

**An Assessment of the Implementation of the Thai Government's
International Commitments on Traditional Forest-Related Knowledge
from the Perspective of Indigenous Peoples**

By
Chupinit Kesmanee
Prasert Trakansuphakorn

Executive Summary

As with other countries in Southeast Asia, Thailand is characterized by different topographic and climatic conditions. Thus, the country is rich in biological and cultural diversity. Since the opening of the country in the reign of King Rama IV (1851 – 1868) and throughout the contemporary history of Thailand, rice and timber have become two major export items. However, the experiences learnt from the timber industry have not been positive in the sense that logging companies have not been compelled to reforest the areas under concession. The government was always expected to bear the burden of reforestation instead. In addition, the promotion of market-oriented agriculture has been conceived as a long-term economic policy. As a result, the expansion of farmland and the adoption of chemical applications on commercial farms have been widespread. Eventually, it became clear that Thailand was running out of forested areas at an alarming rate. This led to the government's closure of all the timber concessions in 1989 in the whole country. Unfortunately, the indigenous peoples who were referred to as the 'hill tribes' in government documents were always used as a scapegoat for forest destruction. The blame on ethnic highlanders for deforestation has become an ethnic myth that many people take for granted.

Research on the traditional practice of shifting cultivation by ethnic highlanders distinguishes between at least two different systems: 'pioneer swiddening'; and 'established swiddening' or 'land rotational shifting cultivation'. According to several research findings, the traditional practice of land rotational shifting cultivation is completely environmentally friendly. Moreover, it is also been found that land rotational shifting cultivation requires a great deal of traditional knowledge relating people to the land, the forest and wildlife, and the spiritual world.

Although Thailand only ratified the CBD early this year, on 29th January 2004, the government did actually respond right away after the CBD entered into force in 1993 by making institutional preparations. On closer examination, articles 8(j) and 10(c) of the CBD have pointed in the same direction as the present Constitution of the Kingdom of Thailand, and articles 46 and 56 in particular. However, the major obstacle in following the CBD is that none of the active forestry laws in Thailand recognize the presence of indigenous and local communities in protected areas.

Due to the lack of recognition of the 'hill tribes' or '*chao khao*' as indigenous peoples, following the UN definition, with their traditional forest related knowledge, the Thai government has

developed a negative attitude and mistrust towards the highland dwellers in relation to forest policy. Thus, one observes the involuntary relocation of indigenous and local communities away from the protected areas and the arrest of indigenous peoples, preventing them from clearing their traditional fields in the protected areas every year.

In the past decade, indigenous peoples have formed their own networks to manage the surrounding natural resources and at the same time to solve problems concerning the fundamental rights of indigenous peoples.

Taking all this into consideration, it is recommended that:

- The government accelerates the granting of citizenship to indigenous peoples. Lack of citizenship inhibits indigenous peoples from demanding their rights to land and getting access to other government services.
- Public relations are emphasized to a greater extent in order to raise awareness about the content of the CBD in relation to indigenous peoples and their TFRK.
- A campaign is launched aiming at attitudinal change among the government officials and the public.
- People's participation take place at all levels in decision making.
- A legislative review of all the laws related to forests, natural resources, the CBD and UNFF processes is carried out; with the enactment of Community Forest Law considered as a high priority in order to provide legal support for the existing indigenous and local initiatives on natural resource management.
- The country report to the CBD includes a description of the process of information flow to all stake-holders.
- A follow-up body is created at the international level to focus on the implementation of Article 8(j) and 10(c) of the CBD and also to respond to the UNFF commitments. It is also important to set up a complaints mechanism for grievances on related problems.

1. Introduction

Thailand is a country in Southeast Asia, sharing borders with Myanmar to the West, Laos and Cambodia to the East, and Malaysia to the South. It has a land area of about 513,115 sq. km., and includes several ecosystems. The Northern region is characterized by high mountain terrain, while most part of the Northeast is covered by high plateaus. The Central region is a vast expanse of plains, suitable for irrigated paddy cultivation with long mountain ranges

stretching from north to south along the Western border. The Southern part lies along the coast of the Gulf of Thailand to the East, and the Andaman Sea to the West; the coastline stretches for more than 2,000 km. and there are over two hundred islands surrounded by coral reefs, sandy beaches, muddy beaches and sea grass beds. Thus, Thailand has a high level of biodiversity, including several different forest types: rain forest, evergreen forest, deciduous forest, mangrove forest, and shrub and savannah forest. The total area of forest cover in 2000 was estimated at 172,050 sq. km. of which 164,865 sq. km. is natural forest and the rest is reforestation and secondary growth (RFD forestry statistics 2002)¹.

