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**“สิทธิชุมชนท้องถิ่น จากจารีตประเพณีสู่สถานการณ์ปัจจุบัน :
การศึกษาเพื่อแสวงหาแนวทางนโยบายสิทธิชุมชนท้องถิ่นในประเทศไทย”**
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A Study of Local Community Rights Policy Formulation in Thailand)
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Community Rights in Thailand and Southeast Asia
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**Challenges to Community Right in the Hill Forests :
State Policy and Local Contradictions. A Karen Case**
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**The Lao hiit khoong Code: The Perception of Community
Rights and Social Values of the Lao in Historical
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**Lue Local Community Rights in Thailand,
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Hmong Community Right. The Jomthong Conflict
Kwan-Isara Chatvanichkul

Summary

Four decades ago, there was no unified concept of *chau khau*, and information on these groups was scarce. Even fifteen years ago, it was only mainly curious foreign scholars, or those involved in administration in the peripheries that claimed any interest on these groups. However, today, increasingly we come across their names and images in daily newspapers and other publicly available written material. This reflects partly the rise in public interest, but there are other more important reasons: firstly, it is because the rights and living of these people have come to be increasingly at odds with those of others; and secondly, because Thai civil society has matured to recognize this as an issue.

We have come to a point where we must examine the issue from both sides. Our purpose is to provide the view from their side. Furthermore, anthropologically, this is an exercise in understanding a way in which how some minority ethnic groups in Thailand and across the boundaries construct their own discourse on their own identity, history and tradition as a basis for their rights, particularly, community rights.

In Thailand and in Southeast Asian countries as well, the concept of human rights is a question rather than a given. However, to compare the history of "*human rights*" in these countries would be an overwhelming task. This project aims, rather, to focus on the specific issue of the rights of indigenous, minority, and traditional peoples and communities. The understanding is that by doing so we may shed light on the *commonalities* and *differences* of the processes involving human rights in the Asian countries.

The *Karen* have adapted to an ecological niche somewhat peculiar among those designated as hill tribes in Thailand today. They are midway between highland and lowland, with subsistence activities that make use of both the hill slopes and the valleys. Customs of allocating and protecting communal and individual rights have developed over the years, although dynamically adapting to the different modes of adaptation. Such customary rights and the modes of adaptation is first addressed in the research project.

However, the development of the Thai economy, increasing involvement in the hills in the form of investment and exploitation of resources, and population increase in the hills have brought various infringement on these customary rights by outsiders as well as and inevitably by themselves. Land, forest and water, and life on land that they have lived on for generations, can no longer be taken for granted.

In responding to various forms of infringements, as ethnic minorities, the Karen have resorted to their own tradition, as well as to discourse and practices of the lowlands. Through analysis of these various responses, the researcher has given the understanding of how the Karen conceptualize their rights as minorities as well as their cultural continuity and how that is met by those with power.

There are so many other indigenous ethnic groups in Thailand and Southeast Asia who have also been striving in their claim to indigenous rights to land. Through this struggle, they have reformulated and reconsidered their cultural continuity and

identity in each country where the majority culture and society have long eliminated them from view.

Through the comparison of some other case-studies, all researchers in this project hope to shed light on the concept communal rights as well as on the position of minority groups in Southeast Asian countries. The researchers have been conducting ethnographic fieldwork over ten years among the Karen, Lue, Lao, Lua and Akha. Data gathered from the past field research of each particular project were used and well-chosen, and additional formal and informal interviews were carried out both regarding community rights in the traditional setting as well as regarding present day claims to community rights, and responses to various infringements. Ethnographic on other areas as well as journalistic and internet materials on these themes were also employed extensively. For comparison with other ethnic groups general historical and ethnographic work as well as written material on recent debates regarding indigenous rights were consulted.

The perception of community rights of the ethnic *Lao*, who actually are settling in the Lao PDR (51% of the total population) and in Thailand (26.9 % of the total population), has not yet been studied or analysed systematically. Academic research mainly emphasizes Lao Buddhist law codes (lao: *kotmaai buuraan*), which had been developed under the influence of Theravada Buddhism from the 13th century on. Those Buddhist law codes were of a special juridical significance in religious and urban centres as Luang Prabang and Vientiane, for example, where Lao Buddhist kings or noblemen resided.

At the village level, especially at the periphery where the influence and control of central rulers were not as strong as in the administrative centres, the Buddhist law codes were of a lesser importance than the traditional Lao *hiit khoong* code.

The *hiit khoong* code might be of pre-Buddhist origin, although partially also influenced by Buddhist thought and morality. The historical development of the *hiit khoong* code up to now cannot be reconstructed, because of lacking historical evidence. Occasionally, the code or at least its existence is mentioned in historical Buddhist scripts, but parts of the code itself had been firstly explored by Maha Sila Viravong in the 1960/70ies, and later were collected and written down in detailed form also by Khambang Chaninyawong, P. Phuangsa, Maha Bounleut Thammachak and Maha Keo Singwongsa.

In contrast to Buddhist law codes, which were not commonly known and had to be interpreted by learned Buddhist monks and law specialists, knowledge about the *hiit khoong* code was widespread even among common people and determined intra- and inter-community relations. Parts of the *hiit khoong* code form a catalogue of community rights and properties, which may differ from community to community and because of this are supposedly community-self-defined regulations. Those regulations of course follow the principles of the "natural law" which is the basis for Lao world view. It can be supposed, that the *hiit khoong* code was and is a foundation of the perception of values in general and, besides this, especially of community rights of the Lao until today.

The *hiit khoong* code includes concrete community rights and properties as well. It very clearly regulates social relations and behaviour in the traditional Lao hierarchical society. The common Lao pre-supposition, that all things in nature - human society is an integral part of nature in this concept - do underlie an hierarchical order, is the theoretical basis for the widespread acceptance of the *hiit khoong* code. All rules and regulations, even those for punishment, are thought to be legitimized by the universal "law of nature".

The main practical purpose of the code should be seen in the prevention of social and socio-political conflicts. Harmony and conflict-free social interaction are highly appreciated by the Lao. The *hiit khoong* code is the most important expedient to ensure *social harmony* constantly. The preventive character might be an important difference to Western law conceptions, which accept the *conflict* as a *social reality* and which are merely oriented to solve existing conflicts than to prevent them.

In its special preventive function, the *hiit khoong* code has both legal and educational character. On the one side, it teaches rules and regulation for intra- and inter-community action; on the other side the code teaches moral principles and values for all kinds of social behavior. Because of this, the *hiit khoong* code was one main instrument to ensure a stable order in traditional Lao *baan-muang* communities.

There arises the question, as to whether the *hiit khoong* code is really a kind of law, or it is social "*habitus*" in the sense of structuralism.

The research on "*Lue Local Community Rights in Thailand, Laos and China : A Comparative Study*" aims at studying the community rights of the Lue. Historical approach is emphasized in order to perceive the awareness and the methods of preservation of the Lue community rights. Traditional manuscripts, local beliefs, and communal rituals are studied and observed. The researcher highlights her study of community rights on natural resources mainly forest, land and water. The different degree of awareness and various methods of community rights preservation are comparatively studied. Political and economic changes occurred in the 19th century affected the Lue communities drastically. Conflicts occurred and continue to the present. This research studies how the Lue adjusted their community rights and what problems they confronted when protecting their community rights.

The set of historical events enable us to place the *Lua of Nan* within a larger context, as being aborigines or fore-runners of Northern Thailand. Chronicles give evidence for the harsh taxation and conscription for warfare imposed on the peoples of Muang Thaeng, Muang Lai, Chiang Rung, and Chiang Khaeng, within which the Mon-Khmer speaking groups were in the periphery. Possibly, the matrilineal structure of the *Lua of Nan* was a response which allowed them to survive these hardships. Women's labour was crucial in agriculture as well as household, with men being lost in war and through *corvée*.

The *Lua of Nan* who have been engaged in their millenarian movements at least three times in the past 150 years are illustrative of the Mon-Khmer-speaking groups of the region. Their matrilineal social structure is not a primitive stage in an

internal unilinear evolutionary process. It may be seen as "devolution" -- An ancient Mon-Khmer kingdom being reduced to communities of a "primitive" and "stateless" form in which women need to hold power to maintain the processes of reproduction as well as agriculture, and forest management. Matriliney, matrifocality, and matricentricity are constrained in a devolutionary process created by both internal economic conditions and external political power. Practicing 'matriliney' in a strong sense among the Lua of Nan is perhaps the only mean for them to preserve Lua identity.

Thailand's rapid economic development has resulted in an equally rapid but degrading ecological transformation. It has also affected the resource base on which rural people's livelihoods depend. Although environmentalism in Thailand has grown considerably in recent years, environmental politics in Thailand are clearly more than a straightforward response to resource degradation. It does not only reflects, but also acts upon, changing social and political relations at many levels.

In Northern Thailand, both highlands and lowlands and its periphery, the mode of technocratic environmentalism practised and politicised by the State via the Forestry Division has been the mainstream. Justification of the state take-over has brought with it issues of serious conflict between highlanders and lowlanders. At present, the politics concerning the environmental issues in Thailand is far from being a simple argument between those in favour of *extremely green forest conservation* and those in favour of *sustainable usage and function of ecosystems*. Such argument has emerged into complex new arenas that match the political reform, having the *Thai Constitution (1997)* as its direction and an increasingly multi-faceted 'civil society', interpreted and acted by many groups of people's organization and NGO.

The present situation of the Lua of Chiangrai who were forced to move from their homeland and have been relocated in Lampang about six years ago, since February 1994, according to the decision made by the Thai Cabinet, is indeed the problem of community rights and state take-over. As well as other highland ethnic groups, the Lua of Chiangrai have confronted with problems of increasingly scarce agricultural land, resulting from hydroelectric dams and National Parks. All these matters have affected the livelihood of the Lua in several ways, including their swidden cultivation and their rotated rice field. These are Lua wisdom, which they have passed on from generations to generations.

The research on the Lua reflects and examines the complexity of Lua-Thai politics concerning the production and management of forest resources in the past. The Lua confrontation with the politics of environment played by the State via the Forestry Division is our subject matter. As Lua suffering is in the context of Northern Thailand, the researcher further explores some other specific case-study which form new alliances, who have shared similar conflict between the *extremely green forest conservation-oriented* and the *communal sustainable livelihood-oriented* environmentalism. The case of the Akha relocation at Ban Huay Mahk in Chiangrai is further elaborated.

Confronting with the state take-over and intervention, most highland ethnic communities in northern Thailand have become the social space of power struggles

over natural resources and eco-politico-cultural domination. Community culture has been re-constructed to identify various forms of contestation between highland and lowland sectors at large. Re-invention of community-based forest management and a push for its recognition through the communal customary laws are, among other things, new trends of the indigenous communities' struggle for human rights, community rights, and land rights as well. In Northern Thailand, according to Chusak Wittayapak (1999), these grassroots movements have currently widened to a "*tribal-based movement struggling for citizenship rights and access to natural resources*." These civic movements emerged in line with the implacement of the new Thai Constitution (1997), stating community rights over natural resources as well as allowing people's participation in resource management.

The politics concerning environmental issues in the Thai State can also be interpreted as an obvious case of racial oppression and ethnic discrimination as well, stretching between the lowlanders and highlanders, urban and rural communities, and Thai and indigenous ethnic groups, of this *plural society*, where lowland-based state-authorities have pushed forward their efforts to heavily suppress hill-dwelling ethnic minorities. The case of the Boe Kleua Lua in Nan Province in the historical scenario of Northern Thailand and the Akha of Chiangrai fit well into this category. Recently, racist patterns and processes in the northern region have been augmented and transformed through acts of the state taking over land and forest resources.

At present half a million hill-dwellers *scapegoated for deforestation* in Thailand have faced various kinds of resettlement threats for over a decade. Although there have been various international agencies and foreign environmental organizations providing instrumental encouragement, the situation has not so far improved, but even worse. All case-studies in this research project evidently show that the 'extremely green' international nature conservationism, national park ideology, scientism and positivism interact with the expansion of state territorial control and notions of hierarchy and mapping to re-embody the classical racist dualism of exclusion/assimilation.

On the other way round, an interesting case showing international supports for highlanders' human rights and community rights in Thailand via the internet has been a landmark issue for highlanders' resistance to the state intervention. The case of Akha at Ban Huay Mahk, Chiangrai Province, is elaborated to show how the global agricultural system has effected a small traditional Akha community even in the most remote area of Northern Thailand and how the international human rights supporters could assist the Akha to seek a way out of their dilemma. The ill-literate Akha resistance against relocation, which expressed in terms of thumbprinted-voting for their community rights and the unbelievable international supports from the internet community that occurred just recently, has been a challenge to the state's tolerance and the process of political reform - creating a process of people's participation in Thailand, in accordance with the *Thai Constitution (1997), Article 46*.

Without this firm legal foundation in access to justice, no model of community rights, cultural rights, or human rights can be formulated. If justice is not provided on the community level, for community issues, it must be sought outside the community on the provincial, national or international level. The world society today is taken up

with carefully placing the emphasis on understanding what our "rights" are, while the manner of seeking justice for these rights is ignored. The powerful take, and keep on taking, the gap between rich and poor widens, and the local land owner becomes a serf for a landlord on land which used to belong to their family for generations. The fact that the landlord exploits the land for financial gain, in excess of the need of the land for food, is ignored. On the other hand the original farmer, be they Akha or other local indigenous groups, needs the land primarily for food and their survival. However, errors in current international systems can be summarized as lacking of local and regional justice, lacking of international appeal. There are also various definitions of justice that allow injustice to continue by only switching the name and humans are seen as not part of the environment in which they live.

The education system is improving but continues to popularize false stereotypes of the so-called "hill-tribe" peoples as environmentally destructive, drug runners, prostitutes, spreaders of the HIV virus, and uneducated social undesirables. Groups effected by these attitudes include the Akha, Lahu, Lisu and others. It is government policy in many cases that these people can not own any of the land for any reason, that they are only squatters. Additional policy would be that all Akha villages be marginalized to the point of forcing them to relocate out of the mountains or at least no longer be a recognizable "hill-tribe" villages.

Even to this day, the Thai forestry department takes over the new land they were given to farm, planting pine on all sides. Thousands of rai of land, once carefully managed by "hill-tribe" villages, have been totally cut clear, pine has been planted, and below the branches of the pine no other specie of any kind grows. The highlands are pushed deeper into the existing forest to find new plots to grow food, and blamed for cutting trees when ever this occurs.

The Akha and other highlander groups now fight an ongoing effort of many years to assimilate them into Thai society as a non distinct group, and to displace their villages from their native locations in the mountains. While throughout the mountains we see plenteous resorts which consume a huge amount of land with benefit to only a few elite, the highlanders are denied land because there is a "land shortage". At the same time many new Thais are moving into the area, taking more and more of the land that was used for highland communities' farming. The highlandens will continue to face these problems as long as they lack governmental and legal representation and as long as the government maintains policies that discriminate them.

It is hoped that if community land rights, protections for human and cultural rights are put in place and administered in Thailand, then rather than assimilation and failure of the highlanders' communities, we could expect to see the respect for distinct cultures and the complementing of these cultures to each other. There is no doubt that all mountain peoples and their communities would be willing and able to farm the mountains and make them flower, preserving water, soils, forests, animals and natuaraal bio-diversities. Certainly it is a benefit to all to have this variation of cultures within a larger country.

As well, in this manner, the extensive knowledge and wisdom of the forests, soils and plants of the mountain jungle regions will not be lost. It is the most just

consideration to include peoples as components in the environment, not just so many humans to be displaced for tourism, convenience and national policy. This is best for the environment and the peoples who live in it.

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TRADITIONAL CONCEPTS OF COMMUNITY RIGHTS AND SOCIAL VALUES OF THE LAO**

Jana Raendchen*

Historical Background

Ethnic groups of mainland Southeast Asia commonly sharing what is known as "Lao culture"¹, and speaking the Lao language (which forms one branch of the Tai language family), nowadays settle in the Lao PDR (ca. 2,3 Mill. people, 51% of the total population)², in Thailand (ca. 16,5 Mill. people, 26,9% of the total population)³, and in Vietnam (min. 10.000 people)⁴. The history of the Lao must be looked upon in the context of the traditional Tai⁵ concept of *m ang*⁶. In this concept, several village communities (*baan*) generally form one *m ang* community⁷, and several minor *m ang* can form a major *m ang* or, as sub-major *m ang*, be integrated into one major *m ang*⁸. In history, often one minor *m ang* admitted and paid tribute to two or more neighboring or even faraway major *m ang* or to one major and several sub-major *m*

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¹ To be correct, the term "Lao" originally might not be the name of one single Tai group. It seems more to be a designation for a certain number of Tai groups (speaking a certain Tai dialect known as Lao language, and being the lingua franca in the Lao P.D.R.), which firstly were unified in the kingdom of Lan Sang Hom Khao. This kingdom was founded in the 13th century on territories which formerly partially were inhabited by Lawa/Khmu and other Mon-Khmer speaking groups, and the designation Tai-Law(a) (Tai-Lao) probably was derived from the name Lawa, since Tai speaking groups often choose their group name according to the territories of their settlement. In Northern Thai manuscripts, the territory of the Lan Na kingdom is also designated as "Lao domains" (*m ang laao*). (Wyatt/Wichienkeo 1998, pp. 22, 23). But in this study, using the term Lao we will refer to the Tai-Lao population of former Lan Sang only, since the name "Lao" in Northern Thai manuscripts also could refer to the ethnic group name "Lawa". (Grabowsky, personal information 2000)

² Institute of Ethnology, Vientiane 1995 (personal information 1998)

³ Herrmann, W.A.: Die regionale Rolle Thailands. Von der "national resilience" zu einer treibenden Kraft in S dostasien. APIA Publications Bd. 2, Münster 1996, p. 296

⁴ According to Cam Trong et al.: *Gi i thi u chuong trnh Th i hoc Vit Nam*, Hanoi 1999, there live 9614 Lao persons in Vietnam.

⁵ Generic term for the peoples of the Tai language family (Thai, Lao, Zhuang, Dong, Shan, Dai, Tay, Ahom etc.).

⁶ See also: Tai Culture. International Review on Tai Cultural Studies Vol. III, No. 2 (December 1998), Special issue "*baan-m ang*: administration and ritual".

⁷ *M ang* communities often extend over a whole river valley, since community-building with the Tai is closely related to irrigated wet rice production, which makes cooperation of several village communities in irrigation works necessary.

⁸ Taillard, Christian: Les rgimes politiques passent... Les chelles d organisation de l espace demeurent. Essai sur l hritage des systmes politiques Thai au Laos. in: Matras-Guin, J./Taillard, C.: *Habitations et habitat d Asie du Sud-Est continentale. Pratiques et representations de l espace*. Paris 1992

ang. Due to this, there existed mostly self-defined borderlines especially at major *m ang*, and these borderlines not necessarily had to be accepted by the other neighboring *m ang*. Besides, tributary exchange (partially in form of offerings to the guardian spirits of the *m ang*) and kinship relations between the *m ang* aristocracies were manifold⁹.

The former kingdoms (*aanaachak*¹⁰) of Lan Na or Lan Sang, for example, must be seen merely as alliances of several sub-major *m ang* under the authority of a major *m ang* than centralised states or kingdoms one has in mind when using the Sanskrit term "*anacakra*". It can be supposed, that the administration systems of the early Tai-Lao *aanaachak* was not very different from the traditional *m ang* administration as practiced in Sipsong Panna or Sipsong Chau Thai¹¹, since administration is a matter of communication and transportation or loyalty. To administer and to control a large territory, it is necessary to have a well-functioning and rapid communication and transportation system. But when communication and transportation are hindered by difficulties of the natural environment or because of lacking technical facilities, as it was the case in former peninsular Southeast Asia, administration of a large territory depends on the loyalty of minor units to one major unit. The integration of minor or sub-major *m ang* into the unit of a major *m ang* depended on loyalty which based on kinship relations between *m ang* aristocracies, and common worship of ancestors and (regional) guardian spirits, as well as a common language, script and culture. "Common sense" and loyalty were the main elements of traditional Tai *m ang* policy (*kaan m ang*). The population of the numerous *m ang* bound to the Mekong river, for example, commonly worshipped the guardian spirits of the Mekong¹² and King Fa Ngum, the conqueror of *M ang* Luang¹³ (Luang Prabang) which was believed to be the seat of the main guardian spirits of the Mekong¹⁴. Even the inhabitants of the *m ang* situated at the tributaries of the Mekong (as the Naam Uu in today's northern Laos or the Nam Chi in today's Northeast Thailand, for example), besides others worshipped the Mekong guardian spirits. From this background the deep loyalty of minor *m ang* to sub-major or major

⁹ For more details information, see also Tai Culture Vol. III, No 2 (December) 1998 and Peninsula 35 (2) 1997

¹⁰ From Sanskrit: *ana*-administrative power and *cakra*-circle, meaning a centralized form of administration.

¹¹ Concerning administration in Sipsong Chau Thai see Cam Trong: *baan-m ang*: A characteristic feature of the Tai socio-political system. In: Tai Culture Vol. III No. 2 (Dec. 1998), pp. 12-26

¹² Sithiporn Na Nakhornphanom: *phanjaa naak* – Creator and Destroyer. In: Tai Culture Vol. III No. 2 (December 1998), p. 119

¹³ The term *luang* is adequate to the Chinese and Vietnamese term *long* and etymologically designates a dragon-like giant serpent living in the waters or in caves near a river, also known as "naga" in Pali or "*phanjaa naak*" (Lord Naga) in Lao-Pali. Synonymously, the term *luang* also means "main", "most important", or connected with the term *m ang* it means "capital".

¹⁴ The main guardian spirits of the Mekong, by the Lao is believed to be a couple of *naak* (Naga) inhabiting a cave in a rock on top of the Phusi mountain (male *naak*), and the Tham Ting cave on the bank of the Mekong river opposite to the mouth of the Nam Uu river (female *naak*) near Luang Prabang.

m ang of a whole river valley, in this case the extremely extended Mekong valley, which from the 14th century on partially formed the Kingdom of Lan Sang¹⁵, is understandable.

Nevertheless, it would be an illusion to believe that the relations between several *m ang* were only peaceful relations. As the translations of Lan Na and Lan Sang chronicles prove, military quarrels and campaigns of conquest between several *m ang* were not seldom. The result of such military activities often was that the ruler of a smaller *m ang* that had been attacked, emigrated (often with his whole family) to another still independent *m ang* ruled by relatives, leaving the inhabitants of "his" *m ang* under the rule of the conqueror, or, with the support of other friendly *m ang*, he re-conquered "his" *m ang*. The territories of *m ang* and spheres of hegemony probably did underlie frequent changes. It is fully acceptable that Stuart-Fox writes:

*"Yet to determine frontiers between neighbouring mandalas presents something of a problem... What was important was not so much defined territories, except at points of contact on trade routes, but which communities owed allegiance and tribute to which centres of power. If population pressure led a group of families to found a new village, territory expanded, but what mattered most was where their loyalties, and thus their taxes and military commitment, were directed. If villagers were carried off as captives and resettled as tributaries of a neighbouring mandala, territory contracted, but more significantly tribute was reduced. Fa Ngum carried out his conquests to assure a flow of tribute. His tributary meuang defined the extent of his imperial mandala... What held the kingdom together were the personal loyalties that existed between the king and his chau meuang".*¹⁶

Another problem was that the borders of *m ang* often were mountainous areas that were not inhabited by a Tai-Lao population. Mountainous territories were of no special interest, and thus there were not made great efforts to define exact borderlines as it was practiced in Europe, for example. From this background, the Lao imperial kingdoms which integrated a number of sub-major *m ang*, were more "theoretical constructions" of states and territories, quite different from European concepts of the state. In practice, the smaller *m ang* were ruled and administered by their *chau m ang* and not directly by the central power of the major *m ang*, namely the king. Often tribute¹⁷ was paid not only to one major *m ang*, but even to several

¹⁵ According to the Chiang Mai Chronicle, the kingdom of Lan Sang existed even around 1275, ruled by a Lao King, who was an elder relative of Mangrai. Lao chronicles refer only to *M ang Swa*, a city-state ruled by Lawa kings before 1353, when the legendary Fa Ngum unified several Lao *m ang* as Lan Sang.

¹⁶ Stuart-Fox, Martin: The Lao Kingdom of Lan Xang: Rise and Decline. Bangkok/Cheney 1998, pp. 43-45

¹⁷ In my opinion, the term "tribute" in its Western sense is not fully acceptable to describe what was paid by minor *m ang* to major *m ang*. It was tribute together with offerings – in general these were golden and silver trees – to worship the guardian spirits of the major *m ang*, which were

sub-major or/and major *m ang*. So, it is not possible to say that one minor *m ang* paying tribute to several major *m ang* was integral part of one special major *m ang*, though, of course, each of the major *m ang* receiving tribute have listed the tribute paying minor *m ang* as being their vassals.

After Lan Sang had disintegrated into three rival *m ang* (Luang Prabang, Vientiane, Champassak), the territory of that former kingdom fell under Siamese hegemony in 1782. The French began to establish their administration system east of the Mekong from the early 1880ies on. Arbitrarily and according to their own economic and political interests, they created new borderlines neglecting the traditional Lao *m ang* administration. A number of Lao *m ang* were parted, or whole minor *m ang* which were part of former major *m ang* were left to Burma (Siang Tung, part of Siang Lap, M ang Yong, Thong Kilek, Latsan etc.), to China (Siang Hung, part of Siang Lap), to Cambodia (Siang T ang), to Vietnam (Ban Don, Sipsong Chau Thai), not to speak of the Lao *m ang* left to Siam (Loei, Phetchabun, Nong Khai, Udon Thani, Khon Kaen, Nakhon Phanom, Sakhon Nakhon, Mahasarakham, Kalasin, Roi-Et, Nakhon Rachasima, Buriram, Surin, Sisaket, Ubon). The new French administration divided the Laos part of the Indochinese Union into 10 provinces as: Houaphanh (capital Sam Neua), Houa Khong (Ban Houay Sai), Luang Prabang (Luang Prabang), Tranninh (Siang Khwang), Vientiane (Vientiane), Khammouane (Thakhek), Savannakhet (Savannakhet), Saravane (Saravane), Champassak (Pakse), Attapeu (Attapeu); additionally, the territory around Phong Saly was declared as the 5th Military Special Zone.¹⁸ Though the king of Luang Prabang officially was allowed to reign over the Luang Prabang Province, the power over the whole territory of French Laos was in the hands of the French "Haut Rsident", who had 15 deputies, a commission of consultants and 9 special departments. The provinces were governed by a gouverneur (*tjau khw ang*). All these officials were ethnic French, and many lower posts were filled by ethnic Vietnamese, who had graduated from a French administration school in Vietnam. The posts of district governors (*tjau m ang*) in general were filled by the former *chau m ang*, but they had to follow the French regulations and were controlled by the provincial governors. Besides, at the level of the *m ang*, a number of official posts were installed and filled by ethnic Vietnamese. Later, during World War I and the economic crisis of the 20ties, a number of provincial governors and other higher administrators (which formerly were filled by Frenchmen) were replaced by ethnic Vietnamese in charge of the French colonial government.¹⁹ Often, these Vietnamese spoke perfectly Lao and had changed their names into Laotian ones and intermarried with ethnic Lao women, so that the indigenous population got a feeling to be governed by ethnic Lao officials.

believed also to protect the minor *m ang*. The wealth and political power of a major *m ang* was seen as an evidence of the great universal power of her guardian spirits.

¹⁸ Schulze, Michael: Geschichte von Laos. Hamburg 1994, p. 84

¹⁹ *ibid.* pp. 86/87

The traditional legal system was replaced by a new colonial legal order in 1927, which aimed especially on pushing through of taxation, and on undermining resistance movements, which arose from 1901 on. In M ang Khemmarath, the *phuu mii bun* movement, which the following year acted especially in the Isan and around Savannakhet, was founded in 1901. In French Laos the *phuu mii bun* struggled against French domination until 1907. Later, especially members of ethnic minorities (Khmu, Hmong and others) engaged actively in anti-French resistance movements and rebellions, such as 1908 in M ang Sing, 1914-15 in Sam N a, 1918 in Luang Prabang, Sam N a and Sieng Khwang.²⁰ In the beginning of the 1930ties, the communist movement did spread over whole French Indochina, and after 30 years of war the People's Democratic Republic of Laos was founded in 1975 under the leadership of the communist Lao Revolutionary People's Party, which to date is the only allowed party in Laos.

The former Lao *m ang* on both sides of the Mekong, after 1893 being part of the Siamese kingdom on the one side and part of French-Indochina on the other side, had to go through a process of administrative re-organization according to Siamese and the French rule. The newly created boundaries had ruptured what had previously been a common Lao world. The former legal system and traditional law became more and more invalid or were officially annulled. From the end of the 19th century on the Lao of the *iisaan* (northeast) and the Lao of today's Laos developed in very different ways, whether in terms of economy, society, culture and ethnicity. Whereas the Lao of Laos are very self-confident and proud of their ethnic and cultural identity, the Lao of the Northeast of Thailand conceal their cultural roots or even are ashamed of their ethnicity and designate themselves as *thai-iisaan*, at least in the public. Only for some recent years, a certain "revivalism" of Lao cultural roots and values arose in the *iisaan*.

The *baan-m ang* System as the Basis for Tai-Lao Traditional Law

To get an approach to the Lao understanding of a community (which actually is the foundation of an understanding of community rights), one should have the concept of *baan-m ang* in mind, which is common among all groups of the Tai language family. Generally speaking, the *baan-m ang* concept has the character of a theoretical and systematic construction of the universe.

Baan-m ang are well-structured systems of social, political and economic organization, and it is not possible to separate social life from religion, law, policy and economy etc. It is important to have a many-sided, that means an interdisciplinary and an historical perspective on *baan-m ang* to understand the structural complexity of the whole system.

²⁰ Gunn, Geoffrey: Political Struggles in Laos (1930-1954). Bangkok 1988; and Schulze 1994

Among the important factors determining the *baan-m ang* system are:

1. *baan-m ang* as a system of water irrigation (*huai faai-lai lin*, or *m ang-faai*)
2. *baan-m ang* as a system of political administration (*wiak baan-kaan m ang*)
3. *baan-m ang* as a belief system
4. *baan-m ang* as a legal system founded on traditional law (*hiit-khoong*)

As a matter of fact, the phenomena above are strongly interrelated. Irrigation and administration, for example, are interdependent. Many communal cults have their roots in wet rice production and are directly connected to irrigation. Sometimes, communal cults function as factors strengthening communal identity and therefore are indirectly connected to administration.

It is important to understand *m ang* not only as an administrative unit in order to organize and manage irrigation works, but also as a political unit, which never exists isolated from other political units.

The *baan-m ang* concept must be seen as a holistic concept, having not only practical economic (irrigation) and political (administration), but also cosmological aspects. The *m ang* concept is one of the most significant elements in Tai cosmology. Worldly and supernatural or non-worldly levels of the universe are classified as different kinds of *m ang*, as *m ang faa* (heaven) or *m ang lum* (earth), for example. This fact becomes strongly evident in traditional Tai law theory and the legal systems, since it is believed that other-worldly beings are able to wander between the worlds. Such creatures are the *naak* (Naga) and the *ng ak*, which are outstanding figures in Tai-Lao mythology. The *naak* in many legends is told to be one mythical ancestor of the Tai and therefore their protector; but it is also told that the *naak* controls the right following of ritual and law, especially those connected with water use and wet-rice production. It is believed that the *naak* may punish single persons (by drowning) or whole communities (flood, drought etc.) if not following the cosmic order of the several worlds that form the universe.

Starting from the point that what is called *baan-m ang* in all Tai dialects and languages is one of the basic concepts of socio-economic and socio-political organization of the Tai, one gets a sense of the importance of *baan-m ang* in the space of Tai cultures and societies. The *baan-m ang* concept is strongly reflected not only in Tai dialects and languages, but also in mythology and ritual practice. Even if ideologically influenced by Buddhism, Hinduism or Chinese religious beliefs as it is the case with many rituals of agricultural origin or with cults connected with water irrigation in the lunar cycle, ritual practice up to today is a matter of the community, may it be on the level of *baan* or of *m ang*.

It has been mentioned before that it is not very correct to translate *m ang* exclusively with "city". The English terms "village" and "city" implicate traditional Western concepts, which are not fully applicable to the Tai concepts of *baan* and *m*

ang. Especially the term *m ang* must be understood from its Tai background: *m ang* is firstly a consolidation of several *baan*, which might be situated in different distance one from another.²¹ Each *baan* owns (common and/or private) land, which as a whole makes the area of the *m ang*. The concept of a city, which is characterized by urbanity, possibly did not exist in traditional Tai societies before the influence of Buddhism/Hinduism. According to Vallibhotoma²² the reasons for founding *m ang* firstly were agricultural ones: wet rice cultivation using well-developed flood and irrigation techniques in a large area (mostly a river valley) requires cooperation and administrative coordination between several *baan*.²³ The basic character of *m ang* traditionally is not urbanity, although the administrative center, which is the seat of the *chau m ang* (the governor of the *m ang*) and is called *tjai m ang* (the heart of the *m ang*) or shortly *m ang*²⁴, can become an economic, religious and political center, and at last may be an urban center, too. However, urbanity is not a precondition for a major *baan* to become the administrative center of the whole *m ang*.²⁵ TAILLARD calls *m ang* "seigneuries" and gives the following description of the interrelationships between several *baan* in a *m ang*:

"Le pouvoir central opère des prélèvements sur les communautés locales - marques de leur dépendance -, en échange de services rendus - signes de la relation de réciprocité -, et d'une liberté accordée dans la gestion de leurs affaires - témoin de l'autonomie dont elles bénéficient - l'échelon local... Il s'agit de la forme la plus archaïque des systèmes politiques thaï, celle de populations non bouddhistes parlant des dialectes tay, et

installées dans les vallées et petits bassins du Nord de la péninsule. Ces seigneuries qui n'ont pas atteint la dimension d'un royaume se sont maintenues au Vietnam²⁶ jusqu'en 1945 où elles ont été étudiées par G. Condominas auquel est emprunté l'essentiel de l'information. Elles reproduisent dans sa forme la plus élémentaire la dialectique autonomie-dépendance par les relations qui existent entre les seigneurs tao, et les villages des paysans libres pay. En sont exclus les esclaves d'ethnie tay qui, en se plaçant sous la dépendance des seigneurs et des notables, appartiennent à leurs maisons et de ce fait ont

²¹ Srisakra Vallibhotoma: *sajaam pratheet: phuumilang khoong pratheet tang t... juk d... k dam ban chon th... ng samai krung srii ajutthajaa raacha aanachak sajaam*. Bangkok 1996, p. 61

²² Vallibhotoma 1996

²³ *ibid.* pp. 62/63

²⁴ The ambiguity of the term *m ang* has caused great confusion in research on Tai people's history. The term *m ang* designates at the same time the whole space and area of a *m ang* (as a consolidation of several *baan*, which might be better translated with "country") as well as the administrative center of that area.

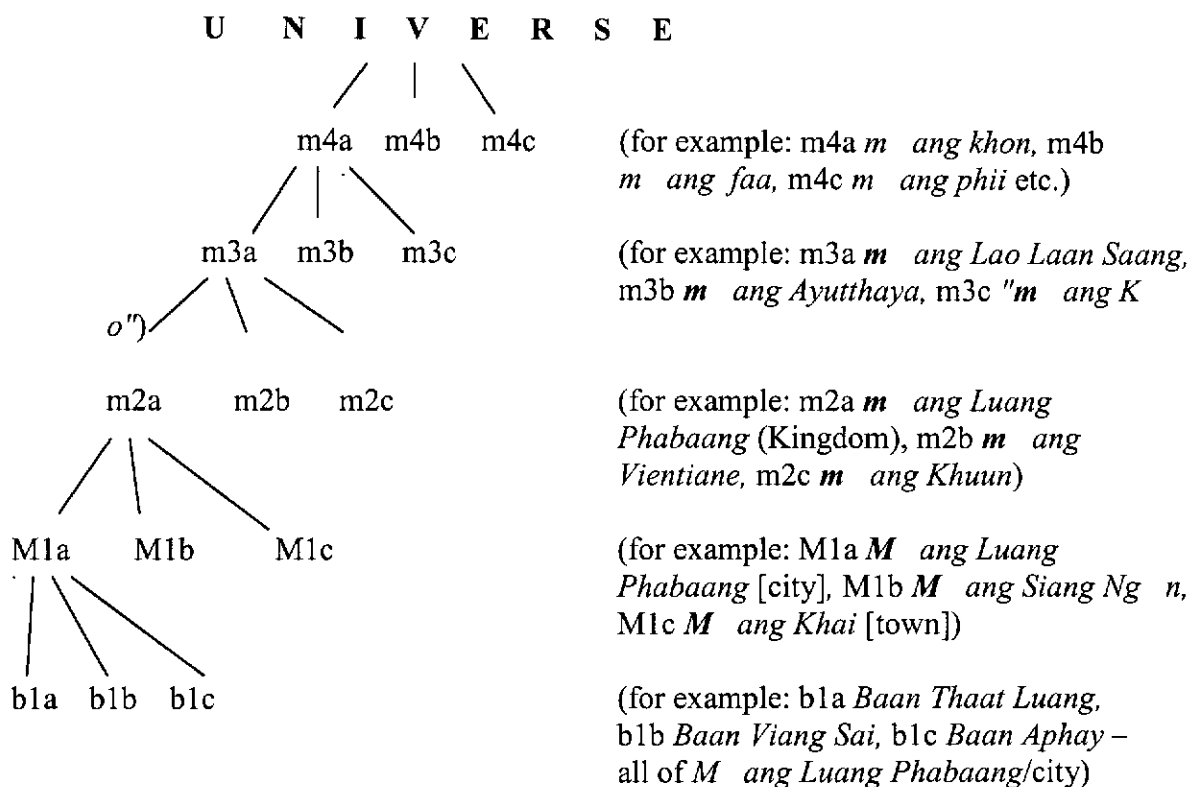
²⁵ *M ang* Baan Soong (a quarter of today's Vang Viang in Central Laos) for example, was and still is a small village and would not be called town or city (in the Western context), but it is the major *baan* (or (*tjai*) *m ang*) and was seat of the *chau* of *M ang* Soong, which occupies a large area along the Naam Soong river. The same it is with a number of *M ang* in Northern/Northeastern Laos and Vietnam.

