

# **Access to natural resources in Mainland Southeast Asia and implications for sustaining rural livelihoods – The case of Thailand**

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## **Summary**

Drawing on various case studies, this article presents evidence of the failure of the state paradigm in the management of natural resources, such as forests and agricultural land in protected areas, and discusses the ambiguous achievements of the land reform process in the most poverty-stricken regions of North and Northeast Thailand. Results suggest that local communities and ethnic minorities have reacted to top-down planning, corruptive land allocation and repressive forest policies by initiating their own reforestation activities – often supported by NGOs – with local management and control structures, by initiating resource protection measures, such as planting of fruit trees, and by reviving religious traditions of sacred forests. Thus, rural communities try to demonstrate that the conventional paradigm of the Royal Forest Department of “forest without people” is alien to their local concepts of natural resource management. Recently, desperate attempts of reclaiming rural people’s lands from speculators in North Thailand have resulted in massive public pressure forcing the government to reconsider its resource policies. While some promising attempts of decentralisation of natural resource management have been initiated, the nature of these policies remains highly controversial and ambiguous. The authors conclude that the reluctance of government agencies to devolve control over natural resources to local communities seriously jeopardise their strive for food security and sustainable livelihoods. A number of alternative policy approaches are discussed, such as the redistribution of private land bought for speculative reasons, establishment of community land trusts and co-management arrangements for common-pool resources, such as forestland in protected areas.

**Key words:** Resource access, resource tenure, land and forest policies, local responses, Thailand

## **1 Introduction**

Forests in Mainland Southeast Asia have been and continue to be depleted at an alarming rate. Rural poverty is driving agriculture onto marginal, sloping lands. Accelerated soil degradation poses a major threat to food security and the viability of agroecosystems (EL-SWAIFY, EVANS et al., 1999). Despite the rapid depletion of forests under state control, the authority of the state to hold exclusive rights to forestlands has rarely been scrutinized while local communities are still blamed as the main culprits of forest destruction and resource degradation (POFFENBERGER, 1998).

The crucial question emerging in tenure policies in Southeast Asia is who should control the region's natural resources in the 21st century? Decentralisation of decision-making in the management of forests and other natural resources has been at the centre of the discussion. Related questions are what are possible ways to go towards greater devolution of resource management and what could be suitable options for viable tenure arrangements. While even former centrally-planned countries like Vietnam today recognise that private ownership or at least individual use rights are a better tenurial arrangement for agricultural land than collective or state-governed tenure regimes, tenure policies in most Southeast Asian countries still favour state institutions as the effective managers of huge national forest areas.

Drawing on case studies from North and Northeast Thailand, this article discusses the history and current issues of tenure policy in Thailand and their implications for sustaining rural livelihoods and alleviating poverty. Although questions of access to water resources are equally urgent and complex, our discussion will primarily focus on forestry and land issues. Our premise is that if issues of access to land resources (i.e., agricultural lands and forests) can be resolved, lessons may be learned that can apply to water and marine resources. In section 2 we present a brief overview on current issues of access to natural resources and tenure policies in Mainland Southeast Asia and how they relate to the sustainability of rural livelihoods. The main phases of the history of resource policy in Thailand are discussed in section 3. In Section 4 we present several case studies from North and Northeast Thailand based on research work under guidance of the authors. Section 5 will provide a critical analysis of the new directions of Thai tenure policy. In section 6 we draw some conclusions and discuss potential options to resolve the pressing problems as regards access to and management of natural resources in Thailand and their impact on food security.

## 2 Issues of access to natural resources and forest policies in Southeast Asia

### 2.1 Access to natural resources, resource degradation and landlessness

According to POFFENBERGER (1999), an estimated 80 to 100 million people in Southeast Asia are living on land classified as public forest. An additional 200 million rural dwellers depend to varying degrees on forest products for their survival. Indirectly, 150 million urban residents rely on the environmental services of upper watershed forests. Table 1 indicates the number of directly forest-dependent people in six selected countries of Southeast Asia in 1995. It has to be stated, however, that these figures are very rough estimates as different sources apply different categories of forest-dependency.

**Table 1: Populations and forest-dependent people in six Southeast Asian countries**

	Thailand	Vietnam	Indonesia	Philippines	Laos	Cambodia
	Million	Million	Million	Million	Million	Million
National population 1995	58.8	74.5	197.6	67.6	4.9	10.9
Forest-dependent people 1995	10	25	60	20	2.4	1.4

Source: Poffenberger (ed.) 1999

Southeast Asia has been one of the hot spots of forest decline and soil degradation in tropical regions. In Thailand and Vietnam, forest-to-people ratios have reached a critically low level of less than 0.2 ha and will further decline to a projected ratio of less than 0.1 ha by the year 2025 (Gardner-Outlaw & Engelman, 1999). At the same time, soil degradation in Southeast Asia's sloping lands is accelerating at a vertiginous pace. According to the World Bank (1995), 47% of the northern mountains of Vietnam are highly susceptible to deterioration or erosion. In the uplands of northern Thailand, shortening of fallow periods has depleted soil fertility and degraded natural resources. Hence, soil conservation measures on steep slopes and sustainable land management have long been promoted by state agencies, non-governmental organisations (NGOs) and development projects in the uplands of Thailand and Vietnam. However, adoption rates have remained disappointingly low, owing to various economic, social, cultural and economic factors (EL-SWAIFY, EVANS et al., 1999). Beside high implementation costs and slow returns of investments, land tenure insecurity is often cited as one the most crucial constraints to the adoption of soil conservation practices, protection of natural resources and sustainable farming systems (WACHTER, 1992; HANNA and MUNASINGHE, 1995).

