

What kind of environment?

**Reconciling Indigenous People's Rights and Environmental
Conservation Policies**

A case study from Thailand

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Abstract

All over the world environmental conservation laws clash with the interests and rights of indigenous communities. In Asia, for example, millions of indigenous people are threatened with forced relocation due to the establishment of new or the strict enforcement of policies on existing protected areas. The case study presented in this paper shows how an indigenous community in Thailand has successfully prevented relocation by developing resource management and conservation rules that have gained a certain recognition by the state. After ten years, however, the communities realized that these conservation measures have undesired effects, that the kind of "environment" they have created is not the kind of environment they want, but the kind of environment that pleases the national park authorities and other outsiders. This raises the fundamental questions: When we talk about indigenous peoples' right to a decent environment - who actually defines how that environment should look like? And it leads us to the more general, practical question of how conflicts between indigenous peoples' rights and environmental conservation policies can be reconciled. The paper will therefore conclude with a brief analysis from an indigenous rights' perspective of the potentials and limitations of the so-called collaborative approach in environmental conservation.

With the growing global awareness of the magnitude of the impact of the various forms of human-induced environmental changes and degradation – from pollution to biodiversity loss and climate change - voices become louder that call for the recognition of the right to a healthy environment as a fundamental right. The Århus Convention of the UN Economic Commission for Europe (UNECE) for example recognizes in its preamble that “adequate protection of the environment is essential to human well-being and the enjoyment of human rights, including the right to life itself”. It further recognizes that “every person has the right to live in an environment adequate to his or her health and well-being, and the duty, both individually and in association with others, to protect and improve the environment for the benefit of present and future generations”.

Considerable progress has been made in environmental legislations all over the world and the protection of the natural environment has become one of the key subjects of the State. Few countries, however, go as far as the Parties to the Århus Convention which recognizes the rights of citizens and civil society organizations to information and to active participation in decision-making on environmental matters. This is particularly the case in Southeast Asian countries most of which have until late in the 20th century been or still are ruled by authoritarian governments.

In these countries, people’s rights to participation in decision-making on environmental matters is particularly absent with respect to the creation of protected areas - which, surprisingly, the Århus Convention is also silent about.

It is a global phenomenon that the creation of protected areas has for many decades not entered the public consciousness as a controversial issue. Their purpose – the conservation of biodiversity - and the underlying ideological premises – the distinction between humans and “nature”, the definition of the latter with the absence of the former - have at least implicitly been widely accepted.

While urban middle class citizens have been happily donating money to international conservation agencies local people throughout the world have questioned and often vehemently opposed the creation of protected areas. Conflicts have actually accompanied the establishment of protected areas on the ground since the birth of the concept, when the US government created the Yellowstone National Park in 1872. 300 Shoshone were killed by park guards and all their relatives were driven off their ancestral lands (Newsweek 2003: 55). It has been estimated that in the 20th century around 14 million people have been displaced globally in the wake of the creation of protected areas (ibid.). And ever since the beginning, when the Shoshone were evicted from Yellowstone, the majority of these conflicts have involved indigenous peoples.

Until a few years ago, however, these conflicts, if they have been reported in the media at all, have been projected as a “human-nature conflict”, the response of ignorant or selfish people who, against public interest, do not understand the importance of biodiversity conservation. The non-participatory approach, the denial of the right of local and indigenous peoples to access to information and decision-making on biodiversity conservation projects therefore until fairly recently remained largely unquestioned.

In recent years, however, the traditional fence-and-protect approach has come under attack both from within, i.e. among conservationist, as well as from the outside, i.e. from human rights and indigenous peoples' rights activists. The controversy is still ongoing and has triggered hot debates within conservation NGOs and government agencies.

But while scholars, human rights activists and government representatives are debating, arrests and detentions of indigenous and local people, or relocation of whole villages are ongoing all over the world.

At the heart of the matter lie fundamental differences of perceptions and values that ultimately determine the answer to the question "what kind of environment do we want?" Ironically, the values and perception of key decision-makers in governments are more often shaped by persisting prejudices and crude developmentalist and modernist ideologies rather than scientific knowledge.

Thailand is a good example. The views underlying the forest and biodiversity conservation policies, developed primarily by natural scientists and technocrats (foresters, agronomists, biologists), are based on a clear-cut division of the "natural" and the "human" worlds, which results in a policy that includes relocation of whole communities for the sake of environmental conservation. This view is clashing with that of the indigenous communities, support NGOs and academics from the humanistic and social sciences. Ultimately, this controversy is simply about the question "how a decent environment should look like" – both for human and non-human beings – and who should have the right to answer it. In Thailand, it lies at the core of the struggle of indigenous communities for their rights.

This paper will draw much from a case study of a Karen village in Northern Thailand. The basic question it addresses, however, is fundamental for the resolution of conflicts between indigenous peoples' rights and conservation everywhere. The paper will therefore conclude with a brief general analysis from and indigenous rights' perspective of the potentials and limitations of an approach that has in recent years been promoted as a way to resolve the crisis many conservation policies and programs find themselves in: the so-called collaborative approach.

The Pgakenyaw of Mae Tae Khi

Mae Tae Khi is community of 118 households located at an altitude of 1000 m.a.s.l. in the Doi Inthanon Range of Chiang Mai Province in the North of Thailand. The people in Mae Tae Khi call themselves Pgakenyaw, which means "human beings" (Laungaramsri 2001: 34). Anthropologist call them Sgaw Karen, which is one of several sub-groups of the Karen, a people speaking similar, though mutually not intelligible languages. Mae Tae Khi is one of 55 Pgakenyaw villages of Chom Thong District. There are also five Hmong villages in the mountains of Chom Thong, and 47 villages mostly inhabited by Northern Thai (Khon Muang) lie in the lowlands (Laungaramsri 1999: 111).