²⁶ The author refers to the Tai *m ang* in Northern Vietnam, it has nothing to do with the ethnic Viet people.

*perdu tous leurs droits; comme les esclaves appartenant aux ethnies non tay, duites au servage lors de la conquête et constituant des villages serviles."*²⁷

Besides its primary meaning, the term *m ang* is also used to express the Tai worldview. Heaven is called *m ang faa*, the (Buddhist) paradise is known as *m ang sawan*, the world of the dead is called *m ang phii*. The term *m ang* is also used as a synonym for "state"²⁸ (thai: *pratheet*, lao: *patheet*), *m ang laao*, for example, means the Lao state; Thailand is named *m ang thai* or Vietnam is referred as *m ang yuan* etc.

The traditional Tai-Lao concept of the universe as represented in the *baan-m ang* system I tried to simplify in the following scheme (m = kingdom, etc.; b = *baan*; M = *m ang* [town/city]):



The *baan-m ang* system is more than a system of vassal-states: it is a systematic theoretical construction of the universe, in which units (*m ang*, *baan*) of same (M1a, M1b...) and of different status (M1, M2, M3...) exist. Important to know, that all units are thought to be related to each other (directly or indirectly) and can influence each other. Thus, the communities of B1a/b/c are directly related to *m ang* M1a, M2a, M3a and M4a, and may be indirectly related to M2c or M3b, for example, depending on the relations of M2a with M2c or M3a with M3b. Besides, all human

²⁷ Taillard 1992, pp. 315/316

²⁸ The foundation of Tai states by the consolidation of several *m ang* had been investigated by Cam Trong: *Ngu i Th i o T y B c Vit Nam*. (Thai Peoples in Northwestern Vietnam.) Hanoi 1978; also Taillard 1992, and Lemoine, Jaques: *Fodalit Tai chez les L des Sipsong Panna et les Tai Blancs, Noirs et Rouges du Nord Ouest du Vit-Nam*. In: *Pninsule* 35 (2), "Systemes politiques des marches du monde Chinois", 1997.

communities may be related to the other non-earthly worlds (*m ang faa*, *m ang phii* etc.)

Community Rights and Social Values in Lao Traditional Law

Aspects of Lao Traditional Law (*hiit khoong*)

Academic research concerning traditional forms of Lao law mainly emphasized Lao Buddhist law codes (Lao: *kotmaai buuhaan*), which had been developed under the influence of Theravada Buddhism from the 14th century on. These Buddhist law codes were of a special juridical significance in religious and political centers such as Luang Prabang and Vientiane, for example, where Lao Buddhist kings or noblemen of (major) *m ang* resided. At the village level and in minor *m ang*, especially at the periphery where the influence and control of the rulers of major *m ang* was not as strong as in the administrative centers, the Buddhist law codes were of less importance than the traditional Lao *hiit – khoong* code.²⁹ Even in the Buddhist centers, the *hiit – khoong* code, though in a “Buddhicized” version, continued to be valid. A short version of the *hiit sipsoong khoong sipsii* even had been inserted in Lao Buddhist law codes, as in the *raajasaat*³⁰, and the *phoosaraat l sangkhapakoon*³¹ codes, for example.

The *hiit – khoong* code supposedly might be of pre-Buddhist origin³², though partially influenced by Buddhist thought and morality.³³ The historical development of the original *hiit – khoong* code to date cannot be reconstructed, because of the lack of historical evidence; and presumably the code may partially differ from *m ang* to *m ang*.³⁴ Occasionally, Buddhist law codes might have replaced the *hiit-khoong* code fully. In some cases, Buddhist laws may have been added to the *hiit-khoong*, or the title of the code had been changed. In today's Laos for example, the code is also known as *hiit-khoong papheonii* or *papheonii buuhaan*. In Northern Thailand, parts of the code are known as *kh t* or *khoo haam*. Besides this, there are great differences in the numbers of *hiit* and *khoong*. But it can be supposed, that all *baan* of one *m ang* accepted and followed one and the same code. Occasionally, the code or at least its

²⁹ Comp.: Coeds, Georges: *The Indianized States of SEA*. Ed. by W. F. Vella, Honolulu 1968; Bechert, Heinz: *Buddhismus, Staat und Gesellschaft in den Ländern des Theravada-Buddhismus*. 2 Vols. Wiesbaden 1966/67

³⁰ Samlit Buasisawat (ed.): *khamphii raasasaat kotmaai buuraan laao*. Vientiane 1995

³¹ Samlit Buasisawat (ed.): *khamphii phoosaraat l sangkhapakoon kotmaai buuraan laao*. Vientiane 1996

³² Since the code, in a very extended version, also exists in Tai societies, which were less or not influenced by Buddhism, as in Tai Dam society. Cam Trong, Workshop on “*baan-m ang*: ritual and administration”, held in Berlin, 1998.

³³ Mahasila Viravong: *Hiit sip soong*, Vientiane 1974; also Keo Manivong (ed.): *La socit lao: les douze rites et les quatorze rgles*. Paksane n.d.; Archaimbault, Charles: *Structures religieuses Lao (rites et mythes)*. Vientiane 1956

³⁴ Tai Dam, Luang Prabang and Northeastern Thai (Lao-Isaan) versions are quite different in extent as well as in contents. See also *Isaan khadii*, Withayaalay khruu Mahaasaarakhaam 1978, pp.77-83.

existence is mentioned in historical Buddhist scripts, and parts of the code itself were first explored by Mahasila Viravong in the 1960/70ies and were later collected and written down in a very fragmentary form by Khambang Chaninyawong³⁵, P. Phuangsa³⁶, Phra Achaan Mahapal Anantho³⁷, Mahabounleut Thammachak, Mahakeo Singwongsa³⁸, and Sara Sarathasnanandh³⁹. The code had supposedly never been written down as a whole, but was fragmentarily stored in the form of palm leaves in Buddhist libraries and *wat*.⁴⁰

The code in general is known by village elders, and rules of behaviour adequate to the code are passed on orally from generation to generation in the form of *suphaasit ph n m ang* (proverbs), *khamkoon ph n m ang* (verses), *kham suu khwan* and *kham thawaai* (ritual verses), *nithaan* (tales), and *l ang* (stories).⁴¹ Thus, the code cannot be understood without its background: oral tradition, ritual practice and ritual/ceremonial texts. When analyzing the code, we became aware of the structural character of the single sections, which on first sight seem to be paragraphs, but in fact merely have the character of headings of a number of rules belonging together. This becomes evident especially in the part *khoong sipsii khoong phasangkhachau* (fourteen rules for Sangha members), where section number 1 includes all the 227 precepts for Buddhist monks (Vinaya) and the Dhamma in particular. Single rules or paragraphs are not given or explained in detail. It seems that, it could be presupposed that the rules and regulations of the code were known commonly through oral and ritual tradition. In this respect, the oral tradition and ritual literature functioned as instruments for distributing legal knowledge at all levels of *m ang* societies.

The text which was explored in this study consisted of *hiit sip soong* (twelve monthly rites), *khoong sipsii khoong saamanjason* (fourteen rules for ordinary people), *khoong sipsii khoong phasangkhachau* (fourteen rules for the members of the Sangha), and *khoong sipsii khoong phalaasaa* (fourteen rules for the nobility and administrating authorities). In general, the code clearly defines the order of relations between inferior and superior units, as *baan* and *m ang*, *phoo* and *m* (husband

³⁵ Khambang Chaninyawong: *khanop thamniam laao. hiit sip soong l khoong sip sii*. Vientiane 1974

³⁶ P. Phuangsa: *Papheonii laao buuraan*. Vientiane 1991

³⁷ Phra Achaan Mahapal Anantho: *papheonii laao*. Vientiane 1974

³⁸ Mahabounleuth Thammachak and Mahakeo Singwongsa: *hiit – khoong papheonii buuraan*. Vientiane 1997

³⁹ Sara Sarathasnanandh: *hiit sipsoong – khloong sipsii*. Suun silapa wathanatham withayalaikhruu, Loei 1987

⁴⁰ Especially moral themes of the code had been written down on palm leaves. Worldly topics, as birth regulations, property and inheritance regulations, supposedly were not written down.

⁴¹ There are some excellent collections and analyses of *suphaasit* and *khamkoon* by Lao and Vietnamese researchers as Chan Inthuphilaat: *suphaasit buuraan lao l khai kham samnuan*, Vientiane 1976; Bos ngkham Wongdaalaa et al.: *khamkoon ph n m ang laao*. Vientiane 1990; Mahaasilaa Wirawong: *suphaasit buuraan*. Vientiane 1961; Sathaaban khonkhwa silapa wannakhadii h ng saat: *khamk ng suphaasit buuraan*. Vientiane 1986; Nguyn dinh Ph c: *Xu-pha-xit v l i n i giao duyn l o*. Hanoi 1976.

and wife), *thaa* and *phanjaa* (noblemen of minor and major *m ang*), or *pii* and *d an* (year and the months) etc. This shows, that the *hiit-khoong* is a dualistic code: each unit can only exist together with the other unit. Generally speaking, there seems to be a superiority of the *khoong*. This supposition should be proved by a number of *hiit-khoong*, as *hiit tjau khoong khun* (*tjau* inferior to *khun*), *hiit phai khoong naai* (*phai* inferior to *naai*), *hiit hai khoong naa* (*hai* inferior to *naa*), or *hiit thau khoong k* (*thau* inferior to *k*) etc.

To understand the meaning of Lao traditional law and its role in the conceptualisation of community rights in Lao society, one should avoid starting analysis from the viewpoint of modern European law. The *hiit – khoong* code must be looked upon by taking into consideration the specific Lao terminology and, even much more necessarily, traditional perceptions of law, righteousness and justice seen from the background of the holistic world view of the *baan-m ang* system, and related to this, the social values of the Lao. From such a point of view it becomes clear that the conditions of modern law (formal and standardised character in written form; constituted by an authority – generally the state; general validity; *obligatio* - obligatory validity also towards the law giving authority) can hardly be fulfilled in a society, which is organized according to an hierarchical order in which individuals or even whole communities take a specific position depending on several factors as birth, age, sex, property, education, social functions etc., and where according to the generally accepted cosmology it is believed that law is constituted not by human institutions as the state, but has universal validity and is only to be controlled and defended by human institutions.

However, there are specific characteristics to be fulfilled for a code to be accepted as law according to the Lao perception of law. These characteristics, of course, differ from the Western concept of law due to cultural differences and different philosophical and historical backgrounds.

Law – in the Lao perspective - must be in accordance with general social values and morality as accepted in *m ang* societies. When social values and concepts of morality change, the law code must be changed adequately. This was done in Lao *m ang* societies through history, probably by the "transmitters" of legal knowledge (*moo*).⁴² Law also must fit in the conception of the universal or holistic world-view of the *baan-m ang* system, and therefore accept other-worldly powers, which can function as authorities or as "institutions" controlling the right following of law and as defenders of justice.

⁴² Such changes are evident in the many versions of Lao traditional law codes showing differences by region or period.

Traditional Community Rights and Social Values of the Lao

The *hiit-khoong* code includes concrete regulations for community rights and responsibilities as well. It very clearly regulates inter-personal and especially intra- and inter-community relations. The hierarchical conceptualisation of the universe as represented in the *baan-mang* is the theoretical basis for the widespread acceptance of the code.⁴³ All rules and regulations are thought to be legitimised by the "universal law", and violations of the regulations are thought to be sanctioned by spiritual, ancestral or any powers of the "other" worlds. Jurisdiction and verdicts of guilty follow this principle, too. In cases of severe offences against the code, verdict of guilty and punishment is done through "sacred waters", for example, which are thought to be influenced by other-worldly powers or even to represent other-worldly powers and thus the "universal law".⁴⁴

Taking the holistic view on the universe - that the earthly world is directly related to and influenced by non-earthly worlds - into consideration, the meaning of a code consisting of regulations regarding communal rites, inter-personal relations and communal administration with a more moral than legal (in the sense of modern legal science) quality becomes better understandable.

The *hiit-khoong* code is an important source for the analysis of the Lao understanding of what is a community, and of the perception of community rights and responsibilities, and of justice. Besides, the code in its still accepted form is a "mirror" of social values, reflecting the general attitudes towards society with its many institutions and spaces. The *hiit sip soong - khoong sip sii* manifests a cluster of social values related to different spaces of society:

1) *The Space of the (extended) Family*

- high value of seniority
- high value of ancestral rites and Buddhist ceremonies of merit-making in favour of ancestor worship
- high value of harmony
- family is valuable as a protected space (living place is a protected area)
- the status of women is ambivalent (a woman is formally subordinated to the husband (head of the family), but as prescribed in the code she is the main active person in the family, whose obligation is to control the correct adherence to the code within the space of the family)

2) *The Space of the baan (village) Community*

- high value of seniority (especially of village elders and members of the communal Buddhist Sangha)

⁴³ Smith, Bardwell L. (ed.): Religion and Legitimation of Power in Thailand, Laos and Burma. Chambersburg 1978

⁴⁴ Jurisdiction through water (drinking, diving) often was misinterpreted by Western observers as "exorcism" (see for example Hoskin/Dugast: The Supernatural in Thai life. Bangkok 1993). In NE Thailand this practice - in contrast to the practice in Laos - has become part of Buddhist practice since the strict introduction of modern state law during the 20th century.

- high value of communal rites
- high value of harmony
- high value of water and appropriate water use
- mutual dependence and duties between laity and the communal Sangha
- polarisation between laity and members of the communal Sangha

3) *The space of the Buddhist community*

- high value of merit-making and Buddhist ceremonies
- high value of knowledge (especially of the Dhamma and Vinaya)
- high value of harmony
- high value of Buddhist morality; Buddhist monks excel through knowledge and morality, but must fit in the order of the community of the *baan* and/or *m ang*

4) *The Space of the m ang Community*

- high value of seniority (of *m ang* elders and the nobility)
- high value of loyalty (taking part in communal rites means a demonstration of loyalty to a *m ang*)
- high value of political unity, which is not represented by a fixed border, but through the population's communal identity ("social borderline")
- high value of political and social harmony
- high value of communal ancestral rites and worship of communal guardian spirits
- high value of water
- high value of worshipping the *naga/ng ak* (water) deities and appropriate use of water

According to the *hiit-khoong*, human society is divided into **communities**. The smallest and fundamental element of society is not the individual, but the extended family, followed by *baan* and *m ang*. There are different levels of *m ang*: minor, sub-major and major *m ang* as well. Besides this, there exists the Buddhist community, which overlaps family, *baan* and *m ang* communities, and due to this may have a unifying character above the level of the minor and sub-major *m ang* (as administrative or political units).⁴⁵

The **individual** is not of great importance, except within the space of the family community, where husband and wife are regarded as individuals playing different roles and fulfilling different functions in favor of the whole family. The husband is the formal head of the family outwardly, whereas the wife is responsible of the right following of rituals and regulations within the space of the family and she holds the economic power⁴⁶.

⁴⁵ This could be an explanation for the foundation of centralized Tai-Lao states/kingdoms as Laan Saang, Laan Naa, etc., which were Buddhist kingdoms and had another administrative quality (according to the model of mandala) than the traditional consolidations of *m ang*.

⁴⁶ Land property and objects of value (gold, silver, textiles – occasionally to be used as *khaa doong* "bride price"), for example, in traditional Lao society belong to the maternal lineage. Trade often,

Another aspect related to individuals within the space of the family is the principle of **seniority**. High age is regarded as very valuable, and family elders are to be respected and honored, and in case of need (illness, infirmity etc.), to be supported by the younger generation. Within the *baan*, *m ang* or Buddhist communities, the individual is of no special value, since individualism is related to the phenomenon of egoism, which is strictly rejected. Egoism is seen as a cause of conflict and disorder, which are very destructive phenomena endangering wealth, prosperity and even the existence of any community.

Contrary to the idea of individualism, the responsibilities of individuals towards the community are much emphasized and clearly defined in the code. The main purpose of individual responsibilities towards the community is social **harmony**. Mutual assistance and co-operation between individuals and groups of persons, support of the elder by the younger, mutual support between Sangha and community members, altruism and showing consideration towards old, ill and infirm or disabled persons are the main responsibilities of the individual towards the community. But, there are defined also responsibilities of minor communities (*baan*, minor *m ang*) towards major communities (*m ang*), as loyalty, communal co-operation and mutual assistance, especially in carrying out communal rituals and also Buddhist ceremonies. The right following of ritual traditions (ancestor worship, worship of natural deities etc.) is an expression of being in harmony with the other worlds, or the "universe" respectively. Defining responsibilities towards the community is the basis for a peaceful community management and successful conflict prevention, or, when necessary, conflict mediation.

One further aspect, which is considered in the code, is natural environment. The *hiit sip soong khoong sipsii* text emphasizes the extremely high value of **water**. Water seems to be more important than land property. Fertile land (*naa, hai, suan*) is owned and inherited by the families, who believe to have received the land from their ancestors. Communal land is thought to be given by the community's ancestors. A relation between land of the families and communal land exists insofar as the ancestors of families are thought to be related to (or descendants of) the community's ancestors. Theoretically, land property law and inheritance law are founded by the ancestor cult. In the contrary to land-ownership, water is not owned by any human being nor by human beings' ancestors, but by the water spirits, respectively the *phanjaa naak* and/or *ng ak*. In a wet-rice cultivating society, land is useless without water⁴⁷. Water is a sacred element, being the foundation of life and fertility. This fact

or mostly, is managed by women. Concerning polygamy, one must take the economic power of the (main) wife into consideration. Without her agreement, the husband could not pay another *khaa doong*. Often wives agreed to have "minor" wives in favor of the whole family (increase of the family's "human capital").

⁴⁷ Lao *m ang* territories mostly stretched over watershed areas (river valleys, deltas, confluence of rivers); there was no great interest to possess hill areas. Hill areas were only of interest if inhabited

in mind, one understands the importance of water-related rituals as prescribed in the *hiit-khoong* code. In our opinion, water related rituals have an educational character, since they make the community members aware of the necessity of water, and the rituals give water the character of a sacred element, which is forbidden not be misused or wasted.

Though there is a strong influence of **Buddhist morality**, especially in the part of interpersonal relations within the *baan* community and in the communal rites' part, the Lao *hiit – khoong* code is not a typical Buddhist law text. There are important differences between the *hiit – khoong* and Buddhist law and pseudo-law texts (literary texts containing moral and legal principles), as the *pha thammasaat luang*, *phoosaraat*, *muulatantay* or the *l kanithii*, for example. But the main moral precepts of the Buddhist order are widely accepted and reflected in the *hiit-khoong* code, since Buddhist morality creates and supports social harmony.

In contrast to Buddhist law codes, which were written down in the Thamma script and thus had to be read, translated and interpreted by learned Buddhist monks and law specialists, general knowledge about the *hiit – khoong* code was widespread among common (adult) people, and determined intra- and inter-community relations.⁴⁸ The regulations of the *hiit-khoong* follow the principles of the theoretical construction of the universe in form of the *baan-m ang* concept, which abstractly also could be called "universal law". The term "universal law" should not be confused with the Thai/Lao term "*kotmaai phra thammasaat*" originating in Buddhism. The term is used to designate the **holistic worldview**, which is common in traditional or tradition-oriented societies in general.⁴⁹

Determined by the holistic worldview, the content of the code is a special form of "collective knowledge" and needs no special teachers, media or law specialists who interpret, teach or explain the contents of the code to the public. Knowledge about the code is transmitted orally from generation to generation. Law and ethos (social values) to a large extent coincide.

Besides, the holistic worldview determines jurisdiction (**see table 1**) and the Lao perceptions of **justice**. Law, rights and responsibilities are not thought to be constituted by human beings or the human society, but by the "universal law" concerning not only the human world (*m ang khon*), but also other worlds (*m ang phii*, *m ang faa* etc.) that are imagined to be part of the universe. Jurisdiction follows the principles of the "universal law". Human beings who are legal administrators or who decide in legal affairs (*saan*) are not thought to have an absolute power in legal

by tribes, which had to pay tribute and were to be included in the *m ang* administrative system in favor of unity and stability of the *m ang*. In some cases, there were also economic interests in mountain areas (salt, forest products...). (Grabowsky, personal information 2000)

⁴⁸ Smith 1969; especially pp. 166-174

⁴⁹ Dumont, Louis: Individualismus. Zur Ideologie der Moderne. Frankfurt/New York 1991

affairs, but represent and have to follow and to defend the principles of "universal law". These persons have to know and to follow the law code themselves, and their own violations of the code might result in the loss of their function or position within the legal system. Justice also is thought as depending on the "universal law", not on casual evidence and argument, nor on the opinions and convictions of legal administrators. Justice is closely related to morality and has a universal character. It is not man who defines justice and injustice, but the defenders of the "universal law" together. Such defenders can also be other-worldly beings, as the *ng ak* which is thought to have the power to punish whole communities. Though there are no regulations concerning punishment in the *hiit-khoong* code, individuals who violated the code can be punished according to a decision made in the public discussion of the case.

The main practical purpose of the code should be seen in the prevention of social and political conflicts, and peaceful community management. Harmony and conflict-free social interaction are highly appreciated by the Lao until today.⁵⁰ The *hiit – khoong* code is the most important expedient to ensure social harmony constantly. The preventive character might be an important difference to Western law concepts, which accept the phenomenon of conflict as a social reality and are merely oriented toward solving existing conflicts rather than preventing them.

In its special preventive function, the *hiit – khoong* code has both legal and educational character. On the one side, it is a code of well-defined rules and regulations for intra- and inter-community action and administrative affairs; on the other side the code teaches moral principles and values for all kinds of social behavior in the Lao hierarchical society. Because of this, the *hiit – khoong* code was one main instrument to ensure a relatively stable order in traditional Lao *baan-m ang* communities⁵¹ and is still the main source of the perception of community rights and justice in Lao society today, especially in rural areas.

Impact on Practice

Despite the existence of socio-economic and political changes in today's Laos, the traditional *hiit-khoong* code is the main source of the perception of community rights and responsibilities, and justice. The traditional law concept has a strong impact on present-day legal practice and even everyday life as to be shown in some following examples:

⁵⁰ Comp.: Stuart-Fox, Martin: Laos: Politics, Economics and Society. London 1986; and also Seidenfaden, Erik: The Thai Peoples. Bangkok 1958

⁵¹ The stable administrative system of *baan-m ang* made it possible to govern relatively large areas (larger than city-states). In section 7 of the *khoong sip sii khoong phalaasaa* it is mentioned, that "a place of disorder, having no *hiit no khoong* as *M ang* Swaa (former Luang Prabang ruled by Lawa kings), is easily to rule". This might explain the relatively quick and spontaneous formation of larger Tai-Lao *m ang* in mainland SEA as reported from the 13th century on.

Land Property and Inheritance Rights

Traditionally, in Lao society ground is mostly owned by women and inherited in the maternal lineage, whereas men mostly owned movable goods, as elephants or buffalo-herds, for example. But, land-ownership was not formally registered, since land-ownership was related to ancestor cults and the communities both of the extended family and of the *baan* witnessed land-ownership in case of conflict. The actual ongoing process of land-registration in the Lao PDR leads to the loss of female land-ownership⁵². Formally, in newly introduced Lao state law, women and men are equal and have the same rights. Nevertheless, in most cases men had registered land, even in case that they are not the real owners but their wives. This is not surprising, since the registration of land is recognized as an official act. According to the *hiit-khoong* code, official tasks outward of the family are to be fulfilled by the husband, the formal head of the family. Especially when land registrars are male persons, Lao women feel not to have the right or not to be educated enough⁵³ to fulfill the task of land registration. So, many women think it is normal to send their husbands to go to the registration office to have the land registered. They do not realize, that in this way they transfer land-property and inheritance rights to their husbands. So, inheritance rights are transferred from the maternal lineage to the paternal lineage, which in fact is a hard break of inheritance tradition resulting in a strong disadvantage of women. In case conflicts arise within the family or between husband and wife and the couple will be divorced, women loose their rights on land-property. This is not only an extremely hard experience for these women, but also for their relatives (parents, children/especially daughters) who do not only loose their ancestral grounds, but in many cases their only living places. Women should be (but to date seldom are) told about these facts, and also should be encouraged to have registered their own ground themselves, even if the land registrar is a male person.

Irrigation Regulations and the Rights for Water Use

The *hiit-khoong* code implicates the right distribution of water and water use appropriate to the needs of the *baan* or *m ang* community, and taking the conditions of the natural environment into consideration. Water irrigation and water use is not yet focused in modern state law of the Lao PDR. Until now, irrigation practice is carried out according to the traditional regulations.

Irrigation works, which generally are done by members of the community in order to provide water for the cultivated areas, are known as "*m ang faai*" irrigation. No need to mention that water is the most important factor to be considered in

⁵² Loes Schenk-Sandbergen, in her paper presented to the 7th International Conference on Thai Studies, Amsterdam 1999, compare also Lao PDR General Information, Law on Land. at: <http://laoembassy.com/lawland.htm>

⁵³ The rate of analphabetism is higher among women than among men, especially among the elder age groups.

agriculture, especially in wet-rice cultivation. >From early times on, the Lao (as well as the other Tai) who lived in the basin areas of rivers learned to make use of the physical features of the rivers. The *m ang faai* irrigation system is a system of canals *m ang*, weirs *faai* and water-gates *t*, which draws water in a regulated way from rivers into a large area of rice fields.

The introduction of these rather complicated irrigation systems, using the methods of the construction of weirs or diversion dams to block and to regulate the natural waterways in the upper parts of rivers, and digging irrigation canals to direct the water to the lower plains, resulted in the formation of *m ang faai* communities. Such a community (mostly a minor *m ang*, sometimes only a group of *baan*) had to constitute an organization of administrators and managers in charge of systematic water usage and just distribution of water for cultivation.

The traditional regulations concerning weir operation and protection are well-known among *m ang faai* community members until today, though not being extra mentioned in the *hiit-khoong* code. Occasionally irrigation regulations also were written down on palm leaves in several *m ang*⁵⁴. People who intentionally or carelessly caused damages to the weirs or canals are to be fined quite heavily, and also those who had done it unintentionally or helplessly are fined. In addition to fines, the person who destroyed irrigation facilities has to organize and to sponsor the reparation works. In heavy cases, the offender has to sponsor a *phii faai* worshipping ceremony.

The duties of water administrators are to make sure that the community members are taught about the irrigation regulations and receive justification in using the water, and that there is no violation of water using rights. They also are responsible for system management, as building, repairing and maintaining all the irrigation facilities. They manage the planning of water allocation into the planting areas according to the amount of rice grown in each area.

According to modern state law, there is no possibility to defend a community's irrigation regulations and the rights for water use (be it at the level of the family within a community or at the level of *baan* or *m ang*). The consequences can be dramatic, for example, when non-community-members ("strangers") buy ground through which irrigation canals flow or where weirs are situated. If the new owner of the ground would misuse the water or destroy the *m ang faai* system, whole communities could be deprived of their basis of life - water. The same problem occurs when the state declares communal land as a state property, and uses the ground in another way, as to build a dam or to deforest the watershed area, for example.

⁵⁴ Writing down special irrigation regulations on palm leaves depended on the ruler of a *m ang*. In Lanna, for example, King Mangrai ordered a great number of irrigation regulations to be written down. See also Surarerks, Vanpen: Historical Development and Management of Irrigation System in Northern Thailand. Chiang Mai University 1986

Community Rights and Ethnic Interaction

In history, the *hiit-khoong* code had a great influence on ethnic interaction. Speaking of Lao *m ang* communities, it would be wrong to think that these communities were inhabited only by a Lao population.⁵⁵ When the Tai peoples settled in the river valleys of mainland Southeast Asia, they had to arrange with many other ethnic groups who were settling in the same areas. The *kaan m ang* policy and administration aimed on integrating other ethnic groups, not on assimilating or expelling them. The *baan-m ang* system is a rather dynamic system that allows integrating the socio-political units of non-Tai groups, respectively *baan* (villages), without intruding the social organization, culture or the community rights of these other ethnic groups. Non-Tai ethnic groups are mentioned only in section 12 of the *khoong sipsii khoong phalaasaa*, which regulates the participation of non-Tai communities (*khaa lao saao dooi*) in the annual worship ritual dedicated to the *phanjaa naak* (Naga), and to contribute their offerings to the guardian spirits of the *m ang* and of water. Non-Tai groups were relatively free to administer their communities and manage intra-community affairs according to their own traditions. Nguyn Duy Thiu mentions that the non-Tai groups, though being called *khaa* by the Tai-Lao (in a rather devaluating way), "remained free farmers and they had got their own property, their own families, their own self-managed villages... They enjoyed the right to free subsistence".⁵⁶ However, as a matter of fact, members of other ethnic groups did serve or possibly even were forced to do corve works for the Tai-Lao. But, this was not a uni-lateral relation from which only the Tai-Lao profited, since the members of other ethnic groups were allowed to use the communal institutions of the *m ang*, too.⁵⁷ Besides, their communities fell under the protection of the *m ang* to which they confessed. Such policy resulted in relatively peaceful relations between Tai-Lao and other ethnic groups within one *m ang*, may those or these being the majority of the population in that region. Rebellions of ethnic groups, as occurring in the 20th century in several states of Southeast Asia or even widening into long-term civil war (as Burma) are not often reported or even not evident in historical manuscripts of the Lao or Thai. One should ask, whether such rebellions have possibly been one of the results of modern state policy, or the ideology of nationalism, (forced) cultural assimilation, and forced population resettlements especially of ethnic minorities.

⁵⁵ *M ang* Sing in today's Northern Laos, for example, occupied more than 70 villages of the I-Ko (Akha), one village of the Yao and only 27 villages of Tai-speaking groups (Lao and Tai Nua). Comp. Nguyn Duy Thiu: Relationships between the Tai Lao and other ethnic groups in the socio-political system of *m ang* Sing. In: Tai Culture Vol. III No. 2 (1998), pp. 93-102

⁵⁶ Nguyn Duy Thiu 1998, pp. 100/101

⁵⁷ Such communal institutions were communal wells, market places, roads, bridges, ferryboats, rest houses etc.

Individual Rights Versus Community Rights

Modern state law, in general, is highly individual-oriented and does not pay much attention to the community-oriented traditional society. Traditionally, in Lao society a legal trial is seen as a manner of conflict (negative value). To be involved in a trial as an individual (which is normally the case in modern law) means to be involved in or to have caused conflict, which is regarded as very negative, and which is a great shame for the individual and the whole family or community. In practice, the Lao tend to renounce their individual rights (which are defined in modern law) than to defend them. Traditional law aims at preventing conflicts. If conflicts arise, then the whole community gets involved (public discussion) in order to solve the problem as fast as possible in favor of the community and harmonic, conflict-free life within the community. The individual then has to accept the decisions of the community (s)he belongs to. In modern state law and according to the order of trial, the community is left out and the individual is confronted with the conflict alone. The court may decide against the interests of a community, which at last creates a higher potential of conflict between individual and community.

Though emphasizing the continuing significance of Lao traditional law and traditional perceptions of community rights and responsibilities, justice etc., and though pleading for paying more attention to the traditional concepts, I am far from propagating "communalism" forced or dictated by the state, as it had been done - without success - in the Lao P.D.R. for several years after 1975. The aim of this work is rather to make state authorities aware of social facts – and traditional perceptions of law, rights and justice are a social fact – to be considered in the process of the constitution of modern state law in Laos. Of course, there are also problematical aspects in Lao traditional law to be pointed out critically: for example the low status and lack of rights of children, of mental or physical ill persons (**illustration 1**), or disabled persons of lower age. Children, ill and disabled persons come under the full authority of their families and are not mentioned in the *hiit-khoong* code. Though it could be supposed that these persons according to Buddhist morality should be protected within the space of the family, there is no possibility to defend their individual rights in case of conflict, or in case of abuse or ill-treatment within the family or community, which possibly could occur. Besides this, there is no definitive right for children or mental ill persons without a family to become an acknowledged member of any community, and thus have to earn their living as servants or beggars, etc. Another problem in traditional law is physical and capital punishment, which depended on the decision of the *chau m ang* and the community (**illustration 2**). Such examples show, that traditional forms of law must be looked upon in a critical perspective and evaluated seriously, for not to create new disadvantages for certain groups of people.

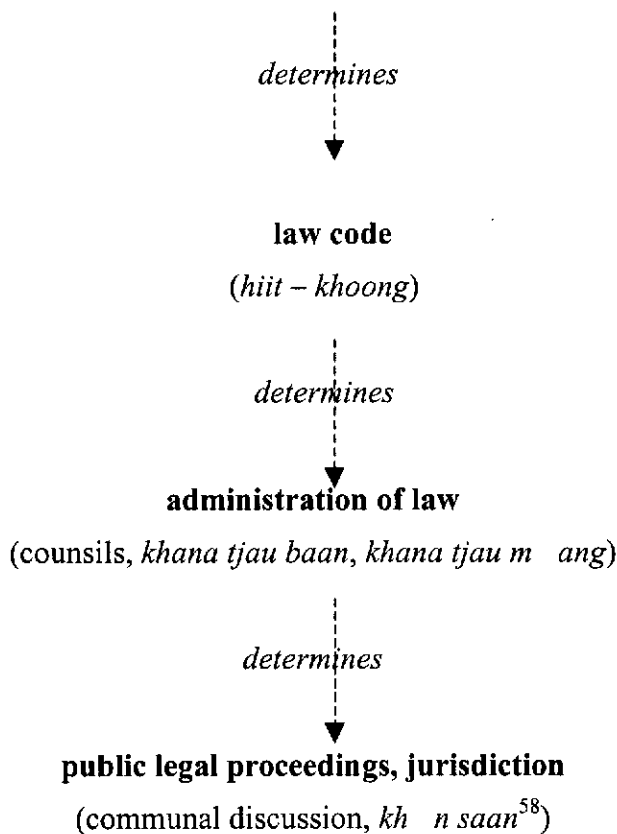
However, the examples above also show, that traditional perceptions of law and justice must not be neglected when introducing modern state law. People do not change their world view, their social organization and life practice suddenly or automatically; it is a long-term process of learning, of reasoning people about the necessity of modern law, and of democratic political education.

The introduction of modern state law in Laos is just in progress. To prevent conflict, disorder and injustice, social values of the Lao and the traditional perception of justice, community rights and responsibilities should urgently be taken into consideration.

table 1

Position of the *hiit – khoong* Code in the Traditional Lao Legal System "universal law"

(holistic world view, universal concept of *m ang*)



The law code (*hiit – khoong*) in this scheme is the most standardised "tool" for communicating the "universal law" (order of the universe) at the community level.

⁵⁸ *kh n saan* means to start or to get involved in a legal proceeding. *saan* is the modern Lao term for the legal court, but etymologically it is the Tai term for a public house, where *baan* or *m ang* affairs or legal affairs were discussed; the *saan* is also thought to be inhabited by a guardian spirit protecting the community and controlling the right following of the *hiit-khoong* code

COMMUNITY RIGHTS OF THE L IN CHINA, LAOS AND THAILAND: A Comparative Study

Ratanaporn Sethakul*

Introduction

The L** are a Tai-speaking group whose homeland is called now the Dai Autonomous Prefecture of Xishuang Banna, Yunnan province, China. The L call their settlement territory Sipsong Panna***, meaning the "country of twelve thousand rice fields". The L people however were scattered also in other countries such as Burma, Laos and Thailand. Several L border towns of these three countries were ruled from time to time by the L kings but later on were included into others' stronger sovereignties. These people have a long history and a unique culture which they were able to keep longer than some other Tai-speaking groups. A very distinctive feature was the recognition of the community rights which is believed to be strongly held by the Tai since the early period of Tai state formation. Many L chronicles and traditional manuscripts frequently reveal a clear picture of community rights of the people which existed until the Communist Revolution and the Land Reform in Sipsong Panna in the 1950s. How did the L people develop these community rights and why were they able to maintain them for several hundred years amidst the changes? When they settled down in other countries with different conditions, were they able to maintain their characteristics, or did they adjust? We will try to search the answers from their long history.

The L state has a very interesting history. Unlike other Tai states, namely Lan Na and Lan Sang which were able to form unified states under an absolute monarchy, Sipsong Panna remained in the first stage of Tai state formation, a confederation state tied together by the kinship relations of the ruling class. According to Condominas' theory of the formation of Tai political systems, it was "...among the principalities which considered themselves related by kinship and sometimes allied themselves to form confederations of a dozen or more *chau* or *panna*..."¹ Until the middle of the 20th century, its political and social structure was a mixture of feudalism and village commune due to its isolation and historical background which caused slow changes, compared to other Tai states. The main characteristic of this traditional L political system was the strength of local power which consequently limited the

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** ed.: The author used the writing "Lue", as well as "Khon" for the Tai Khon. Throughout the text, TAI CULTURE's transcription system is adapted for typical Tai expressions.

*** ed.: *sip soong phan naa* (12,000 rice fields) is comparable with *laan naa* (a million rice fields), the designation of a neighboring historical Tai kingdom, that of the Tai M'ang with Chiang Mai as capital.

¹ George Condominas 1990, p. 40

power of the king. The traditional Lue chronicles reveal the power of the people and their political participation since the founding of the Choeng dynasty (1160 A.D.). One mentions that "...the Tai M ang** (common people) put Ai Kung on the throne, replacing his father..."² The succession of the Lue dynasty was not restricted to the oldest son. Brothers who were more appropriate to be king in the view of the people could be enthroned with their support as well as dethroned if they were viewed as evil.

In Lan Na and Lan Sang kingdoms, the kings were more powerful and the political structure was strengthened by the organized bureaucracy, the social belief as well as geographical locations which were also the main factors for the political unity and the king's ability to consolidate power. However, the political power of the people in the two kingdoms was relatively strong, too. Whenever the king misbehaved, he would be overthrown as a result of the people's resentment. Thus, the people were the actual king makers. The observation is that the political power of the people was strongly supported by their community rights and obligations in the *baan* and *m ang*. Some Marxist scholars applied the theory of "illusory community" [Tanabe] to the fact that the Tai states were not as real as the village communities. In the Tai states, people were politically strong when the state was weak and vice versa. In the peripheral areas far from the capital, the *baan* and *m ang* were quite autonomous and invulnerable to interference. A very good example is the case of M ang Hum. The local authorities had promulgated a law forbidding gambling in the whole district without asking the Chiang Hung authorities.³ Decentralization and fragmentation of power seem to be the original characteristics of the Tai states before they developed themselves to be unified states in which the power of the king grew more absolute in the later period.

