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Journal of Southeast Asian Studies / Volume 34 / Issue 02 / June 2003, pp 329 - 346  
DOI: 10.1017/S0022463403000286, Published online: 06 June 2003

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### How to cite this article:

Jin Sato (2003). Public Land for the People: The Institutional Basis of Community Forestry in Thailand. Journal of Southeast Asian Studies, 34, pp 329-346 doi:10.1017/S0022463403000286

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## Public Land for the People: The Institutional Basis of Community Forestry in Thailand

Jin Sato

*This article begins by summarising the recent debate over the Community Forestry Bill in Thailand and traces the history of competition over public and communal land in that country. It is argued that community forestry that is truly beneficial for the locals must be based on an understanding of where common land is located within the multi-layered politics of power.*

Thailand is one of the few countries where communal rights to productive forests have no formal recognition. This does not mean that they are non-existent, however; in reality, we see many examples of communal forest use throughout the country, especially in the northern region.<sup>1</sup> This paradox, and the newly proposed Community Forestry Bill which is supposed to fill in the gap, are the subjects of this article.

The specific issue addressed here is the institutional basis of community forestry in Thailand with a focus on 'public land', which local people can access collectively to support their livelihood. With a majority of people living in the countryside, policies related to land use certainly have a significant impact on quality of life. Yet because state intervention regarding land use has been carried out by various government agencies without much coordination among them, repeated confusion and conflicts have occurred, not only between farmers and the state but also among the agencies themselves. The key agencies include the Royal Forest Department (RFD) and Agricultural Land Reform Office (ALRO) in the Ministry of Agriculture and Cooperatives and the Department of Lands under the Ministry of Interior.<sup>2</sup>

It is an interesting coincidence that the promulgation of the new constitution in September 1997, known as the 'democratic constitution', came right after a major economic crisis in July the same year. Popular participation in resource use and management, once considered merely as an instrument for rural development, is now viewed as a central force to help overcome the economic crisis. However, the official

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1 See, for example, Anan Ganjanapan, *Local control of land and forest: Cultural dimensions of resource management in Northern Thailand* (Chiang Mai: Chiang Mai University Faculty of Social Sciences RCSD Monograph Series, 2000).

2 The Thai government is undergoing a major reform, and the RFD was scheduled to move to the new Ministry of Natural Resources and Environment during the year 2002, while the ALRO will remain in the Ministry of Agriculture.

recognition of the people's right to participate does not necessarily correspond with the actual practice of resource control. In fact, the new constitution may have increased incidents of land conflict now that people stand a better chance of gaining at least something; the number of reported disputes over land control is increasing, notably with the massive and sustained protests in front of the Parliament by the 'Assembly of the Poor', formed in December 1995. In March 1997, an NGO supporting this demonstration identified 121 sites in the country where potentially violent conflicts between government and farmers were taking place. Among those sites, about 75 per cent involved the use and ownership of land and forests and 12 per cent were related to dam construction.<sup>3</sup>

Many observers of resource developments have come to realise that forest and land issues do not relate merely to the physical environment but are essentially social and political problems. Socio-political problems require socio-political solutions; top-down technical treatment such as reforestation or zoning has so far proven ineffective. Forest plantations, for example, have made little progress and domestic timber is constantly in short supply. (Oddly enough, in 1985 the amount of illegally logged timber confiscated by the court exceeded that of the legally produced product.)<sup>4</sup> The alternative bottom-up approach of strengthening the community's organisational capacity, on the other hand, may also fall short in the face of state power where the competition for land-based resources is concerned. In Phattalung province, for example, villagers intimidated by the extractive activities of outsiders attempted to call the RFD for help, only to find out later that their local forest had been declared a national park. Ironically, the villagers who wanted to protect the forest were the first to be expelled.<sup>5</sup> It is futile to debate whether villagers have the capacity to manage or conserve a forest once they have been deprived of their incentive to do so.

In light of these considerations, it is not enough to seek sustainable forest use with an exclusive focus on the village-level mechanics of collective action, as has been effectively demonstrated by Elinor Ostrom and others. As will be discussed below, all forests are by definition legally under the ownership of the state; the relationship between resources and people must therefore be properly examined in the context of a broader political economy.<sup>6</sup> A much-debated political solution to resource problems, especially since the 1990s, has been the transfer of resource management responsibilities from the

3 Samacha Khon Chon [Assembly of the Poor], *Samacha khon chon* (Bangkok: Samacha Khon Chon, 1997). On this movement see Chris Baker, 'Thailand's Assembly of the Poor: Background, drama, reaction', *South East Asia Research* 8, 1 (2000): 5-29. An overview of popular participation is in Shigetomi Shinichi, 'Noson kaiatsu seisaku' [Rural development policy], in *Tai no keizai seisaku: Seido, soshiki, akuta* [Economic policy in Thailand: The role of institutions and actors], ed. Suehiro Akira and Shigeki Higashi (Tokyo: Institute of Developing Economies, 2000), pp. 215-58.

4 Royal Forest Department, *Forestry statistics of Thailand* (Bangkok: Royal Forest Department, 1996). General discussions of this issue include Piers Blaikie, *The political economy of soil erosion in developing countries* (Harlow: Longman, 1985); William Ascher, *Why governments waste natural resources: Policy failures in developing countries* (Baltimore: Johns Hopkins University Press, 1999); and Michael L. Ross, *Timber booms and institutional breakdown in Southeast Asia* (New York: Cambridge University Press, 2001).

