Conflict Resolution and Third Party Mediation:
Some Reflections from Southeast Asia

Kamarulzaman Zam Askandar

Introduction

This paper will look at conflict resolution and 3rd party mediation from a Southeast Asian perspective. It will first explore the strategies for conflict resolution before going into a discussion of mediation as part of the larger strategy of 3rd party intervention, comparing it with other means of intervention. Then the paper will look at the general situations of conflicts in Southeast Asia, especially where 3rd party intervention has been used and analyze the effectiveness or non-effectiveness of the process. References will be made to some case studies from the Southeast Asian region, both intra- and inter-state. Lastly, it will conclude with a discussion of generic problems of third party intervention.

Strategies for Conflict Resolution

We live in a world where conflicts are an everyday occurrence. They are everywhere, of all types and forms, involving all types of parties, and with various intensities. Some look at is as a problem to be rid off while others look at it as a necessity of life – as a means to change, transform and reinvigorate society. Volumes have been written about how to manage, prevent, transform, settle, and resolve conflict situations. The challenge to many people is not how to prevent conflict from happening, given its inevitability (and even necessity to some people), but instead how do we address and confront them to ensure that they do not result in violence and instability; in human sufferings and human rights violations; in chaos, fear, and war. And how to come up with a resolution, or at the very least a settlement, that will satisfy the basic interests and needs of the parties? This part will give a brief overview of strategies for conflict resolution based on the author’s experience working with, observing, and studying conflict issues in Southeast Asia.

First steps. Before we embark on any kind of conflict resolution activity, we need to evaluate a number of things. First we need to do a self evaluation process. Why are we involved in this conflict situation? What are our interests and agendas? Are we a stakeholder, meaning a party to the conflict itself, or even the victim who are affected by the conflict? Are we an interested third party who has been invited (or invited ourselves) to help the parties find a solution to the problem, or to help facilitate the peace process? Do we belong to a donor or non-governmental agency which has (or has not?) an interest in the resolution of the conflict? Or do we belong to an institute which

---

2 Coordinator, Research and Education for Peace, Universiti Sains Malaysia; Regional Coordinator, Southeast Asian Conflict Studies Network (www.seacsn.net); and Associate Professor, School of Social Sciences, Universiti Sains Malaysia. zam@usm.my
does research on this type of issue and just want to gather data for publications or for an academic exercise? Or do we simply belong to the media whose duty is to find out what is actually happening and to report the events as they unfold? Irregardless of which group we belong to, we will have our own interests and agendas, which makes impartiality a very difficult position to achieve, for we tend to push for a certain cause or to help the process along in our own little ways. At the very least, we are interested in achieving peace, which in itself is a value-laden interest or agenda. Also, if we are aware of these interests, we will not be fooling people (or ourselves!) as to why we are in the process in the first place. Secondly, if we are one of the interested party or the conflict party, we can evaluate whether we actually possess the political will to not only to be involved, but to participate in this process. There have been many situations where the conflict parties do not really have the political will to resolve the conflict but are forced to partake in the process by either third parties or even their own groups. When this happen, there is no real will to resolve and the whole exercise will be futile. Thirdly, we must evaluate the situation and determine whether there is a ceasefire or at the very least a potential for one. This is important given the fact that many peace processes have been derailed by non-functioning ceasefires or violations of the ceasefire. In many situations, a ceasefire is a pre-requisite to negotiation, and when they do not happen or violated along the way, the peace process is doomed, sometimes from the very beginning.

**Identifying the problem.** A proper analysis of the situation is needed. We need to know what are the causes, conditions, and effects of the conflict. A “conflict map” where we will draw and chart out all these can be useful. It can also give us a clearer picture and an overview of the whole situation. Something akin to the big picture of the conflict situation. We must be careful though to make sure that our data are correct, comprehensive, and current. Unreliable and incomplete data will result in unreliable analysis and unreliable solutions. Care need to be taken to check the sources of information and the information itself. Care should also be taken to make sure that the *real* problems are identified as conflict parties have a tendency to hide or misrepresent what they really want. For example, when working with groups asking for self determination, many of them will never really say that what they *really* want is independence. Instead they will say that they would settle for autonomy or some form of self rule. But when asked to be part of a process that will get them just that, they will hesitate and in some cases even withdraw or derail the process. So, identifying the real problems is a dominant key to conflict resolution. If we know what people actually “want”, it will be so much easier for us to help them get it.

**Identifying the actors.** As part of the “conflict mapping” exercise, we should also be able to identify the actors involve in the conflict situations. This is especially so if we are not parties to the conflict ourselves, but instead tasked to intervene and help the parties resolve the conflict situation. We need to know who are the players, the main actors, or the leaders, and who are in the supporting roles. What kind of relationships do these groups have with each other? How close and cohesive are they and are there potential or real possibilities of intra-group turmoil? Are there other outside parties participating as donors or giving the parties much needed financial or psychological

Askandar-2
boost? Do the parties have kin groups outside the conflict area that are providing financial or other kinds of support? Knowing all these will give us an understanding of the intra-group dynamics. It will also help us identify which actor(s) might be able to help us when we need support from inside for the resolution of the conflict. It will also help us identify long term plans especially when it involves getting the second lines of leaderships to promote peace, especially if the first line is hesitant. After identifying the actors, we need to make the initial contacts (if we do not have one already) and establish some kind of relationships with the parties. This is important. Without trust, the parties will not want to involve us in the process. In many cases, trust will have to be built over time. We must also look around and see if we can identify support groups for peace outside the immediate conflict areas. This means identifying the supporting actors, such as states, NGOs, donor agencies, or even individuals, and building up a network of people and groups that will be able to support the process, both in the short and long term.

