

## ARTICLE

# Peace in Patani? The Prospect of a Settlement in Southern Thailand

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The Kingdom of Patani was formally incorporated into the Kingdom of Siam a little over 100 years ago and has been in varying states of rebellion since then. This resistance has at times had a violent character, as it does right now, but has also involved a resilient attachment to various aspects of the local identity, such as the religion, language, and local historic narrative. While the right of the inhabitants of the area to legally claim self-determination under international law is tenuous, a broader understanding of self-determination may be able to support the concept of a regional autonomy arrangement within the Thai state. *Prima facie*, an autonomy arrangement has the potential to address many of the grievances of the Malay-Muslim community in the Patani region. There are also now some positive Southeast Asian examples of autonomy solutions made under similar circumstances, particularly Aceh and Mindanao. This possibility has entered mainstream political discussion in Thailand in recent years. However, credible and committed leadership would be needed from both sides in order for some kind of negotiated settlement to be agreed upon and implemented. Talks between an insurgent group and the Thai government began in 2013. However, these have highlighted significant challenges that would surround any peace process, particularly the dispersed nature of the insurgency.

## Introduction

Peace talks between the Thai government and rebels from the southern Patani region, begun in March 2013, have ushered a century of tensions into a new phase. Rebellion and resistance have been consistent hallmarks of the Malay-Muslim areas of southern Thailand since the Kingdom of Patani was definitively incorporated into the Kingdom of Siam at the beginning of the 20th century. The author of this essay visited the area as a journalist in 2008 and can confirm the presence of a simmering pro-independence sentiment among some of the Malay-Muslim population there (Lamey 2008: 114). The nascent 'peace process' has already been severely tested in its

first few months but the meetings continue, with the most recent occurring on 13 June 2013 (at the time of writing).

This research essay explores the possibility of a negotiated settlement for the Patani region and how this settlement might be supported by international law. It finds that while the right of the inhabitants of the area to legally claim self-determination is tenuous, a broader understanding of self-determination may be able to support the concept of a regional autonomy arrangement that could address some of their long-standing grievances. This would require a major shift in approach from the Thai state, which prefers to imagine itself as possessing a unified character and identity, but there are signs that Thai leadership and society are becoming increasingly open to such a possibility. Far greater coherence and clar-

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ity would also be required among resistance groups. Stuttering motions in this direction are being helped along by the establishment of regional autonomies for minority groups in the Philippines and Indonesia, with both cases bearing some striking similarities to the situation in the Patani region.

## History and Context

### *The Colonial Era*

Siam underwent dramatic changes during the 19th century as the twin forces of colonialism and modernisation transformed the kingdom into a state. An important aspect of this was the management and confirmation of its borders with the neighbouring French and British powers. It was this process that brought Patani definitively under the control of Bangkok and sowed the seeds of today's conflict.

Prior to the arrival of the colonial powers in the Siamese milieu, borders on a map or on the ground did not define the extent of political control. Instead, control extended as far as the influence of a ruler, a limit that could wax or wane depending on the prevailing circumstances (Baker and Phongpaichit 2009: 51). Such influence was often held together through tributary arrangements with local rulers who retained control over their societies. At the outer edges of Siamese influence, it was also not uncommon for a local ruler to be under the sway of two powers simultaneously. This ambiguity characterised the political status of the sultanates of the Malay Peninsula in the 19th Century, including Patani, which found themselves increasingly squeezed between an expanding Britain and a rapidly modernising Siam (Baker and Phongpaichit 2009: 50, 69–70). After a major confrontation with the French in 1893 resulted in a serious territorial loss, the Siamese entered negotiations to secure their borders once and for all. This included a focus on the status of the Malay sultanates in the south. Baker and Phongpaichit describe these southern negotiations as being 'relatively easy' (2009: 59) as the polities - who

were not consulted (Aphornsuvan 2007: 30) - were shared between Britain and Siam.

The important question of whether Siam's role in this process was 'colonial' is discussed in a later section. Loos argues that Siam fits neither the classic archetype of the colonised or the coloniser, but noted that in the south it undertook practices remarkably similar to those of the colonial European powers (2010: 75). It began in 1901 by abolishing the tribute system and declaring the seven kingdoms, which included the eponymous Kingdom of Patani and other smaller sultanates, to be provinces under the direct rule of Bangkok, as had already happened in other parts of Siam (Aphornsuvan 2007: 23). This involved convincing the rajahs to relinquish administrative control to Siamese bureaucrats and accept state pensions, with taxes to be collected by the centre. Most of the rulers signed a document accepting these terms but the Rajah of Patani steadfastly refused, certain that to do so would signal the end of Patani's 'independence' (Aphornsuvan 2007: 26–7). But the tide of history was too strong and the old kingdoms were combined into one province. The Anglo-Siamese treaty was then signed in 1909, finally confirming the boundaries of the modern state, which endure today (*Treaty Between the United Kingdom and Siam*, 9 July 1909).