The Pgakenyaw along with other Karen groups have lived in the mountain range along the borders of the ancient Yuan (Northern Thai) and Siam (Central Thai) Kingdoms – both in what is today Burma and Thailand – at least since the 13th century (Keyes 1979: 31). They started migrating eastward into present-day Northern Thailand and the Doi Inthanon Range around the end of the 18th century (Renard et al. 1988: 23). The Pgakenyaw's eastward migration was partly voluntarily, partly forced by the Yuan rulers who wanted to increase the number of their subjects (Keyes 1979: 44f).



Part of the Mae Tae Khi village territory in the Doi Inthanon Range. Photo: Christian Erni

Mae Tae Khi used to be a remote place. The hike to the lowland market at Chomthong town took several hours. Even today, the dirt road does not allow for easy access during rainy season unless one owns a four-wheel-drive car, which is beyond the reach of most people of Mae Tae Khi.

The Pgakenyaw however have in the past often consciously chosen to live remote areas, to avoid trouble with lowlanders. Furthermore, as rotational farmers¹ the ancestors of the people of Mae Tae Khi preferred the evergreen forests of the higher altitudes.

¹ In this article, rotational farming is used for the kind of agriculture usually termed shifting cultivation or swidden farming. Its use is in line with the policy of the Karen activists to introduce a new term devoid of prejudices and emphasizing one of the basic qualities of the upland farming system of the Karen: its rotational pattern which is the basis for its sustainability amply documented by a host of researchers.

Over generations, however, the people of Mae Tae Khi have built extensive wet-rice terraces along the Mae Tae creek and today, the domestic economy of most families rests on a combination of wet-rice, rotational and permanent-upland farming, husbandry and daily wage labor for the “Queen’s Project”, a government community development project under the patronage of the Queen.

Persistence and change in State and public perception of uplands and “hill tribes”

During the reign of the Yuan Princes most Karen communities in Northern Thailand seem to have lived as a “semi-autonomous, tributary, dependent people under the protection of the Princes of Chiang Mai” (Marlowe in Laungaramsri 2001: 37). Others, however, and above all Pwo Karen communities “appear to have lived in almost totally autonomous communities, recognizing neither the Yuan rulers nor any of their subjects as having any authority over them” (Keyes 1979: 50).

In any case, the Karen and other indigenous peoples in northern Thailand were part of the local socio-political system and not considered “aliens” (Renard et al. 1988: 31). With the loss of Northern Thailand’s autonomy under King Chulalongkorn at the end of the 19th century, however, the traditional relationship between the Karen communities and the State was also dissolved. As Keyes wrote in 1979, it left the Karen “in something of an ambiguous position. Still today, many, if not the majority of, Karen are treated neither as full ‘citizens’ of Thailand nor fully as ‘aliens’” (p. 53). 25 years later, the situation has not changed much. Lack of citizenship is still one of the severest problems for around 290,000 of Thailand’s approximately 800,000 indigenous people (IWGIA 2004: 252, 2003: 257). The Pgakenyaw of Mae Tae Khi are among the lucky ones: they do have Thai citizenship. And until fairly recently, the personal relationship between the Pgakenyaw and the lowlanders hasn’t changed and remained amicable.

But the late 18th and early 20th century brought about developments that planted the seeds of profound changes. While the tribute paid to the Yuan Rulers was paid in kind (rattan, cloth, game, orchids etc.), the Bangkok government imposed a head tax for each male which forced the Pagkenyaw to earn cash (Laungaramsri 2001: 131f). Logging was one of the main sources of cash. Many Pgkenyaw got engaged in it and the Karen in general earned a reputation as expert mahouts. British concessionaires started teak logging in Chom Thong District in the 1930s. They were followed by Thai companies that logged other hardwood timber from the 1940s to the 1970s (Laungaramsri 1999: 112). Logging brought about an intensification of trade in the whole Doi Inthanon range, and the opportunity for Karen men to gain more exposure to the outside world. For the women it brought an increase of work and responsibilities since men were often away for much of the year.

According to the accounts of elders, the Pgakenyaw of Mae Tae Khi continued a self-contained and peaceful life well into the second half of the 20th century. Interaction with lowland society was sporadic, largely confined to trade of a few essential goods and the relationship with the people of the lowlands the – Thai Muang – amicable. Aside from

logging the State had no interests in the forests, and forest products were accessible to everyone. More important, until only a few decades ago no distinction was made between wet-rice and rotational agriculture. Both were “considered thoroughly acceptable ways to produce food crops” (Renard et al. 1988: 32).

For maybe half a century, rotational farming was in fact the basis for the production of one of the most important source of State revenue: opium. Until Thailand gave in to international pressure and passed its Opium Act in 1958 the Thai State had a monopoly on opium (Gillooly 2004: 124). Opium was in fact the pivot around which the relationship between the highlanders and the lowlanders, including state agencies, revolved. The State was of course interested in an expansion of opium production and wasn't concerned with the destruction of forests it implied.²

Around 1940 a few Hmong families came to settle at the headwaters of Mae Tae Khi village and began to cultivate opium. When they started to cut the virgin forests, which had been protected by the Pgakenyaw, and when they refused to heed the protests of the people of Mae Tae Khi, they reported this to the sub-district government officials. These were however obviously more interested in the tax opium would generate - allegedly they were also bribed by the Hmong - and didn't interfere. Consequently, large areas of virgin forest considered taboo by the Pgakenyaw were cut down by the Hmong for opium fields. After a few years the people of Mae Tae Khi, like many Pakenyaw elsewhere, adopted opium cultivation as well.