**Hypothesis testing.** Once we have identified the problems and the actors, we will probably get an idea of how the whole thing started out in the first place and why. Also, as part of the conflict mapping process we will need to review and analyse past actions and reactions of the parties. A conflict timeline which can be used to identify the trigger points (that have resulted in the escalation or de-escalation of the conflict) is also useful. All these will be able to help us when we look for possible solutions. When reviewing the situation for solutions, we might want to embark on a “hypothesis testing” exercise. This basically means looking at the conflict for either incentives or barriers that can either promote or prevent peace. For example, our hypothesis might say that for a conflict to be resolved, we can add certain incentives which might fulfill the demands, interests, and needs of the parties, either partially or totally. Or our hypothesis might say that if we remove certain barriers to negotiation or resolution such as armed conflict or violence, unrealistic demands, or even corrupt leaders, the conflict will be resolved. Incentives and barriers need to be identified and options need to be searched for and evaluated. We always make assumptions as to what is acceptable and what is not. This is especially so when we are making our own preparations and strategizing on our side. This whole exercise must also be done at the bilateral level when the conflict parties finally meet.

**Negotiation.** Negotiation is the most obvious step when both parties agree that the conflict should be resolved peacefully. This can come about through a desire for peace, or the realization that war is futile. It can also come through being involved in conflict situations for long periods of time. Preparations on both sides would have been made prior to negotiation; interests, agendas, and limits identified; assumptions made and hypotheses formulated; and options searched and evaluated. The same processes would then have to be made in a setting where the parties work together to find a resolution. Negotiation is not only about negotiating and bargaining. It always starts with determining the objectives, the process, and the issues. Objectives of the negotiation process need to be clear, along with the objectives of the parties involved. Then the parties will have to determine the process, the entry point of the negotiation and time and venue of the meeting among other things. Representatives need to be identified by
both parties to represent them. At the beginning, they also need to determine the issues to be discussed. Which issue should come first – especially if there are a number of issues involved. Do you go from the easy to the most difficult ones, or vice versa? Do you try to settle all at once or do you addressed the issues one at a time? This would depend on the issues at hand. However, it is easier to settle one issue at a time as trying to settle all the issues might prove too taxing on the process and the parties. Furthermore, the experience of settling one issue will provide a valuable lesson for the parties in negotiating other outstanding issues between the parties. For this very reason, it is also more prudent to focus on the easier issues as compared to the more difficult ones. The roads to peace will be blocked if the parties got stuck on some details from the very beginning. During the negotiation process, it must be made clear that the rules of negotiation must be followed. Good communications will also enhance the effectiveness of the negotiation. Messages must be clear, with a clear language, emanating from a clear intent. Communications is meant to not only relay information to the other side and clear up any possible misconceptions, but they are also meant to educate. Parties must listen to each other and avoid from disrupting the process and/or the other side. Both parties should watch out for potential spoilers during the process. These include sabotaging the process, “moving the goalpost” or putting in new demands, violating the ceasefire, withdrawal, and so on. These would happen mostly if the parties concerned do not really have the intent or the will to resolve the conflict, either from the very beginning or halfway through the process. The negotiation process should also plan for implementation. This means thinking ahead how the decisions of the settlement will be applied and implemented. This also means thinking ahead of all the possible obstacles that might come up and plan for their prevention or management without disrupting the process. Difficult questions such as whether there is a need for structural changes need to be addressed. Other questions like the need for reconciliation, justice, compensation for aggrieved parties and the victims, and truth need also be answered. Finally, there is also a need to see whether there are existing mechanisms for the management and prevention of future conflict issues, and the possibility of creating them if they do not exist. Capacity building should also be invested in, along with the socialization of the ideas for peace between the parties. Along the way, there need to be continuous efforts at re-thinking the process, re-negotiate if necessary, and re-repeat the whole process if the situation warrants it. Once the decision has been made, then they should be implemented. A review and monitoring mechanism should be built into the implementation process to ensure that the results are the desired ones.

These are the ideal steps in any negotiation processes. However, more often than not, most negotiations would have to go through different rounds of talks, with a multitude of issues and interests being addressed. In many situations, they failed miserably, for reasons we will discuss later. However, if the conflict parties have the intent and will to resolve the conflict, they will allow for a third party intervention when the bilateral negotiation process breaks down. This can be in various forms ranging from arbitration, to mediation, to facilitation. This third party intervention will be the focus of the next section.

**Third Party Intervention**
Third party intervention means the involvement of third party/parties in an attempt to provide some kind of resolution to the conflict situation being faced by the parties. Its use in international conflict is well established. In many cases, it is used when all direct and bilateral means have been exhausted by the parties involved. This is especially because in many conflict situations, the parties prefer to resolve the conflict themselves, without outside interference and intervention, especially in Southeast Asia. Third party intervention can be quite diverse according to each case. For example, the cases of third party intervention can be “differentiated according to the nature of the outcome being pursued (partial settlement versus integrative resolution), the processes used (arbitration, bargaining and negotiation, leveraged mediation, facilitative problem-solving workshops), the nature of the mediator (private individuals, scholar-practitioners, diplomats, regional organization, international organization, international non-governmental organization), the level or ‘track’ at which they operate (official, unofficial), the nature of the conflict they are dealing with (dispute, conflict, protracted social conflict), and the level of conflict causation they are addressing (interests, values, needs).”

In many cases, third party intervention assumes the willingness of the parties to resolve the conflict, hence the invitation for a third party to come and intervene. Or it can mean the conflict situation has deteriorated to such an extent that an intervention (humanitarian or otherwise) is warranted, though it might not be welcomed by one or both of the parties. Intervention can be in various forms and by any number of actors. It can be forced intervention in cases of humanitarian concerns or it can be a situation where the interveners are invited by the conflict parties. It can involve individuals, working either in their personal capacities or representing their organizations, or the organizations themselves, or even states or groups of states. There can also be various forms of third party intervention, ranging from mediation, to arbitration, to facilitation. The way it is used these days, it has been described as or involved activities such as peacemaking, peacekeeping, peace enforcement, and peace building. It is then obvious that there is a wide range of third party intervention that runs from various forms of non-coercive facilitation and consultation through different types of mediation in which varying degrees of leverage are exerted to situations in which the decision making authority is held by a third party via powers of arbitration.