### *Opposing Identities in the Modern Thai State*

Although Thailand was not officially colonised, it underwent many of the same processes as post-colonial states. In many ways it was a forerunner of other states in the region that emerged after World War II and faced the challenge of rallying their diverse populations. In Thailand, this process began in earnest early in the 20th century and was without doubt driven by the centre, with various official bodies deciding and disseminating what it meant to be 'Siamese'. There was even a *National Culture Act*, which contained detailed codes of behaviour (Aphornsuvan 2007: 35). This brought the authorities into

a clash with the Malay south which had its own deeply ingrained Muslim culture that weaved through every aspect of life.

Today, owing to the nation's name change in 1939, the concept is known as 'Thai-ness' or *kwaampenthai* in Thai (Winichakul 1997: 3). Thai-ness is understood to be something innate that all Thais are born with and that they thus know instinctively (Winichakul 1997: 5). The slogan 'Nation Religion King' helps identify the key institutions with which Thais are expected to identify (McCaro 2010: 266) and there is a strong inherent assumption regarding the role of Buddhism, even though it is not actually the official religion (Liow 2009: 20). Alongside these characteristics is an official history, a sort of national founding myth. In it, wise kings judiciously adopted only the positive aspects of the West while unique and valuable Thai customs and institutions were simultaneously preserved (Winichakul 1997: 3). Meanwhile, they dealt deftly with the colonial powers and thus, despite having to make sacrifices, preserved the independence of the nation. Indeed, the fact that Thailand 'was never colonised' is integral to national self-understanding (Jackson 2010: 37–8) and is an important discussion that will be returned to in the next chapter.

It is here that the official and universal national identity encounters the distinctness of the Malay Muslims, an unhappy and incomplete encounter that has been occurring now for over a century. The people of the Patani region have shown strong resilience in the face of the dominant concept of Thai-ness, including through periods of active and forceful assimilationist policies, notably under the national leadership of Field Marshal Plaek Phibunsongkhram who ruled for most of the period from 1938 to 1963 (Ockey 2011: 110). They have also resisted the official concept of 'Thai Islam', which has been understood to imply that while it is acceptable to be a Muslim in Thailand, one must nevertheless be properly Thai in other cultural aspects (Liow 2009: 36). Liow points

out that while the concept of 'Thai Islam' has proven anathema for the Malay Muslims, it is a reasonable description of Muslim communities in other parts of Thailand, which speak Thai and are generally integrated into mainstream society (2009: 15).

This brings into sharper relief the distinctiveness of the Malays in Thailand's three southernmost provinces, who often identify with a multi-dimensional ethnic sensibility that extends beyond, but does include, their religion. The resilience shown by the Malay-Muslim identity in the Patani region can be usefully explained by imagining a tripod of three interlocking elements: the Malay language and culture, Islam, and their own alternative narrative of historical grievance. The education system provides a good example of all of these dynamics and their interaction, with Liow concluding that 100 years of efforts aimed at integrating education systems in the Patani region have had a 'tremendously corrosive' impact on relations between the Malay community and the state (2009: 22). When explaining the current conflict, contemporary commentators often add two more elements: poverty and deliberate governmental neglect, particularly through the use of the area as a dumping ground for corrupt or incompetent officials (Funston 2008: 8–10). However, both of these latter aspects could be understood to be consequences of unrest as much as causes of it.

### ***Insurgency in the Patani Region***

Although dissatisfaction and sporadic unrest festered during the first half of the 20th century, violence in the Patani region increased dramatically in the years following World War II. The first major movement was led by Islamic scholar Haji Sulong in the 1940s and early 1950s. Sulong's approach was one of civil disobedience but his arrest and imprisonment in 1948 led to a series of violent outbursts before he was ultimately disappeared by security forces in 1954 (Ockey 2011: 112–7; Aphornsuvan 2007: 52–53). Unrest blossomed again through the 1960s

and 70s with the emergence of several rebel organisations and an ongoing guerrilla war against the state (Funston 2008: 10). This phase of resistance peaked in the mid-1970s, when the Patani United Liberation Organisation (PULO) commanded approximately 1500 armed fighters, before it tapered off during the 1980s (Funston 2008: 10). An article on PULO's own website describes the organisation's decline in relevance following the 1979 Islamic revolution in Iran and the rise of Islam as the 'political tool of choice' for Muslim resistance movements globally (PULO 2012). A period of relative peace then prevailed during the 1980s, which McCargo credits to an 'elite pact' between the governments of Prime Minister Prem Tinsulanond and senior Malays that allowed the latter access to business and political opportunities (McCargo 2011: 839).

However, a new generation of insurgency arose early in the new century. The movement is often described as 'shadowy' and until very recently had no public leadership and conducted no public communications (Leithead 2009). This led the Thai military to use the word 'ghosts' when describing their opponents, a word that Askew says can also be inflated to describe the ambiguous and haunting issues plaguing the Patani region in general (2010: 117–8). However, a gradual understanding of the insurgency as a cell-based organisation with a specific seven-stage plan for achieving independence emerged (Askew 2010: 128–130). The language of captured documents shows the employment of an Islamist narrative, such as describing the conflict as a *jihad* against the Thai state (Funston 2008: 8), echoing global trends. It was only in April 2013 that the insurgent group participating in the talks revealed a public face when it issued an online video statement, taking the Thai delegation by surprise ahead of the second round of peace talks in April (Reuters 2013).