This research paper aims at comparatively studying the history of community rights of the Lue in China, Laos and Thailand, and whether different political structures would affect their rights, if there were social and ideological factors that either supported or minimized the rights. The awareness of the people of their community rights will be analytically studied through traditional manuscripts, local beliefs and communal rituals. No theoretical argument is included in this research.

Geographical Location and Settlements of the Lue in Sipsong Panna

Geographically, Sipsong Panna is located in the southwestern part of Yunnan province, in the People's Republic of China, which borders Burma and Laos. The area

** ed.: the authors writing of "moeng" was transformed in order to show: clearly meant here is one of the many forms of the term *m ang* (though pronunciation of this dialect would indeed be more a *m ng*).

² Thawee Sawaengpanyakun 1982, p. 68

³ Payap University Archives, BFM, roll 2, C. R. Callender, "Touring among the Lu", July 10, 1920.

is largely mountainous. Mountains and dense forest cover 95.1 % of the total area populated by the so-called hill tribes such as Akha or Kha Ko and Lua or Kha La. The Mekong river is the most important river, 158 kilometers of which flow between the mountain ranges to a big plain in the middle of Sipsong Panna. Other small rivers are Mae Nam Ha, Mae Nam Oot, and Mae Nam Phu Wan. These rivers feed the rice fields in the *m ang* of Sipsong Panna and provide the people with seasonal navigation. The Tai lowlanders inhabit these river valleys.

Big and small towns of Sipsong Panna are all surrounded by mountains and are located in the river valleys. These inhabited and cultivated areas are called the *thung m ang* or rice-field districts. They were ecologically unified territories, numbering about 49 *thung m ang* with an area of 978 square kilometers or only 4.9% of the total area of Sipsong Panna. The biggest *thung m ang* is *Thung M ang Ch* which is called "Sii M n Naa M ang Ch" (forty thousand rice fields of M ang Ch) because of its 160 square kilometers which serve as rice cultivating areas. Other important *L m ang* are Chiang Hung, M ang Luang and M ang Hum, which all have only a size of about 70-80 square kilometers each. Most of the *thung m ang*, however, are about 20-40 square kilometers.⁴ Each *thung m ang* is big enough to allow irrigation and rice cultivation to provide the population of the *thung m ang* with food.

In former times, the topographic situation determined the administrative structure of Sipsong Panna. The *L* villages and their rice fields were situated on the *thung m ang*, the plains in the valleys between the mountain ranges. On the bigger *thung m ang* territories, scattered on the hilly locations, were smaller *thung m ang* the administration of which was attached to that of the bigger *thung m ang* nearby. A *M ang*^{**} was the administrative unit of a large *thung m ang* while a *baan* was the administrative unit of the smaller *thung m ang*. Several *m ang* located close together became one Panna (rice field district), the upper stratum of administration.^{***} The leading *m ang* became Kao Panna (leader of the Panna) and was in charge of the loose administration of the smaller *m ang* in its Panna. However, it could not interfere much in the internal affairs of those *m ang*.⁵

⁴ Cheah Yan Chong 1993. p. 38

^{**} ed.: The editor sees the necessity to give a few comments on the different meanings inherent in the term "m ang". A *m ang* is the whole area; a *M ang* is the central administrative unit of a *m ang*. [Compare this idea: Raendchen: in TAI CULTURE III-2, p. 146; which became also the valid transcription mode of TAI CULTURE]. This *M ang* as the capital of an area of various hierarchies in the traditional administration system of the Tai never was a "city" but a cluster of *baan*, e.g. Luang Prabang (capital of Lan Sang), M ang Muai (capital of the Tai Dam or Black Tai kingdom [today the town of Thu n Ch u, NW Vietnam]). "Cities" of the Tai emerged only later, due to foreign influences.

^{***} ed.: This is a parallel term to the Tai Dam (Black Tai) term of "*ch u*"; compare Cam Trong, in TAI CULTURE III-2, 1998, pp. 22 (scheme, etc.). The Black Tai had 16 of such *ch u*, but later "*sip soong ch u Tai*" (twelve), [after the French takeover, 4 were given to China].

⁵ Shih-Chung Hsieh 1989. p.107

The traditional Lue chronicles state that the Panna administrative units were set up in the reign of Thao In Mueang in the year 1570. Each Panna consists of the Mueang located close to each other. The Mekong river divides Sipsong Panna into *haa m ang wan tok - hok m ang wan ook* (five towns on the west, six towns on the east). The Panna were grouped together on each bank of the river. They are as follows,⁶

1. Chiang Hung, Mueang Yang, Mueang Hum, Chiang Haa
2. Mueang Chue, Mueang Mang (western side), Chiang Lou, uu? Mueang Ong
3. Mueang Luang
4. Mueang Hun, Muang Pan, Chiang Loo
5. Mueang Hai, Chiang Chue ng oe? ue? ae?
6. Mueang Ngat, Mueang Khaang, Mueang Wang
7. Mueang Laa, Mueang Ban a or aa
8. Muang Hing, Mueang Bang a or aa
9. Chiang Na, Mueang Laa
10. Mueang Phong, Mueang Mang (eastern side), Mueang Yuan
11. Mueang UN a, Mueang U Tai
12. Muang Chiang Thoong, I Nguu, I Pang a or aa?

The Lue m ang were quite isolated from each other. In former times without modern transportation it was not at all easy for the people to travel from place to place, since neighboring townships often were farther than a day's journey by foot over mountains and across rivers. Each community must have been self sufficient since they could not depend on others. Even as late as before World War II, an American missionary who was sent to preach Christianity there found that

"...Chiengrung, Kiulungkiang in Chinese, is the most isolated station of the Presbyterian Church..."⁷

William Clifton Dodd noted that

"... And we are in a pocket, sure enough: shut off from everyone and everything belonging to the world we have lived in heretofore. We have neither post nor telegraph, though we have the promise of both. The nearest are six days away at Szemao, the official center of the southwest quarter of Yunnan. They hold our mail there till they get a man's load before they send it on by official runners! Letters come more frequently. Often our papers are four months old when we get them and Christmas cards arrive on the fourth of July. It is 26 days from Chiengrung, via Szemao, by caravan stage to the French railway at Mengtze: it is 24 or 25 days down to the Siam railway at Lakawn: and it is about the same distance to the Burma railway, via Kengtung..."⁸

Geographical location and isolation dominated the formation process of the Lue state. Scattered settlements made it difficult for the Lue kings to unite big and small

⁶ Ratanaporn Sethakul 1991. p. 135

⁷ Payap University Archives, PC 053, Letter from Winnie A. Burr to Ruth Burr, June 7, 1937.

⁸ William Clifton Dodd 1923. p. 181

m ang as one unified state. Phaya Choeng with his exceptional authority and military skill achieved in establishing his absolute power over Sipsong Panna but his successors failed to maintain it. Because of their isolated location each *m ang* practiced self-sufficient economy rather than being interdependent on each other. Their locations on the *thung m ang*, surrounded by mountains and difficult of access, on the other hand kept them safe enough from political peril and invasion.

A Brief History of the L

L written history began about 800 years ago when Phaya Choeng established his dynasty at Chiang Hung in 1160 A.D.⁹ More than 40 of his successors ruled Sipsong Panna until 1950 A.D. Politically, Sipsong Panna was a confederation state, consisting of 12 Panna (highest administrative unit), which were highly autonomous from each other. The name Sipsong Panna has both political and social connotations. It is the name of political and administrative units and signifies the importance of rice cultivation. This Tai state developed from the primitive society with small groups of people living together who spent their days with hunting and food gathering. From the tribe under the elderly rule, the L developed a political community under the rule of the king.¹⁰ Still, the kinship was a strong tie amongst the ruling class.

The political history of the L reveals the development of a Tai state under the proto-Tai feudalism. Whereas other Tai kings achieved in accumulating power and thus made themselves the absolute monarchs in the Tai feudal system, the L kings could not go that far. Their power was largely restricted in the capital and the nearby *m ang*. The L political system was distinctively a mixture of feudalism and village communes which resulted in the autonomy of the locality, the *m ang* and *baan*. The community rights that supported the local autonomy and simultaneously limited the power of the king was shown frequently during the 800 year history of the L. Chen Han-seng, on his survey trip to Sipsong Panna in the 1930s mentioned that geographical isolation, restricted development of commercial crops, and thin population had been the main factors in preserving the remnant of a primitive commune.¹¹ He was partly correct if looked at only from the physical perspectives. Studying the socio-political history of Sipsong Panna, one can find that the institutional factors also played a crucial role in maintaining the primitive commune and thus the pre-feudal society of Sipsong Panna.

The L kingship was weakened by the frequent interference of the two powerful neighbors in the close vicinity which prevented the L kings from strengthening their power. China and Burma wanted to keep Sipsong Panna as their

⁹ Renoo Wichasin 1998. p. 1

¹⁰ L manuscript, group 4 # 4.3.6

¹¹ Chen Han-seng 1949. p. 31

buffer state to assure their peaceful frontiers. Sipsong Panna was destined to be an independent state for a short period of time and became a Chinese tributary state in the middle of the 13th century. Its suzerain were the Mongols who conquered Yunnan and then extended southward. Although the Mongols conquered Sipsong Panna they did not interfere in its internal affairs. Troops were sent to suppress Sipsong Panna and its alliances twice in 1302 and 1312, but failed. After that, the Yuan government applied a policy of accepting nominal allegiance and tribute without interference which pleased the L and calmed them down.¹²

The Chinese suzerainty was well accepted throughout the Ming dynasty from 1381-1532. The rise of the Taungoo dynasty (1531-1758) in Burma added one more suzerain to Sipsong Panna and changed its political status to be "m ang Song Phang Pha" or "the state of two suzerains". Allegiance was paid then to both the Burmese king and the Chinese emperor. The L said that *hoo pen phoo, maan pen m*, meaning the Chinese are the father, the Burmans are the mother, thus showing their respect to both suzerains. In that time, the L still enjoyed a long-lasting autonomy. Conflicts between Chinese and Burmese sometimes benefited the L since they were pleased by both. The Burmese encroachment to the frontier warned the Chinese whose response was to send a punitive expedition to Burma in 1583. This troop did not pass through Chiang Hung but marched along the present Yunnan-Burma highway. By 1596, a large number of Chinese soldiers started colonization on the border around Woanting.¹³ Frontier conflicts between China and Burma occurred quite frequently.

The L in Thailand and Laos

In Thailand and Laos, the L inhabit only the North. There are several L communities in the former Lan Na kingdom in the northern part of Thailand that includes Chiang Mai, Chiang Rai, Lampang, Lamphun, Phrae, Nan and Phayao. As a rule, the L in Thailand named their villages after their hometowns. Besides, they also live in several cities and towns along the Mekong river in Laos territory. These people have shared the history of Lan Na and Lan Sang kingdoms.

According to the L and Yuan chronicles, King Mangrai, the founder of Chiang Mai was the grandson of the third King of Sipsong Panna, King Rung Kanchai.¹⁴ The L traditional chronicles frequently mention that their kings came from Muang Lao and several descendants of the L kings were sent along the Mekong river to found their own cities which are now in Laos.¹⁵ Close relationship

¹² Ibid., p. 9

¹³ Ibid.

¹⁴ Renu Wichasin 1998. Khana Kamakaan Chaat Phim Ekasaan Prawatsaat 1972.

¹⁵ L manuscript, group 4, # 4.3.6 Chau Maha Khantawong: "Tamnaan Arawakasoda". Lamun Chanhom 1949. p. 188

was kept through the intermarriage of the three states' royal families. They called themselves *baan phii m ang noong*, literally meaning the village of the older sibling and the city of the younger sibling. During the early period of Lan Na kingdom, they established a strong political alliance in order to fight the Mongols who invaded the southern territory of Yunnan in the 13th century, thus threatening the security of Lan Na kingdom and Sipsong Panna.¹⁶ Besides political relations, there were also economic relations through a long distance trade network carried on seasonally between various *m ang* of Lan Na, Lan Sang and Sipsong Panna.

Before the coming of the western imperialism to Asia, there was no political boundary. People were welcome to settle down in any territory since manpower was always in need. Territory of each state depended on their political power or their kings' power. Sipsong Panna used to be a vast confederation state whose king ruled several *m ang* in Burma and Laos. If we look at the Mekong river basin, we will find that several *L M ang* are located along this river. The Mekong river basin is divided into three sections according to its navigability. The Upper Mekong basin refers to the Mekong valley covering the mountainous area from the southern part of the Yunnan plateau to the northern part of Laos, including the eastern portion of the Shan states in Burma and the northern provinces of Thailand. The Lower Mekong basin is the vast area covering the central to southern provinces of the Lao People's Democratic Republic and the northeastern plateau provinces of Thailand, which corresponds to the stretch from Luang Phrabang to the *Khoon* Falls, inhabited mostly by ethnic Tai Lao. The Mekong delta is from the *Khoon* Falls to the estuary, encompassing the entire land space of Cambodia and the southern part of Vietnam. The upper Mekong basin is inhabited largely by the *L* of Burma, Thailand and Laos.

Dodd described the *L* country as follows:

"...the Sipsong Panna in what is now the southwestern part of Yunnan Province, China, is the heart of the *L* country: and that the *L* is one of the largest and most widely distributed tribes of the Eastern Tai, or Laos. From Mong Len (Lin) northward along the Mekawng in Kengtung State as far north as the Ssumao plain, the *L* is the almost exclusive plain population..."¹⁷

Far below Chiang Hung along the Mekong river were several *L* cities and towns. Currently in the Burmese border there is Chiang Khaeng which was formerly part of Sipsong Panna. Chiang Khaeng is located on the east bank of the Mekong river above Chiang Saen, close to the confluence of the Luai and Mekong rivers. It was formerly a principality which covered the territories of both sides of the river. The serious problem of Chiang Khaeng was that there was no big space for rice fields; therefore, the Chief of Chiang Khaeng turned to *M ang* Sing, a few days' march to

¹⁶ Sai Sam Tip 1976. p. 88

¹⁷ Payap University Archives, W. C. Dodd 1915

the east. Muang Sing was located in an extensive fertile plain with abundant water supply which was very favorable for rice cultivation. From the Mekong river bank, people extended to settle in M ang Sing around the year 1792. Most of the population were L¹⁸, but because of the Burmese conquest in 16th century, Chiang Khaeng was assigned to be under Chiang Tung, a principle Shan state, north of Lan Na and south of Sipsong Panna. In order to keep close relations for the political benefit of Chiang Tung, the chief of Chiang Khaeng was always a near relative of the *chau faa* Chiang Tung.¹⁹ According to the colonial confrontation in late 19th century, it was divided along the Mekong river by the British and the French. The district on the west bank fell under the British whereas the east bank came under the French sovereignty.²⁰

M ang Sing, the part of Chiang Khaeng that is now in Laos, was from time to time under either Nan or Luang Phrabang authorities. This fertile area boasted rice cultivation and a large number of L population. Large-scale resettlement campaigns by Nan *chau luang* against M ang Sing took place in 1805-1806, 1812-1813, and 1838. A number of L were moved to Nan. After the Paknam incident of 1893, it was conceded to be part of French Laos. Thus, the connection was cut between Nan and the L m ang in Laos. However, a considerable number of L from many small towns along the Mekong river migrated to Nan and other Lan Na m ang.

L settlement in Lan Na territories occurred due to voluntary migration during periods of political unrest or famine in Sipsong Panna as well as relocation forced by the victorious Lan Na kings. During the glorious days of Lan Na, particularly the reign of King Tilokkarat which was considered the period of political expansion, several L m ang became Lan Na's dependencies. Another period of L migrations mentioned in the chronicles was in the late 18th and early 19th century. It was the period of *kep phak sai sa – kep khaa sai m ang*, literally meaning "putting vegetables in the basket, putting people into towns". The Lan Na leaders waged war against several L m ang along the northern frontier and accumulated a large number of L people to fill in the vacancy of Lan Na land.

Since there are many L communities in the Northern part of Thailand, the researcher would like to emphasize the study on the L in M ang Nan or Nan province as a case study of L in Thailand and L in Laos since a large number of the L in M ang Nan had also migrated from the L m ang in Laos. The L in Nan had preserved their cultural identity due to the long distance between Nan and the capitals, either Chiang Mai or Bangkok. As a border province, Nan has a large number of L communities which moved in both a long time ago and just recently

¹⁸ U.K., India Office Library and Records. p. 7

¹⁹ An Englishman's Siamese Journals 1890-1893. p. 90

²⁰ Grabowsky, Volker and Walther Kasper-Sickermann. p. 6

during the Indochina war. The old Lue village communities came from the Lue *mang* in the northern part of Laos, several of which were under Sipsong Panna sovereignty before the Chinese concession to France in the second half of the 19th century.²¹ In the four northern districts of Nan, namely Thung Chang, Chiang Klang, Pua and Tha Wang Pha districts, there are about 60 Lue villages. These people came from several *mang* of Sipsong Panna and small Lue townships along the borders of Sipsong Panna, Burma and Laos, namely Mueang Chiang Hung, Mueang La, Mueang Len, Mueang Yong, Mueang Yu, Mueang Lui, Chiang Khaeng, Chiang Lap, Chiang Lom, Mueang Ngan, Mueang Phuan and Mueang Ngop.

It is evident that immigration and settlement of the Lue in Nan occurred continuously in the long history. The local chronicles of Nan reveal that the present Lue communities had been inhabited and abandoned several times due to wars, political unrest and natural disasters. However, we cannot identify whether the inhabitants of those areas have always been Lue ethnic people. Mueang Yang, the present Lue village of Ban Pa Tong, Silaphet sub-district, Pua district of Nan province, was an ancient settlement in the pre-history period of Nan. Phaya Phukha, who came from Mueang Nganyang with 200 followers, founded this *mang* in the year 1277. The original hometown of Phaya Phukha indicates the relation between the Nan and the Lan Na dynasties. This area, the same as other areas of the North, was said to be formerly occupied by Lua natives. Their village culture was replaced by the *mang* culture introduced to them by the conqueror. The chronicles mention that this *mang* was later on populated and extended by the Chiang Saen people and Lue from Sipsong Panna who founded other villages. An urban culture with a high standard of technology such as Buddhism prevailed and the irrigation system was introduced to the people.

Political unrest and wars among the ruling groups of Lan Na and Nan made the later period of Burmese rule (in the late 18th century) a turmoil and disaster for the Lan Na people. Numerous people died because of famine, diseases, and wars. A large number ran into the forest and some were forced to settle down in other places. Mueang Yang was abandoned and people were taken away. In 1703, new Lue under the Chief of Mueang Len, north of Chiang Rai, moved in. After his death, the *chau luang* of Nan sent his official to replace him thus strengthening Nan authority. A big flood in the year 1797 forced the people to abandon their home again. The last group, according to the chronicle, that moved to settle down in this area came from Mueang Yang (in Burma), Chiang Saen and Chiang Rai. Nowadays, the people there identify themselves as the Lue descendants from Mueang Len.²²

²¹ Bunchuai Srisawat 1955. pp. 419-420

²² *Nangsathirak phithi chapanakitsop mang luang Butta Thikhawong* 1992.

From the above chronicle, we can assume that some Lue communities were settled in Nan before the 18th century. The settlement was not continued due to the successive warfare in which a large number of people were killed and some were forced to take refuge in the jungles or run away to other *mang* to live under stronger protection. After Nan local leaders successfully cast off the Burmese yoke, they faced the very serious problem of manpower shortage. The most rapid and effective way to increase the population was to wage war with the neighboring countries and accumulate the war-captives. *Chau luang* Attaworapunyo, the first *chau luang* of Nan recognized by the Bangkok kings, started the strategy of accumulating people by making wars in 1788. Since Nan was located close to the Lue *mang* in Laos and China, a large number of Lue from the defeated towns in Laos and China were forced to settle in Nan territory. In 1805, the *chau luang* of Nan sent a big troop to capture several cities of Sipsong Panna and successfully carried back the people to fill the deserted area in Nan. A few years later, Nan succeeded in taking away 6,000 Lue from Mueang La, Mueang Phong, Chiang Khaeng, and Mueang Luang Phu Kha.²³ When ordered to support the Thai army invading Chiang Tung (Kengtung) in 1850-1855, Nan joyfully took this opportunity to carry back a big number of war prisoners from the Lue towns on its way back. Due to the long relations with Lue *mang* in Laos and Sipsong Panna, the Bangkok authority assigned the Nan kings to be in charge of the Sipsong Panna affairs.

Community Rights of the Lue

To understand the concept of Lue community rights, one needs to understand the Lue state formation and their political structure. The Lue state of Sipsong Panna developed from village communes with close kin connections, ruled by the elderly people in the clans, to a pre-feudal state under the rule of the *chau phindin* or king. The fundamental form of community was kinship and family grouping in order to protect themselves and work together in times of planting and hunting. It was an affiliating relation of a few individuals who lived together for the mutual benefit of well-being and safety. Lue community was started from the *baan* (village). It was set up on an affiliated and mutually beneficial network under kin connection.²⁴

When the communities grew up larger kinship could not hold them together effectively. They needed stronger means to guarantee peace. According to the Chronicle of Phraya Sommutiraja, the Lue people grew large in number and conflicts between themselves arose. In order to eliminate the conflicts they chose a wise leader to lead them. This historical figure could be called the culture hero since he introduced many innovations to the people. As for the Lue this leader was called

²³ Collection of Chronicles, Part X. 1964, p. 457

²⁴ Therefore, when people said *baan hau* (our village), they did not mean only an actual group of houses located in the same vicinity but an interdependent social group.

and acted as a supposed *racha* or king because he also shared the common origin with others but was also accepted by others to have a higher status in order to rule the people.²⁵

When the L formed their state, the first stratum of their administration actually rested on the basic local community of the L *baan* (village) which was a component of the *m ang*. The *baan* was the smallest but most important administrative unit since the L state formation started from uniting and developing the village communities to form *m ang* and then the confederation state. Moreover, the confederation of Sipsong Panna depended very much on the strength and allegiance of the village communities that supplied the man-power supply for rice production and government service.

Each *baan* was formed by a particular class in the L society. The L commoners were divided into three groups: the Tai M ang, Lek Noi and Ron Rai. Tai M ang were free peasants who settled first. Lek Noi and Ron Rai were the later migrants, including a small number of non-Tai ethnic groups, descendents of the war-captives and criminals. They formed the lowest level of the society and were mostly the servants of the *chau naai*. These people had their own social status. They preferred not to intermarry and also lived separately. They were assigned duties according to their status and they cooperatively developed a model of interaction with the *m ang*. The *baan* was the most significant unit for an individual's daily life, revealing the communal relationship of the villagers.

The autonomy of the village community could be perceived right away as the head of the village was selected by the villagers even though appointed by the *kwaan m ang*. The administration of the *baan* was the miniature of the *M ang* (town or administrative center) and *m ang* (state).

Table 1 The administrative units of Sipsong Panna

Administrative unit	Administrative head	Unit assembly/ Member	chairperson of assembly
Sipsong Panna	<i>chau ph ndin</i>	<i>n a sanaam/ khun n a sanaam</i>	<i>chau Chiang haa</i>
<i>m ang</i>	<i>chau m ang</i>	<i>kwaan m ang/ khun n a kwaan</i>	<i>phayaa khao</i>
<i>baan</i>	<i>phoo baan</i>	<i>kwaan baan</i>	<i>phoo baan</i>

According to the L traditional chronicles, Sipsong Panna was founded by the Tai M ang village communities which had a certain level of autonomy. They got

²⁵ L manuscripts, group 4, # 4.3.9

together in a small number, started clearing the land and turned it into rice fields under the communally organized irrigation system. In other chronicles, they supported the king to resume his power from a non-Tai ruler.²⁶ Since they were pioneers settling in this area, their status was higher than the Lek Noi and Rong Rai who were called *khon h an chau* (the servants in the *chau*'s households).²⁷ Their villages owned a certain area of cultivated land.

M ang were independent administrative units or principalities ruled by the *chau m ang* who interacted directly with the *chau ph ndin* or the *n a sanaam nook* (the grand assembly). The *chau m ang* controlled economic, administrative, legal and religious aspects of the *m ang*. As the ruler of Sipsong Panna, the *chau ph ndin* appointed the *chau m ang* and higher officials. In the course of time, however, the *chau m ang* and a few top officials became hereditary. Thus, many *m ang* attained more or less autonomous power. Indeed, the relationship between the court and the *m ang*, as well as among the several *m ang*, was maintained not so much by feudalistic bonds as by ties of blood. The *chau ph ndin* and the *chau m ang* were often relatives by marriage. Brothers or sons of the *chau ph ndin* were sent to rule the important *m ang*. Sisters and daughters of the *chau m ang* married members of the royal family and vice versa. This practice of close kinship was advantageous when they were able to compromise with each other and share whatever benefit they expected to get. Problems occurred when it was time to choose a new king, because everybody who had royal blood was eligible to become king. Because of the autonomy of the *m ang*, Sipsong Panna appeared to be a loose union of the *m ang*, with the *chau ph ndin* as its official head, more nominal than real.

In the outer *m ang*, people's power was stronger than in the capital. The Tai M ang were the main factor for the political power of a *m ang*. Investigating the type of the villages in *m ang* in 1955, it was found that M ang Hum had 30 Tai M ang villages, 22 Lek Noi villages and 10 Khon H an Chau villages while in Chiang Hung there were only 6 Tai M ang, 52 Lek Noi, 15 Hong Hai and 6 Luuk Laan Thaa Phayaa villages.²⁸ Chiang Hung was totally under the control of the *chau ph ndin*'s court. A number of the Tai M ang villages, which increased in the more distant *m ang*, supported the local power and autonomy of the *m ang*. There is an old saying that reveals the local power and the communal rights, *baan phai man pong - noong phai man khang*, meaning "the owner of the village rules or takes care of his village; the owner of the pond get benefit from that pond". Another is about preventing interference from outside: *kam k t naa hap pratau naa tan, kam k t baan hap pratau baan ya, kam k t tung boo h lung thong Chiang*, meaning "the

²⁶ Lamun Chanhom.

²⁷ For more details about social classes in Sipsong Panna see Yanyong Chiranakhorn and Ratanaporn Sethakul. p. 102-110

²⁸ Yanyong Chiranakhorn.

conflict in the rice field should be settled locally, the conflict occurring in the village should be discussed there and conflict in the plain should not reach the *M ang*".²⁹

The top stratum of L administration was the royal court or the *hoo kham* at Chiang Hung. The *chau ph ndin* held the nominal absolute power over the people of Sipsong Panna. He appointed the top officials of the Chiang Hung court. This ruling class was tied together by kinship. However, the kind of their relationship varied from time to time.

In Chiang Hung, the *chau ph ndin* ruled through the *n a sanaam* or *khau sanaam*, the grand assembly of Sipsong Panna which held sessions with the *chau chiang haa* as a chairperson in the *n a sanaam nook* and *chau uparaat* in *n a sanaam nai*.³⁰ Besides the *chau ph ndin*, the *sanaam* was the most powerful political organization of Sipsong Panna. Throughout history, it had made and supported or dethroned many kings. This body also had the power of appointment and dismissal of officials in the *m ang*. It also could legitimize the ownership of land or territory in the *m ang* and *baan*.³¹ Officers appointed by the *kao sanaam* must pay a fee of appointment. The *khun sanaam* were high officials who enjoyed much benefit from the pre-feudal L system.

As the other Tai states, Sipsong Panna adopted Theravada Buddhism which more or less dominated its social and political structure. The traditional L chronicles mentioned that Indra supported the establishment of the L state because he wanted to set up Buddhism in this region. Thus, a meritorious person must rule as king, in order to establish, support and maintain Buddhism.³² The king, therefore, was placed up high as the most meritorious person in the state who could distribute his merit to the humble and sinful people.

Several Buddhist ceremonies were presided over by the king or his representatives. Most of them came under royal patronage in order to support the power and legitimacy of the king and the ruling class. During the Buddhist lent, for example, some ceremonies were held to make merit and simultaneously to pay respect to the king. At the beginning of lent, the ruling class of the *m ang* and the people would come to pay homage to the king by giving him a ceremonial bath. Along with their visit, they also brought some local products, for example tea and salt from *M ang La* and bee wax from *M ang Luang*, to be presented to the king as gifts. On this occasion, the king did ride on his elephant accompanied by his followers and having musical bands and dances in front of his procession. It was a very joyful event for the people. Many singers sang and praised the king, "... Let's dance. We are very happy

²⁹ Interview with Chau Luang Naa Chaang, Chiang Hung, October 22, 1997.

³⁰ Yanyong Chiranakhorn and Ratanaporn Sethakul. pp. 29-35

³¹ L manuscript, group 2, # 2.1

³² Lamun Chanhom.

because of the king. We have enough to eat and to make merit because of the king. The villages and cities are happy..."³³

Hiit - khoong (traditional practices) were set up under the guideline of Buddhist teaching and also traditional spirit beliefs. The *hiit - khoong* legitimized the power of the king, making the people feel inferior and obedient. In short, they must bow down to the king. People believed that *mii sompan dai pen chau* meaning "having merit one becomes king" and *hua tin k t maa pen khaa heng aat heng ya kham chau*, meaning "from head to feet, one is born to be under the power of the king".³⁴

To control or create close relationships between the *m ang* and *baan*, the L court set up the *phoo lam* system. *Phoo lam* were the *chau naai thaao khun* who possessed administrative positions. They were chosen by the *baan* and *m ang* but appointed by the *chau ph ndin*. The *phoo lam* system depended on the patron-client relationship. *Phoo lam* were the agents for their *luuk lam* in the royal court at Chiang Hung. Whenever the *luuk lam* came to the capital, they would stay at their *phoo lam*'s house. The *phoo lam* was the leader who *phaa thong oon naa - khat pha oon tang* "leading by carrying the bag and holding the knife".³⁵ The *phoo lam* was a traditional patron who received services, gifts, agricultural products and respect from his *luuk lam* who in turn received his generosity, assistance, and protection. Some may say that this relationship was not well-balanced since the *phoo lam* enjoyed more economic benefit from the *luuk lam*'s labor. From the report of a frontier survey commissioner of Yunnan province in 1954, there were several *wiak kaan* of the villagers in Chiang Hung. Each village had a few services given to the *phoo lam* and *chau naai*. These are as follows:³⁶

³³ Bunchui Srisawat 1955. p. 211-212

³⁴ L manuscript, group 2 # 2.7 "*hiit - khoong hap phoo lam m ang*"

³⁵ L manuscript, group 2 # 2.4 "*kaan t ng tang chau hua m ang*"

³⁶ Yanyong Chiranakhorn 1977.

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L under the Lan Na political system

The L in Lan Na were kept under the Lan Na political system which was similar to that one in Sipsong Panna. They did not feel like aliens because they came from several *m ang* of Laos and Sipsong Panna which from time to time were under Nan authority. There were no clearly defined political boundaries in Southeast Asia before the coming of western imperialism. Sovereignty was observed and recognized according to the power and military skill of the kings. The border *m ang* were always subjected to more than one sovereign.

The L people became familiar with the Lan Na system due to the socio-political similarity to their own system. Both the Lan Na king and the L *chau ph ndin* claimed to own all the land and natural resources in their states.³⁷ In Sipsong Panna they said *din chau – naam chau*³⁸, "the soil of the *chau* – the waters of the *chau*". The Nan Law, called *aanachak lakkham* states that

"... all those things to be considered as royal property such as ivory, rhinoceros horns, several kinds of honey bees, etc., if they were collected they may not be hidden but should be brought to the *phoo m ang* or *naai baan*. After recording the weigh, lets send the finder to the court to get a reward..."³⁹

The Lan Na people were under the Tai traditional patronage system as well as the L . An American missionary who went to Chiang Hung in 1920 observed that the power of the L king was as well recognized as of the *chau naai* of Lan Na before the administrative reform of King Chulalongkorn in 1900. He said,

"... The relationship of the *chau faa* (Lord of Heaven) [king] to his people is about the same as that obtaining in upper Siam 30 years ago. All are subject to his call. Some villages have to furnish the *chau faa* and his household with wood, others with water, others with thatch, others with bamboo, while still others herd their livestock. Some have to accompany him on his tours as bodyguards."⁴⁰

In Lan Na, the *chau naai* and *thaa khun* (the ruling class) lived on the *kin naa* system (literally meaning "to eat the rice field" but actually means to receive produces

³⁷ Aroonrut Wichienkeeo 1977. p. 58

³⁸ Bunchuai Srisawat 1955. p.119

³⁹ Saratsawadee Oongsakun 1993. p. 75

⁴⁰ Payap University Archives, BFM, roll 2, C.R. Callender, Touring Among the Lu, July 10, 1920.

and services from the people who farmed the land assigned to each *chau naai*) which is similar to *bat naa taa kin* of the L .⁴¹ The commoners in Lan Na worked for the ruling class for about 10 days per year per person whereas in Sipsong Panna before the liberation of 1949, people spent 15 days per household per year.⁴² The ruling class of Nan who enjoyed the benefit from the *kin naa* system consisted of *chau naai* (royalties), *thaao khun* (officials), and *phoo M ang* (the *m ang* chief). The *naai baan* (village chief) received benefit in form of tax and corve exemption or shares from the tax collected from the people. The first two groups were the members of the *sanaam* (advisory council) which administered *Wiang Nan* (the inner city of Nan) while the last two administered the *Naa Baan* (the outer area of the city).⁴³

Some L towns along the border of Laos were formerly Nan dependencies. According to *tamnaan sip-haa raatchawong*, Nan was assigned to oversee the L towns namely Muang Kai, Muang Len, Muang Phayak, Phaleo, Chiang Lap and Muang Luang Phukha during the Burmese rule.⁴⁴ *Aanachak lakkham*, the significant Nan laws issued in 1852, listed the *sakdinaa* ranks of the ruling class of Nan and included the *sakdinaa* ranks of the L rulers of the border towns such as Chau Phaya Len, Chau M ang Chiang Khaeng, Chau M ang Phuu Khaa, Chau M ang Luang, Chau M ang Chiang Lap and Chau M ang La.⁴⁵ *Aanachak lakkham* also indicates the authority of Nan over the L *m ang* in Sipsong Panna and Laos.

There are a few local documents showing close relations between Nan and the L *m ang*. The Nan chronicle states that the *chau* of Sipsong Panna sent a mission to Nan requesting to buy six elephants. The *phap saa* (mulberry papers) of Phoo Ui Chan Ta (Grandfather Chan Ta), inscribed in 1814, narrates the political conflicts that occurred in Sipsong Panna because of the refuge of the L *chau* (the L upper class) and their subjects from M ang La to Nan.⁴⁶

During the period of people shortage, the Lan Na authorities saw the *kin naa* system of Nan not efficient enough to control people. Therefore, the *chau naai* issued strict laws and applied harsher punishment. The L people in the border areas under Nan authority (see above) did not enjoy the privilege of changing their masters as others did.⁴⁷ They could not move to live in other areas because they were needed to protect the frontier of Nan. In order to prevent the migration of the people, Chiang Mai, Lampang, Lamphun and Nan issued an edict stating that people traveling between these *m ang* must hold passports indicating the number of people, animals

⁴¹ Yanyong Chiranakhorn and Ratanaporn Sethakul 1998. p. 101

⁴² Shigeharu Tanabe 1994. p. 7

⁴³ Ratanaporn Sethakul 1995.

⁴⁴ Kr ngkaan s ksaa wichai khamphii bailaan phaak n a, 1989. pp. 3-4

The L m ang M ang Phayak, Paleo and M ang Len belong now to Burma while Chiang Lap and M ang Luang Phukha are in the territory of Laos.

⁴⁵ Sarasawadee Ongsakul 1993. p. 75

⁴⁶ *phap saa* of Phoo Ui Chan Taa.

⁴⁷ Sarasawadee Ongsakun, 1993. p. 75

and properties they carried. Anyone traveling without passports would be arrested and be sent to the *sanaam*. The ones who visited relatives in other towns and preferred to live there permanently were required to pay a sum of money to their *chau buak naai* compensation.⁴⁸ This edict was aimed at discouraging people from leaving their hometown and protecting the interest of the *chau naai*.

There was no political or racial discrimination for the L because the Lan Na authority needed manpower and thus was willing to accommodate with the L . The Lan Na kings were always warned that the people were the basis of a state's strength. The L in Nan were considered the subjects of Nan authority as well as the other Tai-speaking groups. They were under the Lan Na laws. Besides their distinctive cultural identities which they proudly maintained for several decades, they observed nothing different. We can say that they enjoyed the same rights and obligations as the Lan Na people did.

Beside political relations, the Tai Yuan (people of Lan Na) and Tai L regularly traveled to each other's hometowns and thus had close economic and social relations. Nangs Phunnaa M ang Nan (the Book about the rice field in Nan), stated the distance it took in travelling from town to town as follows,

... from Chiang Lom to Muang Ng n 18,000,
from Wiang Nan to Muang Phong 16,000,
from Phong to Auen 6,000,
from Auen to Yom 5,000,
from Yom to Yang 3,000...⁴⁹

The L people who moved to live in Nan at that time were included into the Yuan socio-political system of Lan Na. They became subjects of the *chau naai* of Nan who allowed them to observe their own culture. The L people in Ban Nong Bua, Ban Pa Kha and Ban Don Mun continue to worship their Chao Luang Muang La spirit once every three years. The worship there follows the one performed once in three years in their hometown, Muang La, Sipsong Panna.

Cultural tolerance was practiced in Lan Na without difficulty because most of the people possessed cultural similarities (as members of Tai speaking groups). The Tai peoples in former time saw no ethnic differences among themselves but realized cultural differences between them and the *Hoo* (Chinese), *Maan* (Burmese), and *Lua* (the Mon-Khmer group). Whether they were L , Kh n, or Yuan, they shared many elements of Tai culture. Beside sharing similar cultural traits, the shortage of manpower in late 18th and early 19th centuries also induced the *chau naai* to compromise with any people who moved into Lan Na. As long as their power was recognized and the feudal obligations were fulfilled, they would let the people alone.

⁴⁸ Ibid., pp. 87-88

⁴⁹ Aroonrut Wichienkeo 1985. p. 21

The L here were allowed to apply their communal rights at the village level the same way as in their Yuan brothers's villages.