**Arbitration** is a process in which the two parties have agreed to hand the determination of the conflict to outsiders. It is a binding, authoritative form of third-party intervention; a formal, legal, or quasi-legal means of conflict management. It is not for all types of conflict, especially of the violent protracted social conflict (PSC) kind. It works better where the sources of conflict are disputes over the interpretation or enactment of treaties, or where the conflict in question has a strictly legal character, like the determination of boundaries and ownerships of properties or areas. Sometimes, even though the conflict may seem to be simply ‘legal’ in nature, it is in fact the manifestation of a more serious and deeper underlying conflict issues, which makes arbitration not useful. Cases like these need more than just arbitration. They need third
party intervention of the mediation or facilitation type. This is what we’ll discuss in the next part.

**Third Party Mediation (& Facilitation)**

**Mediation.** Mediation is a form of third party intervention. “Mediation is best thought of as a mode of negotiation in which a third party helps the parties find a solution which they cannot find by themselves.” This happens at all levels and to all types of conflicts. The assumption (especially involving international conflicts) is that the conflict parties have tried to negotiate bilaterally but without any success. The time can be considered “ripe” to involve third party mediators for a number of reasons, the first one of course being that the conflict parties have not been able to achieve a negotiated settlement on their own. It can also be because current human sufferings have reached a point where they have become insufferable and a quick solution is needed. It can also be to prevent future sufferings and damages to both sides, which will certainly happen if the conflict is allowed to continue and escalate. As such, mediation can be construed as a tool or means for settling disputes, quickly, with as little pain as possible, often within the context of power politics and in many cases involving a considerable degree of leverage on the part of the third party. Settlement is the probable result (though not necessarily the most desired one) given the circumstances of the conflict situation. Agreement is sometimes reached on a particular aspect of a conflict rather than the conflict as a whole through a process of mediated bargaining and negotiation. When this happens, it can be used as a stepping stone towards the settlement and/or resolution of other issues.

The nature of third party mediations depends on a number of factors which include the sources and context of the conflict situations (including the history behind the conflict and what is seen as the underlying factors); the number and types of issues; the nature of the relationship between the parties and the history of either trust or hostility between them; their tendencies for compromise or otherwise; and the timing of the request or offer of mediation. The mediator will plan what it has to do based on these factors. Some of the more general duties of the mediator includes providing a channel of communications between the parties; persuading the parties to make concessions and compromise, and not looking at the conflict situation from a “zero-sum” position; providing information on the issues as well as on the other side to both parties; becoming a “scapegoat” for an unpopular decision, especially if the decision is deemed as necessary; providing a means of cutting losses while still saving face of the parties; helping the parties develop and explore alternative solutions; offering specific solutions drawing from its own experience and knowledge about the conflict, especially when the parties failed to come up with their own solutions; providing resources and services to make a settlement workable; and supervising and monitoring the implementation process after a settlement has been reached.

The types of actors involved have also an influence on the outcome of the process. This has more to do with the power and leverage that the mediators can have on the process and the parties than anything else. This also depends on the levels of the conflict situations. At the international level, the most effective mediators have tended to be
states, especially those that have a direct influence on the parties, or groups of states such as the United Nations, and to a lesser extent, regional organizations. This is based on the realities of international politics where politics and power play an important role in affecting the nature, methods, and outcomes of the mediation process. The result is what is known as the outcome oriented approach toward mediation. This approach sees the mediation process as an exercise in power and influence. It is usually carried out within a defined power relations in which the mediator is well known to one or both parties, and often becomes an advocate for a particular solution or package of solutions. This approach is rather limited in scope and if there are more than two parties involved, not necessarily all will be there. The focus of this approach is more towards reducing the intensity of the conflict and facilitating concessions and compromise from the parties. “The aim is to identify the range of an acceptable pay-off matrix or a zone of potential agreement for the conflicting parties. Using whatever leverage it has, the third party can then attempt to move the parties towards an outcome within that range. The mediator may offer incentives to increase receptiveness to particular outcomes, or ‘frame’ the conflict in ways that increase the possibility of agreement, or coerce the parties into concessions, hopefully without loss of face.” The outcome advocated is usually one that deals with a particular aspect of the conflict and that seeks to remove those elements which might induce violent actions and hostilities. The effectiveness of this type of mediation will depend on the resources and capabilities of the third party and the strategies and tactics by which they are deployed. The tactics usually are the same as in the normal mediation which includes the facilitation of communications; the restructuring of issues; formulating proposals; and building coalition to support the final agreement and against undesired outcomes. The downside of this approach is that it often leaves the general features of the conflict situation unchanged as it deals mainly with issues of immediate interest and importance to the parties and the mediators in the process. It focuses too much on a legalistic framework which can be coercive to ensure the parties comply with the decisions and honour the concessions and promises made. The root causes and the underlying, more fundamental issues may not be dealt with. This is why it might not be useful particularly for protracted violent conflicts (especially social conflicts). For this, it has been argued that facilitation is a more useful means.