Ultimately, what matters most is that the current conflict is without doubt 'a continuation of Malay Muslim separatist impulses' (Askew 2010: 126). The durability of the

Malay-Muslim narrative of grievances and oppression can be partly explained in that it offers a variety of handles on which to grip, offering fertile ground for resistance based on a variety of ideologies. Religion, culture, and nationalism have all been drivers of the conflict and it could be said that all still are today, only adjusting in their relative prominence as times change.

### **International Law, Self-Determination, and Autonomy**

The only time that Thai rule in the Patani region was genuinely threatened was as World War II came to a close. By working with the Japanese, the Thai wartime government had captured control of Siam's previous dominions in British Malaya of Kedah, Perlis, Terengganu, and Kelantan. As a punishment for this, and as a way to further protect the security of British Malaya in the future, the British government considered taking all of Thailand's Malay provinces and uniting them with its other Malay possessions (Christie 1996: 178). Knowing this, a group of Malay elites submitted the *Patani Petition* to the British authorities listing Malay grievances as to their situation in Thailand and appealing to be allowed to choose their own future under the spirit of the newly established United Nations (Christie 1996: 227–8).

However, the petition ultimately fell on deaf ears in the face of extensive practical challenges already facing the British occupation authorities (Christie 1996: 181) and with the United States opposing further retaliation against Thailand. As Christie points out, by protecting Thailand's sovereignty, the USA blocked Patani's demand for the right to self-determination (Christie 1996: 181) and it has not since been raised seriously at the international level. But this does not necessarily mean it is legally a dead issue. Instead, it could be argued that Patani's latent demand from 1945 is still lurking somewhere in the dark corners of international law, not yet properly considered and thus not yet extinguished. This essay now turns to this question.

### ***Self-Determination in International Law***

Self-determination first found legal status in the Charter of the United Nations in 1945 but its application at this stage was still in the hands of colonial powers, only hardening in its legal meaning during the decolonisation phase from approximately 1955 to 1975 (Simpson 1996: 263). At this time, self-determination came to be narrowly understood as almost exclusively associated with decolonisation. Emerging states, armed with the doctrine of *uti posseditis* (ICJ 1986: para 23) were careful to ensure that while self-determination compelled their emancipation from their colonial overlords, it did not extend to those minority groups within their territories who were not happy with the borders of the post-colonial state. This is most clearly demonstrated in the *Declaration on the Granting of Independence to Colonial Countries and Peoples*, passed by the General Assembly in 1960, which simultaneously demands self-determination (Res 1514: Articles 2 and 5) while also emphasising the importance of territorial integrity and non-interference in the internal affairs of states (Res 1514 1960: Articles 6–7). The key question as to who qualifies as a ‘people’ for the purposes of self-determination is further elucidated by General Assembly Resolution 1541, which was made the following day. It describes a territory of the ‘colonial type’ (Article I) as, *prima facie*, one that is ‘geographically separate and is distinct ethnically and/or culturally from the country administering it’ (Article IV). Thus, from a legal perspective, a ‘people’ is generally understood as the collective inhabitants of a colonial territorial unit; minority groups are not intrinsically covered by it.

Of course, the concept is fraught in both theory and practice, with Lu recently highlighting the enduring complexities of what it means to be a colonised people (2011). The discussion here will therefore focus on how the Patani region might fit into this legal paradigm. Most importantly, are its inhabitants a ‘people’ imbued with a right of self-determination under international law? Possibly so, if it can be shown that Thailand

was a colonial power. After all, it negotiated directly with the British over the fate of territories with which it did not share a language or religion before imposing the outcome on them despite continued resistance. The Thai King Chulalongkorn himself lamented that Siam had ‘imported but misused’ the British colonial model in the Malay states, acknowledging that the inhabitants of the Patani region viewed themselves as sovereign (Chulalongkorn 1902). Resistance leaders have often characterised incorporation of the Patani region into the Thai state as a colonial take-over and continue to do so today (*Bangkok Post* 2013).

However, ‘critical scholarship in both Thai and English has long noted the country’s semicolonial status in a Western dominated world order’ (Jackson 2010: 38). This ambiguity provides fertile ground for a counter-argument: in line with the traditional Thai narrative, Siam was not a colonial state but a terrestrially continuous state surrounded by colonial predators. Patani was a tributary polity, which made it part of the Siamese Kingdom. The Anglo-Siamese treaty is simply evidence of this uninterrupted association. Another important legal argument relates to the concept of ‘salt-water colonialism’, a concept given particular meaning by Resolution 1541 when it states that a colonial territory is ‘geographically separate’ (Article IV). The Patani region is certainly geographically specific and satisfies the other part of the test by being ‘ethnically and/or culturally distinct’, but it is not separated from the rest of Thailand by an ocean. Resolutions 1514 and 1541 seemed designed to isolate European-style colonialism while protecting states from claims from minorities within their borders, and this is an example where it appears effective.