The most profound changes the Pgakenyaw have however experienced are those in the decades after opium was banned. International donor money came to substitute the loss of income from opium tax, and the era of Highland Development Master Plans began. Until today these five-year-plans have the tri-pronged objective of drug eradication, maintaining national security and conserving upland forests, which reflect the continuing prejudice prevalent in Thai society of indigenous peoples being drug peddlers, criminals and forest destroyers.

During the first decades, the Highland Development Master Plans focused on opium substitution and national security, i.e. counterinsurgency against the communist rebel. With enormous amounts of donor money being poured into highland development programs the whole North was virtually dotted with foreign-aid funded projects. UN and USAID funded narcotic control program are said to have served as the main vehicle for the Thai government's control of the highlands (ibid). Cash crops were promoted to replace opium which actually encouraged the expansion of cultivation areas and therefore added to the indigenous peoples' reputation as forest encroachers.³

² Unlike the traditional rotational farming of the Pgakenyaw, the cultivation method used for opium by other groups, above all the Hmong who are said to have introduced the crop to Northern Thailand, was more destructive to the environment. Large areas of former opium land have turned barren, covered only by grass.

³ Between 1962 and 1977 the area planted with upland food crops in Thailand increased by 500 percent (Gillooly 2004: 129).

Opium however is probably the most convenient cash crop for remote highlands, and since the price for opium soared after it was declared illegal, it remained a very attractive crop for indigenous highland communities. For decades, the government viewed the continuing opium cultivation as “an act of insubordination, with conscious and malicious intent; uplanders were outlaws, potential insurgents, and de facto criminals” (ibid.: 125). The prejudice of indigenous peoples as drug producers and potential insurgents that emerged during the first decades after the World War II has become deeply entrenched in government and public opinion until today. The third prejudice has become even more pronounced during the later decades of this millennium: the view that indigenous peoples are destroying the environment.

Foresters have ever since viewed “shifting cultivators” as forest destroyers, and contrary to all evidence on the real causes of deforestation, they have been blamed to be responsible for Thailand’s rapid loss of forests over the past decades. As public awareness on environmental issues grew this view has become firmly entrenched in the minds of the urban middle class and government officials, and the various forest conservation programs have come to represent the biggest threat for indigenous communities.

Pressure, conflict and the people’s response

The alienation of land and forest rights of Thailand’s indigenous peoples began with the reforms of 1899 that declared all land not under private possession as Crown Forest Estate. It continued with the enactment of laws like the Forest Act of 1941 that “declared certain areas to be state land without regard for existing villages” (Gillogly 2004: 128), and it culminated in the zoning of forest areas in the 1980s, identifying three main zones, and within some of them various classes to which different conservation and management policies are applied. Large areas are now classified under Zone C, either as national parks, wildlife sanctuaries or watershed classes 1A and 1B. They all have in common that their use is severely restricted. In some of them the presence of human habitation, agriculture and other forms of resource use are not allowed. Since most indigenous communities live in the forested uplands that have been declared critical watershed areas, national parks or wildlife sanctuaries, they have by the stroke of the pen become squatters on their own land. According to the Forestry Masterplan of 1995, 12,360 villages lie within such strict protection zones, most of them villages of indigenous peoples. And in the draft of the five-year forestry policy to be implemented from 2006 on, protected areas, which today account for 15% of the total land area, are to be increased to cover 40% by 2011 (IWGIA 2004: 253).

Relocation of villages from protected areas started on a lower scale since the first national parks were created in the 1960s. It gained momentum in the 1980s, and by 1988 5000 people have already been evicted from national parks (Maniratanavonsiri 1999: 165). Relocation pressure further increased in the 1990s. Indigenous and non-indigenous people’s organisations began to form networks for more effective advocacy for people’s forest rights which culminated in a 99-days long demonstration of the Assembly of the

Poor in Bangkok and the submission of a draft Community Forest Bill in early 1997. The draft Community Forest Bill, which was elaborated in cooperation with supportive academics, among others provides for land use and ownership rights for highland communities. In the same year, the Cabinet cancelled all arrests and relocations in forest areas and Cabinet resolutions were passed providing for the approval of land rights for 107 villages in the North and the survey of highland communities' land and settlements within protected areas. However, the optimism felt among communities and civil society organizations was to be short-lived only. Another Cabinet resolution was passed in 1998 revoking those of 1997 and re-asserting the policy of relocating villages from protected areas. While this move was welcomed by radical environmentalist groups and lowland farmers who had vehemently protested against the previous resolutions, it triggered massive protests by highland and forest people both in the regions and in the capital Bangkok, with tens of thousands of people rallying for the recognition of people's land and forest rights.

Views on forest conservation became polarized, with highland people, NGOs and some academics believing that people and forests can coexist, many lowland and urban dwellers, government agencies and some environmentalist NGOs believing the contrary and demanding that people be relocated from ecologically sensitive areas. In some areas this polarization of views turned into open conflict. Around 600 indigenous people have allegedly been evicted "as a result of the collusion of lowland farmers' interests and the government's policy in the uplands (IWGIA 2000: 256).

