



Memorialisation as Related to
Transitional Justice Processes in
Thailand: an Exploration



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This document is one of seven Country Explorations that served as a foundation for the Exchange report. The Exchange report itself looks into the state of affairs in the field of transitional justice in the participating countries, mapping out memorialisation initiatives and ways forward. This Country Exploration is based on documents produced by the participants prior and during the Exchange, was written by Annet van Offenbeek, fact-checked by Pauline Tweedie, edited by Laura McGrew and validated by the country-group participants. Marina Oliver – Tomić and Ralph Sprenkels provided additional editorial support.

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Cover photo by the Peace and Information Centre. A report on the 2010 crackdown.

1. Introduction

The series of Country Explorations on Memorialisation as Related to Transitional Justice Processes was elaborated collaboratively as part of the Asia Exchange Meeting ‘Memory for Change’, which was held in Bangkok, Thailand in November 2014. It consists of seven concise overview documents, each referring to one of the participating countries in the Exchange. The Country Explorations provide a contextual overview as well as an analysis of initiatives that find themselves in the realm of memorialisation and transitional justice in each country. They also offer ideas for ways forward concerning the enhancement of local, regional and international engagement on the subject. The Country Explorations feed into the comparative sections of the Asia Exchange Report. Different relevant initiatives and situations touched upon in the Exchange report are explained here in more detail.

2. History and Background

Thailand has not been plagued by civil wars or genocides, and in spite of several coup d’états has been seen as a thriving and prosperous Asian country – an image that the military and its civilian allies in the government were keen to promote. Recent years of more sustained political violence as well as the violence and unrest in the Deep South have started to put issues of transitional justice and memorialisation on the agenda of Thai human rights organisations. The history of current conflicts in Thailand explains itself best by focusing on two areas: the Central Thai political conflict and the Southern Thai conflict.

Central Thai Political Conflict

Thailand traces its origins to the Sukhothai Kingdom founded in 1238 and its successive Ayutthaya Kingdom. The Rattanakosin Kingdom was founded in 1782 by King Buddha Yodfa Chulaloke of the Chakri Dynasty, of which the current King Bhumibol Adulyadej is a descendant. Its absolute monarchy lasted until 1932. The maximum territorial extent of Rattanakosin Kingdom included vassal states of Cambodia, Laos, and some Malay kingdoms. It is the only country in Southeast Asia that was not occupied by European colonial rule, and was seen by France and Britain as neutral territory to avoid conflicts between their colonies.¹ This territory diminished up until the 1910s since the colonial powers forced Siam (the ethnically neutral name used until 1939 before it was officially named Thailand) to relinquish its claims in Cambodia, Laos, and the northern Malay states.

A bloodless coup d’état in 1932, engineered by a group of nationalist-minded government officials and army officers as a reaction to a vigorous nationalism ‘from below’², ended the absolute monarchy and ushered in a constitutional regime. In the post-war period, Thailand had close relations with the U.S., which it saw as a protector against communist revolutions in neighbouring countries. Although nominally a constitutional monarchy, Thailand was ruled by a series of military governments, interspersed with brief periods of democracy. This struggle between democratic forces and anti-democratic forces, with the military wanting to

¹ Burma and Malaya colonised by Britain and Vietnam (and later Cambodia and Laos) by France

² Craig. J. Reynolds, Thai Revolution (1932) published in Jack A. Goldstone (ed.), The Encyclopedia of Political Revolutions (Washington, D. C.: Congressional Quarterly Inc., 1998), pp. 479-480.

maintain the status quo of political power that served economic interests, led to years of coups and political conflict as follows.

Violent Events During the Central Political Conflict

After World War II, Thailand saw a peak in violence during specific periods. In 1967 the Red Barrel incident took place in Lamsin, in the southern Phattalung Province, where over 200 suspected communists were incinerated in red petrol barrels. During a demonstration on 14 October 1973 where students and organised labour groups called for a constitution, the military fired on protesters, killing 77 persons and injuring 857. The King took a rare role in forcing the resignation of the military cabinet headed by Thanom, allowing him and his colleagues to secretly move out of the country, and appointing Thammasat University president Sanya Dharmasakti as interim Prime Minister.