5 Chakrit Ridmontri, 'The pros and cons of the Bill', *Bangkok Post*, 19 June 1997.

6 Elinor Ostrom, *Governing the commons: The evolution of institutions for collective action* (Cambridge and New York: Cambridge University Press, 1990). For similar examples elsewhere in Thailand, see Jin Sato, 'People in between: Conversion and conservation of forest lands in Thailand', *Development and Change*, 31, 1 (2000): 155-77.

state to the hands of local communities. In Thailand, the enactment of a 'Community Forestry Bill' is considered as one such solution to the problems of deforestation and social justice.<sup>7</sup>

Of course, it would be naïve to expect that another new piece of legislation will result in a radical shift in power relations, particularly between the people and the state. However, since the Community Forestry Bill can potentially help thousands of people living in and around the forests, the current debate and the history behind it deserve closer attention. This article will discuss the development of the concept of 'public land' and its implementation to serve the people living near state-owned resources. Community forests can be seen as one example of a struggle for resources taking place on public land. To fully grasp the implications of the Bill, it is necessary to understand the history and the place of these forests within the broader context of public land.

The discussion will first summarise the recent debate over the Community Forestry Bill, and then trace the history of competition over land and forests with a focus on policies that have affected public and communal lands. The final section examines the institutional foundation and the prospects for the development of community forestry in Thailand.

#### **Debates over the Community Forestry Bill**

The opinions of scholars, activists and those involved with the formulation and implementation of policy in Thailand regarding the link between forests and local people appear to be divided into two groups. The first views local people as a threat to forests and gives overall priority to ecological preservation in the interest of the state as a whole. Thus, from this perspective, forests should be 'protected' from local people. The second view emphasises the rights of local people to stay where they are and attempts to find a balance between meeting local needs and achieving conservation objectives. These two opposing points of view even create divisions among various government agencies and NGOs. This contrast became more salient in the long process of drafting the Community Forestry Bill, which has yet to be enacted. Since the completion of a first draft by the RFD in 1992 and the subsequent counter-proposal of a 'People's Version' by a coalition of activists and NGOs in the following year, there have been six versions all together.<sup>8</sup>

The Bill contains rules and regulations regarding the use of state-owned forests by local community members, and it is the first piece of legislation to be proposed by a petition of more than 50,000 voter signatures as allowed by the most recent Thai constitution. Under this bill, local communities interested in establishing community forests are required to organise a committee which will be responsible for overseeing forest-related activities for the purpose of conservation and sustainable utilisation in a participatory fashion.

7 G. Johnson and T. Forsyth, 'In the eyes of the state: Negotiating a "rights-based approach" to forest conservation in Thailand', *World Development*, 30, 9 (2002): 1589-603. For a discussion in a regional context see Owen J. Lynch and Kirk Talbott, *Balancing acts: Community-based forest management and national law in Asia and the Pacific* (Washington, DC: World Resources Institute, 1995).

8 For the history of debates related to community forestry, see Johnson and Forsyth, 'In the eyes of the state' and M. Pearmsak, 'Forestland policy revisited: Opportunities for policy reform of Thailand', paper prepared during the International Writing Workshop on Community Management of Forestlands: Policy Frameworks for Enabling Successful Community Based Resource Management Initiatives, East-West Center, Honolulu, 2001.

In October 2001, the Lower House passed the Bill, including the controversial Article 18 allowing the establishment of community forestry inside protected forest areas, thus incorporating the spirit of the 'People's Version'. It is likely to face further modification, but it may still be helpful to highlight the major points of dispute by looking at the recent revision process of the Senate.<sup>9</sup>

**TABLE 1**  
Modification of the House version by the Senate

Contentious Articles in the Draft CF Bill	House Version	Panel Version Proposed to the Senate
Article 18 Who can apply for a community forest?	50 people over 18 years old	100 people over 18 years old
Establishment of community forest in protected forests	Eligible communities must consist of indigenous people who have been protecting the forest for at least five years before filing an application	Eligible communities must be indigenous people who have been protecting the forest for at least five years before the bill takes effect
Article 29 Expansion of community forest area	Each community forest board may allow expansion of community forest area if the need can be demonstrated	Expansion of community forest is prohibited
Article 31 Gathering of trees and wild products in the community forests	Not restricted, nor subject to existing forestry-related laws	Restricted under existing forestry-related laws (permission needed from RFD)

Source: Secretariat of the Senate, *Raingan*.

On 15 March 2002, the Senate made a vote to approve the panel version with an additional crucial clause to the modification on Article 18, stipulating that 'community forests should not be allowed inside the protected forests'.<sup>10</sup> From the perspective of those

9 The scrutinising panel was composed of twenty-seven members including representatives from NGOs; Secretariat of the Senate, *Raingan khong Khanakammathikan Wisaman Phicharana rang Phraratchabanyat Pa Chumchon Pho.So. ... Wutisapa* (Bangkok: Secretariat of the Senate, 2002). The House and Senate panels had different members. Some say the hard lobbying at the Senate by opponents of the bill brought panel members who were basically against the idea of allowing community forest inside protected forests.

10 Kultida Samabuddhi, 'Senators add crucial clause before giving passage to bill', *Bangkok Post*, 16 March 2002.

who supported the Lower House version, this was a disappointing result, even worse than the stricter modification made by the Panel for the Senate. The bill has now been returned to the House to be considered again. If the House changes its resolution and supports the Senate's version, the bill will be promulgated; if not, a joint Senate-House panel must be set up to reconsider the bill.

Critiques of the Senate version highlight four problems with regard to Article 18: (1) small communities having less than 100 adult members would be excluded from the application; (2) a significant number of community forests are operating mainly inside the protected areas and excluding them would take the teeth out of the bill; (3) new groups who wish to apply after the promulgation of the bill, no matter how capable and suitable, would automatically be disqualified to establish community forests; and (4) restricting people's rights goes directly against the spirit of the new constitution, especially Article 46, which explicitly encourages the participation of indigenous people for natural resource management. Moreover, the reality is that there are still thousands of people living inside the protected areas, as can be seen from Table 2 below.

