



CHAPTER 6

CONCLUSION

This study, *Civil Society and Policy Advocacy in Thailand: The Role of Advocacy Coalitions in the Establishment of the National Human Rights Commission, 1990-2000*, had as its fundamental question the examination of the advocacy roles of civil society actors in the public policy process leading to policy formation on the establishment of the National Human Rights Commission of Thailand. In analysing this area of public policy, the Advocacy Coalition Framework of Sabatier and Jenkins-Smith was adopted as the theoretical filter.

In Chapter 2, we discussed the advantages and disadvantages of the Advocacy Coalition Framework, highlighted the key Thai interpretations of the term civil society, and examined definitions of advocacy. With respect to the Advocacy Coalition Framework, we identified four of its main features and salient aspects that would be applied to this thesis. First, *policy change should be viewed from a time perspective of ten years or more*. Second, *The focus of analysis should be placed upon the 'policy subsystem' or interaction of actors who seek to influence public policy decisions*. Third, *'Policy subsystems' should be viewed from an intergovernmental perspective (all levels of government – national, provincial, local, etc.)* And finally, *Public policies and programmes can be conceptualised like belief systems, or sets of value priorities and causal assumptions.*²⁹² In an analysis of civil society, we outlined both Western and Thai approaches, but gave prominence to the Thai school of thought. Interestingly, the Thai school of civil society can be viewed in two major

²⁹² Ibid. p. 16

ways, one epitomising an elitist model where people must be 'rescued' by modernisation, and the second school which posits a more 'people' oriented perspective which calls for a more bottom-up approach, with rural and urban communities negotiating a pluralist and democratic coexistence. It was also argued here that the so called civil society NGOs are often themselves highly undemocratic, inaccessible, non-transparent entities which operate, and are often dominated, by elites and elite belief systems.

At the outset, we also set ourselves the challenge to contribute to debates on the Advocacy Coalition Framework theory and test its applicability to a newly industrialised Asian society. In retrospect, the Advocacy Coalition Framework was perhaps not the best suited for our discussion at hand. As mentioned earlier, the Advocacy Coalition Framework does not adequately explain periods of dynamic change, such as that experience during the constitution drafting process. The application of the Policy Entrepreneur model would be interesting here. I have already criticised the Advocacy Coalition Framework earlier in this paper for its bias towards constitutional legal traditions, its bias towards policy areas dealing with natural phenomena, and its tendency to favour quantitative measurement. This poses a distinct problem for the student of human rights policy. The application of the Advocacy Coalition Framework to an Asian nation like Thailand does pose some interesting challenges in that, due to sociocultural aversion to conflict and dissent, the beliefs expressed by certain actors in public forums might be expressed in terms less explicit and categorical than in Western conflictual systems of politics.

In Chapter 3, we left the purely abstract theoretical musings about civil society and the Advocacy Coalition Framework behind and began to address the topic at hand. Chapter 3 and its consideration of human rights in Buddhism, the media, 'Asian values' and elite politics was to set the stage for our later discussion on the National Human Rights Commission. Because the Advocacy Coalition Framework requires us to examine policy issues from the perspective of advocacy coalitions and the belief systems within and between those coalitions, it is necessary for us to first describe and analyse the political, social and cultural environment that informs and shapes people's beliefs about human rights.

In considering Buddhism and human rights, it was our purpose to examine the larger structural and societal obstacles to the active participation of Buddhism in the development of human rights in Thailand. I argued that Buddhism in Thailand has not contributed (or has been prevented from contributing) in any meaningful way to the development of human rights in Thailand for three key reasons: the lack of any separation between church and state, the systematic marginalisation of human rights activists and reform-minded monks, and the restriction of the debate to the esoteric, supra-mundane level.

Turning to 'Asian values', it became apparent that Thailand was somehow ill-placed between the 'Asian values' camp and the so-called Western universalist camp. This became all the more apparent in the discussion of elites and politics later in the chapter. Here, we identified the origins of the dominant elitist mentality and its preoccupation with constitutionalism and nationalism – both of which have served as obstacles to the full development of a pluralist and democratic civil society.