**Facilitation.** The major difference between mediation and facilitation is mostly the *role* of the third party. While mediation denotes active and pro-active roles for the third party in bringing the parties to the negotiating table, in setting the agenda for the process and guiding the parties through it, and in coming out with recommendations that the parties can use to resolve the situation, facilitation is often characterized as a process in which the facilitator has an indirect influence over the parties and a shared influence over the process. A facilitation process is seen as a means for the resolution of the conflict with full participation and approval of the parties in every sense and way. The facilitator does not direct the negotiation process the way a mediator does but allows the parties to determine the pace and content of the process. “Conflict resolution is the attainment of a non-hierarchical, non-coercive integrative solution that is derived from the parties themselves through a process of analytical problem solving. It focuses on what it argues are the underlying non-material sources of the conflict and the establishment of
acceptable relationships between adversaries”). Facilitation aims to dig into the root causes of the conflict and remove them once and for all. The process, which is sometimes called interactive problem-solving or third party consultation, usually takes time and involves full participation by all the parties in giving information and communicating their needs and demands to each other. The approach focuses on human rather than institutional behaviour, especially on the idea of fulfillment of the basic human needs. These needs (there is no agreed list, but usually include the need for security, identity and recognition, besides other basic ones such as physical, psychological, emotional, and societal) are seen as non-negotiable and suppressed at a cost. The suppression and denial of these needs manifested in unequal, unjust, and in some situations, illegitimate structural or institutional arrangements, which is seen as the primary source of conflict. As such, any resolution needs to be comprehensive and might even include structural changes. In many cases, it can (and should) be a multifaceted and multilevel activity, involving not only the appointed facilitators, but also others that can contribute to the resolution and peace building processes. It is concern with the nature of the relationship between the conflicting parties and how to change and transform the conditions and circumstances of that relationship, including the structure, social, and interpersonal dimensions of the relationship.

The facilitation process usually carries on from the negotiation stage, but now involving a facilitator. It is usually carried out in a neutral and confidential setting, allowing the representatives of the parties to discuss the conflict issues without any hindrances from outside. There are usually three stages in a facilitation process. The first stage involves getting an accurate picture of the conflict situation. This is done through presentations from both sides of their views of the conflict with questions allowed for clarification and to elicit information. The second stage involves reframing and redefining the issues with the help of the facilitators who might analyse and reformulate the issues based on information given out during the presentations and with reference to other conflict issues which might be used as examples. The third stage will then discuss the substantive issues and identify those processes and institutions that might foster and promote creative responses. The stage is now set to introduce possible solutions with the help of the third party who will assist the conflicting parties to dig down into their interests, needs, and values, and connecting these to the institutional and structural context of the conflict. As much as possible, common attributes and common goals will be highlighted so that the parties do not see the situation as a zero-sum situation.

While facilitation is a very useful form of third party intervention, it also has its shortcomings, namely, the limited ability of the facilitator to influence the parties and exert its control over the process. There is not much that the facilitator can do if the parties do not want to negotiate, or withdraw from the process while negotiating is going on. This is especially so if the facilitator is not a well known figure or organization with little or no power base on its own. Other difficulties include its application at the international level, given the realities of power relations and the intricacies of international politics. Issues such as the authoritarian and/or anarchic climate of the international scene; the inequality of the parties and asymmetric nature of
the conflict situations; and the distorted nature of communications; all contributes to the difficulty for reconciliation.

**Actors in third party intervention.** There are different types of actors involved in third party intervention. They include states, international and regional organizations, non-governmental organizations (NGOs), and individuals.

Third parties intervene mostly because of their own self-interest, apart from their desire to make peace. Self-interest is the primary motivation for states. This includes both “defensive” and “offensive” interests. Defensive interests include promoting international stability, and protecting the intervening nation's foreign interests. Often nations will attempt to mediate a conflict in order to prevent rival powers from intervening and expanding their influence. At the same time, states may also fear being drawn into the escalating conflict which might have a destabilizing effect for them. When motivated by defensive interests, mediators often have some stake in achieving particular outcomes. When states have an offensive interest, they intervene in order to extend and increase their own influence, or to spread their own ideology. Successful intervention may earn the gratitude of the conflict parties as well as other nations, and they might be persuaded to join camp with the third party state. Less powerful nations also act on defensive and offensive self-interests. In addition smaller states may attempt mediation because they lack other foreign policy tools and as a way of avoiding being drawn in to the conflict as participants.

Non-state organizations including the NGOs are also involved in many third party intervention activities. They have been mostly involved in facilitation or humanitarian roles, from bringing in relief to the war victims, to working with the parties on peace building efforts. They are also mainly involved in social conflicts rather than inter-state type conflicts. Such groups are also motivated by an interest in upholding their reputations. Intergovernmental organizations, such as the U.N., are also influenced by the policies and interests of their member states. They are also heavily into peacekeeping activities and work together with other states or organizations in peacemaking and peacebuilding roles too. Regional organizations, such as the ASEAN also have procedures for the management of conflict situations between member states. These procedures are both formal and informal, with varying degrees of successes.

**Conflict Situations and Conflict Resolution in Southeast Asia**

This part will look at the general situation of conflicts in Southeast Asia before going to a discussion of few case studies to illustrate the examples of third party intervention in the region.8

**Inter-state conflicts.** The post-cold war period has seen a number of factors that have contributed to the acceptance that the threat of inter-state war does not constitute the sole cause of insecurity. For example, the war on terrorism which effectively started in the region as a repercussion of the 9/11 event in the US confirmed that non-state actors
have become a greater threat to regional and global security than state actors. The terrorist attack in Bali, Indonesia then demonstrated that the threat to the security and stability of Southeast Asian countries today poses different questions for regional security than before. In keeping with the global trend, the real threats that have emerged in Southeast Asia are not from outside but from within one’s boundaries. This is not to suggest, however, that the region is totally free from the threat of potential inter-state conflict. A few observations from the trend of conflicts in the post-cold war era suggest that inter-state conflicts still make up quite a significant number of conflicts in the region, with land border being the major issue in contention in the majority of the conflicts. For example, the Sabah claim by the Philippines; border dispute between Thailand and Malaysia; and competing claims to the Spratly Islands in the South China Sea involving Malaysia, Indonesia, Brunei, the Philippines, Vietnam, Taiwan and China; the territorial dispute between Malaysia and Singapore over *Pulau Batu Putih* (Pedra Blanca), an island about 55 km east of Singapore in the Straits of Johor. Also, since the security environment of the area is essentially maritime, another issue for inter-state conflicts is maritime boundaries and offshore territorial claims such as the boundary dispute between Indonesia and Vietnam on their demarcation line on the continental shelf in the South China Sea, near Natuna Island.