### ***Minorities and Expanded Applications of Self-Determination***

So is self-determination an entirely useless concept for resolving the problems of Thailand’s Patani region? Perhaps not. Simpson describes the post-Charter emergence of

the hard legal doctrine described above as a 'distortion' of the greater principle of self-determination and subsequently champions a newfound, or perhaps renewed, sense of possibility for the term (1996: 286). After all, at its heart, self-determination is 'a concept of liberation' (Thornberry 1989: 867). Thornberry made this remark in 1989, just as the Cold War was ending, and since then there has been a significant global trend toward autonomy arrangements, which have provided solutions to long-running minority disputes and conflicts in many countries (Weller 2009: 114). This has brought forth an emphasis on the idea of internal self-determination, which has the ability to transcend the traditional all-or-nothing attitude of self-determination in international law and allow space for context-specific negotiated settlements. As Connor emphasises, self-determination refers to a right to *choose* (2012: 54), and thus the self-determination impulse can sometimes be satisfied by a choice to remain inside a state that pledges to sufficiently renovate its governance to address the grievances and desires of a minority group. He cites a variety of surveys of minorities, including groups such as the Corsicans of France and the Okinawans of Japan, that indicate a desire for autonomy but not independence (2012: 54).

The concepts of autonomy and internal self-determination are related but not interchangeable and there is debate about whether either constitutes an actual right under international law. Liechtenstein prompted a strong response when it introduced a proposal to the United Nations in 1991 specifically advocating a right of minority groups to autonomy on the basis of an evolved understanding of self-determination under international law (Welhengama 1999: 420). In rebuttal, a variety of states, such as India, Pakistan, Indonesia, and Malaysia, argued that it was highly impractical to compel autonomous internal structures onto a state and that the granting of autonomy to a group within its territory remained the sole prerogative of a government (Welhengama

1999: 421). After reviewing a variety of arguments, Welhengama ultimately concurs that there is not yet an explicit right to autonomy or internal self-determination for minorities under international law (1999: 429). This is not necessarily a bad thing. After all, as discussed above, many blame the lodging of self-determination so firmly into a decolonial legal niche for its subsequent inflexibility, while by contrast a great advantage of autonomy is its flexibility. Thus, an examination of autonomy is best conducted from the perspective of being a potential political, rather than legal, solution.

That said, such solutions can often find support in the spirit of international law, as can minority claims for autonomy. National autonomy arrangements may nevertheless signal, or be protected by, a right to self-determination (Welhengama 1999: 438). They also map onto the spirit of significant portions of human rights law (although not necessarily its entirety [Steiner 1990–1: 154]). Article 27 of the *International Covenant on Civil and Political Rights* (ICCPR) covers the rights of minorities to practice their culture, religion, and language in their community with other members of the group (GA Res 2200A [XXI]). There are no specific stipulations on how this is to be approached, but granting autonomy or increasing local powers could be seen as methods for the promotion and protection of the rights contained in Article 27. The 1992 *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities* (GA Res 47/135) refers to a variety of human rights treaties in its preamble and cites Article 27 (preamble) of the ICCPR as its inspiration. Article 1 of this declaration says that states shall 'encourage conditions for the promotion' of minority identities. This is clearly a step beyond the obligation to 'respect and to ensure to all individuals' only the three explicit minority rights contained in the ICCPR (ICCPR: Article 2). Although not binding, the more expansive and positive nature of the 1992 declaration implies significant support for autonomy arrangements made for minority groups.

## Autonomy Arrangements in Southeast Asia

Mindanao in the Philippines and Aceh in Indonesia provide two contemporary examples of the use of regional autonomy arrangements in settling long-running and violent self-determination disputes. Each could warrant a lengthy comparative analysis with Patani due to their many nuances. Short descriptions are presented here to show that autonomy arrangements are possible in broadly similar circumstances.

Although there can be great variability in the details, the two main types of autonomy structures are federal arrangements, in which all the units usually have equal powers, and regional autonomy arrangements, which allow for unequal or asymmetric features. Ghai points out that this latter approach is best suited for minority ethnic scenarios (2000: 12). As demonstrated in the examples below, the trend in Southeast Asia has been toward non-constitutional asymmetric autonomy arrangements created through a special law. This perhaps reflects a greater scepticism or fear among post-colonial governments in the region of the possible consequences of the most entrenched or expansive forms of autonomy, particularly that they might lead to secession (Welhengama 1999: 420) or set an example for other restive regions (Ghai 2000: 13). Such fears are often particularly pronounced among military leaders (Connor 2012: 58), who often wield significant power in the governance of post-colonial states.

### **Aceh**

The background to the conflict in the Indonesian province of Aceh bears some salient similarities with that of the Patani region. As an independent sultanate, it was a leading power in the Malay Archipelago as well as a centre for Islamic scholarship (Isandar 2011: 57). Aceh only succumbed to outside control late in the late 19th century (Feener 2011: ix), a record that helps explain a strong sense of nationalism there. The Acehnese continued to resist the Dutch throughout

their stay and later rebelled against the new power in Jakarta following Aceh's inclusion in the new Indonesian state, induced partly on the basis of a false promise of internal autonomy (Martinkus 2004: 50). This included a major push for independence as an Islamic state in the 1950s (Hadi 2011: 183). As with the Patani region, resistance often emanated from Islamic scholars and teachers (Martinkus 2004: 51–2) but grievances expanded beyond the religious to include a powerful historic narrative of glory and injustice (Taylor 2011: 206) and, in Aceh's case, a significant economic dimension, based on the exploitation of natural gas (Martinkus 2004: 57).