**TABLE 2**

Number of farmers cultivating and residing inside and around wildlife sanctuaries (as of 1998)

Region	Number of protected areas	Both residence and farmland inside the protected area			Residence outside but farmland inside		
		No. of households	Population	Area*	No. of households	Population	Area*
Central	9	2,832	10,313	94,029	1,163	4,483	39,686
North	16	8,352	42,300	103,930	538	1,754	11,845
South	13	2,368	21,181	157,359	7,503	28,366	113,835
Northeast	-	1,359	5,851	49,223	3,180	15,156	95,564
<b>Total</b>	<b>38</b>	<b>14,911</b>	<b>79,645</b>	<b>404,545</b>	<b>17,109</b>	<b>78,902</b>	<b>295,340</b>

\* Area given in *rai* (1 *rai* = 0.16 ha)

Source: *Kaisarung Phunphon*, Kanbukruk phua khong phuenthi khong ratsadon nai khet raksaphan satpa (Bangkok: RFD Report, 2542/1999), p. 40.

Given the Senate's refusal to allow the establishment of community forest inside protected areas, the definition of such an area is particularly important. If 'protected area' only refers to national parks and wildlife sanctuaries, this will amount to approximately 15 per cent of the country. On the other hand, if it includes 'conservation zones' as defined by the Cabinet resolution, the total figure is 27 per cent, which would affect a far larger number of people than those represented in Table Two.

The Panel version proposed to the Senate included the definition of protected areas as: national parks, wildlife sanctuaries, non-hunting areas and other lands suitable for protection such as watersheds and places with environmental value stipulated by the Ministry regulations.<sup>11</sup>

11 Secretariat of the Senate, *Raingan*.

The words 'suitable for protection' were added to the Lower House version, implying the possibility of future expansion of the term 'potential area' and thus limiting the area available for community forests given the stipulations in the approved version.

Defining 'protected area' is as important as allowing the establishment of community forests inside it. To understand what is worth 'protecting' from the view of the state is to understand the state's view of what is worth leaving aside for the ordinary people. In reality, the 'state' is composed of various agencies with different mandates and objectives. In order to understand the context behind the emergence of such often conflicting policies, let us move on to examine the evolution of their programmes.

### History of state control of 'public land'

Thailand has increased its agricultural production through territorial expansion with very little reliance on intensification.<sup>12</sup> The land area allocated for agriculture doubled between 1910-40 and tripled again between 1940-70. Reduction of forest areas has been clearly detected by satellite images, particularly since the 1970s. Official statistics reveal that the 38 per cent forest cover in 1970 had shrunk to 25 per cent by 1998. Even the often underestimated official figures show that Thailand has lost 50 per cent of its forest in the past 30 years.<sup>13</sup>

Scarcity of land has introduced changes in tenure patterns in Thailand. In most places the traditional right to land was limited to usufruct (สิทธิครอบครอง): rights were given to the current user of the land, and the concept of ownership in a modern sense was absent. Locally known as 'squatter's rights' (จับจอง), this system continued to be practised in many places until a clear private ownership system was introduced. Even today, many of the cultivators possess no legal documents of ownership despite their *de facto* private use.<sup>14</sup> This ambiguity of ownership in rural society, particularly in collective lands such as communal forests, religious forests, and fallow farmland, has made it possible for the government to confiscate these lands as state territory with ease.

During the rapid privatisation of agricultural lands, the Thai government paid little attention to unoccupied areas except for those that contained valuable resources such as teak. Management of public land became an issue only when there were conflicts between illegal encroachers and the regional forestry officials trying to maintain the boundaries of forest reserves.<sup>15</sup> This tended to evolve into a political agenda, particularly

12 Rodolphe De Koninck and Steve Déry, 'Agricultural expansion as a tool of population redistribution in Southeast Asia', *Journal of Southeast Asian Studies*, 28, 1 (1997): 15.

13 Royal Forest Department, *Forestry statistics of Thailand* (Bangkok: Royal Forest Department, 2000). On the technical and political biases of these government statistics, see Lynch and Talbott, *Balancing acts*.

14 General discussions of legal issues relating to land tenure are in David Feeny, 'The decline of property rights in man in Thailand, 1800-1913', *The Journal of Economic History*, 49, 2 (1989): 285-96; Jeremy Kemp, 'Legal and informal land tenures in Thailand', *Modern Asian Studies*, 15 (1981): 1-23. Based on the latest available data on private land holdings, land with full ownership title (โฉนด) amounted to 54 million *rai*, which is only about 30 per cent of all cultivated area. For the historical separation of usufruct and ownership rights, see Kitahara Atsushi, 'Kindai Tai no tochi hosei: Senzen no tochi hotaiki ni kansuru ichishiron/Land registration in modern Thailand: A sketch to [sic] the prewar system of land policy' (Tokyo: Institute of Developing Economies internal document, dated 1971). It is important to note that even full title to land does not include ownership of certain valuable trees on that land. According to the Forestry Act (1941), one is required to obtain permission from the local forestry official before cutting certain species such as teak and *yang* (*Dipterocarpus*), even those growing on one's registered land.

15 Donald Gienty, *Thailand's forest development and its effect on rural peoples* (Bangkok: United States Operations Mission, 1967).

when the government became more sensitive about farmers' occupation of its land. Conflicts between farmers and officials have stimulated successive governments to strengthen their protection measures, and areas with valuable natural resources have been the first places to be 'protected' in this way.

The purpose of the 1964 National Forest Reserve Act was to legalise 'permanent forests' (ป่าถาวร) mapped on paper and to accelerate demarcation by the state. This law allowed forests to be designated as 'reserves' without a royal decree. The latest statistics show that forest reserves (45 per cent of total land) represent almost twice the area covered by actual forest, making it clear that the word 'reserves' is void of meaning.<sup>16</sup> Particularly since 1989, when the government declared a ban on commercial logging, rights to areas formerly designated for concessions have become ambiguous; this development has encouraged widespread encroachment on those lands by landless farmers. The government is now confronted with the critical task of curtailing further 'environmental refugees' from moving into the protected forests or settling in urban slums.