On 6 October 1976 students held a demonstration at Thammasat University campus against the return of Thanom to Thailand. Military plotters claimed that the students committed *lèse majesté*³, which led to royalist paramilitary groups and police attacking the students, killing, lynching and mutilating at least 46 persons (this is the official count – eyewitnesses speak of the transportation and cremation of over 100 bodies after the attack) and of an unknown amount of injured. Two days later a military junta was established again. More than 3,000 persons fled to the provinces, joining the Communist Party of Thailand.

The following years saw a series of military-led governments, reform efforts, coups, new elections, and coalition party politics. On 23 February 1991, Army Commander General Suchinda Kraprayoon overthrew the government of Army Commander General Chatichai Choonhavan. A government coalition with 55% of the lower house was formed and General Suchinda was appointed as Prime Minister. Massive public protest followed and on 17 May 1992 a strike started, which was fiercely cracked down on by Suchinda. This led to the deaths of 52 people, many disappearances and around 600 injured people. After intervention by the royal family on 24 May 1992, Suchinda stepped down as Prime Minister of the junta.

The populist Thai Rak Thai party, led by Prime Minister Thaksin Shinawatra came to power in 2001. In February 2003, the government launched a 'war on drugs', purportedly aimed at suppressing drug trafficking and the prevention of drug use. This policy led to substantial arbitrary violence. In the first three months of the campaign there were some 2,800 extrajudicial killings. In 2007, an official investigation found that more than half of those killed had no connection to drugs.⁴ Local authorities were involved in establishing blacklists.

The main conflict of Thai politics is between two groups: the first group, the 'Red Shirts', supports the former Prime Minister Thaksin, and the second group is the anti-Thaksin group, the ultra-royalists, together with the People's Alliance for Democracy (PAD), also known as the 'Yellow Shirts'. The recent political unrest in Thai politics began with the overthrow of former Prime Minister Thaksin Shinawatra in the 2006 Thai military coup. In 2009 political tensions rose again during the period of Prime Minister Abhisit, when supporters of the

³ *Lèse majesté* is the crime of violating majesty, an offense against the dignity of a reigning sovereign or against a state. It has been prohibited by the Law of Thailand since 1908.

⁴ Human Rights Watch, *Thailand's 'war on drugs'*, Human Rights Watch, 12 March 2008, available at: <http://www.hrw.org/news/2008/03/12/thailand-s-war-drugs>

ousted Prime Minister Thaksin, United Front for Democracy Against Dictatorship (UDD) - the 'Red Shirts' – took to the streets. Violence resulted in more than 120 injured, most of them UDD demonstrators.⁵ It was followed with violence in 2010 at a 'Red Shirt' protest in Bangkok and a government crackdown on protesters. This led to more than 100 deaths and 2,000 injured in the worst political violence in Bangkok in nearly 20 years. No one has been held responsible for these deaths.

Furthermore, in 2013 the political violence continued when protests erupted against the government of Thaksin's sister, Yingluck Shinawatra, who had become Prime Minister. In 2014 the Thai military unilaterally declared martial law and took control over the country. Today Thai politics is dominated by the military again who are claiming to bring peace to the Thai people. However, the way they took control of the country was undemocratic and there is severe suppression of basic civil and political rights. Various governments, including those of the U.S., France and Germany, as well as human rights groups, have condemned the military's move - the 19th coup since absolute monarchy was abolished in 1932.⁶