Chom Thong District, where Mae tae Khi village lies, was one of the hotspots of the conflict between lowland farmers and conservationists, and indigenous highlanders. In 1972 Doi Inthanon National Park was created and subsequently enlarged, now covering an area of 482 sqkm in Chom Thong, San Patong and Mae Chaem district. Just adjacent to the South the 553 sqkm Ob Luang National Park was established in 1991 which includes several villages in the uplands of Chom Thong District (Laungaramsri 1999: 113). Furthermore, with the classification of the uplands under different types of watersheds some upland villages came to lie within 1A watersheds, totally protected areas for the conservation of water resources in which no settlement or agriculture is permitted. The consequence of the establishment of these protected areas for the indigenous communities is "constant coercive discrimination through legal instruments such as being arrested for getting access to and making use of forest land, and losing their harvests as their crops were deliberately destroyed by national park officials" (ibid.).

There was no talk of relocation, however. Not until the late 1980s when the Chom Thong Watershed Conservation Association (CTWCA) led by the radical Buddhist-environmentalist Dhammanaat Foundation began an aggressive campaign demanding the relocation of upland villages, particularly the Hmong village of Pa Kluay in what was later to become Ob Luang National Park. Since 1986 the Dhammanaat Foundation and the Chom Thong Watershed Conservation Association have conducted a protracted and systematic campaign not only against the highland villagers of Chom Thong district, but also against any move of the legislature towards a more people-oriented forest policy. They were at the forefront of the protests and petitions against the passing of a

Community Forestry Law, and at the local level sometimes reverted to drastic actions like fencing of fallow land with barbed wire, blockading of roads leading to upland villages, or the destruction of canals, water pipes and other property of Khun Klang village provided by the Royal Project.

The members of the CTWCA are mainly lowland farmers who have experienced insufficient water supplies for their fields and fruit-tree plantations. Ignoring the enormous growth of water consumption in their intensive production methods they followed the unfounded and racist argumentation of the Dhammaanat Foundation and put all the blame on the highland people.

By the mid-1980s the Pgakenyaw communities of Chom Thong district became worried about the campaign and the increasing harassment of villagers by forest department and national park officers. 24 people of the Pgakenyaw village Ban Huay Poo Ling in Ban Luang Subdistrict, had been arrested and sent to the court for violation of the forest law (IWGIA 2003: 14). And they feared that the demands of the CTWCA for relocation of the highland communities would ultimately be heeded by the authorities.

Having learned about the way indigenous communities elsewhere tried to address such problems, Nai Duangchan Niyompaipaopong, a Pgakenyaw working as Social Welfare officer for the government, approached teachers, community leaders and other Pgakenyaw, and their discussion resulted in the formation of a people's organization, the Highland Natural Conservation Group of Chom Thong (HNCC), in 1992.

The HNCC: "Modern" natural resource management as self-defense

The HNCC is one of many watershed community networks that emerged in the late 1980s and 1990s all over Northern Thailand. Today, HNCC's network extends over 40 Pgakenyaw communities in three sub-districts of Chom Thong. The HNCC was formed with the aim to deal with all the pressures on the indigenous peoples in the uplands of Chom Thong by strengthening the communities and improve their capacity to conserve and manage the natural resources in a sustainable manner. The HNCC also aimed at furthering an understanding in mainstream Thai society of the situation of highland communities and of the rights to co-exist with the forests. And the HNCC joined other civil society organizations in their endeavor to pressure the Government to alter its policy, and to recognize and support the community's rights to land and forests in the uplands. In the early years, from around 1992 to 1994, HNCC relied entirely on its own human and financial resources. It focused on awareness raising and community organizing, i.e. the setting up of village-level committees. Initial activities also included forging contacts with government agencies, the promotion of forest use regulations in communities, the establishing fire breaks, and the organizing of fora in HNCC member communities in the four sub-watersheds of the HNCC area (IWGIA 2003: 15). In 1995 the HNCC received support in the form of a full-time coordinator from the Inter Mountain Peoples Education and Culture in Thailand (IMPECT), a Chiang Mai based NGO run by indigenous people. They were also advised by the Diocese Social Action Centre, a

catholic church-based organization with many years of experience in working with indigenous communities (ibid.: 16). In late 1996 IMPECT managed to get financial support for the HNCC from the International Work Group for Indigenous Affairs (IWGIA), an support organization for indigenous peoples whose international Secretariat is located in Copenhagen, Denmark.



Evaluation workshop organized by the HNCC with women of Ba Pae Khi. Photo: Christian Erni

Until today the activities of the HNCC have been supported through a project funded by the IWGIA.

According to the project documents, the objectives of the project are:

- To conserve land, water, and forests so that these resources continue to exist for the future generations of highland communities.
- To promote sustainable multiple cropping agriculture, an agricultural system that maintains the balance of nature allowing for the coexistence of humans, animals and forests.
- To strengthen the grassroot organisations so that the highland communities can realize their potential to manage themselves, their problems, and to determine development directions.

These objectives were to be achieved with activities conducted under three project components:

- 1) Development and Strengthening of Grassroot Organisations;
- 2) The promotion and support to community-based land use and resource management;
- 3) The promotion of and support for sustainable agriculture either in the form of a small-scale livestock dispersal project or support key farmers developing and practicing integrated farming techniques.

These activities on the local level went along with a, over the years increasing, involvement in the regional and national people's movement for land and forest rights. Key leaders of the HNCC are active within the Karen-dominated Network of Northern Farmers, and in recent years a number of HNCC leaders have been elected into various local-government positions.

