralize authority to the communities and people.

3.6 The state should reduce inequality of various forms, build a fair society, improve the quality of life of the people, develop quality education, and create mechanisms for equal access to justice.

3.7 The state applies the principles of good governance in running of the country and promotes democratic values in the family, educational institutions, and social organizations.

3.8 The state promotes education in non-violent resolution of conflict.

3.9 The state must operate in accordance with its international obligations which include safeguarding the human rights and freedom of the people.

3.10 The state must reform the law and the system of justice to make it more systematic and efficient. This needs to be done in a manner which is transparent, allowing for accountability, and corresponding to the rule of law.

3.11 The state should consider modifying or abandoning laws which unnecessarily impact on the rights and freedom of the people including laws that conflict with the principles of human rights.

3.12 Any amendments to the Constitution in the future must be in accordance with the rule of law and the principle that the constitution is the highest law of the land. Amendments must be correct in principle and constitutional procedure. Changes can be made to the existing constitution that is accepted as legitimate according to the democratic method.

3.13 If it is necessary to limit freedom of assembly, such as through laws concerning public assembly, these measures must be according to the constitution and in accordance with international human rights. A study of how other countries handle this issue and adjusting our procedures may lead to a suitable solution.

3.14 The state should support learning and understanding about the Monarchy and the role of the Monarchy in the democratic system. Also, promote creative and peaceful forums for the exchange of opinions.

3.15 The state and the army must build a professional military and foster strict adherence to the democratic system, transparency, and accountability according to the principles of good governance.

3.16 The military should have strict measures in place to discipline the behavior of soldiers who are out of line. The state should also amend the regulation on soldier discipline B.E. 2476 detailing punishment for soldiers at all levels.

3.17 The state should train personnel responsible for controlling crowds according to international conventions and teach them about human rights and non-violent conflict management.

3.18 The state must support the development of mechanisms for professional self-monitoring by the media.

3.19 The state should make a law to protect the freedom of the media. All parties must hold to the principle that security agencies are under the control of the government (civilian control) which derives its authority from the people.

3.20 Media organizations should provide systematic training to their staff and stress professional ethics. They should create a manual or handbook on reporting on conflict situations and should develop guidelines for field reporters to follow when reporting news.

## Acknowledgments

The authors would like to thank Associate Professor Wonchai Mechart, Whitchutta Isaranuwat and staff for their contributions as excellent researcher and research assistance. More than this The authors would like to highly thank Professor Kanit Na Nakorn, Ph.D., Chairman of the Truth for Reconciliation Commission of Thailand or TRCT who appointed her to be one of the commissioner of TRCT and head of the research project named 'From the Root Causes of the Conflict to Reconciliation' which this article derived.

## Footnote

- (1) Regulation of the Office of the Prime Minister on the Truth for National Reconciliation B.E. 2553 (2010) dated 15 July 2010, declared in the Government Gazette, No. 127, Special Section 87 Ngor, dated 16 July 2010. Came into force on 17 July 2010

## References

- Doe, Samuel. (2012). *Comparative Review of Conflict Root Cause Analysis by Truth and Reconciliation Commissions*, Bangkok: The Truth for Reconciliation Commission of Thailand (TRCT).
- Greief, Pablo De. (2010). *A Normative Conception of Transitional Justice*. *Politorbis* 50,(3), pp.17 – 29.
- International Association for Humanitarian Policy and Conflict Research. (2012). *Peacebuilding initiative: Introduction to Peacebuilding* [Online]. (n.d.). Available from: [http:// www. Peacebuilding initiative.org/index.cfm?pagelD=1681](http://www.Peacebuildinginitiative.org/index.cfm?pagelD=1681) [March 21, 2012]
- Kriesberg, L. (1973). *The Sociology of Social Conflict*, New York: Englewood Cliff's Prentice-Hall.
- Lederach, J. P. (1997). *Building Peace: Sustainable Reconciliation in Divided Societies*. Washington DC: United States Institute of Peace Press.
- The International Center for Transitional Justice (ICTJ). (2004). *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies* [Online]. Available from: <http://www.ictj.org/en/tj/> [2012, March 8]

- Ua-amnoey, J., and group. (2013). *From the Root Causes of the Conflict to Reconciliation*, Bangkok: The Truth for Reconciliation Commission of Thailand (TRCT).
- United Nations. (2010). *UN Peacebuilding: an Orientation*, New York: Peacebuilding Support Office.
- Ury, W. L. (2000). *The Third Side* [Online]. Available from: <http://www.thirdside.org/presentation.ppt> [2012, February 22]
- Van Slyke, E. J. (1999). *Listening to conflict: Finding constructive solution to workplace dispute*. New York: Library of Congress.
- Wellhungerhilfe, D. (2007). *Conflict-sensitive Approach in Overseas Co-preparation* [Online]. Available from: [http://www.welthungerhilfe.de/uploads/tx\\_Dwhhinformatior/OR\\_konflikts.\\_Handeln\\_englisch.pdf](http://www.welthungerhilfe.de/uploads/tx_Dwhhinformatior/OR_konflikts._Handeln_englisch.pdf) [April 1, 2012]