Diminishing forest resources and the expansion of protected areas have altered the nature of forest administration in Thailand. Forest reserves in the traditional sense were patches of forest waiting to be harvested. The mandate of the RFD was therefore to manage these reserves in an economically profitable way by allocating concession rights and receiving royalties. However, the depletion of forest lands and the banning of commercial logging in 1989 created both a financial and an identity crisis for the Department, as it was forced to transform its mandate from one of production to one of protection.<sup>17</sup>

It is interesting to observe, however, that the RFD has been able to increase its budget and staff dramatically, particularly since the ban in 1989. For example, its total budget more than doubled between 1990 and 1994. The rapid expansion of protected areas has been crucial for the Department's sustainability as a bureaucratic institution; scattered around the country, these areas are virtually its regional colonies.<sup>18</sup> With exclusive autonomy inside the protected forests and backed by the power of the law, chief officials in these areas often obtain enough power to profit on the side, as seen in the notorious illegal logging case in Salween National Park in Mae Hong Son province. In these areas, an increase in budget was justifiably requested to supply and strengthen local forest guards and to enhance monitoring capabilities. Protection of forests was advocated not only on the basis of environmental objectives, but also as a way to attract foreign assistance. An increase in the availability of economic assistance and the expected income

16 Royal Forest Department, *Forestry statistics* (2000). The National Forest Reserve Act does stipulate (Article 16) that those who had lived there before demarcation can apply for permission to use land inside the reserve. However, the Act allows only 90 days after the demarcation to file an application, and it is unlikely that villagers in remote areas could meet this deadline.

17 Royal Forest Department, *Forestry statistics* (1996).

18 Chiefs of wildlife sanctuaries and national parks as well as regional forest offices covering multiple provinces are not required to report to the governor of their respective province. Provincial forestry offices, on the other hand, are officially under the authority of the governor, who is in turn under the Ministry of Interior. See also the discussion in Peter Vandergeest, 'Mapping nature: Territorialization of forest rights in Thailand', *Society and Natural Resources*, 9 (1996): 159-75 and *idem.*, 'Property rights in protected areas: Obstacles to community involvement as a solution in Thailand', *Environmental Conservation*, 23, 3 (1996): 259-68.



from tourism have been some of the basic motivations behind the expansion of protected areas.<sup>19</sup>

As long as control over land rests with the RFD, another increasingly significant source of income has been the process of granting land use permits. Since 45 per cent of Thailand's total landmass is classified as reserves, companies and state agencies cannot initiate any project without seeking RFD permission. Table 3 shows the distribution of permissions given to various projects inside the forest reserves.<sup>20</sup>

**TABLE 3**

List of permits for the use of land inside the forest reserves

Objectives	No. of Cases	Rai
Blasting and crushing of rocks	305	2,908
Mining	1,839	303,939
Road construction	963	297,537
Electricity generation	376	81,253
Irrigation	1,662	841,486
Educational projects	1,167	91,625
Religious facilities	698	29,517
Agriculture and recreational areas (1)	1,408	2,187,181
Government facilities	430	215,418
Research	59	69,128
Trespassing, grazing, watering	97	1,085
Conservation of forest reserves	70	85,609
Tree plantations	340	265,011
Others (e.g., waste disposal)	921	951,235
Total	10,335	5,422,938

(1) This does not include land reform areas.

Source: Data provided by the RFD Permit Division, August 2002.

Competition for land has intensified due not only to population increase but also to large-scale projects by state and private agencies. This explains why the RFD has not lost its standing despite the rapid decrease of forest cover, and has even expanded its budget and manpower after the logging ban. Understanding how the Department sustains itself provides important insight into its opposition to handing over the control of land to local people.

19 Krishna Ghimire, 'Parks and people: Livelihood issues in national parks management in Thailand and Madagascar', *Development and Change*, 25 (1994): 195-229. Achara Rakyutitham, 'Forest fire: A history of repression and resistance', *Watershed*, 6, 2 (2001): 35-42 gives an insightful analysis of how firefighting has served to justify the RFD's suppression of shifting cultivators who use fire.

20 Under new regulations implemented since 2000, those who are granted the permits have to pay a royalty of 7,220 *baht* per *rai* as compensation for the damage to the land and the cost of restoration. For mining projects the royalty will be three times as much; Royal Forest Department, *Banthuek khokhwam Ko. So 0704.5w 16374*, 3 July 2002.

### Degraded forests for the people: land reform and forest conservation

As struggles for control of land intensified, land ownership became highly competitive among the different departments in the government, particularly where property demarcation was still vague. These areas, typically called degraded forest (ป่าเสื่อมโทรม), were formerly covered with forest but have now been transformed into agricultural land. Most of this land is legally owned by the state and has been designated by the RFD for future plantation sites or handed over to the Agricultural Land Reform Office to be distributed to the landless poor. The status of this land is therefore ambiguous and controversial in many ways. The precise number of farmers actually living on these lands is uncertain, and estimates vary between 1.5 and 8 million (from about 2 to 13 per cent of the total population respectively).<sup>21</sup>

There are numerous examples of acute conflicts between farmers and the government over these degraded forests, the most publicised being the land allotment project for poor farmers living in forest reserves under the *Kho. Cho. Kho* (National Rural Development Committee) scheme in 1991. This project, carried out by the military, aimed to evict farmers from forest reserves by compensating them with a small piece of land elsewhere. According to the original plan, more than 250,000 households – about 1 million people – were to be relocated by the end of 1996. However, strong protests by the farmers at the early stage of the plan forced the government to cancel it. The end of Thailand's Communist insurgency and the lure of potential profits from eucalyptus plantations led the RFD to align itself with paper pulp companies supported by the military, and many farmers were displaced from their dwellings to make way for eucalyptus trees. These developments are said to have helped the military to reclaim its presence after the fading of the Communist threat in the 1980s.<sup>22</sup>

In an attempt to protect the remaining forest area from further encroachment, the government implemented certain 'participatory' projects that gave various degrees of land rights to farmers illegally residing on state-owned land. Projects that took place in the forest reserves were implemented by the following governmental agencies without much coordination among each other: (1) plantation and forest village (หมู่บ้านป่าไม้) projects by the RFD; (2) plantation programmes by the Forest Industry Organisation (FIO); (3) the land reform programme by the Agricultural Land Reform Office (ALRO); (4) self-help settlement projects by the Department of Public Welfare (DPW); (5) and cooperative land allotment projects by the Department of Cooperative Promotion (DCP).<sup>23</sup>