Land concentration has led to increasing numbers of rural people without land or limited tenure security. In Thailand, the Land Institute Foundation has estimated that over 30 per cent of the country's 5.5 million farm households have insufficient land to sustain their livelihoods. In North Thailand, nearly 50 per cent of the farm households do not have enough land to ensure food security. More than 450,000 farm households in Thailand are declared landless, whereas the annual economic cost of idle land to the country is estimated at around US\$ 3 billion (LAND INSTITUTE FOUNDATION, 2000).

## **2.2 Tenure policies in Mainland Southeast Asia**

The peoples of mainland Southeast Asia share similar experiences as regards access to natural resources. Individual societies and political systems have chosen similar concepts for resource tenure and management. The approach to resource tenure, whether based on tradition or on modern law, comes clearly from the perspective of the ruling elite or, in some cases, the former colonial power of the capital city, be it Bangkok, Vientiane, Phnom Penh, Rangoon, Hanoi, or Kuala Lumpur. Traditionally, all land, all resources, and in some cases even people in these ancient kingdoms, were officially the property of the King (KEMP, 1988). Except where governments recognize local forms of resource management, this centralized concept of control continues with the policy that all land not designated (by the State) as private property is State property.

Communal property is often crucial to villagers' livelihood. The communal forest, communal grazing land, and other forms of communal resource use, can be found throughout Laos, Cambodia, Burma, and Thailand. Nearly all seasonal rice-growing communities know some form of communal rights to livestock grazing on fallow paddy fields. In most cases encountered, livestock have unrestricted right to graze the stubble remaining from the harvested rice. Small communal lands, often covered with small trees and brush or with grasses on relatively infertile soil, are critical as grazing areas during the rainy season when paddy fields are planted and under water (THOMAS, 1988).

Officials from central Thailand, where most communal property systems have long been destroyed by the commercialisation of rice production, generally ignore the significance of communal lands when they work in North and Northeast Thailand. All too often, governments mistakenly believe they can control resources "for the public good" most effectively.

Recently, some significant changes have occurred in several Southeast Asian countries. The Lao Government's on-going "Forestland Allocation Program", for example, is attempting to institutionalise communal land holdings, empowering villages to manage forestlands themselves and allowing them to formulate their own local access rules. In this way, they determine how to best address poverty and vulnerability issues within the context of their community and local access rights to natural resources. Current land policy in Vietnam is even going a step further, aiming at the large-scale devolution of the use, management, and governance of natural resources. Under the land reform initiated in 1993, both agricultural and forestland have been allocated to individual farm households (e.g., NEEF, 2001). By the year 2000, most farmers in the lowlands, midlands and mountain valleys have received long-term land use rights (so-called red book certificates) on agricultural land. However, the allocation of public forestland to individual households has proceeded slowly reflecting the complexity of the land reform process.

### **3 Brief history of tenure policies in Thailand**

#### **3.1 The evolution of land policies and agricultural land reform in Thailand**

Until recently, only private or state ownership of land was legally recognized in Thailand. The Thai history of individual ownership in agricultural land dates back to 1901, when a modern land law was promulgated under King Rama V. (FUHS, 1985). Today, private tenure regimes in agricultural land reflect strong social disparities: on the one hand, influential social groups control large land resources; on the other hand, the vast majority of the rural population has limited and insecure access to land.

The state's land policies have focused on different, in some cases even conflicting strategies. Fuelled by the ideology of controlling people and resources, policy measures were used to foster development, to deal with social conflicts or, more recently, as an instrument to deal with environmental problems (BRENNER et al., 1999). This is reflected in a series of land codes with different terms and conditions under which land could be owned. Conflicts between different land codes but also between land codes and customary or informal land tenure systems are commonplace. All these factors together with slow implementation have facilitated illegal occupation of land, widespread sharecropping arrangements with limited use rights for tenants, encroachment on National Forest Reserves and destruction of forest resources (HAFNER, 1990).

Current land policies have their roots in the most comprehensive land law, the Land Code of 1954. It recognizes a number of different land titles ranging from full legal ownership to no more than limited usufruct rights. Its critics argue that it encourages clearance of forest by recognizing three steps of land acquisition: Occupancy, use, and finally legal ownership (CLEARY AND EATON, 1996; HAFNER, 1990). As land titles have only been allocated on land not declared National Forest Reserves, land policies have not focused on solving or even understanding land and forest tenure problems within these reserves where traditionally most land acquisition took place. Hence, the most serious and intractable tenure problems have occurred in National Forest Reserves that account for more than 30% of the country's area (CLEARY AND EATON, 1996).

