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# LOCAL GOVERNMENT REFORM IN THAILAND UNDER THE NEW CONSTITUTION

by

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## I. Background and Introduction

Before the emergence of the new constitution in 1997, Thailand had a weak local government. Its weakness was principally reflected in local government's few responsibilities and obligations, low revenues, state-dominated internal structure and insufficient staff. Local government in every form – Provincial Administrative Organisation (hereinafter “PAO”), Municipality, Sanitary District, *Tambon* Administrative Organisation (“TAO), City of Pattaya or even Bangkok Metropolitan Administration (“BMA”)<sup>1</sup> – was given few responsibilities, by the central government, for providing some simple public services such as garbage collection, waste disposal, road and waterway maintenance and market management. Most of important public services in localities such as those related to universities, hospitals, high ways and airports were provided by central government agencies, either ministries, departments or state enterprises.

Financially, local government was granted by central government the authority to levy limited categories of taxes and duties, most of which are the property tax, local maintenance tax, commercial plate tax and livestock slaughter duty. Furthermore, before the fiscal year of 2001, all local government units in the country were annually allocated by central government only 10 percent of total state revenues. Most of the budget received was expended on staff salaries and office equipment.

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<sup>1</sup> BMA still had limited responsibility even though it had additional responsibilities including city planning, structure construction and building control and transportation.

As for the permanent staff, all local government bodies had totally the workforce of 57,115 persons in 1995, compared to 947,536 officials and employees of the central government (Anek 2000 : 8). Amongst staff of local governments, BMA, municipalities and City of Pattaya have had the largest staff, whilst most of TAOs have had only 3 officials; the TAO administrative officer, civil work officer and treasury. Moreover, the recruitment, promotion and punishment of the local government staff, with the exception of that of BMA<sup>2</sup>, is determined by the personnel administration commission of central government. In the case of municipalities, City of Pattaya and TAO, their personnel administration system has been under the same central body – the commission on officials of municipalities, composed of only high-ranking central government officers especially officers from the Ministry of Interior.<sup>3</sup> Sanitary District's personnel administration was directed by the central commission on officials of Sanitary Districts, nearly all members of which were central government officials.<sup>4</sup>

As far as internal structure is concerned (except that of BMA and a municipality),<sup>5</sup> some delegates of central government, especially officers of the Ministry of Interior, performed their assigned tasks, at both executive and legislative levels, in all local government bodies - provincial governors as the *ex officio* President in the case of PAOs; subdistrict headman, village headman and subdistrict medical officer as *ex officio* members in the case of TAOs; chief district officer, assistant chief district officer and subdistrict headman as *ex officio* members of a Sanitary District Committee. The Interior Minister also appointed eight persons as members of City of

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<sup>2</sup> BMA has had its separate personnel administration.

<sup>3</sup> The members of the commission included Interior Minister, Permanent Secretary of the Ministry of Interior, Director-General of the Local Administration Department, Deputy Director-General of the Local Administration Department in charge of local government affairs, Director-General of the Public Works Department, Director-General of the Central Account Department, Secretary-General of the Teachers' Council, Secretary-General of the Civil Service Commission and representatives from the Ministry of Public Health.

<sup>4</sup> The 10-member Commission included Permanent Secretary of the Ministry of Interior, Director-General of the Local Administration Department, Deputy Director-General of the Local Administration Department in charge of local government affairs, Director-General of the Police Department, Director-General of the Public Works Department, Director-General of the Central Account Department, representatives from the Ministry of Public Health, Secretary-General of the Civil Service Commission and two qualified representatives from Sanitary District.

<sup>5</sup> Since its establishment, a municipality has had elected Mayor and council whilst, for BMA, election of governor was first introduced in 1985.

Pattaya Council. In the Thai context, the existence of the central government delegates in the internal structure of local government was, in effect, greatly responsible for low development of local government.

Granted few unimportant responsibilities, depending on state subsidies, with insufficient permanent staff and state-dominated internal structure, local government had a very low degree of autonomy and capacity in dealing with its local affairs. It is accepted in Thai academic circle that Thai local government is not “local self-government” but “local state government”, signifying territorial expansion of central government agencies.

As a result, providing public services determined by central state agencies is not responsive to the needs of the people of different localities. Moreover, given its limited authority, local government has largely constituted discouragement of public participation. The lowly-developed local government, as argued by Anek<sup>6</sup>, is a fundamental cause of national political problems, namely, money politics and corruption.