Undeniably, the country is rich not only in biological diversity, but also in cultural diversity with more than sixty language groups throughout the country. In the North, marginal peoples, or hill tribes, have always been used as scapegoats for the loss of forested land, and this has been a major factor shaping government policies towards the hill tribes and rural development. Shifting cultivation is considered highly destructive amongst government agencies and is also represented in this way in school textbooks. Thus, the relationship between the hill tribes, shifting cultivation, and forest destruction, is still very much alive in the mind of government officials - regardless of the fact that deforestation has been faster in other regions of the country where there are no hill tribal settlements. This implies an element of ethnic prejudice on the part of government officials, and even worse, this ethnic prejudice has been passed on to the public.

Deforestation is certainly a serious problem, but it is due mainly to logging and to development programmes for intensive agriculture. In fact, there is ample evidence of complex traditional forest management systems based on TFRK.

In the following section we will outline the national context that frames the situation with regard to TFRK, including the history and causes of deforestation; the current status of indigenous peoples in Thailand; current prejudice that casts indigenous peoples as the drivers of deforestation, and protected areas policy, which has driven the involuntary resettlement of indigenous peoples. In section three, two aspects of current developments are described: firstly the dynamic grassroots movement typified by the Northern Farmers' Network and their advocacy for community forests; and secondly, the limited policy development on the protection of TFRK and equitable benefit-sharing. Section IV reviews reporting to the UNFF and CBD, and

¹ <http://www.forest.go.th/stat.htm>

summarises other aspects of implementation of international commitments. Finally, sections V and VI give our conclusions and recommendations.

2. National context

2.1 The history and causes of deforestation

Current trends in deforestation can be traced back to the reign of King Rama IV (1851 – 1868), when the royal court enjoyed the increasing income from rice export and the farmers were encouraged to produce more rice. With the introduction of the railway in the reign of King Rama V (1868 – 1910), there was widespread expansion of farmland followed by the construction of railway lines, encroaching on forested areas first on the central plain, then to the Northeast and the North respectively. In addition, when King Rama V had abolished slavery (as from 1874), he encouraged the freed people to clear more forested land for cultivation.

Logging has also played a part in deforestation since the 19th Century. Over a hundred years ago, a number of foreign companies began investing in timber enterprises in many parts of the country, and by the 1850s timber export was big business; it was estimated that during the year 1858 – 59 the export of teak from the port of Moulmein in Burma to Europe was worth about £400,000 sterling. Almost 95 percent of the timber sold came from the Chiang Mai area (**Anan**, 1984: 50; cited from **Ramsay**, 1971: 60). In 1896, the Government set up the Department of Forestry with a British man as its first Director-General. In 1941, the Thai Government passed the Forestry Act, the main aim of which was not to maintain the large expanse of forested land but simply to facilitate the work of foreign timber investors. Later, foreign timber companies gradually withdrew from Thailand as local timber companies emerged. More timber concessions were granted to the local companies, but still without compulsory requirements for reforestation to replace felled trees. Moreover, it was found much later on that the timber companies had quickly developed a practice of cutting big trees outside their concession boundaries.

An additional factor impacted heavily on forests from the time of the First National Economic Development Plan, which started in 1961. Succeeding Governments have promoted full-scale commercial farming with extensive use of chemical fertilizers, insecticides and herbicides, as well as large-scale investment in farm labour and machinery, and this has brought about a period of farmland expansion. For these reasons, deforestation increased at an alarming rate.

In response to the situation, following the announcement of the National Forest Policy in 1985, the government decided to launch a reforestation campaign together with the expansion of the protected areas system through the declaration of more national parks and wildlife sanctuaries. Also, in 1989 the government declared the closure of all timber concessions throughout the country. However, illegal logging continued to be carried out along the borders; for example, a disclosure in the newspapers of illegal logging in Salween forest involving a corrupt official and a five million baht bribe shocked the public at large. Overall, in spite of the ban, the export of timber has continued to increase almost every year, as shown in Table 1.

Table 1: Export of Logs and Sawn timber after 1989

Year	Logs (cum.)	Sawn timber (cum.)	Total cum.	Total Baht
1990	58	48,591	48,649	1,214,137,245
1993	1,687	52,119	53,806	1,411,735,558
1995	26,163	54,370	80,533	2,216,312,926
1998	11,982	96,250	108,232	2,577,073,794
2001	347	402,556	402,903	5,517,303,695
2002	3,057	1,559	1,562,222	7,130,837,927
2003	77	1,105,817	1,105,894	9,191,922,608

Source: Royal Forestry Department, 2004.