In order to solve land tenure problems within these areas, the government added a number of special land certificates to the complex array of already existing land titles. The most prominent examples were the S.T.K.<sup>1</sup> Land Title and the 'Forest Village Program', both initiated and implemented by the Royal Forest Department. However, instead of solving land rights problems and protecting the remaining forest areas, these programs actually led to additional land tenure insecurity and consecutive forest clearance. This was due to constraints in the implementation and the overall framework of these programs, namely limitations in farm size, an array of land certificates that confused its recipients and limited implementation facilities (NEEF AND SCHWARZMEIER, 2001).

With financial support from the World Bank and technical support from the Australian government, Thailand embarked on an ambitious land titling program in 1984 aiming at the systematic registration of land rights and their integration into the national legal framework. By the end of the 1990s it has become the world's largest land titling project receiving international recognition and the World Bank's Award of Excellence in 1997 (RATTAMABIRABONGSE et al., 1998). Within Thailand, the program has been discussed much more controversially. Whereas its proponents emphasize the increase in land values and tenure security, the high number of titles issued to date (around 8.7 million title deeds), improved access to credit and reduced costs of issuing titles over the three phases of implementation (FEDER et al., 1988, RATTAMABIRABONGSE et al., 1998), representatives of civil rights groups claim that the land titling program made no provisions for the recognition of village commons or common property resources, led to land concentration in the hands of wealthy and often absentee landowners and big corporations and increased indebtedness and landlessness of the poorer segments of the rural population (e.g., LEONARD AND

NARINTAKRAKUL NA AYUTTHAYA, 2002). Recently, the failure of recognising communal village land led to a violent conflict in Lamphun province in North Thailand (see section 4.3).

### **3.2 Forest policies, protected areas and reforestation**

The management of forests and forestry resources is the responsibility of the Royal Forest Department (RFD). Over a period of nearly 100 years (from 1896 to 1989), the RFD was responsible primarily for granting and managing forest logging concessions. Its structure, personnel, perspectives, attitudes, and legal and regulatory framework have been oriented toward extraction of timber, and the administration and management of logging concessions awarded to private companies. Poor management of the concessions and concessionaires, and serious institutional weaknesses and constraints, combined with the growth of rural population and expansion of the agriculture sector, have resulted in seriously degraded forests, malfunctioning watersheds, significant loss of biodiversity, and the destruction of habitats for flora and fauna. Deforestation has damaged agriculture, energy production, transportation, industry, and human settlements<sup>2</sup>.

Since the 1980s the failure of the State to protect forests simply by demarcating protected areas in a top-down approach as National Forest Reserves have become obvious. 48% of the total land area designed as National Forest Reserves, including areas with special protection status such as National Parks, Wildlife Sanctuaries or Watershed conservation areas are under the administration of the RFD. Of this area most probably only one third actually may be designated as 'forest', while about one third of Thailand's cultivated area is located within National Forest Reserves (see Figure 1). These sustain around 8-15 million people in about 150,000 villages with predominantly insecure settlement and use rights for the land they are living on (BRENNER et al., 1999; LOHMANN, 1993; VANDERGEEST, 1996).

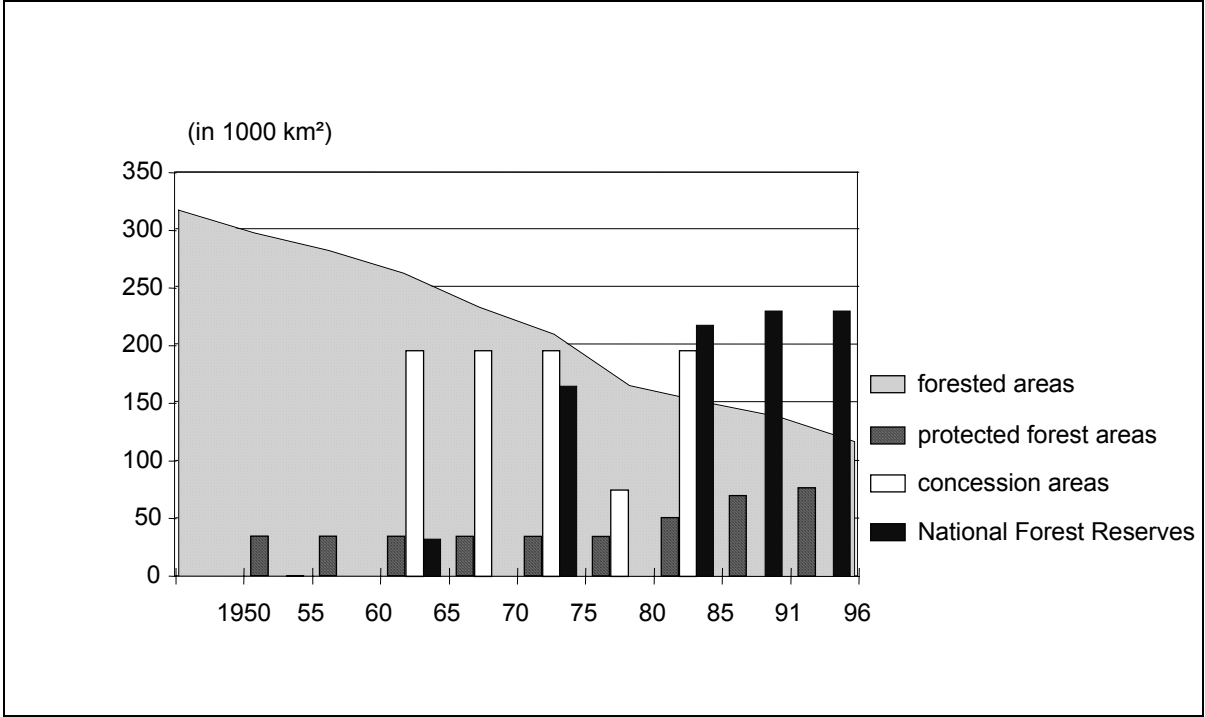
Forest governance in Thailand became a hot political issue following the logging ban in 1989 when in the same year a national meeting of NGOs formally called on the government to issue a Community Forest Bill. Since then government organisations, NGOs, scientists and various coalitions between these organisations have elaborated various draft bills. These drafts have been agreed upon, later shelved, rewritten, openly discussed and revised (NEEF and SCHWARZMEIER, 2001). To date, however, the Community Forest Bill has yet to be approved by Thai policy makers. The latest version had passed through parliament in December 2001, but was approved by the Senate in March 2002 only after the addition of a