As far as conflict management and resolution is concerned, the region has a built in strategy to diffuse conflicts before they can escalate and destabilize relations between the countries. The Association of Southeast Asian Nations (ASEAN) plays a critical role for conflict management. For example, ASEAN has contributed to the management of inter-state conflicts by prescribing a framework for conflict management through it’s various treaties from the Treaty of Amity and Cooperation in Southeast Asia, 1976, the Declaration of ASEAN Concord, 1976, to the more recent ones which include the agreement of the code of conduct in the South China Sea, the ASEAN Troika formula, and the proposal for the ASEAN Security Community. Other conflict management procedures include the decision-making process of *musyawarah* which provided a platform for consultation and negotiation of issues involving ASEAN countries, resulting in the prevention and management of conflict between ASEAN countries. Under this process, conflict issues that might have an effect on inter-state relations will be filtered out via the rigorous consultation and negotiation process prior to decision-making. For ongoing conflicts however, although ASEAN does provide a formal management strategy in its treaties (such as the provision to set up a High Council under the TAC), they have not been used. The members have preferred to resort to negotiating directly between each other, and in recent years using the International Court of Justice for arbitration. In recent years, two inter-state cases have been sent to the ICJ – namely between Malaysia and Indonesia over the islands of Sipadan and Ligitan off the coast of Borneo island, and between Malaysia and Singapore over Batu Putih island (Pedra Blanca), which is located in the Straits of Johor. The first case was resolved by the ICJ in 2002 with the decision going to Malaysia, while the latter is still being deliberated upon. Another potential hot spot for the region is the Spratly islands issue. Located in the South China Sea the islands are being contested by Malaysia, Indonesia, Brunei, the Philippines, Vietnam, and others.

Askandar-10
China. Despite various protocols and declarations, skirmishes between the contesting countries continue to happen.

**Intra-state conflicts.** The Southeast Asian region is also rife with intra-state conflicts. In fact, this is the major issue facing many Southeast Asian countries today. Examples of these intra-state conflicts are armed communist insurgencies in the Philippines, led by the New People’s Army (NPA); Muslim separatist movements in Southern Philippines, involving the government of the Philippines (GRP), the Moro National Liberation Front (MNLF), Moro Islamic Liberation Front (MILF), and the Abu Sayyaf group; Malay-Muslim separatist movement in the Southern Thailand provinces of Narathiwat, Pattani, and Yala; the Aceh separatist movement in northern Sumatra, Indonesia, led by Gerakan Aceh Merdeka or Free Aceh Movement (GAM); spillover from the independence of East Timor, especially refugee problems along the border between east and west Timor; separatist movement in West Papua, Indonesia, led by the Organisasi Papua Merdeka (Free Papua Organization); communal conflicts in various parts of Indonesia such as Maluku and Kalimantan; and finally the Muslim fundamentalist threats in Malaysia, Indonesia and Singapore, allegedly under the auspices of the Jemaah Islamiah, based in Indonesia but with memberships throughout the region.

For these intra-state conflicts, there has not been substantial intervention by the countries in the region with a few exceptions which will be discussed below. The principles of non-interference and non-intervention are deeply honoured in the region. Even when there have been pressures from outside the region for the ASEAN to do something about the problems within Myanmar, the ASEAN states have not responded to these pressures. Despite toying with the idea of reforming the organization in the early and 1990’s with discussion of new concepts such as constructive engagement and constructive intervention, it is clear that nothing much has improved. The role of ASEAN is clear. It does not, as a regional organization, involve itself in the management of these conflicts, no matter what the nature of these conflicts are. All ASEAN countries have been allowed to manage conflicts within their own borders in their own chosen ways. As such, we see a variety of ways in which these conflicts have been managed by individual countries, from setting up civic programs as to promote understanding of the democratization process and enhancing ethnic relations, to outright suppression using military force. In the absence of a regional mechanism of conflict management with regard to domestic conflicts, intra-state conflicts within ASEAN continue to pose a threat to regional security. The following parts will look at two conflicts which have been going on for a long time, and which have already a history of third party intervention, with varying degrees of successes. Lessons can be learnt on how to make third party intervention better from these two cases.

