

Global Forum on Fighting Corruption

Safeguarding Integrity Among Justice and Security Officials

Dealing with Corruption

In

The Royal Thai Armed Forces

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This paper presents mechanisms and practices that the Royal Thai Armed Forces have had experiences in dealing with corruption. As the armed forces of a developing country, our experiences may be unique and are quite different from those armed forces of other nations. Moreover, similar to many countries, missions of the Thai military forces not only concern with external threats, but also internal stability needed for national development as well. The comprehensive/multi-dimensional security concept which is rooted in the total defense strategy requires the military forces to support national building in missions other than war, such as suppressing illegal activities (drug trafficking, illegal arms trade, illegal immigrants, etc.) , as well as protecting the environment and rural development. Although these activities are not the primary tasks, the use of Thai military forces in maintaining internal order can sometimes expose personnel to opportunities conducive for corruption and unethical practices. The following Thai practices and experiences may be of some benefit to other countries.

MILITARY JUSTICE SYSTEM

In the military justice system of the Ministry of Defense of Thailand (which may be very similar to those of other countries), military personnel must abide by the civil justice system in addition to the military justice system. When a military personnel acts alone by himself or herself and is charged with a criminal offense, he or she will be prosecuted under the military justice code according to the Military Court Organization Act B.E. 2498 (1955 AD). Under normal circumstances, if collaboration with non-military person or persons can be proven, he or she can and will be prosecuted under the civilian justice system. However, the military court likely gives harsher sentences when compared to those in a civilian court. The fact is that basis judgement is the same in both courts, but the military court adds in disciplinary measures on top of the ordinary penal codes.

If the offense is non-criminal, the commander of a military personnel can punish the personnel using the Military Disciplinary Act B.E. 2476 (1933 AD.), in addition to punishment according to the civil code from which the personnel may receive under the civil justice system. As a consequence, a military personnel is placed under tighter rules that constraint his or her behavior than those of a civilian. Specifically, the commander has a range of options under the Military Disciplinary Act B.E. 2476 in order to deal with mild unethical practices of his subordinates. Against corruption and more serious unethical practices, all military personnel are subjected to scrutiny under effective military justice code and system as well as under civil justice code and system.

ANTI-CORRUPTION MECHANISMS

In addition to the military justice system mentioned above, there are methods and mechanisms in place to prevent, discover, investigate and prosecute corruption and unethical practices within ranks and files of the Thai military organization from privates up to the top commanders. At unit level, there are legal officers (Judge Advocate General's Corps) assigned to the regiment (brigade) and above. The legal officer is a special staff of the commander and will serve as a prosecutor for that unit. If the commander wants a certain case to be thoroughly investigated, he may request a team of military investigators (military police) from a Military Region in his area. Although the military formations at different levels have legal officers and military investigators as mechanisms to discover, investigate and prosecute corruption and unethical practices, these mechanisms have, by no mean, been designed as substitutes to similar mechanisms in the civil justice system.

At higher military echelons, i.e. the three Service Headquarters, the Supreme Command Headquarters and the Office of Permanent Secretary of Defense, there are internal auditing offices that are tasked to discover any wrong - doing in the use of annual budget. Also at these levels, the commanders have Inspector Generals whose missions are to discover and investigate not only unethical practices of subordinate units but also suspected corruption. In addition, the Ministry of Defense is organized to have an inspector general whose oversight responsibility covers all units and all defense commanders. Defense Inspector General is appointed by the Minister and reports any wrongdoing directly to the Minister. In short, the office of the Defense Inspector General serves as an independent investigative arm of the Ministry.

In general, the Thai Military Society is based on the Asian society's concept of "extended family". Commanders try to create strong bond of friendship between themselves and their subordinates. In many cases, commanders become father-like figures in the minds of their soldiers. This unique relationship can help to prevent or disclose corruption and unethical practices, although a lot depending on leadership and moral quality of the commanders. However, the opposite can also happen as compromising attitude sometimes prevails. In many instances, would-be whistle blowers are reluctant for not wishing to destroy the unit harmony. One of the prime examples is the widespread corruption in the conscription process (70-80 % of pending cases in military courts). To stem out these disruptive practices, the method of frequent rotation in the recruiting team is used. Additionally, officers with good career prospect and uncompromising character, such as battalion commanders, are employed in the closely supervised annual conscription. Once a corruptive practice is detected, full extent of military justice and disciplinary system is applied.

GOVERNMENTAL MECHANISMS

At the government level, Office of the Prime Minister has the Office of the Commission of Counter Corruption (OCCC) as yet another independent investigative arm on corruption. The OCCC can investigate any government organization including the Ministry of Defense as ordered by the Prime Minister. In addition, there is an independent public agency called Office of the Auditor-General of Thailand (OAG), which has the

authority to audit any government organization's discharging of the annual budget at any time, provided that a short notice is given.