21 Scott R. Christensen, and Akin Rabibhadana, 'Exit, voice and the depletion of open access resources: The political bases of property rights in Thailand', *Law and Society Review*, 28, 3 (1994): 639-55. Owen Lynch and Janis B. Alcorn, *Empowering local forest managers: Towards more effective recognition of tenurial rights, claims and management capacities among people occupying 'public' forest reserves in the Kingdom of Thailand* (Washington, DC: World Resources Institute, 1991). Larry Lohmann estimates the area of this category of land at about 5,600 km<sup>2</sup>, which is approximately 10 per cent of the total land area; Larry Lohmann, 'Freedom to plant: Indonesia and Thailand in a globalizing pulp and paper industry', in *Environmental change in South-East Asia: People, politics and sustainable development*, ed. Michael Parnwell and Raymond Bryant (London: Routledge, 1996), pp. 23-48.

22 Pasuk Phongpaichit, *The army's land redistribution programme in forest reserves: Case study of the active exclusion of poor villagers in Northeast Thailand* (Bangkok: Chulalongkorn University Faculty of Economics, 1995). The main cause of resistance was not the environmentally harmful nature of fast-growing eucalyptus plantations, but rather the locations which the government chose for planting. Even those lands long cultivated by local villagers were assigned as plantation areas, and in many cases natural forests were destroyed to make room for the mono-crop plantation sites.

23 Many of these projects took place inside or next to forest reserve areas. Forest villages, self-help

Among the projects that took place in the forest reserves, the most significant is the land reform programme implemented by the ALRO, a scheme whereby the government obtains unused land from landlords or state-owned areas and distributes it to landless farmers.<sup>24</sup> In addition, the ALRO will support the development of infrastructure (e.g., pond digging, road construction) along with the provision of land certificates. The land to be obtained was originally sought from large-scale landlords. However, it soon became apparent that obtaining land from powerful landlords would be politically difficult, and even if it were possible, this group could not supply as much land as was needed. Since the mid-1980s, the government has shifted its attention to forest reserves as a potential source of land to be given to the landless. This move has naturally motivated some capital investors to encroach further onto forest land; as a result, the attempted 'reform' has in some cases intensified the concentration of land in the hands of the elite.<sup>25</sup>

Most of the other projects mentioned above are no longer being funded, even those by the RFD. The cabinet resolution of 4 May 1993 ordered the ALRO to be primarily responsible for land allocation projects related to forest reserves. Because these are state-owned lands, the RFD projects inside the reserves could only give farmers usufruct rights and not full ownership title. Land reform, on the other hand, allowed farmers to obtain their own land with certain restrictions; in other words, it was a mechanism for farmers to reclaim rights over ambiguous public lands. Table 4 shows the increase in the number of landless farmers in Thailand. With the decline in economic growth from the late 1990s, and the increasing difficulty of finding jobs in the cities, the problem of rural landlessness is re-emerging as one of the key items on the development agenda.

settlements, and land allotment projects that began during the late 1960s and 1970s were often tied to national security concerns, particularly Communist insurgency. Conservation and restoration of forests merely served as pretexts for mobilising local villagers to counter insurgents who were often hiding in remote forest areas. As a result, many of the forest village projects took place along the borders of Laos and Cambodia; James Hafner and Yaowalak Apichatvullop, 'Farming the forest: Managing people and trees in reserved forests in Thailand', *Geoforum*, 21, 3 (1990): 331-46. In short, these projects were derived from the political agendas of various state departments to enhance their bureaucratic status in the government and lacked coordination, which in many cases actually induced further forest clearance, despite the purported objective of environmental conservation; see Harald Uhlig, 'Spontaneous and planned agricultural settlement: A general view of the present clearing-colonisation in the ASEAN Countries of Southeast Asia', in *Spontaneous and planned settlement in Southeast Asia: Forest clearing and recent pioneer colonization in the ASEAN countries and two case-studies in Thailand*, ed. Harald Uhlig (Hamburg: Institute of Asian Affairs, 1984), pp. 6-118.

24 Under this scheme, farmers can obtain the usufruct rights for up to 50 *rai* of land and the certificate can be used as a collateral to obtain credit from banks. In 1994, about 200,000 households received the ALRO certificate; Prasong Charasdamrong, 'The land of no return', *Bangkok Post*, 16 Feb. 1997. To be eligible for land reform, an area must (1) be state land (i.e., forest reserve); (2) not be covered by forest; (3) be generally suitable for agriculture; (4) not be vulnerable to soil erosion; and (5) contain a high proportion of landless farmers (including smallholders and farmers without any certificate); Thai Development Resource Institute, *Identification of potential land reform areas in Chantaburi Province, final results, main report* (Bangkok: TDRI, 1989), vol. I, p. 1414.

25 Prasong, 'Land of no return'.

The connections between forest conservation policies and land reform merit a closer look. Strengthening conservation (to cover up to 25 per cent of the total land) and accelerating land reform have been central objectives of the government for the past several decades. To reconcile these possibly conflicting objectives, the RFD has conducted a detailed zoning operation inside the forest reserve areas since the late 1980s. The zones are classified into three categories: (1) conservation (C) zones for protection; (2) economic (E) zones for plantation and utilisation; and (3) agricultural (A) zones to be transferred to the ALRO for distribution (see Table 5). The results of this zoning exercise were used as a guideline to be followed in the Seventh National Social and Economic Development Plan (1992-6) in which a specific target of 25 per cent was given for conservation zones.

**TABLE 4**

The number and proportion of landless farmers in Thailand (1987-91)

Holdings	1987	1991
Landless (0 <i>rai</i> )	463,635 (8.2%)	500,398 (7.8%)
Nearly landless (less than 5 <i>rai</i> )	576,019 (10.1%)	828,265 (13.1%)
Smallholdings (5-10 <i>rai</i> )	670,015 (11.8%)	818,194 (12.8%)
More than 10 <i>rai</i>	3,982,197 (70%)	4,246,212 (66.4%)
Total	5,691,866 (100%)	6,393,069 (100%)

Note: 1 *rai*=0.16 ha

Source: S. Chirapanda, *The Thai land reform programme* (Bangkok: ALRO, 1996).