Thus legal and illegal logging, coupled with the expansion of farmland caused a rapid loss of forests in Thailand.

2.2 Indigenous Peoples

In Thailand, the term ‘indigenous peoples’ has been rejected by government agencies, although it is estimated that there are no less than 60 language groups throughout the country (**Suwilai Premsrirat *et al.***, 2001: 14-23). There is an official designation *chao khao*, meaning, ‘the hill tribes’ or ‘the hill people’, to indicate several ethnic groups who live in the mountainous areas. However, official recognition of the hill tribes covers only 10 ethnic groups, namely, Karen, Hmong, Lahu, Mien, Lisu, Akha, Lua, Htin, Khamu, and Mlabri, whereas there are many more. According to the Tribal Research Institute, in 2002 the highland ethnic population excluding Mlabri was estimated at 914,755. The hill tribe settlements are located in 20 provinces covering the Upper North, the Lower North, the Western region, and one province in the Northeast.

Actually, other ethnic groups can also be found in the mountainous areas, such as the Padong, Palaung, and Kachin in the North; the Suai, Yer, Kui, and Chong in the Northeast, and the Urak Rawei and Sakai in the South. However, the hill tribes are not recognized as distinct in terms of indigenesness; some groups, such as Lua, Htin, Khamu, and Karen, can be regarded as native to the land, but the ancestors of other groups migrated into Thailand during the last 200 years. Moreover, many of the lowland Thai people are also considered 'indigenous' from a historical aspect.

2.3 Indigenous peoples, traditional forest management and debates about deforestation

Since the term 'indigenous peoples' has not been adopted officially in Thailand, there is no clear policy at any level towards the people who fall within the UN definition of indigenous peoples. However, in 1959, the government set up a **Hill Tribes Welfare Committee** to oversee national policy toward the hill tribal people², and in the succeeding 40 years the government has implemented various development activities connected to the different hill tribes (with the exception of the Mlabri).

From the beginning of this process, development has been shaped by the belief that the hill tribes have caused forest destruction through their practices of shifting cultivation and opium-poppy production and trafficking. Concerned scholars have argued strongly that the blaming of ethnic highlanders for deforestation has become an ethnic myth that many people take for granted without examining the evidence. For example, government authorities always relate forest destruction to shifting cultivation. Yet forest statistics indicated that in 1988 the Northern region contained 55.9 percent (80,402 km²) of all the forested areas in the country, and the Upper North, where the majority of ethnic highlanders lived, contained 61.7 percent (50,587 km²) of all the forest cover in the North or 43.85 percent of forest areas in the whole country. Moreover Chiang Mai province, with the greatest number of indigenous inhabitants, contained up to 15,204 km² of forest, which made it the province with the largest area of forest cover in Thailand³. This is obviously no coincidence.

Research into the traditional practice of shifting cultivation by ethnic highlanders has distinguished between at least, two different systems: 'pioneer swiddening'; and 'established

² The name of the Committee has been changed several times since then.

³ Royal Forestry Department, **Forest Areas of Thailand in 1988: Data from Landsat Imagery**, Ministry of Agriculture and Cooperatives, 1989, (in Thai).

swiddening' or 'land rotational shifting cultivation'. Research on land rotational shifting cultivation by different parties has led repeatedly to the conclusion that this form of agriculture is completely environmentally friendly. More in-depth study has found out that it is based on a substantial body of indigenous knowledge relating the people not only to the land, but also to the forest and wildlife, as well as to the spiritual world. Indigenous peoples who practice land rotational farming preserve the surrounding forest very well.

However, the belief that shifting cultivation has caused deforestation has remained strong, and in addition, opium-poppy cultivation has been seen as a threat to national security. As a result, the government developed a policy and work-plan to get rid of shifting cultivation and opium-poppy cultivation altogether, and to instill a sense of loyalty to the Kingdom of Thailand. Several development projects, many of which had international funding⁴, were designed to address these issues. Thus, cash cropping and replacement crops were promoted in order to eradicate opium-poppy cultivation; permanent intensive land use techniques were introduced to replace shifting cultivation; and support for community organization was provided based on a local administrative structure with provision for education, health care, and other social welfare services, in an attempt to win the people's hearts. These large-scale projects all came to an end in Thailand once the eradication of opium-poppy production in the country was declared a success; however, by then they had caused enormous damage to traditional forest management practices and to the preservation of TFRK.