**Aceh.** Acehnese struggle for independence is probably one of the longest and bloodiest separatist insurgencies in Asia. A brief exploration on Aceh’s history explains the mix of factors that led Aceh into a “war of national liberation” and turned thousands of its people into exiles. According to some historians, Islam first entered the Indonesian archipelago, and possibly all of Southeast Asia, through Aceh sometime around the
year 700. The first Islamic kingdom, Perlak, was established in the year 804. Much later, in the sixteenth and seventeenth centuries, the port of Aceh became entangled, along with the rest of what is now Indonesia, in European colonial powers’ competition for worldwide political and economic dominance. Interested parties included the Portuguese, Spanish, Dutch, and British. For many centuries Aceh was a very distinct and influential political entity. The Sultan of Aceh and the Sultan of Malacca, were major controllers of trade through the Straits of Malacca. One of the most significant events in Aceh’s history came in 1824 with the signing of the London Treaty often referred to as the Anglo-Dutch treaty in which the Dutch gained control of all British possessions on the island of Sumatra including Aceh. Yet the Dutch colonialists failed to fully capture Aceh. Only after all the neighboring territory was conquered did they mount a final campaign to subdue Aceh. That war took them 35 years. The next major agreement was the Linggarjati Agreement mediated by Britain and signed by Indonesia and the Netherlands in March 1947. In this agreement, the Dutch recognized Indonesian sovereignty over the islands of Java, Sumatra, and Madura. Perhaps the most critical event in explaining the attitude of many Acehnese is the signing of the 1949 Round Table Conference Agreements. Brokered under the auspices of the United Nations, the agreements provided for a transfer of sovereignty between the territory of the Dutch East Indies and fully independent Indonesia. The Kingdom of Aceh was included in the agreements despite not having been formally incorporated into Dutch colonial possession. Subsequently the Indonesian government used armed troops to annex Aceh. Since the annexation, the Acehnese have continued to resent what they consider as foreign occupation. The precursor to Aceh’s independence movement began in 1953 when Indonesia experienced the Darul Islam rebellion, in which rebels on the major Indonesian island of Java tried to establish an Islamic state. The Acehnese lent support to this rebellion, which took years to crush. In 1959, the Indonesian government responded by giving Aceh the status of a “special territory” which ostensibly confers some degree of autonomy in religious, educational, and cultural matters. Despite this status, in 1976 Aceh Merdeka (“Free Aceh”) was founded as an armed resistance group. The Indonesian military refers to this group as the Gerombolan Pengacau Keamananan (GPK), which means “gang of security disturbers.” In the late 1970s, Indonesian authorities conducted mass arrests of Aceh Merdeka members and shut down their activities until 1989. In that year, a group now also calling itself the Aceh-Sumatra National Liberation Front (ASNLF) came out of hibernation and vigorously renewed its quest for independence, often through attacks on police and military installations. In 1989, Indonesia designated Aceh a military operations area giving the army a free rein to crush the separatists.” Amnesty International reported that between 1989 and 1992 about 2,000 people were killed in military operations in Aceh. According to the human rights group FORUM, that oversees 78 nongovernmental organizations in Aceh, it has compiled 668 reports of atrocities in Aceh during the height of the military operation. In all about 12,000 people mostly civilians have either been killed or lost since fighting began. This separatist issue became more compelling when large deposits of natural gas were discovered in the mid-1970s. The light at the end of the tunnel appeared when the Henri Dunant Center for Humanitarian Dialogue (HDC), was invited to act as a facilitator in the dialogue by the then President Abdurrahman Wahid. The HDC was able to persuade the Indonesian
government and GAM to sign on December 9, 2002 the Cessation of Hostilities Agreement (COHA) which was then seen as an accord that could end 26 years of rebellion. It became possible when both sides agreed to compromise on key strategic goals. On the part of GAM, the demand for full independence was put aside for the time being. The Indonesian government, on the other hand, agreed to foreign monitors, mostly military officials from Thailand and Philippines to supervise the ceasefire and the disarming of the GAM. This is a positive development because the Indonesian government has consistently refused to internationalize the conflict in Aceh. Nevertheless the peace process suffered some setbacks after sporadic acts of ceasefire violations done by both sides despite the presence of the HDC, the international monitors, and the newly created Joint Security Council (JSC). These violations reflected the need for more continuous conflict prevention and peace-building effort as well as independent monitoring activities by international organizations especially the UN. Since May 2003, Martial Law was implemented again in Aceh which effectively killed off any advances made in the peace-building efforts of the previous years. The GAM negotiators were arrested on their way to Tokyo for negotiations and more than 30,000 troops were sent to suppress the separatists. Martial law was removed after a year, replaced with a civil emergency, but there has not been an improvement of the situation. The new president, Susilo Bambang Yudhoyono, promised during the run up to the presidential election that he will end the Acehnese conflict within three years of taking power. This will still need to be proven. The Aceh conflict points to not only the failure of the peace process, but most importantly in the context of this paper, the failure of third party intervention.

**Southern Philippines.** The existence of ethnic minority groupings in the Philippines is a historical result of the incorporation of formerly autonomous peoples by the Spanish and American colonizers. This process of diminishing the sphere of authority of local and regional groupings was continued by the policy of unification and centralization under the Philippine State. Decades of perceived and actual neglect experienced by the minority groups have fueled their separatist desires. Ethno-cultural separatism in the Philippines has manifested itself through the struggles of the Moros in the south and the Cordillerans in the north. In the Southern Philippines, Muslim separatists group – the Moro National Liberation Front (MNLF) evolved from the Mindanao Independence Movement (MIM) established in 1968. Rejecting the leadership of the traditional Muslim elite politicians, the younger MIM members organized the MNLF in 1971. In 1974, the MNLF Central Committee issued a manifesto in Tripoli, Libya declaring the goal of establishing an independent Bangsa Moro homeland. The separatist struggle of the MNLF resulted in the outbreak of the Mindanao war in the 1970s. Several factions would later break away from the MNLF on the issues of leadership, ideology and autonomy. The Moro Islamic Liberation Front (MILF) is an example of a major faction of the MNLF composed of traditional, aristocratic and religious elites in Maguindanao. It broke away from the MNLF leadership in 1978, and formally organized itself in 1983. Wary of the Marxist-leanings of the MNLF, it seeks the promotion of Islam and the preservation of Moro society. Aside from MILF, another faction known as the “MNLF-Reformist Group” broke away in 1982. The latter was co-opted by the Marcos and Aquino administrations. Another splinter group is the Mujahideen Commando Freedom
Fighters. More popularly known, as the *Abu Sayyaf* Group (ASG), the group is composed of younger former MNLF guerillas. Often described in the media as an extremist fundamentalist group, the *Abu Sayyaf* Group was organized in the mid-80s. It has been implicated in several kidnappings, extortion, banditry, and smuggling activities tainting its claim of being “freedom fighters.”