This situation has prolonged nearly 100 years since the establishment of the first local government body (Bangkok Sanitary District) in 1897, until the promulgation of the new constitution in 1997. ‘The new constitution brings about such unprecedented extensive and comprehensive local government reform.’<sup>7</sup> In this article, we will take a panoramic view towards this reform.

## **II. Local Government in Thailand’s New Constitution**

Prior to the new constitution, the movement of decentralisation was first launched by political parties, during the election campaign in 1992<sup>8</sup>. As a result, Thailand has the *Tambon* Administrative Organisation Act, B.E. 2537 (1994) which has eventually led to establishing nearly 7,000 TAO units nationwide. However, the

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<sup>6</sup> Anek Laothammatas, *Local Cause of Problems of National Politics and Government Resulting from Insufficient Local Government*, Bangkok: Bopit Press, 2000

<sup>7</sup> Somkid, 1998 p. 362

decentralisation program did not have a secure place until its affirmation as “a state policy” in the new constitution.

In this connection, 10 sections of the new constitution are devoted to local government; section 78 of Chapter V (Directive Principles of Fundamental State Policies) and sections 282-290 of Chapter IX (Local Government). Amongst these ten provisions, sections 78, 282, 283 and 284 are particularly concerned with local government autonomy. Section 285 mandates the application of the elected council-mayor structure of a local government organisation. Section 286 lays down a mechanism for recalling members of a local assembly and local administrators whilst section 287 sows the seeds of the right of local residents to initiate local ordinance. These two last mentioned provisions are, indeed, based upon the principle of direct democracy. Section 288 is directed at local personnel administration and the last two sections, viz, sections 289 and 290, are concerned with two major duties of local government: the provision of education and the handling with natural resources and environmental matters.

All these provisions of the constitution result in many changes to the local government, be its internal structure, responsibility, finance, personnel administration or popular participation. It may be said that the constitution intends to institutionalise the local government.<sup>9</sup>

The new constitution mandates the state to give autonomy to localities, as encapsulated in sections 78, 282, 283 and 284. For the purposes of analysis, the wording of these provisions is herebelow quoted.

**Section 78** “The State shall decentralise powers to localities for the purpose of independence and self-determination of local affairs, develop local economics, public utilities and facilities systems and information infrastructure in the locality thoroughly and equally throughout the country as well as develop into a large-

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<sup>8</sup> Four political parties shared the same proposal – the elected governorship as campaign policy.

<sup>9</sup> Supasawat Chatchawal, Proper Structure for Local Government in Thailand (unpublished paper), Thammasat University 2001.

sized local government organisation a province ready for such purpose, having regard to the will of the people in that province.”<sup>10</sup>

**Section 282** “Subject to section 1, the State shall give autonomy to the locality in accordance with the principle of self-government according to the will of the people in the locality.”<sup>11</sup>

**Section 283** “Any locality which meets the conditions of self-government shall have the right to be formed as a local government organisation as provided by law....”<sup>12</sup>

**Section 284** “All local government organisations shall enjoy autonomy in laying down policies for their governance, administration, personnel administration, finance and shall have powers and duties particularly on their own part. ...”<sup>13</sup>

For the realisation of local autonomy, the constitution, as embodied in section 284, makes it compulsory for the state to enact a law setting out details as to the process of the decentralisation and body in charge of it.<sup>14</sup> To this end, the Act Determining Plans and Process of Decentralisation was promulgated in 1999 under which a tripartite commission on decentralisation to local government organizations is erected, namely, the “Commission on Decentralisation to Local Government Organisation”, which is responsible for manipulating the process.

The Act requires a transfer by the State of its responsibilities and obligations with regard to managing public services and financing, personnel, and allocation of

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<sup>10</sup> The Constitution of the Kingdom of Thailand, Official translation by the Council of State, in Administrative Law Journal Vol. 16, 1997 p. 118

<sup>11</sup> Administrative Law Journal, *ibid.*, p. 182.

<sup>12</sup> Administrative Law Journal, *ibid.*, p. 182.

<sup>13</sup> Administrative Law Journal, *ibid.*, p. 182.

<sup>14</sup> **Section 284** “.... For the purpose of the continual development of decentralisation to a higher level, there shall be the law determining plans and process of decentralisation, the substance of which shall at least provide for the following matters.

.....  
(3) the setting up of a committee to perform the duties in (1) and (2) consisting, in an equal number, of representatives of relevant Government agencies, representatives of local government

not less than 35 percent of national budgets, to local government organisations. Indeed, these statutory requirements will have to be completed within 10 years.