The L communal rights in Lan Na and in Sipsong Panna were alike. Even though the Lan Na kings were more powerful than the *chau ph ndin* of the L in Sipsong Panna, the power and the importance of the people were always recognized. The Lan Na chronicles and laws state that "...people were the strength of the state. The ruling class was able to found the city because of the people support. People were rare and valuable, they should not make the people unhappy. If the people were unhappy, the ruler would be unhappy too..."⁵⁰

Community Rights on Productive Resources: the Rights to Subsistence of the L

Community rights of the L came into existence when the people learned to live together for their mutual well-being and benefit for subsistence. Though *baan* was the lowest and smallest administrative unit, it was a real community. People affiliated themselves very much to their *baan*. For the sake of protection, the first and foremost community right was the ownership of land. Along with land came water and natural resources. Most of the L had been living in rural areas, growing rice. Rice cultivation was the most important production of the L everywhere. A Chinese researcher, Chen Hang-seng found in his survey trip in the 1940's that "...the Lu were excellent field cultivators and a stay-at-home folk..."⁵¹ Land and water therefore became significant means of production or productive resources which the two social classes, the ruling and the ruled, struggled to control. Village communities and *m ang* repeatedly attempted to keep autonomy and confirm their community rights. The L *hiit 12 – khoong 14 - praweenii 15* reveals the autonomy of the *baan* and *m ang* that

"... the *hiit* of the *m ang* must be used in that whole *m ang*,
the *chau* of each *m ang* gives orders to his whole *m ang*.
One river with two irrigation ditches, one *m ang* with two *chau* are not relevant to the *praweenii*..."⁵²

The village communities were superimposed by the stronger superstructure of the *m ang* (state). Tanabe suggests that there were egalitarian institutions ensuring the collective ownership of the productive resources: but, because of the *chau m ang*'s

⁵⁰ Kotmaai kh saraat, cited in Aroonrut Wichienkeo 1977. p.183;
Aroonrat Wichienkeo and Gehan Wijeyewardene. pp. 21-22

⁵¹ Chen Hang-seng, p. 5

^{**} ed.: including all the *baan* or villages in the *m ang*.

⁵² L manuscripts, group 1 # 1.10, Ai S a Baan Dai, "hiit 12 – khoong 14 – Praweenii 15".

rule this egalitarianism lost its original form and became a mechanism of domination.

⁵³ The Tai people were convinced by social ideologies that their well being depended on a strong and unified "higher community" under a wise ruler. To some groups of people also force was applied. As protector of the land and people, the *chau ph ndin* owned all the land in Sipsong Panna as the *chau luang* of Nan did in his territory. This was the only way in the agrarian society to legitimize the power of the rulers and their rights to extract the surplus of labor and products from the people. This is the general feature of the Tai feudal society which lasted until about the 19th century in Thailand and Laos; but in other Tai "states" in China, particularly Sipsong Panna, an American missionary found in 1920 that "...the *chau faa* is the owner of all the paddy fields..."⁵⁴

In practice, there were two main categories of cultivated land in Sipsong Panna that show the remnants of the successive struggle between the ruling and the ruled classes. They were *naa chau* and *naa baan*.⁵⁵ *Naa chau* was the same as *naa khumkaanm ang* or *naa khumratchakaan* of Lan Na.⁵⁶ The L *naa chau* consisted of *naa chau ph ndin* (the royal rice fields), *naa chau m ang* (the *m ang* chief's rice fields), *naa phoo lam* (the rice fields of the official agents), and *naa thaao khun* (rice fields of the officials). Under the pre-feudal system of agrarian relations, all higher court officials received land holdings as a form of permanent salary payment from the king. These prebendal lands could not be sold or inherited by their children. In practice, land distribution among the *chau naai thaao khun* was never really regular. People who farmed the land paid rent in kind and provided service to the *chau naai thaao khun* who were assigned to gain benefit from that prebendal land. As long as they fulfilled their duties for the *chau naai thaao khun*, they, and later their children had the right to farm the land. In short, the ruling class extracted an economic surplus in form of corvee, tribute and land rent from the people. This practice was also observed in Lan Na⁵⁷ and applied to the L communities there.

The *naa baan* was an evidence of the pre-feudal society of Sipsong Panna which distinguished it from that of Lan Na. The Yuan historical chronicles, though emphasizing the rights of the people, never mentioned explicitly a communal land ownership of the villages. The category of *naa baan* consisted of *naa baan* (rice fields of the village), *naa khakun* (the rice fields of the family, or the lineage rice field) and *naa khin* or *naa h an* (personal rice fields). These rice fields had nothing to do with the king and the ruling class but those who farmed these lands had the *wiak m ang***

⁵³ Shigeharu Tanabe, p. 9

⁵⁴ Payap University Archives, BFM, roll 2.

⁵⁵ Yanyong Chiranakhorn and Ratanaporn Sethakul 1998, pp. 97-103

⁵⁶ More information in Aroonrat Wichienkeo 1977, p. 113

⁵⁷ As mentioned in Aroonrat Wichienkeo and Gehan Wijeyewardene 1986.

** ed.: For comparison: Among the Lao fixed terms on *baan - m ang* there is: *wiak baan - kaan m ang*. The two consisting elements still let feel a sense of difference between village and polity/state affairs. *Kaan m ang* became the modern word for "politics".

(government service) which included building and repairing roads, bridges, dams and canals. They would also be drafted during war times to be *khun haan* (soldiers) or *luuk hap* (porters).

Besides location on the fertile plain under the village-organized irrigation system, *naa baan* could also be found on the slopes and hilly places in the vicinity of the village. It appeared that anybody who had the means to do so could start dry farming in such places, and there was no rent exacted from this land until after 3 years. The L

hiit – khoong said "... *saam pii pen hua yaa, haa pii pen hua phang...*", meaning "working on that new land for 3 years people could receive only grasses and weeds but after that they would have good crops within 5 years".⁵⁸ In Sipsong Panna, they considered the newly cleared land belonging to the people who worked on it; this land was called *naa kin* of *naa h an*. However, it was still regarded as the property of the village because the people who farmed those lands were members of the village community. In Lan Na, the Laws of King Mangrai (Mangraisaat) also stated that the people could farm the newly cleared land for 3 years without paying taxes.⁵⁹

In Sipsong Panna, since *naa baan* was the cultivated land that belonged to the entire village community, it was subjected to redistribution, or to annual or periodic review to cope with the changes of the amount of labor in each household. In most villages, *naa baan* was redistributed by the village officers for cultivation, either towards the end of April or in the middle of June. Most of the *naa baan* belonged to the Tai M ang. Only very old villages had *naa khakun* (family of clan rice fields) which meant recognition for the first settlers.⁶⁰ These *naa khakun* that seemed to be privately owned were still considered part of the *naa baan*. If the owners left the village, they lost the ownership of the land. If the owners of the *naa khakun* got married with outsiders, their land ownership would be taken away. It was very strict that those who inherited or received that land must be members of the village community only.⁶¹

The owners of the *naa baan* were a distinctive L social group called the Tai M ang, pioneer settlers who possessed a higher status than the Lek Noi and Ron Rai who worked as the servants of the ruling groups and formed the lowest level of L society. The latter two consisted of various groups of later migrants, war-captives and some non-Tai ethnic groups. Tai M ang were recognized as the most important group of the L commoners because of their number, their historical significance as the pioneers and their earlier support to the ruling dynasty. Moreover, the importance of the village community in Sipsong Panna strengthened and emphasized the high status of the Tai M ang who held such rights and obligations in their villages.

⁵⁸ Yanyong Chiranakhorn and Ratanaporn Sethakul, p. 106

⁵⁹ Arunrat Wichenkeeo 1977. p. 56

⁶⁰ Yanyong Chiranakhorn and Ratanaporn Sethakul, pp. 110-113

⁶¹ Yanyong Chiranakhorn and Ratanaporn Sethakul, p. 105

The ruling class, however, attempted to take a hold of the productive resources which were the people's means to subsistence. The *hiit baan sipsoong* or the twelve rules of the village states that the people had a right to possess rice fields, gardens and fish ponds only when they were living in the village community. If they moved out, those things would become the property of the *chau naai*.⁶² This rule probably applied actively in the Khon H an Chau villages. In the more powerful Tai M ang villages the private property would in such a case become communal property, for example the *naa khakun* would become *naa baan*.

In short, some points proofed the existing community rights of the L society. First was the common and collective ownership of land, both cultivated and uncultivated. Secondly, woods and forest land in the vicinity of the village was also recognized as belonging to the village. Villagers therefore, were free to take timber and bamboo from the forest when they needed them. Additionally to the hills and mountains, animals and forest products were also considered to be commonly owned; therefore all results of individual or group hunting were divided among the villagers, with a larger portion going to the officials. Fish ponds also belonged to the village. In some villages and *m ang* definite dates were set for fishing. According to the L tradition, hunting and fishing as well as many other activities were carried out collectively by the entire community. Normally, in Sipsong Panna collective labor was directed to cultivation, hunting, fishing, and lumbering. The people enjoyed communal activities and received benefit from their labor as well as serving the *chau naai*.

Communal obligations: the *wiak baan – kaan m ang*

The most important factor that kept the village community strong and powerful enough to protect and maintain their community rights was the communal obligations of the villagers. Every member of the village shared the economic burden and government work assigned to the village without complaint, from working in the rice fields to tax paying, government service and domestic service for the *chau naai*. The ideology of *het naa phaa wiak*⁶³ (to farm the land, people were obliged to do government service) was well accepted among the Tai speaking groups, not only the L . Since the people "...*sum fai tai faa, kai hang n a din...*"⁶⁴, meaning "people set fire under the heaven and build their houses on the land that belongs to the king; then they must work for the king in return". The rice fields were assigned to the *chau naai – thaao khun* in return for the allegiance and service they gave to the king. The *naa chau* was not distributed for cultivation but was cultivated by the entire village's labor power as a collectively cultivated land. It was virtually a small scale plantation,

⁶² Thawee Sawangpanyakul 1986 B). p. 2

⁶³ Ratanaporn Sethakul 1995, p. 144

⁶⁴ Bunchuai Srisawat, p.131

the collective labor on which was never paid and is requisitioned as a labor tribute. A village paid tribute or "tax" as a unit, and it leased its land in and outwards. In the L villages we see the corporate nature of the village community since it decided the amount of labor service and land rent expected from the individual households.

Besides farming the *naa chau*, the people were obliged to work for the *chau naai*. Tai M ang who farmed their *naa baan* additionally performed the government service while the Khun H an Chau, such as Lek Noi and Ron Rai, were forced to render domestic services to the *chau naai*.

The people observed strong communal obligations under the traditional regulations, or *hiit – khoong* that effectively supported their community rights. The corporate nature of the village community was explicit. In addition to government work, the people were responsible for their *wiak baan – kaan khuang* meaning the work of the village. They worked collectively for their own villages without pay. Most of such works were constructing and repairing the public properties, namely roads, canals, the irrigation system, fish ponds, and the temple. They were also responsible for the village guardian spirit worship and other social and religious activities which supported their unified village community.⁶⁵ This system of collective labor which was a social atavism traceable to a primitive commune was practiced in the L community until recent times.

Water is another important means of production. The actual community rights on water was made clear by the communally organized irrigation system. In the agricultural society of the L , the irrigation system depended on the water from the nearby mountains and hills. In order to maintain an efficient system of water supply, villages had to participate in the irrigation works of the *m ang*. This was not a voluntary or hiring work but it was a requirement. Every household that farmed rice fields was equally responsible for the building and repairing of dams and canals. In short, these works were done by requisitioned labor from villages.

The irrigation system was under the communal control and supervised by the communally elected officer, called *phan m ang*. CHEN mentioned three ways of controlling. Firstly, each village elected its own officer to take care of its irrigation system. Secondly, the rotation system among two or more villages that shared the same canals for their rice fields. The *phan m ang* was elected by rotation of all villages out of the cultivating households, for one-year term. Thirdly, the *phan m ang* was elected and worked by rotation of villages at the end of the canals.⁶⁶

All appointments of the *phan m ang* were confirmed by the *kwaan*, the assembly of the *m ang*. The *phan m ang* started their work in the midst of the rice planting season by holding a meeting at the head of the canal, where the spirit worship

⁶⁵ Ratanaporn Sethakul 1999, p. 116

⁶⁶ Chen Han-seng, pp. 41-42

ceremony was performed by sacrificing a pig to the guardian spirit of the canal. All the water boundaries were fortified by wooden boards and all the water passages were directed through bamboo cylinders, which were fixed in the board on the boundary line. For a 50 *naa* farmed, the diameter of the bamboo cylinder was 2 inches and for a 100 *naa* 4 inches.

As a local officer, the *phan m ang* would receive a certain area of rice field, usually 70-80 *naa* to feed him and his family. It was called *naa phan m ang*. The *phan m ang* was highly respected by the villagers. Every planting season, he would make an inspection trip to see if the canals and dams were damaged, and if the villagers had observed the irrigation rules. He had the jurisdiction to punish those who violated the rules according to the customary law. His work was a communal one because there was no grand irrigation canal, no extensive irrigation and little official involvement in the irrigation system of the villages.

The people were always concerned and responsible for the well-being of the others in their community. Since they did not have security measurements and apparatuses, every male in the village was in charge of community security. The Thammasaat law mentions that,

"... A thief broke into one villager's house. The owner shouted for help. The neighbor who ignored to help must pay compensation to that house owner the equivalent to the amount that he was robbed. If the house owner was injured, the neighbor had to perform the *khwan* ceremony in this case..."⁶⁷

As a part of a village community, people were obliged to pay attention to the moral performance of the others as well. In the Law of King Mangrai, villagers were also responsible for the crimes that their neighbor committed because the community did not educate their members well.⁶⁸ The role of the community to control the morality of the people tremendously helped keeping peace and security in each village. Villagers who committed crimes within the boundaries of their village would be punished by the village committee unless it was a serious crime. Most of the problems or wrongdoings occurring in the village community were compensated by fining or/and performing the apology rituals.⁶⁹

Social activities were considered a must for at least every household if not everybody. When a new house was to be built all working adults of the village devoted their labor from the beginning. They went into the forest to gather wood, bamboo, and thatch for the building materials. Some acted as building specialists leading the construction, while others were the laborers. The house owner would provide food for the people who came to help.⁷⁰

⁶⁷ Prasert Na Nakhorn (et al.) 1985, p. 13

⁶⁸ Aroonrut Wichienkeo, year?, p. 213

⁶⁹ More details in Prasert Na Nakhorn 1981.

⁷⁰ Thawee Sawangpanyakul 1986, p. 2; L manuscript group 4 # 4.1

The L seldom had private lives. Instead, they felt familiar with communal concerns from birth to death.

Social and Religious beliefs as important means to support the community rights

In addition to the physical duties, villagers were required to fulfill ideological and social duties as part of their communal obligation. The L practiced both Buddhism and animism. These beliefs were used by both the ruling and the ruled to strengthen and legitimize their power. By emphasizing the Buddhist belief of Karma, the people were convinced that the king was much more meritful than themselves and deserved their allegiance and service. An old L proverb says, *phai tok oon pen khun, phai tok loon pen phrai*, meaning "who are born first become the noble, who are born later become the ruled class".⁷¹ Buddhist teaching strongly supported the kings who in return acted as faithful patrons and protectors of Buddhism. The Sangha was the significant apparatus to maintain the traditional Tai social and political structure. The monks were called to witness the ceremony of allegiance in which the *chau m ang* and *thaa khun* swore their loyalty to the king in front of the three gems that was Buddha, Dharma and Sangha.⁷²

Buddhism did not benefit only the ruling class. This belief also helped to protect the people from the excessive coercion of the ruling class. The concept of Khun Dharm and Khun Mara in Lan Na laws reveals the influence of Buddhist belief on the Tai political system. The ideal rulers must be generous and considerate to their people. The L and the Yuan rulers both agreed that the people were valuable for them since the people were sources of power. The L ruling class was taught "...not to love 100,000 bags of silver but to love 100,000 of *phai* [inhabitants]..."⁷³

Throughout the yearly cycle there were at least twelve monthly Buddhist ceremonies which the L performed regularly.⁷⁴ Interestingly, these religious ceremonies were all communally performed, and they helped building a strong sense of community among the L people. The village chiefs and the village elders led the ceremonies whereas other manual works were done by the younger people. All material used in the ceremonies was donated by the villagers.

There were also activities that the L as devout Buddhists should observe as apparent in the *prawenii* 15. Most activities were to promote and maintain Buddhism in the L society showing how the L managed their religion by appointing the

⁷¹ Interview with Mr. Somphet, the village chief of Ban Don Tan, Muang Chiang Hung, Sipsong Panna. Cited in Ratanaporn Sethakul 1995. p. 146

⁷² L manuscript, group 2 # 2.7

⁷³ L manuscript, group 2 # 2.7

⁷⁴ L manuscript, group 4 # 4.1

Sangha. Some of them/the activities?, however, were involved in social changes, through which a lower class could upgrade to a higher one. They/The changes? show the immediate good results caused by the merit acquired in this life. The *prawenii* 15 read as follows:⁷⁵

1. To build a temple for worshipping and cleaning all the sins that had been committed in the past.
2. To ordain one's son as a novice when he is 15 years old and to ordain him again as a monk when he is twenty years old.
3. Once built a new temple, Buddhists should erect a new Buddha image presiding in the assembly hall.
4. To appoint the monks who observed pure precepts and who are knowledgeable to be *khruu baa*, *sang raja* and *somdet* of the *m ang*; at least 4-8 monks.
5. To invite the monks to attend the purifying ritual annually when the time comes.
6. During Buddhist Lent, Khun N a Kwaan must lead the Khun Hua Sip Baan and M ang to present flowers and candle to the *chau m ang* to ask for apology and lead the *chau m ang* in the parade around the M ang.
7. At the beginning of the Buddhist Lent, the *chau m ang* must appoint the *thaa khun* in the outer M ang, at the end of the Buddhist Lent he must appoint the *thaa khun* in the M ang.
8. In the 6th month, at the Songkran festival people must build fire rockets to worship Buddha, together with boat racing and giving bath to others.
9. At the full moon day in the first month, fourth month, seventh month, and eighth month, people must worship Buddha's footprints and the temple with fire rockets and fireworks.
10. When people are quite well to do, they should donate Buddhist robes and clothes to the monks.
11. Every year the people should donate a Buddhist robe and a Dharma manuscript as merit making for their present lives and also for their next lives.
12. If in any monastery ceremonies are performed, other people must be invited to join.
13. People must build a royal monastery as the leading temple, appoint the *somdet raachakhruu* with the task of ensuring that all monasteries and their abbots keep obedient to the Vinaya of Buddhism.
14. The temple slaves who were ordained in the funeral of the *somdet khruu m ang* or the abbot would be freed and become Tai M ang.
15. Any slaves of the *chau naai* ordained in the funeral of their masters should be freed and become Tai M ang.

Buddhism had become a major part of the L 's lives. The L devoted themselves, their efforts, and their property to the *saatsanaa*. The traditional chronicles often mention that the founding of the *m ang* was aimed at supporting and flourishing Buddhism, emphasizing the power of the rulers and the importance of the

⁷⁵ Thawee Sawangpanyakul 1986. p. 7-13

m ang as the "higher level of community". However, Buddhism did not ignore the importance of the village level. The Buddhist chronicle about *M ang Luang* in Sipsong Panna, for example, describes the origin of all the villages visited by the Buddha, and that the Buddha gave his prediction of their future.⁷⁶ Buddha's prediction acknowledged the existence of those communities. In the local history, Buddhism and the Buddhist apparatus in the village communities always supported the people's movements one way or the other. The Phrayaa Prap rebellion in Lan Na in the 19th century was a very good example showing monks acting as part of the community when the community rights were violated and the people were exploited by the state.⁷⁷

Spirit beliefs were the traditional belief of the Tai from their pre-history on. During the time that they lived very close to nature and depended on it for their subsistence, lack of knowledge and technology kept the people under the nature's control. The L solved their basic problems in living by referring to the action of the *phii* (spirits) as causes and solutions. They personified the spirits and contacted them through a mediator, depicting the spirits in forms of "... *phii faa, phii phoo phii m , phii puu jaa taa jaai, phii naam, phii din, phii th n tham khuha, phii kao mailuang kuangmai jai, phii khakun...*"⁷⁸ Once they started worshipping the spirit "...when the people got sick, when they went to look for food in the forest, to do fishing , to sleep, they propitiated the spirits. They sacrificed chicken or pig or cow to feed the spirit and asked for help..."⁷⁹ Spirits became unseen supernatural power which controlled the social behavior of the people.

The most important spirits were the guardian spirits which lived everywhere. They were put into a hierarchical order according to the territory that they were attached to and also similar to the state administration, starting from the *phii h an* (guardian spirit of the household), *phii baan* (guardian spirit of the village), and *phii m ang* (guardian spirit of the city). Also, there were *phii naa* (guardian spirit of the rice fields), *phii naam* (guardian spirit of the rivers), and *phii dooi luang* (guardian spirit of the mountains and forest). According to the belief in these spirits, strict rules were set to keep people from offending the spirits.

These guardian spirit cults served to unite the people in each community since they felt that they belonged to the same *phii*. Membership of the family and community was confirmed by participating in these rituals. By examining the purposes of the propitiating ritual of the ancestor guardian spirits, we found that they implied the control of the family members' behavior which would also result in the unity of the community. Firstly, people worshipped their ancestor spirits when they got sick and they thought that the cause of sickness was their misbehavior which had

⁷⁶ L manuscript, group 1 # 1.11

⁷⁷ Ratanaporn Sethakul 1989, pp. 273-290

⁷⁸ Bunyang Chumsri; Chainarai 2:1, September, 1993, p. 53

⁷⁹ L manuscript, group 4 # 4.3.8 (ed.: English version by the author)

antagonized their ancestor spirits who consequently punished them. Secondly, they paid respect to the spirits and asked for blessing. Thirdly, they informed the spirits of the marriages and introduced the new members to be under the protection of the spirits. Finally, they performed rituals in auspicious occasions such as new house warming and Buddhist ordinations of the male members. This ritual was a must for the members of the family for the sake of their good luck.⁸⁰ Actually, the people were tied up by this ritual because they were living in a communal society. It was impossible for them to separate themselves from it without losing their rights in their own community. In the family level, women played a crucial role in the ritual performing and their high status in the family.⁸¹

The L considered worshipping the guardian spirit of the village very important rituals in which every villager must participate because these were rituals for the mutual well-being. The L formerly performed rituals to worship the guardian spirit of their village every year once or twice, before the planting season and after the harvest. The purpose was to ask for good crops and the well-being of the people and animals, and the second one was to thank the spirits for the good things they gave.⁸²

The spirit belief was the belief of the people in primitive society whose lives seemed to depend on the mercy of the supernatural. The L were more familiar with the spirit belief than with the sophisticated Buddhism. According to Rev. C. R. Callender,

"...Spirit worship has a more tenacious hold upon the people here than in the Yuan country and Buddhist influence is correspondingly less. Spirit shrines are more common. Although the monastery occupied a central place in the community, as it does farther south, there is more demonolatry connected with the monastery..."⁸³

Spirit beliefs persisted in L society not only because of their limited understanding and control of nature but also because of communal features of L society. The L *hiit sip soong* (*hiit 12*) mentions that if anyone wanted to move to another village, he must worship the *phii* of that village, must respect and obey the village chief, recognize the traditional law of the village. If anyone wanted to move out, they must also inform the *phii*, the village chief and the relatives.⁸⁴ As a part of the community, people were not free. They must observe the rules of that community before they could enjoy the rights of the membership. The communities' rules varied according to their historical background. Therefore, the L agreed that ...*baan phai*

⁸⁰ Sanguan Chotsukkkharat 1976. p. 171

⁸¹ Ratanaporn Sethakul 1999. pp. 14-16

⁸² L manuscript, group 4 # 4.3.6

⁸³ Payap University Archives, BFM, roll 2

⁸⁴ L manuscript, group 1 # 1.10

man pong, noong phai man khang..., meaning "people rule their own village and do fishing in their own pond".⁸⁵

The village guardian spirit was mostly an ancestor of that village. The villagers were obliged to participate in the ritual for it and to share the expenses. Pig, buffalo and cow were chosen to be offered to the spirit. It must be the best animal that they could find. In some villages, only males were included in the ritual. If male members of any household were not available, the housewives must send chicken and whisky instead.⁸⁶ The participation of the villagers signified their membership in the village commune.

During the ritual *kam baan*, the villagers were not allowed to go out of the village territory. Outsiders were not allowed to enter the village. If they were in the village during the ritual, they had to stay until it was done. In front of the village hanged the *taa leeo* (a woven bamboo cross), the sign of prohibition. The *taa leeo* indicated the territory under control of the village guardian spirit and simultaneously the ownership of the village land recognized by the spirit. It was a chance to confirm the territory of the village and thus the community rights to own land and water.

Another interesting symbol of the community rights was the setting of the *tjai baan* or heart of the village. The L believed that through worship of the *tjai baan* they would receive security and stability in return. This ritual was an authentic belief of the Tai and was reshaped by adding Buddhists belief and ceremonial features. We cannot find the origin of the *tjai baan* from any L chronicles but from the Black Tai who had never been converted to Buddhism. The Black Tai performed the ritual of *tok lak pak s a* when they settled down in a new area. The leader, once he had found a fertile area good for farming and living, would cut down a tree and use its trunk as a pole. This pole was buried straight in the ground at the center of the village. He then put his clothes around the pole to tie his *khwan* with the *khwan* of the land and water. He also asked for permission from the spirits. Upon receiving permission, he put the *taa leeo*, a sign of ownership. No outsider could live on that land.⁸⁷

The *lak baan* of the Black Tai was worshipped annually or once in 2 or 3 years and was called *s n baan* (worshipping the village guardian spirit) ritual. The people sacrificed a buffalo to the spirit and asked for prosperity and fertility. The Black Tai integrated the ritual of the *lak baan* with *s n baan* and performed it in the traditional "animistic" way. The L, on the other hand, separated the two rituals into the *tjai baan* ritual and the *liang phi baan* (feeding the spirit) ritual. It is explicit that Buddhism had interfered into the realm of the spirits. In the L ritual of *tjai baan*, monks were invited to chant, give blessings and receive food. It was performed

⁸⁵ Interview with Chau Luang Naa Chaang, October 22, 1997.

⁸⁶ Bunchuai Srisawat. p. 222

⁸⁷ Phatthiya Yimrewat. pp. 17-18

on the first day of the traditional Tai new year in April. The ritual requested happiness, good luck and stability of the community. It was a communal ritual in which the people brought offerings and after that they joined a feast.⁸⁸

The significance of the *tjai baan* was not changed or reduced. It still functioned as the symbol of the community rights. The L *hiit – khoong* (customary laws) required the setting of the *tjai baan*, *phii baan*, and appointing a *naai baan* (village chief) altogether at one time when they built a new village.⁸⁹

The Black Tai ritual of *tok lak pak s a* shows that the Tai had arrived at the historical period of settling down permanently as a small village community consisting of people who were at first tied through blood relationship. Living in a community bigger than just one or two families they needed to regulate the rights to use land and other natural resources. There was land ownership in form of *naa dam* or *naa khakun* (lineage rice fields) and *naa baan* (village rice field). Members of the village community were eligible to own one fourth of the land owned by an adult when they were 15 years old. They would get full right when they were 18-50 years old. Those above 50 years old would have their ownership reduced to one fourth again. The land was returned to the village and became available for redistribution when the owner died.⁹⁰ The varying ownership was due to the ability of each individual to share the burden in form of tax, tribute and services that the government put on the village community.

The importance of the guardian spirits for the L *proves* their strong attachment to their spirits. The L *who* moved to live in Thailand still worshipped their own spirits. They brought them from their homelands. The L *from* M ang La, who settled down in Ban Nong Bua, Ban Ton Hang and Ban Don Mun, observed the worship of Chau Luang M ang La spirit. Their sacrificial ritual was formerly as strict, exclusive and sacred as the one their L *brothers* performed in M ang La.⁹¹

Another L *village*, called Ban Rong Ngae in Pua District, Nan province, performed the sacrificial ritual to its guardian spirit which was brought from M ang Len, a L *town* in Burma. The spirit was entitled *chau luang chaang ph ak ngaa khiau* (spirit of the white elephant with green tusks). This spirit, when still alive, was a *chau m ang* and led his people to settle down in Nan. This ritual strengthened the L *cultural identity* of these villages and emphasized the rights of the communities to practice their beliefs. We will see that different L *spirits* worshipped by the L *in* Nan did not cause any resentment of the Nan authorities. Nan rulers were satisfied by the recognition of the L *villages* to request permission from them.

⁸⁸ Ratanaporn Sethakul 1999. pp. 55-57

⁸⁹ Thawee Sawangpunyakul 1986. p. 1

⁹⁰ Guan Jiang. p. 9

⁹¹ Ratanaporn Sethakul 1984. pp. 55-57

Community rights and obligations of the L were unique characteristics of the traditional Tai society. They provided the people with political power and autonomy since the villagers managed their own communal resources, particularly land and water, by themselves. They were relatively independent from the central power and well-protected from any interference. Their strength also relied on their close ties within the village community whose structural unit was the *khakun* or clans with blood relationship which were the controlling factors of village life. From the political structure described above we see that Sipsong Panna was a confederation state which had a mixed social and political structure of feudalism and village communes. Whereas the structural unit of feudalism was territory, a definitive and unalterable area of land; that of the pre-feudal commune was the tribe and its component clans. Whereas land holding was the dominant feature of a feudalistic society, blood relationship remained the controlling factor in a village community, where land ownership was common and collective.

The royal ownership of land allowed the kings and the ruling class to claim the people's economic surplus and service. It was evident that the people fed the ruling class. Practically, the king did not own land. He applied military forces, social ideologies and belief to dominate the people. Their claims were rather vague because the *baan* village community existed prior to the *m ang*/state that boasted to be the "higher community". Villages were the real owners of the productive resources and the managers of the land and water under the community rules.

Conclusion

The community rights of the L whether in China, Thailand or Laos were the legacy of the traditional Tai ways of life and the Tai *hiit – khoong*. In the Tai agrarian societies, land and water were the most important means of production and people always fought to get control of them. The power of the L *chau ph ndin* was largely restricted to the capital and the nearby *m ang*. As a confederation state, many L *m ang* were relatively autonomous. The *baan* was the lowest administrative unit but was highly recognized as an important unit of production. It was a main source of manpower and all necessary supplies for the *chau naai*. Its distance from the *M ang* and capital and transportation difficulties also prevented the *chau naai* from interfering in the village internal affairs, thus forcing the *chau naai* to recognize the community rights of the people in return. The most important communal rights were the rights of the people to use or to own natural resources in their village and vicinity such as land, water, forest, ponds and the like. Mostly, the L villages of the Tai *M ang* owned *naa baan* communally and it was the right of the villagers to redistribute them among the members of the village community occasionally without the interference of the *chau naai*. This communal ownership of the land, however, denoted only the use-rights because the king claimed the ultimate

ownership of all land in his state territory. To secure the rights to farm their land, the people were forced to provide rent tax, tribute and labor in form of government services.

Communal local obligations were used to strengthen the community rights. As members of the village community, people shared labor and supplies in all activities, so in the building, control and maintenance of the irrigation system, new road building, new house building, funerals, ordinations, weddings, village security control, religious ceremony arrangements, etc.

The strength of the village communes could be seen when the new political structure was imposed on Sipsong Panna in 1953; the traditional superstructure of the *mang* and state were abolished but the village commune still existed.

In order to protect their community rights which were simultaneously the rights to subsistence of the people, the local guardian spirit cults were strongly established and observed in every Lue village. It had become *hiit – khoong*, embodying conceptions of fertility, social well-being, legitimization of ownership and authority which the people could hardly avoid.

Lue communities in other Tai countries enjoyed more or less a similar system as they had in Sipsong Panna. Even though in Thailand and Laos, in the early period, the kings there were quite powerful compared to the Lue kings. These kings had to accommodate with the people because of a shortage of manpower. They were reluctant to exercise harsh power for fear of the people moving away. Moreover, there was no racial or cultural discrimination in those days among the Tai. Nineteenth century was the transitional period of Thailand and Laos. Everyone, not only the Lue, were affected by the changes brought about by the colonial powers. The reforms of King Chulalongkorn abolished several community rights and imposed a centralized power on the village commune. In Sipsong Panna where changes occurred very gradually, the traditional community rights were maintained until the Communist liberation and the establishment of the Xishuang Banna Dai Autonomous Prefecture in 1953.

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CHALLENGES TO COMMUNITY RIGHTS IN THE HILL FORESTS:

State Policy and Local Contradictions, a Karen Case**

Yoko Hayami*

For Karen villagers in northern Mae Chaem District¹, the forest is at once a source of living, a place where spirits of the wild reside, a passageway to the other world, and a cool place for rest. No word (such as *thammachat*, “nature”) is necessary to express appreciation for the importance of abundant forest for human life and well being among the Karen, nor the right of each community² to inhabit and make a living there. Such a notion is set, not in abstract terms, but in actual relationship with forest and water, shared by a community of villagers. It is not a question of legal “rights”, nor of any overarching moral, but an entirety of physical, social and spiritual relationship among people and the surrounding environment with the spirits therein. Coexistence with the forest is a given fact of life, and there is no romanticizing about it. Yet, such given facts of life are questioned and contested in the name of administrative and economic interest, environmental concerns, or political ploy. In particular, this notion is completely at odds with policy and interest on the part of the state that delineates its territory into categories such as national park, wildlife sanctuary, “protection forest” (where no-one should reside) and “economic forest”, and its peoples as “citizens” (i.e. people with rights to claim land) and “non-citizens” (people without such rights). Such territorialization by the state has begun to reach the mountainous margins by the late 1980s. Ecological and socioeconomic changes are taking place within the villages, to which villagers as well as outsiders (policy makers, environmentalists, lowland villagers, etc.) are attempting to respond, each according to their own multiple interests. These factors are not unrelated but deeply entwined behind the increasingly difficult condition for subsistence maintenance in the hills.

In this article, I attempt to discuss the process in which multiple discourse of Karen community involvement with land and forest use has emerged. Why are we

** This is a revised version of the paper I presented in the “Community Rights” session at the International Thai Studies Meeting in Amsterdam (July 1999).

¹ I have been conducting fieldwork in this area for the past twelve years among a cluster of Sgaw Karen villages from 1987 to 1989, and subsequently during visits in 1996, 97, and 98. The paper is based on research in these villages as well as subsequent follow-up research in the northern part of Mae Hong Son and other areas in 1998 and 1999.

² By “community” I refer to the largest residential and social unit recognized by the Karen (which they call ‘*hi*’), corresponding to the Thai *muu thi*. The administrative village *muu baan* and the unit above (*tambon*) will be referred to respectively as “village” and “sub-district.”

now, at this point in history, talking about community rights, and how and why have Karen become one of the most often-cited examples advocating such rights? My purpose is to focus attention on the recent conditions in the hill communities and their inhabitants, and how they are responding to changes in the wider situation.

First, I draw out the multiple ways in which a community of Karen villagers in the northern hills of Thailand subsisting on rice cultivation identify themselves in relation to land, and give permission to members of the community to use specific plots of land in the name of local spirits. I also introduce the interethnic competition over land in the hills and how Karen in this intermediate zone have adapted to competing and differential land use by the groups. Secondly, I delineate some of the factors that have led to the disintegration of such communal hold over land in the hills. Thirdly, I open perspective to the wider national scene, where competing discourse among state policy, environmentalism and hill people (especially the Karen) have emerged, and compare the processes with that of Burma where the Karen also figure prominently in the forest policy. Finally, I discuss the process by which certain discourse involving the Karen have become prominent in the Thai environmentalist or community rights movements. I consider the emergent discourse of the “Karen consensus”, and then go back to the village and contrast the village scene with the consensus, and reconsider the conditions for the emergence of such a discourse.

Before we address the issues through the specific Karen case, we need to clarify what we mean by community and community rights. Much has been written about the “community” as ontological and historical entity as well as theoretical and ideological concept. It was since the 1980s that in Thailand, with various external influences as well as in realization of the threat of capitalist penetration into the local communities, that the community emerged in academic and activist discourse involving many NGOs as possible alternative basis for people’s initiative to the top down all powerful state [Chatthip 1991]. The community was rediscovered and reconstituted, as it were, with emphasis on its tradition of self-government, customary social order, and subsistence-based production so that it could empower the grassroots as against the hegemony of the state. From the point of view of many non-Thai social scientists, however, off-handed reification of the community giving it ontological status whether in the historical past or present day discourse seemed problematic. The community, it was reflected, was partially the effect of colonial administration and a construct of the western scholarly discourse, thus denying its ‘indigenous’ origin [Kemp 1988; Hirsch (ed). 1993], and the two views were most clearly juxtaposed in Hoadley and Gunnarssen (eds.) [1996]. Although the Thai advocates differ in their positions, in laying out practical solutions especially pertaining to community forestry, rather than take the community for granted it is taken as an operational unit that may or may not be a viable agent in sustainable forest management [Sanh and Yos (eds.) 1993]. Even from a less practical point of view, an exposition and analysis

of the local term, its conceptualization, and related practices must be performed before deconstruction of the “indigenous concept”. I therefore attempt to delineate the Karen community as defined by the Karen villagers themselves; as an approximate physical boundary which accords with certain geographical features, by a social composition of clear membership, and by ritual practices and a politico-ritual leadership. As I hope will become clear below, these defining features are not atemporal, but are modified in various degrees over time even within one Karen community. Then, we need to examine the discourse emerging around the above local concept. The various discourses emerge not only from within the “community” but also from without, through dynamic processes. Here, I am in agreement with Anan: “the idealistic image of rural community... will only be the first step in strengthening anti-hegemonic ideology. But the dynamic nature of rural villages should be understood as a basis for community rights which can be formed through processes of political and cultural creation.” [Anan 1996a:8]. On this basis, the community may become not only an effective strategic starting point, but also a viable unit for considering rights to forest [Anan 1996b:207]. From such a point of view we have a better handle on the above argument regarding the ontological and ideological status of the community concept.