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<sup>1</sup> S.T.K. = Sit Ti Tam Kin (Thai for 'right to harvest')

crucial clause to prohibit community forests in protected forest areas (national parks, wildlife sanctuaries and watershed areas). The matter has now been returned to the parliament.

**Figure 1: Deforestation and demarcation of forests in Thailand**



Source: Brenner et al. 1999; Data from Phongpaichit & Baker (1997), RFD (1985,1995), FAO (1997), Vandergeest (1996)

The ongoing debate on the Community Forest Bill in Thailand illustrates different perceptions on the relationship between people and forests. In the 1980s the growing resistance against forest policy by NGOs, farmers movements, academics and the public brought different forms of local community involvement into the discussion on forest policy. Even though more community involvement has been mentioned already in the 1985 National Forest Policy this has been regarded by critics as ‘employing the language of community participation’ (BELLO et al., 1998), based on the international discussion on a social forestry approach for a new forest policy.

The responses of rural people to the deadlock in forest policies and the slow implementation process of the agricultural land reform are exemplified in the following case studies.

<sup>2</sup> Royal Forest Department, 1993, Thai Forestry Sector Master Plan



## **4 The struggle for access to land and forests in North and Northeast Thailand**

### **4.1 Farming in national parks – Contradictory policies and communities' strategies**

In 1994, there were 13 areas in northern Thailand designated as national parks. This number increased to 20 national parks and wildlife sanctuaries by the year 1998, covering one third of the country's territory. Over night, hundreds of local communities living in these areas have become illegal residents, and many of them have been forced to move out (WATERSHED, 1998). Backed by national environmental groups and fuelled by Western concepts of nature conservation, the RFD has increasingly adopted a conservationist role in the 1990s as its traditional function of managing logging had dwindled with the logging ban in 1989 (VANDERGEEST, 1996). However, policies towards ethnic minorities and other groups in protected forest reserves have not been very consistent. While various government agencies and project initiatives have improved infrastructure, provided agricultural inputs, and introduced new cash crops in villages located in protected areas, environmental groups and forest agencies have continued to call for massive relocation of villages from critical watersheds. Somewhat paradoxically, in the National Parks of Doi Inthanon and Suthep-Pui in Chiang Mai province where agricultural activities are officially banned, villagers continue to intensively grow fruits, flowers and vegetables within the park's boundaries, partly under assistance of the Royal Projects, which were established through the initiative of His Majesty the King of Thailand. Thus, the formal insecurity of tenure due to lack of legal recognition of land use rights by some government agencies is counteracted by strong institutional support from other agencies leading to a de facto tenure security.

A case study of Ban Mae Sa Mai<sup>3</sup>, a Hmong community within the boundaries of Suthep-Pui National Park, illustrates this point. Since the establishment of the national park in 1981 this community has faced continuous threats of eviction and land claims by both park authorities and the adjacent Botanical Garden. In 1994, several villagers founded the Mae Sa Mai Natural Resource Conservation Club and engaged in reforestation activities, assisted by the Forest Restoration Research Unit (FORRU), an international research team based at Chiang Mai University. On the occasion of the King's Golden Jubilee in 1996, the Natural Resource Conservation Club engaged in a reforestation campaign honouring His Majesty the King. Since the community's original intention to claim the areas reforested with support of

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<sup>3</sup> The study was conducted by Liane Chamsai, Apai Wannitpradit and Andreas Neef from 2001-2002 under a research project entitled „Land tenure and resource management in northern Thailand“, funded by the Deutsche Forschungsgemeinschaft and the National Research Council of Thailand.

FORRU as community forest<sup>4</sup> failed, the reforested areas – considered to be conservation forest by the park authorities – had to be ‘returned’ to the national park in 1997. However, most villagers appreciate the participatory approach of the NGO that incorporates local knowledge into the research (choice of tree species traditionally used by the Hmong, e.g. for ceremonial purposes). The reforestation sites also improved the environmental reputation of the village, thus ensuring their tenure security.