**TABLE 5**  
Zoning by the RFD

Categories	Conservation (C) Zone	Economic (E) Zone	Land Reform (A) Zone
<b>Criteria</b>	The land in this zone is covered with forest trees that are healthy and suitable for preservation. If RFD follows its customary practice, these areas will be listed as appropriate for designation as national parks or wildlife sanctuaries.	The forests on land in these zones have been degraded, but the soil's capability assessment indicates that these areas are not suitable for cultivation of rice or upland crops. The areas are suitable for the cultivation of tree crops, particularly forest tree plantation crops.	The lands in this zone have been deforested and are occupied by permanent settlers. The communities are permanent and people are cultivating a combination of rice, upland cash crops and permanent tree crops. These areas have been designated to be degazetted following normal procedures and will be taken out of the forestry sector.

Source: MIDAS Agronomics, *Study of conservation forest area demarcation, protection, and occupancy in Thailand* (Bangkok: prepared for the World Bank, 1991), Vol I, Appendix II, p. 1.

**TABLE 6**  
Distribution of Lands based on RDF Zoning

Category of Land	Area (millions of <i>rai</i> )	Percentage
National Forest Reserves	147.34	45.9
Conservation forests (C zone)	88.23	27.5
Good forests	71.56	22.3
Forests for rehabilitation	7.85	2.4
Other land uses	8.82	2.8
Economic forests (E zone)	51.89	16.2
Good forests	8.82	2.8
Forests for rehabilitation	15.46	4.8 (to ALRO)
Other land uses	27.61	8.6 (to ALRO)
Land reform areas (A zone)	7.22	2.2
Good forests	0.16	0.0
Forests for rehabilitation	0.4	0.0
Other land uses	7.2	2.2
Land outside forest reserves	173.35	54.0
Good forests	4.89	1.5
Forests for rehabilitation	1.44	0.4
Other land uses	167.02	52.1

Source: Ministry of Agricultural Cooperatives and Royal Forestry Department, *Thailand forestry sector master plan*, vol. 5: *Subsectoral plan for people and forestry environment* (Bangkok: RFD, 1993), p. 29.

These tables clearly show the problems that arise from this zoning method. The most important issue is what will happen to farmers living inside C and E zones. The growing political power of NGOs working against forced relocation together with the basic lack of land where these people could relocate have created certain tensions over state-owned forest land. As a result of protests by farmers and NGOs, the government did issue a Cabinet resolution in May 1993 which basically allowed those farmers who could prove that they had been living in protected areas prior to demarcation to remain. This resolution was revoked a few years later, however, when there were changes in political circumstances. The basic underlying fact is that there is no land available for those who have been evicted. The government is now forced to recognise the presence of 'illegal encroachers' on state land by issuing them land certificates to curtail further encroachment – though it has taken a long time to reach that point.

The May 1993 resolution transferred jurisdiction over land amounting to 44 million *rai* (about 30 per cent of total forest reserves) from the RFD to the ALRO in order to accelerate the land reform programme. The potential for these degraded forests to become plantation sites and land to be given to landless farmers naturally created tension between two offices. The conflict became clear when an agreement was made in August 1995 which explicitly stipulated that areas defined as forest would now have to be returned to RFD control.<sup>26</sup> Previously there had only been an informal agreement which instructed the ALRO to maintain roughly 20 per cent of the land under forest cover either by planting or by conserving existing forests that remained inside the land reform area. (This 20 per cent was never demarcated on the map, as will be explained below.) The ALRO had no obligation to return those forest lands to the RFD. Based on this agreement, however, approximately 10,000 million *rai* are now being surveyed.<sup>27</sup>

The fact that the RFD was forced to give away 30 per cent of its territory to the ALRO clearly demonstrates the consequences of forest mismanagement by the state. Demarcation that reflects the politics of departmental interests instead of those of local villagers is bound to fail. Technical solutions unable to address the inherently political nature of the problem have led to further deterioration of the forests. It is in this context that one must understand the nature and significance of the Community Forestry Bill under discussion.

#### **Public land for the people**

The government's effort to artificially demarcate state forests and private farmlands has proven unrealistic since many of the rural people, especially the poor, rely on forest resources on a daily basis. According to the present system, the richer the forest, the more difficult it is for local people to utilise it. The new regulations imposed by the RFD would be stricter in forests that are rich enough to attract local people for their daily use. If this

26 Categories of land to be returned to the RFD are (1) land covered with forest; (2) land not suitable for agricultural production; (3) ecologically vulnerable areas; (4) areas to be protected as communal forests; (5) land with an average slope of more than 35 degrees; (6) watershed areas; (7) land that goes under the supervision of the RFD according to the law and regulations; (8) mangrove forests; and (9) degraded forests that have not yet been cultivated by farmers. See Royal Forestry Department and Agriculture and Land Reform Office, *Bantheuk khotoklong rawang Krom Pamai lae Samnakngan Pathrup Thidin* (Bangkok: RFD, 2538/1995).