Apart from mandating the state to decentralise powers to localities, the constitution, in its section 285, requires the localities to apply the single form of organisation, that is, the “elected Council-Mayor” form, which is, in effect, a replication of the national parliamentary democracy model.<sup>15</sup>

**Section 285** “A local government organisation shall have a local assembly and local administrative committee or local administrators.

Members of a local assembly shall be elected.

A local administrative committee or local administrators shall be directly elected by the people or shall be from the approval of a local assembly...”<sup>16</sup>

The spirits of this section have been carried into real effect through the imposition of five laws which change the localities’ internal structures accordingly.<sup>17</sup> The first law, known as the Act Elevating Status of Sanitary District to Municipality, B.E. 2542 (1999), changes the Sanitary District, based upon the committee form of organisation, into Municipality adapting the elected council-mayor form. Next, under the Provincial Administrative Organisation Act (No.2), B.E. 2542 (1999), President of the POA must be from elected members of that PAO, thereby replacing the previous system under which this post was assumed by Provincial Governor *ex officio*. The third legislation, the Municipality Act (No.10), B.E. 2542 (1999), changes the indirect election of Mayor into the direct election system.<sup>18</sup> Further, under the recent Administration of Pattaya City Act, B.E. 2542 (1999), all councillors, some of which formerly appointed, will now be elected and the city manager system was replaced by a new one - a directly elected mayor. Finally, the *Tambon* Council and *Tambon*

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organisation and qualified persons possessing the qualifications as provided by law....”: Administrative Law Journal, *ibid.*, p. 183.

<sup>15</sup> Certain academics have advanced an argument that the locality should have autonomy in choosing its internal structure form.

<sup>16</sup> Administrative Law Journal, *ibid.*, p. 183.

<sup>17</sup> Formerly, there existed 3 forms of internal structure of a local government in Thailand: 1) Council-Mayor form applied in BMA, PAO, Municipality and TAO, 2) Committee form applied in Sanitary District and 3) Council-Manager System applied in City of Pattaya.

<sup>18</sup> Town Municipalities and City Municipalities, except *Tambon* municipality, have directly elected mayors.

Administrative Organisation Act (No.3), B.E. 2542 (1999) similarly requires that both *Tambon* councillors and *Tambon* administrators, some of which formerly appointed, be from election.

The new constitution (sections 286<sup>19</sup> and 287<sup>20</sup>) also introduces the direct democracy in the form of the “Recall and Local Ordinance Initiation by People” at a local government level. This philosophy is subsequently put in a place in the Act on Voting for the Removal from Office of Members of Local Assemblies and Local Administrators B.E. 2542 (1999) and the Act on the Local Ordinance Initiation, B.E. 2542 (1999).

Under the Act on Voting for the Removal from Office of Members of Local Assemblies and Local Administrators, the people, one third of the eligible voters in each locality, can request a recall of a member of their local government organisation. In the Act on the Local Ordinance Initiation, the people, at least half of eligible voters in each locality, can lodge a petition initiating a local ordinance. However, a criticism has been advanced that there is too little, if not at all, possibility for the people to exercise their right to initiate local ordinances as long as the number of residents required is too much.<sup>21</sup>

Moreover, the constitution (sections 289<sup>22</sup> and 290<sup>23</sup>) mandates the state to delegate to localities major functions in connection with, for instance, education,

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<sup>19</sup> **Section 286** “If persons, having the right to vote in an election in any local government organisation, of not less than three quarters of the number of the voters who are present to cast ballot consider that any member of the local assembly or any administrator of that local government organisation is not suitable to remain in office, such member or administrator shall vacate the office, as provided by law...”: see *Administrative Law Journal*, *op. cit.*, p. 184

<sup>20</sup> **Section 287** “Persons, having the right to vote in any local government organisation, of not less than one-half of the total number of the persons having the right to vote in that local government organisation shall have the right to lodge with the President of the local assembly a request for the issuance by the local assembly of local ordinances...”: see *Administrative Law Journal*, *op. cit.*, p. 184

<sup>21</sup> Parinya Dhevanarumitkul, “Popular Political Participation in the New Constitution and the Direct Democracy”, *Administrative Law Journal*, Vol. 17, August 1998, p. 79.

<sup>22</sup> **Section 289** “.... A local government organisation has the right to provide education and professional training in accordance with the suitability to and the need of that locality and participate in the provision of education and training by the State;...” *Administrative Law Journal*, *op. cit.*, p. 185.