The second problem is the question of rights pertaining to land. Ethnographic encounters worldwide have found that claim to enter and use a specific plot of land (including individual, communal, property and usufruct, etc.) involves a totalistic relationship between human beings and land, in which supernatural beings have central importance. Such a totalistic relationship, however, is rejected or taken over in the process of modern economic development and state formation, where state-wide land policies are instituted. Such policies derive both from similar policies from other developed countries, as well as from the demands of capitalist world system and therefore commonly manifest the characteristic of legal codes based on the principle of commercial exchange. In this process, the relationship between human beings and land become less to do with a totalistic relationship mediated by spirits, but a relationship that is mediated by the discourse of property and ownership, accountable within the wider economic and administrative system whether communal or individual. Yet, the historical process is never unilateral nor total, and what we find on the ground are entangled and multi-layered conceptualization, and equally entangled discourse that attempt to resolve the entanglement.

As for the question of individual or communal rights to land, recognizing and institutionalizing communal rights would help to solve problems in the hills [Anan 1996b]. This, of course does not mean a simple retracing back to the totalistic relationship to land, which would be unrealistic. It should rather be the result of negotiation between the totalistic land-human relationship vs. the legalist discourse, that is fully within the discourse of a civil society. It is therefore, all the more

important that we investigate in what ways we reconsider community rights from the existing problems and situations in the hills.

Within the ongoing multiple discourse, we often find the juxtaposition of “authentic tradition” vs. the modern economic development. The arguments surrounding authentic “tradition” might involve a romanticizing reification of its authenticity on the one hand, and a facile deconstruction and de-essentializing of it. The discourse of “tradition” often emerges as a strategy to cope with problems which work against the continuation of the advocated “tradition”. A simple deconstruction of the ideologized concept based on facts and figures contributes nothing to the understanding of the reality of the problem from the midst of which such discourse emerges. It must rather incorporate an understanding of how and from what circumstances such discourse and ideology have emerged. The reason why a claim to traditional culture is so often made in claiming rights to land is that, it provides a necessary basis for the claim to an autonomous society that is independent of the ideological and ruling apparatuses of other societies. Just as a person is a unique and total being with the right to citizenship in a civil society, so does a community, being a unique and total existence with its own culture and tradition, have right to autonomy. A claim to a one and only authentic culture is a strategy that aims to gain autonomous status by taking the dominant discourse and turning it on its head.

This, finally, is the reason why the politics of environment so often entangle with the politics of ethnicity and also why in Thailand, the problem of land rights and that of citizenship have converged. The construction of ethnic discourse in the politics of forest management and environment is best understood when we compare Thailand with the case of Burma. Ethnic minorities which are often stigmatized in relation to forest and the environment take the dominant discourse which uses the ethnic and non-citizen labels on its head, and use it in their strategy, as in the case of Thailand. This, however, is not possible where civil action is muted, as in the case of Burma.

Karen Community and Land: Stability and Flexibility

Community, territory and ritual: a closed system with fluid membership

A region-wide survey of Karen communities in the Northern hills will make it abundantly clear that almost without exception, they are located along a river or stream in forested area. The Karen names for most village communities end with *-klo* (meaning stream) or *-khi* (meaning the source of a river). As expressed in the Sgaw Karen word for territory *thi kau* (literally, water and land), Karen communities are located on rivers and streams and a territory is more or less defined by the river basin. For example, the northern part of Mae Chaem district, where I conducted fieldwork, which is populated mostly by Karen, is called Musikhi (headwaters of the Mae Chaem River), and the inhabitants of sixteen Karen communities within this region recognize

that they live in *kau Musikhi* (Musikhi land) even though it does not accompany any socially or administratively recognized unit.³

The Karen communities, which are located in valleys and defined in relation to the flow of rivers, are at a lower elevation in comparison to the other “hill tribes”, ranging from 300 to 1,000 meters above sea level. Other groups such as the Lisu, Hmong, Akha, and Lahu inhabit the upper slopes. Karen communities are thus hidden away in the valleys, farther from the main roads, and many of them are inconvenient to access from towns and markets, especially during the rainy season. Preference for relatively stable settlement near valleys and streams, and for cultivating rice whether in swidden or paddy fields, may have much to do with their less eager participation in cash-crop cultivation.

Karen in the Northern Thai hills have formed communities as bases of subsistence activities with socially and ritually defined boundaries within which a ritual leader (*hi kho*, literally, village head), who is patrilineally descended from the founding figure of the community, is designated to represent the community in its contract with the spirit of the territory. I shall introduce a specific case of one community in Musikhi. S community was founded in its present location in northern Mae Chaem early in the 1910s, when a group of four siblings moved from the southern part of the same district with their respective families. They had come seeking land for paddy-fields, which was becoming scarce in their original habitat due to increasing competition with lowland Northern Thai. At the time the area was not inhabited, although there were numerous temple and *cheedii* remains which the present-day Karen inhabitants attribute to Lua predecessors. The eldest of the four siblings became the first *hi kho*. By 1987, there were 43 households, all of which were related to the original settlers by kinship or affinal ties. The *hi kho* must be the founder-leader, and subsequently the position becomes hereditary through the paternal line. Furthermore, no elder brother of the *hi kho* in the classificatory sense can co-reside in the community. Observance of this stricture often entailed community fission, since a *hi kho*'s elder sisters (in the classificatory sense) could not bring in their husbands, which meant that they had to move out of the community [Kunstadter 1979:130]. The *hi kho* is therefore a patriarch in the community, whose members are related through a network of kinship and affinal ties [Hayami forthcoming].

The community and the surrounding forest (*pgha*) abound with spirits including the guardian spirit (*thi k'ca kau k'ca*, literally, “owner of water and land”). The *hi kho* ritually mediates between the guardian spirit and the community. Upon opening land for habitation and cultivation, the *hi kho* performs rituals for the spirits and thus sets up a contract with them, and they will give permission to open and inhabit the forest, and thereafter protect the villagers from the wild spirits, ensuring

³ *Kau Musikhi*, however, roughly corresponds to two administrative sub-districts.

health and prosperity. Rituals differ in detail from one village to another, so that each village, its ritual and its line of *hi kho* constitutes an autonomous system and provides a sense of identity to each community. Upon the death of a *hi kho*, the village location must be abandoned and moved, even for a token few feet. Annual rituals must be performed according to the original contract, until occasions such as multiple deaths or drought and famine are interpreted as a sign of the spirits' displeasure, and rituals are modified accordingly. Such signs may also be interpreted as a result of human misconduct and disorder in the community such as conflict or extra-marital liaisons. The *hi kho* is responsible for the ritual as well as social order in the community. As long as the ritual duties are duly performed and social order in the community maintained, protection from the spirits and fertility are secured. Both in the rotational swidden cultivation system as well as in the wet-rice cultivation of the Karen, fertility is dependent on the condition of the soil and water, which in turn, depends on forest regeneration. The condition of the rivers and streams is also a measure of the ecological order in the forest. Thus, the ecological condition of the forests and waters, the productivity and prosperity of land, and ritual and social order in the community are seen as mutually reflective. The community and the *hi kho*'s leadership is often judged by its prosperity, so that those who are dissatisfied on political, social or economic grounds, may move out, either to form a new community or participate in another, which they seek through a network of kin ties. The rigidity of the closed system is thus adjusted by fluidity of movement.

One may conclude from this that as long as land is abundant and there is space for mobility, the Karen social and political system is at once extremely fluid in terms of membership and location, even as each community is by itself ritually and socially well-defined. Thus, the flux of population in and out of the community is strictly controlled, accompanying various taboos. For example, in-migration from other communities must be approved by a meeting of the *hi kho* and elders, and the newcomer must be related by kin or affinal ties with a community member. Furthermore, it is taboo to have more than one family from a single community move in within a single year.

In S community, there had been four generations of *hi kho* before the line died out early in the 1980s. All of the remaining direct descendants through the paternal line had converted to Christianity, so that the community lost its ritual leader. In the past, such cases would have resulted in the entire community moving to another locale, or dispersing. However, by the 1980s, most villagers were firmly based on paddy-rice cultivation, and a favorable locale to satisfy everybody could not be found. Thus, the community has been without a ritual leader. The above system, which was founded upon the sedentary cum mobile fluidity of the past, has now become rigidified with pressure on the land from within and outside the community, resulting in fundamental changes in the social order.

Community Mobility in Adaptation to Regional Interethnic Condition

The mobility and fluidity of Karen communities take place in response to factors from within the community such as demographic increase, conflict and factions, or famine and drought, as well as factors arising from relationship with neighboring peoples. Karen ecological adaptation is also conditioned by interethnic relationships. Many observers have pointed out that the Karen who inhabit the intermediate zone between the lowland Thais and the other upland groups, are often pushed out of their fields and habitat by other in-coming groups [e.g. Shalardchai and Virada 1992].

My own research from a village in Mae Hong Son Province gives a typical example of such a case of Karen mobility. M, a village in eastern Mae Hongson Province, is situated on a wide fertile plateau of altitude 300 meters. The village is today by all accounts a “Northern Thai village”. While nothing is known of the earliest settlers, according to elders, earlier in the twentieth century, it had comprised of a Karen half and a Northern Thai half. Earlier in this century, both Karen and Northern Thai cultivated swidden and paddy fields along the river, and they were on equal levels of subsistence economy. In the 1930s and 40s, Hmong settled on the nearby slopes growing opium, gradually spreading into Karen swidden areas. Some Karen began to work in both Hmong opium fields (many becoming addicted) and Northern Thai paddy fields, gradually losing their swiddens to Hmong and paddy fields to the Northern Thai. Karen men moved out to seek better opportunities in less fertile, less occupied land with their families or married into other villages. Women who married Northern Thai men within the villages remained. Thus many of the villagers today claim Karen descent, even though the village is predominantly Northern Thai.

Later in the 1950s, as roads leading to the area improved, cash crop production began to bring prosperity. Villagers succeeded in the cultivation of garlic and subsequently soy beans and began to prosper. Most of the paddy fields were converted into garlic fields, and dry fields into soy fields. Since the 1970s, Karen villagers from surrounding areas have begun to frequent this village to work as hired laborers in the garlic fields during the dry season, to supplement their own unstable rice yields. These Karen laborers are from less fertile areas on higher elevation, where soy bean and garlic would not grow. With smaller paddy land-holdings and increasingly severe restrictions on swidden cultivation, wage labor has become an important source of income for both men and women from the less well-to-do villages since the 1980s. Many of them are from communities south of M village such as S community, which have been settled earlier this century, having been pushed out of their original habitat by pressure from lowlanders. Today, the difference in economic level between M village and the surrounding Karen villages is apparent. Now the

Karen component in the population of M village is increasing again, as those Karen women from impoverished villages who come for hired labor marry the local men.

Over the past century, the flow of migration from across the borders into the northern Thai hills by Hmong, Akha, Lisu, and Lahu, and the improvement of infrastructure and the changing patterns of rural economy among the lowlanders have affected the pattern of ethnic distribution and land use. The Karen have, in this process, lost out in the competition over better land, and have moved and adapted themselves to new situations. They have adapted ecologically and socially in between the uplanders and the lowlanders. As Anan points out, the competition for control over forest land is most intense and therefore impoverishment most pronounced in this intermediate zone, because the occupants of this zone have been mainly subsistence producers with little experience in the market [Anan 1996b:207]. Mobile and flexible adaptation in this intermediate position has been possible in so far as there has been forest and land to cultivate in the hills. The pressure against land use in the hills since the late 1980s however, came from a different direction: the state, and this has proven far more difficult to cope with, now that there is little space for mobility, and restriction on land use on top of it. We pursue this in a later section.

Rights over Land in Flux

Community boundaries are marked by rivers and mountain ridges, and roughly within these boundaries.⁴ In other words, members of a community share the forest resources necessary to live and subsist. Forest areas surrounding the community are divided in terms of use and purposes; extracting firewood; picking forest products and herbal medicine; building material; animal grazing; hunting game; and burial and some of these areas are recognized as forest where trees are not to be touched. Activities in the forest must take into consideration the resident spirits. Before burning and opening a new plot of land, villagers inquire the spirits. The power of resident spirits differ according to the topographical features of land, such as forests surrounding a pond in S community, and where powerful spirits reside, burning fields and even cutting trees for any purpose is taboo. Taboo is especially strong on hilltops and in the watershed area (*thi khwa khi* or, source of the water).

The Karen in Musikhi have widely practiced swidden cultivation (*xu*) at least until mid-century, where they grew rice, maize, beans, cucumber, pumpkin, mustard greens, eggplants, taro, etc. The method is that of rotational cultivation with an ideal fallow period of seven to ten years after a year's cultivation. The forest and land is communally allocated and the use and distribution is decided within the community.

⁴ There is no stricture over boundary and land use, but out of convenience, villagers use land mostly within these boundaries. The longer the community settlement has been, the more inter-marriages with neighboring villages take place, resulting in a criss-crossing of land use between neighboring communities. The boundaries become more pertinent on ritual occasions involving movement of people such as at weddings and village entrances.

Once distributed and claimed, a plot of land belongs to the household and usufruct rights are inherited, yet if the family no longer needs it, it may be transferred to other households in the community without sale.⁵ The condition for rights to such land is membership in a community (*hi* or *zi*), which is gained through kin ties and relative mobility, although as I pointed out above, the movement is monitored and controlled by each community.

Karen in S community began preparing paddy fields almost as soon as they settled in this area in the early decades of this century in parallel with swidden cultivation. Thus the shift to paddy rice cultivation has allowed the community to be permanently established in the general area although there has been several movements within a diameter of 400 meters within the same tributary at times of ritual leader's deaths.⁶ By the 1980s there was hardly any land available for opening new paddy fields, and holdings have diminished by generations of inheritance (the rule of inheritance is basically equal distribution among children) and transfer of rights among villagers had begun. Rights to land in swidden and paddy cultivation differ significantly, since, in the latter, transfer of rights of ownership accompany cash transaction, resulting in stratification in the paddy land holdings. Thus, within the bounded space which is governed by customary communal ideology, there is a system that recognizes quasi-ownership of land by individual households. In this area, the oldest paddy land holdings have had S.K.1 papers issued by the district office. By paying annual tax per *rai*, villagers gained use rights over their land. Subsequently, short-term title documents were issued which had to be rewritten every six or five years, giving permission of use. Although these are rights that can be inherited but not legally salable, villagers treat them as real estate property by not only inheriting but buying, selling and using it as mortgage. Furthermore, some have sold paddy land to non-village members, usually persons from neighboring villages. The sale of land which was alien to customary land rights for upland fields based on communality has become common practice, gaining semblance of legal ownership by permits issued by the district administration.

Yet, paddy cultivation has also been well incorporated within the ritual and social practices of communality. Agricultural rites are performed, many of which concern the territorial spirits. In order to secure sufficient water that is key to

⁵ It has been pointed out that full-fledged Karen swidden practices accompanied a different system where a large patch of swidden field was burned and cultivated annually by the entire community, within which households were allocated according to the needs and labor availability. A community held several such patches around the village sites, among which they rotated annually [Kunstadter 1978; Hinton 1975; Pratuang 1996:129-130]. Villagers in S community talked about such practices, but large scale swiddening was practiced only in the very initial stage of their settlement in this area. Today, household swiddens are scattered.

⁶ Pratuang also discusses the Mae Wang area where the Karen have been permanently established since the 1950s when wet-rice terraces became the major source of subsistence. He also point out accompanying confusion in the system of land tenure [1996:131].

productivity in the paddy fields, it is crucial that the watershed forest is conserved. It may be that relatively sedentary lifestyle and ecological system of rotational cultivation rendered Karen transition to wet-rice cultivation easier than for other more mobile groups with less communal basis in their subsistence practices.

Gardens (*rau*) and residential land can also be inherited but not sold. Any land within community bounds that is currently not in use can be taken for gardens or house sites with permission from the community elders, or by negotiation with the former user. Only if a plot of land includes fruit trees and bamboo clumps, or other productive trees, must the transfer of the right to use a plot involve payment of compensation.

However, today there is a feeling of scarcity of land among villagers, both in paddy fields as well as gardens. Furthermore, even some of the existing paddy fields are becoming unusable, due to the declining water level in the fields. Some fields have had to be abandoned altogether. Villagers give multiple explanations for this water shortage besides the lack of rainfall: destruction of the watershed forests by Hmong villagers further upstream⁷; their own economic activities in the forests near the watershed; and, the decline of ritual order in the community. With the discontinuation of the line of *hi kho*, there is a feeling of helplessness, at least in ritual terms, against the drastic changes taking place in and around the village. Elders relate the decline in the condition of water and land in their territory with the decline of community ritual order, even as they recognize the actual physical damage in the watershed forests.

In addition to the shortage of cultivable paddy rice-fields, the restriction on swidden cultivation has become more strictly enforced since the late 1980s. In the 90s as according to the village headman *phuu jai baan* the only plots that they were allowed to cultivate as swiddens were plots already in use, plots surrounding paddy fields, and within and in the immediate vicinity of the community. He announced in 1998, "Don't think that you can get away burning fields far away from the roads where they cannot patrol. They will be watching and taking all kinds of pictures from airplanes, and will know exactly which plots have been newly cultivated." This directly reflects the 1998 cabinet resolution which states that forest encroachment will be monitored by every means including aerial photography. Stories of arrest of hill-tribe encroachers elsewhere are rampant. Today, there is no longer any unused plot within these designated areas for swiddens, housing or for gardens, and competition over land is becoming acute under stricter monitoring by the administration.

⁷ In 1987-89, the Hmong villagers living upstream from S community cultivated opium, and in 1996, cabbages. In either case, many Karen villagers from S community worked for wage labor in these Hmong fields during the dry season.

Currently, there is much competition over garden plots for cash crop cultivation. Karen villagers have cultivated gardens in and around their swidden fields as well as around their paddy fields and houses, mostly for household consumption, but also some for petty cash. By planting varieties of plants, the garden plots were used effectively while maintaining its soil. Cash crop cultivation by a large-scale mono-culture system, with heavy investments in commercial fertilizers and pesticides has been slow to develop among hill Karen. The King's Project and other projects have entered, experimenting on cabbages, pumpkins, asparagus, longans, plums and persimmons etc. although with the exception of a very few, even the more enthusiastic villagers make at best a few hundred Baht from their cash crops. A prominent exception in this village was a successful case in the cultivation of ginger.

In 1996, the most sought after crop brought by the project was ginger. For its high prices and easy transportability, it had become one of the most popular seeds. However, that also meant high competition over expensive seeds so that in the gradually increasing economic divide within the village, only a few villagers who have the cash, land, and the necessary power to push the village headman towards procuring more land necessary for cash crop cultivation, to employ less well-to-do villagers, to purchase not only the seeds but pesticides and fertilizers, and gain well worth the investment. Meanwhile, most villagers lack both the land and capital to invest so that they gain not more than petty cash.

Against the background of increasing limitations on forest use and disappearance of available land, the few successful cases of large-scale production and profit provided villagers with the image of a success story, and has enhanced possessiveness over land. Land has become valuable resource directly linked to cash economy. When I returned in 1998, most villagers had begun planting ginger as a mono-crop albeit on a small scale, and failed to obtain good results, which they explained by the lack of funds to purchase fertilizers.^{*}

In spite of this crave for land, villagers still insist that land for residence or for gardens within village bounds is communal land, and individual right to use is preconditioned by community membership. In 1996 I heard a villager mentioning the possibility of 'selling' his gardens to a Northern Thai speculator, who tentatively suggested a price for his garden, and proposed an arrangement of tenant cultivation, although the villager declined in accordance with community decision. The headman maintained that such a proposal would definitely have to be approved by the community before a villager went into such contract. However, by 1998 the transfer

^{*} It should be noted that in the late 1990s, ginger has become, after cabbage in the late 1980s, another notorious cash crop listed as the reasons for forest encroachment by mostly hill-dwellers in provinces such as Mae Hong Son, Loei and Petchaburi [Bangkok Post November 22, 1998]. Most of the product is sold to urban businesses which export them to Japan.

of rights to dry fields accompanying cash transactions had begun, at least between villagers from neighboring communities [see also Pratuang 1996:130].

Land in the community is legally, state land. Commercially it is sought after by interests both from within and outside the village, and ecologically, there is decline in the sustainability of water and land that is at the basis of productivity of land as well as village ritual order. Yet, even as it is increasingly difficult to sustain life in the hills, we have also seen that the mobility and fluidity of the community which had in the past enabled Karen adaptation to changing situations, is no longer possible.

State Policy and Community Rights

It was in the late 1950s that the Thai government began to take measures against the problems in the hills which they defined as: opium cultivation and narcotic trade, communist guerrilla activities in the border areas, and forest destruction by shifting cultivators. In this process, ethnic groups with varying historical background as well as subsistence patterns were grouped together under one category, “hill tribes”⁹. The monolithic image of the hill tribes is that of troublesome aliens with little sense of the Thai nationhood and culture. Based on this image, various policies have been developed and enacted since the 1960s. Agricultural projects promoting cash crops to substitute opium, educational and religious projects were also administered by various agencies, ministries, local administration, army, police, royal projects, international organizations, ODA from various countries, Christian organizations and other non-government organizations.

Meanwhile, due to commercial and logging activities as well as demographic pressure on land, the problem of forest destruction was becoming acute. Serious attempts at reorienting forest policy began in the 1980s. Protection forests, including watershed areas were defined, and in 1985, the government set the goal at 40% of total land cover to become forest, 15 % protected and 25 % economic (later in 1993, the figures were reversed to 25% protected, 15% economic). Moreover, after the 1988 flood in the south, in 1989, a nation-wide debate culminated in the commercial logging ban. In accordance with these policies, in S village too, the few households that depended more on swidden cultivation in the mid-1980s had ceased the practice, and by the early 1990s, there was none.

In the past decade, forest policy pertaining to the hills have become a politically highly charged issue involving not only local inhabitants but also locally based politicians, civil activists and policy-makers. In this process, the rights and land use practices of hill-dwelling minorities have become the topic of much debate. On the one hand, the voices blaming the “hill tribes” for forest destruction by government officials, public opinion, as well as in the media have become harsher. Ever since the 1960s, problems of forest destruction began to appear in official discourse, attributing

⁹ See Pinkaew [1997] for an exposition of how the discourse on “hill tribes” evolved.

the causes of destruction to “hill tribe” encroachment in the hills for purposes of narcotic production and trade [Vithoon 1987]. Such views were reflected in a widespread image of the “hill tribes” held by the Thai public that continues to this day. On the other hand, since the 1980s there has been recognition of the sustainability of rotational swidden and other forest use by hill-dwellers and their indigenous knowledge of forest and conservation. Researchers as well as environmental activists have denied the view that directly associates forest destruction in the north with hill tribe “shifting cultivation”. Instead, they blame large capital owners, logging companies and the RFD for ineffectiveness and corruption, decrying the government for making scapegoats out of hill tribes in order to shift attention from illegal logging [for example, Kammerer 1988; Shalardchai 1989]. This latter interest is taken up by advocates of decentralized forest management, community forestry and forest conservation who consider such sustainable practices and indigenous knowledge as possible foundation for developing grassroots forest management. They include urban elites, monks, students and intellectuals, represented by the activities of environmental NGOs.

Karen have appeared with environmental activists since the latter half of the 1980s since a landmark incident of the Nam Choam dam controversy and successful movement against relocation. Since then, the cooperation between Karen and lowland environmentalists has been a strong force in the community forestry movement. Karen constitute a significant percentage of the local communities in the north that participate in the community forestry movement, and Karen elders are some of the leading figures.¹⁰ Close to my own research locale, villagers, together with lowland environmental activists and grassroots networks, resisted a pine reforestation and industry project led by the Forest Industry Organization in 1993 and successfully led the project towards suspension [Anan 1996b; Hayami 1997].¹¹ Towards a concerted effort by residents of both upstream and downstream the Northern Farmers’ Development Network was organized in 1994, and held a march in 1995, involving 20,000 villagers from 50 upland communities, demanding compensation and fair treatment, and the drafting of the Community Forestry Law [Pratuang 1996:142-5].

In April 1997, protest rallies and long and laborious negotiations between the authorities and villagers under the Forum of the Poor resulted in three resolutions to settle land rights conflicts in 107 forest communities in the North (mainly of “hill tribes”) and Northeast of Thailand. The resolutions allowed villagers who had been living in forests (reserved and conservation forests) since before they were declared national forests to remain there on the condition that they take part in forest

¹⁰ As of 1993, 14 out of 153 localities (the unit of participation can cover more than two administrative villages, and many communities) participating in the movement in the North were Karen [Shalardchai, Anan and Santidaa 1993].

¹¹ Since 1998, however, there has been a move to revive the pine logging project in the same area.

conservation, with stipulations over the means by which claims are to be verified. Moreover, through efforts of NGOs of various positions and the Forestry Department, the Community Forest Bill was drafted and public hearings began in May. The bill recognizes the rights of conservation-minded communities to stay in forests, including a general policy statement that man and forest can co-exist.

Yet, the resolutions and the draft accentuated a split among environmentalists over fundamental issues regarding forest conservation. Some conservationist groups and a large part of the RFD believed that it would encourage wholesale forest encroachment benefiting those with good political connections and financial bases. Others believed that relocation of hill-dwellers from the watershed areas would be the only solution for environmental conservation. Still others, including Karen villagers and a network of highlanders and activists, claimed that sustainable coexistence with forest is possible. Already by early 1998, administrators and the Royal Forestry Department began to review the resolutions¹², claiming that they have caused further forest encroachment so that the only solution would be eviction of forest dwellers, and with support from political parties and environmentalist groups, had begun to attempt a revoking of these hard-won resolutions.

An incident that brought home these different positions and arguments over forest policy to the wider public was the protest by lowland villagers in the Chom Thong district in Chiang Mai Province. This was the culmination of a long-standing conflict between highlanders (namely, Hmong and Karen) in the southwestern slopes of the Doi Inthanon region and lowlanders downstream. The conflict dates far back to the late 1980s at which time the Dhammanart Foundation was set up to support the Chomthong Watershed Forest Conservation Association of the lowlanders. However, the protests have become vociferous in recent years with the involvement of political parties. Lowlanders in the area, together with environmental conservationists protested in May 1998, blocking the highway between Chiang Mai and Mae Sariang, burning effigies of the academic activists supporting the highlanders, asking for removal of the highlanders and revoking of the 1997 resolutions made during the previous Chavalit cabinet. In a meeting set up by the Agriculture Minister, the lowlanders (the Chom Thong Watershed Forest Conservation Association backed by the Dhammanart Foundation) requested that the department relocate the hill people from the conserved forest immediately, while the hill groups (the Northern Farmers' Network) countered that their farming techniques are environment-friendly and they

¹² Of the three cabinet resolutions of April 1997 under the Chavalit administration, one known as the Wang Nam Khiew resolution was especially notorious and controversial, as it prohibited officials from taking action against forest encroachers while plans are being made to deal with their problems. The Forum was careful to defend only the other two resolutions, saying that the Wang Nam Khiew resolution was not a response to their demands.

have helped conserve forests on high ground. It is rather lowland people who are clearing the forest to expand their farmland into the hills.

Prompted by such events, the newly installed Forestry Department chief proposed amendments to the resolutions to be considered by the National Forestry Policy Committee. After the cabinet refused to consider evicting 20,000 highlanders from Doi Inthanon, 10,000 lowland protestors again blocked the road, demanding prompt eviction of highlanders who were allegedly causing forest fire and drought. Residents of Chom Thong stepped up pressure on the government vowing to collect at least 50,000 signatures in support of a petition for the House Speaker to begin a constitutional process aimed at ousting the prime minister for failure to resolve national problems.

On June 30, 1998, a new cabinet decision authorized the Forestry Department to evict forest dwellers from vulnerable areas, and sanctioned the policy designed by National Forest Policy Committee to return the power over forest management to the Royal Forestry Department. Villagers who fail to prove that they lived on forest land before the RFD declared the area a conservation forest will have to move out. Furthermore, villagers who have occupied sensitive watershed areas will have to relocate even if they can prove that they had lived there before the RFD declared conservation status. This would mean removing at least 10 million forest dwellers living in sensitive zones nationwide. The cabinet resolutions from 1997 were scrapped, and new guidelines to prove land claims were to be adopted. Measures to enhance forest resource preservation and prevention of encroachment by classifying forests as reserved (areas deemed suitable for agriculture to be developed with the help from Agricultural Land Reform Office), protected (national parks, wildlife sanctuaries, game reserves, conserved estuaries and mangrove forests), and conserved were ratified.

Fearing eviction, the hill groups participated in press conferences with academics and gathered in June at Chiang Mai provincial headquarters, where they handed a letter to the provincial governor to pass on to the Prime Minister. The Northern Farmers' Network, a conglomeration of grassroots organizations and one of the main forces behind the 1997 resolutions, expressed support for forest-dwellers.¹³ The hill groups demanded that they be allowed to stay in Doi Inthanon National Park. Academics and NGOs backing the highlanders produced reports on the actual causes of forest destruction, finding that the hill tribe villagers had long abandoned slash-and-burn shifting cultivation and are participating in the Royal Agriculture Project under close monitoring. They declared that accusations were therefore baseless, and

¹³ These are the two resolutions from April 17 and 29, 1997, which outlined problem-solving measures for 107 villages located in conserved forests in the North. They call for the setting up of committees to prove the occupation rights of forest encroachers, and the verification process of their rights.

motivated by racial discrimination and political purposes. In the meantime there have been logging scandals involving corrupt forestry officials and politicians. While giving the Forest Policy Committee the right to evict hill people from forests, such logging goes on and forest management is left in the hands of certain powerful groups. Activists have continued to protest the June 30 cabinet resolution, claiming that it violates the new constitution.

Thus, we witness a reactionary turn in the Royal Forest Department's policies from 1998. These resolutions and revoking of resolutions, involving parties with varied interests, are moved in part by political aspiration. Thus, forest policy recognizing community participation is easily taken over by top-down policy-making where power over forest management is returned to the Forestry Department, authorizing the department to evict forest dwellers against the constitutional provision on community rights.

In what seems like a culmination of the decades-long contradictions in "hill tribe" policy, an incident took place in May 1999. From April 25th, the Northern Farmer's Network, the Assembly of Tribal Ethnic Minorities, and the Forum of the Poor together began peaceful demonstrations in front of Chiang Mai City and Provincial Hall complex, six kilometers north of the city. The lowlanders and highlanders (seven ethnic groups from 300 villages in 8 provinces) who took part over the course of almost a month numbered 40,000. It was a demonstration with two demands. Firstly, demand for Thai citizenship and identification cards in place of the "blue card" (known as the highlander's ID card).¹⁴ The blue card holders are not recent migrants nor aliens. Yet they are constrained in mobility, employment and rights of citizenship. Secondly, demand was made pertaining to the right to sustainable coexistence with forests. Specifically, that the cabinet resolutions and forest laws/regulations be revised to meet the new constitution which recognizes community rights to forest, and that the government reconsider the draft of the Community Forest Act the most recent version of which does not allow community forest in the protected forests.

After a week of demonstration and some informal negotiations, official negotiations began with government representatives on May 2, and 9, and it seemed that negotiations would end fruitfully. Yet before a final agreement was reached, just before dawn on May 19, the demonstration was forcibly dispersed as one thousand RFD officials (many of them were hired hands) and 500 policemen rushed in. Soon after this incident, Chom Thong villagers presented flowers to the Chiang Mai Governor who ordered the dispersal of the rally. They began to publicly denounce the

¹⁴ At the time, the number of highlanders who held blue cards is reported to have numbered between 200,000 to 350,000.

supporters of the rally, especially the academics, burning their effigies on Chiang Mai University campus.

Even as the rally was in part successful in so far as the administration promised to meet many of the hill dwellers' demands, yet, the physical threat and emotional tenor directed against the hill dwellers in the incident seem to have reached an unprecedented height. Thus in the background of the May 1999 incident lie "lowland-highland conflict" over the watershed areas. I put this in parenthesis in order to emphasize that the conflict is not necessarily inherent in the actual living situation in the watersheds. Rather, it is a result of construction of discourse and political interests that have fed upon these discourses.

This was the first public demonstration where citizenship demands and demand for rights to forest were combined. The authorities' discourse on the "hill tribes" have changed little from 40 years ago, when they were labeled non-Thai aliens from other countries. Such discourse on the part of the authorities is widely reflected in the opinion of the ordinary Thai lowlanders. If the hill villagers are indeed alien encroachers, there would be no problem in denying their rights to forest land, labeling them irresponsible alien forest encroachers. While the demand for citizenship involves many other concerns in the life of the highlanders, both the denial of and demand for the hill-dwellers' rights to making a living in Thailand have come to combine citizenship with rights to forest and land.

In Burma, in place of minorities taking part in civil action and grassroots organization, there is the ethnic insurgency which also involves conflict over rights to resources fought in ethnic terms.

The Case of Burma

Let us briefly consider the case of the Karen in Burma/Myanmar. The Burmese case provides a clear example where ethnic labeling, ethnic politics, and forest policy progressed hand in hand. I will rely on Bryant's works [1997; 1998] which deal with the period beginning from British colonization of Tenasserim up to the present. Earlier ethnography [Marshall 1922] attests to very similar cultural and social features among the Karen in Burma with those in Thailand. While the key concepts that appear in the historical development are very similar, the processes and agents involved in defining the Karen and their subsistence practices were quite different.

In Burma, the accusation of the Karen as forest-destroying shifting cultivators predates that in Thailand by at least a century. From the days before institutionalized forestry, the Karen were already targets of criticism by western colonialists as being

forest destroyers. The Karen in Myanmar today inhabit a wide area ranging from the eastern borders down the peninsula along the Tenasserim, the Pegu mountains down to Rangoon, and the Irrawaddy delta region to the southwest. While those living in the delta and plains today cultivate paddy fields extensively, the hill-dwelling Karen have cultivated swiddens. In the period ensuing the first Anglo-Burmese war during which Tenasserim, a region populated by Mon and Karen as well as ethnic Burmans, became a British colony, commercial logging in Tenasserim was rampant. In the same area, Karen shifting cultivators cleared forests for subsistence farming. It was foresters and timber extractors who first came into close contact with the Karen. Thus from the outset, Karen were associated with swiddening in the forest and timber logging. While the British did not yet have effective control over the forests, they attempted to settle the Karen through heavier taxation policies on shifting cultivators. Those who criticized the laissez-faire forestry also pointed out the shifting cultivation as destructive practices. The colonial government sent an investigator who reported in 1838 that Tenasserim's teak forests would soon be exterminated if logging and burning continued at the current rate. The investigator criticized the shifting cultivation of hill Karen in southeast Burma, and called for state intervention. Here we see competition over forest resources between Karen cultivators, commercial interests, and emerging forest policy that began with the arrival of the British.

With the realization for a need to control forest, the first superintendent of forests was appointed to Tenasserim in 1841. However, with lack of expertise and staff, these superintendents were ineffectual, and turned to the hill Karen as scapegoats, claiming in 1848 that it was shifting cultivators rather than timber traders who were the greatest cause of teak destruction locally. There were, however, others who believed Karen could be "reformed". Commissioner Durand claimed that the British Government could employ them as forest conservators, and that Karen along the eastern border should even receive legal title to local forests. This must be understood in the context of British interests in protecting the border areas by placing Karen population in the area. Such suggestions were rejected, however, by the East India Company which was against any non-state right to the teak forests. Thus, there was no conferral of rights to the Karen, and the forest degradation continued in Tenasserim.

At the end of the second Anglo-Burmese war, by which time the British gained control of Lower Burma that includes the Karen-inhabited teak forests of the Pegu Yoma, the Forest Department was founded in 1856, and "scientific forestry" began. The Forest Department policy in large part conflicted with shifting cultivation in the teak forest. The Karen resisted, by fleeing, pleading ignorance, setting fire, refusing to assist visiting officials. The government accused the 'backward' shifting cultivators as teak forest destroyers. While there were occasional voices that acknowledged that hill clearings did not inevitably lead to teak forest elimination,

colonial foresters in large part agreed upon the vices of shifting cultivation. Yet neither side was in complete control: Karen could resist but not escape totally, while forest officials lacked manpower to enforce the law systematically. It was under such a situation that *taungya* forestry was first implemented among Karen: the shifting cultivators would plant teak with their rice and other crops, and the forest department would be left with young teak plantations when the cultivators shifted to new fields. By this method, shifting cultivation would become productive for Burmese silviculture as well, accomplishing reforestation with cheap labor. Yet the Karen realized that this would, in the long run, eliminate all cultivable land of the Karen for teak plantations, depriving the Karen of their source of livelihood, and resistance continued.

Interestingly, in some areas, Karen were employed as fire wardens of *taungya* forestry, where they effectively managed and protected forests from fires. Even as the colonial administrators blamed the Karen for forest fires in official discourse, they were thus acknowledging that Karen were able to manage and protect forests. In Burma too, we see negotiation between outright denial of hill dwellers' right to make their living in the forest on the one hand, and an ideology of human and forest coexistence on the other. However, such recognition of the Karen as asset in regeneration of the country's forests did not last long. With the growing power of the colonial state in the twentieth century, there was renewed effort on the part of forest officials to control shifting cultivation in reserved forests, pointing to the Karen as culprits. Thus in the final analysis the British period in Burma could be summed up, at least as regards the Karen in forest areas, as the period that defined Karen as forest dwelling shifting cultivators who threatened scientific forestry and destroyed the teak forests. It is the same period in which the labeling, category and ethnic characterization of "Karen" were crystallized.

During the period immediately after independence, Burma was in political and military turmoil, as insurgent groups were in the plains and delta regions. By the 1950s, Burma regained the Pegu Yoma, the most heavily and most abundantly forested areas, to which they applied rationalized forest use as laid out by the British in the previous century. Thus not only the policy but the discourse of the colonial administration regarding shifting cultivators were adopted by the now independent Burmese. However, post-independence Burma had other things to worry about relating to their forested peripheries. In the 1950s and 60s, the insurgent groups retreated into the jungle, and the government policy had military, economic and political intent. Cutting trees in insurgent areas would undermine not only the guerrilla activities, the financial basis, and demonstrate Burmese sovereignty. Forest revenue had become one of the largest sources of revenue for insurgent organizations. The Forestry Department of Karen National Union (KNU) which existed since 1950, grew in importance and power in the 1960s. The existence of a Karen version of the

Forest Department itself challenges the authority of the Burma Forest Department. Thus, in a far more direct and physical sense than in Thailand, here in Burma there was a struggle over territorial and resource control of the modernizing state being challenged.