The Southern Thailand Conflict

The South Thailand conflict is a historically rooted conflict, which has been ongoing for hundreds of years since Siam's conquest of what used to be the Sultanate of Patani. The area that made up the former-Sultanate of Pattani was split in half due to the Anglo-Siamese treaty of 1909. This allowed Siam to hold on to half of the former-sultanate (this was later divided into Pattani, Yala and Narathiwat Provinces) while the rest of the sultanate became part of British Malaya.⁷ By 1934 Marshall Plaek Phibunsongkhram set in motion a process of Thaification, which had as its objective the cultural assimilation of the Patani people, among other ethnic groups in Thailand.⁸ In the 1950s a Patani nationalist movement began to grow, leading to the South Thailand insurgency and to Muslim leader Haji Sulong disappearing under mysterious circumstances when he was asked to report himself to the police in 1954. The Patani Malays who are predominately Muslims have been the victims of a nationalist policy, which has forced them to practice Siam/Buddhist cultures instead of their Malay/Islamic cultures. This has caused the Patani Malays not only to be discriminated against by the state but also to be deprived of their economic share, and their fundamental rights and freedoms.

Since 2001 the insurgency has become fiercer, but the groups that have carried out the violence remain anonymous. The violence is occurring in the provinces of Yala, Pattani, Narathiwat and some parts of Songkhla. A Thai army raid in 2004 on the Krue Se mosque in Pattani, left 32 insurgents and three Thai security officers dead. The incident was followed by the Tak bai incident in October 2004, in which 78 arrested demonstrators suffocated in an army truck. This drew global attention to the Pattani conflict. The Thai government implemented both martial law and a state of emergency in the area, citing 'terrorism' and

⁵ <http://news.bbc.co.uk/2/hi/asia-pacific/7997507.stm>

⁶ The Guardian, *Coup Needed for Thailand 'to love and be at peace again' – Army Chief*, 22 May 2014, available at: <http://www.theguardian.com/world/2014/may/22/military-coup-thailand-peace-general-prayuth-chan-ocha>.

⁷ Gerard McDermott, *At the kingdom's edge: Exploring Thailand's forgotten conflict*, 13 July 2012, available at: <http://politico.ie/archive/kingdoms-edge-exploring-thailands-forgotten-conflict>.

⁸ Thanet Aphornsuvan, *Rebellion in Southern Thailand: Contending Histories*, pp. 35, Singapore: Institute of Southeast Asian Studies, 2007.

‘security’ as the reasons. However, the Patani Malays believe that the government is trying to prevent them from empowering themselves with their own culture and beliefs. The Patani Malays further request an autonomous region for self-governance. Currently, Southern Thailand is highly militarised and many extrajudicial killings take place with minimal global attention. The cycle of violence continues today, with over 6,000 deaths, more than 10,000 injured and more than 15,713 incidents occurring between 2004 and 2014. 55% (33 persons) of the enforced disappearance cases in Thailand documented by the Justice for Peace Foundation in their 2012 report took place in Southern Thailand.⁹ Human Rights Watch stated that the many unresolved enforced disappearance cases show the failure of justice in Thailand.¹⁰

Links Between the Central Thai Political Conflict and the Southern Thailand Conflict

The over-centralisation of the Thai state, which does not tolerate any challenges to its central authority, is at the heart of both conflicts. The composition of the central Thai government determined the policies adopted towards the Southern Thailand conflict. However, during different types of governments – military- or civilian-led - there are similarities in the exclusion of local communities and the common aim to preserve Thailand’s borders. The root causes in both conflicts include a lack of democracy, with the military controlling the government. In both conflicts there is a similar narrative or discourse on the role of the military: ‘bringing happiness to the people’ and stability. This indicates a lack of a real transformation process, as the same institutions and people remain in power. To make matters worse, the recurrent political crisis in Bangkok has deflected the international attention away from the conflict in the south, keeping it out of the limelight.

3. Transitional Justice Mechanisms

Since Thailand is not seen as a country where mass atrocities have taken place, few people, whether within the government, the international community, or civil society, have considered official transitional justice mechanisms as tools for transformation. However, a handful of measures have been taken.