The attempts of various administrations to address these armed groups demonstrate the efforts of the Philippine State to enforce domination over the mélange of social forces in society. As years of violent confrontation have proven to be disastrous to the nation in general, the State introduced a series of initiatives to accommodate some of the demands of the insurgent groups. The intensity of the war in Mindanao resulted in the peace negotiation between the MNLF and the Marcos administration. Under the auspices of the Organization of Islamic Countries (OIC), the negotiations culminated in the signing of the 1976 Tripoli Agreement in Libya. The internal Muslim problem was raised to an international level when OIC member countries and the oil embargo from oil-producing Islamic countries pressured Marcos to negotiate with the MNLF. Nevertheless, the active involvement of the OIC has resulted in the MNLF scaling down its demands from secession to autonomy. The agreement included the granting of full autonomy to 13 provinces and 9 cities in Mindanao provided that a “constitutional process” takes place as a method of legitimately claiming these areas as duly covered in the autonomy. It also provided for the establishment of an elected Legislative Assembly and an Executive Council to be appointed by the Assembly. However, negotiations broke down in 1977. Nevertheless, Marcos implemented parts of the agreement to give a semblance of addressing the desires of Muslim Mindanao. Under Marcos, the Tripoli Agreement was signed. However, upon the start of its implementation where a plebiscite was held, which was identified as a “constitutional process” by Marcos only at this time, the MNLF protested to this as they felt that Marcos deliberately mislead them and the public wherein no clear consultation was conducted to make the constituents of Mindanao understand the implications and merits of the Agreement. It was not surprising that the voters naturally were persuaded to “not adopt” the idea of Autonomy for Mindanao and especially in the majority non-Muslim populated areas. Since then, the MNLF continued with its armed struggle but with the Marcos regime doing a conflict management with the use of further militarization in the Muslim areas and coupled with a well handled diplomacy with some of the OIC countries sympathetic to the Bangsamoro cause. On the other hand, Marcos has also managed to gain allies from the traditional Moro politicians and succeeded in co-opting the MNLF-Reformist Group thereby causing a faction within the MNLF. Under the Aquino administration, a historic meeting between President Aquino and then MNLF Chair Nur Misuari highlighted the resumption of negotiations with the MNLF soon after the Philippines Edsa Revolution in 1986. This accorded Misuari the opportunity to re-establish his leadership over the Moro movement, weakened by factionalism. However, in the same manner the talks broke down due to disagreements regarding the implementing structures of the 1976 Tripoli Agreement. Despite the non-support from the MNLF, the Aquino administration signed into law Republic Act 6734 in August 1989 creating the Autonomous Region in Muslim Mindanao (ARMM). As a result of the elections in Mindanao, only four of the 13 provinces covered by the Act opted to be
part of the autonomous politico-administrative body inaugurated in November 1990. These four Muslim-dominated provinces were Lanao del Sur, Maguindanao, Sulu and Tawi-Tawi. By 1996, with the administration of President Fidel Ramos, a peace agreement with the MNLF was signed leading to the election of MNLF Chair Nur Misuari as the governor of the Autonomous Region of Muslim Mindanao (ARMM), and the creation of the Southern Philippines Council for Peace and Development (SPCPD). On the part of the MNLF, a sense of disappointment is slowly growing among its leadership because of the diminishing support from the national government in fulfilling the remaining portions of its agreement with the previous administration. Despite the MNLF’s successful integration of its military arm with the Armed Forces of the Philippines, much of its energy has been spent struggling with the bureaucracy in taking part in governing ARMM. Given the muddled peace policies of President Joseph Estrada’s administration, great difficulties have threatened the smooth passage from the transitional phase to regular autonomy based on the 1996 Peace Pact. For example, growing disillusionment of the former MNLF guerillas with the leadership of former Governor Nur Misuari, his short-lived “rebellion”, arrest in Malaysia, and ultimately charges of rebellion of which he is currently waiting for his trial in Manila. The basis for the disillusionment was basically a lack of concrete benefits from the peace agreement signed. The military, on the other hand, was concerned with the younger and more radical MNLF members, some of which already affiliated with the MILF and the Abu Sayyaf.

All these were happening at a time when the GRP was negotiating with the MILF and has affected the talks. The difficulties in realizing government commitments under the peace process serves to reinforce the MILF’s apprehensions about any peace process with the GRP. Unlike the MNLF, the former rejects autonomy and continues to envision an independent Bangsa Moro homeland. To add, the involvement of the United States in its war against terrorism further aggravated the situation due to its interests of continued military presence, specifically in conducting the “Balikatan” or joint military exercises with the AFP and the US Military in the areas of Central and Western Mindanao and which are predominantly Muslim areas. Furthermore, the lack of a more influential international third party mediator has brought an impasse to the peace process. This is also why the US has been keen to be involved, although clearly rejected by the MILF and the Malaysian government who currently acts as the facilitator.

Several rounds of talks have been hosted by Malaysia in Kuala Lumpur since 2003. At the moment there has not been any major breakthrough in the talks itself. However, a recent development has been the deployment of the International Monitoring Team (IMT) consisting of peacekeepers from the Malaysian military and police to monitor the situation on the ground and to prevent any violations of the ceasefire agreement. This is a major development given that for the first time in the conflict a foreign peacekeeping team has been invited into Mindanao. The Malaysians will be joined later by teams from Brunei and Bangladesh in an attempt to make the peacekeeping forces more diversified. However, there have been news of the rejection of the current IMT by elements in some parts of Mindanao like the non-Muslims in Zamboanga. The peace
talks itself has been quite slow. It has been delayed a few times because of the presidential election in the Philippines and because of the issues in contention. Despite being the choice of both conflicting parties, Malaysia does not really have a strong role in the talks. It is still very much a facilitator without much pull on the parties. Malaysia’s unmentioned but clear position that it will not support the independence of Muslim Mindanao also presents a problematic situation for the MILF, many of which still holds on to the idea of independence for the Bangsamoro. This fact, on the other hand, also presents a problem for Malaysia as the facilitator in trying to balance the demands of both sides. The talks looks set to become even more difficult in the future with controversial topics such as the ancestral domain of the Bangsamoro. But at least with peacekeepers firmly installed on the ground, the pressure is there to keep the talks going.

Conclusions

The two levels of conflict clearly point out the differences in how conflict situations are being managed in the Southeast Asian region. At the inter-state level, where the principles of non-interference and non-intervention reign supreme, the norms have been for management of conflicts through preventive diplomacy, bilateral negotiations, and the three-rs of the ASEAN conflict management process – restraint, respect, and responsibility. When third party interventions have been involved, they have been legal and formal through the process of arbitration. There has not been a case of official third party mediation in inter-state conflict situations in the region.

