

ABSTRACT

Thesis Title : Principle Legal Problems in the Establishment of the
Sub-district Administrative Organization

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The Sub-district Administrative Organization, according to the Sub-district Administration Organization act of 1994, is a form of local government intended to achieve decentralization from the national government, with the aim of encouraging decision making and management at the level of the Sub-district and the village. This is because, according to the National Executive Council, B.E. 1515, Section 326, the Sub-district Council is not a legal entity and therefore cannot practically operate local government due to a lack of managerial independence and flexibility. Some improvements should be made to the status of the Sub-district Council and its management so that power may be decentralized and distributed to more people, including the upgrading of the Sub-district Council to a local governmental until called the "Sub-district Administrative Organization" with a budget of not less than 150,000 Baht.

Since the Sub-district Council and Sub-district Act was promulgated in 1994, the Ministry of the Interior has established the Sub-district Administrative

Organizations four times resulting in a total of 6,747 Sub-district Administrative Organizations with 218 Sub-district councils remaining unincorporated. Hence, it can be seen that large steps in the decentralization of governing power to lower level of local government has occurred in a very short period of time. However, following the establishment of the Sub-district Administrative Organizations, it was discovered that they did not achieve the successes envisioned.

From the research, it was revealed that one of the major shortcomings contributing to the lack of success among Sub-district Administrative Organizations was the criteria and requirements required in their establishment. Three primary shortcomings were discovered as follow:

Firstly, the current requirements for the establishment of Sub-district Administrative Organizations do not stipulate standard requirements in size, population and budget, which produces inefficiency in providing welfare services in response to the needs of the populace. Since the Sub-district Administrative Organization is not anywhere close to being standardized, it is very difficult to coordinate the planning of development, transportation, or joint communication.

Secondly, the provision relating to the Sub-district Organization does not facilitate political participation of the populace and leads to conflicts in rural society.

Thirdly, the requirements for the establishment of the Sub-district Administrative Organization create problems relating to the election of members to the Sub-district Administrative Organization Council, as well as problems relating to legal issues in the establishment of the Sub-district Municipality according to the Municipality Act of 1923.

In light of these shortcomings, the writer proposes the amendment of the Sub-district Council Act and the Sub-district Administrative Organization Act of 1994 and other related laws according to the following six points:

1. The Act should stipulate the Sub-district Administrative Organization's revised boundaries, population and budget so that any person or member of the Sub-district Administrative Organization Council can respond to their Sub-district majority, not only according to the village but, on the basis of an interdependency between rural areas and cities. The Sub-district Administrative Organization must be large enough to generate income, but not overly large so as to be unmanageable. The geographic size should be approximately 50 square kilometers.

In regards to the population, the requirements should be flexible, depending on the nature of the community, with at least 3,200 persons.

2. After the establishment of the Sub-district Administrative Organization, the provision of law relating to local administration regarding the establishment of village and the appointment of Sub-district Chief, physician, and Sub-district inspector should no longer be applicable to the area of the Sub-district Administrative organization.

3. The Sub-district Administrative Organization election area should be in proper proportion to the constituency.

4. The establishment of the Sub-district Municipality should only occur in the event the Sub-district Administrative Organization is upgrading or when several Sub-district Administrative Organizations are being combined. However, any Sub-district Administrative Organization which is prospering should not be separated in order to establish a Sub-district Municipality.