The 2004 Takbai incident and the unravelling of civil order in the south did enormous damage to the regional and international standing of the Thaksin government. Mahathir (former Prime Minister of Malaysia) even publicly called for the southern provinces to be granted autonomy. Criticism also came from Civil Society Organisations (CSOs), but even more importantly, from the King’s Privy Council, who called upon the government to adopt a more conciliatory approach to the crisis.¹¹ Under pressure, Thaksin decided to create the National Reconciliation Commission (NRC) in 2005. From the outset, the 50-member NRC, chaired by former Prime Minister Anand Panyarachun, was too large and unwieldy to function effectively. Due to the fact that the political dimensions of the conflict were seen as

⁹ Justice for Peace Foundation, *Enforced Disappearances*, May 2012, available at: http://issuu.com/wgjp/docs/enforced_disappearances_in_thailand_03/1?e=0.

¹⁰ Human Rights Watch, Thailand: Still No Justice for ‘Disappearance Victims’, 30 August 2013, available at: <http://www.hrw.org/news/2013/08/30/thailand-still-no-justice-disappearance-victims>.

¹¹ McCargo, Duncan (2010) ‘Thailand’s National Reconciliation Commission: a flawed response to the Southern Conflict’, *Global Change, Peace & Security*, 22: 1, 75 — 91.

off-limits for a variety of cultural and historical reasons, the NRC produced a report that emphasised issues of justice, but failed to engage with the core questions underpinning the violence.¹² The final report made little effect on policy because most of its recommendations were ignored. An NRC fund was established to compensate victims with roughly 5,000 baht per family, but these were one-off payments. No senior security personnel were prosecuted in this process.¹³ On 2 November 2006, Prime Minister Surayud Chulanont gave a formal apology for Thaksin's policies in the south, and two days later the charges against the surviving protesters were dropped.¹⁴ The apology was not, however, followed by prosecutions.

From 2004 until 2012, 12 Commissions of Inquiry or Fact-finding Commissions were set up to investigate specific cases of violence. However, proposed measures have not been implemented and there have not been any court cases against alleged perpetrators.

In 2010 the government set up a Truth and Reconciliation Commission of Thailand (TRCT) to investigate the April-May 2010 political violence committed by state security forces and the opposition 'Red Shirts.' The report, published in September 2012, concluded that excessive and unnecessary lethal force by the Thai army as well as armed elements among the protesters were responsible for at least 90 deaths and more than 2,000 injuries.¹⁵ Immediately after the release of the TRCT report, the UDD leadership and their supporters, including those holding positions in the government and the parliament, emerged in large numbers to dismiss the TRCT findings and assert that there were no armed elements within the UDD.¹⁶

The following government of Prime Minister Yingluck Shinawatra has repeatedly and publicly vowed support for the TRCT and promised to consider its findings. However, both governments have politicised the justice process. The Abhisit government summarily charged hundreds of UDD protesters with serious criminal offenses, but at the same time failed to file charges against any government officials or military personnel. The Yingluck government, which has the backing of the UDD, took a similarly one-sided approach, focusing on criminal investigations primarily on cases in which soldiers were implicated while dismissing evidence of violence by the 'Black Shirts'.¹⁷ While Thai authorities have not released comprehensive forensic analyses of the wounds sustained by those killed between 14 May and 18 May 2010, incidents reviewed by Human Rights Watch indicate that several unarmed protesters were killed with single shots to the head, suggesting use of snipers and

¹² Ibid.

¹³ Barron, P., *Deep South Peace Requires Justice First*, Bangkok Post, 19 February 2015, available at: <http://www.bangkokpost.com/opinion/opinion/478749/deep-south-peace-requires-justice-first>.

¹⁴ The New York Times. Reuters. 4 November 2006, available at: http://www.nytimes.com/2006/11/04/world/asia/04briefs-THAILANDCASE_BRF.html?fta=y.

¹⁵ Human Rights Watch, Thailand: Act Bring Justice for 2010 Violence, 22 September 2012, available at: <http://www.hrw.org/news/2012/09/22/thailand-act-bring-justice-2010-violence>. Human Rights Watch found in its May 2011 report "Descent into Chaos" that both government security officials and elements of the United Front for Democracy against Dictatorship (UDD), including the "Black Shirts," were responsible for the violence, though the government forces were responsible for the large majority of deaths and injuries. Human Rights Watch's investigations found that the attacks did not originate with Red Shirt Guards, but with a secretive armed element within the UDD whom protesters and media called the "Black Shirts" or "Men in Black" - though not all were dressed in black.