Surprisingly, research and factual information of this kind has changed neither policy nor the mindset of officers in the Department of Royal Forestry. Land rotational farming based on TFRK is still unacceptable to the RFD. Administrators and officials of the new Department of National Parks, Wildlife and Plant Conservation, which was separated from the RFD in 2002, share the same negative attitude.

Lack of citizenship and the absence of land title among indigenous peoples are two additional factors contributing to the problem of natural resource management in that the people have no legal right to access natural resources. At present, it is estimated that approximately 200,000 ethnic highlanders have not been granted Thai citizenship. This means that they can be regarded as stateless people or illegal immigrants, who can be barred from accessing

⁴ These include the Thai-United Nations Programme for Drug Abuse Control (UNPDAC); Thai-Australian Highland Agriculture Project; Thai-German Highland Development Programme; Thai-Norwegian Church Aid Highland Development Project; Highland Agricultural and Social Development Project; and Integrated Pocket Areas Development Project.

government services and cannot possess any type of land. More than 90 percent of farmlands in the mountainous areas have no land title, regardless of how long the people have lived on the farms. In other words, ancestral land has not been legally recognized in Thailand.

2.4 Protected areas policy and involuntary resettlement

In addition, following the introduction of reforestation policies and the creation of protected areas in the late 1980s, there were several instances of involuntarily relocation of indigenous peoples. 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. The National Park Act was enacted in 1961, followed by the Forest Reserve Act in 1964. These two laws have been very actively enforced. In 1992, the Wildlife Reservation and Protection Act was passed and was equally actively enforced. All these laws prohibit the existence of human settlements within the boundaries of protected areas. During the process of forest law enactment it was stated that people whose lands were within the boundary of demarcated areas could submit petitions for their land to be excluded; in practice, however, most indigenous peoples and local communities did not even have access to the information flow within the bureaucratic system. Information was to be made available at the provincial Town Halls and the district offices, but many indigenous peoples and local communities lived too far away from the government offices to make use of this, and the majority was illiterate and therefore completely unaware of the proposed protected areas. Thus, the proclamation of a new forest reserve, national park, or wildlife sanctuary would inevitably mean that indigenous and local communities located within its boundary would become illegal by law, and would be relocated involuntarily out of the protected areas.

For example, in 1986 about 5,000 people, mostly of tribal backgrounds, were relocated from the proposed national park in Kamphaeng Phet province. In 1989, about 2,000 ethnic highlanders were relocated from Doi Luang National Park in Lampang province. In both cases, the people were taken to unprepared areas where the lands were largely uncultivable. No compensation was given. These incidences illustrate that forest law has not taken into account the social reality of the interdependence between indigenous and local communities and their forest environment, nor the customary law governing their livelihoods, which is closely connected to TFRK.

3. Current developments

3.1 Grassroots organization and community forests

On a more positive note, one result of pressure on indigenous and local communities – especially from the threat of relocation for protected areas – has been the creation of the ‘**Northern Farmers Network**’ (NFN). Over the past decade a number of highland communities have formed watershed networks in several provinces in order to draft and implement work plans for natural resource management. In each network, a committee is elected by member communities. As the people found that local bureaucrats could not solve the major problems they faced, they formed the Northern Farmers Network as a coordinating organization to lobby on national policy.

NFN, in cooperation with other peoples’ organizations, has chosen group demonstration and protest as a means of entering policy dialogue with the government. The biggest demonstration occurred in 1995 when about 20,000 people started a march from Chiang Mai to Lamphun. Only in this way did they gain a chance for their representatives to meet with the Minister of Agriculture and Cooperatives.

In 1997, as a result of people’s participation, Thailand proclaimed a new Constitution which has been widely applauded. The new Constitution includes several articles on people’s participation in NRM (box 1):

Box 1: The 1997 Constitution: articles on indigenous rights and participation

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 participate 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 the environmental context harmless to health and well-being; or quality of life would be 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 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.'*

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, well-being, and quality of life.'*

Prior to the proclamation of the present Constitution in 1990, the people's movement had started working on the drafting of a new **Community Forest Act**. In 1998, the NFN in cooperation with other organizations throughout the country collected just over 50,000 signatures in support of the draft Act, which according to Article 170 of the new Constitution meant that they could propose the Act to Parliament. The draft underwent a rather long process of integration with other drafts being proposed by different parties, and the new integrated version was then forwarded to the Senate. However, the Senate members finally declined the new Act through majority rule; the senators could not agree with the idea of losing a protected area to community forest. This reflects clearly that what has been taking place at the grass-roots level through the work of the natural resource management (NRM) networks has resulted in a situation where local people are more progressive and knowledgeable than many senators.