Although the promotion of community-based resource management and conservation and sustainable agriculture are mentioned as main objectives of the HNCC's activities, the implicit ultimate goal has always been the securing of land use and ownership rights for the communities. In the beginning, the main implicit goal was simply the prevention of relocation which until today at least for small communities with little or no permanent wet-rice fields continues to be a threat since the respective legislations regarding human presence and activities in protected areas remain unaltered.

Some HNCC communities received a certain protection by the presence of projects under the patronage of the King or the Queen. The Royal family has ever since promoted welfare and development projects among indigenous communities. Being part of such a project not only puts the communities under the protection of the Royal family, they also get infrastructure projects that might otherwise not be allowed in "ecologically sensitive" area. The project runs a demonstration farm, promotes income-generating activities like cash cropping and offers possibilities for wage labor.

Still, the situation of the communities in the HNCC network, especially the small ones, is precarious. Indigenous communities are under continuous pressure to refrain from livelihood activities considered illegal and to prove that they can co-exist with forests and are capable of sustainably managing and conserving forests and natural resources. They do this by adopting concepts and methods promoted by NGOs in the best, and often successful, intention to gain certain recognition by the authorities.

The most common method is to draw up a community resource use and management plan. This is usually done by means of community mapping in the form of a three-dimensional model of the community territory. In this method the village land is divided up into different land-use zones to each of which certain rules are applied. The standard zones usually created are: Conservation forest, community forest, upland agricultural land, paddy (wet-rice) land and settlement area.

In Mae Tae Khi the system was introduced 10 years ago by an IMPECT field coordinator. He and his colleagues had learned about the method during an exposure to a government project in Mae Taeng watershed where it was developed in the 1980s.

The 3-D model was built by a group of youth under the guidance of the IMPECT coordinator, and the land use zones were delineated and applied on the model in community meeting in which everybody, the elders, men, women and youth participated.

The zones defined are standard zones developed elsewhere, with one exception: the sacred forest. As a kind of syncretism of traditional rituals and the common lowland Buddhist practice of “tree ordination” – when a sacred saffron-colored cloth is wrapped around a tree trunk just as novices are clad in a saffron robe – Pgakenyaw in Mae Wang watershed developed the concept of “forest sanctification”. A forest is thereby declared sacred and put under the protection of the Spirit of the Earth which according to traditional Pgakenyaw believe is the owner of the village territory. The practice of forest sanctification has rapidly spread among the Pgakenyaw and other indigenous communities in the north.



Thus the land use zones in Mae Tae Khi include:

1. Sacred forest: No cutting of trees, no burning of undergrowth and no hunting is allowed. Not even the catching of fish, crabs or frogs is permitted, but the gathering of minor forest products (medicinal plants, leaves for thatch, mushrooms, herbs and other edible plants etc.) is permitted.

2. Conservation forest: No cutting of trees and no agriculture of whatever kind is permitted. But people are allowed to hunt (except for the traditionally protected animals), fish and gather forest products.

3. Use forest: In this forest people are allowed to cut trees for domestic use, but not for commercial purposes. They have to obtain a permit to cut larger trees from the village committee. They are allowed to hunt throughout the year, but not the animals that have traditionally been protected by a hunting taboo (like the hornbill bird and the gibbon). And of course, people can gather all kinds of minor forest products. They are however not allowed to practice agriculture.

4. Farming area: this is the area where people have their paddy fields, orchards, permanent upland fields or, at least theoretically, their rotational fields.

People outlaw the burning of underbrush in forest, or any vegetation if it is not directly related and confined to the clearing of a plot for rotational farming. They also maintain a firebreak line at the perimeter of the village territory. During the dry season 2003/2004 the people of Mae Tae Khi spent weeks to fight a forest fire that broke out in the foothills and managed to spread across the firebreak into their forests. At least the people's efforts to prevent and fight forest fires are acknowledged by the authorities.

Fines have been collectively agreed on and are enforced by the village laws in case of trespass.

The accomplishments of Mae Tae Khi and other communities under the HNCC network to manage and conserve their resources have received at least a tepid recognition by the government. Even though government officials have been invited to the village to study and approve the land use planning, none has ever come. But the government recognizes the communities' efforts in preventing and controlling forest fires, and government officials participated in the forest sanctification rituals, which can be interpreted as a tacit recognition of community conservation. The local governments of some sub-districts have in recent years made a financial contribution to the maintenance of fire-break lines, and are now supporting the villagers in their negotiations with the national park authorities. The latter however are still continuing with strict enforcement of their rules. Although people now believe that there is no more threat of relocation, there is still a widespread feeling of insecurity.

Is this what we want? The impact of the new system

The resource management system introduced is widely supported by the villagers and the HNCC, as promoter of the new community-based resource management, is well known. They are however also well aware why the new resource management system was introduced. When asked about the purpose of the system, a 44 years old man replied:

It's because of the government that doesn't allow the people to live in the highlands. The lowlanders protest, so the people do the natural resource management for the government. They hope that the government allows them to stay in the forest.

From a conservationist's point of view, the achievements of Mae Tae Khi's resource management and conservation system is impressive. People consistently reported that the forest has expanded, is thicker and has more large trees. Hunters reported that due to the creation of a no-hunting zone the number of wild animal like barking deer, wild pig or wild chicken has increased and several animal species that had disappeared have returned, like the Kalij Pheasant (*Lophura leucomelana*), Bare-backed Partridge (*Arborophila brunneopectus*), the East Asian Porcupine (*Hystrix brachyura*), or the Clouded Leopard (*Neofelis nebulosa*). Some hunters have also sighted a Sambar Deer and discovered traces of a bear.

After ten years of experiences with the new resource management system, the people of Mae Tae Khi however realized that it also has its drawbacks.