As Thailand experienced a shortage of timber sources, especially after the commercial logging ban in 1989, Burma (the SLORC regime) was suffering the aftermaths of political turmoil. The regime was in need of hard currencies to support the military operations, and to cover the losses as international pressure on the regime resulted in the cutting of external aid. Thus, just before the logging ban, General Chavalit visited the regime, and 40 teak concessions were signed between SLORC and Thai companies. The insurgents, especially KNU, were badly weakened by this, as it meant a large loss of revenue, and the border forests are becoming quickly depleted. Furthermore, in the 1990s, Burma opened its doors to economic development, trading its natural resources, which happen to be the sources of livelihood for Karen and Mon in the area, to neighboring Thailand. There are further plans for building hydro-electric dams, entailing the flooding of vast areas of low-lying forest, and the removal of numerous Karen communities in the affected area. Civil action is not possible nor is there a local environmentalist discourse that the Karen can turn to. The Karen who have been making a living in the richly endowed forests must either join the fight for sovereignty, or flee.

We have seen that the labeling of Karen shifting cultivators as forest destroyers emerged out of commercial interests, forest policy and ethnic politics of Burma. In Myanmar today, just as in Thailand, deforestation is simultaneously an ecological crisis and an ethno-political problem.

The "Karen Consensus"

As local struggle began to involve wider political parties and citizens movements, multiple counter-discourses have emerged from various quarters. When I began fieldwork in 1987, a general and academic interest, recognition, and knowledge regarding the hill-dwelling minorities was still low in Thailand. However, increasing concern by civil activists on issues relating to forest conservation has accompanied an interest in the hill-dwellers' lifestyle and sustainable subsistence practices. In particular, because of their rising profile in the debate regarding community forestry and watershed conservation in the past decade, the Karen have attracted some attention. Activists and intellectuals have joined voices in the Karen claim to community rights to forest, emphasizing the sustainability of Karen swidden practices [for example, Suraphong 1988; Pinkaew 1996]. In the process, there has emerged a discourse involving the Karen that some have come to refer to as the "Karen

consensus”.¹⁵ This is the discourse regarding the sustainability of Karen swidden practices, indigenous knowledge regarding land and forest use, and the strength of the Karen community in reproducing such practices and knowledge.

Karen hill-dwellers without any legal foundation for their rights to land in conservation forests, have founded their claim on the residence history in the area, and on their own communal tradition of living with the forest. The Karen claim that the forest is not only their home, but also the root of their culture and identity and that it is their community and lifestyle that account for the flourish of forest vegetation in the hills today. They are formulating a discourse that combines an environmental conservationist view with their indigenous knowledge and values. This allows them to join hands with the lowland activists and at the same time maintain their distinctive identity. The strategy is to agree and differ at the same time. Their discourse emphasizes their ethnic consciousness and historical background in the area as well as their right to Thai citizenship and conformity with aspects of Thai culture pertaining to environmental conservation. There has also emerged a genre of publications on narratives by Karen elders narrating their life history and traditional lore [Phau Lae Pa 1987; Beu Phau 1997; Leesa 1991; and Kannikar and Benchaa 1999].

Joni Odochao, better known as Phoo Luang Joni, the prominent Karen elder and spokesman from Mae Wang is one of the central figures in the Karen involvement in community forestry movement [see Kannikar and Benchaa 1999]. He claims that Karen have been resident in the area for at least three or four centuries. Elders such as Phoo Luang Joni are the very sources of the persuasive discourse on sustainable practices of the traditional Karen way of life that has been an insightful mediator between Karen and lowland Thai citizen movements. His village is one among many other Karen villages which host “eco-tourism”, inviting Thai and foreign tourists to their villages, explaining indigenous knowledge on forest and vegetation, and coexistence with the forest. Joni also led in a movement to ordain 50 million trees in 100 community forests to commemorate the King’s Golden Jubilee in 1996. “We want to prove that lowlanders and highlanders can work together to protect the river basins in the mountainous North, that forest dwellers can be the best forest guardians” [interview by Karnjariya 1997]. There have also been attempts within Karen communities, such as Phoo Luang Joni’s own, to reconstruct and reproduce Karen traditional culture. They are reformulating a “tradition” and ethnic image that will outwardly encourage the recognition of their rights to forest and land and at the same time inwardly strengthen the community in its claims.

Activists, media and academics have adopted a discourse on Karen indigenous knowledge in arguing for the possibility of environmentally sustainable subsistence

¹⁵ It was in “The Politics of Environment” session at the International Thai Studies meeting held in Amsterdam (July 1999) that I first came across this expression.

practices in the hill forests. Such claim based on indigenous knowledge (including categorization and use of land according to topographical and vegetational features, botanical and herbal knowledge, ritual knowledge that relate to the forest and environment, etc.) has not only been inspiring and helpful in understanding environmentally sustainable practices relating to the forest, but also provided a view towards alternative modes of life sought by many urban middle-class Thais.

What remains relatively undocumented however, are the internally conflicting ideas on land and forest that have emerged within the local communities, which I have attempted above, and a careful depiction of the wide diversity of subsistence practices found in the innumerable Karen communities in the Northern Thai hills today.

Previously, I emphasized [Hayami 1997] that swidden cultivation has vastly diminished in relative importance among the Karen, whose subsistence activities have shifted to paddy cultivation (even though, undoubtedly, the decrease in swidden activities owes much to stricter state regulations, swidden cultivation would provide invaluable supplement to the diminishing yields from paddy fields). The emphasis on sustainability of Karen swidden practices, one of the main points of the "Karen consensus", is strategic counter discourse precisely because the image of the hill people (including the Karen) as destructive swiddeners persists. I also claimed that in fact, the present day Karen's consciousness for watershed conservation arises more out of the requirements of wet-rice cultivation than anything else.¹⁶ It is the focus on paddy rice cultivation that allows Karen to readily form alliance with lowland environmental groups. These observations were based on my experiences in the northern part of Mae Chaem District and parts of northeastern Mae Hong Son where swidden cultivation has become virtually discontinued.

A wider survey I performed on Karen villages in several northern provinces, however, has proved the wider diversity of Karen subsistence activities and land use, even within a very small area. There are villages at Doi Inthanon in southern Mae Chaem district where, not only is swidden cultivation completely forbidden, but paddy rice fields also virtually impossible due to its inclusion in the National Park. Just outside of the national park area, on the other hand, there are Karen villages which have somewhat been successful in cash crop cultivation due to the presence of agricultural projects, while other villages in the same district rely most heavily on swidden cultivation of rice.

Thus, there is no real "consensus" in subsistence activities and ecological adaptation among the widely dispersed Karen communities. What is common among

¹⁶ This point is illustrated by the case of a Karen village in Mae Sariang presented by Shalardchai, Anan and Santidaa [1993] who point out that the increase in paddy cultivation has increased the awareness of the importance of conserving the watershed forests [see also Pratuang 1996:131].

all Karen communities, however, is its location near valleys and streams as noted in the beginning, and the necessity of making a living in such surroundings. The communities in intermediate zones along streams and rivers, today, are settled rice-growing units, whether by swidden or paddy. In the eyes of a Karen, a Karen village with some employment opportunities but no land to cultivate rice is deemed far more miserable than a village with some land, albeit insufficient, but no employment opportunities. The intermediate ecological position of the Karen characterized above has profound implications on their position in the recent environmentalist debate. On the one hand, they are one among the “hill tribes” whose public image is that of destructive swidden practitioners and mobile newcomers into national territory. On the other hand, however, as stable settlers and subsistence rice cultivators, they are themselves concerned with conservation of watersheds, and here, their goal is common with the lowlanders. At times, when there is conflict between highland swiddeners and lowlanders, Karen interests might be identifiable with the lowlands causing a rift between other highlanders and the Karen, while in the general public image, Karen are identified with the highlanders. Not only is the actual land use among Karen in Northern Thailand extremely diverse even within a single district, but furthermore, even within one community, there is hardly a consensus regarding land and forest use.

In S community, the virtual discontinuation of swidden cultivation (most households that cultivated small swiddens in 1987 had discontinued by 1996), the diminishing scale of paddy land holdings, and increasing stratification (as of 1987, only 4 out of 43 households were self-sufficient in their rice production) have induced more villagers to work for daily wages in the vicinity, or to travel to towns and cities to seek employment, in addition to selling forest products and growing crop for petty cash. Yet, as I pointed out earlier, in spite of insufficient land and economic changes, the customary communal relationship to land among the Karen and their ritual practices which are inextricably linked to such customs are still maintained in discourse, and to some extent in practice to a considerable degree albeit within the confusing array of land-related conflicts. S community is only peripherally involved in the recent community forestry movement. In the 1990s after hearing the beginnings of the Karen consensus discourse, I returned to S community naively expecting to hear similar discourse from the villagers. However, what I encountered was a confusing array of tentative statements, questions and practices. Any question regarding forest use can be answered in multiple ways. There are different and sometimes conflicting and coexisting principles and norms, and there is an absence of a unified agreement or understanding relating to these issues within the community.

If we take the “Karen consensus” as a truth statement, we would fall into the danger of negatively judging the diverse and internally conflicted communities as somehow failed or unauthentic instances of Karen communities. Furthermore, without

knowledge and understanding of the conflicts, there is danger that the interest in “indigenous knowledge” may simply lead to objectification and romanticizing of the hill population by our more “civilized” selves. Even as the discourse risks the dangers of essentializing and romanticizing Karen community and tradition, it is also an effective counter discourse against the multitudes of discourse that denigrates not only swidden practitioners in the hills, but virtually all hill farmers as destructive. The claim for indigenous “tradition” among the Karen arises from the pressing immediacy of today. Thus, my intention is not to prove the truth value of the consensus, nor to undermine or deride the Karen voices advocating their tradition. Rather, I have tried to understand the conditions which led to the emergence of the discourse, and hope to have provided a perspective in understanding these voices within the problem-ridden ecological and socio-political context from which they have emerged. The consensus is effective counter-discourse in so far as it is understood in combination with the problems that have led to its emergence.

Conclusion

Karen community was at once well-defined, and flexible: well-defined socially and ritually, and flexible in terms of mobility and adaptation. This is how Karen have, in their intermediate position among lowlanders and highlanders, maintained their adaptive life in the Thai hills. Even as they lost out in the competition over fertile land among different ethnic groups, they had maintained their rice-based subsistence activities and flexibility of adaptation. However, not only is the competition over land becoming increasingly acute (among the competitors claiming land are not only the hill dwelling groups but also, commercial interests, state conservation policy, and environmental degradation), but power relations in the hills have changed drastically as the state became an overarching powerful player in the competition. The Karen who had heretofore adapted through community fission and mobility are now forced to adapt in a different mode to an increasingly rigid relationship to land under state control in the name of forest and watershed conservation. One of the strategies has been the discourse of the Karen “consensus” or the claim to “traditional” life in the forests. An emerging discourse on tradition has been re-formulated in coping with the tightening situation. The emphasis on Karen tradition and the emerging “consensus” takes the dominant discourse of ethnicity and turns it on its head. Along with the adoption of environmentalist discourse, it is strategic response to the present situation. It is the intermediate position of the Karen which has simultaneously led to their impoverishment and given them an interstitial position in coping with the situation.

The right to live in and coexist with the forest for hill-dwelling minorities conflicts with state policy. Contestation of this issue is a highly charged political arena as the most recent movements reported from Northern Thailand attest. Against

this, the discourse on Karen indigenous knowledge and community rights have emerged from Karen local elders themselves in conjunction with civil activists who support hill-dwellers. Here, we see a reconstruction of “community rights” through joining forces between uplanders and lowlanders. The agrarian struggle characterizing much of Southeast Asia until the 1970s [Scott 1985], and which could be found among the Karen in the Pegu mountains in Burma, have been taken over in present day Thailand, by new forms of civil action as a consequence of the incorporation of the peripheries into national economies and politics, and the opening of political space among marginal groups.

The totalistic relationship to land on the one hand, and the legalist and/or environmentalist practice and discourse on the other need to be negotiated on the community level as well as in the wider arena. I have demonstrated that socioeconomic conditions in the hills have driven villagers to adopt practices that conflict with communal land rights, customary regulations and traditional knowledge. The emerging discourse and practices in community rights and indigenous knowledge among the Karen are resourceful attempts not only to cope with external forces but also with the internal contradictions.

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THE LUA OF LANNA: A Study from Lanna Archives^{**}

Aroonrut Wichienkeeo^{*}

The *Lua* or *Lwa* of Lanna are one of the important ethnic groups frequently mentioned in palm-leaf manuscripts and a few stone inscriptions within the boundaries of northern Thailand. Other sources mention or give evidences of the *Lua* inhabiting this area. A number of important folk tales also show the close relationships between the *Lua* and *Tai Yuan*¹ groups in ancient times. Moreover, *Tai Yuan* proverbs mention the *Lua*. The observance of the *Lua* villagers making sacrifices to the Royal Lanna seals of later Lanna period gives exciting proof that the *Lua* were often working as temple slaves.

A number of different spellings refer to the *Lwa* including *Lua*, *Milukku*, *Tamilla*², and *La*. *Lua* and *Lwa* are mostly mentioned in the *Mang* chronicle. *Milukku* is used in the Buddhist text referring to the relic, temple history or Lord Buddha. *La* and *Tamilla* were inscribed on the stone inscriptions.

According to *Phrachaoliaplok*³ chronicle, or 'The Travels of Lord Buddha in Lanna', the Lord Buddha always left a souvenir in the form of a hair relic or footprint to the *Lua* ancient sites. It appears that there was common understanding among the scribes that the *Lua* were indigenous people of this area and that they have had a long and durable relationship with the *Tai Yuan*.

Lua around the Doi Tung Area

One area, which is important and relates to many of the legends about northern Thailand is in the area of Mae Sai in Chiangrai province around *Dooi Tung* Mountain. According to the *Dooi Tung* chronicle⁴, written in the *Tai Yuan* script, it states that Doi Tung was inhabited with *Tamilla* (a *Lua* tribe) and there was a clever man called *Puu Jao Lao Jok*. He was a *Lua* leader who had a very skillful silversmith. *Puu Jao*

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¹ **Tai Yuan**: This term refers to the Lanna people in the area of northern Thailand. This city had its origins at Yonok Nakorn, an ancient settlement in the area of Chiangsaen. cf.: Tuenchai Chaisil. "**Lanna nai kran rupru khong chonchun pokkrong Siam**". MA thesis. Graduate School, Thammasart University, 1993. pp. 44-55.

² **Milukku, Tamilla**: These are Bali words meaning 'barbarian' or 'under-developed' (Jit Phumisak, "*kwam pen maa khong kham Siam, Tai, Lao, I Khoom I laksana thaang sangkhom khoong chon chaat*"). Bangkok: Krungsayam Printing Co. 1976. pp. 377-380

³ Katanyoo Chucheun, "**Phrachaoliaplok archives in Lanna: A Critical Study**". MA thesis. Graduate School, Silpakorn University, 1982.

⁴ Hans Penth, (editor) **History of Phra That Doi Tung**. Bangkok: Arun Amarin Printing Group, 1993.

Lao Jok was in possession of 500 hoes and 500 followers. In considering him of having exceptional knowledge of metallurgy, the Lua today at Mae Sarieng in Mae Hong Son province and Jomthong, Mae Jaem and Hod in Chiangmai province are considered very skilled in metalwork. They often refer back to their ancestors with pride.

The northern chronicle goes on to say that the 500 followers of *Puu Jao* and *Jaa Thao*, his wife, used their hoes for farming in an area where a large market was established at the foot of the *Dooi Tung* Mountain. Later, the chronicle goes on to say, King Ajutaraj of Yonok⁵ City, came and asked Puu Jao Lao Jok for 3,000 square *waa*⁶ of land, and in return paid him 1,000 units of gold. After the *cheedii* (or *thaat*) was completed and the left shoulder relic of the Buddha enshrined, King Ajutaraj ordered that the 500 devote the rest of their lives as temple slaves in service of *Dooi Tung* relic temple. The chronicle further declares that the Lua spread as far as the Lawa River⁷ (present day Mueang Sai River). The eldest son of Puu Jao Lao Jok ruled the Lua city of Wiang Sii Tuang⁸, located in an area just north of Doi Tung. Many years later, Wiang Sii Tuang became known as Mueang Hiran Nakorn Nganyang⁹, which was where King Mangrai¹⁰ was born in 1239. This is one of the important Lua areas as mentioned in the northern chronicle, which is significant to understanding their role and status in Lanna as a whole.

Lua in the area around *Dooi Sutheep*

The second important Lua group inhabited the area around the foot of *Dooi Sutheep* or in the area presently known as Chiangmai City, on the west bank of the Ping river. This area has a very generous supply of historical documentation and archeological evidence to support the Lua claim to fame in ancient times. In the past there were three important Lua settlements at different times in history. They were Chethaburi, Wiang Suan Dok, and Wiang Nopburi.

At the foot of *Dooi Sutheep*, close to the front entrance of today's Chiangmai University, evidence shows that a circular walled and dry-moat Lua city existed. It

⁵ From the chronicle Yonok city was located in the west of present day Chiangsaen district, Chiangrai province. Today the villagers call this place *Wiang Noong Lom*.

⁶ *waa* is a Tai word, designating the lengths of both arms (ca. 1,50 m)

⁷ **Lawa River:** Traditionally, rivers are called by the name of the people occupying the flood plains. For example, "Khuen River" for the Tai Khuen ethnic inhabitants of an area.

⁸ **Wiang Sii Tuang:** This Lua city established by the eldest son of Pu Jao Laojok Doi Tung on the bank of the Mueang Sai river in Chiangrai. (Silpakorn Department, "*Singhonwathikuman*" in **Prachum phongsawadan**, 61 Vols. Bangkok: Chuan printing Co. Reprints 1973, pp. 61, 74-75.

⁹ **Mueang Hiran Nakhoon Nganyang or Mueang Nganyang:** Located on the bank of the Mueang Sai river and established by Lao Khien, grandson of Pu Jao Lao Jok.

¹⁰ King Mangrai was born at Mueang Nganyang. He constructed Chiangrai in 1262 and founded Chiangmai in 1296 A.D.

was originally called Chethaburi and later called Wiang Tjet Lin¹¹. Archeologists claim that such circular-shaped cities represent the oldest kind of city¹² in Thailand. Therefore we speculate that this city was the oldest of the three based on the shape of its rampart.

At the backside of Chiangmai University there is a square walled and dry-moat Lua city called Wiang Suan Dok¹³. The chronicle mentions that this city was originally established as a result of the increased population of Wiang Tjet Lin.

The third Lua settlement established Nopburi¹⁴ on the west bank of the Ping river in Chiangmai City. The chronicle's writer says that the Lua groups received and accepted the five religious precepts of Buddhism. They also received a pillar from Indra called *sau inthakhin*¹⁵ which continued to be important among the Tai Yuan who built Chiangmai over their city. The many Lua rituals associated around the city pillar were continued among the Tai Yuan. Today, there is a pavilion housing the *sau inthakhin* pillar at Wat Cheedii Luang¹⁶ where the folks of Chiangmai annually pays homage in similar fashion as the Lua in bygone days.

Moreover, the *M ang Ng nyang Chiangs n chronicle*¹⁷ gives a similar account of Indra's pillar being erected at M ng Ng nyang (city on the M Sai river¹⁸) during the reign of King Lao Khieng, great grandson of Puu Jao Lao Jok.

Later Nopburi is mentioned as the city where King Mangrai built the new city called Chiangmai. The city was built directly over the Lua city. It was called *Nopburi Srii Nakhoon Ping Chiangmai*¹⁹. The chronicle hints that all the kings of the Mangrai

¹¹ **Wiang Chet Lin:** King Sam Fang Kaen restored the area of the Lua settlement and turned it into a place for resting in 1402 A.D. (Term Meetem, (read) The King of Mangrai Dynastay (Lamphun no. 9) *Silpakorn Journal*. Vol. 2 May 1980. pp.42-52.

¹² Tiwa Suppajanya and Pongsri Wanasin. The report for the research project entitled "Ancient Settlements from Aerial Photograph" Chulalongkorn University. (unpublish report)

¹³ **Wiang Suan Dok:** About 1.5 km away from the Suan Dok Gate in Chiangmai. Constructed with a square shaped wall and dry moat. Later, after the Tai Yuan occupied the area, King Kuna built a temple called Wat Suan Dok for the Sri Lankan sect to reside at. (David K. Wyatt and Aroonrut Wichienkeeo. **The Chiang Mai Chronicle**. Chiangmai: Silkworm Books, (second edition) 1997. pp. 115, 207-208.

¹⁴ **Nopburi:** The name comes from 9 wealthy Lua men who possessed mineral pits from Indra. The area became an important Lua city on the west bank of the Ping River close to the foot of Doi Suthep. (Sanguan Chottisukrat, "Suwan Khamd ng or Sau Inthakhin Chronicle". **Prachum Tamnaan Lanna Thai**. vol. 1. Bangkok 1972. pp. 143-160.

¹⁵ **Sau Inthakhin:** This is the Lua city pillar of M ang Nopburi.

¹⁶ **Wat Cheedii Luang:** This is the temple where Prince Kawila moved Indra's pillar from Wat Inthakhin/Wat Sad M ang when Chiangmai was re-established after the Burmese were driven out. Today the city folks of Chiangmai annually pay homage to this city pillar.

¹⁷ "*M ang Ng n Yang Chiangs n Chronicle*" **Prachum phongsawadaan**. 61 vols. Bangkok, 1973. pp. 8-11.

¹⁸ See footnote no. 6

¹⁹ **Nopburi Srii Nakhoon Ping Chiangmai:** Important city, and capital of Lanna in ancient times. Built by Mengrai in 1296 and prospered under his dynasty of 17 rulers from 1296-1558 A.D. Occupied by the Burmese for a total of 200 years during 1558-1774 A.D. Later it became a vassal state of Rattanakosin and today an important cultural and economic center in northern Thailand.

dynasty followed the tradition of paying respect to Indra's pillar except for the last one, King Mae Ku²⁰ (1551-1557) who is credited for causing Chiangmai to be captured by the Burmese in 1557 .

Near to the end of the Burmese rule of Chiangmai (1776), Prince Kawila²¹ of Lampang established a fort city at Pasang in Lamphun where he erected Indra's pillar. Twenty years later, after defeating the Burmese, he re-populated and reconstructed the city of Chiangmai. He recovered Indra's pillar at Wat Inthakhin/*Wat Sad M ang*²² and re-erected it at *Wat Cheedii Luang*.

The Lua People of Doi Suthep

Puu S – Jaa S and Dooi Sutheep: Guardian Spirits and City Consultant

Sutheep is a very ancient name referring to a Lua hermit who resided with his parents at the foot of *Dooi Sutheep* in Chiangmai. His parents were *Puu S* and *Jaa S* , and they were cannibals. One day, Lord Buddha arrived in this area and convinced them to stop consuming people. Afterwards, *Sutheep* became a monk for a short time and then he became a hermit and resided in a cave on *Dooi Sutheep* mountain. The local people believe that any and all hermits who resided at this mountain were called Hermit *Suthep*. Throughout history his name is often mentioned as a consultant for rulers in the area. He is credited for constructing *Hariphunchai City*²³ and giving advice for building several other cities.

Today the Chiangmai people consider *Puu S – Jaa S* ²⁴ as important city spirits of Chiangmai. Their spirit house is located at the foot of the hill behind Chiangmai University. A buffalo is sacrificed each year for their spirits. In addition, their spirits are called upon to bring rain and prosperity to Chiangmai.

²⁰ **Mae Ku**: The last ruler of the Mengrai Dynasty before Chiangmai's fall to the Burmese (1551-1558 A.D.) He came from *M ang Nai* in the Shan State area. Did not follow the tradition of paying homage to the city pillar and is credited Chiangmai's fall because of this. cf.: Sommai Premchit (ed.). **Chiangmai Chronicle**. Social Science Research Institute, Chiang Mai University 1981. pp. 29-30.

²¹ **Prince Kawila**: Fought against the Burmese for independence. Built his fort of operations at Pasang where he also erected a *sau inthakhin* pillar. Later he helped to drive the Burmese out and re-established Chiangmai after it was deserted for twenty years.

²² **Wat Inthakhin/Wat Sad M ang**: Ancient temples located in the center of Chiangmai city close to the present-day monument of the three kings. This was the site of the original *sau inthakhin*. Later, the pillar was moved to *Wat Cheedii Luang* by Prince Kawila. These temples are abandoned now. cf.: Aroonrut Wichienkeeo. **Deserted Temples in Chiang Mai City**. Chiangmai: Silkworm Books 1996. pp. 105-107.

²³ **Hariphunchai**: An ancient Mon settlement built by the Hermit Wasutheep and was first ruled by Queen Chammathewi. Later, King Mengrai captured it and it became part of the Lanna kingdom. cf.: Ratanapanna Thera, (Saeng Monwitune, tr.). **Jinakalamalipakorn**. Bangkok 1967. pp. 90-95. Hans Penth. **Jinakalamali Index**. Chiangmai: Silkworm Books, 1994. pp. 95-110.

²⁴ **Ritual of Puu S – Jaa S** : An important ritual just before the rainy season in order of Hermit *Sutheep's* parents who were Lua. The people of *M Hia* village, Hong Dong district, Chiangmai, organize it.

People Clashing between Classes

Chamadeviwong chronicle²⁵ mentions the tragedy that developed between the Mon²⁶ at Hariphunchai and the Lua at Dooi Sutheep. The principal participants in the story were Khun Luang Vilanga, the leader of the Lua tribe, and Queen Chamadevi, the first ruler of Hariphunchai. This story reveals the clashing between classes. The story stresses the inferior culture of the barbaric Lua group of Chiangmai and the superior culture of the civilized Mon group (of Lwa origin). The plot of the story centers around Khun Luang Vilanga's many attempts to win over Queen Chamadevi through strength and force. Several battles occurred and challenges that ended in defeat and the eventual death of Khun Luang Vilanga. This folk tale continues to be famous among the people of Chiangmai and is often told by grandparents to their grandchildren, especially at night, prior to a cremation ritual. Today, there is a spirit house of Khun Luang Vilanga²⁷ at a peak of the Dooi Sutheep range. There is also a Lua village called M ang Ka²⁸ at the foot of this peak which has a Khun Luang Vilanga spirit house on the edge of the village. They claim to be descendents of him and honor his spirits with annual offerings to the spirit house.

Lua and Buddhism

Many stories about the founding of cities, the appearances of Lord Buddha, the receiving of relics, and the leaving of footprints have the Lua present and taking a part in the action. They may be present to ask for a hair relic, or to humbly receive the Dhamma, or witness a prediction made by the Lord Buddha. There are many of these stories that appear in chronicles and temple histories throughout northern Thailand. The Buddha's travels through the region is well documented in the *Phrachaoliaplok* chronicle (The Travels of Lord Buddha).

In one of the local legends mentioned in this chronicle, the Lord Buddha arrived at a Lua pottery village along the Ping River in present-day Lamphun. They gave food to the Buddha and after having meal he predicted the city of *Phun-ja* (Pali, literally mean *to eat*). He gave a hair relic, which the Lua group had enshrined in a *cheedii*. Afterwards, the Buddha traveled further down the Ping river and met a Lua working at a water wheel bringing water up into the irrigation ditch. He predicted that the area

²⁵ Phra Phothisang, *Jammatheewiwong chronicle*. Chiangmai (3rd edition) 1987, pp. 34-51.

²⁶ **Mon:** The ancient inhabitants of Hariphunchai, who left an important stone inscription with Mon script and dated during the same period as Pagan in Burma. (See: Hans Penth, *ibid.*, pp. 95-110)

²⁷ Spirit house for the Lua ruler Khun Luang Wilankha. Located on Dooi Khwam Long, Mae Rim district, Chiangmai. (was surveyed by the author in 1989)

²⁸ **M ang Ka:** This is the village which name is derived from that of Khun Luang Wilankha. This village is located close to Dooi Khwam Long in Mae Rim district, Chiangmai. (was surveyed by the author in 1989)

around this water wheel would be called Hot²⁹ (meaning dry area). Afterward he left his footprint, which is called *phrabaat M ang Hot*.

In another interesting local legend, the Lord Buddha traveled to the area of the Wang river basin in what is today known as Lampang. The Buddha met a Lua tribesman called Ai Korn³⁰ who was in the forest gathering jungle products (coconuts, eggplants, and bell tree nut). The Lua guy gave four of each to the Buddha who in return entrusted him with a hair relic and made a prediction about the establishment of a Buddhist city in this area called Lakoon (perhaps Luakoon and later Nakkoon, and today Lampang).

Another example can be found in a local legend about the Buddha journeying to the area of the Yom river³¹ basin, in what today we call Phr . Here the Buddha met a Lua tribesman called Ai Com near a tree where he was sitting. They talked to each other about the betel nuts growing from this tree. Ai Com informed him that the betel nuts from this tree are poisonous and result in people going crazy. The Buddha responded by asking for one of the betel nut to try for himself. Afterwards nothing harmful happened. Ai Com was impressed and dutifully honored the Buddha. After explaining the Dhamma, the Buddha presented him with a hair relic and predicted a Buddhist city called Phr (meaning place to 'spread' craziness).

In the area of present-day Hot along the Ping River in Chiangmai province the Buddha stopped and rested. While bathing in the Ping River he met a Lua tribesman who gave him some honey. He later predicted that this place will be called Tha Sooi³² (Sooi pier). A little later he met a group of Lua merchants who were pushing a cart of mineral salt. They gave the Buddha some salt and food and the Buddha predicted that this place would be called Thaa Sai³³ (Salt Pier).

Aside from predictions, there are local legends with physical evidence in the form of a footprint. These are found at several locations throughout northern Thailand. The Buddha traveled and met a Lua who gave him some honey. In return the Buddha left his footprint on a cliff which today is called *Phrabaat Pha Dook Mai* in Lii district, Lamphun province. Later he traveled further along the Ping River and met a Lua

²⁹ **Hot:** Today it is one of Chiangmai's districts. It is located 80 km south from Chiangmai city. In the past it was an area with several important ancient settlements. There are Lua villages such as Ban Bo Luang.

³⁰ **Lua Ai Korn:** This Lua tribesman met the Buddha in the area of present-day Wat Phrathat Lampang Luang in Koo Kha district, Lampang. cf.: Sanguan Chottisukkarat (tr.): "Phra Thaat Lampang Luang Chronicle". in *Prachum Tamnaan Lannathai*. Vol. 2. Bangkok 1972. pp. 329-359.

³¹ **Yom river:** This is an important river, which flows through Pong district, Phayao, and through M ang Phr . Later it flows into the Ping River.

³² **Thaa Sooi:** It is assumed that it is M ang Sooi. It was situated on the Ping River at Hod district. Today, the Bumibol dam project flooded this ancient city. Cf.: Katanyoo Chucheun, "Phrachaoiaplok archives in Lanna: A Critical Study" MA thesis. Graduate School, Silpakorn University, 1982.

³³ **Thaa Sai:** It is uncertain where this ancient city was located but evidence strongly suggests that it was in the area of Hot district, Chiangmai.

tribesman in the same district preparing rice who gave it to the Buddha. The Buddha left his footprint and gave it the name *Phrabaat Huai Khau Tom*.

Royal Silver Foils and the Seal of Queen Visuddhidevi

Another important artifact associated with the Lua are the Royal Silver Foils and Seal of *Queen Visuddhidevi*³⁴, who served as the puppet ruler of Chiangmai during the early period of Burmese control in 1567. In addition there is a Seal of the Supreme Patriarch³⁵. At this time, Queen Visuddhidevi presented two silver foils with the royal seal stamped on them to this Lua village (40 cm long and 6 cm wide). Inscribed in Sukhothai script, there are instructions giving authority to three high ranking Chiangmai officials to present these royal items as orders to be followed in faithful service to the crown and temple to five Lua villages³⁶ in present day Jomthong district, Chiangmai. The villages were appointed to take care and service Wat Raj Visuddhaaram³⁷, and service as temple slaves exempted them from other governmental services including military and forced labor.

Lua as Mentioned in Stone Inscriptions

Stone inscriptions are a valuable source of information about the Lua and their relationship with merit making and the royal projects by several Lanna rulers.

Normally the king would commission the scribes to use a slab of sandstone and document important information about royal projects in the Sukhothai script. These records of history were placed at important temples so that the general public could easily view them. The contents included an astrological symbol at the top followed by the ruler who commanded the merit making project which was usually associated with the temple such as the renovation of the relic *cheedii*, the building of halls, or the establishment of new temples. There were also inscribed the names of temple slaves in the form of families or individuals. Another important item found on these stone inscriptions included the donation of land by the royal family to the temple. As far as the Lua are concerned there are four important stone inscriptions³⁸ which mention the Lua as temple slaves. They are referred to as *La* and *Milukku* in these inscriptions.

³⁴ **Visuddhidevi:** Ruler of Chiangmai under the Burmese rule during 1564-1577 A.D. She built the temple in the area of 5 Lua villages. Today the temple is called Wat Ban Ph , in Chomthong district, Chiangmai.

³⁵ **Supreme Patriarch seals:** In former times the supreme patriarch resided at Wat Lok Moli which today is an abandoned temple in Chiangmai city. cf.: Kraisri Nimmanhaemindra (ed.). "*tamroi khlong mung-tra rop Chiangmai*" (The Burmese fighting with Chiangmai). Chiangmai Teacher's College report 1990.

³⁶ **5 Lua villages:** Raakran village, Kongkoon village, Paruek village, Omkood village, Pae Bok village. Today Pae Bok is called Pae village in Chomthong district, Chiangmai province. cf.: (Kraisri Nimmanhaemindra, ibid. pp. 14-15.

³⁷ **Wat Raj Wisuttaram:** Today the villagers call it Wat Baan P , Chomthong district.

³⁸ **The four Stone Inscriptions:** Stone Inscriptions that mention the Lua ethnic group in Lanna Kingdom. (a) Prasert Na Nakorn (editor). "*char k than phra rusi watcha marukka 1604 A.D.*" **Lanna Stone**

Lua Today

Today there are Lua villages scattered throughout northern Thailand, from Chiangrai to Tak provinces. Many of the Lua in northern Thailand have kept some of the ancient traditions of their ancestors. They have assimilated with the Tai Yuan, and the Tai Yuan have assimilated with them. The examples that are most visible today are rituals associated with birth, death, marriage, housewarming, costume, and animism. The biggest changes have occurred because of changes in lifestyle as Thailand rapidly modernizes. Lua villages are more frequently associated with city people. They are educated in government schools and are exposed to reading and mass media. Many have successfully assimilated into Tai Yuan society.

Inscriptions. Bangkok 1991. pp. 14-16.

(b) "*char k maha samee chao yanna theppakhun wat baan don 1503 A.D.*" Prasert Na Nakorn, *ibid.*, pp. 125-126.

(c) "*char k chao sii mun prayao fang sema wat lee 1495 A.D.*" Prasert Na Nakorn. *ibid.*, pp. 157-160.

(d) Hans Penth. "*char k Doi Tung*". **Lanna Stone Inscriptions**. Vol. 1 (Chiangsaen Museum), Social Science Research Institute, Chiangmai University 1997. pp. 207-208.

THE LUA OF NAN PAST AND PRESENT IN CONFRONTATION WITH THE THAI STATE**

Cholthira Satyawadhna*

Introduction

Since 1975, I have studied the Lua (Lawa) of Northern Thailand with curiosity to understand their society and their process of social and political struggle. Twenty-five years have passed, but their misery still prevails. Tracing back to their long, nearly lost, history, it is not in any way exaggerated to claim that their two-thousand-year-long history still remains a myth to those who study them. Even in the year 2000, the Lua scenario in Northern Thailand is still like a foggy day in winter, they are sacred as well as secret in some sense. The sacredness of the Lua myth occurred because of the local belief, which has appeared in many Lanna (Northern Thai) palm-leaf texts that Lua ancestors had been the aborigines of Northern Thailand. This refers to the early state-formation of Pre-Lanna period, which could be traced back to about 2,000 years ago, as evidenced in written records. (see Cholthira 1990, 1997)

However the Lua myth has been kept secret and has had no official recognition or acknowledgement by the Thai State, due to some political and theoretical implications:

- a) If the Thai state accepts this Lua myth, who would be then the major population of Northern Thailand?
- b) To which cultural and social structure would the major population of Northern Thailand belong?
- c) If there had been "aborigines" of Northern Thailand, how should the newcomer – the Thai State - treat the aboriginal Lua?

According to the Thai Constitution (1997), Article 46, we have learned that,

"Persons so assembling as to be a traditional community shall have the right to conserve or restore their customs, local knowledge, arts or good culture of their community and of the nation and participate in the management, maintenance, preservation and exploitation of natural resources and the environment in a balanced fashion and persistently as provided by law."

(Official English translation of the Thai Constitution by the Office of the Council of State [October 1997])

Lua Matrilineal Social Structure

There is a well-known Northern Thai saying:

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Lua yea' hai
Tai het naa

The Lua work swiddens
The Tai work paddy fields

This may be interpreted as representing the cultural hegemony exercised by Tai over Lua over the centuries.

In this part of my paper, the focus is on the social structure of the Lua of Nan province, a sub-group of Lawa, who are the third most numerous among the highland peoples of Thailand and who mostly live on the mountains of the Thai-Lao border. There are 146 Lua communities with a total population of 28,516. This makes them the largest so-called 'hilltribe', comprising 51.7% of the highlanders in Nan province (Cholthira 1987).

In the twelve villages in which research was conducted since 1979, last updated in 1999, it appears certain that Lua women have high status and significant roles in society, and apparently in their households. Anthropologically, I interpret Lua social structure as being matrilineal and matricentric. An old Lua saying, rendered in Thai below, confirms my interpretation,

jing r ng khwaai
chaai r ng kai

Women have buffalo-like labor
Men have chicken-like labor

The discovery of Lua matrilineal longhouse communities and its matricentric ideology are the identical feature, which reconfirms my interpretation. Such Lua identity has raised some anthropological questions, which perhaps challenge the simplifications of structural-functional theory. In this part of my presentation, attention will first be paid to the argument of clans and lineages of the Lua of Nan.