**Box 1: Religious ceremonies as an expression of political resistance – The case of Doi Lan.**

The forest demarcation at Doi Lan, a small hill located in the area of the village Mae Sa Mai, has raised tensions between villagers and the RFD. The hill is covered on top with around 1.5-3 hectares of forest. In 2002, the RFD claimed this forest for reforestation and the construction of NP bungalows by installing demarcation posts without informing the village. As a consequence, the community would have lost their rights of access to the Doi Lan forest together with around 0.8 hectares of land cultivated (by eight parties) on the surrounding slopes, without any compensation. Despite the relatively small area of land that would have been lost, the farmers felt deprived of their rights and showed their resistance by performing the Hmong *pao hyae* ceremony, which is similar to the *ntoo xeeb* ceremony. This activity made the National Park abandon its plan to construct bungalows and the forest area stayed under the control and management of the community. Both parties agreed to demarcate a buffer zone around the forest area and to implement reforestation activities carried out by the Chiang Mai Hmong Youth Club.

*Source: Chamsai and Neef, own survey 2002*

Apart from cooperating with NGOs, the reinvention of religious traditions was adopted as a communal strategy to claim access to resources. The *ntoo xeeb* ceremony<sup>5</sup> - which had been abandoned due to the influence of Christian missionaries - was revived in the mid-1980s upon the initiative of the then village headman of Mae Sa Mai. Agricultural land had to be given up to establish the *ntoo xeeb* forest area, but this was done after collective agreement of all villagers. The *ntoo xeeb* forest was a public demonstration of the community’s willingness to conserve the forests and served at the same time as a community forest which could be used according to the community’s own rules. In the beginning, only the area directly surrounding the *ntoo xeeb* tree was protected. Three years later, the villagers of Mae Sa Mai agreed to extend the *ntoo xeeb* forest area to 800 hectares. Besides serving the purpose of demonstrating

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<sup>4</sup> 50,000 trees covering an area approximately 10 ha.

<sup>5</sup> This ceremony was originally performed when a Hmong community first settled in a specific area. The shamans performed the ceremony to identify the sacred tree where the spirits reside according to Hmong cosmology. It was strictly forbidden to cut this tree and the trees surrounding it.

environmental awareness, religious ceremonies are also used to express political resistance, as in the case of the forest demarcation of the Doi Lan area (Box 1).

Apart from strategies developed by the community and by its sub-groups, individual villagers have their own strategies to cope with insecure tenure. In Mae Sa Mai planting of fruit trees, particularly lychee, has increased tenure security in sloping areas. The national park authorities acknowledge these practices as being at least more sustainable than growing vegetables and other annual crops. However, the history of the village and its neighbours suggests that fruit tree planting does not provide full tenure security. Many cases are reported in which trees were cut down by park rangers or by angry lowlanders who claimed that the Hmong use too much water for their orchards. Nevertheless, this strategy proved successful for most of the villagers. The village headman of the neighbouring Hmong community of Pha Nok Kok even stated that he leaves his unproductive lychee trees in the orchard to avoid land claims by the RFD. However, fruit trees cannot be grown at any location as they depend on water supply during the dry season. In cases where only annual crops can be grown, permanent cultivation of the fields is a viable strategy against land claims, since fallow periods lead to immediate eviction from the land.

#### **4.2 Community forestry versus state-control of forest management**

The case study presented above suggests that state forest policies in recent years, namely the demarcation of protected forestland and state-led reforestation, were in sharp contrast with local people's perceptions of forestland and customary rules of resource management. Recent calls for local people's participation fuels the discussion of a community forestry approach as a promising alternative to state-controlled conservationism and commercial reforestation on the one hand, and de facto open access to forest areas on the other hand. The ongoing debate on the community forest approach and the Community Forest Bill reflects the hope to solve the dilemma between land right issues, forest protection and forest management objectives but also points to the different perceptions, expectations and objectives of different stakeholders (BRENNER et al., 1999).

The state, as the formal keeper of the forest, regards denuded forests as "unused" land ready for conversion in forest plantation in order to reap economic benefits from the forest while fulfilling the 40% target of forest cover for the country. It is argued that local communities are not capable of using the forest resources sustainably and are therefore not in a position to hold forestland under their control. Local communities, on the other hand, perceive forestland as common local resources and a source of future land use opportunities on which they claim customary ownership

and use rights. In examining perceptions of local villagers in Northeast Thailand towards their natural resource base, TAYLOR (1998) concluded that villagers see the continuity of the forest ecosystem as necessary for their socio-economic and social livelihood.

Evidence has been amassed that there are local approaches in communal resource management derived from traditional cultural norms and patterns of land use, even though their sustainability and applicability to changing socio-economic and political environments is sometimes limited by enhanced commercialisation, lack of exclusive and enforceable community rights and erosion of local norms and values.