In 1999, there was another demonstration of about 10,000 people in front of Chiang Mai town hall. The ethnic demonstrators sent four requests to the government:

- 1) to accelerate the granting of citizenship to ethnic highlanders;
- 2) to allow for cultivation on existing farmland;
- 3) to pass the Community Forest Act; and
- 4) to give up concessions to businessmen in community forests.

As a result, several joint committees of officials and people's representatives were set up by the government to solve these specified problems together.

In 2002, the Ministry of Agriculture and Cooperatives set up the Office of Community Forest Management. It has become the mandate of the Office of Community Forest Management to promote community forests throughout the country in natural forests (outside protected areas) as well as reserve forests, and according to the second National Report to CBD, the RFD coordinated the development of community forests with 8,668 villages in 61 provinces. However, since the Department of National Parks, Wildlife, and Plant Conservation was separated from the RFD, the work of the Office of Community Forest Management has been confined to forest areas outside national parks.

3.2 Protection of TFRK and equitable benefit-sharing

Since the CBD entered into force in 1993, there has been some progress in developing Thailand's national legislative and policy framework on the protection of TFRK and equitable benefit-sharing. In 1999, the **Plant Variety Protection Act** gave recognition to various aspects of farmers' rights with respect to traditional knowledge:

- The rights as an individual or group to cultivate and germinate newly registered plant varieties;
- The rights of a community or farmers' cooperative to register area-specific plant varieties;
- The right to be members of the Committee for Plant Variety Protection.

Moreover, this law indicates its intention to ensure the sharing of benefits derived from the protected plants with the local group.

In the same year, 1999, the **Thai Medicinal Wisdom Protection and Promotion Act** was passed; but due to the ambiguous definition of 'Thai medicine', it is uncertain whether indigenous medicinal knowledge is included. This law does not mention benefit sharing at all.

Other existing forestry laws are highly centralized in their nature, and do not easily support article 8(j) of the CBD.

4. Implementation of International Commitments under the CBD and UNFF

With regard to the **United Nations forest policy** process, Thailand has not yet submitted a report to UNFF and only ratified the **Convention on Biological Diversity** early this year on the 29th January 2004. However, the Thai Government started administrative preparations to respond to the CBD immediately after the Convention entered into force in 1993, and has sent in two national reports as well as thematic reports on mountain ecosystems; technology transfer and cooperation; protected areas; and alien and invasive species (but not access and benefit sharing).

Box 2 details some of the administrative structures and policy developments that respond to the requirements of the CBD.

Box 2: Administrative structures set up in relation to international commitments through the Convention on Biological Diversity

- In 1993, the National Environment Board chaired by the Prime Minister established the Sub-Committee for the Convention on Biological Diversity, chaired by the Permanent Secretary of the Ministry of Agriculture and Cooperatives. This provides a direct linkage between the Sub-Committee on the CBD and NEB. The Sub-Committee has appointed a number of Working Groups to work on different topics.
- In 1996, the Royal Forestry Department, the Department of Fisheries, the Department of Animal Husbandry, and the Department of Agriculture, each set up its own Committee on Biological Diversity to work specifically on the CBD.
- In 1997, the Ministry of University Affairs set up the Committee on Biological Diversity and also encouraged all universities to set up their own Committees on the CBD to promote relevant research work.
- In 1998, the Institute of Natural Resources and Biological Diversity was created to coordinate on related issues at policy and administrative levels.
- In 2000, the Centre for Biological Diversity was set up to work on genetic resources and the transfer of technology.
- From 1998, the Sub-Committee for the Convention on Biological Diversity formulated the Policies, Measures, and Plan for Conservation and Use of Sustainable Biological Diversity 1998 – 2002.

- In 2002, the Cabinet approved the Policies, Measures, and Plan for the Conservation and Use of Sustainable Biological Diversity 2003 – 2007.

Issues covered by the CBD and the IPF/IFF/UNFF commitments include respect for customary land rights, land tenure security, development of TFRK criteria and indicators for sustainable forest management, respect of the right to free and prior informed consent of the holders of TFRK, development and support of protection regimes and fair and equitable benefit sharing related to traditional knowledge and the promotion of activities to increase understanding of the role of TFRK in forest management. Yet in spite of all the reports sent to the CBD and the internationally funded projects, we have shown above that there is still little evidence of progress on these issues.

