

Natural Resource Management Country Studies

Thailand



Jannie Lasimbang & Chingya Luithui

UNDP- RIPP

Natural Resource Management Country Studies

Thailand Report

Prepared by:

Chingya Luithui
Jannie Lasimbang
Asia Indigenous Peoples Pact Foundation

Contents

1. Indigenous Peoples of Thailand.....	1
1.1 Introduction.....	1
1.2 ‘Chao Khao’ or ‘Hill Tribes’	2
1.3 A Brief Historical Look at Approaches toward Indigenous Peoples of Thailand	3
2 Natural Resource Management System of Indigenous Peoples in Thailand	6
2.1 Natural Resources of Indigenous Peoples in Thailand	6
2.2 Indigenous Natural Resources Management Systems	6
2.2.1 Lands and Forest	7
2.2.2 Wildlife and Animals	9
2.2.3 Watershed, Rivers and Aquatic Life	9
2.3 Natural Resource Management and Indigenous Spirituality	10
2.4 Intergeneration Transfer of Knowledge	11
2.5 Gender and Natural Resource Management	11
3. Legal and Policy Framework on Natural Resource Management	13
3.1 Structure of Government and Hierarchy of Laws.....	13
3.2 Environmental Institutions	13
3.3 The Constitution of Thailand, 1997.....	14
3.4 Laws on Natural Resource Management.....	15
3.4.1 Forest: Laws & Policies	15
3.4.2 Laws on Wildlife & Fishery Management	20
3.4.3 Land Laws	20
3.4.4 Other Laws and Policies Impacting Natural Resource Management	23
4. Interface between Indigenous and Statutory Systems	32
4.1 Interaction between Indigenous Systems and Statutory Systems.....	32
4.1.1 Non - Recognition of Indigenous Natural Resource Management System.....	32
4.1.2 Land Tenure and Use Rights of Natural Resources	33
4.1.3 Citizenship.....	33
4.2 Participation of Indigenous Hill Peoples in Policy Formulation.....	34
4.3 Connecting Different Institutions – Government, NGOs, Donors and Community Organization.	37
4.3.1 NGOs	37
4.3.2 Community and People’s Organizations.....	38
4.3.3 Government.....	39
4.3.4 Donors.....	40
5. Challenges and Drawbacks.....	43

5.1	<i>Democratization, Decentralization, Participation and Sustainability</i>	43
5.2	<i>Implementation of Laws</i>	43
5.3	<i>Bridging Gaps between Different Actors</i>	44
5.4	<i>Competing Discourses on Natural Resource Management</i>	44
5.5	<i>Gender in Natural Resource Management</i>	45
6.	References	46

1. Indigenous Peoples of Thailand

1.1 Introduction

Thailand is home to various populations “characterized by diversity of indigenous¹ and tribal peoples, with large numbers of peoples of different cultural beliefs and histories residing within its geographical borders.”² They are concentrated in around 20 provinces in the Upper and Lower North and the Western region of Thailand, a mainly mountainous area. However, official recognition has been granted to only 10 ethnic groups; namely, the Karen, Hmong, Lahu, Iu Mien (Yao), Lisu, Akha, Lua (Lawa), H’tin (Kachin), Khamu, and Mlabri, despite there being many more.³ They are officially designated by the Thai government as ‘*Chao Khao*’ which means ‘hill tribes’ or ‘people of the hills’. Aside from these groups, the ‘*Chao Thale*’ or the ‘sea gypsies/people of the sea’ are usually considered Thailand’s indigenous peoples.⁴ “Some of them, like the Lawa, H’tin, Mlabri and most probably the Karen, have been living in areas now part of the Thai nation state before the Thai speaking ethnic groups immigrated at the beginning of the second millennium. Others, like the Hmong, Yao and Lahu immigrated since the middle of the 19th century into present day Thailand or in the beginning of the 20th century like the Lisu and Akha.”⁵ A 2002 survey quoted a population of 1,203,149, with around 164,413 households in 3,429 villages.⁶

Far from the stereotype of homogeneity ascribed to these groups, they are highly heterogeneous. These indigenous hill peoples have their own cultures, languages, customs, modes of dressing and belief systems which are distinct from the majority Thai lowland settlers.⁷ They have systems of natural resource management that are “centered on traditional knowledge which they have developed, tested and passed down from generation to generation for hundred of years”.⁸ There are many customs and mores to govern the practices of natural resource management within these communities. Often these governing rules are, however, not known and comprehended by the authorities and the public.⁹

The hill tribes are not recognized as distinct in terms of their indigeness.¹⁰ In a 1992 submission to the UN Commission on Human Rights, the Thai government stated, “one of the great sources of pride of the Thai people is their rich and diverse ethnic and cultural heritage. The hill-tribes of Thailand and their distinct lifestyles are part of this colourful heritage. These tribes are among the many ethnic groups that constitute Thai society. They are not considered to be minorities or indigenous peoples but as Thais who are able to enjoy fundamental rights and are protected by the laws of the Kingdom as any other Thai

¹ The term “indigenous” as used in this paper exclude the majority Thai population, the Muslim Chams of Southern Thailand and the Chinese. In certain places, this paper also uses the term “ethnic minority/minorities” to mean “indigenous” as explained. However, in Thailand, the term “indigenous peoples” has been rejected by government agencies. Kesmanee & Trakansuphakorn (2005). pp. 345 – 346.

² Thailand: Country Case Study. p.145.

³ Kesmanee & Trakansuphakorn. p. 346.

⁴ Laungramsri (2005)

⁵ Buergin, Reiner. (2000). p. 5.

⁶ Hill Tribe Welfare Department (2002). See also the data of the Tribal Research Institute, Thailand, March 2002, wherein they conclude the population of the Karen, Hmong, Lahu, Akha, Mien & Lisu to be 794,566 with 137,770 households in 3,229 villages.

⁷ IMPECT & FPP

⁸ Saelee, Kamonphan. (2005). (*Mimeo*). For Similar Conclusion see also IMPECT & FPP.

⁹ IMPECT & FPP

¹⁰ Kesmanee and Trakansuphakorn. p. 346.

citizen.”¹¹ However, it has been argued that the policies of the Thai government toward hill people have been one of discrimination and exclusion.¹²

Anthropologists have differentiated these groups according to the altitudes where they are found. For instance, the Karen, Lawa, H'tin, Khamu etc are said to live in altitudes between 400 – 1000m above sea level; the Hmong, Iu Mien, Lahu, Lisu and Akha in the higher reaches above 1000m.¹³ Moreover, altitude of settlement is linked to agricultural systems used and development Groups living at the lower altitudes traditionally planted rice in sedentary forms of rotational swidden systems, sometimes in combination with paddy fields, while those living at higher altitudes practiced swidden cultivation with long cultivation and long fallow periods. However these bases of differentiation are becoming archaic. For one, because of state intervention and international development influences, agricultural practices have changed radically; and settlement patterns of these groups have undergone many changes. Those “traditionally” found in higher uplands can be now found in lower uplands and valleys.

1.2 ‘*Chao Khao*’ or ‘Hill Tribes’

The term “hill tribes” was used as a generic term for the various non-Thai groups living in the uplands of northern and western Thailand in the late 1950s. The term “is related to the term *chao pha* (forest people) which was frequently used to denote these non-Thai minority groups before the term *chao khao* came into use. Among the various ethnic Thai groups of Southeast Asia, *pha* – referring to “forest”, “wild”, “savage” – is generally conceived as opposite to *muang* – referring to “civility” or the “human domain”. Frequently, the pole of “civility” was identified with dominant ethnic Thai groups, while the “forest/wilderness” pole was related to marginal ethnic minority groups at the edge of the Thai polities.”¹⁴

During the 19th century, these “forest peoples” played an important role in the economy of Thailand by facilitating access to forest products aimed for the Asian market. However, with the growth of large trading with European markets where Thais supplied goods such as rice and teak, the economic importance of these peoples decreased. With this decreasing economic importance also came shifts in approach toward these peoples. The ruling elites then “perceived them as unsuitable for modernization and to be left on their own. It was not before the middle of the 20th century when the state, in the name of modernization, national security, and ‘international’ anti-communism expanded into the peripheral forest and mountain areas, that the *chao pha* re-emerged in national politics as the troublesome *chao khao* or ‘hill tribes’.”¹⁵ The framing of the new social category *chao khao* was part of the nation building process in which, in the first half of the 20th century, national identity and definition of ‘Thai-ness’ was linked to cultural traits, particularly Buddhism, language, and monarchy.¹⁶ As a result, these groups were not integrated into the Thai administrative system.

Other important factors within these developments were the efforts to eradicate the opium trade and to control the communist insurgency. Opium was an important source of income for the state during the 19th century and the first part of 20th century. However with the illegalization of opium by most western countries, Thailand was pressured to prohibit cultivation of opium. Very soon, opium growing groups, perceived to be mostly hill dwelling indigenous peoples, came to be seen as a problem needing to be

¹¹ This information was supplied by the Department of Public Welfare and the Office of the Permanent Secretary of the Ministry of Interior of Thailand. UNCHR, Sub-Commission on Prevention of Discrimination and Protection of Minorities. WGIP 10th Session. E/CN.4/Sub.2/AC.4/1992/4. (12 May 1992).

¹² See for instance Lohmann, Larry. (2000). Lohmann, Larry. (1999). and Laungaramsri, Pinkaew. (2001).

¹³ For a more detailed description of this division please see Puginier, Oliver. (2002). p.4

¹⁴ Buergin, Reiner. (2003). p. 382.

¹⁵ Thongchai, W., (2000). p 38–62 and Turton, Andrew.(Ed.).

¹⁶ Buergin (2003)

solved. Around the same time, problems with communists insurgents having their centers in remote hill areas started. As a result, it became more important to establish stronger state control over the upland regions of the north.¹⁷

Consequently the Central Hill Tribe Committee (CHTC) of Thailand was established in 1959, and a national policy towards the “hill tribes” was formulated for the first time. The objectives of the policy were “national security,” reflecting fears that communist influences may spread among the ethnic groups of the uplands, control and substitution of opium cultivation, as well as the abolition of shifting cultivation, which in the international development community had been perceived as destructive, a threat to forest resources, and a hindrance to development.¹⁸ “Very soon the term was identified with a negative stereotype of forest destroying, opium cultivating, dangerous foreign troublemakers. Originally this image was mainly derived from the Hmong¹⁹ as their swidden cultivation systems frequently included opium cultivation, and some of them were involved in the communist insurgencies of the 1960s. It was soon branded on all the different groups categorized as “hill tribes”.²⁰

The creation of this category of people had major political connotations. Their traditional areas were territorially included within the Thai nation state but were culturally excluded as “others within”.²¹ One of the most prominent manifestations of this stereotype of the “others” is the denial of citizenship to a large number of indigenous peoples in Thailand. This social category of the *chao khao* came to be defined as being non-Thai, underdeveloped and environmentally destructive and problematic. The result was the implementation of national policies to solve the “hill tribes” problem. Public perception of the marginalized hill tribes was strongly influenced by all these which in turn reinforced official policies against the hill tribes. Since then, these stereotypes of hill peoples have remained widespread. They have been revived and exploited in the community forest debate and resource conflicts of the 1990s. It was perceived that the “hill tribes” have, due to their place of residence and their way of life, excluded themselves from the Thai nation, even worse, are threatening the welfare of the country by destroying its forests.²² Because of these negative stereotypes, a number of indigenous activists in Thailand do not like the term ‘*chao khao*’ and its literal translation of ‘hill tribes’ and a range of terms such as *chao thai phu khao* ‘Thai mountain peoples’ and *chon pao puen muang* ‘indigenous tribes’ have been used. For political correctness, the term ‘hill peoples’ has been introduced as the dominant English term.²³

1.3 A Brief Historical Look at Approaches toward Indigenous Peoples of Thailand

Much of the available literature on the history of Thai government policies affecting indigenous hill peoples report the 50s as the period when “problems” regarding indigenous hill people were first identified. For instance, Hengsuwan states, “Thai government first acknowledged and started setting policies to problems related to highlanders in the late 1950s”.²⁴ While it may be true that policies relating directly and specifically to indigenous hill peoples began to be pursued in the 50s, other laws were already in existence which had an effect on them. Forest laws were enacted before the 1950s which

¹⁷ Djedje R.S., & Korff, R. (2003). p 6

¹⁸ Sumarlan, Yanuar. (2004). p 55-59 and Kazuhiro, Harada & Nanang, Martinus (Eds.) p. 51.

¹⁹ The Hmong, were identified as the main communist challenge in Thailand. For a brief discussion on the causes behind Hmong joining the Communist insurgency in the 50s and 60s and its implications, see Lee, Gary Y. (1987).

²⁰ Buergin (2003). and Buergin (2000)

²¹ Thongchai (2000).

²² Buergin. (2003). p383

²³ Djedje & Korff. (2003).

²⁴ Hengsuwan, Paiboon. (2003).

affected them as they mostly resided in forest areas. However, “the earliest policy affecting hill tribes is the first Nationality Act of 1913, which granted Thai citizenship based on bloodline (Thai father) and territorial basis (born in Thailand), thus replacing previous customary laws. A first national census in 1956 failed to include hill tribes and thereby excluded them from Thai nationality, which remained so till 1965 thereby setting them apart very early on.”²⁵

Despite the long-term impacts of the negligence in the implementation of the early nationalization policies, most authors agree that the creation of the Central Hill Tribe Committee (CHTC) was a pioneering point in the approach of the Thai government toward indigenous hill peoples. The formation of the CHTC saw the creation of the Hill Tribe Welfare Division within the Ministry of Interior. As a first step toward attaining the objectives of national security, control of opium cultivation and abolition of shifting cultivation, resettlement programmes were implemented in 1960-61 to concentrate the hill tribes in a few, easily accessible places. “At that time, the Department of Public Welfare had already established self-help settlements for the lowland Thai therefore it was felt that such settlements could also be set up for the hill tribes. The settlements were established in four areas: Tak, Chiang Mai, Chiang Rai and Phetchabun provinces.”²⁶ However several obstacles and difficulties were encountered as a result of which the resettlement project was shelved.

This was followed by the commissioning of a study in 1961-62, supported by the UN Narcotic Drugs Division, on the various indigenous groups in the uplands. It led to the establishment in 1963 of mobile units called Hill tribe Development and Welfare Centers to look after the ‘hill tribe’ groups, as well as the setting up of the Tribal Research Centre in Chiang Mai in 1964.²⁷

Because of the link that was seen between hill tribes, opium cultivation and communist insurgency, “‘hill tribe’ policies, from the middle of the 1960s to the middle of the 1970s, were under the primacy of ‘national security’ concerns, and in the ‘battle zones’ the military became responsible for the ethnic minority groups.”²⁸ The attempt of the Thai government to eliminate opium-poppy (*Papaver somniferum*) cultivation by outlawing it in 1959 became the key factor that triggered highland development.²⁹

The First National Economic and Social Development Plan (NESDP) of Thailand was drawn up for implementation in 1961-66. This plan included a section which aimed at preventing forest and watershed destruction; ending opium cultivation; bringing socioeconomic development of the hill tribes; and instilling a feeling of loyalty to Thailand among the hill tribes. Besides building schools in some areas where hill tribes resided, the implementation of some minor development projects and the establishment of the Tribal Research Center, the plan could not be implemented comprehensively.³⁰

The policy toward the hill tribes were reformulated in 1968 aimed at concentrating scattered settlements, resettlement to the lowlands, as well as the creation of confidence and the assimilation into Thai society to secure loyalty toward the state.³¹ For the most part, until the 1980s, no major changes in government policies toward the hill tribes took place.³²

²⁵ Puginier, Oliver. (2002a) p 73

²⁶ Kesmanee, Chupinit. (1988)

²⁷ Buergin. (2000). p 8.

²⁸ Ibid.

²⁹ Puginier. (2002). p 1

³⁰ Djedje & Korff (2003) p 7

³¹ Buergin. (2000). p 8.

³² Buergin (2003).

Laws that affect indigenous peoples and their natural resource management are discussed in the Chapter III.

1.4 Citizenship

Currently there remain significant numbers of indigenous peoples in Thailand who have not received formal legal status, whether citizenship or other status.³³ Some 50 percent of indigenous peoples with a legitimate claim to Thai citizenship do not have it, creating serious problems for them. Individuals without citizenship or other formal legal status face numerous obstacles in everyday life. They are not able to access government services in health, education, exercise their political rights and enjoy basic rights such as the right to unrestricted travel. The implications of this with regard to natural resource management are numerous. Consistent management of resources is not possible as people without citizenship do not have the legal right to remain in their areas of settlement, whether they have been there for generations or not.³⁴ There are many documented cases of people pushed and trafficked into underground economy such as sex-work among indigenous women and children, resulting in high cases of sexually transmitted diseases like HIV/AIDS which in turn extracts a high price on already stretched resources. Consequently, obtaining Thai citizenship has become a key priority for indigenous peoples in Thailand.

The first population census was conducted in 1956 according to the National Household Registration Act. However, indigenous peoples were not covered due to the lack of access to their villages, lack of officers and prejudices. An official survey on the hill tribes was conducted in 1969-70 covering 16 provinces of Northern Thailand and an estimated 111,591 people were officially recorded. However, the enforcement of the Citizenship Act had already made most hill-tribes aliens. The fact that most indigenous peoples could not speak Thai made it difficult to prove their origin even if they have been living in Thailand for hundreds of years.³⁵

The Nationality Act of 1965 granted Thai citizenship to people belonging to ethnic minority groups who were born in the kingdom providing both of their parents were Thai nationals.³⁶ These limits on citizenship qualifications slowed or impeded citizenship approval for many ethnic minority persons. In 1976 a Cabinet memorandum called for the acceleration of the registration of ethnic minorities who had entered Thailand prior to 1975, with the ultimate aim of enabling them to become citizens.³⁷ It also attempted to reduce the population growth rate among indigenous peoples. The distinction between refugees or those who entered Thailand after 1975 and who are thus not entitled to citizenship remains in effect.³⁸

Government officials have been accused of disinterest in effectively implementing policies that would recognize citizenship of indigenous peoples. One oft cited reason by officials is the influx of immigrants and refugees from neighbouring countries, especially Burma, which has caused officials to be more restrictive in granting citizenship. This has resulted in people with legitimate claims facing a long and tedious application process to obtain citizenship. District officials who are required to cooperate are also often not too willing to go into the interior mountain and therefore neglect such areas. Another reason is the corruption associated with the process.

³³ Siriphongwanit, Anuphong & Leake, Helen.

³⁴ Jantakad, Prasong, & Gilmour, Don.(1999). They support the viewpoint that lack of security to access and use rights (tenure) of these peoples acts as a disincentive for them to invest in long term resource management.

³⁵ Asia Center for Human Rights. (2005).

³⁶ Aguetant, Joseph L. (1996). p 47 - 72

³⁷ Dennis. *Ibid.*

³⁸ Aguetant (1996).