Also in the chapter, we discussed the role of the media and its relationship to human rights. Although some might argue that such a discussion is unnecessary in a discussion of the National Human Rights Commission, I would counter that the media is one of the primary vehicles by which public opinion is shaped and through which knowledge of human rights is disseminated to the general population. I argued that that the media has thus far been failing or not reaching its full potential in this regard for three key reasons, namely, the restrictive climate in which the media works, the manner in which human rights are represented in the media, and the persisting confusion of media organisations as to what their role vis-à-vis human rights should be.

Chapter 4 concerned itself with an overview of the historical legal and constitutional articulation of human rights in Thailand. Beginning with a general overview of the concept of a national human rights commission, we also highlighted the Paris Principles of the United Nations, which have become a fundamental element of the policy core of the pro-commission advocacy coalition. Before moving to our detailed analysis of the role of advocacy coalitions in Chapter 5, it was also necessary to outline the pre and post Constitutional mechanisms for the promotion and protection of human rights for use as a point of reference.

Chapter 5 forms the central component of this thesis. Hundreds of pages of committee meeting minutes, reports, public hearing documents, NGO publications and research works, along with select interviews, provided critical information which was filtered through the lens of the Advocacy Coalition Framework. In the

introduction to this thesis we identified four major research questions for consideration. Let us return to them now.

Identify and analyse the role of human rights advocacy coalitions in Thailand during the period of 1990-2000. The Advocacy Coalition Framework posits that we must discard traditional models of policy analysis, or 'iron triangles' and instead focus on much broader 'advocacy coalitions' made up of the traditional actors, but also supplemented by journalists, academics, researchers, etc. During the period of 1990-2000, I identified two major advocacy coalitions in two major policy subsystems. In the period from 1990-1993, the Progressive Reform Coalition was primarily composed of NGOs (WCN, CCHROT, CPD, CFD, et.al.), progressive academics, the media, many business leaders, student activists, urban middle-class, progressive MPs and senators, the Democracy Development Committee, and the majority of CDA members. Meanwhile the Conservative Reform Coalition was composed mainly of conservative MPs and senators, large segments of the bureaucracy, many police and military officers, Interior Ministry, village chiefs, and a minority of CDA members.

Later, following the May 1992 massacre, a new policy subsystem emerged on the National Human Rights Commission, sharing many of the same actors. The newly emergent Pro-Paris Principles Coalition was made up of NGOs (CCHROT, WCN, UCL, CPD), progressive academics and media, the House Committee on Justice and Human Rights, Anand, Chuan, Banharn administrations, international NHRCs, United Nations, and Democrat, Chart Thai, New Aspiration, Chat Pattana Parties. This

coalition was opposed by the Anti-Paris Principles Coalition represented by the Council of State, conservative MPs and senators, and government Whips.

These two subsystems overlap and mutually complementary. Therefore, they are divided here for the sake of analysis and should not be considered as discreet units, rigidly separated from one another. The various strategies and activities of the competing coalitions in the pursuit of their goals are outlined extensively in Table 3, which outlined the chronology of events leading to the establishment of the National Human Rights Commission, broken down into three phases: Phase I – (1986-1992) Period of almost complete absence of government policy on human rights. Social unrest and seeds of reform, Phase II – (1993-1997) Political reform and human rights (national and regional) are debated. Major Constitutional reform results along with birth of National Human Rights Commission, and Phase III – (1997-2000) Government begins drafting Constitutionally-mandated organic laws. Opposition to National Human Rights Commission intensifies.

Identify dominant belief systems and measure longitudinal change over time.