Even since Thailand ratified the CBD (29 January 2004), indigenous peoples have continued to be mistreated. We continue to witness the forced relocation of indigenous and local communities, together with occasional arrests. Some examples connected to protected areas have been given above. The following are additional examples related to the lack of respect of basic indigenous rights and continued unsubstantiated prejudice against traditional agricultural systems:

- As a result of forced relocation taken place in 2003, five Lahu villages in tambon Tung Pheung, Chae Hom district, Lampang province, were forced to regroup in the area called Huay Wad without proper compensation, services, or available farmland. The reason given for the forced relocation was that these Lahu villages were located on a drug trafficking route. In 2004, the relocated Lahu sent their petition to the Office of the National Human Rights Commission (NHRC) requesting help in solving their current misery.
- In February 2004, the Karen people (who comprise the largest group of indigenous/tribal people in Thailand) of Ban Kuita in Um Phang district, Tak province, went on hunger strike in protest at the increasing pressure on them over their traditional land use rotation. Although several research studies have confirmed that land rotational shifting cultivation is one of the more efficient and long-term agricultural practices in the mountainous environment (Zinke, *et al.*, 1978; Anan *et. al.*, 2004), it has not been approved by the Thai authorities, specifically the RFD.

- In April 2004, the traditional rotational farmlands of about 800 rai (1 acre = 2.5 rai) in Ban Kok Luang, and Ban Mae Kheed Noi, tambon Mae Na Chang, Mae La Noi district, Mae Hong Son province, were confiscated by the local RFD official.
- In May 2004, 43 families consisting of more than 200 Karen people from five villages (Ban Phu Mong, Ban Phu cheu, Ban Suan Kluay, Ban Sam Lang, and Ban Thi Ya Phe) in Tambon Lai Wo, Sangkhlaburi district, Kanchanaburi province, were involuntarily relocated by the RFD officials. The villagers who could not present their ID cards were forced to leave the country.

There is also continuing conflict with protected areas. From 1999 – 2000, the RFD declared 37 new protected areas (parks, national parks, wildlife sanctuaries, and non-hunting areas) amounting to 91,231.57 km² or 17.8 percent of the total area of the country (**Office of Environmental Policy and Planning**, 2002: 24). Since all the major forestry laws prohibit the existence of human settlements and activities within their boundaries, the expansion of PAs implies more involuntary relocation of indigenous and local communities. Some cases in point are as follows:

- In April 2004, an elderly man from Ban Tha Song Khwae, tambon Mae La Noi, Mae La Noi district, Mae Hong Son province, was arrested by an RFD official for clearing farmland in a protected area of about 30 rai. The old man claimed that the charge was exaggerated and that the photographic evidence was forged.
- On 23rd July 2004, the village of Pang Daeng in Chiang Dao district, Chiang Mai province, was raided by 200 – 300 armed officers. Twenty-five Lahu, nineteen Palaung (or Dala-ang), three lowland Thai, and 1 Lisu were arrested and placed in detention on the charge of encroaching on the Reserve Forest. This is the third time the people in this village have been sent to court.

There are yet more protected areas to be declared in the near future. One could expect an increase in reported ‘illegal’ activities as a result, simply because a greater number of indigenous and local communities will become ‘illegal’ through this process. This will fuel the belief that indigenous and local communities are at fault.

The case of Mr. Mongkol Rakyingsprasert, one of the Karen leading members in the Mae Wang Watershed Management Network, illustrates this point clearly.

Arrest of Karen leader for authorised use of wood from a community forest

In 1999, Mr. Mongkol was arrested while he was helping his relatives transport wooden planks for house building – even though the planks were sawn from the tree located in the community forest, and permission to fell the tree had already been granted by the village committee in charge of the community forest. The arrest of Mr. Mongkol has created resentment among the villagers in several communities joining the NRM Network, and they tried to make the local authorities release him. Unfortunately, Mr. Mongkol was sent to court after he was bailed out, and he spent 4 years of going back and forth many times between his village in the hill and the court in town. He was finally fined about 8,500 baht and was also waiting for criminal punishment for two years (**Songphol**, 2003: 147). His case was taken up by NGO workers, lawyers, academics, and other indigenous leaders, it was discussed time and again and they came to the conclusion that with reference to the community rules governing its own community forest and the Constitution allowing for people's participation in NRM, it did not seem to make sense at all for him to be taken to court.

Obviously, the Thai government has not seriously attempted to put Articles 8(j) and 10(c) of the CBD into practice. The official document on 'Policy, Measures, and Plan for the Conservation and Utilization of Sustainable Biological Diversity 2003 – 2007' indicates that there are projects campaigning for the maintenance of local knowledge, studying, and piloting applications of TFRK in sustainable natural resource management. So far, these projects have not been implemented. In 2002, the government allocated a significant budget to Chiang Mai University to organize a research project on the situation of rotational farming system in the highlands, but the research findings have not been approved of by the RFD. Co-management of protected areas is also poorly developed in Thailand. At present, a number of National Park authorities are investing in eco-tourism, but rarely can one observe co-management and benefit sharing with local communities⁵.