<sup>23</sup> **Section 290** “For the purpose of promoting and maintaining the quality of the environment, a local government organisation has powers and duties as provided by law. The law under paragraph one shall at least contain the following matters as its substance:

public health and environmental and natural resource. In the sphere of environmental and natural resources management, the constitution aims for enactment of particular legislation. There is, however, no initiation of any law concerning this matter.

As for local personnel administration, the constitution (section 288<sup>24</sup>) requires that a local government organisation have its own committee with tripartite composition, being made up of representatives of central government, local government and qualified persons. The Committee's principal function is to set forth conditions and standards of the personnel recruitment, transfer, promotion, for all localities of the same kind.

Along the line of the constitutional provision, there has been enacted the Act on Local Personnel Administration, B.E. 2542 (1999) according to which PAOs have the PAO Officials Committee, provincially and nationally; Municipalities have provincial and central (national) Committee on Municipality Officials; and TAOs have local and central TAO Officials Committee. With regard to the City of Pattaya, it has its own committee as well – Pattaya City Officials Committee – but at national level its personnel administration is still under the Committee on Municipality Officials. In the case of BMA, the same concept is found in the “BMA Administrative Organisation Act (No.2), B.E. 2542 (1999).” It can thus be seen that local personnel administration is no longer in the hands of central government; rather, tripartite committees look after it by prescribing common standard of personnel recruitment,

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(1) the management, preservation and exploitation of the natural resources and environment in the area of the locality;

(2) the participation in the preservation and exploitation of natural resources and environment outside the area of the locality only in the case where the living of the inhabitants in the area may be affected;

(3) the participation in considering the initiation of any project or activity outside the area of the locality which may affect the quality of the environment, health or sanitary conditions of the inhabitant in the area.”: Administrative Law Journal, *op. cit.*, p. 185.

<sup>24</sup> **Section 288** “The appointment and removal of officials and employees of a local government organisation shall be in accordance with the need of and suitability to each locality and shall obtain prior approval from the Local Officials Committee, as provided by laws.

The Local Officials Committee under paragraph one shall consist, in an equal number, of representatives of relevant Government agencies, representatives of local government organisation and qualified persons possessing the qualifications as provided by law.

The transfer, promotion, increase of salaries and the punishment of the officials and employees of a local government organisation shall be in accordance with the provisions of the law.”: Administrative Law Journal, *op. cit.*, p. 184

punishment and salary scales for localities. In fact, new local personnel administration committees under all these laws have already been established.

A mention must also be made of another significant development in local government. There will be, for the first time, a separate election law, indeed constitutionally originated, for application to local elections. This is now contained in the Bill on Election of Members of Local Councils and Local Administrators B.E. ....” At present, this draft law is still in its legislative progress.

### **III. Decentralisation in Practice: Decentralisation to Local Government Organisations Commission and Its Plan**

Actually, the current decentralisation process in Thailand is dependent on the Act Determining Plans and Process of Decentralisation, B.E. 2541 (1998) and vital apparatuses thereunder, namely, the Decentralisation to Local Government Organisations Commission; the Decentralisation to Local Government Organisations Plan and the (forthcoming) Action Plan.

The Act sets up the Decentralisation to Local Government Organisations Commission. (At present, its secretariat – Office of the Centralisation to Local Government Organisations Commission – is attached to the Office of the Permanent Secretary of the Prime Minister’s Office.) Also, the Act determines the scope of powers and duties of local government bodies in providing public services. Under the Act, the Municipality, City of Pattaya and TAO have powers and duties, for example, in connection with formulating local development plans, providing and maintaining streets, waterways and sewerage, providing and keeping under control markets, piers and parking lots, promoting tourism activities, promoting commercial activities and investments.<sup>25</sup>

As for local revenues, the Act determines the allocation of tax revenue for the local government bodies. In this instance, the Municipality, City of Pattaya and TAO, may have revenues from collecting approximately 20 categories of taxes, duties and

fees as well as from other gains. They may, for example, levy the property tax, local maintenance tax, commercial plate tax, value added tax, excise tax, automobile tax and gamble tax.

The Decentralisation to Local Government Organisations Commission draws up the Decentralisation to Local Government Organisations Plan. The current Plan takes effect from 17<sup>th</sup> November 1999. The Commission has powers and duties in accordance with section 12 of the 1998 Act establishing it as well as section 284 of the Constitution. Aside from designing the above-mentioned Plan, the Commission also formulates the action plan.