Most ethnographic studies of the Lua of Nan before 1986 stated that the Lua had neither clans nor lineages. David Filbeck, in his research on the ethnography of the Lua, whom he called the "*T'in tribe*", first articulated this ethnographic interpretation in 1971:

No clans or lineages exist among the T'in which would draw one's attention and concern away from his own village... T'in society is village oriented with few or no strains of relationships, running out to other villages. For the T'in tribal person, the village is the largest social unit. (Filbeck 1971, chap. 2, p. 1; chap 5, p. 6)

Ten years later, William Y. Dessaint also claimed that the T'in or the Lua of Nan had no unilineal social structure:

The descent system is bilateral, that is descent is reckoned both through the mother and through the father. There are no lineages, clans or other social institutions based on kinship apart from the family and the household. (Dessaint 1981, p. 128)

In my first publication on the Lua, **Lua Muang Nan**, (Cholthira 1987), I mentioned Lua clans and lineages without at that time being aware of the fact that

anthropologists, had denied their existence.

Living among the Lua for more than five years, I found that the life of the Lua attaches closely to water resources. Their daily meal consists mainly of fish and other aquatic animals such as crabs, shrimps, and other shellfish. Hill-laver is also a favorite food. In this Thungchang-Pua 'red areas' (The revolutionary base of the Lua under the leadership of the Communist Party of Thailand [CPT], in 1967-82), it is known among them that before the 'liberation' some clans within the Lua community had the privilege of using the water and fish resources. There was a 'customary law' which was so strict that members of other Lua communities, or from different clans, may not come and poach on these resources over which rights were handed down from generation to generation. Breaches could lead to serious conflict (Cholthira 1987, p. 47).

These ancestral rights over resources usually belonged to a major clan whose senior member had rank or was a person of authority in a community or among a number of inter-related communities. Two persons who claimed to have had such rights in the old days were the former female chieftain (*ma? Rong*) of Ban Kuuchaat, and the second, the ritual leader *moo phii* of Ban Namchai.

The operation of clans and lineages may also be seen in the way privileges are allocated in the choosing of land. Each Lua in the same village, though living in the mountain for many generations, did not have equal rights in the choice of land for cultivation. Even nowadays, the clan of the chieftain, who is also known by the term *tjau kok* (lord of the clan or descent group), which was the biggest clan of the village, has the prior right to choose land for swiddening. This family also had priority in the recruiting of labor. Members of other clans could not begin cultivation until the chieftain's schedule was completed (see also Cholthira 1987, p. 47)

The privileged members of the Lua community, as I have described elsewhere (*ibid.*, p. 48), may be ranked as follows:

1. *The big matrilineal clan, usually an extended family, who owned more than one ricefield and more than ten gourds. The matrilineal clan had privileges of fish and water resources, but they had to work on the fields of the chieftain under a corve system;*
2. *The ritual leader's matrilineal clan which had privileges over fish and water resources;*
3. *The super matrilineal clan, usually the clan of the chieftain, which had the most privileges of choice of land, fish, and water resources, including labour corve from all adult members of every other matrilineal clan living in the Lua community.*

The privileges among certain groups of particular ranks in the Lua "hierarchy", coupled with the Lua terms, *tjau kok* and *traul* or *khra kul* (clan or lineage) are still used in everyday life, strongly implying not only that the Lua have clans and/or

lineages of female line but also that these matriclans are hierarchically inter-related.

I shall now focus our investigation on Lua matriclans and their function by tracing the genealogy of the *h an kau* (Northern Thai: original house), the founding longhouse of Huay th n community as a case study.

In this original *h an kau* - longhouse, every member worships the house-spirits, who seem to be also their matrilineal ancestral spirits (the term for which in Lua is *prong/pyong tdjeng* meaning "spirits of the house", and in their everyday life, *prong/pyong* has the same meaning as the term "ritual leader").

According to my field investigation, the name of the female-lineage house-spirits of the *h an kau* is *A? Yo?*, representing the clan name of all members who actually live in it. It is evident that membership of *A? Yo?* descends through the female line, that is, from (supposedly) the first generation to her daughter of the second generation, then to her daughter in the third, and similarly to the fourth generation and her daughter in the fifth.

A male member was also an *A? Yo?* member at birth, but his membership was lost as soon as he was married. From then on he was no more *A? Yo?* but belonged to his wife's female spirit line.

In the *A? Yo?* origin longhouse, there were other males from another longhouse in the same community, but of another clan, *A? Saweng*. When he married the female *Mae Coang Phat*, who is *A? Yo?*, he became *A? Yo?*. This couple had twelve children, of whom four died while eight, four daughters and four sons, are still alive. Their four sons married into other clans or, as it is sometimes said, "to other spirits"; one of them is known as *A? Pelr*. Their four daughters were also married to men who came from other "spirits". One of them, who came from a Lua village in Laos, is known to have been *A? Pih*. Each husband is now *A? Yo?*. His children, both male and female, are *A? Yo?*. His grand children, the children of his daughters who all live in this longhouse, both male and female, are also *A? Yo?*.

There is a case that a male named ? w? , who has been dead quite a long time, formerly belonged to *A? Pih* in Laos. He also became *A? Yo?* when he married. His four sons, who were born *A? Yo?*, were married and moved out to live in two neighboring longhouses in the same community. One of them is now *A? Khelr*, two are *A? Saweng*, and the youngest, *A? Khelr*. Two of them now stay together in the same longhouse of *A? Saweng*, another two live in the same longhouse of *A? Khelr*. Both *A? Khelr* longhouse and *A? Saweng* longhouse are in the same community, that is, *Ban Huay Th n*, where the original longhouse is *A? Yo?*. Their children are *A? Khelr* and *A? Saweng* respectively.

From this genealogy, we may infer that there are at least five 'female spirit' lines, they are (1) *A? Yo?*, (2) *A? Saweng*, (3) *A? Khelr*, (4) *A? Pelr*, and (5) *A? Pih* (from Laos).

Further genealogical investigation shows that two more lines occur in *Ban Huay Th n*, that is, *A? Loal* and *A? Pyeu*. There are thus at present six 'matri-clans' for the five generations represented, within eleven longhouses of *Huay Th n* community. However, the ancestors of *A? Pih* lived in Laos and never had their own longhouse in this community.

TABLE 1: Lua Matrilineal Clans, Nan Province, 1988

No.	Type	Matri-Clan Names	Remarks
1	<i>Ban</i>	<i>Ban Ch</i>	<i>Ban</i> is a Thai word meaning village See no. 12 <i>Ngual</i> is the Lua term for 'village' Also known as <i>A? V l Dakthiat</i> to some " <i>A?</i> " is known to Lua only as a prefix to clan names. No other meaning is given.
2	<i>Ban</i>	<i>Ban Khom</i>	
3	<i>Ban</i>	<i>Ban Koak</i>	
4	<i>Ngual</i>	<i>Ngual Kapruai</i>	
5	<i>Ngual</i>	<i>Ngual Dakthiat</i>	
6	<i>A?</i>	<i>A? Kal</i>	
7	<i>A?</i>	<i>A? Koa</i>	Nos. 8, 9, 10 may be the same clan, but they are called distinctively in different villages.
8	<i>A?</i>	<i>A? Khat</i>	
9	<i>A?</i>	<i>A? Kh</i>	
10	<i>A?</i>	<i>A? Kh n</i>	
11	<i>A?</i>	<i>A? Khin</i>	
12	<i>A?</i>	<i>A? Khoak</i>	See no. 3
13	<i>A?</i>	<i>A? Khelr</i>	
14	<i>A?</i>	<i>A? Bo?</i>	
15	<i>A?</i>	<i>A? Boang</i>	
16	<i>A?</i>	<i>A? Lol</i>	
17	<i>A?</i>	<i>A? Lab</i>	Nos. 14, 15 may be the same clan
18	<i>A?</i>	<i>A? S l</i>	
19	<i>A?</i>	<i>A? Sangkh l</i>	
20	<i>A?</i>	<i>A? Sabung</i>	
21	<i>A?</i>	<i>A? Saweng</i>	
22	<i>A?</i>	<i>A? Siat</i>	The origin was in Laos
23	<i>A?</i>	<i>A? Sk</i>	
24	<i>A?</i>	<i>A? Sap l</i>	
25	<i>A?</i>	<i>A? Pih</i>	
26	<i>A?</i>	<i>A? Pelr</i>	
27	<i>A?</i>	<i>A? Pyeu</i>	Or <i>An D r</i> Also known as <i>Ban Tdj n</i> to some
28	<i>A?</i>	<i>A? D r</i>	
29	<i>A?</i>	<i>A? Noang</i>	
30	<i>A?</i>	<i>A? Tdj lr</i>	
31	<i>A?</i>	<i>A? Yelr</i>	
32	<i>A?</i>	<i>A? Y t</i>	<i>Huay Th n</i> 's original clan
33	<i>A?</i>	<i>A? Yo?</i>	

According to the social anthropological analysis of the genealogy shown above, we may now come to understand that though there may be deviations in some Lua

communities, especially those who have moved to lowlands and live near lowlanders, the dominant system is one of matrilineal clans, a system based on the Lua system of belief in female ancestral spirits and house spirits. The mistaken inference that the Lua have a bilateral system is perhaps based upon observations among Lua who have abandoned their tradition.

Further in 1988, I went back to northern Thailand, and traveled to various Lua of Nan communities in order to cross-check my understanding and figure out this argumental issue. This phase of research strongly confirms that the Lua of Nan do really have matrilineal or matrilineages. Thirty-three matrilineal lines have been identified, with three types of identification. (see TABLE 1)

Lua Social Movement

The recent history of Nan's Lua recent history may be explained in a broader framework of *la longue duree*, i.e., of historical process and change. To do this we need to look at the evidence on Lua millenarian movements and resistance.

The *Phi Bun Lua Revolt*, the last Lua millenarian movement, was most prominent in their memory. Many young adults could tell of their own experience in the movement. Some of these informants had held ranks of *naai sip* (Northern Thai: Leader of ten), *naai saao* (Northern Thai: Leader of twenty), and even *naai rooi* (Northern Thai: Leader of hundred). The chief of the movement, *Puu Wong*, had come over and settled down in the area for some years before leading the revolt.

The rituals concerned suggest that the ideology was quite distinct from Buddhist millenarianism and was in fact truly indigenous. *Puu Wong* offered, as sacrifice to the Lua spirit, *Eng Prong*, a large pig five spans tall. Also, there was a ceremony known as *suu khwan*, calling for an increase of spiritual power for the body, retained during the seven months that the movement lasted. Chicken were sacrificed in the initiation ceremony for the new believers. Red strings were tied around each wrist of the believers. It was proclaimed that there would be seven years of plenty. In this period all Lua would live in prosperity. The *messiah*, *Cao Phuu Bun*, was coming shortly to bring the millenium to the people. He would bring with him modern goods and technology, turn each bamboo cottage into a cement building, and finally establish the Lua communities as a civilized *state*. On a certain day, *Cao Phuu Bun*, would arrive in an aeroplane at Huay Khi Min village; indeed, it was claimed that he was then building the aeroplane.

It was reported that the police arrested *Puu Wong* and a few of his followers. They were charged with being communists and subverting the people. *Puu Wong* died in the Nan Provincial Penitentiary; his sons and sons-in-law were later released (Filbeck 1971, chap. 8, p. 26). After the arrest, his wife, *Mae Phong*, together with two daughters and daughters-in-law, joined the communist insurgents operating in the

area. She spent her life in the Nan Revolutionary Base from 1966-1982. While I was conducting my field research in this revolutionary base of the CPT, I met her twice. She is now still alive and is highly respected by the Lua. When the ideological crisis occurred, the CPT found it difficult to control the red area; I was later informed by the highest authority of the Thai Third Army that, after troops, it was *Mae Phong* who made the decision and signed the treaty with the Third Army that the Lua people of south Nan would remain in peace. The Lua followed her advice and the military moved their forces to the area without any bloodshed.

My purpose here is to argue, *contra* previous accounts of the Lua, that they have shared at least a united rebellious consciousness of Mon-Khmer-speakers in the periphery. This ethnic consciousness was not at all the "surface" of social relations; it was indeed part of their collective consciousness, reproduced through the dynamic process of social history. The chain of the historical events gathered from their oral tradition suggests that their ideology functioned as an internal and necessary component of the relations of production.

The Lua and the Khmu have engaged in their united struggle for quite a long time. Though each ethnic group has had its own version of millenarian movement, differentiated in time and space, there was a particular one which was a kind of messianic movement active among some of the Mon-Khmer-speaking "hilltribe" groups of the areas straddling the borders within the periphery. The messiah who was to come and rescue the *Kha*, including the Lua (thin) and Khmu?, and/or Lao Theung, all Mon-Khmer-speaking groups, from their life of poverty, and cultural disintegration, and economic deterioration was *Ch ang*. Amazingly, not only among the Mon-Khmer speaking groups in SEA, but also the Hmong and the Yao within the periphery, including all Tai speaking groups, seemed not only to be involved with similar movements, but the saviour was the same figure, *Ch ang*.

Oral tradition shows that the Mon-Khmer-speaking groups of Northern Thailand have been involved in a long chain of millenarian struggles, cross-checked with the written historical sources of northern Thailand. Such movements were recorded in the series of *Chronicles of Muang Chiang Rung, Muang Lai, Muang Thaeng, and Muang Chiang Khaeng*. In these chronicles, the Royal Siamese Government refers to the movements as *Khabot KhaCε?* (Revolt of the *KahCε?*), in some contexts as *keut ce? pen C ang*. We may refer to it as the *Kha Cε? Revolt*. *Cε?* (as represented in Thai in the chronicles) is a word used by Mon-Khmer-speaking peoples; the Lua pronunciation may be represented as *Tdje?*.¹ The events first took place in the year

¹ Dessaint (1981) investigated that the term "Kha Tdje?" (Kha Che, Kha ce?, Kha Tie?) was also found in the literature, covering both the T'in or Lua, the Khmu, and sometimes also the Lamet (Smyth 1895, pp. 46-47; Smyth 1898, vol. I, pp. 171-72; McCarthy 1900, pp. 67-70, 92-94; Graham 1924, pp. 133-39). The term Tdje? likewise covers several Proto-Indochinese ethnic groups (Mouhot 1864, p. 316)

1861 and ended in 1884 when the *Kha Tdje?* local troops were finally defeated by the modern military force of King Rama V of Central Siam. During these twenty-three years, there was a series of revolts taking place in this Thai-Yunnan periphery. First, it was the Hmong who sparked the uprisings of other local people in the region, particularly the *Kha Tdje?*, in other words, the Mon-Khmer-speaking groups. Chronologically, the most important were the *S k Ho Thong Dam* (Black Flag Ho) Revolt in 1861, and the *S k Ho Thong L ang* (Yellow Flag Ho) Revolt in 1862.

La longue dure history of deprivation and misery has fostered the millenarian idea of the leader who will appear to save them. With it is the idea of "cargo", the Utopian idea that enormous quantities of consumer goods would become available for distribution among those who performed the proper magico-religious ceremonies.

The Lua were thus involved in the latest millenarian movement, the *Phi bun Lua* Revolt which took place in late 1964 and continued into 1965. This movement had close connections with the millenarian movement in Laos. After the unsatisfactory outcome of the movement, most of the Lua turned to the CPT.

It should be noted that the first gunshot fired under the leadership of the CPT took place in northeast Thailand on 7 August 1965, and three years later, in 1968, the 'Nan Revolutionary Base' was founded, where three minority groups in Nan province, the Hmong, the Lua, and the Phu Yuan sought to become independent from the Central Government of Thailand. Some Lua leaders in the *Phi Bun Lua* Revolt were captured by the Thai Government and were put in the same prison together with other elites from several parts of the country under the accusation of being communists.

From these field observations we may conclude that, over years of military difficulties while they combined their messianic ideology with the struggle for democracy of the Thai people under the leadership of the CPT, the Mon-Khmer-speaking groups of northern Thailand were finally defeated. Now they are completely under the strict control of the Protective Force 32 (Chut Khumkhong 32) Unit of the Third Army of Northern Thailand.

This set of historical events is meant to enable us to place the Lua of Nan within a larger context so as to be able to grasp their conditions of existence from slightly more theoretical standpoint. Chronicles give evidence for the harsh taxation and conscription for warfare imposed on the peoples of M ang Thaeng, M ang Lai, Chiang Rung, and Chiang Khaeng. Possibly, the matrilineal structure of the Lua of Nan was a response which allowed them to survive these hardships. Women's labor was crucial in agriculture as well as household, with men being lost in war and through corvee.

The Lua of Nan who have been engaged in their millenarian movements at least three times in the past 150 years are illustrative of the Mon-Khmer-speaking groups of the

region. Their matrilineal social structure, in my view, is not a primitive stage in an internal unilinear evolutionary process. It may, in fact, be seen as "devolution" - An ancient Mon-Khmer kingdom being reduced to communities of a "primitive" and "stateless" form in which women need to hold power to maintain the processes of reproduction as well as agriculture, and forest management. Matriliney, matrifocality, and matricentricity are constrained in a devolutionary process created by both internal economic conditions and external political power. Practicing 'matriliney' in a strong sense among the Lua of Nan is perhaps the only mean for them to preserve Lua identity.

New Situation of the Lua

My research is a further investigation on the new situation of the Lua of Northern Thailand, and their confrontation with the forest conservation policy of the Thai government in this decade, particularly in the year 2000. The field investigation focusses on two field areas:

1. *The Thungchang-Pua Lua of Nan Province where I did my intensive field work in 1978-1982, 1986, 1988;*
2. *The Doy Luang Lua of Chiangrai who were forced to relocate in Lampang Province where I further extended my field work in 1999-2000.*

Although the second Lua group is my newly chosen field-site, it may be said that these two Lua groups have something in similar, i.e., they have shared a common cultural heritage - matrilineal spirits cults. Some sub-groups of Nan in the former so-called 'red areas' already gave up their matrilineal spirit cults as they joined the communist insurrection during the past 40 years since the early 1960ies. However, there are still remnants of such belief system and social structures and practices among some other sub-groups of Nan in the so-called 'pink areas', which I shall further study. According to my intensive field investigation in 1988, all Lua groups of Nan have been the direct heiress of the Lua matrilineal social structure of Lanna in the past (see Cholthira 1991). It was also studied that the Lua groups of Northern Thailand, particularly those of Chiangmai, practiced matrilineal spirit cults according to the investigation by a number of western anthropologists, particularly Paul Cohen, Peter Hinton, Gehan Wijeyewardene, etc. (see details in Cohen 1984) A specific Lua group of Chiangrai, who are now relocated in Lampang, truly believe that their ancestors settled in Chiangrai before any other ethnic groups and even before the Thai communities.² Therefore, it may be reconstructed that the Lua of Chiangrai are also direct heirs of the fore-runner-forest-Lua in early Buddhist era, as mentioned in many ancient palm-leaf texts of Lanna. (Already thoroughly studied in Cholthira 1991)

According to the history related, I am confident that the hypothesis and supporting

² personal information, Euaynaw Tasai (a Lua girl of Chiangrai), and her Lua colleagues in the new settlement at Ban Wangmai, Lampang; December 4, 1999.

data I shall further present in this research, which are based on my major research work about various groups of Lua (China, Myanmar, and Thailand) in *The Dispossessed: An Anthropological Reconstruction of Lawa Ethnohistory in the Light of their Relationship with the Tai* (Cholthira 1991), are accurate and valid enough to support the investigation on the new situation of the Lua of Northern Thailand, who are now threatened by the forest conservation policy of the Thai State.

By the end of the year 1981, the 'peaceful' Lua of Nan area had been disturbed by various governmental sections. However, the military operation of the Third Army of Thai Government (TATG) was dominant. All Communications with the outside world were cut off, villages and their cultivated field; were heavily attacked and bombed by the TATG's air-forces. Since 1983, the area became overrun by the TATG, under the governmental "66/2523 Policy" - "politics preceding military" of Prem Tinasulanond's Government. In 1987, official data from the Ministry of Interior showed that there were 56 villages in *Boe Kluea Nuea* and 22 villages in *Boe Kluea Tai*, all either called *Thin* (in Thai Terms -literally means *local people*; see Filbeck 1971) or *Lua* villages (in the people's terms - their ethnonym; see Cholthira 1991: 45-66). 2,568 Lua households were registered to be indigenous inhabitants of Boe Kluea, while only 16 Thai households were recorded to live among the Lua citizens (Ministry of Interior 1987: 62-63).

The data showed that the Lua were perhaps the forerunners, if some may not be happy with the term 'aborigines' of Boe Kluea [*boo kl a*].

The Lua of Chiangrai: Present Situation

Thailand's rapid economic development has resulted in an equally rapid but degrading ecological transformation. It has also affected the resource base on which rural people's livelihoods depend. Although environmentalism in Thailand has grown considerably in recent years, environmental politics in Thailand are clearly more than a straightforward response to resource degradation. This is in accordance with Philip Hirsch's notion on environmentalism in Thailand that it does not only reflect, but also acts upon, changing social and political relations at many levels. (Hirsch 1999)

In Northern Thailand, both highlands and lowlands including my particular field areas (Nan-Chiangrai-Lampang) and its periphery, the mode of technocratic environmentalism practiced and politicized by the State via the Forestry Division has been the mainstream. Justification of the state take-over has brought with it issues of serious conflict between highlanders and lowlanders. At present, the politics concerning the environmental issues in Thailand is far from being a simple argument between those in favour of extremely green forest conservation and those in favour of sustainable usage and function of ecosystems. Such argument has emerged into complex new arenas that match the political reform, having the Thai Constitution (1997) as its direction and an increasingly multi-faceted 'civil society', interpreted and

acted by many groups of people's organization and NGO.

The present situation of the Lua of Chiangrai who were forced to move from their homeland and have been relocated in Lampang about six years ago, since February 1994, according to the decision made by the Thai Cabinet, is indeed the problem of community rights and state take-over.

As other highland ethnic groups, the Lua of Chiangrai were confronted with problems of increasingly scarce agricultural land, resulting from hydroelectric dams and National Parks. All these matters have affected the livelihood of the Lua in several ways, including their swidden cultivation and their rotated rice field agriculture. These are Lua wisdom, which they have passed on from generation to generation.

Chiangrai Province has been well-known as an ancient city, which could be traced back to the Chiangsaen Period, in about thousand years ago. The Lua of Doy Luang, Chiangrai, which I picked up as a case-study, have settled in Pan District, Chiangrai, over centuries. *Doi Luang* is a Thai term, literally means 'Great Mountain', and *Chiang-rai* means 'City of (King) Mang Rai' – the last Heir of Lawa Janga Raja Dynasty. It was King Mang Rai who moved the capital city from Chiangsaen to Chiangmai (literally means 'New City'). He was then well known as the founder of Chiangmai Dynasty in the 13th Century.

According to an interview with the Doy Luang Lua at their new settlement in Lampang Province (December 1999), *all* senior persons were born in Chiangrai and some could also trace their ancestral line back to over ten generations. It may be hypothesized that the Doy Luang Lua or the Great Mountain Lua, had settled at the Great Mountain of Chiangrai for over 500 years according to their oral traditions, and over 1000 years according to Lawa palm leaf texts. They had lived adjacent to a moderately fertile natural forest which is now declared as a National Forest Park due to the decision made by the Thai Cabinet in the year 1993.

In the past Doi Luang Lua community in Chiangrai relied heavily on forest products for their livelihood. They utilized the forest products for food, raw materials like bamboo for home-use as well as for making handicrafts for sale. It is estimated that about 80% of their food came from the forest and homestead, including medicinal herbs for traditional treatment, and leaves, flowers, branches and tree trunks served as materials for ceremonial practices. Although Lua villagers earned a relatively low income, they lived peacefully and appeared to have a good living condition and good health. The Doi Luang Lua community also had a tremendous amount of knowledge concerning the utilization of biodiversities of animals and plants. Men and women differed in the possession of knowledge due to their different social and family roles and status. The knowledge, in other words, Lua wisdom, was generally found among men and women of older generations than younger ones.

However, the findings support the presumption that Lua women had accumulated indigenous knowledge different from men. This is because Lua women were the ones who went out seeking for food and firewood along the creek and in the forest. Children were educated along the Lua way of life led by the senior women. Therefore it may be asserted that Lua women were potentially the key counterpart in ecological conservation in the Lua community. It has been the case that planning sustainable development would be inefficient or fail if women roles and knowledge are overlooked.

Unfortunately, this invaluable local wisdom was destroyed and the process of learning was interrupted because of environmental politics when the settlement of the long-lived Lua community of Doi Luang had been incorporated into a national sphere. It is the matter of fact that at present, the growth and strength of indigenous ethnic communities are usually considered as threat to national security. To lend legitimacy for the state take-over, Lua community as well as any other hill-dwelling ethnic communities have become scapegoats for various social problems, such as poverty, resource conflicts, drug abuses, crimes, etc. Therefore, forced relocation occurred with increasing penetration of state mafia into village communities, followed by the expansion of market economies, and even globalized expansion, into the communal way of life.

In their new settlement at Ban Wangmai, in Wang Neua District, Lampang Province, the process of state take-over and intervention has continuously weakened Lua community's autonomy and its cultural identity. By making use of so-called 'environmentalism', state policies on nature conservation influenced by western 'extremely green policy' plus urban-based middle class vision, have protruded into the community's subsistent economy and its cultural space, particularly its traditional harmonious livelihood.

Although rural environmental movements led by some academic and NGO groups have supported indigenous highland communities to oppose state policies, especially on conserved areas, i.e., national parks, wildlife sanctuaries, and watershed protection forests, the situation of Doi Luang Lua community at Lampang resettlement as well as other ethnic communities, such as the Lisu, Mien (Yao), Lahu (Muso), and Akha, which have also been forced to relocate in the adjacent areas, *are still at stake* at the moment.

Power Struggles over Natural Resources and Forest Conservation

Confronting with the state take-over and intervention, most highland ethnic communities in northern Thailand have become the social space of power struggles over natural resources and eco-politico-cultural domination.

Community culture has been re-constructed to identify various forms of contestation

between highland and lowland sectors at large. Re-invention of community-based forest management and a push for its recognition through the communal customary laws are, among other things, new trends of the indigenous communities' struggle for human rights, community rights, and land rights as well. In Northern Thailand, according to Chusak Wittayapak (1999), these grassroots movements have currently widened to a "tribal-based movement struggling for citizenship rights and access to natural resources." These civic movements emerged in line with the coming into effect of the new Thai Constitution (1997), stating community rights over natural resources as well as allowing people's participation in resource management.

Although it seems to some scholars and NGO groups that Thailand has moved towards a civil society, where cultural diversity is tolerated, one may still be skeptical. For the Doi Luang Lua of Chiangrai and their ethnic neighboring groups in the adjacent areas who were all forced to relocate in Lampang, it was not only a fake but also a failure. Starvation due to bad harvests, drug abuses, prostitution, etc., have become their forefront situation where there is no way out. Therefore, broad-based alliances of diverse grassroots movements are needed to consolidate the rights to power and sharing of natural resources as proposed by Chusak. (1999)

It is not too exaggerated to claim that the politics concerning environmental issues in the Thai State can also be interpreted as an obvious case of racial oppression and ethnic discrimination as well, stretching between the lowlanders and highlanders, urban and rural communities, and Thai and indigenous ethnic groups, of this multi-ethnic society, where lowland-based state-authorities have pushed forward their efforts to heavily suppress hill-dwelling ethnic minorities. The aforementioned case of the Boo Kl a Lua in Nan Province in the historical scenario of Northern Thailand fits well into this category. Recently, racist patterns and processes in the northern region have been augmented and transformed through acts of the state taking over land and forest resources.

In comparison with other Southeast Asian ethnic communities using a scheme which would affect 60 million people in six Mekong valley nations, Larry Lohmann stated that the Asian Development Bank has proposed to reduce the "population of people in mountainous areas and bring them to normal life". Probably because of this international imported policy, half a million hill-dwellers scapegoated for deforestation in Thailand have faced various kinds of resettlement threats for over a decade (Lohmann 1999). Although there have been various international agencies and foreign environmental organizations providing instrumental encouragement, the situation has not so far improved, but even worse.

In Chiangmai, the most current and obvious case has been the conflict over water and forest resources in the Northern Thai district of Chom Thong, as studied by Lohmann (1999). The case evidently shows that the 'extremely green' inter-national nature

conservationism, national park ideology, scientism and positivism interact with the expansion of state territorial control and notions of hierarchy and mapping to re-embody the classical racist dualism of exclusion/assimilation. Such international environmental racial oppression, in Lohmann's investigation, also plays a part in creating conflicts among the NGO groups. As the matter of fact, it has been a British support NGO group who manipulates the lowlanders Thai (Yuan) to dispute with the highlanders Hmong. This conflict which led to several phases of aggressive and violent acts has made possible new spaces for anti-racist resistance among academic and NGO movements.

On the other way round, an interesting case showing international supports for highlanders' human rights and community rights in Thailand via the internet has been a landmark issue for highlanders' resistance to the state intervention. The case of Akha at Ban Huay Mahk, Chiangrai Province, will be elaborated in my field report (cf. pp. 175 ff. in this issue) to show how the global agricultural system has affected a small traditional Akha community even in the most remote area of Northern Thailand. It will also show how the international human rights supporters could assist the Akha to seek a way out of their dilemma. The illiterate Akha resistance against relocation, which expressed in terms of thumbprinted-voting for their community rights and the unbelievable international supports from the internet community that occurred just recently, has been a challenge to the state's tolerance and the process of political reform - creating a process of people's participation in Thailand, in accordance with the Thai Constitution (1997), Article 46.

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BAN KHRUA COMMUNITY: Ethnohistory, Struggle, Resistance, and Social Movement

Cholthira Satyawadhna (Project Convener)

One of our research programs on community rights issue has been dynamic, empirical, and interactive for over years. Starting from the first year of the 1990ies, Ban Khrua Community in the midst of Bangkok City has been confronted with the state-policy – to build a sub-express way crossing the community. The Ban Khrua Community has resisted to the state-policy and formed an Ad hoc Committee of Ban Khrua, organizing its people and planning its strategy and tactics to fight against the Expressway Bureau. Ban Khrua has served not only its Islamic God and its people, but also has demonstrated its dynamism to outsiders in the country and abroad for thirteen years. Therefore it has become the highlight of our research program to prove that a small, but strong and potential community, is able to maintain its cultural values and to conserve their community rights against the state apparatus.

Taking Ban Khrua as a focal case-study of non-violence resistance and social movement, Cholthira Satyawadhna spent seven years with her research team, field-investigating and working closely with the Ad hoc Committee of Ban Khrua Community, headed by Saroj Phueaksamlee. Pioneered by Jean Buffie and Mahidol University's researchers on their culturally oriented studies of Ban Khrua, she geared her participatory action research to the study of Ban Khrua and developed the approaches of the research to be more eco-politico-culturally oriented. Then she further turned her research methodology to the reconstruction of the Cham ethnohistory as the ethnic Cham are the ancestral line of most of the population of Ban Khrua. In 1994, the result of the first phase of her research – "A Reconstruction of Cham Ethnohistory and Oral History of Ban Khrua Community", served Ban Khrua as one among those important papers and presentations which were submitted to the so-called 'Public Hearing Committee' appointed by the Ministry of Interior. The practice of 'public hearing' in Thailand in that period was still in its infancy, and this was the first ever practiced in Thailand. Together with the Ad hoc Community of Ban Khrua's presentation, the appointed Public Hearing Committee took all data and concepts into account and found it sensible and accurate enough to advise the state and the cabinet to reconsider the process of destroying the ancient community Ban Khrua. Although the cabinet has not yet withdrawn its decision, Ban Khrua in the year 2000 still survives with dignity and integrity.

Ban Khrua: The Origin of "Thai Silk"

The rapid growth of social and economic changes in Thailand is the major factor that has led such a long - surviving as Ban Khrua of Bangkok to a dead-lock. The Ban Khrua Muslim community is actually composed of more than

2,000 families, most of which are descendants of Cham, an ancient group of Malayo-Polynesian speaking people¹ in the old Khmer Kingdom. The residents of Ban Khrua were resettled in Bangkok when it was founded about 200 years ago. They first came to Bangkok as captives and refugees, then have become one among the most earliest settlers of Bangkok. Having been true Bangkokians according to their history of settlement, they are now facing with a traumatic dispute which has been dragging on for more than 10 years, i.e., the claim to preserve their community while the construction of a new expressway is planned to cut across their community which has lasted for over two centuries. The argument has led to a call for 'public hearing', the first official one Thailand has ever had, held at the Ministry of Interior. The Cham residents of Ban Khrua strongly argued not to build the small branch of the expressway which is planned to access the World Trade Center. Anyone who witnessed the public hearings of the issue, held six times, would be sympathetically inclined to give strong support to the Ban Khrua residents.

The Ban Khrua community, the original Bangkokians, has contributed to Thai society in many ways. Having brought with them knowledge of navigation, the ancestors of Ban Khrua joined the Siam Navy and fought for the country in several war crises, while the women of Ban Khrua supplied both urban and the rural in many provinces with craft, i.e. silk.

Jim Thompson's Thai silk, which has now gained world-wide fame, the pioneering promotion of what is generally known today as "Thai silk", actually originated from the Ban Khrua community. Skilled Cham weavers of Ban Khrua were assigned to produce silk for Jim Thompson's export business since the end of the Second World War.

Ban Khrua residents' claim for community rights is well justified and crucial to Bangkok's cultural heritage. Their cultural ties are ethnic and religious. Even today the community remains closely tight to its Muslim identity. Most families are still 'extended' ones and communal assistance is common in life-cycle rituals, particularly

¹ Present-day linguistics has updated their understanding of the Cham language and dialects used by the Chamic speaking groups in Asia, including the Cham of Ban Khrua, although no-one in Ban Khrua could speak Cham.

"CHAM, WESTERN (CAMBODIAN CHAM, TJAM, CHAM, NEW CHAM) [CJA].

4,000 in Thailand; 195,000 in Cambodia (1988 govt. figure); 10,000 in Malaysia; 3,000 or more in USA; 1,000 in France; 100 in Saudi Arabia; 213,000 in all countries, or more. There are about 10,000 in Ban Khrua, Bangkok, and possibly in refugee camps. Several thousand are in Viet Nam. Also some in Yemen, Libya, Indonesia, Australia.

Austronesian, Malayo-Polynesian, Western Malayo-Polynesian, Sundic, Malayic, Achinese-Chamic, Chamic, South, Coastal, Cham-Chru. The language differs somewhat from Eastern Cham of central Viet Nam. They have an old Devanagari-based script. Roman script is under discussion in USA and elsewhere.

Austro-Asiatic influences. There are conflicting reports about whether the Cham people in Thailand still speak Cham or have shifted to Central Thai. Recognized fairly recently as Cham. They are thought to be remnants of Cham people who fought in the Thai army about 200 years ago..." (work in progress.)

in wedding ceremonies and funerals. Their strong attachment to the community and the territory of Ban Khrua seem inexplicable to others. Field investigation shows that all parents and ancestors of the Muslim Cham of Ban Khrua were buried on top of one another, as Muslim rites dictate, in the community's cemetery for two centuries, forging their inseparable ties to the place.

These unique qualities have preserved the community's culture. It is a living culture which the residents of Ban Khrua have developed their sense of "belonging" to the land identified with people whom they have shared social, economic and cultural relations.

Women of Ban Khrua, daughters of the weavers of "Thai Silk", declared,

"We are waiting to see if we are given justice. We will resist if it is unfair because we have all the evidence in our favor. If they want our land, they must first take our lives."

The Ethnohistory of the Cham of Ban Khrua Community, Bangkok

The Cham's shared ancestry

A hypothesis exists that between 2,500-3,000 years ago an ethnic group sharing the Cham's ancestry had settled at the lower part of the central plains of Vietnam. Anthropological evidence at the Sa Huynh village of Quang Ngai Province indicates that this group of people had utensils such as axes with rectangular stone heads, cloths as well as tools made of copper and iron. The Sa Huynh community was thus regarded as the founder of the metal culture in Vietnam. Moreover, the community was also knowledgeable in the making of earthenware and stone bead decorative accessories, weaving, farming, animal husbandry, and building houses with elevated floors, raft houses and small boats for short-distance traveling along the coast. The Cham during this period were animists and preferred to bury the dead in large stone jars.

The Champa Kingdom (A.D. 192-1471)

The ancestors of the Ban Khrua Cham originally settled an ancient place which is in the territory of today's Vietnam; some others are said to have settled in China's southern region along the Vietnamese border. In the early period of the Champa Kingdom (A.D. 192-603), China's earliest record portrayed the Champa society thus:

- *The Cham people built walls with furnaced bricks covered with furnaced plaster and built their houses on raised foundations called 'ganlan'.*
- *They had deeply-set eyes, high nose, black and curly hair.*
- *The nobilities wore leather shoes; the commoners walked bare footed.*

- *Their king wore tall hat decorated with golden flowers, clothed himself in silk, and traveled on elephant.*
- *Ancient Cham women commanded high status, inherited their lineage through maternal line, pierced their ears and wore large earrings, garbed themselves with a single piece of silk. Marriages among members sharing the same matrilineage were a taboo.*
- *Musical instruments during the era of the Champa Kingdom included lute, five-stringed fiddle, flute, conch shell trumpet and drum.*

Tracing the history of the Cham ancestry: the Ban Khrua Ethnicity

A.D. 137 — The Lin Yi was the original Cham people, according to Chinese records. The Lin Yi had mobilized troops to resist the Chinese royal guards since the early second Christian century.

A.D. 284 — Existing evidence suggests that the Lin Yi king despatched an emissary to the Chinese court to discuss the relationship and conflict with the Chinese.

A.D. 400 — There appears in the Cham's oldest records the name "Bhadharavaraman", a Cham king who built a shrine to worship the Siva deity, considered to be an exquisite piece of architecture.

At around the same time, a Cham inscription, written in Malayo-Polynesian which is considered an oldest example of this language in existence, commanded citizens to worship the Naga guarding the pond.

A.D. 500 — Chinese and Indian cultures had strong influences on the Cham culture. However, the Cham continued to preserve and pass on their indigenous culture encompassing their knowledge and skills in boat building and navigation, the weaving of cotton and silk, the making of earthenware and the ancient Cham language. They also adopted the cult of worshipping stone pillars, transforming it into one of worshipping the Siva linga (phallus) and developing it into their national religion.

Cham: The Warriors

The 5th century — The Cham had long engaged in combats with the Chinese, alternately losing and winning, followed by warring with the Javanese, Vietnamese and ancient Khmer because of the prosperity of the Cham Kingdom derived from its marine trading with foreign countries.

11th-15th centuries — The Cham engaged in heavy battles with the kingdom of Dai Co Viet and were forced to move their capital from Inthapura to Vijaya Nakara.