Since the controlled burning of grasslands and the underbrush of some of the forest, a common management practice of the past, is not done anymore, there is a scarcity of grazing areas for cattle and buffaloes. Some wild vegetables, herbs and mushrooms have become rare for the same reason. Especially women complained that due to the absence of controlled burning that poisonous insects and snakes are now more numerous in the forests making gathering of wood and forest products hazardous.

What upsets the people of Mae Tae Khi most is that they are not allowed to practice rotational farming anymore. Even though most families in Mae Tae Khi produce enough rice for their own needs on their paddy fields, some families have been dependent on rice from rotational fields. And the bulk of vegetables, herbs, spices and root crops that enriched the traditional diet of the Pgakenyaw came from their rotational fields. Probably well over 90% of all domesticated plant varieties are grown in rotational fields. The forced abandoning of rotational farming has thus not only impoverished the diet of the people, forcing them to buy more food on the market, but is leading to the loss of an incredibly rich diversity of domesticated plants.⁴ Some varieties have already disappeared, others are grown only by a few sometimes only one or two household anymore. Being aware of the wealth they have inherited from their ancestors, people regret and lament the loss of plant diversity.

⁴ A preliminary survey showed that the Pgakenyaw of Mae Tae Khi plant 192 varieties of 52 plant species. Most of them are planted in rotational fields.

The loss of edible plants due to the absence of rotational farming is not confined only to cultivated plants. In fact, most of the edible and other useful wild plants grow in the secondary forests that establish themselves after a rotational field is left fallow. Many people, both men and women, pointed out that the lack of fallow vegetation, the young forests, will in the long run also impact on the wild animals. They are the preferred foraging areas of deer, wild pigs, wild chicken and many other animals. With the abandonment of rotational agriculture and the disappearance on young secondary forests these animals will have less food.⁵ For outsiders probably most the surprising change reported by many people is that the water level in the creeks decreased due to the increase of forest cover. As one women put it:

We can see, where there are big trees the streams have no water; if we open some trees there will be more water. The lowlander will have enough water for their *longan* (a very popular commercial fruit grown in plantations in the lowlands of Chom Thong District, authors), they will not complain.



*Shifting cultivation had to be confined to short-fallow cycles along the slopes surrounding paddy fields.
Photo: Christian Erni*

In recent years conflicts occurred among villagers because of the restrictions the new resource management system imposed on them, especially the ban on rotational farming. A few people claim that the zoning was done to serve the self-interests of the committee members. They blame the HNCC village committee for having prevented them from

⁵ Observations in other parts of Southeast Asia have actually confirmed that rotational farming benefits many wild animals, including some endangered species like wild cattle (Gaur and Banteng) and elephants (personal communication with several conservationists).

cutting rotational fields, telling them that they would have to wait “until the meeting with the ministers”, but that years have passed and nothing had happened.

The HNCC does not promote abandoning rotational farming. On the contrary, like many other peoples organisations, NGOs and concerned academics the HNCC has since years been lobbying the authorities for the recognition of the right to and the decriminalization of rotational farming (rotational farming). Research has amply documented that this age-old traditional cultivation method is highly adaptive to the uplands in the tropic and inherently as sustainable as any other agricultural practice. Still, rotational farming remains the most contentious issue and the government is continuing its policy that aims at completely eradicating it.⁶

The community resource management rules in Mae Tae Khi actually do not forbid rotational farming. All it does is to confine any agriculture to the designated zone. Lying within Obluang National Park, however, the people are subject to the national park regulations, and are therefore not allowed to practice rotational farming. Since the HNCC aims at finding amicable solutions to their problem, they are of course not encouraging the people to break the law. After all, some have been fined and jailed for practicing rotational farming. The HNCC tries to promote alternatives, like the so-called integrated upland farming, so that people are not forced into commercial vegetable production that has been promoted by development agencies for the past decades as a substitute for opium, and which is now spreading fast throughout the mountains of Northern Thailand. But the HNCC's has limited capacity and resources, too limited to be able to support people to develop alternatives. And what most people actually want is just to be allowed to continue with their traditional resource management practices.

Kham Noi, a 46 years old mother and HNCC committee member from Mae Tae Khi has aptly summarized their experiences – and the dissatisfaction - with the new resource management system:

If we manage the resource just for forest department like now, there will be only trees, not much benefit to villagers. The forests at the source of water we have protected already since a long time ago. But in the past we could do rotational farming everywhere else if appropriate. Wild animals came to the fallow. But now that the villagers divided their land for farming, including land for rotational farming, they cannot do rotational farming anymore. We are waiting for negotiations with the minister until now.

The forest is doing well. It is good for outsiders; but inside the people can't survive if we keep only forest. Rotational farming is our main blood.

⁶ The authorities appear to be more lenient in forest areas that do not fall under the full protection status and, probably for political reasons, where indigenous peoples comprise a large share of the population like in Mae Hong Son province. In other areas, however, people continue to be arrested for the crime of trying to make a living. Poor rotational farmers usually simply have no choice.

A decent environment - Who decides?

The people of Mae Tae Khi have a clear idea how they would like to manage their resources, what kind of environment they would like to live in and care for. The Pgakenyae of Mae Tae Khi often refer to the traditional system they practiced in the past, pointing at the old-growth forests at the headwaters that are still there because ever since their ancestors had protected them. The old resource management system was much more complex and dynamic, resulting in a diverse environment which consisted mostly of forest, but of forest of various age and species composition interspersed with rotational fields, paddy fields along the creeks and fruit tree groves. And the landscape was constantly changing as new fields were cut and old ones reverted to forest. The system was maintained by an intricate set of rules and regulations based on taboos rooted in the believe in the spirit of the land and various other spirits inhabiting particular places of their territory.