### **1. Structure of the Commission**

According to the New Constitution, the Commission must be composed of three kinds of representatives at the same proportion: from government agencies concerned, local government organisations and the qualified persons. In this instance, the exact number of members of the Commission is set out by the Act Determining Plans and Process of Decentralisation, B.E. 2541 (1998), as to which the Commission is made up of 36 persons, of which 12 (as *ex officio* members) from representatives of the government agencies concerned, 12 from representatives of local government organisations, and 12 from the qualified persons.<sup>26</sup>

Twelve representatives from the government agencies concerned as *ex officio* members include (a) 3 politicians in the Executive (Prime Minister or Deputy Prime Minister as entrusted by the Prime Minister, Minister of Interior and Minister of Finance) and (b) 9 government officials in the government agencies concerned (2 from the Ministry of Interior (Permanent Secretary and Director-General of the Local Administration Department), 1 from the Ministry of Finance (Permanent Secretary) 1 from the Ministry of Education (Permanent Secretary) 1 from the Ministry of Public Health (Permanent Secretary) and another 4 from the Secretary-General of the Council of State, Secretary-General of the Civil Service Commission, Secretary-General of the National Economic and Social Development Board and Director of the Bureau of the Budget.

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<sup>25</sup> Section 16.

Twelve representatives from the administrators of the local government organisations include (a) 5 administrators representing 6,747 TAOs nationwide, (b) 3 administrators representing 1,129 Municipalities nationwide, (c) 2 administrators representing 75 PAOs nationwide and, finally, (d) Governor of Bangkok (representing BMA) and Mayor of the City of Pattaya.<sup>27</sup> With regard to 12 qualified persons, it is required that they possess knowledge and expertise in government administration, local development, economics, local government and law.<sup>28</sup>

## **2. Implication of the Decentralisation to Local Government Organisations Plan (2000)**

The Decentralisation to Local Government Organisations Plan is a master plan establishing conceptual framework, goal and guidelines of decentralisation; the action plan must also be set up in line with the master plan.<sup>29</sup> In this connection, the Decentralisation to Local Government Organisations Plan has recently received cabinet approval. Notwithstanding, there is, in practice, no guarantee that real decentralisation and real local self-government will come into existence.

Why is real local self-government needed to be promoted? The correct answer to this question lies in that decentralisation to local government organisations is a basic state policy as proclaimed in the new constitution. Members of the Constitution Drafting Assembly (CDA) paid so much attention to this matter that they gave it top priority.

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<sup>26</sup> Section 6.

<sup>27</sup> At the time of this article, representatives from local government organisations are as follows: (1) Chanchai Silpaouychai, President of Prae PAO; (2) Pinyo Tanwiset, President of Chonburi PAO; (3) Surapong Poothanapiboon, Mayor of Rayong City Municipality, Rayong Province; (4) Weenrawat Paktaranikorn, Mayor of Yasodhorn Municipality, Yasodhorn Province; (5) Somchai Kunpleum, Mayor of Sansuk Tambon Municipality, Chonburi Province; (6) Noppadol Kaewsapat, Chairman of Omkred TAO, Nontaburi Province; (7) Niyom Klongdee, Chairman of Mukdaharn TAO, Mukdaharn Province; (8) Sorasak Jiradhampradab, Chairman of Chumpol TAO, Nakornnayok Province; (9) Apichart Sangkhachart, Chairman of Klonghae TAO, Songkhla Province; (10) Kittisak Mekkhajorn, Chairman of Kheelek TAO, Chiangmai Province; (11) Samak Sundaharavej, BMA Governor; and (12) Sundhorn Prasertdee, Mayor of Pattaya City.

<sup>28</sup> At the time of this paper, a List of qualified persons is as follows: (1) Kowit Posayanont; (2) Charas Suwanmala; (3) Chan Karnjanakpan; (4) Thongthong Chantarangsu; (5) Naris Chaiyasutra; (6) Pairot Suchinda; (7) Wuttitert Dhewakul; (8) Somkid Lertpaitoon; (9) Somchai Ruchupan; (10) Somchai Grusuanombat; (11) Anek Sittiprasart; (12) Wuttisarn Tanchai (replacing Anek Laothammatas who has become a Party List MP of the Democrat Party).

The fact that the local government has many problems appears to be the common knowledge. Indeed, most of local government organisations have had common problems, namely, no (or too little) autonomy in policy-making and management, inefficient management and budget and fiscal problems. In this regard, a view has vibrantly been expressed by Somkid Lertpaitoon (a former CDA member, who now sits as a qualified member in the Decentralisation to Local Government Organisations Commission), in 1998 (two years prior to the introduction of the Decentralisation to Local Government Organisations Plan):

“In fact, local government organisations in Thailand have limited powers and duties and little public service delivery. This situation should be explained by the fact that the provisions of laws empowering local government organisations have been ‘subject to other laws’ ....” (Somkid, 1998 : 364 )

About the fiscal problem, many Thai scholars including Dhanes Charoenmuang<sup>30</sup> advocate that local government organisations have limited revenue simply because they have little fiscal powers. This situation leads to local government organisations relying on subsidies from the central government.