The Non Yai Community Forest, located in the southern part of Northeast Thailand in Sri Sa Ket Province, is such a case<sup>6</sup> where viable community regulations have evolved and still exist. This community forest shows a 'forest development' typical for this region: Rehabilitation of severely degraded forests by locally initiated community forest activities. The community forest area covers about 350 hectares and is located within an area of 2,700 hectares that has been declared National Forest Reserve in 1971, several decades after most of the area has been cleared for agricultural use. Settlements around and within the National Forest Reserve have been set up during the last two centuries as a response to population growth by segmentation of larger villages when family clans moved along the forest frontiers.

The first wave of forest destruction on a greater scale was closely linked to the construction of the railway from Bangkok to Ubon Ratchathani in 1933. At first, wood for sleepers was needed and then a small-scale charcoal-production was developed for urban markets that then became accessible. During the following decades the production of cotton and sugar cane in this area played a major role in further forest destruction. At that time the area was known as the 'black and white fields', black for charcoal and white for cotton. Between 1954 and 1966 main parts of the forest started to recover as dry periods and the beginning of labour migration to Bangkok on a bigger scale reduced the pressure on agricultural land. With the beginning of the cash crop waves, the forest had been destroyed to an extent that only small pockets remained under forest.

More than a decade ago five villages decided to stop farming on parts of their fields and restore a natural forest area under their close supervision. The decision can be described as a result of external pressure as the land was earmarked for a Eucalyptus plantation under private, village-external control and internal reasons as the land might not be suitable for sustainable market oriented agricultural use due to its poor conditions and the need for forest minor products

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<sup>6</sup> The case study was done in 1997/98 by Rainer Schwarzmeier under a project entitled 'Socio Economic Aspects of Community Forestry in Northeastern Thailand- Case Study' funded by Deutsche Forschungsgemeinschaft and part of a Graduate College.

respectively. Nowadays a community forest committee with ten elected representatives of each village is responsible for the supervision of the community forest area which is conducted with the informal (due to the lack of a legal basis) support by the Sri Sa Ket Provincial Office of the RFD. Main concerns of the villagers are unsolved problems regarding their land titles, the insecure status of the community forest and questions regarding the extraction of community forest products.

The extraction of community forest products by village external communities is vividly discussed among the villagers. As the forest is well known for its valuable mushrooms and roots, it draws attention from external communities who heavily exploit the forest without taking into consideration sustainable extraction methods. According to existing laws, the community forest villages have no legal basis to prevent their forest from being exploited or overused by these external communities. The community forest committee is now discussing possibilities to ask for extraction fees for external forest users for which again no legal basis exists. Emerging internal conflicts on the management and use of the community forest are largely neglected as conflicts with outsiders absorb all attention of the village communities.

### **4.3 Land titling program versus “People’s Land Reform”**

The province of Lamphun was one of the main target areas for the land titling program in North Thailand. In this province titles for vast land areas were issued during the economic boom period from 1990-1993 without informing the local communities whose communal land was expropriated. In Ban Hong district, for example, 2,400 hectares of communal land was allocated to companies and individuals who mostly bought the land for speculative purposes<sup>7</sup>. Villagers became aware of the dubious transactions only when fences were constructed around the area. When the economic bubble burst in 1997, most of these new landowners could not pay back their loans and abandoned the majority of the plots. Investigations into the acquisition of land did not lead to any official action (LEONARD and NARINTAKRAKUL NA AYUTTHAYA, 2002).

In 1997, frustrated villagers got together and began to occupy the abandoned land. To date, nearly 3,800 families have joined the land movement popularly called the “People’s Land Reform” occupying a total of more than 2,000 hectares and converting the fields into fruit orchards. Until the end of 2001, local authorities had tolerated the land occupation movement which emphasised transparency and fairness in the allocation of land and had done considerable infrastructural improvements of the area. In January 2002, however, local police started to issue arrest warrants

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<sup>7</sup> Speculators planned to convert the land into construction areas for tourist resorts or into large-scale plantations.

for farmers on charges of encroachment on officially titled land. Following a Government resolution in April 2002, the police began to arrest the leaders of the land occupation movement, destroyed crops and burned shelters constructed in the fields. One of the activists was shot dead by unidentified gunmen. After continued pressure by human rights activists, northern NGOs and academics, the detainees were finally released on bail and are waiting for their trials (LEONARD and NARINTAKRAKUL NA AYUTTHAYA, 2002; RECOFTC, 2002).

While there might be different opinions on the legitimacy of the “People’s Land Reform”, this case illustrates how desperate the struggle of poor people for access to land rights has become in some parts of Thailand. Since the late 1990s, public pressure has evoked a number of new policy directions whose nature, however, remains ambiguous and controversial.

## **5 New Policy Directions in Thailand: Ambiguities and Controversies**

### **5.1 Reacting to public pressure**

Thailand’s new Constitution of 1997 explicitly emphasizes the involvement of local people in decision-making processes with regard to natural resource management. The trend towards devolution of decision-making power to local government agencies and to local communities is particularly expressed in the following points included in the so-called ‘People’s Constitution’:

- Local authorities have powers and duties in managing, maintaining and utilizing natural resources and the environment.
- Local communities have the right to participate in the maintenance and management of natural resources and the environment (Rayanakorn and Kongsiri, 1998).