2 Natural Resource Management System of Indigenous Peoples in Thailand ³⁹

2.1 Natural Resources of Indigenous Peoples in Thailand

Most indigenous groups in Thailand do not have exact terms that can be transliterated into the English phrase “natural resources”. However there are phrases that describe the concept of natural resources. For instance, the Karen phrase *ta ba-ter* often used to describe naturally occurring things, means ‘that which has arisen by itself.’ Another phrase used to describe naturally occurring things is *ta ler aku taw kawae* which means ‘things arising spontaneously’. Similar to the Karen, the Hmong has the term *ib txwm ntuj tsim teb rau* meaning ‘things that arise by themselves naturally’.

The prefix ‘*ta*’ used by the Karen has the simple meaning of ‘thing’. However it possess the deeper underlying meaning of things that are unseen, the existence of a force or power above everything else and from which nature emanates. This kind of associating natural resources with spiritual and cultural meanings is not unique to the Karen. Other indigenous groups have similar belief systems. Very similar to the Karen, the Lisu also believe in the connectedness of natural resources and that they originate as a result of some supernatural forces.⁴⁰

For indigenous peoples in Thailand, ‘natural resources’ is understood to be an all encompassing concept including land, forest, water bodies, trees, wildlife, agricultural areas, watershed areas etc having cultural, economical, political and spiritual significance. For them, natural resources are intrinsically linked to each other and any impact on one of them affects the rest.

However, different categories for each of these components of natural resources exist. Each indigenous group classifies forests and land based on their belief, the climate, vegetation or physical characteristic. For example, the Karen has an extensive classification of forest categories.⁴¹ Such a highly evolved scientific understanding of natural resources strongly suggests the ability of these indigenous groups to manage natural resources. The fact that the last remaining forests and natural biodiversity hot spots of Thailand are in areas which have long been the domain of indigenous groups is no coincidence and can be seen as a proof of their NRM skills.

2.2 Indigenous Natural Resources Management Systems

For indigenous groups in Thailand, natural resource management denotes the utilization and maintenance of natural resource through traditional knowledge combined with modern technology.⁴² These different groups share similarities in the management of their resources but also possess distinct and culturally grounded way of managing resources as well.

Because natural resources are understood to be an integral part of their everyday life, respect for them, and their importance is manifested in everyday activities and practice, as well as in ceremonies and rituals. The knowledge for management of these resources is embedded in the social, cultural, economic and political milieu of the peoples. Taboos, ceremonies and rituals which express respect and devotion to

³⁹ This part is drawn from information supplied by IMPECT and IMPECT & FPP publication.

⁴⁰ Saelee, Kamonphan (2005)

⁴¹ See Box 1.

⁴² Thailand: Country Case Study. p 145.

the spirits that are believed to guard different natural resources not only serves an important ceremonial role but also ensures that rules for resource use are adhered to by community members.

Some examples of natural resource management manifested in beliefs and culture, how they are practiced and how such practices have been institutionalized through the ceremonies and rituals of indigenous groups in Thailand are given below.

2.2.1 Lands and Forest

Like indigenous communities in other part of the world, indigenous communities in Thailand have a strong affinity toward the land and forest in which they live and on which they depend. Land has physical, spiritual, cultural, economical and political significance.

Different indigenous communities have differences in their concepts of land ownership and use as well as similarities. The Lisu, who traditionally practice shifting cultivation, choose their farming sites carefully, depending on the kind of cultivation they intend to take up, identifying forest areas which are cultivable, i.e. not prohibited by taboos or areas which they traditionally believe should not be disturbed and where the area does not slope too much as to cause erosion. A group of four or five family usually looks for a suitable site together. Once a site is selected, a sign such as a piece of wood with a cross on the top is cut and placed to mark the area as occupied. Planting occurs only after a ceremony asking for permission, help and protection from the spirits of the area is performed. According to their traditional knowledge, black and loamy soil is fertile and good for all kinds of crops; they plant rice, corn and sesame in warm places while opium poppy and beans are planted in cold areas. They believe that land has life and it dies if care is not taken in its use. This prevents them from exploiting land beyond what it can sustain. They leave their land fallow for a minimum of five years for regeneration. However there are no tenure rights over these fallow lands, anybody with the permission of the previous user can cultivate it if it has regenerated enough.

The Karen (*Pgakanyaw*) also practice swidden cultivation, planting rice and various vegetables such as cassava, tubers, corn, pumpkins, chili and eggplant for domestic consumption throughout the year. This agricultural system involves leaving the land fallow for seven to ten years before replanting. Like the Lisu, they choose their agriculture area with careful consideration of a number of factors such as whether the area is a taboo forest, watershed etc. Ownership of swidden agricultural land is partially communal, in that if it is not used by the original owner, then that owner is obliged to hand it over for use by other community members. The land may not be sold or passed on to one's descendants. Clearing land for new cultivation sites is never done during the rainy season.

Forests are also categorized and differentiated by both the Lisu and the Karen depending on a number of factors. Perhaps the most extensive forest categorization is practiced by the Karen (*Pgakanyaw*) people. They classify forest according to various criteria – topography, altitude, climate, belief, and use. These categories have many more sub-categories which may overlap with each other.

Box 1. Karen (*Pgakanyaw*) and Lisu Classification of Forests

Karen (*Pgakanyaw*)

Ker Ner Mu (Montane Evergreen Forest), *Ker Ner Pa* (Evergreen Forest) and *Kaw Be Ko* (Deciduous Forest) are classifications based on topography, physical attributes and climate. *Pga Ta Du* (Taboo Forest) which includes: *Du Mu Ber* (meaning a forest area with a shape resembling a toad or turtle); *Pga Maw Pu* ('salt lick' forests, where cattle find salt-licks); *Taw De Do* (meaning big hair like forest); *Pga Ti Per law* ('water coming out of a hole' forest, or forested areas around a spring); *Pga Swa Ko* (burial sites); and *Pga ta Nghae Lo Pu* (ritual area forests). Most of these taboo forests are watershed areas, have trails and waterholes frequented by animals, and support a diverse range of species of plants. These forest are absolutely forbidden to be disturbed, there can be no activity of any kind within them.

Besides these taboo forest types, there are also the '*Th Ta*' (forests with powerful spirits), areas that were once cultivated but are associated with unpleasant events that occurred to the family or community in the year it was used, therefore creating fear in re-cultivating them; the '*Du Pga*' (forests to protect and safeguard) are forests that protect the ecological system in the main cultivation area of a village. These forests can be cultivated, however no big trees can be cut or new areas cleared. This serves to provide sufficient fallow time and to protect wildlife preserving the ecological system; it also serves as a barrier against which a community will not expand their cultivation areas.

The Karen (*Pgakanyaw*) also classifies forest and land according to its use. The '*Hu*' or '*Yi*' comprises village areas where houses, rice silos and structures for other public use are constructed. Close to this area, but set apart is the '*Der Ker*' (adjoining the village) forest believed to protect the community. It is also the area where they tie umbilical cords of new born babies to selected trees. Once a tree has been selected for a child's umbilical cord, it is believed that the tree is then linked to the life of the child. The tree brings fortune, goodness and protection for the child throughout their lives. However any damage sustained by the tree is believed to damage also the child whose cord was tied there. This practice indicates and signifies the relationship between human and trees. Aside from the *Der Ker*, there is also an additional forest encircling the village called '*Ngaw Ker Ter*' which protects the village from becoming too dry, provides food for domestic animals and where rituals to propitiate spirits such as the *se k okra*, the *wit a*, and the *ser ta*. Gardens and paddies called '*Ker Rer*' and the swidden fields called '*Du La*' are also separately classified.

Lisu

The Lisu also have important forest areas which they believe should not be disturbed. The *A Pa Mo Hi*, a forest area very close to the village, is the abode of the god '*A Pa Mo*', and in whose honour a shrine is set up within the forest. The Lisu believes that *A Pa Mo* protects and guard the village from harm and destruction, thus existence of the village depends on *A Pa Mo*. This forest area is regarded in high reverence and fear. No tree-cutting, hunting and collecting of plants are allowed here. The *I Da Ma* forest, found about two kilometers from the village and considered to be the abode of the god *I Da Ma*, is normally on a mountain-top. Hunting or tree-cutting are allowed not allowed here. The third important area is burial sites. No specific burial site exists in Lisu tradition and sites are selected according to the wish of the family or the dead person. The Lisu believes that if three people are buried in the same site or near each other, the area should not be disturbed. Besides these, forest areas for which the '*Mue Kua*', the act of returning the forest back to the spirits has been performed, cannot be degraded in any way.

Similarly other indigenous groups also have different classification and use of land and forest resources; and taboos and restrictions for the sustainable use of natural resources.

2.2.2 Wildlife and Animals

Indigenous communities in Thailand believe there is an owner for each and every life form. Each animal and birds have their own protector. Further they believe that wildlife and the forest environment in which they live are interdependent on, and related to, each other. Without the forest, wildlife cannot survive; without wildlife, it will not have diversity. The role of animals in spreading and propagating plants by eating seeds of plants which they deposit elsewhere, is widely acknowledged and recognized by indigenous communities. Accordingly, they are mindful of this when they go hunting for animals and birds.

The Iu Mien people conduct a ceremony before any hunting expedition in which they ask the permission of the gods of the animals to hunt them. In the ceremony, they also have to specify how many animals they want to kill. There are strict ethical practices which hunters follow. For instance, a hunter cannot hunt more than five big animals in a year. If a person hunts more than this, it is believed that it will bring bad luck and disaster to him. In such a situation, the hunter has to propitiate the gods by burning silver and gold so as to buy those animals from their gods. The Akha also have a similar practice where a person is limited by the number of animals they can hunt in a year.

Among the Lisu hunting can only be for food and after permission from *I Da Ma* (the protector and owner of forest) has been obtained. Hunting certain wildlife such as the hornbills, gibbons and elephants are considered absolutely taboo as it would bring calamity and disaster to the hunter and the community. There are also days on which no hunting can take place such as *Ah-fyu-thi-nyi* (the first day of the New Year), *Li-Hi-Sua-Nyi* (day of paying merit to a dead person), *Jue-nyi* (a village holiday once every 15 days according to the lunar calendar).

2.2.3 Watershed, Rivers and Aquatic Life

For indigenous communities, water does not just serve a physical need but spiritual purposes as well. Many indigenous communities use water for a number of rituals signifying its importance in their everyday life. According to traditional Karen (*Pgakanyaw*) belief, there was water on earth before anything else. They believe that it is the origin of all life forms and therefore it must always be protected. This motivates their preservation of forest, which they know is intrinsically linked to the conservation of water. All indigenous communities have beliefs and taboos against disturbing any watershed area or springs. Often forest areas with watersheds and springs are considered taboos forests by most indigenous communities. It is no coincidence but an indication of the knowledge of indigenous communities about the importance of such forest areas for the sustenance of plant and life forms that depend on it.

The Karen (*Pgakanyaw*) likens the fontanel of a new born baby which they believe is the “brain water pushing up” similar to the source of a spring where the water “pushes up”. They believe the soul of a baby resides in the fontanel and similarly the soul/spirit of a stream resides in the spring. Therefore they do not commit any act that would disturb such sources. Doing so would incur the wrath of the spirit of the area.

There are a number of rituals followed by different indigenous communities which involve water and its use. The Hmong perform a ritual known as the *Teng Hao Te* in the area of the village’s watershed. The purpose is to give thanks and to propitiate the Lord of the Water who protects and keeps the forest lush and the water source flowing the entire year for the community. This ritual is particularly important for communities where water is scarce, so as to ensure a yearlong supply. After the ritual, the watershed area cannot be disturbed. There can be no hunting, collecting of herbs or cutting of trees for any reason.

The Hmong also have taboos against playing around and unnecessarily disturbing water bodies. Thus they believe one should not throw rocks or things into water without a reason as it will disturb the life forms

that live in it. Among Hmong, houses cannot be constructed too near a stream as it could disturb the flow of water or in times of excess water flow, endanger the lives of those who live in such houses. There are also strict taboos against changing the natural courses or disturbing the flow of water.

2.3 Natural Resource Management and Indigenous Spirituality

For all indigenous communities, natural resource management always has a spiritual component to it. No natural resource exists without a spiritual connection. This belief is manifested in the ceremonies and rituals they perform. Some rituals and ceremonies are described below to highlight the connectivity between natural resource management and indigenous spirituality.

Box 2. Some Examples of Indigenous Spirituality

The Lisu belief that the *Juedu Suepa* and *Juedu Suema* are the protectors of watershed areas, *Jhatusuepa* and *Jhatusuema* are the god and goddess protecting the land, and *I Da Ma*, is the protector and owner of forest. The permission of these gods has to be taken before any of the resources under their control is used.

The Mien also believes that everything and every place in the world have a spiritual owner and a spiritual protector. Thus any action that affects the natural resources or biological diversity must be done with care and forethought, and with permission of the spiritual guardians, rather than being done as the actions of humans as owners of nature. These beliefs are reflected in various ways, in daily activities, in traditional and in cultural forms that display traditional wisdom in the use and conservation of natural resources.⁴³

The Lu Mien perform the *Sib ta poong mian* ceremony at the community level three days after the Lu Mien New Year. The ceremony is performed annually in a particular area of forest referred to as *ho pry chan*. This area of forest is a fertile water catchment area higher than the village settlement itself which retains moisture throughout the year. A tall and strong tree is the central point around which the ceremony is performed to give thanks to nature and the particular community spirits that are respected by the Lu Mien and which have provided protection to the community in the previous year-cycle. The *ta poong mian* spirit is invoked and thanked in particular, as also the *yud tay hoong* (sky god), *taow te mian* (land god), *suy kaow mian* (water god), *ta tiew mian* (forest and mountain god), *ti taong mian* (god of the ancestors) and *tieb tin hoong* (god of the underworld). After this ceremony is performed, all community members are prohibited from entering or using the forest area. The ceremony expresses the community's beliefs about appropriate natural resource use and displays respect for biological diversity. It also serves as a means to convey the Lu Mien traditional knowledge about conservation, which is then practiced and taught to succeeding generations.

For the Hmong, resource management is closely linked with their dependence on the forest and its resources. Such close dependency fosters respect and reverence for natural resources that guarantees its proper use and management. They believe that resources have spirits that protect and own them. For example *Xeeb Teb Xeeb Chaw* is the Lord of the Forest and Mountains; *Thep tu ti* is the Lord of the Water. Their management of natural resources including forest, soil, water, and even wildlife resources, is based on recognition of the inseparable relationship between these resources. There are strong taboos to control resource use and to enable equitable sharing of resources by all the community. At the same time, there are restrictions against making use of resources belonging to others as well as people from elsewhere. They also believe that use of natural resources must inherently go along with conserving them for sustainable use; their traditional knowledge has elements of reviving resources. Certain ceremonies seek to bring these elements of use, conservation and revival together.

⁴³ *Ibid.* p149.

The *dong seng* is a divination ritual or sacrifice designed to invoke the Lord of the Land to protect land resources and forest resources to shelter the members of the community so they will have good land and forests as well as wildlife. A tall straight tree with a thick trunk and lush branches, in a spot overlooking the community, is chosen for performing this ceremony. Four guardian spirits are invited to reside in the area: *Thep Tu Ti* (Lord of the land, forests, hills, and plants); *Sasaeng Ti Chu* (Lord of Wildlife); *Fu Saeng/Yao Saeng* (Lord of dangerous or meat eating animals, such as tigers); and *Chu Seng Long Met* (Lord of things below the ground or under the earth's surface). A pig or a chicken is sacrificed in the ceremony and used together with whisky, joss sticks, candle, gold and silver papers, and cooked rice. Once the ceremony is performed, there is a taboo against anyone entering and using the area for hunting, collecting herbs, cutting trees or for any other purposes. The *dong seng* is performed at the community level and has the role of fostering unity among community members. It also emphasizes the idea that different elements of nature are related to each other and that adverse action against one will affect everything.

The flexibility of indigenous systems has been able to accommodate or adapt to other institutionalized religions such as Buddhism. For instance, Buddhist beliefs and rituals, such as the saffron cloth tying ceremony around trees, are now practiced alongside traditional systems of natural resource management.

2.4 Intergeneration Transfer of Knowledge

Elders, priests and shamans in each indigenous community play a vital role in ensuring that their knowledge is passed down from generation to generation. There are various ways in which they do this. It could be through proverbs, sayings, poetry, songs, ritual chants, and riddles. For instance the Karen (*Pgakanyaw*) have an adage which goes “*Du pga o tit a yeu ti li lu no kae bo a sui*” which means “If you are seeking a fertile forest look for one with squirrels and tree shrews”. The Hmong has a song, “*Txuag siav ces siav ntev/ txuag zam ces zam tshiab/ Txuag xyoob ces xyoob ntev/ txuag ntoo ces ntoo siab*” which translates into “Never erring, life is long/ keep clean and your clothes will stay new/ Care for the bamboo, they will be straight/ care for the trees, they will be tall.”

In certain communities, there are teachers who transmit traditional knowledge. The Hmong have teachers in their villages who teach certain things like the performance of ceremonies such as the *Dong Seng*. This process involves learning the meaning and significance behind the ceremonies and not just the form of the rituals. Depending on the things taught, fees are given to the teachers. The Hmong also have different songs, poems and proverbs for different situations and circumstances. These ingenious ways of passing knowledge also ensures that the distinctive identity of this body of knowledge is preserved.

However, with the onslaught of new external practices and systems, much of the body of indigenous knowledge is being threatened. While indigenous knowledge keeps slowly adapting itself to changing circumstances, there are cases where there have been radical changes. This poses an urgent challenge for indigenous natural resource management.

2.5 Gender and Natural Resource Management

Socioeconomic factors play a very important role in how natural resources are accessed and managed. Tuong Vi Pham notes that “using resources generate benefits for both men and women, but access to these resources differs by gender and this differential in turn influences opportunities in the development

process. As women get lesser opportunities, they depend more on natural resources.”⁴⁴ Indigenous women, like most poor rural women around the world, are severely affected by environmental degradation and limited access to natural resources due to their dependency on the natural environment for sustenance and health.⁴⁵ The situation is no different for indigenous women in Thailand. For instance, it was found that one of the most heavily impacted group of people in the Asian economic crash of 1997 in Thailand were women, of which indigenous women constituted a significant number.⁴⁶ Further, as indigenous women in Thailand face additional difficulties stemming from ethnic and racial prejudice in wider society, and negative impacts felt by women generally are no doubt harder still on women in marginalized groups.

It is important to note that within indigenous communities in Thailand, the role of gender in work allocation and labour responsibilities can be seen very clearly. For instance, among the Lisu and Hmong, the role of women in decision making are limited even though they take equal part in the utilization and management of natural resources. Women have no role in choosing cultivation or housing sites. However, there are skills and expertise that is traditionally the domain of women such as knowledge regarding medicinal plants, selection and preservation of seeds and plants for planting. These skills and knowledge are passed down from mother to daughter, thus ensuring their continuity and adaptation. However women also participate in managing and converting forest areas for use. Activities such as swiddening, burning the swidden, sowing seeds, building fences and harvesting are shared by men and women.