The conceptual framework for the decentralisation to local government organisations designed by the Commission is thus based upon the following principles of significant importance, viz, first, autonomy in policy-making and management, secondly, definite division between national administration and local administration, and, finally, enhanced efficiency in management of local government organisations.

With regard to autonomy in policy-making and management, it is felt by the Commission that a local government organisation shall enjoy autonomy in making policies relating to the government, management, personnel management and finance and budget. As for the sharp division between national administration and local administration, the Commission believes that the state has to decentralise the power to local government organisations by changing roles and responsibilities which are under

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<sup>29</sup> According to the Act Determining Plans and Process of Decentralisation, B.E. 2542 (1999), the action plan is required to be reported to Parliament after its approval by the Council of Ministers.

<sup>30</sup> Dhanes Charoenmuang, 1997 pp. 236-238.

the control of central government agencies and regional government agencies, and by putting local government organisations into such roles and responsibilities. Central and regional government agencies' responsibilities should simply be limited to macro-level ones and some kinds of responsibilities that local government organisations can not handle, supervising policy-making and legal capacity of local government organisations, giving them technical support and assessing their performance.

Now, as far as the last principle – enhanced efficiency in management – is concerned, the Commission is of the opinion that the state has to decentralise the power to the local government organisations in order that people will get better-quality public services and management, with a greater degree of transparency, efficiency and responsiveness to the people, and, as a result, the people, civil society and community will be promoted to participate in decision-making, co-operation and monitoring.

To materialise decentralisation, the Commission sets five goals of the Plan. First, responsibilities in the public service delivery must be transferred from the state to local government organisations within 4 years (in the first phase) or within 10 years and, also, there must be determined the definite scope of responsibility between the state and local government organisations and amongst local government organisations.

Secondly, the Commission must work out the proper amount of tax revenue, subsidies and other incomes to be allocated to local government organisations for financing their responsibilities. Out of the total national revenue, the proportion to be allocated to local government organisations should increase by not less than 20% within 2001 and not less than 35% within 2006. Next, the central government has to provide local government organisations with subsidies for public service delivery, as stated in annual appropriations, in accordance with the necessity and the need of local government organisations. Further, there will be a transfer of personnel and staff of central government agencies to local government organisations to serve the responsibilities transferred. Finally, laws and regulations concerned must be amended to accommodate the shift of responsibilities.

In concrete, the Plan will be in the form of transferring responsibilities, personnel, budget and assets. As planned, the Commission determines the first four years (2001-2004) as the period for strategy development and readiness preparation for transferring, for amendment of legislation concerned, and for improving internal management of local government organisations as well as of central and regional government administration. The next six years (2005-2010) will be the important transition period. During the period, the roles of central government agencies, regional government agencies and local government organisations will be changed. The relationship between local government organisations and regional administration will also be adapted. Amendment of relevant laws will also be carried out.

According to the Commission, the transfer will be founded upon several general principles including the following. In the first place, the transfer of responsibility as planned will not embrace the responsibilities or activities concerning national security, court trial and judgment, foreign affairs and national monetary and fiscal affairs. Secondly, responsibilities due to be transferred are mainly those belonging to government agencies while a transfer of responsibilities of state enterprises and public corporate can only be done when warranted by properness and as a matter of government policy. In addition, the transfer will depend on the considerations of potential consequences and impacts on the people residing in the territory of respective local government organisations. In effect, apart from its emphasis on these principles, the Commission also states that the action plan covers at least 6 aspects: (1) infrastructure, (2) life quality promotion, (3) community/society order and public order maintenance, (4) planning and promoting investment, commerce and tourism, (5) environmental and natural resources management and conservation and (6) art, culture, custom and local wisdom.

According to the action plan, more than 200 major responsibilities assumed by 50 agencies (except those of agencies within the Sub-ministry of University Affairs) will certainly be shifted to the hands of local government bodies. The process

concerning the transfer alluded to requires about 40 laws, ministerial regulations and rules to be amended.<sup>31</sup>

The Commission has, however, expressed their optimistic view that, during the transitional period, public services to be provided by the local government organisations will be more responsive to local people, that local people will be encouraged to participate in local management and that local government organisations will build and improve their capacity in carrying out activities with efficiency and transparency. In this regard, it is expected by the Commission that the daily life of local people after 2011 will be better and that local residents will have fair and equitable access to all public services and will, as well, have major roles in decision-making, supervising, monitoring and giving full support to activities launched by local government organisations.