Autonomy was in fact granted to Aceh in 1959 and then again in 1999 and 2001; this included increased control over resource revenues (Embassy of the Republic of Indonesia in Australia 2012). However, both civil society groups and the armed Free Aceh Movement (GAM) were explicitly seeking self-determination and neither was happy with Jakarta's imposed autonomy solution (Martinkus 2004: 113, 135). Conflict thus continued and then increased significantly as the military regained influence in Jakarta and launched a full-scale campaign to defeat GAM in 2003. It was only following the devastation of the 26 December 2004 tsunami that both sides were able to come to an agreement.

The deal signed in 2005 agreed to an Acehnese legislature with a high degree of authority, stating that its consent is required for central government initiatives that affect the province. This was implemented through a law passed by the national parliament in 2006 (*Law No. 6/2006 on the Governing of Aceh*). Meanwhile, the agreement explicitly recognises the 'unitary state' of Indonesia (2005: Preamble). Thus, the implication is that GAM, which was a signatory to the agreement, has permanently renounced its desire for independence. This is in keeping with the approach of many autonomy agreements that strongly imply that the right to self-determination, whether understood legally or

politically, is exercised in favour of autonomy through the agreement and thus cannot be raised again (Weller 2009: 119). Some observers initially held fears for the autonomy deal due to disputes over the content of the special law (May 2008: 42) but more than six years later former rebels are firmly in power politically and the arrangement appears to be lasting, with Acehese politics now focused on local concerns (Ansori 2012).

### **Mindanao**

A self-determination settlement is also currently unfolding in the Philippines with a framework agreement (facilitated by Malaysia) signed on 15 October 2012 between the rebel group Moro Islamic Liberation Front (MILF) and the Philippine government (McGowan 2012). Like Aceh and Patani, insurgency in Mindanao has had both a religious and an ethno-nationalist character, with an underlying grievance regarding the way the region, formerly home to independent Muslim kingdoms, was incorporated into the modern state (Rodil 2010: 258). The two major rebel groups involved in a peace agreement with Manila reflect these nationalist and Islamist ideologies. The first autonomy agreement for the Muslim region of Mindanao was reached in 1976 with the Moro National Liberation Front (MNLF) and confirmed by an official peace deal in 1996 (*1996 Peace Agreement with the Moro National Liberation Front*: 3). However, the Islamist MILF had already splintered off from the more nationalist MNLF and fighting continued (Gross 2010: 36).

Thus, the new *Framework Agreement on the Bangsamoro* updates and expands what is currently known as the Autonomous Region in Muslim Mindanao and the MILF agrees to surrender its quest for independence (Article 1). Sharia law will apply to Muslim citizens of the autonomous region (Article III.3). At the time of its signing, a Filipino newspaper published a lengthy roadmap of the process ahead, underscoring the many phases still necessary before the deal can be fully imple-

mented (*Philippine Daily Enquirer* 17 October 2012). Once again, the plan is for a special law to be passed by the national legislature, but a major challenge facing its drafters regards how to implement the many aspects of the wide-ranging agreement without needing to resort to constitutional change and thus expose the arrangement to a referendum (Lamey 2012). However, despite the challenges that lay ahead, the deal was hailed as a real breakthrough in the long running history of conflict in the region (International Crisis Group 2012).

Since then, the process has been shaken but remains on its fragile tracks. Many analysts perceived the dramatic February 2013 incursion by Filipino Moro fighters into the northern Malaysian state of Sabah, which the Philippines claims on behalf of the former Sulu royal family, as an effort to derail the agreement (Latiph 2013). Although it did not ultimately bring down the agreement, the event highlighted the complexity of the context in Mindanao and the delicacy of Malaysia's role as a facilitator in the peace process. The training of locally recruited administrators to govern the autonomous region has begun but the political negotiations are bogged down in details, threatening the ability of the current president to implement the agreement during his current term (*Economist* 2013).

### **Could Autonomy be a Solution for the Patani Region?**

Both the Mindanao and Aceh autonomy agreements reflect the potential as well as the difficulties involved in concluding self-determination minority disputes by the granting of a level of autonomy. Various failed attempts have shown that an agreement on paper is not enough and that good faith between the parties, political perseverance, and conducive circumstances are all necessary for a positive outcome. Drawing from global experiences with autonomy arrangements, Ghai outlines certain criteria that seem particularly important to the lon-

geivity of an autonomy arrangement (2000: 14–24). These and the regional examples outlined above provide useful frames of reference as we consider the potential of an autonomy solution for the Patani region.

### ***A Cautious New Perspective***

As discussed earlier, the Thai state has carefully fostered the idea of a unified and homogenous ‘Thai’ people, despite the considerable diversity that existed within its borders at the time of their confirmation a little over 100 years ago. Thus, moves to grant autonomy to the Patani region - and thereby recognise its distinctness - might be met with considerable ideological opposition, including from the powerful military schooled in the ‘Thai mindset’ and worried about autonomy proving a step toward independence (Institute of the Thai Press Development Foundation 2009). For conservative forces, the examples above are likely to be ‘more alarming than consoling’ (McCargo 2010: 262).