Seen in the overall context of indigenous natural resource management, the ability of women to observe, classify and experiment with plants and seeds plays a very important role in preserving the diversity of food sources and resource management.

⁴⁴ Pham, Tuong Vi. (2002).

⁴⁵ Mikkelsen, Caecilie. (2005).

⁴⁶ For a brief analysis of the impact of the 1997 economic crash, see: Dennis. (1997). *Supra* n. 36. For a brief discussion on how changes in access to natural resources have impacted indigenous hill peoples, particularly women with regard to HIV infection, see Symonds, Patricia V. & Kammerer, Cornelia Ann (1992).

3. Legal and Policy Framework on Natural Resource Management

In the past two decades, rapid industrialization in Thailand has witnessed an accompanying decline in the environmental health of the country. As with many neighbouring countries, Thailand has experienced a host of environmental problems stemming from rapid industrialization, ranging from deforestation and declining fish yields to air and water pollution in major cities and industrial areas.⁴⁷ The response of the government has been to enact laws and formulate policies. However such laws have not always resulted in positive developments for indigenous peoples.

3.1 Structure of Government and Hierarchy of Laws

Thailand is a constitutional monarchy, with the King as the Head of State. The Prime Minister heads the government and presides over a Cabinet of Ministers. The Thai Parliament is the supreme law-making authority, and consists of the Senate whose members are elected for six year terms, and the House of Representatives, whose members are elected for four-year terms⁴⁸. The structure of governance is divided into national, provincial and district levels, with the provinces headed by governors and districts by district chiefs. Recently, decentralization efforts have shifted more focus on administrative roles at the sub-district which is governed by a Tambon Administrative Organization consisting of the *Kamnan* and the village headmen of all hamlets in the Tambon, and the Tambon doctor, and of elected members, elected by the people in each of the hamlets in the Tambon.⁴⁹

The hierarchy of laws in Thailand is very clear and simple. The Constitution is the supreme law of the land from which the authority of other law emanates. “Acts” are passed by the Parliament under the Constitution. To clarify and implement the Acts enacted, the respective Ministries may make “Regulations” and “Notifications”.

3.2 Environmental Institutions

The responsibility of managing natural resources in Thailand is shared among various ministries and departments. The Ministry of Agriculture and Cooperatives (MOAC) is an important player in natural resource management, under which are the Department of Agriculture, Department of Land Development, Department of Fisheries, and the Agricultural Land Reform Office. The new Ministry of Natural Resources and Environment (MONRE) includes three main administrative “clusters”: the environment cluster, covering pollution and environmental quality control; the inland water resources cluster; and the natural resources works cluster covering protected areas, forestry, coastal and marine conservation and mineral development, managed, for example, the Department of National Park, Wildlife, and Plant Conservation, Royal Forest Department, Department of Water Resources, Department of Mineral Resources, and Department of Coastal and Marine Resources.

The National Environment Board (NEB) and the Office for Environmental Policy and Planning (OEPP), previously under the Ministry of Science, Technology and Environment (MOSTE) have also been moved to MONRE. OEPP was changed into the Office of Natural Resources and Environmental Policy and Planning (ONEP). The NEB was formed as a policy-making and coordinating body on natural resources, chaired by the Prime Minister and comprised of the head of all the sectoral ministries whose activities affect the environment, head of departments and government boards, and the private sector. It seeks to

⁴⁷ Asia Pacific Center for Environmental Law. (1998)

⁴⁸ At the time of writing, the Constitution of Thailand, and the format of the constituent bodies of government, are being re-written by the post-coup government. The pre-coup arrangements are detailed here, as the replacements are as yet unknown.

⁴⁹ Sec. 7. Tambon Council and Tambon Administrative Authority Act (B.E. 2537).

coordinate the environmental protection efforts of governmental agencies *inter se* at the central level and with those of local governments at the provincial level. To do this, it submits policies and plans to the Cabinet for approval, and has the power to prescribe environmental standards, approve Environmental Quality Management Plans and provincial action plans, recommend amendments, improvements and enforcement of laws, and the monitoring of environmental compliance by government agencies and state enterprises. It is responsible for delivering policy recommendations to the National Economic and Social Development Board (NESDB), which incorporates these recommendations into its five-year National Economic and Social Development Plans (NESDP). Environmental policies stipulated in the NESDPs are translated into action plans by the various ministries and their constituent departments.

Following the government restructuring, the Ministry of Interior, Community Development Department and Department of Local Administration have been more active in efforts to help local communities develop integrated sustainable resource management plans. The Royal Project Foundation has been developing arrangements under which local communities and the environment can coexist harmoniously.⁵⁰

3.3 The Constitution of Thailand, 1997

Thailand has adopted 16 versions of Constitution since 1932 when it transformed into a democracy. The most recent Constitution of 1997 is considered the true public version as the Thai people were involved in drafting it from the very beginning, it is however being re-drafted by the post-coup government of 2006. For the purposes of this paper, we will focus on this most recent Constitution and its relevant environmental clauses, in the hope that the new Constitution of 2007/2008 will not alter this too much. The intention of the 1997 Constitution was to create people's participation, recognition of human rights and dignity, creation of political stability, establishment of mechanisms for checking utilization of state power to promote good governance, and decentralization of power to the public.⁵¹ Significant provisions touching on issues of participation which affects indigenous peoples' rights are Articles 46, 56, 59 and 79.

Article 46

Individuals who form into traditional, local communities have rights to preserve and revive their customs, local knowledge, arts or culture at the local and national levels; and to participate in the more balanced and sustainable management, maintenance, and utilization of natural resources and the environment. This would be in accord with the enacted law.

Article 56

The rights of individuals to collaborate with the state as well as community in the maintenance and benefit sharing of natural resources and biological diversity; and in the protection, promotion and maintenance of environmental quality, in order that they can continue to lead a normal life within an environmental context harmless to health and well-being; and their quality of life is protected. This would be in accord with the enacted law.

Article 59

Individuals have the right to be informed, explained to, and reasoned with, by government organizations, state agencies, state enterprises, or local official organizations, prior to the approval or implementation of a project or activity that may affect the quality of the environment, health, quality of life, or other important gains or losses related to them or their local communities; and the right to express their opinion on such an issue. This would follow the process of public hearings as indicated in the enacted law.

⁵⁰ International Center for Environmental Management (ICEM). (2003). p. 46.

⁵¹ Bureekul, Thawilwadee. (2004). P. 1

Article 79

The State is obliged to promote and support people s participation in preserving, maintaining, and utilizing natural resources and biological diversity in equilibrium; this includes participation in promoting, maintaining, and protecting environmental quality following the principle of sustainable development as well as to control and eradicate pollution that can affect people s health, wellbeing, and quality of life.

Other provisions that are important to environmental management are Articles 49, 50, 69 and 290. Article 49 deals with rights and duties in the expropriation of immovable property. Preserving natural resources or the environment is a valid ground for restricting the liberty of individuals to engage in an enterprise or an occupation under Article 50. Article 69 cast a duty on every person to conserve the national arts and culture and local knowledge and conserve natural resources and the environment. Article 290 sets out the powers and duties of local governments in promoting and maintaining the quality of the environment.

3.4 Laws on Natural Resource Management

There are more than 20 laws on forest and resource management in Thailand.⁵² Not surprisingly, there are conflicts in laws and policies and in the functioning of different departments and agencies of the government. For instance, there are 16 agencies for forest management, 6 agencies for mangrove forest, and more than 24 agencies for water resources provision and distribution.⁵³

3.4.1 Forest: Laws & Policies

A century ago, forests⁵⁴ covered 72 percent of Thailand's territory. This accounted for approximately 230 million rai (1 ha = 6.5 rai) of land. In 1961, less than 40 years ago, that number was still relatively high at 171 million rai or 53 percent of the country. However, most recently (1995), only one quarter or 26 percent (82 million rai) of Thailand remained under forest cover. From 1961 to 1995, Thailand lost an average of 2.6 million rai of forest every year.⁵⁵ In contrast with this, the area designated as National Forest Reserve continued to increase to about 46% of the country in the early 1990s.⁵⁶

In 1992, in compliance with the 7th NESDP and the increasing challenge of resettlement, the Royal Forest Department (RFD) divided the national forest reserve estate into three zones.⁵⁷ The Conservation Forest Zone (Zone C) is prohibited for agriculture and covers existing protected forest areas and areas of natural forest minimally affected by human activity. However, some of this area especially in the Northern watersheds remains occupied by permanent agriculture, shifting cultivation and associated human settlements. The Economic Forest Zone (Zone E) was set aside from arable land suitable for commercial tree plantations for distribution to landless farmers. The E-zone is often devoid of forest and some has been under cultivation for well over a decade. Some E-zone lands are in degraded forest areas. The Agricultural Zone (Zone A) portion of the national forest reserve estate was set aside expressly in deforested areas deemed suitable for agriculture. These areas are in the process of being allocated to

⁵² Makarabhirom, Pearmsak. (1999).

⁵³ Ibid.

⁵⁴ The country has two main forest types, evergreen and deciduous. They make up 36 & 54% each. Jantakad & Gilmour. 12,253 species of flora have been identified while an estimated 87,500 fauna species exist in Thailand. Of these, 457 plants and 554 animals are threatened and needs special protection. Office of Environmental Policy and Planning (OEPP). 2000.

⁵⁵ Kaosa-Ard, Mingsarn Santikarn. (2000). For a more detailed discussion on forest status and policy, see also: Jantakad & Gilmour.

⁵⁶ Wataru, Fujita. (2003).

⁵⁷ See: Jintanakul, Jira. (1998).

farmers by the Agricultural Land Reform Office (ALRO). Transfer of land from the national forest estate to ALRO is accompanied by transfer of management responsibility.

Until recently, the history of laws on resource management, particularly forest resource, has been one of resource extraction rather than its sustainable use. For instance, the 1941 Forest Act reflected the fact that Thailand still had abundant forest areas, but beginning in 1961 a succession of five-years NESDPs began to progressively reflect the fact that substantial declines in forest area had occurred, and that forest conservation and replanting were becoming increasingly essential.⁵⁸

3.4.1.1 *Thailand National Forestry Policy (TNFP), 1985*

A National Forest Policy was drawn up and adopted by the Cabinet in 1985 in an attempt to unify forest policy in the country and to place forestry within the context of overall national development.⁵⁹ The TNFP seeks to “achieve a long term and coordinated national forest administration and development and for better understanding between *state and private sectors*” (emphasis added).

Some key aims of the policy⁶⁰ are the establishment of guidelines for maximizing national social, economic benefits, national security and environmental protection with emphasis on harmonized utilization of resources; promotion of shared roles and responsibility between government and private sector in forest management and development; maintaining *40% of the country area under forests with 25% as protected forest and 15% as production forest*;⁶¹ management of forest for perpetual benefits to the country; science and technology use to increase efficiency in agricultural productions; development of a forest management plan; improved efficiency in timber production; accelerate city planning and designation of forest, residential, rural and agricultural areas; establishment of National Forest Policy Committee; undertaking awareness programs on positive forest resources use; encouraging reforestation and export of wood and wood products and *community forestry such as reforestation on public land by private sector, tree planting on marginal agricultural land* and establishment of forest woodlot for household consumption; encourage integrated wood use; amendment of forest laws; substituting fossil fuels with wood use through energy plantations; designation of land with a slope of 35% or more as forest land; formulate guidelines to deal with *forest degradation problems e.g. shifting agriculture, forest fires, forest clearing by the hill tribe minorities* etc; incentive for reforestation by the private sector; and rural settlement planning to conform with national natural resources management and conservation plans. (Italics added).

It is evident that the policy does not include any design that encourages community participation in forest management. The policy encourages the private sector to become involved in tree planting projects for both domestic and export supply and there is an emphasis on partnership with the private sector. However, the private sector was interpreted to mean concessionaires and business people rather than rural people.⁶² This led to a sharp rise in the number and total area of industrial tree plantations in the Northeast.⁶³

Further it identifies hill peoples and their practices such as shifting cultivation as causes of forest degradation. Most importantly, it fails to even marginally address the conflict over forest resource use by

⁵⁸ Rasmussen, J.N., *Et Al.* (Eds.). (2000). p. 20.

⁵⁹ Jantakad & Gilmour.

⁶⁰ The policy can be accessed at <http://www.forest.go.th/rfd/policy/policy_e.htm> (Visited 11. 09. 05)

⁶¹ Originally it was 15% protected forest and 25% production forest.

⁶² Jantakad & Gilmour.

⁶³ Sumarlan. p. 52.

indigenous hill peoples, often identified as “illegal encroachers”. The policy’s aim of maintaining 40% forest cover would give rise to many problems for indigenous hill peoples later.

3.4.1.2 *Forest Act 1941*

There is a very strong sense of State ownership of forests in Thailand, which began with the creation of the Royal Forest Department (RFD) in 1896.⁶⁴ The establishment of the RFD planted a long-lasting influence on the future of Thailand’s forestry policy, which saw its inception as a policy of “cutting and processing timber for export to Europe.”⁶⁵

The Forest Act of 1941 further strengthened State ownership by declaring that any land not acquired or possessed under the land law would be considered as forest [Sec. 4 (1)]. It automatically brought such land under state ownership. From the outset, the main purpose was the control of the harvesting of forest products, and the act did not contain any specific conservation goals.⁶⁶

The Act mainly focuses on timber trees or forest products seeking to regulate activities within the forest and prohibiting such activities as logging of preserved species of timber, extracting forest products, firing, and land occupation. It divides reserved timber species into two categories: (i) ordinary reserved timbers which are species for logging for which permission must be obtained; and (ii) special reserved timbers which are rare species or species needing to be preserved for which logging permission cannot be granted [Sec. 6].

A provision which has direct consequence for indigenous land use and natural resource management is Sec. 54 which prohibits the clearing, burning, occupying or possession of any forest land. Contravention of this provision attracts a fine extending from fifty thousand baht to one hundred thousand baht and possible imprisonment for between two and fifteen years.

3.4.1.3 *National Reserved Forest Act 1964*

The National Reserved Forest Act, at the time it was enacted, sought to revise the law on the protection and reservation of forests. This Act, along with the National Park Act of 1961, now forms the basis for the determination, control and maintenance of National Reserved Forests and other protected areas in Thailand. The National Park Department oversees the management, control and use of National Reserved Forest under the law.

“Forest” is defined as land which includes mountains, creeks, swamps, canals, marshes, basins, waterways, lakes, islands or seashore which has not been taken up or acquired by a person in accordance with the law [Sec. 4]. The Minister of Agriculture is responsible for the implementation and execution of this Act and is empowered to appoint competent officers and issue ministerial regulations [Sec. 5]. Section 6 declares reserved forest existing at the time this 1964 law takes effect to become National Forest Reserve under this law. Further it gives power to the competent Minister to determine any other forest as National Reserved Forests with a view to reserving its nature, timber, forest products or other natural resources, which shall be made by a notification in the ministerial regulations. The Ministerial Regulation along with a map of the determined area is required to be put up in the office of the District or Sub-district, Sub-district Headman and in open and conspicuous places in the villages concerned [Sec. 9].

⁶⁴ Bugna, Sahlee, & Rambaldi, Giacomo. p. 40.

⁶⁵ Sumarlan. p. 49.

⁶⁶ Rasmussen *et al.*

Once a forest is determined as National Reserved Forests, a committee for such National Reserved Forests shall be set up [Secs. 10 & 11]. A person having a claim over or to exploit any National Reserved Forest can file an application within 90 days from the point at which the regulation comes into force [Sec. 12]. The Committee inquires into the claim and depending on their findings, can fix compensation; or file an appeal with the concerned Minister against the decision of the Committee [Sec. 13].

Within the National Reserved Forests, no person shall occupy, possess, exploit and inhabit the land, develop, clear, burn the forest, collect the forest products nor cause by any other means whatsoever any damage to the nature of the National Reserved Forest [Sec. 14]. However logging or collection of forest products and logging of reserved timber species may be done after obtaining permission from the Director General [Secs. 15 & 16].

Sec. 16 (bis) provides that in cases where any National Reserved Forest, in whole or in part, is so deteriorated that it's old shifting cultivation land or grassland or valuable timber has become scanty or otherwise with fewer standing trees and cannot naturally be rehabilitated, it will be regarded as deteriorated forest. Such deteriorated forest can be declared to be part of a land reform scheme. A person can apply to inhabit and exploit such land [Sec. 16 (bis) (1)]. Such person can also regrow and reforest in additional land if he can prove his competence to do so [Sec. 16 (bis) (2)].

The Act also has penal provisions which impose liability for an offence ranging from five hundred baht to imprisonment up to 15 years.

Most forest officers recognize that the National Forest Reserve Act focuses on 'land', whereas the Forest Act mainly targets timber trees or forest products. However, the Forest Act also contains provisions that regulate forestlands spatially.⁶⁷

As with other laws described in this paper, the impact of the imposition of the National Forest Reserve Act had direct negative impacts on highland indigenous communities. It is stated in the law that any claim to user-rights or ownership rights to land declared as National Forest Reserve must be made within 90 days of the demarcation and declaration of the new status. Indigenous communities simply are not informed of these legal changes to their lands and territories, due either to the remote sites of their communities or language barriers. As with other laws regarding the legal status of lands in Thailand, this Act led to many indigenous communities becoming illegal encroachers on their own lands.

3.4.1.4 *National Park Act 1961*

The concept of protection of forests in National Parks stemmed from the United States of America, where parks were established in the last century to protect extraordinary natural features of educational and recreational value for the sake of all (non-Indian) Americans.⁶⁸ The model of Yellowstone National Park in the USA was taken as the basis for protected areas in Thailand, mainly on the advice of US National Park officials.⁶⁹

There are a total of 102 national parks in Thailand of which 81 are terrestrial parks and the remaining 21 are marine parks.⁷⁰ A national park is an area of least ten square kilometers that contains natural resources

⁶⁷ Wataru.

⁶⁸ Brenner, Verena, *et al.* (1999, Rev. Edn.).

⁶⁹ Kesmanee And Trakansuphakorn.