27 Somtheep Lacharot and Theeparit Koyphokhaisawon, 'Pa kap khon', unpublished manuscript (Royal Forest Department, 1997).

is the case, one might ask where within the present administrative boundaries a forest can be found that might provide enough incentive for local people to enforce and coordinate resource management at the village level. From a legal perspective, the only law that defines collective space for the people is the Civil and Commercial Code of 1932; Article 1304 refers to land that is a 'public asset of the nation' (สาธารณสมบัติของแผ่นดิน). There are three categories mentioned: (1) degraded vacant land (ที่ดินรกร้างว่างเปล่า); (2) assets to be used collectively by the citizens (ทรัพย์สินสำหรับพลเมืองใช้ร่วมกัน); and (3) assets exclusively for the national interest (ทรัพย์สินเพื่อประโยชน์ของแผ่นดินโดยเฉพาะ), namely facilities for military purposes. The first category can be privatised if one follows the appropriate legal procedures, while the second can be protected from privatisation. However, examples given in the code refer only to roads, lakes and coastlines, not to forests. Also, it is important to note that common lands in the past were designated not to protect the communal or collective rights of villagers but to secure the openness of the resources to prevent them from falling into private hands.<sup>28</sup>

The official origin of the community forest concept in Thailand appears to support the above mentality. As early as the 1950s, there was an explicit reference to the importance of communal forests: in 1956, as an appendix to the 1954 land code, the Ministry of the Interior issued an informal agreement among the land-related departments regarding the procedures that all land allotment projects should follow. The agreement made explicit that when the government redistributed part of the state land to the people, approximately 20 per cent of the land should be kept as forest to be used by the local people. 'Forests' in the agreement included trees along the roads, those serving as a windbreak, and those located near residential areas to be used for construction and firewood. Although this guideline was never strictly implemented, this recognition in an official document of the need for community forests deserves attention.<sup>29</sup>

One might ask why the government promoted this kind of arrangement, given the fact that in the 1950s there must have been an abundance of forest surrounding farmland. A plausible explanation was provided by a retired Director-General of the Department of Land in an interview with the author. According to him, the creation of a communal woodlot inside the newly established village boundaries was encouraged because most land allotment projects took place close to forest reserves where one could find vacant state-owned land for resettlement. This conservation-oriented policy with the apparent intention to help local people had another side, however. According to the retired official, the intention of the government at that time was to attract local people to the newly created community woodlot so that they would not go into reserved forests in search of wood or land. It is quite possible that it was the uneven distribution of rich forests, rather than a complete lack of them, that motivated the government to promote communal forests. Furthermore, this 20 per cent principle was seldom referred to or

28 Shigetomi Shinichi, 'Tai noson no "kyoyuchi" ni kansuri ichikosatsu' [Land tenure system on communal lands in rural Thailand], in *Tonan Ajia no keizai kaihatsu to tochi seido* [Economic development and land tenure in Southeast Asia], ed. Shigetomi Shinichi and Mizuno Kozuke (Tokyo: Ajia Keizai Kenkyujo, 1997).

29 MOI (Ministry of Interior) document 9317/2699, May 2499/1956. The document also refers to the ecological importance of the forest in giving moisture to the soil in addition to its economic significance for the local people. This statement, though never formalised, may be considered one of the earliest explicit state acknowledgements of the function of community forests.

implemented until the mid-1990s, when the RFD began to reclaim its jurisdiction over the forests that existed inside land reform areas.

At present, the community forests that the RFD officially provides for the people can be found only inside the E zones, and they emphasize plantation rather than local use. Access to forests in C zones is not permitted under the current legal system, although it is sometimes granted on an unofficial basis. If healthy forests are first to be protected by the RFD, it is generally the degraded areas that would be left for people to use. An official document produced by the RFD confirms this conventional view: 'Community forests are those under the Forestry Act and Forest Reserve Act that do not exist inside national parks, wildlife sanctuaries, non-hunting areas or watersheds which are protected by government regulations. In addition, they cannot be on those lands to which the government prohibits access in the national interest.'<sup>30</sup> Such a statement suggests that the RFD has little incentive to hand over economically productive forests to local villagers.

Other than the plantation-oriented activities preferred by the RFD, three options for local access to forests exist within the present institutional framework (Table 6). The first is the forests outside the RFD-administered permanent forest area. (Permanent forests cover a wider area than reserves, yet they are only supported by a Cabinet resolution, whereas reserves are protected by law.) This is a category of public land that can avoid the involvement of the forestry patrol because it is mostly under the supervision of the Department of Land rather than the RFD. If registered properly, forests in this category can be protected by Article 1304 of the Civil and Commercial Code and the Land Code mentioned earlier.

According to the latest available information, there are 17,000 sites (totalling 1.08 million *rai*) in this category, with the largest portion registered as grazing land. In 1997, those registered as community forests extended over 116,000 *rai*, and the area is increasing, according to the officer responsible for registration in the Land Department.<sup>31</sup> RFD can assert its claim even over trees standing on land outside its jurisdiction. However, land outside its territorial control is implicitly outside the purview of the Forest Reserve Act, meaning that there is less policing by the forest guards. Moreover, those who are in reality highly dependent on forests, such as the hill people, mostly reside inside the RFD land, thus making it difficult to apply this strategy.

The second and most common option is the informal use of RFD forests. In many locations, local RFD officials and villagers have reached an informal arrangement that allows people to collect forest products not only on a subsistence basis (firewood, herbs, small animals) but also as a source of supplementary income (such as mushrooms and bamboo shoots).<sup>32</sup> These apparently flexible and informal arrangements, however, are

30 Somtheep and Theeparit, 'Pa kap khon', p. 27.

31 The 1997 figure is from *ibid.* The most recent data is in Department of Lands, *Thidin thi prachachon chai prayot ruamkan thi ok nangsue samkhan samrap thiruung laew* (Bangkok: Department of Lands, April 2541/1998). Idle land with no occupants is by legal definition 'forest' regardless of the actual tree cover. However, it can be registered either as 'degraded vacant land' or 'land to be used collectively by citizens' in accordance with the Land Code under the supervision of the Land Department. Because of the larger number of local staff, land under the RFD is strictly monitored. Thus, if given a choice, people tend to register their common land as non-RFD land. Villagers' room for manoeuvre in taking advantage of various state regulations is a promising agenda for future research.

32 A detailed case study of this type of community forestry is in *Community allies: Forest co-management in Thailand*, ed. Mark Poffenberger and Betsy McGean (Berkeley: Southeast Asia Sustainable Forest Management Network Research Report, 1993).



vulnerable in the sense that the system can be taken away at any time, since there is no legal foundation to back them up. In addition, this kind of forest use does not have the potential to develop into an advanced form of community forestry including commercial enterprise.