Nevertheless, in recent years there have been a series of signs suggesting an increased willingness to consider an autonomy arrangement for the Patani region. McCargo carefully traces these developments back to 2005 and the establishment of the National Reconciliation Commission, when senior members initially seemed supportive of some form of devolution (2010: 263). Over the following years, various senior politicians and other prominent individuals brought autonomy into public and official debates, to the point where by 2009 an ‘unprecedented range of credible sources in Thai society were now articulating an interest’ in some kind of decentralisation or autonomy for the region (McCargo 2010: 264). This culminated in the Peua Thai party campaigning in the general election of 2011 on a platform that included the creation of a special administration zone in the Malay-Muslim southern provinces, although the party backed away from the promise after being elected (Prateepchaikul 2011). This promise followed former Prime Minister Abhisit Vejjajiva’s announcement

that his administration was considering allowing residents in the region to elect their own local government representatives in a similar fashion to some major cities in Thailand (*Institute of the Thai Press Development Foundation* 2009).

Although these various debates have not amounted to any government reform, they have spawned a great deal of interest amongst Thai civil society and academia. Proposals put forth thus far have focused mainly on improving political representation and administration while staying within the current overall framework of governance. For example, the most prominent proposal was the result of an in-depth research project led by Patani-based academic Dr. Srimsimpob Jitpiromsri, who advocated for the creation of a new ministry for the region and some representative local bodies, an approach later endorsed by a parliamentary committee (McCargo 2010: 263). Only one of the proposals cited in a lengthy news article involved combining the contiguous Malay-Muslim areas into a single political unit and, according to an official in the Prime Minister’s office, an autonomous region is impossible under Thai law (*Institute of the Thai Press Development Foundation* 2009). Thus, there appears to have been little discussion of the sort of broad-ranging autonomy that would require genuine renovation of the state structure. It must be noted, however, that some Thai reporting of the special administration zone concept did explicitly construct the issue in terms of a need to provide self-determination to the Patani region as a step toward reducing conflict and improving lives (Prateepchaikul 2011). Thus, while the discussion may be somewhat tepid so far, self-determination through autonomy is indeed being considered as a solution to the crisis in southern Thailand, including at a senior political level.

There are also signs of a more general, complementary shift in sentiment within Thai society at large that is opening up space for new possibilities to be considered. Baker and

Phongpaichit have noted a new penchant for celebrating Thailand's diversity, evidenced by a profusion of magazines and TV shows exploring Thailand's regional cultures (2009: 226). Similarly, the high-profile government initiative called 'One-Tambon One-Product' encouraged each district in Thailand to produce and market a distinctly local product (Ninnart 2012). At a political level, the rise of former Prime Minister Thaksin Shinawatra (whose sister now holds the office) on the basis of broad support among rural and regional voters who felt ignored by Bangkok has helped recast centre-periphery political relations and galvanise government attention on regional issues (Glassman 2010: 53). These wider trends augur toward a greater willingness on behalf of the Thai state to consider autonomy for the Patani region and increase the likelihood of its acceptance among the broader population.

Ghai points out that autonomy is most likely to be achieved in states with a tradition of democratic governance and rule-of-law (2009: 16). Thailand has been in a state of great political flux in recent years, with governments brought down through military coups and legal shenanigans (Pitman 2012). Any autonomy arrangement concluded in current times would be in immediate danger of revocation through a change of government and the possible redrafting of the constitution, which has occurred regularly in Thailand (Muntarbhorn 2012). A recent article noted explicitly that the Thai Prime Minister, Yingluck Shinawatra, might have trouble grasping emerging opportunities for negotiations with the insurgents due to power struggles in Bangkok (STRATFOR 2012). On the other hand, Ghai also observes that autonomy arrangements have the best chance of being established during times of regime change (2009: 14). Both these phenomena are illustrated in the Aceh example, as the profound shift away from the autocratic Suharto era in Indonesia opened up the possibility of change, which was then promptly shut as political instability brought the more nationalistic

Megawati Sukarnoputri to power in 2001 (Abdullah 2009: 542). Autonomy would have been out of the question during Thailand's Cold War military regimes, but the current churning of the political waters has raised the prospect of a more settled democratic order that is open to the possibility. In the meantime, the current administration confirmed before peace talks began this year that it is open to discussion on the matter (Lamey 2013).

### ***Challenges and Opportunities***

It is unclear whether Patani insurgent groups would accept compromises that result in some form of autonomy, or if there is even any cohesiveness among them regarding the issue. McCargo interviewed one PULO leader living in Sweden who suggested that autonomy could be an option (2010: 268). Conversely, in what was described as their public 'debut' in April 2013, two insurgent leaders involved in the current peace talks strongly implied that independence remained their ultimate goal (Reuters 2013).

However, an autonomy arrangement does have the potential to address many of the longstanding grievances of the Malay-Muslim community. For example, more control over the education system and the right to use a minority language when dealing with authorities (Alcock undated), as well as Sharia law (as in Aceh and Mindanao), has been implemented for minorities elsewhere. Increased local control over governance and law enforcement in the region could also blunt the perceived neglect or abuse by Thai officials.