⁷⁰ A list of the 85 terrestrial national parks can be found at the National Park Division webpage at <<http://www.forest.go.th/nrco/english/npd.htm>> (Visited 11. 09. 05); while a list of the marine parks can be found at Marine National Park Division web page at <<http://www.forest.go.th/nrco/english/mnpd.htm>> (Visited 11. 09. 05).

of ecological importance or unique beauty, or flora and fauna of special importance. An area may also be declared a national park for its historical or cultural features.⁷¹

The National Park Act of 1961 closely followed the enactment of the Wild Animal Preservation and Protection Act (1960) and provided the legal basis for the creation of national parks in Thailand. The Act is a very short law with only 30 provisions; however it has wide ramifications for indigenous hill peoples. It is identified as one of the most used law in arresting and detaining indigenous hill peoples.⁷² Under the law, a national park may be created from “any area of land which is *of interest* and be maintained with a view to reserving it for the *benefit of public education and pleasure* ... (such) land shall not be owned or legally possessed by any person other than a public body [Sec. 6. *italics added.*]” It is very clear that the purpose of creating parks under the law is not for conservation or preservation of resources, and that “education and pleasure” superseded the emphasis on sustainable use of resources.

Under the law, a National Park Committee has the duty to give advice to the Minister in charge of implementing the law on: (1) determination of land to be reserved as National Park and extension or cancellation of the National Park; (2) protection and maintenance of the National Park; and (3) matters consulted by the Minister [Sec. 15].⁷³

Section 16 of the law is the main backbone on which the maintenance and protection of a national park rest. It prohibits a number of activities within a national park. Most significantly it makes unlawful any act that a person depending on forest resources would commit. As such it impinges directly on the use rights of forest resources for indigenous peoples. The penalty for violation of section 16 ranges from paying a fine of 500 baht to imprisonment not exceeding five years [Secs. 24 – 27].

SECTION 16, National Park Act, 1961.

Within the National Park, no person shall:

1. occupy or possess land including build up, or clear or burn the forest;
2. collect, take out, or alter any act whatsoever things, endanger or deteriorate timber, gum, resin, wood-oil, turpentine, mineral or other natural resources;
3. take wildlife out or alter any act whatsoever things or endanger the wildlife;
4. alter any act whatsoever things, endanger or deteriorate soil, rock, gravel or sand;
5. change a waterway or cause the water in a river, creek, swamp or marsh to over flow or dry up;
6. close or obstruct a water course or way;
7. collect, take out, or alter any act whatsoever things, endanger or deteriorate orchid, honey, lacquer, charcoal, bark or guano;
8. collect or alter any act whatsoever things, endanger flowers, leaves or fruits;
9. take in, take out any vehicle or drive it on the way not provided for such purpose, unless written permission has been obtained from the competent officer;
10. cause any aircraft to take off or land in the place not provided for such purpose, unless written permission has been obtained from the competent officer;
11. take cattle in or allow them to enter;
12. take in any domestic animal or beasts of burden; unless he has complied with the rules laid down by the Director-General and with the approval of the Minister;
13. carry on any activity for benefit, unless written permission has been obtained by the competent officer;
14. post a notification or advertisement, or scratch or write on any place;

⁷¹ National Park Division. *Ibid.*

⁷² From interview with Mr. Sumitchai Hathasan, a lawyer who works with the Center for Community Right Protection & Rehabilitation.

⁷³ Public body is not defined under the Act.

15. take in any gear for hunting or catch wildlife or any weapon, unless written permission has been obtained from the competent officer and the conditions stipulated by the latter have been complied with;
16. fire any gun, cause any explosive article to be exploded or let off any fire work;
17. make a noisy disturbance, or alter any act causing trouble or nuisance to any person or wildlife;
18. discharge rubbish or things at the place not provided for such purpose;
19. leave any inflammable article which may cause fire.

3.4.2 Laws on Wildlife & Fishery Management

The basis for wildlife preservation and protection before the enactment of the 1992 law was the Wildlife Preservation and Protection Act of 1960. The 1960 law provided protection for wild animals in general by establishing wildlife sanctuaries and non-hunting areas. The 1960 law provided total protection to nine species, prohibiting hunting of these species. This has been increased to 15 species in the 1992 law.

3.4.2.1 Wildlife Preservation and Protection Act 1992

This Act establishes a National Wildlife Preservation and Protection Committee, chaired by the Minister of Agriculture and Cooperatives and with a membership drawn from various government departments [Sec. 9]. The Committee is empowered to designate wildlife conservation areas, to list species subject to protection, and to undertake certain related activities [Sec 15].

The Act forbids hunting, propagating or breeding, possessing, trading, collecting, endangering or possessing any protected and preserved wildlife or their nests [Secs. 16 – 21]. Exceptions to some of the prohibitions are acts such as killing protected and preserved wildlife for educational or research purposes may be permitted by the Minister [Secs. 29 – 31]. The competent Minister has the power to declare wildlife sanctuaries by announcement in the Royal Gazette [Sec. 33]. No person can hunt wildlife, collect or endanger any nest within a wildlife sanctuary except for educational purpose and then only with permission [Sec. 36]. Further no person can enter, possess or occupy land, construct, cut, fell, clear, burn or destroy trees within such wildlife sanctuaries [Secs. 37 & 38]. These provisions make unlawful most acts that forest dependent communities living inside wildlife sanctuaries would perform for their daily survival. Extensive penal provisions for violations of the Act are set forth with punishment ranging from 5 thousand baht to imprisonment not exceeding five years.

3.4.3 Land Laws

Historically, the evolution of individual land rights and enforcement mechanisms is the result of increases in population density relative to land availability.⁷⁴ Before 1900, all land belonged to the king from which he made grants to nobles, officials, and other subjects. Such grants could be passed on to heirs, mortgaged or sold. Land could also be cleared and used by farmers who, after three years of continuous cultivation, established an informal land claim. In 1901 the Department of Lands (DOL, Ministry of Interior) was established to formalize title deeds. The process of administering land evolved gradually and culminated in the formulation of the Land Code of 1954.

⁷⁴ Puginier (2002a). p. 85.

Land is administered by 14 government departments in two ministries; the Ministry of Interior and the Ministry of Agriculture and Cooperatives. Three broad classification of land can be made: 1. State Land; 2. Undocumented Land; and 3. Private land.

State Land: Forest Land is administered by the RFD; Government Real Estate is under the Treasury Department; Public domain land is under Department of Lands. This gives rise to a situation where different documents for land use and ownership are given by different agencies, sometimes in conflict with other. **Undocumented Land:** In forest areas, where “encroachment” has taken place, for land that is privately cultivated, the RFD gives an STK-1 claim or the Agricultural Land Reform Office (ALRO) gives a Sor Por Kor⁷⁵ - 401 claim certificate. This can be converted to a certificate of utilization by DOL through a complex process. NS-3 certificates are issued by the Department of Public Welfare (DPW) for communal self-help projects; KSN certificates for cooperative settlements are issued by the Department of Cooperatives Promotion. **Private Land:** Again for private lands, that is land not owned by the state, there are different types of title and utilization documents. NS-4 from DOL indicates of full ownership while NS-3 or NS-3K from DOL proves that the person named has put the land to use. STK-1 and NS-2 allows temporary land occupation and a claim of a person who possessed the land and made use of it prior to 1981. Within the classification of private land also comes Communal Land which is not further defined.

Indigenous peoples were initially excluded from getting titles over land on the basis that they were not Thai citizens when the Land Code came into being. More recently, it is based on the watershed classification that designates most highland areas as off limits to human activity.

3.4.3.1 Land Code 1954 & Land Code Promulgation Act, 1954

The Land Code of 1954 ("the Code") was promulgated through the Land Code Promulgation Act of 1954. The Code has the most important bearing on the question of land ownership and by implication on the process of centralization.⁷⁶ The Government, through Sec. 5 of the Land Code Promulgation Act, provided the option that anyone occupying any forest land as of November 30, 1954 can receive a land use claim certificate provided he/she can prove his/her claim within 180 days. Most indigenous hill peoples living in remote areas were unaware of this law and even those living close to provincial towns were unaware of this time stipulation and failed to take advantage of it, thus becoming encroachers. The Land Code also declared 50% of the country as forest land under the management of the Royal Forest Department (RFD) [Sec. 1].

The Land Code defines land as the land surface everywhere including mountains, hills, streams, ponds, canals, swamps, marshes, waterways, lakes, islands, and the sea coast [Sec. 1]. It vested ownership with the state of all lands for which there is no owner [Sec. 2]. The Land Code classifies land by soil fertility and land suitability, and used the first general soil map produced in 1953 as a basis.⁷⁷

Chapter 2 of the Code concerns cadastral survey for land reform purposes and the establishment of the National Land Allocation Commission which shall be the main public body to administer land allocation. Three types of documents corresponding to stages of land acquisition are defined in the Code: occupancy, utilization and legal possession [Secs. 29 – 33]. This system has the potential to be exploited where a person after getting legal possession sells the land and starts a whole new process of occupancy in another

⁷⁵ Sor Por Kor documents are title deeds for cultivation and can be used as bank loan security, but cannot be sold legally.

⁷⁶ Banerjee, Ajit Kumar. (1997). p. 9.

⁷⁷ Puginier (2002a). p. 85.

land area leading up to legal possession again. Deforestation has been attributed to this as the Land Code encouraged the clearing and occupation of forest land by establishing legal systems for land titling.⁷⁸

Chapter 3 deals with delimitation of rights in land. Sec. 34 places a limit on the size of land that may be owned for agricultural or other uses. Detailed rules on the size of land that may be owned by one or more persons are given in the Chapter. It allows a person to own land beyond the limit in certain cases, one of which is that he has the ability and equipment to utilize the land [Sec. 47]. Industrial ownership of land beyond the limit is also allowed under Sec. 48. A reason given for the disparity in land ownership in Thailand – 10 per cent of the population owns up to 100 Rai (16 hectares) and above, while as much as 90 per cent of the population own only 1 Rai (0.16 hectares) each and 2 million families are landless – is the land ownership prohibition under the law that preferentially grant the ownership rights to the government and private sector, overlooking the rights of community and practices of common property ownership.⁷⁹

Chapter 4 deals with the issuance of documents of title to land. A complicated process of applying for different titles is set out in the chapter. Other chapters in the Code are Cadastral survey (5); Registration of rights and juristic act (6); Limitation of rights in land for religious purposes (7); Limitation of aliens' rights in land (8); Limitation of rights in land of some categories of juristic persons (9); Trade in land (10); Fees (11); Penalties (12).

3.4.3.2 *Land Development Act, 1983*

The main emphasis of this Act is the regulation of land development which is defined as “any act done to soil or land in order to increase its richness or quality, or to increase agricultural produce, and includes the improvement of soil or land which lacks natural fertility or lacks fertility due to its utilization, and soil and water conservation to maintain natural balance or for suitable utilization of land for agriculture” [Sec. 3]. A "Land Development Committee" composed of ministers and Government officers is envisaged [Sec. 4]. The Committee considers land classification, planning for land utilisation, land development and determination of areas for land utilisation for submission to the Council of Ministers for approval; determine the areas for land survey for the benefit of surveying the fertility of land and suitability in the utilisation of land; prescribe measures for soil or land improvement or measures for soil and water conservation so that State agencies may employ them and advise farmers to that effect; and approve the establishment of land development agencies at various levels in any area; etc.

The Land Development Department is responsible for carrying out a survey and analysis of soil or land in order to ascertain the fertility and suitability for the utilisation of land, to effect land classification and land development, to prepare census of land or the economic condition of land pursuant to this Act and to carry out other matters as assigned by the Committee [Sec. 10].

Beside these two laws, others such as the Civil and Commercial Code, Article 1304; Mineral Act 1967; Petroleum Act 1971; Regulation of the Prime Minister's office on 'Resolution of state land encroachment 1992, National land policy (1987) and Related Cabinet's decisions affecting Land management in Thailand.

⁷⁸ Dennis.

⁷⁹ Sustainable Development Foundation. (2003).

3.4.4 Other Laws and Policies Impacting Natural Resource Management

3.4.4.1 *Enhancement and Conservation of National Environmental Quality Act, 1992*

The law is a framework piece of legislation which sets out broad standards for the maintenance and conservation of environmental quality. The law also seeks to improve and maintain environment quality. Environment quality is defined as the “balance of nature, being composed of animals, plants, *natural resources* and man-made objects” [Sec. 4. *Italics added*]. It calls for participation of the public in the management of matters affecting the environment and lay down the framework for collaboration between the government and NGO's [Secs. 6, 7, and 8]. A private individual can lodge a petition against a person who violates laws on conservation of natural resources.

Sec. 12 establishes a National Environment Board consisting of cabinet members and government officials. The Board has the power to submit policies and plans for enhancement and conservation of the environment to the Cabinet, prescribe environmental quality standards and carry out other functions as outlined in Sec. 13. Chapter 2 establishes and governs an "Environmental Fund".

Secs. 32 to 51 (Chap. 3) provide for environmental quality standards, environmental quality management planning, conservation and environmentally protected areas, and environment impact assessment. The Minister shall, with the approval of the National Environment Board, formulate an action plan called "Environmental Quality Management Plan" to implement the national environment policy [Sec. 35]. Secs. 42 to 45 provide for the establishment of national parks, wildlife reserves watershed areas, and other protected areas. Environmental Impact Assessments are mandated for specified types of projects [Secs. 46-51].

Chapter 4 addresses pollution control while Chapter 5 deals with promotion measures for pollution control. The next chapter imposes liability on any person who pollutes or does anything that damages natural resources. Chapter 7 contains penal provisions for violations of the Act.

3.4.4.2 *Thai Forestry Sector Master Plan*

In 1993, the RFD proposed the Thai Forestry Sector Master Plan (TFSMP). The TFSMP was strongly influenced by the Tropical Forestry Action Plan.⁸⁰ Another factor attributed to the proposal is a policy paper “Ten Measures to Save the Forests,” submitted to the Thai Government which highlighted three areas for action: a comprehensive plan for protecting forest areas that had been part of the concessions; the administration of "economic" and "conservation" forests under separate regulations; and the rights for local villagers to own and manage their ecosystems as community forests.⁸¹

The TFSMP admitted that past approaches to forestry has failed and that there was a need for a more participatory forest management with local people as partners. Consequently it encouraged a more participatory approach. It stated that “local communities and individual villagers will have decision-making powers entrusted to them concerning the forest resources they depend on.”⁸² Further it attempted to strengthen sustainable management and conservation of natural forests and ecosystems, develop a strategy for policy implementation through sustainable and participatory methods, and enhance capacity

⁸⁰ Colchester, Marcus, & Lohmann, Larry. (1990). See also: Lohmann, Larry. (1993). Lohmann argues strongly that the TFSMP was also a result of influence from “Jaakko Poyry Oy, the largest logging, pulp mill and plantation consulting firm in the world and active in commercial forest exploitation in dozens of countries”.

⁸¹ Sureeratna Lakanavichian. (2001) p167-184 and DURST, Patrick B., et al (Eds.). (2001)

⁸² RFD (1993). Thai Forestry Sector Master Plan (TFSMP), vol. 1-7. Royal Forest Department, Bangkok. Cited in Puginier (2002a).

building for monitoring and evaluating the progress. The RFD saw the proposed TFSMP as a “means to calm critique of top-down management”⁸³ and under which “an amount of land and the rights to this land shall be given over to local management as so called “community forestry”⁸⁴.

However there was widespread opposition to the plan from NGOs and community organizations. One reason given is that it was seen as largely driven by outside technical experts, and therefore had little national ownership.⁸⁵ The Plan also failed to pay sufficient attention to broader sectoral issues; was not sufficiently attuned to changing societal interests in forest management, particularly the shift from an emphasis on exploitation to one on conservation; the process used to develop policy positions was too technically driven and lacked effective participation of key stakeholders.⁸⁶ As a result the Plan was never implemented.

3.4.4.3 Watershed Classification and Management

The RFD started watershed management programs in 1953 by setting up four watershed rehabilitation field stations under the Silviculture Division. The main task was focused on up-stream watershed rehabilitation by reforestation on abandoned shifting cultivated areas. This is symptomatic of an approach used for watershed management at that time, a 're-greening' of the watershed area by reforestation assuming that only the forest can produce optimal yield and distribution of water. This was the first effort at formal management of watersheds in Thailand.⁸⁷ However degradation of watershed areas continued and hence an inter-institutional watershed management program was initiated and a Committee on Watershed Conservation and Development was set up. Problems of non-cooperation were encountered in its functioning and it was abandoned quickly. Meanwhile the Soil and Water Conservation and Management Division under the Land Development Department and Watershed Research Sub-Division under the RFD were established. The latter became the Watershed Management Division in 1975. Presently, responsibility for watershed management in Thailand falls under the Watershed Management and Conservation Office within the Department of National Park, Wildlife & Plant Conservation.⁸⁸

The first watershed classification was made by the National Environment Board soon after it was established in 1975. It divided watershed into 3 classes in which 60% of highland areas fell into Class 1 where no resource utilization could take place and all residents were required to be evacuated. Much controversy was generated as a result. Due to the controversy over the first watershed classification, a revised version was presented in 1983 by the National Environment Board. The classification divided watershed forests into 5 classes according to physical features. The current status of this classification remains:⁸⁹

Watershed class		Physical environment	Proposed management	Area in Sq. Km.	Ratio
Class 1	Class 1A	High elevation (> 500 m), very steep slopes (> 35 %)	Protected or conservation forest, headwater source		
		High elevation and very steep slopes (> 35 %)	Permanent forest cover	84,463.70	16.66

⁸³ Broge, Niels. *et al.* (2001).

⁸⁴ *Ibid.*

⁸⁵ Jantakad & Gilmour.

⁸⁶ IUCN (1996)

⁸⁷ Watershed Management Division.

⁸⁸ ICEM. pp. 87-88.

⁸⁹ Adapted from PUGINIER (2002a). p. 76. & OEPP (1996)

	Class 1B	Similar to 1A, yet partly cleared for agriculture or settlement	Should be reforested or maintained in permanent agroforestry	7,626.66	1.48
Class 2		High elevation and steep to very steep slopes	Commercial forest, with logging, grazing allowed	42,768.62	8.32
Class 3		Uplands (200-500m) with steep slopes	Fruit tree plantation, grazing, agricultural crops	39,283.77	7.65
Class 4		Gentle sloping lands	Upland farming, row crops, grazing, fruits	81,033.69	15.81
Class 5		Gentle slopes, flat areas	Lowland farming, paddy and other crops	251,483.62	49.01

No settlement can exist in Class 1A and 1B. However, this remains highly controversial as most of the indigenous hill peoples are settled within these areas and the classifications were made without consultation. Therefore, a more comprehensive review of factors influencing management should inform appropriate amendments.

The policy focus of watershed rehabilitation has been an evolving process. The later part of the 70's focused on watershed rehabilitation with reforestation of abandon swidden area, relocations of hill tribe villages and improvement of quality of life as the main activities. The period between 1980 and 1990 saw shift in policy toward integrated watershed management with land use planning, soil and water conservation measures, forest fire control and promotion of agricultural extension as the main activities. This changed to participatory watershed management with an emphasis on local people's participation, village committee, watershed network, rules and regulations in 1990 – 1999. From 2000 onwards, policy focused on watersheds for the people.⁹⁰

However, watershed management is already being affected by the privatization of water in Thailand.⁹¹

3.4.4.4 Cabinet Resolution of 30th June 1998

The Cabinet Resolution of 30th June 1998 is perhaps the most important singular document that currently affects the rights of indigenous peoples in Thailand and natural resource management.