One of purposes in mind of the Commission is that regional administration agencies will change their active role as “public services providers” into a new role as the “technical supporter and supervisor”.

A latest situation of the decentralisation reform driven by the Thaksin government is that the reform is not an easy process. This is, indeed, reflected in the comments made in Bangkok Post<sup>32</sup> by PM’s Office Minister Chaturon Chaisaeng, Chairman of a sub-committee on preparation for decentralisation to localities. Chaturon states: “all education and public health services need not be transferred to local administrations by 2004 as required by the law on decentralisation..... There were problems with the transfers of education and public health services since ministries were not sure if local administration could handle them.” The action plan has received the cabinet approval but the plan does not include the transfer of responsibilities in connection with education and public health services.

According to Chaturon, a conclusion is reached as regards what to do with education and public health services. For education, local committees will be set up to

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<sup>31</sup> There was also a seemingly radical view that the completion of the decentralisation process would need the amendment of about 200 laws: *see* Anek Laothammatas, *Vision of Local Government and Decentralisation Plan*, Bangkok: Mitimai Press, 2000, p. 23 .

work together with agencies to develop potential and readiness for local bodies. Education services would be transferred to them once they are ready. Importance will be attached to standards and quality. Another problem obstructing the decentralisation of education management has been the unwillingness of existing personnel to be transferred to local government organisations. Much work has yet to be done to ensure financial security, welfare and promotional opportunities. A plan is afoot for local government organisations to recruit their own personnel in the future. For public health services, the Ministry of Public Health has agreed to set up local public health committees to prepare for the transfer of work to local government organisations.

### **3. The action plan and TAOs in the future**

TAO which is a juristic person is the smallest unit of local government organisation. So far, nearly 6,747 TAOs have been officially announced and established by the Ministry of Interior. TAOs vary in many aspects in terms of demography, geography and revenue. In the demographical aspect, Bangpleeyai TAO in Amphur Bangplee, Samut Prakarn, is the most populated, with 47,133 inhabitants while Yangchumnoi TAO in Amphur Yangchumnoi, Srisaket, is the least, with only 21 inhabitants. Bangboathong TAO in Amphur Bangboathong, Nonthaburi, is No. 1 in generating revenue (75,563,537.02 Baht in 1999 compared to 1,222,134.95 Baht collected by Banghak TAO in Amphur Panthong, Chonburi). Three TAOs which can generate revenue for more than 50 million Bath a year are Bangboathong TAO in Bangboathong, Nonthaburi, Bangpleeyai TAO and Bangsaothong TAO in Samut Prakan.

As a result of the action plan, TAOs nationwide will receive many heavy-duty responsibilities which used to belong to government agencies within various Ministries.

So far, much doubt has been cast about relying on a local government organisation's personnel force and capacity to meet its emerging heavy-duty responsibilities. Under the Act on *Tambon* Councils and TAOs, B.E. 2537 (1994), as

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<sup>32</sup> *Bangkok Post*, October 22, 2001 Issue, p.3

amended by the Act (No. 2), B.E. 2540 (1997) and (No. 3), B.E. 2542 (1999), the structure of a TAO has 3 parts as follows:<sup>33</sup>

- 1) TAO Council: consisting of members elected by local residents in each village, two members from each village.
- 2) Executive Board: comprising 3 members, Chairman and two executive members, elected by a resolution of the TAO Council. The TAO administrative head officer is a secretary to the Executive Board.
- 3) TAO routine staff: being made up of four parts, namely, TAO Office Administrative Head Officer, Treasury, Public Works Officer and Public Health Officer. The number of staff depends on the grade of the TAO.

TAO – Grade 1 (74 TAOs) has staff of 21 persons;

TAO – Grade 2 (78 TAOs) has staff of 12 persons;

TAO – Grade 3 (205 TAOs) has staff of 6 persons;

TAO – Grade 4 (843 TAOs) has staff of 4 persons; and

TAO – Grade 5 (5,546 TAOs) has staff of 3 persons.