In summary, the present Constitution of the Kingdom of Thailand has recognized community rights and traditional knowledge in relation to NRM, as mentioned earlier, and one can see quite clearly that the Thai Constitution could closely conform to the intentions of the CBD. However,

⁵ Though there is a new project on Joint Management of Protected Areas, funded by DANIDA. See Box 3.

so far there has been little effort on the part of the government to revise the existing forestry laws in order to legalize indigenous and local community participation in sustainable natural resource management in protected areas. In addition, grassroots networking in many parts of the country to take the initiative on NRM is ignored by the government and the agencies concerned. No matter how efficient the people's network on NRM could be, it is considered illegal by law.

When the draft 'Community Forest Bill' was overwhelmingly rejected by the Senate it was a surprise for those involved. One may wonder how much the Senate members have learned about the great efforts at the international level to reach agreement on the recognition of TFRK, as well as the idea of collaborative management of natural resources in protected areas. Furthermore, the general public in Thailand has very little knowledge of the CBD and other related agreements; it appears that Thai government actions on public relations on this matter are not sufficient (see article 13 of CBD). Specifically, indigenous and local communities have never been informed at all about decisions which will definitely affect their lives.

5. Conclusions

Regarding the UNFF, Thailand has appointed a focal point and attended some of the meetings, but has failed to send in any reports. The involvement of the Thai government in the CBD process at the international level has been ongoing, with various mechanisms created to oversee and implement the programme of work. It seems that the Thai government has performed well on physical or non-human issues in relation to the CBD, such as documentation and the creation of an administrative infrastructure, but on closer examination it is far from convincing that the Thai government has done anything of substance to follow up on Articles 8(j) and 10(c) concerning indigenous peoples and their traditional knowledge, innovations and practices. On the contrary, forced relocation and arrests of indigenous and local people have continued even after the recent ratification of the CBD. This can be considered a breach of international law.

On a positive side, there is evidence, though small, of government efforts toward people's participation in NRM. Some recent projects do have the potential to relate to UNFF and CBD measures on TFRK (Box 3).

Box 3: Projects related to the CBD emphasizing TFRK in Thailand

- 1997: 'Indigenous People and Parks: The Surin Islands'. A project of the Office of the Regional Advisor for Culture in Asia and the Pacific, UNESCO; Environment and Development in Coastal Regions and Small Islands (CSI) Platform, UNESCO; the Secretariat Office of UNESCO; The Intergovernmental Oceanographic Commission of UNESCO; and the Social Research Institute, Chulalongkorn University.
- 1987 – 2004, Community forests: a total of 10,848 villages organized their own community forests. About 44.3% are in northeastern Thailand.
- 2001 – 2003: The Pha Taem Forest Conservation Management Project (Phase One). Attempts to create cross-country cooperation between Laos, Cambodia, and Thailand. (Thai Government in cooperation with ITTO).
- 2004: 'Joint Management of Protected Areas': four-year project funded by DANIDA, Denmark. The Project is designed to cover 19 protected areas stretching from the North to the South.
- 2005: 'Project on the New Forestry Village Following the King's Initiative in Commemoration of the Queen's 72nd Birthday'. To be launched throughout the country. The Project is designed to emphasize people's participation in natural resource management.

The projects on the Joint Management of Protected Areas and the New Forestry Village are at an initial stage, and there is little as yet to discuss. The work of the Office of Community Forest Management is more impressive; documents have been produced, for example, on research results from community forests, community-based case studies, and a handbook for community forest registration. The other two projects of Surin Islands and Pha Taem Forest were area-specific.

In addition, the people's movement to assert their rights to manage natural resources can be observed to be remarkably active in all regions of the country.

Thus, the obstacles to indigenous and local community management of natural resources based on TFRK seem to come mainly from government policy instruments. Perhaps, implementation requires not more commitments, but sincerity on the government's side about achieving the existing development goals of the CBD and UNFF processes.