A series of three Cabinet Resolutions, popularly known as the *Wang Nam Khiaw* resolutions, were issued in April 1997. These resolutions were influenced by the Assembly of the Poor campaign.⁹² While one of them (22 April 1997) was a general policy statement, the other two issued on 19 and 29 April 1997 allowed villagers who had been living in reserve forests prior to 1993 to remain there on the condition that they take part in forest conservation. Proof of settlement for the first time took into account the village's history as well as the age of fruit trees and buildings, and the government tried to settle land rights conflicts in 107 forest communities in the north and northeast.⁹³

In the early part of 1998, large parts of northern Thailand were affected by forest fires. Indigenous hill peoples were the most convenient scapegoats. The then Deputy Agriculture Minister went on record to say 'encroachers' (clearly referring to 'indigenous hill peoples') were behind the forest fires.⁹⁴ Very soon thereafter, the forestry chief was reported to have raised the possibility that settlers in conservation forest

⁹⁰ Jantakad & Gilmour.

⁹¹ For an analysis of the impact of privatization of water on its management in Thailand see: CHANTAWONG, Montree, *et al.* (2002).

⁹² Lohmann (1999). p. 99.

⁹³ Puginier (2002a). p. 83.

⁹⁴ 28/3/1998 (Bangkok Post)

may be relocated even though they settled before the declaration of the protected area, and that the Ministry is of the view that the April 17, 22, and April 29 cabinet resolutions of 1997 are impractical and encourage more forest encroachment.⁹⁵ Meanwhile a logging scandal in the Salween forest of Mae Hong Son involving provincial and district forest and officials was exposed in April 1998.

All these led to a halt of settlement approval in the form of another cabinet resolution on 30 June 1998, which cancelled the three April 1997 resolutions regarding human settlement in forests and recommended the old strategies of classification and zoning, with the eviction of villagers living in “sensitive areas”.

3.4.4.5 *Cabinet Resolution of 10th August, 2004*

This Cabinet Resolution intends to initiate a ‘New Plan of Forest Villages Project’. This Project aims to lessen the incidence of trespass on forests; create collaborative management practices, to protect, conserve and sustainably use resources, with communities living within the Project areas. The target area includes many indigenous communities living in forested areas. This Resolution is very positive in its recognition of the possibility of people and forest coexisting. The Department of National Parks, Wildlife and Vegetation and the Department of Marine and Coastal Resources are responsible for implementation of this Resolution.

Unfortunately, the method of implementation is based on the Cabinet Resolution of 30th of June 1998 which has had very negative impact on people living in forested areas and does not support original patterns of community living.

3.4.4.6 *Cabinet Resolution 17th January 1989 (Order number 32/2532).*

Between 19 and 24 November 1988, heavy rains triggered massive landslides, affecting all of Thailand's eastern coastal provinces, killing 373 people, injuring hundreds and rendering thousands homeless.

Many reasons for the flood were identified but logging became the most infamous culprit. Persistent pressure following the disaster convinced the Government to impose a total logging ban on 17 January 1989 in the form of a Cabinet Resolution (Order number 32/2532). This resolution revoked all logging licenses in natural forest and effectively banning all forms of logging, particularly in the uplands.⁹⁶ However logging in plantations and mangrove forest continued.

The main goal of the resolution was the protection of remaining natural forests and the punishment of encroachers in protected forests. However the ban is not without its controversy. When the ban was imposed, there were no clear policies and strategy in place to implement it. As a result, illegal logging continued and the ban was largely seen as a political maneuver. At the same time the ban, with the intention of protecting remaining forest, also had the effect of putting more pressure on the government to address the “problem” of indigenous hill peoples living inside protected areas, in some cases resulting in relocation and forcible removal.

⁹⁵ 15/4/1998 (Bangkok Post)

⁹⁶ Jantakad & Gilmour.

3.4.4.7 *Tambon*⁹⁷ *Council and Administrative Authority Act, 1994*

Political developments in the last two decades have served to shift the administrative structure in Thailand toward an increasingly decentralized model. On the wave of political reforms initiated in the 1990s and the demand for an opening of the governance structure of the country to allow people's direct participation, decentralization became a high point on the agenda.⁹⁸

The Tambon Council & Tambon Authority Act was promulgated in 1994 but it came into effect only in 1995. In view of its relatively easy birth, it can be explained as a result of popular demand for decentralization in the midst of the enduring atmosphere of political reform.⁹⁹

The Ministry of Interior is responsible for implementation of the Act [Sec. 5]. A Tambon Council is to be created in each Tambon [Sec. 6] composed of the *Kamnan*, *Phuyaibans* (Village headmen), Tambon doctors and other elected members [Sec. 7]. The Tambon Council each have the powers and duties of developing the Tambon [Sec. 22]. Among the many different activities it can perform, maintaining natural resources and the environment is also one [sec. 23 (4)].

A Tambon Council with an average annual income of not less than 150,000 Baht over the last three years can be converted to a Tambon Administrative Authority [Sec. 40] which is a juristic person and a local government administration [Sec. 43] and is comprised of a Tambon Administrative Authority Council (TAAC) and a Tambon Administrative Authority Council Administrative Committee [Sec. 44].

A TAAC comprise of two elected members from each hamlet/village or in the case of Tambon Administrative Authority having only one or two villages/hamlets, six members [Sec. 45]. The TAAC has the powers and duties to approve Tambon development plans, draft Tambon regulations, annual expenditure and budget regulation etc [Sec.46]. The Tambon Administrative Authority Council Administrative Committee (TAACAC) is composed of one Chairman and two Members elected by the TAAC [Sec. 58] and has the powers and duties of administering the day to day businesses of the Tambon Administrative Authority (TAA).

The TAA has a number of duties and businesses listed out in Secs. 67 and 68 of the Act, amongst which is the duty to "protect, look after and maintain natural resources and he environment" [Sec. 67 (7)]. The TAA has the power to collect taxes and generate revenue within its jurisdiction and duties to provided essential day to day services [Secs. 74 to 89].

The District officer has the power to supervise the performance and functioning of the TC [Sec. 38] and TAA [Sec. 90] to ensure they are in accordance with law. The district officer can report to the Provincial Governor and recommend the dissolution of the TC [Sec. 38] and TAA [Sec. 91] if he deems fit.

The TC and TAA are expected to be self-governing and financially self-sufficient. However in many cases, the structure of these organizations is highly bureaucratic and still involves the Ministry of Interior controlling the activities of these organizations through the provincial governors and district officers. They are also required to get their plans and budget approved from higher authorities. In these respect the

⁹⁷ There are four different types of local administrative units envisioned by the new Constitution: the provincial administrative organizations, the municipalities, the tambon (sub-district) administrative organizations (TAOs), and special administrative bodies, namely, the Bangkok Metropolitan Administration and the City of Pattaya. Cuachon, Nora. (2002). p. 144. A tambon is a group of 5-15 *mubans* (village or hamlet, averaging 200 households), the head of which is the *kamnan*. A *muban* is supposedly the lowest unit in the state administrative system, the head of which is the *phuyaiban*.

⁹⁸ Orlandini, Barbara. (2003). p. 97

⁹⁹ Rajchagool, Chaiyan. (1999).

aim of decentralization is not achieved. At the same time, there is also a presence of autonomy in areas such as fund and revenue generation. The amendments that were made to the law have increased the role of these organizations to include even activities of natural resource management.

The decentralization of administrative authority, and importantly budgetary control, to the *tambon* level has had beneficial effects on the levels of political participation among indigenous peoples. Demographically weak at the national level (indigenous peoples account for only 2-3% of the national population) indigenous peoples have never been represented in national politics, and only twice to date in provincial politics. At the district level, participation in politics has been slightly higher, but with the devolution of authority to *tambon* levels, indigenous peoples are for the first time (in some cases) holding the majority of the local political seats and controlling the local decisions about health, education and other matters devolved to the *tambon* level.

3.4.4.8 *Determining Plans and Process of Decentralization to Local Government Organizations Act, 1999 (Decentralization Act, 1999)*

The Act provides for setting up a “Committee of Decentralization to local government Organization” composed of the Prime Minister or Deputy Prime Minister as the Chairman and Ministers and heads of departments, twelve representatives of local governments and another twelve persons or experts [Sec. 6]. This Committee has the powers and duties, amongst others, to establish decentralization and implementation plans; to delineate powers and duties in the management of public services between the state and local governments; to improve the ratio of taxes, duties and income between the State and local governments etc [Sec. 12]. More importantly the Act determines powers and duties in public services. It gives local administrative organizations power to systematize public services for the benefit of local communities [Sec. 16]. Amongst them is local self development plan; social welfare and development of the quality of children, women, old people and disadvantaged people; enhancing democracy, equality, rights and freedom of people; enhancing the participation of people in development of local organizations; and provide, maintain and benefit taking from forestry, land, natural resources and environment etc [Sec. 16]. It also sets out a set of similar powers and duties for the provincial administrative organization.

The Act also sets out a series of procedures through which decentralization can take place and proceed [Secs. 30 – 34]. The Act changed the ratio of expenditure between central government: local government to 80:20 in 2001 and 65:35 in 2006 [Sec. 30 (4)]. Previously, it was 91:9 where half of the 9% was allocated to the Bangkok Metropolitan Administration.¹⁰⁰ As touched on earlier, this devolution of budgetary control means a real shift of power in terms of the decisions made at a local level. For indigenous areas, it has meant at least some budgetary control, for the first time, is vested in the *tambon* and thus within reach of indigenous community leaders.

3.4.4.9 *Master Plan on Highland Development*

The first Master Plan for Development of Highland Populations, Environment and Control of Narcotic Crops (Master Plan for Highland Development) was implemented in 1992-96 by Centre for the Coordination of Hilltribe Affairs and Eradication of Narcotic Crops (COHAN) although it was drafted much earlier in 1983.¹⁰¹ The Office of the Narcotic Control Board (ONCB) coordinated projects in the 20 provinces in which the plan was implemented, together with the respective Provincial and District

¹⁰⁰ Cuachon. p. 147.

¹⁰¹ The 1st Master Plan was drafted by the United Nations Fund for Drug Abuse Control (UNFDAC), the Social Research Institute of Chiang Mai University (CMU) and the United Nations Development Programme (UNDP).

Hilltribe Committees (DHCs).¹⁰² The objectives of the plan were to improve the socio-economic situation of the hill tribes, to encourage permanent settlement and community registration and to conserve the environment.¹⁰³ In this sense, the Master Plan was no different to other policies on hill peoples that had already been formulated before.

To implement the Master Plan, hill tribe communities/villages were classified into four groups:¹⁰⁴ 1. Permanent villages which had more than 50 households with permanent settlement and no migration for the last 20 years, suitable for permanent agriculture, outside watershed class 1 or wildlife areas, with government agencies present and car transport possible; 2. Potential permanent settlements which were those villages that posed no threat to national security, has 20-50 households, with no migration for 10 years, with permanent houses and suitable for permanent agriculture; 3. Non-permanent settlements which were communities that did not fulfill the conditions for group 2; and 4. Special: special community.¹⁰⁵

To get legal recognition, a community must not be a threat to national security; it must have government agencies operating on a permanent basis; it must have accepted development initiatives of the government and can support them; it must be located in suitable zones where permanent cultivation is possible; it must comply with the Local Administration Act of 1914 and the voluntary self-protection law of 1979; and it has at least 50 households, not shifted in the last 10 years and practices permanent agriculture. Once these criteria are fulfilled, it must register with the Village Directory of the Department of Local Administration where it obtains a village number and a Thai name. It must also have a village committee chaired by a headman with two assistants, one in charge of community defense and the other of village management. These criteria are clearly discriminatory against highland communities, many of which have been made illegal by changes to land zoning and the declaration of national parks and other forms of reserved areas. Similarly, the criteria focusing on permanent agriculture and permanent site (having not shifted in 10 years) means that many smaller indigenous communities are rendered illegal by their inability to match the required criteria.

The 2nd Master Plan for Highland Development (1997-2001) did not show major changes from the first one, though it mentioned implementation problems such as a lack of coordination among agencies, restrictive forest policies, a slow citizenship process, and a lack of planning meetings between provincial and local organizations.¹⁰⁶ It was characterised by three strategies: the creation of security for highland communities; the management of natural resources with a focus on people and forest living together, economic diversification and land use boundaries; and administrative cooperation between the government and the private sector.¹⁰⁷ It also stressed the importance of the clear demarcation of village land use boundary for planning, temporary residence and relocation. This period also saw the adoption of the new Thai constitution which recognized and granted communities the right to participation in the preservation and conservation of natural resources.¹⁰⁸

The present 3rd Master Plan (2002 – 2006) emphasizes the relocation, control and ‘management’ of highland communities instead of a concept of cooperative development. The Master Plan stresses the use of the Cabinet Resolution of the 30th of June 1998 which details a process of rights verification that is

¹⁰² Puginier (2002). p 35.

¹⁰³ Rerkasem, K. And Rerkasem, B. (1994). p. 26.

¹⁰⁴ Puginier (2002). p. 37; See also Puginier (2002a). pp. 77 – 78.

¹⁰⁵ Not further defined.

¹⁰⁶ Puginier (2002a). p. 81

¹⁰⁷ Royal Thai Government. 1997. 2nd Master Plan for Development of Highland Populations, Environment and Control of Narcotic Crops. p. 5. Cited in PUGINIER (2002). p. 42.

¹⁰⁸ See Articles 46 and 78 of the Constitution.

inappropriate for the reality of indigenous hill peoples. The Master Plan also divides all highland communities into 4 groups, according to which the future of the community is determined, as shown here:

1. Formally registered villages under the Local Administration Act of 1914
2. Villages established without yet receiving formal registration, but likely to qualify for registration
3. Villages established without formal registration, and lacking the capacity to be registered formally (to be relocated)
4. 'Special category' communities with special dispensation from the Cabinet to remain for the time being.

The current Master Plan reinforces negative stereotypes of indigenous hill peoples. For instance it associates drug trading, destruction of forest and water resources, soil degradation with indigenous hill peoples. In spite of the decentralization initiatives that are already present, such as the Constitution, the Master Plan encourages a centralized approach without involvement of local administrations.

One of the biggest challenge and shortcoming of these Master Plans is that there was completely no involvement and participation of indigenous communities in their formulation despite the fact that they are the target and "beneficiaries" of the Plans. Aside from the problems this approach poses in formulating a policy sensitive to the needs of the community, there are problems in implementation as well.

3.4.4.10 *The National Economic and Social Development Plan (NESDP)*

As previously mentioned, the first NESDP contained some provisions that affected indigenous hill peoples. However it was not until the 5th NESDP that indigenous hill peoples' issues were directly included for the first time.

The entry of a host of international development agencies and donors in the 1980s "divided northern Thailand into development project areas"¹⁰⁹. It required coordination and hence the 5th National Economic and Social Development Plan (NESDP 1982-86) included hill tribe issues for the first time.¹¹⁰ Security concerns, opium reduction, reforestation, reduction of population growth and conversion to 'good Thai citizens' were the main objectives.¹¹¹ During the implementation of this plan, a special Committee for the Solution of National Security Problems Involving Hill Tribes and the Cultivation of Narcotic Crops was created by the Ministry of Interior. The Centre for the Coordination of Hilltribe Affairs and Eradication of Narcotic Crops under the Third Army was also set up in 1986 to coordinate between government agencies.

Around the same time that the First Master Plan for Highland Development was implemented, the 7th NESDB was also executed. This plan called for sustainable development and three development key objectives were adopted. They included economic growth, income distribution, and development of human resources, quality of life and environment. The most important feature, vis-à-vis indigenous hill peoples, of this Plan was the declaration that 25% of the country should be protected conservation forest. The period also saw the enactment of the new Watershed Act 1993 which classified 45.9% of the country as national forest reserve.¹¹²

¹⁰⁹ Puginier (2002).

¹¹⁰ Ibid.

¹¹¹ Chotichaipiboon, T. (1997). p. 100

¹¹² At the time, conservation forest constituted 27.5%, and economic forest 16.2 % and agricultural production areas 2.2%.

The Asian economic crash of 1997 brought home the fact that the rapid growth Thailand had enjoyed could not be sustained without adverse social and environmental consequences. It also led to the realization that vulnerable people in remote rural communities needed to be empowered to enable them to participate more actively in future growth and development.¹¹³ These concerns were reflected in the 8th NESDP which marked a distinct shift from previous Plans that emphasized economic growth, to focus on sustainable use of resources and participation of people. Amongst other things, it stated, “*Local people and community organizations should be urged to play an increasingly active role in the management of natural resources and environments... Furthermore, restraint and greater efficiency should be promoted, so that natural resources can be used to the greatest possible advantage for the economy as a whole, while having the least possible environmental impact.*”¹¹⁴ It also envisioned increasing employment opportunities in rural areas and developing local economy.

The present 9th NESDP was presented as embodying the king’s concept of “sufficiency economy” which was explained as based on adherence to the middle path, and involving moderation not just as a guide for economic policies but as a way of life. The 9th NESDP which was formulated in consultation with NGOs, civil society and the private sector has its main goals as poverty alleviation, good governance, sustainability, stability, and strengthening development foundations.

3.4.4.11 *International Treaties and Documents*

Aside from these national laws and policies, Thailand is also party to important international treaties and documents on environment which impact natural resource management such as the Convention on Biological Diversity (CBD), Agenda 21 and the Ramsar Convention. The National Policies, Measures and Plans on the Conservation and Sustainable Utilization of Biodiversity (1998-2002), was approved as an administrative framework to implement the CBD. Seven strategies were outlined in the Plan for implementation:¹¹⁵

- Build capacity of institutions to conserve biodiversity;
- Enhance efficiency in management of protected areas;
- Improve incentives for conservation of species, population and ecosystems;
- Conserve species, populations and ecosystems;
- Control and monitor activities that threaten biodiversity;
- Encourage traditional cultural management of biodiversity;
- Promote cooperation between international and national agencies in the conservation and sustainable utilization of biodiversity.

¹¹³ Ross, Dr. William & Pongsumlee Dr. Anuchat. 2003. p. 69. For discussion on the impact of the economic crisis on rural communities, especially those in the North East of Thailand, see: Subhadhira, Sukaesinee, *et al.*, (2004). pp. 46 – 59.

¹¹⁴ NESDB. 1997, 109.

¹¹⁵ Bugna & Rambaldi. p. 40.