#### **The Number of Staff in TAOs Nationwide<sup>34</sup>**

	<b>Male</b>	<b>Female</b>	<b>Total</b>
TAO routine staff	11,786	9,087	20,873
Permanent Employees	485	2,132	2,617
Temporary Employees	5,380	6,313	11,693
<b>Total</b>	<b>17,651</b>	<b>17,532</b>	<b>35,183</b>

As a matter of fact, the routine staff force, rather than members of the TAO Council or of the Executive Board, are the key factor in fulfilling activities and responsibilities. At present, each TAO has at most 21 routine staff members (excluding permanent and temporary employees). From now on, TAOs nationwide will certainly need more routine staff force (or even permanent and temporary

<sup>33</sup> Tesapiban 96<sup>th</sup> Year, Feb. 2001, p. 36.

<sup>34</sup> Adaptation from Tesapiban 96<sup>th</sup> Year, Feb. 2001, p. 40.

employees), money supply and greater skill and expertise to meet the new needs resulting from the heavy-duty burden after the transfer of responsibilities.

Pursuant to the Act, each TAO has powers and duties with regard to the development in the economic, social and cultural aspects. Many duties that TAOs have to perform are, for example, providing and maintaining waterways and roads; cleaning roads, waterways, pathways and public places, garbage disposal, preventing communicable diseases, preventing public danger and providing relief, promoting educational, religious and cultural activities, promoting development programmes for women, children, the youth, elderly and disabled, protecting environment and natural resources, conserving art, tradition, local wisdom and local culture and carrying out assignments requested by central government agencies.

Many duties TAOs are allowed by law to do are, for example, providing water for consumption and agriculture, providing street lights, building and maintaining sewerage, providing and maintaining meeting halls, stadiums, recreational places and parks, promoting farmers' groups and co-operatives, promoting household industries, promoting vocations, protecting and maintaining public assets and property, making benefits from assets belonging to TAOs, providing markets and piers, managing city planning, running tourism activities and undertaking commercial activities.

Financially, TAOs are allowed to collect some categories of taxes and fees: local maintenance tax, property tax, commercial plate tax, livestock slaughter duty, etc. TAOs are allowed to gain revenue from making benefits from their assets, public facility bills, commercial activities, licence fees and fine, cash or assets from donors, fund allocated by government agencies or central government and subsidies from central government. However, there is no guarantee that TAOs can enforce its power to collect taxes and, if so, there is still no guarantee that the amount of tax revenue can meet their expenditure because most TAOs are in needy rural areas, with no expertise like central government agencies and with insufficient money.

According to the (unpublished) draft action plan for the transfer of responsibilities to local government organisations, TAO will have to deal with many

mega-level responsibilities which need expertise, consume a large amount of money and used to be under the control of ministries. The responsibilities surely need capable routine staff, financial resource and technical skill and expertise. Some examples of ministries' responsibilities are as follows.

1) Ministry of Interior will have to transfer the power to issue licences for the hotel construction to TAOs in 2003.

2) Ministry of Agriculture and Co-operatives will have to transfer its Center of Community Agricultural Technology Transfer and Services to TAOs in 2003-2004.

3) Ministry of Science, Technology and Environment will have to transfer its powers in connection with monitoring environmental quality concerning water, air and sound to TAOs in 2003.

4) Ministry of Education will have to transfer the power and duty to provide the maintenance of ancient places to TAO in 2002.

Responsibilities due to be transferred to TAOs are highly valuable (in case of five-star hotel construction) and need advanced expertise (in case of agricultural technology like GMOs). TAOs from now on will play new and important roles. Personnel staff have to be highly capable, with new and update skill and technological expertise. Proper training and development needed for the routine staff will be costly. As mentioned above, TAOs need capable routine staff, financial resource and technical skill and expertise. Unlike other local government bodies, TAOs may face a problem in generating revenue. In fact, there was, in the past, much trepidation that a local government body like a TAO would fail because of its inability of generate adequate revenue for its responsibilities. Despite such fear, TAOs have survived amid their heavy-duty burdens. That having been said, doubts remain as to TAOs efficiency in management.

## **IV. Concluding Remarks**

Despite the well-established legal framework on decentralisation, the achievement in the real local government reform in Thailand is in question. Lack of willingness of the state officials and state agencies is mainly responsible for the failure in transferring the responsibilities and tasks to the local government organisations. The claim usually used by the central government is that the populace in the locality has never been ready for self-government due to paucity of skill, corruption and disqualified leaders. Phenomenal violence and widespread corruption in the local government bodies seemingly affirmed that never-ending claim. Also, the insufficient political support from the government is another obstacle. The policy on local government reform is not put on top priority.

It is expected that there will be no effective co-operation from the state agencies and officials for the process of the local government reform driven by the decentralisation to the Local Government Organisation Commission. The process of the local government reform is, therefore, the thorny path.

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