From 1990-1993 the Progressive Reform Coalition sought to realise its core belief that political reform in Thailand was necessary and its policy core beliefs that democratisation and decentralisation of power was best pursued through constitutional reform. The opposing Conservative Reform Coalition, while sharing similar core beliefs, wanted constitutional reform to clean-up politics not by devolving power to the people, but by reducing 'parliamentary dictatorship' through the establishment of a strong, centralised technocratic state. With the new emergence

of the National Human Rights Commission idea and accompanying subsystem, we found that many of the beliefs surrounding the commission were predicated on the same ideals which had formed the core of the political reform coalitions. The Pro-Paris Principles Coalition was firm in its belief that the promotion and protection of human rights is fundamental to democratic development. In order to secure this promotion and protection, a national mechanism must be instituted, based on the Paris Principles of the United Nations. In response to this coalition, the Anti-Paris Principles Coalition sought at every turn to thwart the realisation of a truly independent, powerful national institution. A smaller and less cohesive coalition, they sought to promote ideals of Thai nationalism, national security and development to render the National Human Rights Commission a 'paper tiger.'

Highlight the key advocacy strategies and assess their efficacy. The pro-commission coalition was largely successful in translating its policy goals into reality through the use of a variety of 'guidance instruments' that leaned heavily on lobbying, organising seminars and cultivating personal connections with elites. Several key strategies are of note including the successful partnership with the media to influence public opinion; the linking of the debate to international standards to secure legitimacy and play upon Thai elite insecurities about being unmodern; the strategic alliance between radical NGO activists and conservative elite reformists in order to temper the NGO agenda, and the success in manipulating both personal contacts and the system to secure a place at the bargaining table in government committees.

Identify the key factors that led to policy formation on the National Human Rights Commission. What were the results? As I have argued earlier, it is almost

misleading to consider the establishment of the National Human Rights Commission as a public policy victory. While the fact that it was established is indeed a victory, references to a strong civil society victory over an intransigent government would be misleading. I have attempted to show that, in fact, policy change did not occur within the National Human Rights Commission subsystem. The successful manipulation of the extraordinary Constitutional Drafting Assembly situation, where the entire legal structure of the nation came up for revision, does not qualify as representing government policy. In essence, the NGO community managed to slip the National Human Rights Commission in through the back door. Faced with the unpalatable prospect of having to restart the entire, expensive process anew, the Parliament approved the draft Constitution *in its entirety*. In other words, the government had no opportunity to vote solely on the issue of the National Human Rights Commission. My argument is substantiated by the examination of the coalition conflict during the drafting of the National Human Rights Commission Act. Here, the government, and elite conservative forces mustered every means at their disposal to strip the commission of any of the powers and duties so dear to the NGO community. Although they could not prevent its setup as it was mandated by the constitution, they could reduce it to an executive controlled, 'paper tiger' like many other National Human Rights Commissions in the region. This fact testifies to the premise of the Advocacy Coalition Framework that core belief systems will remain highly stable over time, save major external influences. In sum, the establishment of a National Human Rights Commission in Thailand was secured almost by a 'technicality' rather than as a result of a successful campaign which fundamentally changed the belief systems of the dominant elite leadership.

There were however, some factors working in favour of the establishment of the commission. These external factors can be identified as, the increasing international standardisation of human rights promotion and protection norms and their codification, the international embarrassment caused by the May Events of 1992, the singularly unique opportunity offered by the political reform movement and the establishment of the CDA, and the impending massive economic meltdown that forced the government and other parties to reluctantly accept the draft constitution. Another interesting point of note concerns the miscalculation by anti-reform elements. In originally appointing the 'clean' Anand Panyarachun to the post of prime minister following the 1991 coup in a bid to quell public dissent, the elite establishment in fact legitimised Anand as a reputable, untouchable statesman. This backfired when he went on to champion political reform and human rights, and the anti-reform elements could not attack him as they had been the ones to appoint him in the first place.

The original hypothesis that to attribute the success of the constitutional provisions for a National Human Rights Commission to a strong and sophisticated civil society coalition would be to confer an overly significant level of maturity and efficacy to these coalitions and their public policy advocacy performance, and that human rights policy advocacy in Thailand in its infancy, controlled by an urban, intellectual elite, has been borne out by this analysis. The civil society arena, specifically with respect to political reform, democracy and human rights, remains still largely the playing field of an urban, highly educated elite. Even the middle class displayed its fickle nature and preference for personal interest over the interests of the greater community. This is precisely because the capitalist middle class does not owe any particular allegiance to democratic ideals. In fact, with the growing economic clout of the middle class,

many argue that they don't even need or require civil or political rights. The middle class, in effect, has circumvented (surpassed?) the state, able to compete and satisfy its materialist and consumerist demands without the assistance of the state.