The new system is a static system, a system that therefore can be more easily represented on a map, with clearly identified zones that have clear and stable boundaries and fixed rules for use and management. It is a system representing a “modern”, “scientific” way of thinking, one that is legible to and pleases outsiders, above all the educated government officials. It is a system that complies with their way of thinking - and their laws.⁷

But it is not necessarily what the people want. As shown above, it has many drawbacks and people are dissatisfied with the new system. Kham Noi again:

People have done conservation since a long time. There are several concepts that the elders teach to the young generation. They always refer to a strong spirit, but in its meaning it is about conservation, like Deif Muj Be, Hti Hpa Taj or others. This is the way of practice. People believe in the elders. Nobody came and paid for conservation. They practice it because that way they will survive in the long run.

But conservation like that of the government, like National Parks or Wildlife Sanctuaries, they create a position, they have a salary. Conservation is just for money, position, power.

Ultimately, the conflict over forests and land in the hills of Northern Thailand is a conflict of views and values, and its trajectory is ultimately determined by power relations. The position and arguments of the government and environmentalists are bolstered with reference to modern science, their approach founded on concepts like “watershed” that underlies their categorization and zoning of the uplands, their

⁷ IMPECT, with support of the Forest Peoples Program, is currently conducting a mapping projects based on GIS technology in which detailed maps of the present land use among the HNCC communities are produced. A high-ranking government official of the Department of National Parks, Wildlife and Plant Conservation based in Bangkok during a recent visit expressed his respect and appreciation of the quality of the maps produced. It was clear that this kind of representation of the reality was more accepted than the on-the-ground reality itself. While appreciating the maps he expressed his disapproval of the fact that some of the upland fields he saw were on steep slopes. His judgment was obviously based on common knowledge – like what is taught in agricultural and forestry colleges - and not the knowledge of the local people.

management and development plans. It is an abstract concept suitable for desk-top planning but it is devoid of any connection to and reference to the life, experience and practical knowledge of the people who have lived in these areas since hundreds of years. Above all, the concepts and policies are ignoring the rights of people, and human rights violations are the consequence of the unscrupulous implementation of the law. In some areas, like in Mae Tae Khi, the park staff have been comparably understanding and lenient in recent years. But elsewhere arrests and detention are still continuing.

As much as the government claims the authority to decide what a forest is and how it should look like, it obviously considers it its right and duty to decide what a “decent environment” is for people. As the former director of the Royal Forest Department put it in the 1990s:

We have to put people in the right place. We have to accept that there are some places that we should not live. I am not supposed to sleep on Rajadamnoen Avenue [one of the main roads in the capital Bangkok, C.E.]. Likewise, some of you should not live in watershed forests. (Laungaramsri 1998: 108)



Fields and forests of the Pgakenyaw in the Doi Inthanon Range. Photo: Christian Erni

The indigenous peoples of Thailand are denied their right to live in areas not considered a “decent environment” for people. And if they are allowed to stay there, it is again the government who decided how this, a “decent environment” shall look like. It’s an environment seen from a modern, urban perspective, one in which forests and fields are

neatly separated, and where fields are to look like the fields of lowland Thai. It is a view to which rotational farming represents the virtual antithesis.

We cannot deny that the Thai government believes people have a right to a decent environment. But the people, and especially the minority indigenous peoples - don't have the right to decide what "decent environment" means to them, and how it should look like. And the underlying, all-pervasive problem: indigenous peoples in Thailand don't have any rights to their lands and forests.

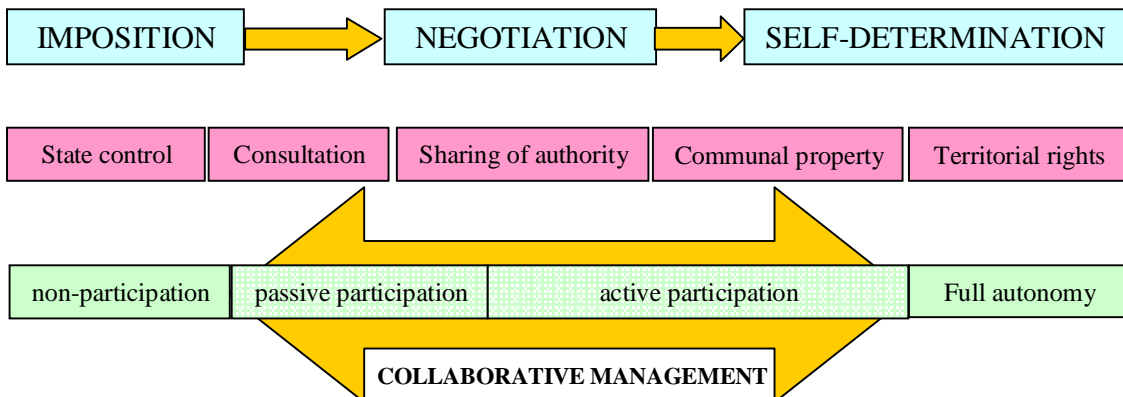
Rights-based collaborative management - The way out?