4. Interface between Indigenous and Statutory Systems and Laws on Natural Resource Management

One obstacle in local communities' participation in natural resource management is the gap between the way of living of indigenous peoples, policies and other legal frameworks put forward by the government which impinges the community's rights and ignores the people's customs and tradition. Such obstacle had led to conflict and violence in enforcing laws on the part of the government agencies.¹¹⁶

The present Thai legal framework of natural resource management is based on the concept that public resources can be divided into separate categories according to their utilitarian value, encouraging commercial ends for their use. Such a perspective places emphasis on the physical property of the resources and ignores the value in other domains such as local culture and tradition that serve as the basis for customary legal framework for resource management. It results in the statutory laws serving the interests of only certain groups in the society. There is a need therefore to look at how such gaps can be negotiated.

4.1 Interaction between Indigenous Systems and Statutory Systems

A constant point of interaction between indigenous systems and the codified system of the State is the conflict that regularly arises when they overlap, or as often is the case, exclude each other. Some key issues that need to be acknowledged to address the problems include:

4.1.1 Non - Recognition of Indigenous Natural Resource Management System

Most of the existing laws and policies of Thailand on natural resource management were enacted and formulated without the participation and consultation of right holders. And often, these laws were modeled on the laws of other countries that fail to appreciate local situations. Further, the adoption of "scientific" approaches to natural resource management continually encouraged a top-down forest and resource management approach. A consequence of this approach was the sidelining of indigenous knowledge and institutions and non-recognition of indigenous systems in natural resource management. However it is important to recognize that "indigenous institutions represent established local systems of authority and other phenomena derived from the socio-cultural and historical processes of a given society."¹¹⁷

Because they originate from local cultures, their implication and potential for natural resource management is vast. There are already indications that certain state agencies have already incorporated a participatory approach toward natural resource management incorporating the views of indigenous rights holders. For instance, a Community Forestry Development Center was established in the Phupan National Park, a site of constant conflict and contestation over natural resources, to study and develop the process and method for use of natural resources with the local people. It was previously under the management of the Community Forestry Division of the RFD but it has been decentralized to the Udonthani Forestry Region Office, a further indication of a more participatory approach.¹¹⁸ However, it is often the case that participation is defined and viewed differently. Government agencies understand participation to mean only giving information to the public without proactive consultation and decision-making roles.

¹¹⁶ IMPECT & FPP.

¹¹⁷ Appiah-Opoku, Seth & Hyma B. (November 1999).

¹¹⁸ Ngamcharoen, Chanchai.

4.1.2 Land Tenure and Use Rights of Natural Resources

The many cases of conflict over natural resources in Thailand revolve around land tenure security. As it has been rightly observed, “The fierce and often violent arguments on deforestation and strategies for forest protection are only intelligible against the background of the unsolved land rights issue in Thailand.”¹¹⁹

Much of the insecurity over land tenure, and the consequent impact this has had on natural resource management, is centered on the manner in which the government has approached and viewed natural resources as the legitimate domain and subject of State policy making without considering other rights holders. Such claims of power come with arbitrariness in policy making. In this respect the Thai government has been extremely inconsistent vis-à-vis its policies for natural resource management. Policies have been modified or changed radically to suit economic or political interests, and this is especially so when such policies intersect with indigenous hill peoples. As it has been observed, “[the] government’s political and administrative policy affecting tribal populations changes continually”.¹²⁰ For instance, while laws and policies on national parks and wildlife sanctuaries do not allow settlements or use of resources within its borders, and it has resulted in the relocation of indigenous hill peoples, tourism in these protected areas is widely promoted. Infrastructure and private construction for tourism is allowed in national parks.¹²¹

Use-rights of resources within national reserved areas and wildlife sanctuaries are ambiguous and not clarified. It gives vast leverage to authorities to use the law at their convenience. On the other hand, in areas where there is a strong collective community initiative, this ambiguity also allows indigenous communities to negotiate use rights with the local authorities. For instance, in the Sopsai watershed in Nan Province, indigenous villagers have been able to gain recognition from the local authorities over their “community forest” and land use practices. This has been attributed to the presence of a strong community mobilization within the watershed.¹²² Similar experiences in other places have also been documented.

4.1.3 Citizenship

Another significant factor compounding land tenure insecurity and affecting natural resource management is the denial of citizenship to a high number of indigenous hill peoples. As pointed out previously, the possession of citizenship documents is essential to accessing any facilities in Thailand. Without such document no use rights can be proven, let alone right over land.

¹¹⁹ Brenner *et al.* p. 11.

¹²⁰ Chotichaipiboon.

¹²¹ Leepreecha, Prasit. (2005) p. 8.

¹²² Kitewachakul, Nitaya. (2005).

Citizenship and Land Rights

In 1999, between April and June, indigenous hill people organized demonstration in Chiang Mai to ask for Thai nationality and land rights. The demonstration was broken up by 1,600 police and rangers in the middle of the night - presumably on the orders of the then governor of Chiang Mai.¹²³ However it resulted in some efforts by the government to recognize the citizenship rights of indigenous hill peoples. After the protest of 1999, the government decided to review the citizenship applications. On 29 August 2000, the Cabinet adopted a resolution to complete the review of citizenship applications by 28 August 2001.¹²⁴ Under the Cabinet Resolutions hill people were classified under three groups: 1. People residing in Thailand who migrated to Thailand between 1913 and 1972¹²⁵; 2. People who migrated to Thailand between the 14th of December 1972 and the 3rd of October 1985 and are eligible for permanent resident status¹²⁶; and 3. People who have allegedly migrated after 3 October 1985 and are considered "alien and illegal" and can be forcibly removed from the country.¹²⁷ The process of reviewing citizenship applications were to be completed within one year; however, four more subsequent cabinet resolutions were made and even by mid 2004 there were 377,677 individuals who did not have Thai citizenship or any legal status.¹²⁸

In June 2005, in a meeting discussing citizenship rights, participants called for the amendment of Sec. 7 (bis) (3) of the Nationality Act which denies citizenship to children born to parents with alien status in Thailand. This provision is said to affect over 200,000 tribal children whose parents have yet to be granted legal status in the country. These children have been classified as stateless and, as such, have been denied rights to education, health services and other welfare benefits granted to a Thai citizen.¹²⁹ The law requires proof that a person, plus one parent, is born in Thailand. However most indigenous hill peoples who live in remote mountains do not have birth registers or other means of proof.

In another recent development, in September 2005, the Supreme Administrative Court at Chiang Mai ordered the reinstatement of the names of 1,243 villagers into the citizenship register from Mae Ai after it was arbitrarily ordered to be removed by the Mae Ai district Local Administration Department which had the effect of taking away the citizenship rights of these villagers.

4.2 Participation of Indigenous Hill Peoples in Policy Formulation

Participation with regard to natural resource management, as envisaged in the 1997 Constitution, is the involvement of individuals, groups or communities in receiving relevant information, accordingly identifying problems, planning and managing, monitoring and evaluating, and coming up with solutions and answers for the problems that are identified through such processes.

However Thailand has long suffered from a top-down approach that failed to involve local people and represented the ideas and viewpoints of only a few people.¹³⁰ By excluding communities from participatory natural resource management, intensive competition for resources resulted and, in turn, more

¹²³“Defending Thailand from invaders”.24 August 1999.Found at <<http://www.geocities.com/changnoi2/hillpeople.htm>> (Visited 18.11.05).

¹²⁴ ACHR.

¹²⁵ About 100,000 people was estimated to fall within this category.

¹²⁶ Their children are eligible for full Thai citizenship. Approximately, 90,000 hill tribes fall into this category.

¹²⁷ About 220,527 persons were estimated to fall under this category.

¹²⁸ ACHR.

¹²⁹ “Call to change clause denying rights to Thai-born children of aliens,” *The Nation*, 3 July 2005.

¹³⁰ Makarabhirom, Pearmsak. (2002).

degradation of the natural resources occurred.¹³¹ However new institutions and legal frameworks are providing opportunities to address this. The Tambon Council and Administrative Authority Act of 1994, the Decentralization Act of 1999, the Enhancement and Conservation of National Environmental Quality Act of 1992, the Constitution etc all lay down provisions for involving people at the local level. In spite of criticisms against some of these laws, their potential is immense.

Given the participatory and democratic nature of indigenous communities in decision making, it would not be difficult to adapt participatory approaches as envisioned in these enactments to natural resource management. There are already a number of projects and programs undertaken by the government as well as NGOs and community organizations that seek to implement decentralization plans based on these laws. However it also has the danger of displacing the already much threatened indigenous institutions. One of the greatest strength of indigenous institutions and systems are their ability to adjust and the space they allows for maneuvering according to different situations. Rather than adapting indigenous systems to a rigid structure with codified rules and regulations, statutory provisions must be flexible enough to accommodate the malleable nature of indigenous institutions.

Further, the failure of many programs and policies of the government formulated without the involvement of communities illustrates the need for the active involvement of target communities as right holders. For one, involving communities from the outset would give a much better insight into the needs and concerns of the communities but more importantly it will give them a sense of ownership which is very vital to the success of any policy.

Community Forest Bill

Community forestry is not a recent concept but has been traced far back in the history of what now constitutes the Thai state.¹³² However community forestry as an approach entered the official forest resource management lexicon in 1985 with its appearance in the Thai National Forestry Plan (TNFP). Unfortunately, community forestry was inferred to mean commercial plantations by private concessionaires under the TNFP.

The history of the Community Forestry Bill is closely linked to the political, social and economical developments of Thailand.¹³³ Community forestry in Thailand is a highly politicized issue, it involves contesting discourses between centralized, professionally-oriented forest management, and a social movement of marginalized forest communities who advocate social justice and decentralization of resource management.¹³⁴ It is not only a struggle for control of forest resources but is also increasingly becoming a constitutive struggle for power by the local people to govern themselves.¹³⁵

¹³¹ Ganjanapan, Anan. 2003. pp 207-212

¹³² Sumarlan. p. 52.

¹³³ For an excellent historical account and analysis of the developments and factors that shaped the Community Forestry Bill debate, see BRENNER *et al.* They divide developments into four phases: emergent phase (1985–1991), the hot phase (1991–1992), the submergent phase (1993–1996), and the Bill agenda (1996 until today).

¹³⁴ Maneeikul, Rachnee., *et al.* p. 171.

¹³⁵ Wittayapak, Chusak. (2003) p. 4.

The failure of the forestry policy that favoured private commercial plantations and conservation at the expense of forest communities during the 80s led to increased pressure on the government resulting in the RFD proposing a community forest bill in 1990.¹³⁶ However no definite outcome resulted. Community forestry re-emerged in the political arena in 1992 in the context of national elections that were to be held the year with each political party proposing their own versions. It is no surprise that most of these attempts sputtered out after the election. However academics, researchers and NGOs drafted a version in 1993.¹³⁷ Another draft known as the “Suanbua Draft” was brought out in 1996 which was approved in principle by the Cabinet, however political developments that toppled the government then again relegated the bill to the background. Using the provision of Article 170 of the Constitution which allows the public to propose new legislation if 50,000 or more signatures can be collected, the Assembly of the Poor proposed a people’s version in 1997. After much discussion and lobbying, in Nov. 2001, the Council of State approved the community forest bill and sent it to the Senate for approval. However the Senate, in March 2002, passed the bill after making substantive changes that diminished the whole point of the bill. A table comparing the draft Community Forestry Bill passed by the Council of State and amendments made by the Senate indicates the changes are shown below:¹³⁸

Draft Community Forestry Bill	Amendments by Senate
<p>Section 18. The right to propose an area of community forest was limited to groups of 50 or more persons aged over 18 years and from a traditional community native or indigenous to the area that has been active in forest preservation for at least the previous five years.</p>	<p>The number of proponents increased from 50 to 100 and community forests excluded in protected forest areas such as watersheds, wildlife sanctuaries, the time frame for forest conservation activity ‘to at least five years before the bill takes effect’.</p>
<p>Section 29. Permits the community forestry group to request changes to the boundaries of the community forest areas for the improvement of its management plan or for the revocation of the entire or part of a community forest provided valid and clear reasons are detailed to the Community Forestry Committee.</p>	<p>The expansion of designated community forest areas to be prohibited</p>
<p>Section 31. Prohibits commercial-scale cutting of trees in all types of protected forest areas. Trees to be cut only for subsistence and public utility, which should follow guidelines set by a relevant policy committee.</p>	<p>Locals cannot gather any forest products in the community forest except with permission from the Royal Forest Department</p>

The changes made to Section 18 have been particularly of concern as it would affect more than 500,000 families living in 5,000 community forests across Thailand. As it now stands, the Council of State will consider the amended bill and if they do not agree to the amendments, a joint committee will be formed to study the bill again.

Several groups with different ideologies and political ambition have since then debated and made known their point, sometimes violently and forcefully. The most contentious issues concern the area permitted for establishing community forests, the activities to be allowed on the land and the control of the area, including penalties for contravening the rules.¹³⁹ The whole debate is shaped by two conflicting stories about people and forests. One is that forests have to be generally protected against people, and the other, that village people, are suited to live in harmony with forests.¹⁴⁰

¹³⁶ Brenner *et al.* pp. 16 -17.

¹³⁷ Maneekul *et al.* p. 172,

¹³⁸ Adapted from Maneekul, *et al.* p. 173.

¹³⁹ Makarabhirom, Pearmsak. (2000). pp. 60-61.

¹⁴⁰ Brenner *et al.* p. 21.

4.3 Connecting Different Institutions – Government, NGOs, Donors and Community Organizations

Three main actors are usually identified in the discourse on natural resource management in Thailand: the government, NGOs and local communities, or more specifically indigenous hill peoples. Each has tried to influence natural resource management in different ways. However it is also important to factor in the role of donors within the natural resource discussion as they have a huge say in how resources are managed and allocated.

It is important that the specific roles of these institutions are identified within the overall framework of natural resource management, and at the same time, to examine how they interact with each other.

4.3.1 NGOs

NGOs in Thailand have been instrumental in shaping policies on natural resource management. Within the environment discourse, two general categories of NGOs can be seen - the “Dark Green”¹⁴¹ and the “Light Green” groups. The Dark Green groups are mostly middle class environmental groups who believe in strong conservation methods and the exclusivity of natural spheres and human beings. They argue that protected areas are too fragile for human use and should be completely preserved as “untouched wilderness” undisturbed by human intervention.¹⁴² The Light Green groups on the other hand emphasize community involvement in natural resource management and believe that even within protected areas, human and nature can coexist. Not surprisingly, most indigenous organizations fall within this latter category. The difference in perspective has resulted in fragmentation of NGO opinions which has affected natural resource management gravely.¹⁴³ For instance, the Community Forest Bill has been a strong site of contest between these two groups, preventing its enactment.

As NGOs have the crucial role of synergizing and linking different agencies and organization, most importantly, connecting governments to the community, it is important that the differing approaches and viewpoints toward natural resource management among NGOs themselves are bridged.

¹⁴¹ Organizations such as the Sueb Nakasathien Foundation, Loak See Khiew Foundation, Thammanat Foundation, and the Association of Art and Environmental Conservation fall under this group.

¹⁴² See Laungramsri, Pinkaew. (1997). “Reconstructing Nature: The Community Forest Movement And Its Challenge To Forest Management In Thailand.” *Community Forestry at a Crossroads: Reflections and Future Directions in the Development of Community Forestry*. Proceedings of an International Seminar. Bangkok: RECOFTC.

¹⁴³ For an analytical look at the competing discourses within civil societies in Thailand, see: Laungramsri, Pinkaew. (2002). “Competing discourses and practices of “Civil Society”: a reflection on the environmental movement in Thailand and some implications for the Mekong Region.” Paper presented at the Mekong Dialogue Workshop “International transfer of river basin development experience: Australia and the Mekong Region”. 2 September 2002. Found at <<http://www.mekong.es.usyd.edu.au/events/past/Conference2002/pinkaew.pdf>> (Visited 12. 12. 05).

IMPECT Association

The Inter Mountain Peoples Education and Culture in Thailand Association (IMPECT) is an indigenous organization founded and staffed entirely by representatives of indigenous communities in Thailand. It focuses on developmental work with seven indigenous groups found in the northern provinces of Thailand: Akha, Hmong, Lahu, Lisu, Lua, Karen and Lu Mien.

Currently it is implementing the *Highland Mapping Development and Biodiversity Management* as one of its many projects. The project is an important effort towards involving communities in the decision making process through innovative use of technology. The project operates at two levels.¹⁴⁴ Community and land use mapping is done using GIS. This information is then used in enhancing the capacity of communities by facilitating a more critical understanding and analysis of resource use. A number of trainings, consultations and workshops have been organized in which community maps are used as the negotiating basis for resource use. A participatory approach is utilized and emphasized in which everyone within a community is involved in decision making, notably women. Communities have been able to effectively engage with local governments, Forest and Park officials, using the information from this project to demarcate and negotiate resource use, even within national parks and protected areas.

One of the limitations pointed out, though, is its inability to influence policy making at the national level. However, IMPECT has actively networked with other organizations to push for policy change. Besides the national network of indigenous groups, it actively engages with national level community and peoples organizations such as the National Federation of Peasants (NFP), Northern Farmers Network (NFN) etc. Organizations such as the NFP and NFN, where many lowland Thais are also actively involved, are potential platforms for fighting the negative stereotypes attributed to highland indigenous peoples. IMPECT also has been instrumental in formation of networks on indigenous health and women.

4.3.2 Community and People's Organizations

Community and people's organization in Thailand, such as the Northern Farmers' Network, Assembly of Indigenous and Tribal Peoples etc, have been highly active in negotiating with different players within the natural resource management setting in developing a people-centric approach toward natural resource management. These organizations came about as a response to the adverse impact government policies and actions by dark green NGOs had on the lives of indigenous hill peoples. They have been able to create cultural spaces to express indigenous traditional knowledge, concepts, and beliefs in the use and management of natural resources. Most importantly they have been able to put into place self-governing rules on natural resource management within their communities. However community organizations need to be strengthened further and promoted in all levels of governance.

The Highland Nature Conservation Club

Some academics, community leaders and social workers recognized and felt the need to respond actively to put forward the case of the indigenous hill peoples in the context of forest policies which encouraged forceful relocation and resettlement of indigenous hill peoples, and the campaign of lowland conservation groups targeting indigenous hill peoples as the culprits of environmental degradation in the late 1980's. The Highland Nature Conservation Club (HNCC), a community organization resulted.

Over the years, HNCC has taken up many activities of lobbying for positive policy change as well as implementing community activities at the local level. HNCC have been quite successful in combining

¹⁴⁴ This part is drawn from an interview with Mr. Udom Charoenyomprai, the Coordinator of *Highland Mapping Development and Biodiversity Management Project*.

technology and indigenous knowledge in demarcating use zones, regulations and rules for community forests and land use, setting up fire-break zones. These rules have been recognized by the authorities. HNCC established a Committee to Prove People's Land Rights which have been negotiating with government bodies for resolving land related problems. HNCC was also instrumental in setting up a pre-school child development center among the Pgakenyaw. Inter-generational transfer of traditional knowledge is also an important feature of their activities with recordings of folk-songs, proverbs and poetries. They are presently involved in the implementation of a pilot project in four schools at Khun Tae, Khun Ya, Some Poi and Khun Pae where the curriculum consist elements of traditional knowledge and customs. The positive result of their capacity building activities can be seen from the level of participation of women in decision making which numbers almost as much as men.