¹⁶ Ibid.

¹⁷ Ibid.

high-powered scopes.¹⁸ There is no tangible evidence that those who died held any weapon in their hands.¹⁹ With the current military government, the chances of seriously following-up on the TRCT recommendations or starting criminal cases are extremely low.

With regards to the conflict in the south, several ‘peacebuilding’ measures have been carried out by the authorities so far. In February 2013, official peace talks started between the Thai government and Hassan Taib, the leader of Barisan Revolusi Nasional (BRN)²⁰, one of the many separatist movements in the Deep South. One of the demands of BRN was an amnesty clause. The talks took place in Kuala Lumpur, with Malaysia acting as mediator. After the 2014 coup, the Thai military stated that they support the initiative, but that they will take charge of the negotiations. This is not an inclusive process and excludes actors from the south. There have been recent civil society initiatives to lobby for the inclusion of different groups in the next steps of the peace process. Civilians were unaware of the peace talks that have taken place so far because they were excluded from the process.

The main obstacles to a successful transitional justice process include: lack of political will, the polarisation of society and a lack of awareness that victims, policy-makers, CSOs and the media have concerning transitional justice mechanisms as a tool for transformation. There is a lot of distrust towards political institutions that have a long history of political violence, which has never seriously been dealt with. This causes a highly divided society. All measures taken so far have been highly politicised and partisan.

4. Memorialisation Initiatives

In Lamsin, Phatthalung Province in the mid-south, there is a monument to the Red Barrel incident of 1967 (see figure 1), organised by former members of the Communist Party of Thailand.²¹ The villagers hold a commemoration ceremony every April. 28 years after the 1973 student demonstrations, a monument was built in honour of the victims. On the 30th anniversary, 14 October was named an official Democracy Day by the Thaksin government.

In 2010 a memorial site was built for the 1976 student demonstration casualties, 34 years after it took place (see figure 2). No official commemoration has taken place for the victims, perhaps due to the fact that these victims were seen by the mainstream government as radicals or communists, rather than heroes of democracy. An informal organisation of victims and relatives has collected information, and has arranged commemorations and exhibitions. A Black May Monument Park that memorialises the 1992 uprising against General Suchinda was the place of rival commemorations in 2007, between Thaksin supporters who protested against the coup - stating that the current political situation was

¹⁸ Human Rights Watch, *Descent into chaos*, 3 May 2011, available at: <http://www.hrw.org/node/98399/section/2>.

¹⁹ The Nation, *Deaths from Stray Bullets ‘Shock’ Group*, 2 September 2012, available at: <http://www.nationmultimedia.com/politics/Deaths-from-stray-bullets-shock-group-30189575.html>.

²⁰ BRN, also known as Patani Malayu National Revolutionary Front, is a Patani independence movement in northern Malaysia and Patani, southern Thailand. The group has now split up and little is known about the different subgroups. Certain subgroups are completely against negotiations.

²¹ Kah Seng Loh, Stephen Dobbs, Ernest Koh, Palgrave Macmillan, *Oral History in Southeast Asia: Memories and Fragments*, July 2013.

reminiscent of 1992 - and individuals from the Democrat Party, the People's Alliance for Democracy and relatives of those killed in 1992.²²



Figure 1: Red Barrel monument in Lamsin, mid-south Thailand. (Source: <http://www.komchadluek.net/>)



Figure 2: Memorial for the 6 October 1976 victims. (Source: Tour Bangkok Legacies).

²² The Nation, *Rival 'Black May' Commemorations Held*, available at: http://www.nationmultimedia.com/2007/05/18/politics/politics_30034522.php



Figure 3: A tree planted for 'the Disappeared'. (Source: Justice for Peace Foundation).