Ghai also observes that successful autonomy arrangements require careful context-specific institutional design (2009: 21) and Patani would be no exception. Chinese immigration (Lamey 2008: 115) and an official transmigration project launched in the 1960s (the 'Self-Help Land Resettlement Project'; Aphornsuvan 2007: 57) have created a significant non-Muslim population in the Patani region, estimated at approximately 20% (Funston 2008: 7). How their rights

could be managed under autonomy would be a delicate question because autonomy arrangements are sometimes at odds with the full gamut of individual human rights (Steiner 1990–91: 1540). Luckily such issues are not necessarily insurmountable. For example, similar to the plan in Mindanao, neighbouring Malaysia applies Sharia law to Muslim citizens only (Hussain 2011). This in turn raises another human rights question regarding groups potentially controlling the exit of its members (Steiner 1990–91: 1557): Would religious laws automatically apply to all Malay Muslims in the Patani region and would they have the option to opt out of the arrangement? What about children born into Malay-Muslim families after an autonomous region is in place? This issue is further highlighted by the situation in Malaysia, where non-Muslims can convert to Islam but it is difficult to officially leave the faith, as recent cases have demonstrated (see Pak 2012). The approach in Mindanao will involve referenda for mixed areas of Mindanao who will have the option to opt in or out of the newly established state of Bangsamoro, but only as a territorial unit, not as individuals (Article V.3).

Another unknown is the degree of support for autonomy (or independence) among the greater Malay-Muslim population of the Patani region. Connor emphasises the importance of ascertaining the attitudes of local people for autonomy negotiations (2012: 60). This can sometimes occur during phases of political opening or transition. In Aceh, after having little outlet for their views during the Suharto era, a vibrant civil society quickly emerged and a huge rally, involving up to a quarter of the population, took place in 1999 in favour of a referendum on independence (Drexler 2009: 169). For now, it is enough to assume that, given the potential of autonomy arrangements to address some major issues, there is at least the possibility for significant support for autonomy among the population of the Patani region. McCargo cites a 'best guess' of approximately two-thirds - certainly enough to incite fear in

conservative Thai circles (2010: 268). However, another danger is that insurgents will remain committed to an independent Patani even if a majority of the population support autonomy, as occurred in the Basque region and Northern Ireland (Connor 2012: 58).

Autonomy arrangements are most likely to be successfully negotiated when there are several ethnic groups rather than just two involved, due to the potential of becoming stuck in a bipolar standoff (Ghai 2009: 17). This is definitely a danger in southern Thailand, where a distinct 'them and us' narrative has some traction on both sides. This places extra importance on Ghai's observation that agreements are most likely to be reached when the international community plays a role, helping manoeuvre around entrenched positions and offering some guarantees to distrustful parties (2009: 17).

However, the Patani region is not a major issue at the international level or the subject of significant outside assistance or campaigning (Christie 1996: 188). This low profile is evidenced in part by its regular omission from lists of ethnic minority conflicts that appear in academic discussions (See Connor 2012: 52; Simpson 1996: 258–9; Weller 2009: 113). For the Patani region, the key outside player is the Malay kin-state of Malaysia, with which Patani leaders have in the past demanded to be united. Malaysian regional interests have generally meant it values stable relations with Thailand and subsequently has not made Patani an issue between them (Christie 1996: 188–9). Now, after enjoying praise as a peacemaker in Mindanao (Cordero 2012), Malaysia is taking a more active role as host and facilitator of the current talks.

But even if an agreement were to be reached in future, the challenge of implementing it would be huge. As detailed earlier, mistrust, resistance, and outright violence have characterised relations between inhabitants of the Patani region and Bangkok since the former's incorporation into the Thai state. Connor observes that autonomy arrangements have an increased prospect of success if there

is a reservoir of goodwill among the populace that the state can draw on (2012: 55), and while we do not have reliable statistics on local attitudes, we can guess that goodwill does not run particularly high in Patani. Thus, more than well-calibrated institutional arrangements would be required; due to the centralised and bureaucratic nature of the Thai government, any agreement would need genuine cooperation and commitment from all levels of government, as well as from the many branches of the insurgent movement and the local population. Clearly, the prospect of this occurring is still far off, but at least there is now an embryonic process underway.

The *status quo* is clearly not working and independence is highly improbable given that rebellion in the region has never neared a 'critical mass' (Christie 1996: 188). This means that in the long run some form of settlement that addresses Malay-Muslim grievances within the context of the Thai state is needed if the *status quo* is to be overcome.

### **2013: Talks Begin**

Prime Minister Shinawatra and her Malaysian counterpart, Abdullah Badawi, announced in February 2013 that talks would begin between the Thai government and Patani insurgents. Important questions were immediately raised, including as to the relevance of the main rebel leader participating in the talks Hassan Taib from *Barisan Revolusi Nasional* (BRN), since the breakaway group Barisan Revolusi Nasional - Coordinate (BRN-C) and other factions showed no sign of ceasing their violent campaign in the Patani region (Head 2013). Nevertheless, it was certainly a significant event in the context of the current phase of conflict.