4.3.3 Government

A recurring criticism of the government's approach to natural resource management is the overlap between different government agencies and institutions that deal with natural resource management. Closely related to the overlap between government agencies is the overlying characteristic of provisions in key laws governing natural resource management. The recent restructuring attempts to address this problem but further clarification of roles and streamlining is needed. There are still a lot of institutional limitations and reluctance to address issues related to indigenous hill peoples. There is also an inherent problem with the segmented approach that the government takes in addressing natural resource management and indigenous hill peoples' issues. However there is a growing realization and recognition among government agencies on the need to involve all parties, especially the target groups in program and policy formulation.

Participatory Land Use Planning of the RFD

As an alternative to infeasible resettlement programmes and in order to address the complexity of environmental problems, a model called "Participatory Land Use Planning" was developed jointly by the Royal Forest Department and the University of Chiang Mai. The approach integrates measures of soil and forest conservation whereby emphasis is put on enabling local communities to assess and modify local land use systems according to watershed management objectives. After promising results during a pilot implementation that started in 1987, the model has been adopted by various large projects of international donors and has gained widespread popularity also in other countries.

Critics, however, claim it overemphasizes social and psychological aspects such as community organisation and environmental awareness without providing clear guidelines for resource management and proof of its resource effectiveness.

4.3.4 Donors

At the height of the development push during the 1980s, there were a total of 168 agencies from 31 government departments and 49 international donors active in Thailand.¹⁴⁵ Donors have been instrumental in influencing the government to undertake programs and projects for highland development, starting with the controversial opium replacement monoculture cash-crop plantation projects and progressing to a plethora of programs now.

Most of the projects now have a strong component focus on a decentralized natural resource management model that seeks to ensure the livelihoods and socio-economic needs of affected groups. However problems are still encountered in implementation of programs. There are criticisms against donors for pushing their self-defined agendas of “development” that are not sensitive to the needs of indigenous hill peoples or which would not realistically improve their situation.

JOMPA

Presently one project that touches the core issue of conservation, natural resource management and indigenous issues is the *Joint Management of Protected Areas Project (JoMPA)*. JoMPA is a sub-component of the Thai-Danish Programme for Co-operation in Environment funded by DANIDA. It aims at promoting participatory approaches to protected area management in Thailand securing both biodiversity conservation and improved livelihood of local communities. Key problems addressed by the sub-component are the continued loss of biodiversity, degradation of the ecosystem functions, loss of livelihood opportunities for the rural poor and lack of democratic involvement of a broad range of stakeholders in the protected area management.¹⁴⁶

JoMPA, in the long-term, aims to secure biodiversity conservation with responsibilities and outcomes of sustainable management shared among authorities, local stakeholders and general public..¹⁴⁷

It supports the implementation of basic principles of peoples' participation and decentralisation as stressed in the Constitution of Thailand and policies on decentralisation. It involves key stakeholders including protected areas authorities, local communities, local authorities, civil society organisation and private sector. Support is provided to Department of National Park, Wildlife and Plant Conservation under the Ministry of Natural Resources and Environment, which is the key government partner, as well as to a range of NGOs, considered important partners in supporting joint management activities. This project has pilot areas throughout Thailand in 11 different National Parks, 6 Wildlife Protection Areas and 2 National Marine Parks. One of these areas is the Ob Luang National Park which covers some of the area of Chomthong District in Chiang Mai Province.

Indigenous hill peoples' NGOs involved in the project have identified this project as a possible site for fostering more understanding between government agencies and the people over natural resource management.

¹⁴⁵ Kampe, Ken. (1992).

¹⁴⁶ DANIDA. June 2003.

¹⁴⁷ “Effective PA management including ecosystem approaches and joint management is operational in a range of protected areas”; “Models and systems for PA management including ecosystem approaches and joint management are developed and their replication through the national PA system is initiated as a key strategy of DoNP”; and, “Institutional and human capacity for effective PA management including ecosystem approaches and joint management is developed”. DANIDA. *Ibid.*

Chom Thong Case Study

This case study briefly examines events during the late 1990's in Chom Thong district, Chiang Mai province which brought the debate over resource conflict to the centre of the national consciousness. It is taken as an example because of the complexity of issues involved – the government's perceived need for creating protected conservation areas, increasing water demands, pressure from lowland agriculturists and conservation groups, criminalization of indigenous hill peoples and their response to such criminalization.

Background

Chom Thong district is located in Chiang Mai Province in northern Thailand. Karen oral history places their settlement (the village of Ban Klang) along the banks of the Mae Klang 200 years ago. Doi Inthanon National Park which includes Thailand's highest peak, Doi Inthanon, was demarcated in 1972 in the area above the village. The Park included many upper watershed areas and embraced many villages of the Karen, Hmong and other indigenous groups. Water from the Mae Klang, which originates in the upper watersheds of Doi Inthanon, is used to irrigate longan fruit orchards and paddy fields in the lowlands of Chom Thong. In 1985, the National Forestry Policy was adopted which aimed at maintaining 40 percent of Thailand as natural forest. The Policy resulted in more rigid and increased control over reserved forests areas. Communities were strictly prohibited from living or using any resources within protection zones and watershed class 1A areas. Further limited use of resources was allowed only in the buffer zone.

The RFD used satellite images to demarcate most of the forest areas. Contrary to ground realities, they also assumed that older secondary forests were uninhabited. Indigenous hill peoples were excluded from any part of the process, the exclusion even extending to receiving any information about the land use planning decisions years after plans were adopted. The demarcations made illegal almost all the settlements in the area. Many communities came to know about their illegal status only when they were arrested. Much later, RFD officials working at the ground level came to realize that collaborative management of resources with the affected indigenous hill peoples was better than their exclusion. However, the idea of segregating "nature" and "people" was too deeply entrenched among policy makers. Many communities were relocated and resettled, often coercively, to areas that were infertile or already settled or with negligible agricultural areas. It created a new level of conflict and social, cultural and economical repercussions that were either unanticipated or ignored. In any case, such severe steps did not stop the degradation of natural resources but further aggravated the situation. Meanwhile, longan orchards were eating up huge parts of the lowland area around Chom Thong, which increased by about 50 square kilometers, demanding a steep rise in consumption of water. Unsurprisingly, water resource management became the focal point of resentment among lowland Thai farmers. The Chom Thong Watershed and Environment Conservation Club was formed in 1989 by these farmers to manage water resources for their interest across the whole district. They soon allied with the Dhammaanat Foundation which sought relocation and removal of indigenous highland peoples from their traditional settlements.

The conflict reached a head in the late 1990s when a severe drought destroyed many fruit trees. Immediately, lowland conservation groups blamed the indigenous highlanders claiming they destroyed the forest through fires to open new areas for agriculture. On the other side, indigenous highlanders pointed out businessmen who wanted to set up resorts as the culprits of the fires. Extreme steps were taken by lowland conservation groups, including blocking access roads to the highlands and barb wiring certain areas. The cement pillars of the barb wire fences were painted in the colours of the Thai flag – a clear sign that they considered the highland peoples to be foreigners or 'non-Thais'. They also campaigned successfully to overturn the three April 1997 Cabinet Resolutions that gave rights to communities to manage their forests.

While the conflict is often characterised as a conflict over resources between lowland Thai farmers and indigenous highlanders, it is much more complex involving conflicting ideologies operating at several levels, most notably, the clash of ideas on conservation between groups such as the Dhammaanat Foundation, who espouse "urgent termination of settlements" in conservation areas, and supporters of indigenous hill peoples and their traditional system of sustainable natural resource management.

Underlying differences in social, economic, political and cultural groundings amplified the conflict. The conflict was also used by influential lowland farmers to increase their control over resources.

Response

While the conflict has abated, it still remains largely unresolved. However it has served to underline proactive steps taken by indigenous hill peoples for sustainable management of resources. Indigenous communities put into place a more institutionalized set of regulations based on their traditional practices. They reduced their shifting cultivation areas drastically and learned new resource management skills. Community activities for resource management such as making forest fires breakers, checking illegal logging etc were conducted more efficiently. At the same time, efforts to counter negative propaganda against them were also undertaken.

As a response, the conflict also saw the creation of the Northern Farmers Network (NFN) which links 107 villages located in 14 sub-watersheds in the upper northern region of Thailand. NFN strives to promote community forestry and local participation in natural resource management and the application of indigenous knowledge to management strategies. Many self-regulatory practices on a number of topics ranging from watershed management to harvesting non-timber forest products are negotiated and discussed among members. They recognize the need for dialogue with government and lowland communities and actively seek to involve them. NFN creates awareness about government policies and laws among their members and has been partly successful since then in encouraging government agencies to involve local communities and people's organizations in natural resource management.

Lessons Learned

The case highlights the tense lines drawn over resource use with increasing pressure on it from every quarter. It indicates some useful lessons as well.

- Indigenous communities have taken positive steps to respond to changing resource availability and pressure.
- Community forestry can be strengthened if there is institutional support from the government and a legal framework as its basis.
- Coordination and cooperation between watershed communities facilitated through networks and associations can greatly enhance and stabilize natural resource management.

5. Challenges and Drawbacks

5.1 Democratization, Decentralization, Participation and Sustainability

It is evident that the conflict over natural resources management in Thailand – be it land tenure insecurity, dispute over water resources or others – stems from the myopic process behind policies and laws that seek to govern resource management. Lack of participation from the affected quarters stymied most of the policies and laws before they were even implemented. What is the way out then?

It is not so much the substance of a law that is the answer. However good a law is on paper, it would still need to pass the challenges of implementation. For implementation to be successful, it needs to involve the rights holders and stake holders. Involvement cannot be expected if there is no sense of ownership. It is here that democratization and decentralization with emphasis on participation comes in. It is only through such a process that the sustainability of any process, law or policy can be expected. Ultimately good resource management is a question of ensuring social justice.

However, seeing the history of top-down administration in Thailand, democratization and decentralization remains a great challenge.

5.2 Implementation of Laws

As can be seen, laws that were drafted before the last decade expressly exclude the utilization of resources within national forest reserves and other protected areas. They criminalize activities of indigenous communities which they have traditionally carried out for their sustenance. Though there are thousands of communities managing and protecting their local forests, their activities are deemed illegal. Further, current laws and regulations prioritize the private sector.

It has been found that strict enforcement of laws have not worked in arresting problems of natural resource management but instead exacerbated it. This can be attributed to two factors: the conflicting and overlapping nature of different laws governing natural resource management in Thailand; and the non-involvement of communities as right holders in natural resource management. The first have led to confusion among various government agencies about their roles which in turn leads to a more haphazard and arbitrary enforcement of laws. The second factor is a consequence of the conservation oriented approach of these laws which do not factor in the sustainable traditional resource use methods of indigenous peoples which alienates them further from government initiated activities as they do not get a fair share of benefits. Rural communities, specifically forest communities, have become important to the success of forest and environmental objectives as their relationship with the forest is rooted in culturally based indigenous knowledge and because of their proximity to the forest which ideally places them to either protect or destroy the forests.¹⁴⁸

Fortunately some positive signs are emerging. The adoption of the Constitution of 1997 heralded a significant benchmark toward a more inclusive participatory approach. Along with this, the Tambon Council & Tambon Authority Act and the Decentralization Act, if implemented effectively and sincerely, has the potential to not only overhaul the bureaucratic set up of natural resource management but also the whole administrative structure of Thailand. In Tambons, such as Ban Luang TAO, where there is a strong

¹⁴⁸ Makarabhirom, Pearmsak. “Forestland Policy Revisited: Opportunities For Policy Reform Of Thailand.” (*Mimeo*).

representation of indigenous communities, there are already signs of the local administration being more receptive to resource management initiative of indigenous hill peoples. Although community forests do not have a legal basis, authorities have informally started recognizing them indicating a more open interpretation of laws. Further, the restructuring, reassignment and revision of responsibilities for natural resource management under Ministry of Natural Resource Management is a welcome initiative toward streamlining that will hopefully make law implementation more sensitive to ground realities and bring in the required changes.

5.3 Bridging Gaps between Different Actors

With the decentralization and streamlining initiative, there is increased potential in bridging the gaps in perception of natural resource management among state agencies, NGOs and indigenous communities. However to be effective certain underlying issues need to be addressed.

Closely related to the top-down approach of decision making is the negative attitude toward indigenous hill peoples and their use of natural resources. Government officials often assume that indigenous hill people are the culprit of natural resource degradation. They are unable to see resource use based on traditional customs and traditions as sustainable. Government programs usually tell communities what to do rather than try to understand how the forest is used and how that use can be improved to support the objectives and needs of both parties.¹⁴⁹

Bridging gaps also need strong commitment and trust from all parties involved. The conflict of ideologies between different NGOs, conflict between stake holders and right holders etc all function at different levels to effect natural resource management adversely. Commitment should also come with the readiness to acquire the required skills necessary for natural resource management. Because of the strong bureaucratic background in which the government operated in the past, state agencies continue to see activities with indigenous hill peoples as a means to control them and not as a means to achieving better management of natural resource management. Therefore skills such as community organization, community liaison, facilitation qualities etc are required from those in a position of decision making.

5.4 Competing Discourses on Natural Resource Management

In the analysis of natural resource management laws and their impacts on indigenous hill peoples, one angle that is often not given the importance it deserves is the conflict in ideological discourse between different NGO camps: the Dark Green and Light Green camps. Because of middle class support and elite representation, Dark Green NGOs, whose concept of nature is associated with an idealistic self-contradictory notion of an “undisturbed” nature, have been quite successful in blocking promising initiatives such as the Community Forest Bill that would have changed the whole structure of natural resource management in Thailand.

The opposing discourses are not as simple as a disagreement in approach toward natural resource management but also contain a lot of sub-text of power relations, class equations and social structuring. These needs to be taken into account while addressing this challenge.¹⁵⁰

¹⁴⁹ Ibid.

¹⁵⁰ For a discussion on the contradictory approach of intervention for preserving “pristine nature” and how it affects natural resource management see: Laungaramsri, Pinkaew. (2002a). “On the Politics of Nature Conservation in

5.5 Gender in Natural Resource Management

"Gender relations are multi-stranded ... gender inequalities are multi-dimensional and cannot be reduced simply to the question of material or ideological constraint."¹⁵¹ Accordingly, the effect and role of gender in natural resource management is different. Often the bargaining power of women is not as strong as men which put them in a more vulnerable situation when natural resources that the community is dependent on are no longer accessible. In addition, there is sometimes an apparent contradiction between policies designed to protect the environment and those intended to improve local living conditions, and these contradictions also affect men and women differently due to their different roles in the collection and use of natural resource.¹⁵²

Gender roles within indigenous communities are changing continually as a result of state policies. It is necessary that any policy formulation take gender into account. There is a need to acknowledge the specific needs, perspectives, and roles of women in natural resource management in Thailand. Their active participation in decision-making and the equitable sharing of benefits between men and women is crucial for ensuring the long term sustainability of natural resource management.¹⁵³ In light of the many roles that women play, it is necessary to empower and impute them in natural resource management.

Thailand" Iss. 1. *Kyoto Review of Southeast Asia*. Oct. 2002. Found at <http://kyotoreview.cseas.kyoto-u.ac.jp/issue/issue1/article_168.html> (Visited 18. 11. 05).

¹⁵¹ Kabeer, N. (2003). *Gender Mainstreaming in Poverty Eradication and the Millenium Development Goals: A Handbook for Policy-makers and Other Stakeholders*. Hull: Canadian International Development Agency. p. 193.

¹⁵² Longa, Elizabeth. "Gender and the Environment". In *SPARK Strengthening Communities For Natural Resources Utilisation and Management: Proceedings Of A Regional Workshop*. SPARK.

¹⁵³ See Mikkelsen.

6. References

- APPIAH-OPOKU, Seth & HYMA B. (November 1999). "Indigenous institutions and resource management in Ghana." *Indigenous Knowledge and Development Monitor*, 7 – 3. Found at <<http://www.nuffic.nl/ciran/ikdm/7-3/appiah.html>> (Visited 18. 11. 05).
- Asia Center for Human Rights. (2005). "Thailand: Not so smiling to its indigenous hill tribes." *ACHR Review*. Review: /81/05. Found at <<http://www.achrweb.org/review2005.htm>> (Visited 18. 11. 05).
- Asia Pacific Center for Environmental Law. (1998) *APCEL Report: Thailand*. Singapore: National University of Singapore. Found at <<http://sunsite.nus.edu.sg/apcel/dbase/thailand/reportt.html>> (Visited 11. 09. 05)
- BANERJEE, Ajit Kumar. (1997). *Asia-Pacific Forestry Sector Outlook Study: Decentralization and Devolution of Forest Management in Asia and the Pacific*. Working Paper Series No: APFSOS/WP/21. Bangkok: FAO.
- BRENNER, Verena, *et al.* (1999, Rev. Edn.). "Thailand's Community Forest Bill: U-Turn or Roundabout in Forest Policy?." *SEFUT Working Paper No. 3*. Found at <http://www.freidok.uni-freiburg.de/volltexte/772/pdf/WP_3.PDF> (Visited 11. 09. 05).
- BROGE, Niels. *et al.* (2001). *Remote Sensing and Anthropological Methodologies for Assessment of Landuse History in Northern Thailand*. Working Paper No. 8. Research Centre on Forest and People in Thailand, Danish Institute of Agricultural Sciences. Found at <<http://www.forestandpeople.org/publicat/wp08.pdf>> (Visited 18. 11. 05).
- BUERGIN, Reiner. (2003). "Shifting frames for local people and forests in a global heritage: the Thung Yai Naresuan Wildlife Sanctuary in the context of Thailand's globalization and modernization." (375- 393). 34 *Geoforum* (2003).
- BUERGIN, Reiner. (2000). "'Hill Tribes' and Forests: Minority Policies and Resource Conflicts in Thailand." *SEFUT Working Paper no. 7*. Found at <http://www.sefut.uni-freiburg.de/pdf/WP_7e.pdf> (Visited 11. 09. 05).
- BUGNA, Sahlee, & RAMBALDI, Giacomo. "A Review of the Protected Area System of Thailand". (36 – 41). Vol. 1, No. 3. *Asean Biodiversity*. July – Sept. 2001.
- BUREEKUL, Thawilwadee. (2004). *Framework to Assess Communities' Political Participation in the Context of Decentralisation: Lessons Learnt from Three Case Studies*. Bangkok: UNDP.
- CHANTAWONG, Montree, *et al.* (2002). *Water Privatisation in Thailand*. Bangkok: Foundation for Ecological Recovery.
- CHOTICHAIPBOON, T. (1997). "Socio-cultural and Environmental Impact of Economic Development on Hill Tribes." (97-116). In MC CASKILL, D. & KAMPE, K. (Eds.). (1997). *Development or Domestication? Indigenous Peoples of Southeast Asia*. Chiang Mai: Silkworm Books.
- COLCHESTER, Marcus, & LOHMANN, Larry. (1990). *The Tropical Forestry Action Plan: What Progress?*. Penang: World Rainforest Movement.
- CUACHON, Nora. (2002). "Thailand: The Continuing Quest for Local Autonomy." In BRILLANTES JR., Alex B., & CUACHON, Nora G. (2002). *Sourcebook on Decentralization in Asia*. 143 – 149. Center for Local and Regional Governance, (CLRG) Working Paper Series 2002/02. CLRG, National College of Public Administration and Governance, University of the Philippines.
- DANIDA. June 2003. Joint Management of Protected Areas: Sub-component Description.