Many of the key actors and policy brokers identified above, and the nature of the relationship between them and civil society organisations belies a very persistent, lingering elite mentality within Thai society. Moreover, the ever growing rift between the urban and rural communities is cause for serious alarm. While the activities of certain grassroots NGOs such as those outlined by Naruemon may serve as a 'pressure release' valve, they will never ultimately bridge the urban-rural gap until such time that the elite systems of discourse and leadership in Thailand are significantly dismantled. This is not a phenomenon isolated to rural villagers. In fact, I would characterise Thai politics, even within so-called civil society as 'me first' politics. The entire patronage system, and the more recent NGO efforts to secure more power from the state, all point to an epic and enduring struggle for power, for the ability to control one's destiny. Even NGOs are guilty of this kind of mentality. It is quite apparent in early versions of the National Human Rights Commission Act draft and in position statements made by NGOs that they believed they had a 'right' to be represented (even dominant) when it came to the National Human Rights Commission. Furthermore, they wanted the National Human Rights Commission to act as a local funding agency, providing funds for human rights work to private organisations. I would argue that this in fact represents one of the fundamental paradoxes of the NGO community. While on one hand maintaining a fierce independence and separation from the state, they also sought at the same time to legitimise their power or to institutionalise it by securing positions on the National

Human Rights Commission. As a constitutionally independent agency, they could therefore claim to be independent of the state, while at the same time attacking it from a constitutionally protected, high-level position of power. The similarities between this example and the Thai elites simultaneous accession to international human rights mechanisms while maintaining a staunch nationalist and independent position is not lost on this researcher.

Unfortunately, this mentality in turn colours civil society groups' interactions with the general population. For example, the vast majority of rural people in Thailand do not really understand or know what human rights are. They are then approached by civil society groups, blueprint in hand, who champion equality and 'a national mechanism for the promotion and protection of human rights'. What the people actually *hear* is more likely 'a mechanism for fighting the government to get what we want.' The real crisis of Thai society is the lack of devolution and decentralisation of power and the accompanying massive disparities in economic wealth.

This crisis is sure to manifest itself in the workings and statements made by the new Commission. The future does not look very bright for the Commission. Widely varying understandings of human rights among the commissioners, including personal biases towards particular types of rights (ie. social/economic. vs. political/civil) are sure to be a source of conflict. A lack of clarity on duties, and the positioning of the Commission somewhere between an independent agency and a state agency will only exacerbate the situation as the Chairman (elected) and the Secretary General of the Office of the Commission (civil servant) clash on issues of jurisdiction and power. Already the Commission has been severely hampered by a lack of funds and lethargic

state response to calls for staffing needs. Also, I predict the Commission will respond to human rights violations in a more haphazard fashion, determined by the personal interests of individual Commissioners, rather than by following an agreed upon strategic plan. Coupled with this is an almost complete lack of general public understanding about the role and duties of the Commission. In developed democracies such as Canada, the various provincial and federal human rights commissions exist largely to address and to provide redress to victims of human rights violations based upon discrimination. The discourse of discrimination, which involves a fundamental understanding and recognition of difference is almost completely lacking in Thailand. After decades of nation-building programming by the Thai government which stressed conformity and homogeneity, the identification and recognition of the value of difference is surely a long way off. Because the human rights violations we see in Thailand are of the more serious variety, including extrajudicial killings and impunity, the role of the Commission forces it to directly confront those most dangerous and powerful forces in Thai society. This precarious position requires the Commission to hold great public confidence and legitimacy, lest it succumb to fear and paralysis. This public confidence and legitimacy has not yet manifested in Thai society. The Commission must strive to appear to represent a neutral and prestigious body, rather than acting as an appendage of those civil society or NGO interests who were most intimately involved in its setup and selection of commissioners. This is the major challenge facing the new Commission, for without strong public confidence in the institution, the Commission will be exploited as just another tool by various interest groups seeking to further their own personal causes in the environment of Thai 'me first' politics.