These principles partly challenge the traditional mandate of government agencies like the Royal Forest Department and, more generally, the Ministry of Agriculture and Cooperatives (DUPAR and BADENOCH, 2002). However, putting these new principles into practice and “ensuring democratic processes in all development activities, will require a radical departure from a very much centralized system of government. It also calls for “a new system of thinking, not only on the part of public agencies but also on the part of the people themselves” (NABANGCHANG, 2003).

### **5.2 Management of land resources and rehabilitation of forests and other natural resources**

Following the 1997 financial and economic crisis, the Ministry of Agriculture and Cooperatives has adopted a policy of accelerating the extension of land tenure rights, to solve the problem of availability of land for subsistence, and thus address the issues of poverty, vulnerability, and greater community access to land and forest resources. A revision of the Land Tax Act is being formulated to allow collection of taxes at a higher rate from landowners not engaged in agricultural activities, with the exception of those in compliance with the Rental of Paddy Land Act. The government will promulgate a decree that will allow the private sector to rent land to the State, who could then subcontract the land to farmers on a yearly basis. The proposed draft Land and Property Tax Act will allow for collection of taxes on land owned by absentee landlords and unused land in agricultural areas. This action can be seen as contributing to improved access to agricultural land by rural peoples.

The government also starts to realise that it is not able to address the task of forest conservation and management alone. It is therefore regarded necessary to involve all concerned stakeholders in administering and managing forest areas. Participation is particularly necessary in managing and rehabilitating local community forests. This approach is said to result in cooperation in conserving natural resources and lead to a decrease in encroachment and destruction of forests. Specific measures include 1) enhanced participation of local communities in the conservation of forest areas, 2) the promotion of various types of community-based reforestation, including commercial forest and community forests in degraded forest areas, 3) ensuring that local communities share the income derived from nature-based tourism in protected areas, 4) improving the quality of databases, aerial pictures and maps of Thailand's natural resources, and 5) the preparation of a Master Plan for the Management of Protected Areas.

In this context, Thailand has recently established a new Ministry of Natural Resources and Environment (MONE), scheduled to be operational at the beginning of the 2003 fiscal year. The purpose of the new ministry is to consolidate natural resource and environmental protection, conservation, and preservation functions in one state agency. MONE will consist of the environmental policy, planning, and protection units of the (current) Ministry of Science, Technology, and Environment (MOSTE) and the natural resources conservation and preservation units currently under the jurisdiction of the Ministry of Agriculture and Cooperatives. This re-organization of administrative functions is likely to have an impact on rural households currently occupying state forestlands. One prognosis is that to demonstrate its strength, the new ministry will take quick action against those most vulnerable (i.e., the easiest targets, namely those occupying degraded national forest reserve lands), thus including

those with the highest level of food insecurity. The creation of the new Ministry is also likely to lead to a complete segregation of forestland into forest for commercial exploitation (under supervision of the MOAC) on the one hand and forest for strict preservation (under enforced control by the MONE) on the other hand.

### **5.3 The new Master Plan for the Thai highlands**

The Third Master Plan on Community Development, Environment and Drug Control in the Thai highlands, which was initially set to start in 2002, covers 12 provinces. In this plan, more than 2000 villages located in the hillsides are categorised as 'illegal' and around 150,000 people (most of them belonging to ethnic minority groups) are classified as 'not qualified for Thai citizenship' and thus face expulsion from the country. About 800 of these 'illegal' villages, however, have the potential to become officially sanctioned communities, if they agree to meet certain requirements, such as a minimum size, cooperation with government agencies, conservationist resource use and the proof that the community does not pose a 'security threat'.

Other issues included in the Master Plan are the limitation of the amount of land available to hill dwellers, the reduction of birth rates and the training of young people in non-agricultural activities in order to reduce the pressure on natural resources. Following a mass protest in early 2002, the implementation of the new Master Plan has been officially delayed (RECOFTC, 2002).

## **6 Conclusions and Policy Implications**

### **6.1 Conclusions**

Through various political, economic, and cultural means, government control over rural residents and their natural resource base has meant the effective suppression of a "civil society" in the Thai countryside. This does not bode well for official government recognition of self-organized groups to control and manage resources that the State sees as its own. Cooperative movements are under strict government control and supervision, with no room for effective grassroots, democratic cooperation, and farmers' associations are limited by strict government regulations and control. Another basic problem is that truly voluntary, self-established farmer organizations are treated with considerable suspicion by the government. As TURTON et al. (1987: 14) wrote,



“Why is it, for one, that when poor farmers ask even slightly provocative questions about their condition, or when they try to organize themselves in ways hardly threatening to the interests of others, they are often accused of being socially divisive or of threatening the government?”

Rapid changes, though, are occurring in Thailand, even in policy towards community management of State resources, as evident with the proposed Community Forest Bill. Yet even that law has serious problems with its disregard of indigenous organization to control communal property. The government would rather have the formal village leadership control and manage the community forests, which means continued State control as long as the formal village leaders remain the government's agents in the communities.