DENNIS, John V. (1997). *A Review of National Social Policies: Thailand*. New York: Sustainable Development Associates.

DJEDJE R.S., & KORFF, R. (2003). "Opium at the interface: Multiple realities at the Golden Triangle". Paper presented at the EIDOS conference on "Order and Disjuncture in Development." SOAS, September 2003. (*Draft*). Found at <<http://www.uni-hohenheim.de/entwicklungs-soz/publications/SOAS%20Opium.pdf>> (Visited. 18. 11. 05).

DURST, Patrick B., et al (Eds.). (2001) *Forests Out of Bounds: Impacts and Effectiveness of Logging Bans in Natural Forests in Asia-Pacific*. Bangkok: FAO. Found at<<http://www.fao.org/docrep/003/x6967e/x6967e09.htm#bm9>> (Visited 08. 12. 05).

GANJANAPAN, Anan. 2003. Complexity or Rights and Legal Pluralism in Participatory Watershed Development in Thailand (207-212). In JIANCHU, Xu, & MIKESELL, Stephen. (Eds.). (2003). *Landscapes of Diversity: Indigenous Knowledge, Sustainable Livelihoods and Resource Governance in Montane Southeast Asia. Proceedings of the III Symposium on MMSEA*. 25 – 28 August 2002. Lijiang, PR China. Kunming: Yunnan Science and Technology Press..

GANJANAPAN, Anan. (1997). "The Politics of Environment in Northern Thailand: Ethnicity and Highland Development Programs." (202-222). In HIRSCH, Philip (Ed.). *Seeing Forest for Trees: Environment and Environmentalism in Thailand*. Chiang Mai: Silkworm Books.

HENG SUWAN, Paiboon. (2003). "Contradictions on the Struggles over Resources and Contesting Terrain of Ethnic groups on the Hill in Protected Area, Chom Thong, Chiang Mai". Paper presented in the International Conference on "Politics of the Commons: Articulating Development and Strengthening Local Practices". RCSD, CMU. Chiang Mai. July 11- 14, 2003. Found at <http://eprints2.dlib.indiana.edu/archive/00001143/00/Paiboon_Hensuwan.pdf> (Visited 11. 09. 05)

Hill Tribe Welfare Department. (2002) *Highland Population Survey*. (2002). Chiang Mai: Hill Tribe Welfare Department, Thailand.

Inter-Mountain People Education and Culture in Thailand Association (IMPECT) & the Forest People Programme (FPP). *Customary Use of Indigenous Knowledge in Sustainable Biological Research Management by Indigenous Communities: Case Studies of Hmong and Karen*. (Forthcoming).

International Center for Environmental Management (ICEM). (2003). *Thailand: National Report on Protected Areas and Development. Review of Protected Areas and Development in the Lower Mekong River Region*. Indooroopilly, Australia: ICEM.

IUCN (1996) A review of the Thai Forestry Sector Master Plan. IUCN, Gland, Switzerland.

JANTAKAD, Prasong, & GILMOUR, Don. (1999). "Annex II: Forest Rehabilitation Policy And Practice In Thailand." *Workshop Proceedings On Rehabilitation Of Degraded Forest Ecosystems In The Lower Mekong Basin: Assessments Of Rehabilitation Policy And Practice In Thailand*. November 24-25, 1999. Chiang Mai, Thailand. Found at <[http://www.mekonginfo.org/mrc_en/doclib.nsf/0/543C0D5AFE2A816F472568FE002BB3F8/\\$FILE/ANNEX.html#ANNEX%202](http://www.mekonginfo.org/mrc_en/doclib.nsf/0/543C0D5AFE2A816F472568FE002BB3F8/$FILE/ANNEX.html#ANNEX%202)>. (Visited 11. 09. 05).

JINTANAKUL, Jira. (1998). *Towards sustainable forest management in Thailand*. Bangkok: Forest Research Office, Royal Forest Department.

JUNTARASHOTE, Kungwan. (2002). "Coastal Fishery Management Policy of Thailand, Philippines and Indonesia". In Sharing and Promotion of Awareness and Regional Knowledge (SPARK). *Strengthening Communities For Natural Resources Utilisation and Management: Proceedings of a Regional Workshop*. (15-24). SPARK 2nd Regional Workshop. October 28 - November 1, 2002. Ubon Ratchatani, Thailand.

KAOSA-ARD, Mingsarn Santikarn. (2000). *Ecosystem Management In Northern Thailand*. Resources Policy Brief. Washington DC: Resources Policy Initiative, Institutions and Governance Program. World Resource Institute.

KABEER, N. (2003). *Gender Mainstreaming in Poverty Eradication and the Millenium Development Goals: A Handbook for Policy-makers and Other Stakeholders*. Hull: Canadian International Development Agency.

KAMPE, Ken. (1992). "Northern Highlands Development, Bureaucracy and Life on the Margins." 33: 2 *Pacific Viewpoint*.

KESMANEE, Chupinit. & on Traditional Forest-Related Knowledge in Thailand" (341 – 363). In NEWING, Dr. Helen, *et al.* (2005). *Our Knowledge for Our Survival: Traditional Forest Related Knowledge and the Implementation of Related International Commitments*. Chiang Mai: International Alliance of Indigenous & Tribal Peoples of the Tropical Forests & Center for International Forestry Research.

KESMANEE, Chupinit. (1988). "Hill tribe Relocation Policy in Thailand". *Cultural Survival Quarterly*, Issue 12. 4 (December 31, 1988).

TRAKANSUPHAKORN, Prasert. (2005). "An Assessment of the Implementation of International Commitments

KITEWACHAKUL, Nitaya. (2005). "Common Property and Complexity of Local Rights System in Sopsai Watershed, Nan Province, Northern Thailand." Paper prepared for "Rural Common Property in a Perspective of Development and Modernisation", a Collaborative Study Organized by FAO Land Tenure Service, Collective Action on Property Rights (CAPRI) and International Land Coalition (ILC). Found at <http://www.dgroups.org/groups/fao/landcoalition/docs/25._Kijtewachakul_Thailand_sopsai_community.doc> (Visited 18. 11. 09).

LAUNGRAMSRI, Pinkaew. (2005). "Swidden Agriculture in Thailand: Myths, Realities and Challenges." *Indigenous Affairs* 02/05. International Work Group for Indigenous Affairs (IWGIA). fn. 3.

LAUNGARAMSRI, Pinkaew. (2002). "Competing discourses and practices of "Civil Society": a reflection on the environmental movement in Thailand and some implications for the Mekong Region." Paper presented at the Mekong Dialogue Workshop "International transfer of river basin development experience: Australia and the Mekong Region". 2 September 2002. Found at <<http://www.mekong.es.usyd.edu.au/events/past/Conference2002/pinkaew.pdf>> (Visited 12. 12. 05).

LAUNGARAMSRI, Pinkaew. (2002a). "On the Politics of Nature Conservation in Thailand" Iss. 1. *Kyoto Review of Southeast Asia*. Oct. 2002. Found at <http://kyotoreview.cseas.kyoto-u.ac.jp/issue/issue1/article_168.html> (Visited 18. 11. 05).

LAUNGARAMSRI, Pinkaew. (2001). *Redefining Nature: Karen Ecological Knowledge and the Challenge to the Modern Conservation Paradigm*. Chennai: Earthworm Books.

LAUNGRAMSRI, Pinkaew. (1997). "Reconstructing Nature: The Community Forest Movement And Its Challenge To Forest Management In Thailand." *Community Forestry at a Crossroads: Reflections and Future Directions in the Development of Community Forestry*. Proceedings of an International Seminar. Bangkok: RECOFTC.

LEE, Gary Y. (1987). "Minority Politics in Thailand: A Hmong Perspective." Paper presented at the International Conference on Thai Studies: Australian National University, 3-6 July 1987. Found at <<http://www.hmongnet.org/hmong-au/thaihmg.htm>> (Visited 11. 09. 05).

LEEPREECHA, Prasit. "The Politics of Ethnic Tourism in Northern Thailand." Paper presented at the Workshop on "Mekong Tourism : Learning Across Borders. Social Research Institute, Chiang Mai University. 25 February 2005.

LOHMANN, Larry. (2000). "For Reasons of Nature: Ethnic Discrimination and Conservation in Thailand." Found at <<http://www.thecornerhouse.org.uk/document/ethndisc.html>> (Visited 11. 09. 05)

LOHMANN, Larry. (1999). "Forest Cleansing: Racial Oppression in Scientific Nature Conservation". *Corner House Briefing* 13. Found at <<http://www.thecornerhouse.org.uk/item.shtml ?x=51969>> (Visited 11. 09. 05)

LOHMANN, Larry. (1993). "Translation Politics: Villagers, NGOs and the Thai Forestry Sector Master Plan." Found at <<http://www.thecornerhouse.org.uk/item.shtml?x=52224>> (Visited 11. 09. 05).

LONGA, Elizabeth. "Gender and the Environment". In SPARK Strengthening Communities For Natural Resources Utilisation and Management: Proceedings Of A Regional Workshop. SPARK. *Supra* n. 74.

MAKARABHIROM, Pearmsak. "Forestland Policy Revisited: Opportunities For Policy Reform Of Thailand." (*Mimeo*).

MAKARABHIROM, Pearmsak. (2002). Constraints on People's Participation in Forest Management in Thailand . Iss. 1. *Kyoto Review of Southeast Asia*. Oct. 2002. Found at <http://kyotoreview.cseas.kyoto-u.ac.jp/issue/issue1/article_170.html > (Visited 18. 11. 05).

MAKARABHIROM, Pearmsak. (2000). "The evolution of the policy making process: will there ever be a community forestry bill?" Volume 13.2. *Asia-Pacific Community Forestry Newsletter*. December 2000. Found at <http://www.recoftc.org/site/fileadmin/docs/publications/APCF_Newsletter/Volumn_13_No.2/Thai_update132.pdf> (Visited 18. 11. 05).

MAKARABHIROM, Pearmsak. (1999). "Forest Crime Management: A case study of forest law enforcement in Thailand. A case study of forest law enforcement in Thailand." Paper presented at the Mekong Basin Countries Symposium on Forest Law Enforcement. Held in Phnom Penh, Cambodia, 14-16 June 1999. Found at <[http://www.mekonginfo.org/mrc_en/doclib.nsf/0/068D6A8DD1C48346C72567E500235DE6/\\$FILE/FULLTEXT.html](http://www.mekonginfo.org/mrc_en/doclib.nsf/0/068D6A8DD1C48346C72567E500235DE6/$FILE/FULLTEXT.html)> (Visited 11. 09. 05).

MANEEKUL, Rachnee., *et al.* "The Community Forest Establishment Process: Case Study of Tho Saman Village, Song Watershed, Phrae Province, Northern Thailand." Song Watershed Interdisciplinary Research Project, Danish University Consortium on Sustainable Land Use and Natural Resource Management. Found at <<http://www.agsci.kvl.dk/sluse/research/thailand/song/Part4b.CommForestry.pdf>> (Visited 12. 12. 05).

Marine National Park Division at <<http://www.forest.go.th/nrco/english/mnnpd.htm>> (Visited 11. 09. 05).

MIKKELSEN, Caecilie. (2005). "Indigenous Peoples, Gender, and Natural Resource Management." *DIIS Working Paper No. 2005/5*. Jan. 2005. Danish Institute for International Studies. Found at <<http://diis.dk/sw17348.asp>> (Visited 11. 09. 05)

National Aquaculture Legislation Overview – Thailand. Inland Water Resources and Aquaculture Service. Found at <http://www.fao.org/figis/servlet/static?dom=legalframework&xml=nalo_thailand.xml> (Visited 18.11. 09).

National Park Division at <<http://www.forest.go.th/nrco/english/npd.htm>> (Visited 11. 09. 05);

NGAMCHAROEN, Chanchai. "Application of Participation approaches to Sustainable Rural Resource Management and Environmental Conservation in Thailand: A case of Phuphan National Park Buffer Zone. Report presented at the Tsukuba Asian Seminar on Agricultural Education, Nov. 6-12, 2001. Found at <http://www.nourin.tsukuba.ac.jp/~tasae/2001/Thai_2001.pdf> (Visited 12. 12. 05)

Office of Environmental Policy and Planning (OEPP). 2000. *Biodiversity Conservation in Thailand: A National Report*. Ministry of Science, Technology and Environment. Thailand.

ORLANDINI, Barbara. (2003). "Civil Society Engagement in Local Governance: The case of Thailand." In Institute for Popular Democracy. *Citizen Participation in Local Governance: Experiences from Thailand, Indonesia and the Philippines*. Found at <<http://www.ipd.ph/logolinksea/resources/SEA%20Regional%20Paper3.pdf>> (Visited 18. 11. 05).

PHAM, Tuong Vi. (2002). "Gender And the Management of Nature Reserves in Vietnam." Iss. 1. *Kyoto Review of Southeast Asia*. Oct. 2002. Found at <http://kyotoreview.cseas.kyoto-u.ac.jp/issue/issue1/article_165.html> (Visited 18. 11. 05).

PUGINIER, Oliver. (2002). *Planning, Participation and Policy: Hill Tribes Overcoming the Dichotomy Between Agriculture and Forest Preservation in Northern Thailand*. Eschborn: Deutsche Gesellschaft für Technische Zusammenarbeit. <http://www.iapad.org/publications/ppgis/TOEB_Planning_Participation_and_Policy_in_Thailand.pdf> (Visited 11. 09. 05).

PUGINIER, Oliver. (2002a) *Hill tribes struggling for a land deal: Participatory land use planning in northern Thailand amid controversial policies*. Dissertation, Humboldt University of Berlin. Found at <<http://edoc.hu-berlin.de/dissertationen/puginier-oliver-2002-05-16/PDF/Puginier.pdf>> (Visited 18.11. 05).

RAJCHAGOOL, Chaiyan. (1999). "Tambon Administration Organization: Are the People in the *Dramatis Personae* or in the Audience?". In *Participatory approach to transport infrastructure development, Transport and Communications Bulletin for Asia and the Pacific No. 69*. New York: UN. Found at <http://www.unescap.org/tdw/Publications/TPTS_pubs/TxBulletin_69/bulletin69_b.pdf> (Visited 18. 11. 05).

RASMUSSEN, J.N., et al. (eds.). (2000). *For whom and for what? Principles, Criteria and Indicators for Sustainable Forest Management in Thailand*. Holte: Danish Center for Forest, Landscape and Planning.

RERKASEM, K. and RERKASEM, B. (1994). *Shifting cultivation in Thailand: Its Current Situation and Dynamics in the Context of Highland Development*. London: International Institute for Environment and Development (IIED).

ROSS, Dr. William & POUNGSOMLEE Dr. Anuchat. 2003. "A Perspective on Thailand". (67-82). In *Advancing Environmental Governance: Perspectives from the Regional Environmental Forum for Mainland Southeast Asia*. Found at < <http://www.ref-msea.org/aeg.pdf>> (Visited 11. 09. 05)

SAELEE, Kamonphan. (2005). "Indigenous and Tribal Community Practices in the Sustainable Use and Management of Natural Resource and Biodiversity in Thailand." (*Mimeo*).

SIRIPHONGWANIT, Anuphong & LEAKE, Helen. "The issues facing indigenous and tribal peoples' agriculture in Thailand." *Social Justice Workshop: Proceedings*. Bangkok, Thailand. November 3-5 2003. Found at <<http://www.rafiusa.org/programs/Bangkok%20proceedings/14IssuesfacingThailand.pdf>> (Visited 18. 11. 05).

SUMARLAN, Yanuar. (2004). "How Participatory is Thailand's Forest Policy." (45-59). In KAZUHIRO, Harada & NANANG, Martinus (Eds.). (2004). *Policy Trend Report 2004*. Kanagawa, Japan: Institute for Global Environmental Strategies.

SUREERATNA Lakanavichian. (2001) "Impacts And Effectiveness Of Logging Bans In Natural Forests: Thailand." (167-184). In DURST, Patrick B., et al (Eds.). (2001) *Forests Out of Bounds: Impacts and Effectiveness of Logging Bans in Natural Forests in Asia-Pacific*. Bangkok: FAO. Found at<<http://www.fao.org/docrep/003/x6967e/x6967e09.htm#bm9>> (Visited 08. 12. 05).

SUBHADHIRA, Sukaesinee, et al. (2004). "The Economic Crisis and Rural Households in Thailand: Impact and Response". Vol. 42, No. 1. *Southeast Asian Studies* (June 2004).

Sustainable Development Foundation. (2003). *Sustainable Development Foundation: Project Implementation 1996-2003*. Found at < <http://www.globalgiving.com/pfil/878/projdoc.doc>> (Visited 18. 11. 05).

SYMONDS, Patricia V. & KAMMERER, Cornelia Ann. "AIDS In Asia: Hill Tribes Endangered at Thailand's Periphery." Issue 16.3 *Cultural Survival Quarterly*. (July 31, 1992)

Thailand: Country Case Study. *Regional Workshop on Indigenous Practices of Sustainable Land and Resource Management in Asian Highlands*. Chiang Mai, Thailand, December 2 – 5, 2002.

THONGCHAI, W., (2000). "The others within: travel and ethno-spatial differentiation of Siamese subjects 1885–1910."(38–62). In TURTON, Andrew.(Ed.), *Civility and Savagery: Social Identity in Tai State*. Richmond, Surrey: Curzon Press.

UNCHR, Sub-Commission on Prevention of Discrimination and Protection of Minorities. WGIP 10th Session. E/CN.4/Sub.2/AC.4/1992/4. (12 May 1992).

WATARU, Fujita. (2003). "Dealing with Contradictions: Examining National Forest Reserves in Thailand". Vol. 41, No. 2. *Southeast Asian Studies*. (206 – 238). September 2003.

Watershed Management Division at <<http://www.forest.go.th/nrco/english/wshmd.htm>> (Visited 11. 09. 05)

WITTAYAPAK, Chusak. (2003). "Community Forest in Thailand: A Representation of Power Struggles and New Social Movements." Vol. 6. No. 2 *Mekong Update & Dialogue*. April – June 2003.