6. Recommendations

- It is regarded as a high priority that the Government recognises indigenous peoples and accelerates the granting of citizenship to indigenous peoples whose social marginalization has pushed them to the edge of society. Lack of citizenship inhibits these indigenous individuals from demanding their rights to land and gaining access to other government services.
- It is crucial that public relations are improved to raise awareness about the connections between traditional land rights, territorial rights or rights to ancestral land, indigenous knowledge, traditional forest related knowledge, people's participation in natural resource management, benefit-sharing, collaborative management of protected areas, and free and prior informed consent. This kind of information should be aimed at people at different levels: indigenous and local people, government officials, school teachers, administrators and policy makers, and of course, members of Parliament.
- Similarly, an awareness-raising campaign is badly needed to bring about a change in attitudes towards indigenous peoples and the impacts of traditional agricultural systems. In any project that aims for collaborative natural resource management, government officials must undergo a well-prepared process so that they realize that indigenous and local people can be efficient protectors and users of protected areas; and that indigenous knowledge can be used in the management of natural resources, even in protected areas. The prejudice that indigenous agriculture is a major cause of deforestation must be reversed, not only among politicians and government officials but also among the general public.
- Participation in decision-making by indigenous peoples should take place at all levels: in the field; throughout the project infrastructure; at a regional level; and in the national decision-making body. It is also important to take into account the views of different stakeholders, and to consider consensus-building as a means of reaching decisions.
- A legislative review is required of all the laws related to forests, natural resources, and the CBD and UNFF processes. Specifically, the enactment of Community Forest Law allowing indigenous and local communities to co-manage forests and at the same time to maintain their sustainable livelihoods should be considered as a high priority. The process of law making and adjusting should be participatory and the results must be conveyed to all the stakeholders and the public as a whole.

- The country report to be presented to the next COP of the CBD should include a description of the process of information flow to all stakeholders, specifically linking the international level right down to the local level.
- At the international level, it is suggested that a follow-up body is created to focus on the implementation of Articles 8(j) and 10(c) of the CBD and also to respond to UNFF commitments. It is equally important to ensure that there is a complaints mechanism for grievances on related problems.

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Appendix 1: International Commitments

Referring to the World Conference on the ‘**Environment and Development**’, known as the **Earth Summit**, held in Rio de Janeiro where the Rio Declaration, Agenda 21 and the Forest Principles were adopted, the content of the Principles has acknowledged the role of indigenous communities, indigenous knowledge and practices, and their participation in natural resource management for sustainable development. With the adoption of the **Convention on Biological Diversity** in 1992, Thailand ratified it early this year on the 29th January 2004. However, the Thai Government started administrative preparations to respond to the CBD immediately after the Convention entered into force in 1993. Here our attention will be focused on the articles of the CBD relating to indigenous peoples as well as their knowledge of NRM:

***Article 8(j):** Subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of benefits arising from the utilization of such knowledge, innovations and practices;*

***Article 10(c):** Protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements;*

***Article 17, paragraph 2:** Such exchange of information shall include exchange of results of technical, scientific and socio-economic research, as well as information on training and surveying programmes, specialized knowledge, indigenous and traditional knowledge as such and in combination with the technologies referred to in Article 16, paragraph 1.*

***Article 18, paragraph 4:** The Contracting Parties shall, in accordance with national legislation and policies, encourage and develop methods of cooperation for the development and use of technologies, including indigenous and traditional technologies, in pursuance of the objectives of this Convention. For this purpose,*

the Contracting Parties shall also promote cooperation in the training of personnel and exchange of experts.

During 1995 – 1997, the Intergovernmental Panel on Forests (IPF) was set up and met several times, followed by the Intergovernmental Forum on Forests (IFF) from 1997 – 2000. After the 4th IFF meeting, the United Nations Forum on Forests (UNFF) was created to discuss policy matters concerning forests. Both the IPF and IFF have made several decisions and have taken initiatives to promote Traditional Forest Related Knowledge (TFRK) for the sustainable management of forest resources. A great number of Proposals for Action (PfA) were recommended as a result. In summary, the IPF/IFF Proposals for Action have been formulated in relation to TFRK, participation, and land tenure and resource security.

The seventh meeting of the Conference of the Parties (COP-7) to the CBD was held from 9 – 20 February 2004 in Kuala Lumpur, Malaysia. The meeting was attended by more than 2,300 participants, including representatives of 161 governments, UN agencies, NGOs, intergovernmental organizations, indigenous and local communities, academia and industry. COP-7 decisions most relevant to the International Indigenous Forum on Biodiversity were: protected areas; Article 8(j); sustainable use; access and benefit-sharing; biodiversity and tourism; the Strategic Plan; monitoring and indicators; the ecosystem approach; mountain biodiversity; inland water ecosystems; marine and coastal biodiversity; technology transfer and cooperation; incentive measures; biodiversity and climate change; the Convention's work programme and the Millennium Development Goals; the Multi-Year Programme of Work; communication, education and public awareness; and national reporting.