In 2007 a tree was planted to remember those who have disappeared (see figure 3). Organised by the Justice for Peace Foundation, the tree was planted along the Chao Praya River, near Thammasat University by the families of victims of enforced disappearance in Thailand. CSOs have organised several memorialisation initiatives, including: publications, mobile exhibitions, postcard campaigns, documentaries about enforced disappearances and the documentation of cases. During commemorations traditional rituals are carried out according to the culture of the ethnic group involved.

Memorialisation Initiatives in the South

There are several memorials in the south erected by the Thai government to commemorate their victories over the insurgents. In April 1948, a group of angry Malay-Muslim villagers were gunned down in the Deep South, in what is referred to as the Dusun Nyor Rebellion. To commemorate the so-called bravery of the security officials who took part in this incident, a giant bullet was erected at a Narathiwat police station in their honour - the so-called Bullet Monument (see figure 4). In addition to this monument, cannons built by the Patani people during the war between Siam and Pattani in the 17th century were placed in front of the Ministry of Defence. Known as the Phaya Tani cannons, they were taken to Bangkok in 1786 after Siam won the war, as evidence of victory. They carry a similar message to the Bullet Monument, and are a reminder to the Malays of Patani that they are a defeated people.²³

²³ The Nation, *Malay-Muslims Don't Recognise Our State*, 29 March 2010, available at: <http://www.nationmultimedia.com/homeMalay-Muslims-don-t-recognise-our-state-30125872.html>.

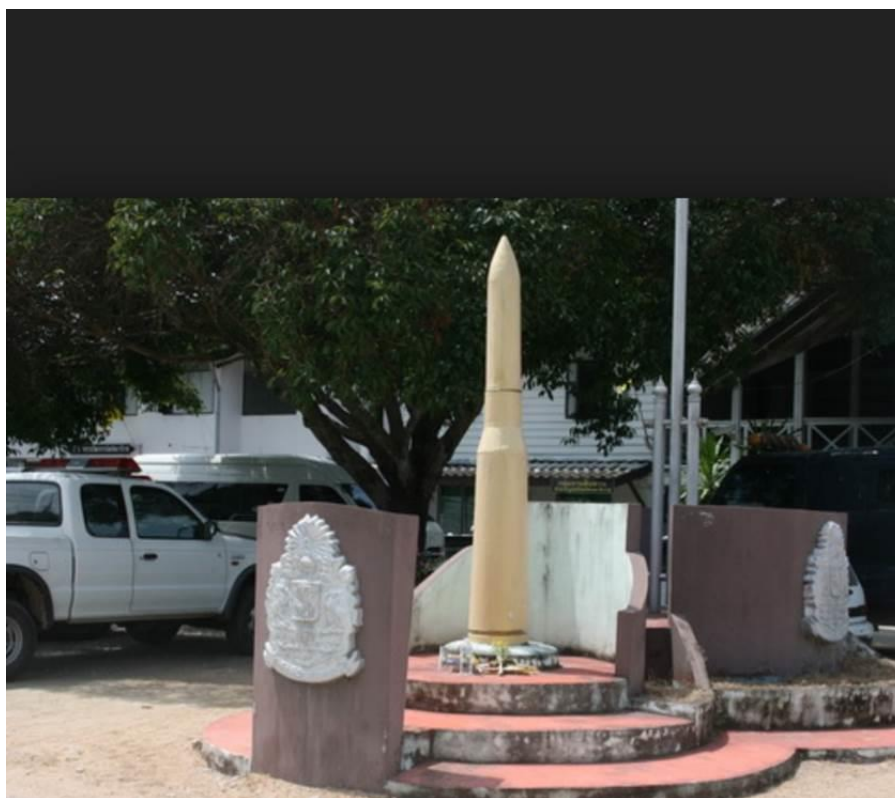


Figure 4: Bullet monument in Narathiwat, South Thailand. (Source: Free Thailand).