The people of Mae Tae Khi are convinced that if only they are allowed, they can manage and conserve their land and forests themselves. The suggestions they made point towards a combination of the old and then new system. They have recognized the advantages of some of the new rules, like the declaration of a no-hunting zone in the sacred forest. As land use practices have changed, partially in compensation for the lack of rotational fields, and most people managed to achieve self-sufficiency in rice from their paddy fields, a future land use system would rely less on rotational farming than in the past. Many young people have not been able to acquire the knowledge and skills for rotational farming. They simply have not had the chance to learn them, and consequently they have no intention to practice it in the future. Having been more exposed to the outside world either during higher education or when taking up jobs in the lowland towns, many have learned the "modern ways", like the high-input commercial vegetable production that has also been promoted in development programs since the past few decades.

In any case, people are ready, and they in fact have already gone for a compromise. But in their eyes they went too far. Compromise, a give-and-take is the basic logic behind a new, the so-called collaborative approach in the management and conservation of natural resources and biodiversity promoted by socially concerned conservationist since the last one or two decades.

Very generally, collaborative management can be defined as a partnership agreement between social actors (like government agencies, communities or other groups of local users of resources, and other "stakeholders" like local governments, private entrepreneurs, conservation or development NGOs, research institutions etc.) on the sharing of responsibility in resource management and conservation. The term collaborative management is very general and applicable to a wide range of co-management arrangements between social actors encountered in reality.

The diagram below tries to illustrate and characterize in a simplified form the variety of possible collaborative management regimes along a continuum between the two extremes of non-collaborative resource management regimes, i.e. full state control, and full local autonomy.



Any arrangement between the two extremes can be conceived of as some kind of collaborative management arrangement. But this also means that any institutional change signifying a move towards the right side in the graph implies more devolution of power to, more rights and more autonomy for the communities involved. For indigenous peoples, the particular arrangement the nation state has established with respect to their land and resources therein, touches upon one of the core issues for indigenous peoples: self-determination.

However, the adoption of collaborative approaches in conservation of whatever kind by states and other agencies usually does not in the first place reflect a concern for the local people. Many national governments are facing serious problems in financing their conservation programs, with the consequence that new arrangements in conservation have to be found in which actors other than the state play substantive roles. Furthermore, decades of experience in conservation have shown that the conventional “fence-and-protect” approach has largely failed. Conservation agencies came to conclude that without the support and co-operation of the local people, many protected areas are in the long run doomed. And there are other practical reasons why it makes good sense to involve local people in conservation and resource management programs. Especially people who have lived in the respective areas since many generations - like indigenous peoples - have an enormous and detailed knowledge about species and eco-systemic processes that can be very useful in resource management and conservation.

But what is often forgotten are the *rights* of local and, again, especially indigenous peoples. A collaborative approach in conservation, however, that does not depart from the recognition of the rights of indigenous peoples remains bare utilitarianism. And it is in conflict with an emerging global recognition of indigenous peoples’ rights.

Having lived on their land long before the creation of protected areas and, in most cases, even before the creation of a nation state, indigenous peoples have a primordial right over their ancestral lands. This is increasingly being recognized by the international community. It is manifested in the ILO Convention 169 and the UN Draft Declaration on the Rights of Indigenous Peoples. And the rights of indigenous peoples to their territories

– and this means: to exert full control over them – is also increasingly being recognized by leading conservation agencies like IUCN and WWF.

At the 1996 meeting of IUCN's World Conservation Congress several resolutions were passed which refer to the rights of indigenous peoples. They among others:

- recognise the rights of indigenous peoples to their lands and territories, particularly in forests, in marine and coastal ecosystems, and in protected areas;
- recognise their rights to manage their natural resources in protected areas either on their own or jointly with others;
- endorse the principles enshrined in ILO Convention 169, Agenda 21, the Convention on Biological Diversity and the UN Draft Declaration on the Rights of Indigenous Peoples;
- recognise the need for joint agreements with indigenous peoples for the management of protected areas and their right to effective participation and to be consulted in decisions related to natural resource management. (Colchester 1999: 13)

Unfortunately, in the guidelines subsequently adopted by the World Commission on Protected Areas the commitment given to respecting of indigenous peoples' rights has been watered down in one key aspect: the recognition of the right of indigenous peoples to their territories, and the right to manage their resources in protected areas has become a recognition of indigenous peoples' rights to "sustainable, traditional use" of their lands and territories. Clearly, this represented a limited, conditional recognition of indigenous peoples' rights since it would not be the indigenous but outsiders – the State, non-governmental conservation agencies, so-called experts? – who were to decide what is meant by "sustainable, traditional use". It was far from a recognition of indigenous peoples' right to self-determination.

Since then, many resolutions and articles in international documents have been passed related to biodiversity conservation that are calling for collaborative management and conservation of natural resources and biodiversity. And considerable progress has been achieved with respect to the recognition of indigenous peoples' rights.

The Durban Action Plan drawn up at the Vth IUCN World Parks Congress in Durban, South Africa in September 2003 states as Key Target 8 that "all existing and future protected areas shall be managed and established in full compliance with the rights of indigenous peoples, mobile peoples and local communities" (p. 24).

This definitely brings us a step closer to a rights-based approach in conservation. The challenge now is to make governments move and take the necessary action to achieve this target. Only then can we also say that their right to a decent environment has been fully recognized, since, as we have seen, it also implies to have the right to decide what "decent" means for them.

It however looks like the people of Mae Tae Khi, like indigenous communities elsewhere in the world, will have to go a long way until this happens.

I have to tell the mouse, if it doesn't listen I will go to the bird, if it doesn't listen I will go to the tiger - because I believe rotational farming doesn't destroy the forest. It is our way of life.
Kham Noi, Mae Tae Khi



Pgakenyaw women harvesting rice. Photo: Christian Erni

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