A third possible option for promoting community forestry involves lands transferred from the RFD to the ALRO for land reform. According to the 1995 agreement between the two agencies, remnant forests in land reform areas should officially be returned to the RFD. Again, however, the definition of what constitutes a 'forest' is arbitrary, and it is up to the local officials to decide what to return and what to keep. Since the original idea of the '20 per cent agreement' was to plant trees on the land reform area as community forests, the treatment of remnant forest stands is vague, providing room for local people to take advantage of the ambiguity. Under this scheme, small but locally useful patches of forest may be placed lawfully under local control.

From a conservation point of view, clearing forest for agricultural purposes entails some risk, but it is up to the local community to handle this problem. Perhaps more importantly, in the land reform areas people are given legal title to land for cultivation, which provides a degree of stability not enjoyed by those living inside the RFD land. In other words, there is a possibility for local people to obtain both private and communal resources jointly.<sup>33</sup> The problem remains, however, that since the best forests are the first to be protected by the RFD, it may be difficult for the ALRO to obtain forests in contentious areas such as the surrounding areas of wildlife sanctuaries and national parks.

**TABLE 7**  
Existing forms of community forestry in Thailand

Administrative location	Responsible Agencies	Form of Use	Risk/Shortcomings
Public land outside of the RFD territory	Department of Lands	Official	Marginal impact on forest dependent people who are mostly inside RFD territory
Forest reserves and protected areas	RFD	Unofficial	Unstable access, especially inside protected areas
Land reform area	ALRO	Official	Uncertainty of forest status

33 Because the ALRO certificate will be given to those who already occupy a piece of land to cultivate, it will not rescue those who are literally landless. Given the likelihood that these landless people are more dependent on forest resources, the rigid imposition of a land reform scheme (i.e., the demarcation of private land boundaries) may distort the informal arrangement often made among villagers to accommodate the poor.

It is unclear exactly how the new Community Forestry Bill will affect these practices, and many issues lie ahead. For example, the relationship between the Tambon (sub-district) Administrative Organisations (given the authority to manage natural resources under the 1995 Tambon Administrative Unit Bill) and the community forestry committees responsible for forest management has yet to be sorted out.<sup>34</sup> Moreover, land titles inside the protected forest require further consideration. Despite the risks and shortcomings, however, an institutional basis for community development clearly exists within the present system. Regardless of the final content of the bill, what remains crucial to the success of community forestry initiatives is to learn from these working examples.

### **Conclusion: prospects for community forestry**

State-owned lands in Thailand occupy about 50 per cent of its total land area. Management of this large portion of land not only has significant implications for the local villagers who depend on forests on a daily basis, it also affects broader domains such as energy, water supply, and conservation of biodiversity and the environment at the global level. To sustainably manage these various resources, social mechanisms to organise links between the government, village communities, and individuals become crucial. One cannot focus exclusively on a single component of a system while ignoring the others. With regard to the state, one must ask what kinds of resources are given to the people and what forces are affecting particular allocation, before asking how those resources can be managed in a sustainable and participatory fashion. With regard to an individual or a household, there needs to be attention not only to forest resources under collective use *per se*, but also to private prerequisites (such as adequate farm land) that enable people to effectively take part in communal activities.

This article has attempted to locate community forests within the existing legal framework to explicitly address the structural constraints and prospects for further development. It is argued that 'public land' as defined by the government has rarely been conceptualised as land for local people. Rather, it is considered as exclusively 'state land', and even when there are references to local people, the context is primarily protecting this land from their encroachment. The article has suggested that even without the Community Forestry Bill, there is a legal basis for community forestry if it only refers to subsistence use of forest resources.

Even so, there would seem to be positive roles for the bill to play. Since much of the community management of forests is taking place inside the C zones, the House version of the bill will certainly assist the villagers by stabilising and securing what they are already doing, given that any activity in such areas is considered illegal at present. This may discourage local people from engaging in a speculative abuse of resources such as the conversion of forests into farmland. Also, for those who are in the South where logging concessions for mangroves have expired, the new bill may help preserve the forest land from state confiscation as part of conservation zones or state plantations.<sup>35</sup>

34 Both House and Senate versions of the bill lack explicit statements regarding the connection between TAOs and community forests. Since a majority of the forest areas presently under the management of TAOs lie within reserves, it is natural to assume that the RFD will retain ultimate control over their use; Apichai Puntasen, 'Tambon organization and community forests', in *Seeing forests for trees: Environment and environmentalism in Thailand*, ed. Philip Hirsch (Chiang Mai: Silkworm Books, 1997), pp. 72-88.

35 The 1989 logging ban did not apply to mangrove areas in the South.

The relationship among a rapidly changing economy, forests, people and the government requires a more systematic treatment. Official attempts to isolate people from forests by zoning and policing have naturally limited the numbers and skills of people who are most capable of managing the very forest that is meant to be protected. It is likely that economic development over the long run reduces people's direct dependence on forest resources.<sup>36</sup> However, this tendency is not homogeneous across regions or social categories. Unless legal recognition is given to those communities that have proven their capacity to care for their forests, community-based resource management will be devoid of its best models. The relationship between resources and people is after all one of competition, requiring a degree of mutual awareness and trust that has apparently been slow to develop in Thailand.

During the debate over the bill, one Senator who voted against Article 18 expressed his fear that 'if villagers were given access to protected areas, other people would follow them and exploit the forest'.<sup>37</sup> This tough but illuminating statement is a reminder that community forestry is not only about the poor living in the forests, but also the rich who do not live there yet have keen commercial interests there. If the new bill fails to protect the interests of the poor living in the forests and remains incapable of addressing the issue of power inequality, which fundamentally affects how resources are used, then public land for the people will never come about in Thailand.

36 H. M. Gunatilake, 'The role of rural development in protecting tropical rainforests: Evidence from Sri Lanka', *Journal of Environmental Management*, 53 (1998): 273-92.

37 *The Nation*, 16 Mar. 2002.