During the Thaksin administration, a statue of a bird was erected in Narathiwat Province supposedly as a gesture of goodwill, but has been disputed by Muslim clerics.²⁴ In addition to this, there are annual commemorations of the Tak Bai incident. CSOs in the south work with victims of bomb blasts and campaign for social awareness of the consequences of violence. The collective memories of victims will be made public on the Deep South Watch website.

The examples above show that memorialisation is as politicised as all other transitional justice mechanisms have been so far. Some CSOs try to promote a broader picture of past events, but many blank spots remain. The focus has only been on certain violent incidents with complete silence on others, depending on the political support or perspective. Many memorialisation efforts so far have been manipulated by divisive views on the past, and as of yet, there has been insufficient dialogue between groups in conflict or in disagreement for a consensus to be reached.

5. Ways Forward

Before the Exchange, participants working on the central political conflict and participants working on the southern conflict had not previously cooperated, and saw their work as

²⁴ The Nation, *Malay-Muslims Don't Recognise Our State*, 29 March 2010, available at: <http://www.nationmultimedia.com/homeMalay-Muslims-don-t-recognise-our-state-30125872.html>.

separate issues. During the Exchange, they quickly became aware of the links between the two conflicts. In reality, people in Thailand do not speak about conflict or transitional justice - only about 'situations'. There is a need for a real transformation here. To do this, it is crucial to demilitarise the country and reinstall democracy. The past century has shown how fragile democracy has been even in the non-military periods, in which both the military and the monarchy play a central role. There is a need to decentralise state power, to broaden the concept of Thai-ness and to challenge, promote and respect local identities. Dialogues should be encouraged among the public across the divide to make bridges between willing partners from each party, victims' groups and activist groups.

The Thai participants acknowledged that it would be important to look at the broader picture of past and present Thailand, and cooperate more with each other on the same goals. Public awareness should be raised via public programmes, publications and debates. The challenge will be to reach everyone, especially those living in rural and remote areas. Concerning the current political situation, it remains to be seen if there is adequate political space to open dialogue.

An independent Truth and Reconciliation Commission (TRC), both on atrocities committed in the central political conflict as well as in the southern conflict, should be established with the consultation of victims. Government forces and CSOs should get to know more about a holistic approach to transitional justice. This would help provide a comprehensive and equal reparations programme, as well as complementary transitional justice mechanisms, such as memorialisation initiatives. Mechanisms that will be implemented in the future should be closely monitored by civil society in cooperation with victims' groups.

Memorialisation should have more local ownership, straying away from party politics and focusing more on the victims. They should be empowered to take a major role in these processes. More research should be done on existing memorialisation practices and training should be provided to CSOs and victims' groups to ensure responsible and effective memorialisation that can help to demand accountability, but can also be a tool in reconciliation and healing. Alternative and creative ways of memorialisation should be sought, especially to break the silence and to gradually counter the manipulation of memory.

With the current political climate there is very little space to organise public gatherings. In this repressive environment, CSOs should try to continue documenting cases as this information can be used for future memorialisation initiatives and eventually future calls for justice. Small-scale dialogues between various individuals and groups should continue to be supported.

Civil society groups should try to become more informed on transitional justice and memorialisation, and create awareness among different stakeholders. If the situation permits it, civil society could try to advocate for transitional justice measures with willing political leaders and other influential figures. Public memorialisation activities could be used as a catalyst. However, interventions must be chosen carefully as these could spark renewed violence. The coming period will be sensitive, but memorialisation might be the way to challenge the country's silence.

Acronyms

BRN = Barisan Revolusi Nasional

CSOs = Civil Society Organisations

JFP = Justice for Peace Foundation

NRC = National Reconciliation Commission

Permas = Persekutuan Mahasiswa Pelajar dan Remaja Se Patani

PIC = People's Information Centre

TRC = Truth and Reconciliation Commission

TRCT = Truth and Reconciliation Commission of Thailand

UDD = United Front for Democracy Against Dictatorship

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Contact us:

Impunity Watch

't Goylaan 15
3525 AA Utrecht
The Netherlands
Tel: +31.302.720.313
Email: info@impunitywatch.org

www.impunitywatch.org

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