In fact, the State remains unwilling to relinquish its ownership of the land. Ownership rights to the communal lands are given by the Land Department to the District Office, and the district officials in turn grant the communities the right to use the land. Actual protection of the lands will depend heavily on the whims of the district officials, many of whom continue to view this land simply as State property, to be used as they, the agents of the state, deem it appropriate, rather than as the users and traditional managers would like. The rationale for this is well known: it is the State oversight and protection suggested by HARDIN (1968) in his highly influential and controversial paper on common property. It ignores the possibility that a communal property regime, so recognized and supported by the government through the land code, could provide greater protection and more effective use of the resources under many circumstances (FEENY et al., 1990).

As we see from the case of Thailand, and examples from elsewhere in the region, access to resources under the market economy falls increasingly into the hands of those who can afford to pay the institutional costs linked to those resources, not necessarily those who need those resources to earn their livelihood. While there are cases where indigenous rights are recognized, as with the Ifugao and other groups in the Philippines, the ruling elite tend to concentrate control over resources among themselves, whether through the legal system or the market. Concern about local access to resources and the vulnerability of local residents seems to occur during periods of political reform – as in Thailand in the mid-1970's, when the Land Reform Act was promulgated – or when overuse of the resources leads to environmental crisis. During periods of reform, the political system becomes more open to the needs of the poor and vulnerable. During periods of environmental crisis, the State becomes more desperate to identify solutions to problems that will succeed, even if devolution of power is required.

Fortunately, at least for those who want to see greater devolution of resource management to the poor and vulnerable, much of Southeast Asia is going through political reform as well as an environmental crisis. This is an ideal time to undertake the legal and institutional reforms that will promote greater access to resources to help relieve poverty and vulnerability. It is an ideal time to review, revise, and supersede laws governing the management of natural resources that are based on 19<sup>th</sup> century principles, concepts, and political economic structures. Although the land reform program has been carried out since 1975 and a considerable amount of public lands have been allocated to the farmers, some basic land tenure problems have not been effectively tackled. If this is to be made possible, a new direction for land reform policy is needed.

## **6.2 Policy implications**

It has been argued that, in principle, the land reform program must be designed to change a deficient agrarian structure with the main purpose of raising productivity and improving the distribution of land and income (cf. ONCHAN, 2001). From the start in 1975, land reform in Thailand has predominantly dealt with improving land rights of farmers occupying reserved forestland. This is necessary to improve access to lands as well as to strengthen land ownership security of those farmers. This has to continue as is currently being pursued. However, other issues, especially tenancy in private lands, and landlessness especially among farm workers, should get a higher priority than before. Over the long period of land reform, these problems have not been solved and appear to remain the same or even get worse. As is generally found, poverty and food insecurity is particularly prevalent among the landless rural people. Improving access to land by means of land reform will certainly help alleviate rural poverty and increase food production. But to focus on these issues will inevitably involve the redistribution of private lands, which will pose a formidable challenge to policy makers and development practitioners (cf. ONCHAN, 2001).

Alternative forms of legally recognized control over land, the recognition of the community's rights to existing communal lands and the establishment of a new type of "communal property" through community land trusts, can possibly solve some but not all the land problems facing rural Thailand. One area where the option of forming land trusts seems least likely is in the official forestlands where farmers are given usufruct rights but no ownership of the land. In these areas, co-management arrangements of forestland and other common resources could be a viable option: involving the community of users at local level in decision-making related to the resources. Establishing such a co-management system,

however, is a lengthy process based on negotiated agreement and informed debates (cf. CARTER, 1999). Co-management arrangements are based on the realization that leaving forests to be owned, managed and protected by one single agency or institution is rarely efficient taking into account the multiple services and functions of forests and trees for individuals and communities (DFID 1999).

The main philosophy behind co-management is the various stakeholders have legitimate, but different and often contrasting views and objectives in forest management. There is no single, absolute way to a sustainable forest management. As a consensus between these different perspectives is unlikely, the main emphasis has to be placed on communication, mediation and facilitation between different interest groups to achieve working arrangements (CARTER, 1999). These have to be sustainable and cope with dynamic changes induced by population growth and changing institutional settings and income opportunities. Understanding the motivations of individuals and groups to participate in conservation and protection of a public good is crucial for the success of such co-management arrangements.

Co-management arrangements call for a holistic approach in agricultural, forest and environmental policies. Often, agencies responsible for agricultural development and government forest services work independently from each other being assigned to different ministries. Cooperation is rare or even non-existing. Agricultural policies and allocation of agricultural land are shaped distinctly from forest legislation and forest allocation. Only if these policies are consistent and transparent, they can provide a basis for the sustainable use of agricultural land, trees and forests by multiple users.

The major question in establishing co-management regimes is the degree of devolution of natural resource management to local communities, i.e. to what extent should powerful political actors, such as forest agencies, release authority, power, and control of resources to less powerful actors at regional and local level (AGRAWAL and OSTROM, 1999). The challenge in the process of decentralization is to identify the right balance between central authority and local autonomy. There is no reason to assume that local authorities and elites in local communities will always have the best interests of the people at heart (DFID, 1999). The complete devolution of resource management as recommended by some NGOs would imply that local users are given full ownership rights on natural resources, including forests. Hence, they could do anything they wanted with their own forests including selling all wood or selling the land itself. Transfer of control must therefore be carefully considered as it can create conflicts at the local level and may give authority to groups or individuals with strong vested interests.

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