The same goes for intra-state conflicts, where third party interventions have come mostly in two major forms, facilitation and peacekeeping operations. No single Southeast Asian state has ever been given the role of the traditional mediator to resolve a conflict within the borders of another state. The closest to this has been Malaysia which has been tasked to help find a solution for the Mindanao problem. Even then, Malaysia’s role has been closer to that of a facilitator. The same goes for the role of Indonesia in both the Southern Philippines in the 90’s and Cambodia in the 80’s. At least Malaysia’s position in Southern Philippines is stronger than that of the HDC in Aceh. Being an NGO, the HDC was not only limited by its lack of resources, but more importantly, it did not really have the power to persuade either parties as well as the leverage to influence the process. Its limitation was evident when it could not control the parties and the peace process, resulting in the breakdown of the process and the implementation of martial law. The other form of intervention, peacekeeping operations, has been more evident in the region. Peacekeeping operations have normally followed (and parallel) peacemaking activities. They have been mostly international in nature, from Irian Jaya (West Papua) in the early 60’s, to Cambodia, East Timor, and Aceh. The only exception is the current operations in Mindanao where Malaysia makes up the sole peacekeeping force there. The idea of introducing peacekeepers into conflict areas, even regional ones, is still very much debated. Aceh showed the uneasiness of the host country and the difficulties for the contributing nations. Suspicions, lack of support of any kind, disrespect, and outright rejection by some on the ground was the order of the
day for the peacekeepers in Aceh. It is still too early, however, to evaluate the position and impact of the Malaysian peacekeepers in Mindanao.

Lastly, we will conclude with observations about generic problems with the third party intervention process. As with any conflict resolution strategies, there can be problems with third party mediation that will affect the results.

The first one stems from the lack of proper intent and lack of political will to resolve the problem. Signs of this among others include hesitancy to support the intervener, whether mediator or facilitator; the arrest of negotiators; failure to support the process; withdrawal from negotiations; “moving the goalpost” or changing the demands during negotiations, and so on. When these happen, they clearly show that the party(ies) does not really have peace in mind, but was pressured into accepting the process because of other events beyond its control.

The second is when the parties involved are not sure of what they really want. The mediators might be getting mixed signals about the willingness to resolve. They might be fed with the wrong information or not enough information by the parties. The mediators will already made assumptions about the positions of the parties as part of the preparation exercise. But these assumptions still need to be checked, clarified, and confirmed with the parties. Unsure demands always make it difficult for the mediators to figure out the real positions of the parties, and to work out a strategy that will help satisfy the interests and needs of the parties. They cannot really work to give something to the parties if that is not what the parties really want. For example, working on limited autonomy as a possible solution when what the party really wants is independence.

The two problems above is further enhanced when you have a situation where there are intra-party dynamics at work which make it difficult for the mediator to address the situation of who to work or deal with. Or that there are internal rifts within the parties and groups opposing the process may decide not to cooperate or even sabotage the process. The two case studies, Aceh and Mindanao, clearly show this difficulty. In both Aceh and Mindanao, all parties had internal problems that affected the peace process. For example, there were rifts between the civilian authority (president) and the military leaderships on how to go about the process. This happened in both areas. This also happens to the other side. The MILF, despite being the largest group fighting in Mindanao, does not really represent all the Bangsamoro groups. There are others, such as the MNLF and the Abu Sayyaf group which have their own interests and agendas. The same with the GAM. It does not represent all the Acehnese. Even within GAM there are factions – the local commanders leading the fight in Aceh, and exiled political leaders in Sweden and Malaysia.

The fourth problem revolves around the issue of finding a suitable or acceptable third party (state, international organisation, regional organisation, NGO, individuals) and deciding the kind of role that this third party will play, either as a mediator or a facilitator. It has been well discussed above that this would have an impact on how the
third party process turns out. This is followed by questions about the mediation process itself: the venue, the agenda, and possibly the funding of the process.

The fifth is the question of timing or entry into the process. When is the conflict deemed right for intervention? This is a difficult question to decide given a number of factors including national interests and sovereignty; the practices of non-interference and non-intervention; past experiences with intervention and their successes or failures; the seriousness of the conflict; the level of violence; the level of human sufferings; and our “responsibility to protect”. 14 Do we wait for an invitation from the parties, or until the conflict has reached a “hurting stalemate”, or even until human sufferings have reached an intolerable limit? (btw, how do we measure the limit?). This also raises a very difficult issue of ethics. (something which I dare not attempt to answer now).

The sixth problem involves the working of the mediation process itself. What to do when the parties decide not to continue or the process reach a stalemate due to a number of factors including the “moving of the goalpost” or putting in new and sometimes illogical demands, or the parties decide not to address the “correct” issues. Or when the parties involve simply want to do too much (or not enough).

This paper probably raised more questions than it answers. However, that just shows the difficulties that we have when dealing with the issue of third party mediation as a strategy for conflict resolution. Experiences from Southeast Asia also show that the problems of third party mediation is doubly enhanced given the sensitivities of national interests and sovereignty. On the other hand, our experiences have also told us that without intervention, many of the conflicts will not be resolved. The challenge is finding a balance between these two positions – mediating, implementing, monitoring, and reviewing, while ensuring that the conflicting parties do not lose face, needs, and interests.

Endnotes

1 Mark Hoffman, “Third-Party Mediation and Conflict Resolution in the Post-Cold War World”, p. 264
5 Hoffman, p. 266.
6 Hoffman, p. 265.
9 For the ASEAN conflict management mechanisms, please refer to Kamarulzaman Askandar, “ASEAN Experience in Conflict Prevention and Management: Evolution, Strategies, and the Need to Reformat?”, Paper presented at the Seminar on Conflict Prevention, Conflict Resolution, and Peacebuilding in

Askandar-18

10 See The Manila Times, December 14, 2002


12 Information derived from conversations with officials from the Prime Minister’s Office of Malaysia and the leadership of MILF, 2004.

13 Kamarulzaman, “ASEAN”, 2003