"Power tends to corrupt. Absolute power corrupts absolutely". These phrases are familiar words of the critics of authoritarian regimes. In the past, the Thai military was involved in Thai politics and therefore was prone to corruption and unethical practices. Although there were democratic institutions and process in place, such as the Parliament, the Senate, the House of Representatives as well as general elections, prominent role of the military in fighting the corruption was not uncommon. With this in mind, if one were to examine the effectiveness of the mechanisms to discover, investigate and prosecute corruption and unethical practices in the Royal Thai Armed Forces and the Thai Ministry of Defense in the past, one would see the weakness in the independent investigative arms that oversee the Thai military.

RECENT CHANGES

In the last two or three years, there has been a major change in the Thai politics as well as the Thai military. The change has culminated in the new constitution promulgated in December 1997. The constitution has set course for major political and bureaucratic reforms which demands transparency, accountability and effectiveness. These demands have strengthened the mechanisms, especially the independent investigative arms that oversee all the bureaucratic institutions including the military. In general, the constitution gives the people more opportunity to scrutinize not only politicians, but also bureaucrats

and military leaders as well. The economic crisis, that has hit Thailand since mid 1997 and spread its contagious effect to other parts of the world, has served as a catalyst for the reforms. This is because the effect of the economic crisis on the social fabric of Thai society has raised the people's expectation on the politicians and the bureaucrats to be more effective, more transparent and more accountable.

The new 1997 constitution with 336 articles serves as a detailed guideline in setting up new mechanisms to fight against corruption and unethical practices of politicians and bureaucrats. The constitution devotes a whole chapter on scrutiny of state authorities. Six articles in this chapter lay out details on declaration of assets and debts of politicians. At present, the current government is drafting a new bill which requires top bureaucrats, including all commanders of major components of the Armed Forces, to declare to the public their assets and debts before and after taking up their portfolios. The constitution stipulates setting up of the National Commission on Counter Corruption appointed by His Majesty the King as suggested by the Senate. This Commission will be truly independent and more effective than the Office of the Commission of Counter Corruption (OCCC) previously under the Office of the Prime Minister. The Office of the Auditor-General has also been upgraded to be more independent and effective in the same way as the National Commission on Counter Corruption. In addition, the constitution stipulates formation of the Governance Court where general public can file suit against government organizations and/or government officials in case of ignorance or wrong-doing on part of the latter.

As a part of the political and bureaucratic reforms and an effort to create transparency, the Parliament promulgated the Official Information Act in 1997. This Act is an unprecedented law that empowers the general public with the rights to know. It also could lead to discovering and investigating corruption and unethical practices in political

and bureaucratic institutions. In utilization of the Act, Thai media, one of the most free and vocal in the worlds, tend to echo the general public sentiments well. The high degree of freedom which the Thai media currently enjoys makes this mechanism of anti-corruption much more formidable. Information previously referred to as "official information" can now be disclosed upon submission of a written request that is processed by the Office of the Official Information Committee, office of the Prime Minister.

Since Thailand is adjacent to the Golden Triangle, it is perhaps useful to touch on narcotic problems in relation to corruption and unethical practices. It is undeniable that narcotics have corruptive influence on every community and society. Narcotics suppression is one of the most important national agenda for Thailand. The Royal Thai Armed Forces are actively involved in the campaign against the whole cycle of narcotics, especially in the northern part of the country. However, with the involvement of military personnel in the campaign, some of the personnel are accused of being drug traders or distributors. To prevent corruptive influence on military personnel and other government officials involved in the campaign, the Office of the Prime Minister has recently issued a regulation on preventing state officials from getting involved with narcotics. The regulation spells out in detail procedures and measures in order to discover, investigate and prosecute those officials under corruptive influence of narcotics. The supervisors or the commanders will be held accountable for their ignorance or ineffectiveness in dealing with those officials. Strong disciplinary measures will be used even when evidences in a certain case are not clear.

CONCLUSION

In conclusion, the mechanisms that are used in the Royal Thai Armed Forces as described above can be effective only as long as the top commanders used them with strict professionalism. A compromising attitude is one of Thai cultural traits that sometimes renders these mechanisms powerless, because the actual practices are not in accordance with the rules and regulations. In addition, the influence that the Thai military had over Thai politics in the past had, on occasion, shielded the Royal Thai Armed Forces from independent investigative arms of the government that were supposed to bring the culprits to prosecution. However, with the new constitution together with political and bureaucratic reforms, the Armed Forces' approaches to this problem are now required to be more professional and systematic. Independent investigative arms are made more independent and more effective, and the role of the Royal Thai Armed Forces is apolitical. In fact, the Armed Forces seem to be content with the current situation where an honest and "clean" civilian politician is taking the defense portfolio. With the armed forces becoming more professional, the old and the new mechanisms that are in place to discover, investigate and fairly prosecute corruption and unethical practice will be more effective than ever. The use of military forces in maintaining internal order and supporting national building according to the comprehensive security concept will be undertaken with strict professionalism.