Several weeks after the announcement, the author of this article interviewed two senior Thai officials (one civilian and one military) who were preparing for the first round of talks (Lamey 2013). This provided a welcome opportunity to directly pose the questions that had been raised in an earlier version of this essay. They described the

meetings as a 'statement of intention', as opposed to formal negotiations, and were anticipating an open-ended process through which trust could gradually be built. They stressed that the Thai constitution already allows for considerable devolution of powers and for senior local officials to be elected (who are supervised by a centrally appointed governor), and that such an arrangement would be up for discussion (thus also subtly dodging the need for constitutional change, which would be an intensely fraught issue). They also recognised the importance of 'fair administration' and a greater role for the Malay language and placed a heavy emphasis on winning over the local population with economic opportunities and incentives, such as the small loans and village development schemes that helped the Thaksin Shinawatra administration secure so much support in the northeast of the country in the early 2000s (Jong et al 2012). In terms of short-term trust-building measures, the Thai government would be asking for a reduction in civilian-targeted and city-based violence in return for an anticipated request for selective amnesties and the lifting of the 2005 emergency decree.

According to Dr. Srisompob Jitpiromsri (who was part of the Thai delegation at the talks but has no official role and stresses his impartiality), the talks on 28 March began on a respectful note, with the Thai side quietly listening as the insurgent delegation tearfully recounted stories of suffering and abuse (Jitpiromsri 2013). However, according to Jitpiromsri, no deal could be reached on a reduction in violence since the insurgent side demanded a release of all 'security related' prisoners as a prerequisite step. When the talks resumed one month later, he described the mood as more sour, with the Thai delegation angry about public demands made by insurgent leaders just days before the talks, which they felt betrayed the basic agreement between the two sides. Jitpiromsri also expressed concern that the Thai state seems to lack a 'roadmap' and wondered

aloud if they could really handle the sorts of transformations that may be necessary to solve the conflict. Nevertheless, he believes that the simple fact that the conflict has been humanised is an important step.

Thai authorities are moving ahead with the talks while government opponents have described them as 'doomed' (*The Nation* 2013). The greatest driver of pessimism among observers is the consistent and brutal insurgent violence occurring in the Patani region, which has buttressed concerns over how much control the BRN leadership have over a highly dispersed rebellion (Campbell 2013). One account measured 45 deaths, 75 injuries, and 298 'incidents' in April 2013 alone (Sinpeng 2013). BRN leaders also released online videos in which they demanded that the structure of the talks be altered (e.g. by including foreign observers and upgrading Malaysia's status from 'facilitator' to 'mediator') and labelled Thailand as a colonial oppressor (*Bangkok Post* 2013). The third round of talks in June at least yielded a minor outcome: a loose agreement for a 'reduction in violence' during the Muslim holy month of Ramadan and a promise of 'clarification' by the rebels of their existing demands (Channel News Asia 2013).

## Conclusion

The Kingdom of Patani was formally incorporated into the Kingdom of Siam a little over 100 years ago. Since then, the Malay-Muslim minority of the Patani region has been resisting the Thai state in its attempts to introduce a nationalist ideology there, a process which at times has involved coercive attempts to adjust the culture and way of life of the Malay Muslims. This resistance has at times had a violent character, as it does right now, but has also involved a resilient attachment to various aspects of the local identity, such as the religion, language, and local historic narrative.

There is ambiguity about the nature of Patani's former relationship to Siam, the process through which it became fixed within

Siam's borders, and the character of Siam during the colonial era. Subsequently, it is possible to construct an argument that the Patani region is still imbued with a right to self-determination as a colonial territory under international law. However, this argument can also be rebutted, most forcefully on the basis that self-determination law does not cover acts of geographically contiguous colonialism. Whatever the case, the dearth of international interest in the Patani cause means that this debate is very unlikely to ever move beyond the theoretical.

It is more use considering the possibility of satisfying a demand for a level of self-determination by providing autonomy for the Patani region within the Thai state. There is no explicit right to autonomy for minorities under international law but internal self-determination is nevertheless becoming a common method of settling minority self-determination disputes. Approaching the Patani issue this way avoids a need for legal debates over its status and instead allows for a focus on devising a practical solution for the conflict.

*Prima facie*, an autonomy arrangement has the potential to address many of the grievances of the Malay-Muslim community in the Patani region. There are also now some positive Southeast Asian examples of autonomy solutions made under similar circumstances, although the Mindanao agreement still has some way to go before implementation. Increasing local powers in the Malay-Muslim provinces is now being discussed at a central level in Thailand, perhaps reflecting a deeper cultural shift in appreciation of the country's cultural and regional diversity.

However, the 2013 peace talks have so far served to highlight the gulfs in position between the two sides and calls into question the ability of the insurgents' negotiators to deliver on any outcomes. Insurgent actions over the last ten years have successfully placed the issue on the national agenda but the insurgents' diffuse and fragmented structure will continue to inhibit their cohe-

sive participation in political processes. Credible and committed leadership would be needed from both sides in order for some kind of negotiated settlement to be agreed upon and implemented. However, the sole other option appears to be continuing violence and dissatisfaction. Thus, we can only hope that the nascent discussions, along with signs of emerging political maturity in Thailand and an insurgency taking its first steps in from the cold, can gradually lead the protagonists toward a mutually acceptable outcome.

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