A.D. 1417 — Vietnam conquered and annexed Vijaya Nakara into its Annam Province. However, the Cham in the south continued to resist the Vietnamese.

A.D. 1720 — (Po) Klongquan, the last Cham king, passed away but the resistance against the Vietnamese persisted.

19th century — Vietnam was colonised by France. The Cham's youth movement called the Che Bong Kga Unit put up a resistance against the French in A.D. 1402 but was suppressed. During the Vietnam War, a number of Cham fought against the Vietnamese government and the United States.

Present — In Vietnam, the original settlement of the Ban Khrua ancestry, the Cham have become an ethnic minority with only about a million inhabitants.

The Cham in Kampuchea

The Cham Kingdom collapsed in 1471, and its people dispersed in different directions. A group of them reached western Kampuchea in 1830 and settled at Kampong Cham, Kampong Som, Kampong Chani. They started rebuilding themselves until they were prosperous and skillful in agriculture, commerce, fishery, shipbuilding, navigation, art and craft, wood sculpture. They were also skillful carpenters and silversmiths as well as experts in breeding silkworms from which they made silk. This group of Cham was the direct ancestry of the Ban Khrua group in present-day Siam.

The Cham in Siam

Thai historical records show there is evidence of the existence of Cham settlements at Wiang Lek close to Buddhaysawan Temple since the early Ayudhya period (13th century) during the reign of King Borom Raja (the fourth reign of Ayudhya). The Cham community was identified by their settlements along the riverbanks in the town of Patagumcham through which canals passed. These Cham are believed to have arrived by boats and later to have formed a militia to put up defense at sea. They had since served the Siamese Kingdom throughout the Ayudhya, Thonburi and Ratanakosin (Bangkok) periods.

Ban Khrua Community: the Cham in Bangkok Metropolis

The exodus of the Cham from Kampuchea to Siam occurred in three separate waves because of war.

The first wave — This was toward the end of the Ayudhya period. King Taksin who was a skilled seafarer had led a naval force to attack Kampuchea and on his return brought with him a number of Cham who settled by the waterfronts in Bangkok.

The second wave — This was during the first reign of Ratanakosin era. King Phra Buddhayodfah Chulaloke (Rama I) commanded Chau Phraya Chakrimut (of Cham origin) to lead the Cham militia to attack the main town of Kampuchea. The town governor accepted defeat. A group of Cham were moved to settle at a bamboo forest by the Phayathai meadow (Wang Sra Pathum). These were the first ancestors of “*Kh k Khrua*” because they included their entire extended families. *Kh k Khrua* were long-time Cham inhabitants of Kampuchea and spoke Kampuchean as their first language. Their settlements in Phayathai were on land donated by the founding king of Ratanakosin, King Rama I.

The third wave — This was the largest wave during the third reign of the Ratanakosin period. They arrived following King Phra Nangkhiao (Rama III)’s campaign against the Vietnamese and Kampuchean. Even during the fourth and fifth reigns, a large number of Cham families continued to march along and join the

original groups of Cham at Phyathai meadow, maintaining the tradition of living with their extended families. These latter groups, however, settled along the Mahanak canal and the newly-dug Saen Saep canal. The *Kh k Khrua* were also subdivided according to their dialects such as Phummapriang, Phumma-prang, Premslorg. Only later did they begin to speak Thai in their daily life.

The Ban Khrua Ancestors

The first groups tended to enter the naval profession serving the Thai Navy, descending from naval officers of the Cham militia (*Koong Asaa Cham*). The founding ancestors included Luang Preecha Charnsamut, Commander of the Royal Crown Prince Naval Forces, who played a major role in the battle with the French invasion naval forces; Luang Sakorn Yutthawichai, Director of the Thai Navy; and Phra Pholsinthawanat (Ae Aisanawin), Director-General of the Ordnance Department.

Chronology of events surrounding the Uruphong-Ratchadamri Collection and Distribution Road *Compiled by Ban Khrua Ad-hoc Committee (founded 1988)*

This chronology of events obviously shows how brave and tolerant the Ban Khrua people have been so far. Their struggle and resistance to the state are so remarkable that this community is praised as being the show-case of non-violent resistance in present-day Thailand.

- 1982** JICA (Japan International Cooperation Agency) studies economic and engineering feasibility of the second-stage expressway project.
The collection-distribution (CD) road is not yet in the plan.
- 1983** The Techapaibul group wins the bid to develop Phetchabun Palaceland
May for the World Trade Center project.
Sep 20 Contract is signed for the World Trade Center project.
- 1985**
Mar 12 Cabinet approves the second-stage expressway project.
Mar 27 The architect who won the design competition sues Wang Phetchabun Company.
- 1986** The Expressway and Rapid Transit Authority (ETA) commissions
NECCO
Jan Company to conduct project feasibility and environmental impact assessment studies as well as engineering design. CD road is included in the Terms of Reference.
June The National Economic and Social Development Board finishes the proposed development plan for the Bangkok Metropolis including a proposal for the CD road.
Dec 15 ETA board approves a revised plan for the CD road.

- 1987**
 to
 June invest in the project.
 Aug ETA announces it will invite investors. Two companies express interest.
 Dec 31 A land expropriation decree is issued.
- 1988**
 Feb 29 Ban Khrua and Hua Chang communities petition Prime Minister Prem Tinsulanonda against the pending eviction.
 Mar 23 ETA board begins negotiation with the Bangkok Expressway Co. Ltd. (BECL).
 March Ban Khrua residents stage two protest marches.
 April Ban Khrua forms an ad-hoc working group to oppose the CD road construction.
 Sep 15 The House of Representatives considers a motion on the dispute between Ban Khrua and ETA and resolves to ask the government to review the project.
 Sep 20 Cabinet passes a resolution on the expressway route and allows ETA to sign
 a contract with BECL on condition that the contract must be reviewed by the Public Prosecution Department. Debates ensue over whether the cabinet resolution demands changes to the CD road or scraps it altogether.
 Dec 19 Public Prosecution informs ETA of its objections to various clauses in the draft contract with BECL.
 Dec 22 ETA signs revised contract with BECL. Important changes to the project design include cutting the length of the CD road from 2.8 km to 2 km and reducing the number of on-off ramps to two, namely at the Hua Chang Bridge on Phya Thai road and the World Trade Center on Ratchadamri road. No specification for the ramps is mentioned.
- 1989**
 will
 Apr 18 Interior Ministry informs the cabinet about changes to the route which not pass through the mosque and cemetery in Ban Khrua and measures to help residents who must be relocated. (There were conflicting claims four years later about whether the cabinet was also informed of the 800-meter cut
 in length of the CD road.)
- 1991**
 Nov 12 ETA officials and police officers attempt to enter Ban Khrua but fail.
 Dec 31 The land expropriation decree expires. A second decree is issued. However,
 the length of the route specified in the decree remains 2.8 km, raising the question whether ETA has informed the cabinet about the cut in length of the route.
- 1992**
 Jan 14 ETA requests the government spokesman's office to clarify the Sep 20, 1988 cabinet resolution whether it demands changes to the CD road or scraps it altogether. Spokesperson Ladawan Wongsriwong declines, but claims were later made that the spokesperson had clarified in favor of the

- road construction.
- Dec ETA officials together with 500 police commandos forcibly enter Ban Khrua community to put up notices on houses targeted for expropriation along the expressway route.
- 1993**
- Apr 22 Ban Khrua Ad-hoc Committee demands the Interior Ministry confirm the revocation of the CD road construction or organize a public hearing to resolve the dispute.
- Apr 28 Interior sets up a committee to organize a public hearing chaired by Dr Narongchai Akrasanee.
- June 25 Last meeting of the public hearing committee is held.
- Oct 7 Public hearing committee announces its finding, recommending the revocation of the CD road project. ETA protests, arguing that information submitted to the committee was out of date and demanding that the hearing result be voided.
- 1994**
- Apr 18-20 Residents of Ban Khrua, Hua Chang, Phetburi 20 and Wat Pathum Wanaram communities stage a three-day protest rally at the Government House. Prime Minister Chuan Leekpai meet with the protesters, and deputy Interior Minister Suthat Ngermuen drafts a memorandum of understanding to hold another public hearing.
- May 23 Interior minister Gen Chavalit Yongchaiyudh signs the announcement to appoint a second public hearing committee chaired by Dr Ammar Siamwala.
- Jul 6 Second public hearing begins.
- Sep 12 Last session of the hearing.
- Oct 28 Deputy city clerk Chanasak Yuwabun signs a second memorandum of understanding.
- Nov 9 The hearing committee announces its finding which reconfirms that of the first committee.
- 1995**
- House
- Mar 28 PM Chuan confirms before community residents at the Government House the decision to proceed with the CD road construction disregarding the findings of the two public hearing committees. However, he announces that the route of the road will be shifted to go above Saen Saeb canal, an act which is in violation of the Environment Act.
- 1996**
- Jan A third land expropriation decree is issued, maintaining the length of the road at 2.8 km.
- Nov Ban Khrua Ad-hoc Committee is invited to provide information about the environmental impact of the project to the National Environment Board.
- Nov 12 The Ad-hoc Committee is invited to provide information to the cabinet under PM Banharn Silpa-archa. Subsequently, the cabinet approves the construction project on the condition that measures to mitigate the environmental impact must be devised and made acceptable to the affected communities.
- Dec 16 Ban Khrua representatives submit a petition against the project to PM

Chavalit Yongchaiyudh through deputy PM Samak Sundaravej.

1997 Ban Khrua residents organize an exhibition entitled
Mar 7-8 ***"Looking Back-Looking Forward: 9 Years of Struggle of the Ban Khrua***

Community".

"None of the more than 10,000 souls in Ban Khrua consider money more important than happiness. Instead, they see the value of living together as

a

community and social stability to be of greater importance."

2000 Headed by Saroj Phueaksamlee, Ban Khrua residents voiced their firm
resist
Sept via a television programme, "Lan Ban Lan Muang", Channel 9. Together

with the other two supporters, Dr. Cholthira Satyawadhna and Dr. Kingkaew Atthakorn, it was confirmed that they would never withdraw themselves from the site. Yuenyat Jaismudr, Vice-President of the

Express

Way Bureau, proposed a way out by pass on the argumental issue to the High Court. All speakers for Ban Khrua insisted that it's the duty of the cabinet to withdraw the case.

The show-case of Ban Khrua's non-violent resistance, their strength, their unity, and their tolerance won the heart of Thai elites and gained compliments and supports from well-known Thai intellectuals:

"Ban Khrua Community Is Ban Bang Rachan"

Assoc. Prof. Srisak Vallipodom, Archaeologist, **Muang Boran Journal**

"The public hearing on Ban Khrua was the first in Thailand to be endorsed by a cabinet resolution. But it ended in disaster. In other words, it was flushed down the loo with only four liters of water."

Prof. Dr. Nithi

lawsriwong, Historian, **Daily Manager**

"How the legend of Ban Khrua will be passed on depends somewhat on your help to weave the ending to be as smooth and beautiful as the silk made in Ban Khrua. Let's pray that this piece of silk will not be dyed in red."

Dr. Cholthira Satyawadhna,

Anthropologist, **Silk Magazine**

"But the expressway is threatening Ban Khrua people. Although the tension is somewhat lessened, it does not mean everything will be well. Threats against community people in the past had made Bangkok a modern city but devoid of history and spirit."

Dr. Charuwan Lohveera and Dr. Jean Buffie, Ethno-linguists

"This struggle is not the last for Ban Khrua folks because brave men are the root of the land; they have fought for a very long time."
Saengdao Sattthaman, Poet

"Isn't what the Ban Khrua people are doing the drafting of a cultural constitution, the building of political custom for the public sector and the people?"

Dr. Seksan Prasertkul, Political scientist-activist, **Daily Manager**

"An attachment to the homeland, the belief that government projects and works lack honesty, justice and credibility — all this has led Ban Khrua people to believe that they have not been dealt with justly and they will fight against this injustice to the end."

Kwansuang Atipothi, Planning architect, **Daily Matichon**

"I consider this cabinet resolution one that: 1) refuses to listen to academic evidence; 2) lacks complete facts, while the selected facts lack credibility because they have not been revealed to the public and cannot be inspected; 3) lies; 4) is biased in favor of the rich; and 5) is power mad."

Dr. Kasian

Techapeera, Political scientist, **Daily Manager**

"The lesson learned from this case is that the government uses a double standard: the government is more afraid about breaching its contract with a private company than breaching its contract with the people of Ban Khrua."

Dr. Ammar Siamwala,

Economist, **Siam Post**

"The digging of a grave by Ban Khrua people is not a preparation to commit suicide because suicide is sinful in Islam. Nor is it to kill others without reason because an Islamic principle forbids killing of all living things deliberately or without reason. But if it becomes necessary to fight a holy war, that is to fight a war with good reason, then it cannot be faulted."

Thammakiat Kan-ari, Journalist, **Daily Manager**

"How the legend of Ban Khrua will be passed on depends somewhat on your help to weave the ending to be as smooth and beautiful as the silk made in Ban Khrua. Let's pray that this piece of silk will not be dyed in red."

Cholthira Satyawadhna,

Anthropologist, **Silk Magazine**

The case of Ban Khrua Community is also so attractive among graduate students in Thailand and abroad. Within ten years of my participation action research, I have been asked for information, requested for advice and invited to be one among Master degree's Thesis Advisory Committee by several universities' lecturers and students. The following abstract is the synopsis of a research recently submitted for the requirements of Master Degree in Sociology and Anthropology of Thammasart University. Chuleerut Chareonporn spent six-month-period of intensive fieldwork in Ban Khrua in 1998-1999.

The focal study of this thesis is "Social Movement and Organization: The Case Study of Ban Khrua Community". The objectives of study are to analyze conditions effecting the emergence and development of this community's organization and struggle process of the community's members on protesting against the building of the Second Stage Expressway System Project. The study applies a qualitative

research method, participant observation, key persons in-depth interview (organizational leaders, rank and file members and Ban Khrua people in general), supplemented with official documents and newspapers. Chuleerut found out that the outstanding point of the Ban Khrua movement is a long capable stability on fighting against state's power. The main condition which led to success in their protest is social cohesion of the Ban Khrua people which rooted from their "being Islamic" and the community's relative autonomy in economic, social, cultural, and political affairs. This community's relative autonomy empowers them to resist the state policy. It is in the internal organizations which was deeply rooted from their social and cultural heritage. It has established the strength of the community's organization, and has been the heart-core of their movement for a lengthy period of more than ten years.

The significance of this study is the discovery of Ban Khrua community's potentialities which have led Ban Khrua to become a leading organization in present-day social movement in Thailand. These potentialities are:

- (1) the adaptability of community structure to achieve the goals, such as the change of tactics to adjust their leading organization and to enrich their tactics under the involved situations;
- (2) the capability to collaborate with other net-works, both Islamic and non-Islamic, to share experiences on process of movement and to seek for more alternatives of tactics in their movement, followed with distinctive cooperative academic group who assisted them in terms of supportive moral and information. Muslim politicians, Muslim leaders and media lend their helping hands by promoting the Ban Khrua movement to public;
- (3) the changeability of tactics in movement process.

The good relation between the Ban Khrua Community organization and their collaborative groups has been the significant and decisive factor which brings success to their sustainable social movement.

HUMAN, CULTURAL AND COMMUNITY PROPERTY RIGHTS A BASIS FOR SOCIAL JUSTICE. THE AKHA AND HOW THEY ARE AFFECTED IN THAILAND**

Matthew McDaniel*

Justice: A Basis For Consideration

The Human desire for justice, that we, that others, are not the victims of oppression, that we have access to what is ours, and that we have some means of appeal for our grievances, is common to all of our lives. We desire to have control over the fruits of our labor, to build up some level of security, based in the land, from which we can expect to safely grow food for our survival and well being. In what we call "advanced" or "developed" society, the land and food model is a little more distant, and this can effect policy. However for many societies, especially indigenous societies, there is little that is more important than their relationship with the land.

We seek justice, on common themes, common to humans. We encounter disputes, we organize bodies for review and settlement of these disputes, or at least we feel that this would be ideal. But in reality much justice is an illusion.

As humans we invent, proclaiming that with our inventions, justice will more readily come, progress and development, equality. But more often than not these end up being phantoms of the future. On the local level there is often little form by which we can address our grievances. With the advances of technology, we can contact almost anyone within moments. This gives the illusion of better and instant communication, the resolution of conflict and misunderstanding. Yet our technology would seem to out perform us. Certainly it works better than our ability to organize it to an end.

There are few greater issues for concern, mediation and appeal than those issues of justice surrounding the right to land, and to the manner in which one would live on it, which we call culture.

The availability and ease of access to the system of justice is key to resolving disputes, yet it is lacking. Artificial barriers to access are created, classes of society are separated, and the oppression continues. One can not stress enough, that if the access to justice regarding land and other issues is not the corner stone to the society, the society will fail to provide the most basic rights to its inhabitants.

Without this firm foundation in access to justice we can build no model of

** This article was prepared in July 2000.

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community property rights, cultural rights, or human rights. It is the lack of this access to justice that is most noticeably overlooked as communities seek to solve conflict. If justice is not provided on the community level, for community issues, it must be sought outside the community on the provincial, national or international level.

In many cases, the artificial creation of nation state boundaries has led to many disputes, which are swept aside and go unheard because international bodies consider them to be internal issues to the state, for purpose of convenience and denial. If international appeal, which is the most logical, is dysfunctional, the door remains long closed on the abuses of human, cultural and community property rights. It does us little good to understand all the boundaries and defenses of what is "ours" if when it is taken away by force, or twisting of the law, or by decreed policy from the top, we have no means to judicate the matter.

The world society today is taken up with carefully placing the emphasis on understanding what our "rights" are, while the manner of seeking justice for these rights is ignored. The powerful take, and keep on taking, the gap between rich and poor widens, and the local land owner becomes a serf for a landlord on land which used to belong to the family for generations. The fact that the one exploits the land for financial gain, in excess of the need of the land for food, is ignored. On the other hand the original farmer, be they Akha or Thai, needs the land for food for the family and may not even own so much as a motorbike or car.

It is hard to proceed with concepts of community property rights based on a foundation of justice, when the trend in property ownership is outside control, established by "legalized" ownership of land, rich people being able to buy up large tracts for non food uses, while the poor have not enough to grow food on.

Certainly the issue of farming ownership to those who are present on that land should be given consideration, beyond just the disputes of private vs. government control and ownership of farming and forestry lands.

An additional and enormous complicating factor is that the current international economic model will continue to demand centralization of resources, and until this is also addressed, the issues surrounding community property rights may well be defeated, whether or not the individual farmer owns the land. If the individual farmer owns the land, but must farm it for product that must flow to centralized markets, for export or consumption in the cities, the sense of community property rights is defeated from its intent. So for the moment, while resources dwindle, and local communities take a larger role in demanding that they have control over what belongs to their region in the way of land and other resources, the international economic model will get around this by continuing to exploit the resources anyway, no matter who claims to own them. And it is here that the value of the Akha economic and social model must be considered.

Errors in current international systems can be summarized as this:

- Lack of local and regional justice.
- Lack of international appeal.

Definitions of justice allow injustice to continue by only switching the name.

The Akha And Local Land History

Currently in Thailand it is popular on the part of the government and policy makers to state that the Akha are immigrants to Thailand, *persona non grata*, and should appreciate any morsel or scraps thrown down to them. Many Akha still do not have identity cards and cannot travel safely in Thailand free of Police harassment, fine and imprisonment. The education system is improving but continues to popularize false stereotypes of the hill tribe peoples as environmentally destructive, drug runners, prostitutes, spreaders of the HIV virus, and uneducated social undesirables. Groups effected by these attitudes include the Akha, Lahu, Lisu and others. It is government policy in many cases that these people can not own any of the land for any reason, that they are only squatters.

It would appear that this propaganda is fostered mostly by those who would have something of shame to hide. For instance it might be in the fact that the Akha, as a group, provide a fascinating tourist destination in Thailand, and while the Thai community exploits this to the maximum for tourist dollars which they consume, the Akha community is otherwise castigated and denied equal rights. Few tourists know the restrictions on the land, on travel and access to government services that the Akha experience. None of their countries have such conditions imposed on populations within their borders.

The basis of this propaganda is that few people know the true history of the hill tribes, and their presence and use of the land in Thailand. The Akha land ownership model is based on human need, not on books, colonizers, and borders. If you need the land, if you can farm it, then it belongs to you and you farm it, because when you get old, you will die, you will no longer farm it or eat the food it grows, and hence you will no longer own it. This is for them very practical. So what we have is a dispute as to whose legal system takes precedent, and there is no reason to discredit the Akha system vs. the Thai land and border system.

The Akha are considered migratory and land squatters. However this is hardly a case of nomads, who also have a claim to land, as humans should have a claim to land. For if we look at the history of the Akha in regions determined to be Thailand we must consider geography and who has been living there.

As well, the Akha, who have hundreds of years of history up into Yunnan, China, at the most, in these hundreds of years, have migrated no more than about 400-600

kilometers. I would hardly call this nomadic.

In the case of the region of Haen Taek, there was little to no Thai activity in these regions up until the last few years. Back ten years ago there was hardly what could even be construed as a road, and getting to Hua Mae Kom was a major event by motorcycle, let alone truck. Few Thai lived in the region, fighting was common because of border disputes, and only small groups of Thai soldiers attempted to exercise control over these areas. So from the aspect of history of residence, surely it is the Thai that is the newcomer.

But even if we respect what is given as the Thai borderlines, there is still dispute. Akha villages have history in these border regions, all mountains, all in areas Thai did not travel into very often, for more than 100 years, and before them the Lisu, Wa, Lahu. Some villages have been kilometers into Thailand for more than a hundred years, but the greatest changes in the locations of Thai villages have come as a result of the conflict of armies, not intentional migration of the Akha.

If we look in the Haen Taek region we find that many villages where they are located now were in fact moved by the army, or by border fighting from the border areas. The border with Thailand in these mountains is rimmed with Akha villages, as these were the highest locations.

Villages were often within a few hundred meters of what is now considered the border, making it obvious that they were border villages with their roots in Burma, not Thailand. But the Thai army in many cases forced these villages against their will to move, or soldiers on the Burma side retaliated for local actions by raiding these border villages and burning them or raping their women, which caused them to flee into Thailand further. Lack of vision and provision of security for these villages without conflict was a shortcoming of the Thai side and a misunderstanding of the environmental impact of forced village relocations and what increased development of these regions would further do.

But rather than admitting to errors in policy, the government and army, which is not necessarily distinguishable one from the other, put the blame for both alien citizen status and environmental degradation on the very hill tribe they forced to move. Akha villages that had been at their border sites for more than a hundred years, with little dispute with anyone, now had the problems of others thrust on them and took the blame for it as well. Being citizens of Burma, they were forced deeper into Thailand and then labeled as aliens and invaders heavy on the hospitality of the Thai. Such is the case of many villages in the Haen Taek region.

In addition to failing to admit to the true legal status of these citizens, that they were from Burma, were pulled deep into Thailand, yet not afforded refugee status or citizenship status, little consideration has been given to the impact on the Akha

themselves and their community. It was either assumed that they would survive, so it did not matter, or assumed that they would not survive.

In meetings with numerous government officials in Thailand it was clearly stated that the Akha were to be continuously displaced from their mountain homes, "assimilated" and made into a labor class for the convenience of the Thai. No consideration is given to the legal status or rights of these Akha people in the international community. This would not be so tragic if it were not true that a large population of Akha now make up labor forces in Thailand, much of it unsavory.

As to the survival of the Akha and other relocated hill tribe groups, a careful look into their locations and communities brings out harsh realities. Once located carefully in the mountains, the product of choosing village sites based on altitude, wind, and the ability to grow food continuously over many generations as a result of collective knowledge from so many years and ancestors, these proud and self sufficient people were broken up from big villages, scattered, lost their lands in which they had invested generations of labor, and were moved to areas where they were given no comparable land, pushed into stifling river bottom locations where the change in altitude and environment brought on illness of the people and the death of their livestock, a valuable source of protein.

One only needs to travel to the old village sites to comprehend the colossal stupidity of forcing these people to relocate in an age of environmental concern and human rights. Villages were carefully built on the top ridges, the land full of tall grasses, wind, water, and gentle slopes that did not erode easily. Great forests existed from which wood could be gotten for houses, simple houses, and in which the cattle and pigs could find cool shelter and feed, raise their young. Trails and terraces were built, fencing was in place to keep the cattle out of sensitive farming areas, and water sources were protected. There was nowhere one could look without seeing either sunrise or sunset and the mountains below for kilometers. These people did not go down to the valley asking for trouble, it was the people of the low lands who came up to them and began to tell them that they were foreigners and that they must do this and that, and move their village. Fruit trees and bushes with berries were common, birds and animals for hunting plentiful, and crops rotated from one land plot to another. One family, one village, only chose to farm close to home, only farmed for what they needed, and so the idea that forest was continuously cut was more a concept of convenient imagination than reality. However the Akha can tell you when the low land people came up and logged all the big trees off their mountains. These were the first roads. With the building of bigger roads for a host of reasons, came policy. And with policy came schools and stores, and the pressure and requirement to need money. Money increased the burden on the families to not just grow food but grow crops that brought in money, be it opium or cabbages. Increasingly Akha were arrested for this

and that offense, not offenses which they identified and policed but offenses that were called on the basis of an outside referee with no hope that they, the people of the community, would have any say in it, and so they saw their fathers and husbands and sons taken down to the jails of the lowlands, not to come back for years. Heavy fines were extracted, girls went to town to find jobs that would pay such heavy fines, not good jobs, not jobs that you or I or other civil people would want their daughters to do, but all legal here in Thailand. Villages were forced to relocate to places that would grow no food, and during the years that it took for the village to get back on its feet, to invest the labor back in the new land to make it productive, more girls went to town to find cash to take up the place of the lost land. And every time the Akha got relocated, and the people who relocated them told them to go ahead and farm, they got collectively blamed for deforestation, one can hardly blame them now for being cynical. Even to this day, the Thai forestry department takes over the new land they were given to farm, planting pine on all sides, a non native specie pine for a possible commercial crop, as there is no environmentally sound reason for it. The Chiangrai Forestry Department is chiefly to blame for this disastrous policy. Now thousands of rai of land, once carefully managed by Akha villages, has been totally cut clear, pine has been planted, and below the branches of the pine no other specie of any kind grows, replacing thousands of rai of jungle and productive lands with a bio desert. And each time forestry takes new land for this use, the Akha are pushed deeper into the existing forest to find new plots to grow food, and once again blamed for cutting trees whenever this occurs.

The lack of visible and well organized central clearing house for environmental information in Thailand has made it possible for this incredible environmental destruction to continue unbeknown and unseen by the Thai population at large, who might very well choose a different environmental policy in regards to this land than what Petroleum Authority of Thailand, which sponsors the plantings, and the Forestry department envision.

So as we see, community property rights, or human rights, have little meaning besides discussion, without the means to bring justice to each and every issue. The hand that does the damage is hidden, while the people who suffer the consequences of the foolish and greedy policies of others, are made to pay both in public relations and poverty.

Living in conditions that few would want to live in, with no view of the horizon, and with little land to farm, communities often resorted to illegal activities such as drugs. While Thailand tolerates a large population of brothels for its social needs, the hill tribe girls, coming from such impoverished backgrounds of family emergency are castigated as easy and natural prostitutes. Such attitudes often come out in conversations with both Thai government officials and well-paid and secure

missionary personnel. It is very difficult not to notice the issue of race and superiority based on presumed differences between these cultures.

The natural education system of the Akha is scorned and taken away, while decrying their lack of a Thai style education, which would suggest that the only kind of education one can or should have must be a Thai schoolbook education.

This issue is at the heart of where values are placed, and sovereignty of people who live on the land, farm it for food, and maintain their cultural and religious beliefs. For after all, if we disrespect or fail to understand the culture of another, we can hardly suggest that we are willing to give them control of the land they live on.

So in considering the issue of rights of people, we must look at these rights from the standpoint of a sphere of rights, not just convenient rights, but all the rights which cover all the aspects of life of a people. We cannot claim to be for human rights, while the clinics turn away those who cannot pay, yet millions in Baht, squandered by the countries risk taking rich in bad bank loans, is absorbed by the government.

All forms of rights can only work, when the people own them as defined by their community. It is not enough, just because outsiders say they now have enough rights, enough quality of life. It is enough when the community understands and has say in what effects it, and is able to call for a halt to actions imposed upon it which are causing it damage.

Community rights can not occur if outside policies of propaganda, in spite of the truth, continue on for an agenda that brings about disregard for the stated community and ultimately degradation and social structure failure.

Western Driven Ideologies That Affect The Akha

Many of the changes that are imposed from outside on the Akha community based on assumptions come from dictates of those outside communities as a result of their relationship with the western cultures which have co-opted them.

On one hand the British widely traded drugs, opium in particular, in the Asian hemisphere. Yet a few years later, the collective memory gone to amnesia, the west is the standard barer of drug morality, imposing its will in both war and policing on the Thai people and inhabitants along its borders. Under the pretence of stopping the drug crop of opium, at that time a well-established part of the economy for the hill tribe people, the pressure to burn crops and arrest growers and users increased. More roads were built to establish a full drug free zone out to the limit of the Thai borders and many evils were imposed on these communities in the process. If one looks at the

history of this process over the last ten years, one can say that it is true, that little to no opium is now grown in this region, but the region is environmentally unrecognizable compared to what it used to be. An incredible environmental loss has occurred, but the national community does not recognize this loss.

The west is now establishing economically throughout the world, what it used to try and establish by war and colonialization. Central policies are controlled by trade, communications, travel, patents, banking, loans, and trade treaties. The western economic model is based on the growth of economy and this economy is based on the increased exploitation of the environment. Selling this policy to countries such as Thailand has brought about increased hardship from risk in the financial sector that failed, and by the non-stop pushing of consumption of manufactured goods, displacing old systems of sustainability. Thailand competes for its place in this new system, rather than find an alternative. To fuel this effort at competition the Thai people must write checks based on the chief resource it has, the environment. Rather than look for an alternative system, the Thai are told by the west, that if they run faster, if they exploit more cleverly, they can still beat the clock somehow. So if there is too much use of water, you don't slow the use, you concrete in all the creeks and every location you can to bring the water more expeditiously to the city. And you place increased restriction on the poor people who are using some of it.

One of the penalties of this new system is that products that were not popular, were not considered wise, and were not manufactured in Thailand, began to be imported into Thailand from western countries and countries set up to manufacture to the western system. A host of motorbikes spewing toxic gases, two cycle models, came from Japan. There are more and more autos and highways. Electricity with its horrid web of cables and poles was pushed out to every Akha community where solar models had already been successfully tested. It was quite clear that development, opening up of these communities was sought, to increase sales of consumable goods to them, to increase traffic in and out of the villages, and even in some cases to speed the decline of the community. Communities which lived in isolation for years, were seen as backward and needing of development with no consideration to what this development would do to them. Ironically, many people in the west, long tired of the abuses and excess of development and consumption, were seeking these exact models of sustainability to go back to. So development must not be overlooked as a weapon, depending on how it is used.

But no issue of development promises to have a longer term impact on the environment than the increasing introduction of herbicides into this region. No government policy or law has been sited to stop this disastrous development for both people, land, species and water systems.

Herbicide is now pushed in all the stores as a quick solution to labor marginalization.

Where kids worked in the fields to some degree with their parents as they grew older, the Thai schools now take them to "educate" them, and the labor gap is filled with farming chemicals.

The Akha were not the problem, lack of government will was. Now herbicides are increasingly being used for the profit of chemical companies which sell them, and the Akha are spraying them on mountain fields, damaging soil organisms, and contaminating the workers, finally flowing with rains into the water shed and contributing to the contamination of regional waters. In the low lands the Thai had already been using these products for years, and now these last regions were being added. Yet in another case of mugging the facts, the Forestry department came out to say that the reason the Akha villages must now be moved was due to pollution of the watershed. But the people pushing toxic substances far in excess of opium, were not sited in these one sided accounts.

One is made to wonder, when the west complains about the flow of toxic compounds such as opium and heroin, while they are busy exporting millions of liters of far more toxic and environmentally unsafe and long lasting chemicals into the environment of these same countries, where the products are far from the training and caution that came with them in their invention. Heroin use may have many harmful side effects to the west, to the users and their society. But herbicides and pesticides have far greater reaching effects and are used far less discriminatingly throughout the soil and water community. Yet little consideration is given to this, and you can legally sell this toxin in any Thai community, where as opium is forbidden.

The Thai education system, providing education for adults moving into an industrial society, was chiefly built on western norms, at the exclusion of all else. While the Thai system was completely following this western method, spaces for alternatives with much longer histories were not allowed. So rather than looking for instance at the environmental wisdom and knowledge of the Akha education system, because it was not western based it was rejected. We can hardly speak of community rights, while the system, one by one debunks and rejects all of these rights and the choices that they depend on and make throughout the centuries.

Akha children often come away from Thai schools being made to feel that being Akha is inferior, as compared to being Thai. As well, they are displaced from their own educational system, based on deep knowledge of their food working environment, herbal medicines, soil protection practices and healthy foods and protein.

Little stores come to many villages, as well as schools, selling a host of chiefly junk food, sugars, coloring and air. One sees more and more food being imported into the Akha community, much of it with low nutritional value, white rice as compared to heavy mountain dark rice. So with time, the Akha community moves further and

further away from food security, and more and more of the food has high trucking miles attached to it.

Yet if we compare the educational norms we can find no reason why the Thai system is superior. If the Thai choose it, they should use it, but the Akha model should not be scorned, marginalized or rejected. In addition, we see few to no Akha teachers in the schools. This can hardly be good for Akha children that Akha teachers are not included in the educational process.

If Thailand were to recognize the benefit of different education models, not just that of the west, it would also have hope of reviving and preserving its own traditional knowledge which has been greatly lost in Thai society due to these compromises and abdications to western thinking as the only good way.

Benefits of the Akha Model

We can hardly look at community property rights without looking at culture, farming and education of the indigenous people. We must ask why they continue to use a system for hundreds of years, a thousand over? Is it just because they are stupid and don't know to change, as many would claim, or could it be that the system has great value and that it even has many secrets and wisdom to offer larger societies too caught up in their own impressions?

Without even waiting for the future, we can see that the Akha model has great wisdom about the environment and sustained use. Only a short stay in an Akha village will cause one to realize that the Akha are not prone to being big consumers. Houses are generally made of a little bit of wood, bamboo for the most part and grass thatch. Few own cars or motorbikes. Few own TV's. The interior of an Akha house will usually reveal a small number of clothes, blankets and chiefly cooking utensils. As far as the Akha system goes, without increasing per capita environmental burden, it could continue on for years to come. It is only the increased consumption that is being imported and imposed on the Akha that is bringing the change. The Akha model is based carefully in the production and protection of food sources, and has little inclination toward industrial modernization or consumption of goods that they did years without and for the most part don't need now. But this is one of the best kept secrets of greater Thai and western societies, that the commerce elite must have consumption of an ever new array of goods, to keep the people working and spending their money into these folk's coffers. This increases the flow of money from the poor, toward the top, selling goods that do not last durably for a long time, with a heavy emphasis on electronics. Even the effort to replace water buffaloes with tractors has increased the use of fuels and also driven the buffalo into decline, no longer viewed as a national resource. The trend pushed by the corporate sector in society is for more and more consumption, though this model is shown to be fatally flawed both for

natural resources and human justice. The population is not offered wise models of conservation of the land and food security. Water is exploited, not protected. Protection comes only in forms to protect it for the high consuming sectors of society in the cities. No moral consideration of community based property rights can by pass the issue of consumption as a society standard, as it is this model which has been imposed which will do the most to damage the local communities and make community property rights in reality, only a fantasy. People, even if they do "own" the land, will be working harder and harder to buy many things they do not need and pay increasing fees for services they did not ask for.

We cannot assume the limitations to development, as other communities have imposed on themselves are bad. The concept of sustainable development appears a contradiction in words as it seems to fail at selectively controlling itself.

Further, we must look at the system of Akha culture, religion and land use as an integrated model, one that like a great snowball or rolling stone, picks up investment with time and increases in kinetic energy, with the knowledge and wisdom saved, saving time and work, preserving the community, the traditions and very importantly the land. The Akha are not just people, individuals, as advocated in the west, in a slight of hand shell game, but they are a tribe, a clan, villages, and not just one village but a collection of villages, and not just a collection of villages but the current point in a processes of villages over centuries that moves on the forward wave of knowledge and investment in the land.

This process within Akha society and its reflections in the land can be seen in time marking of Akha villages. The oldest Akha villages have the greatest investment in terracing, moving up from the bottoms, terracing more and more of the suitable land, and partially terracing other lands for preservation of water shed and soils. Terracing started at the bottoms collects any run off sediment from hillside farming.

Unfortunately, and conveniently, when environmental degradation is sited among the Akha, it is invariably done at the site of a recently relocated village. Little consideration is given to the massive destruction of labor investment that these people had in the land, so little environmental wisdom is understood on the part of the people who relocated them. They are just people you can move when you want. After an Akha village is moved, it may take anywhere up to twenty years and longer for a collection of new knowledge about the new location and the building of terraces to begin to occur. The labor involved in building terraces is no small matter. The Akha don't get to rely on a poorer group of people to do the hard work for them at nothing wages, they must do it themselves. What would the Akha be owed in Baht, if they were compensated for this lost land labor investment and seen as more than tourist attractions and curiosities?

The Akha invest extensively in water management, building canal systems to

move water across mountain faces, and increase its benefit. The moving of water increases the use of terracing and lowers erosion.

Around older Akha villages naturally occurring fruit trees and cultivated ones can be found, but generally not so many in villages younger than twenty years. In the older locations, individual fruit trees were destinations, not just trees. Mango trees more than a hundred years old are testimony to the time the Akha lived in such that the current time of environmentalism is not the only one.

Akha traditions are aimed at one thing, living a good life, and bearing children and leaving them land to live on. Based on this, the culture is carefully woven to avoid repetitive mistakes, avoid conflict, continue to use land close to the village, and most importantly continue to raise good children to take one's place. The Akha cannot comprehend that any level of consumption could legitimately replace this, as some of the failed western models might suggest.

Akha culture is not compartmentalized. There are not laws for people and then laws for the land. The law applies to people and their relationship to each other and the land. Some days you go to the fields, some days you can weed the rice, some days it is forbidden. But this is no mystery to the Akha, like a carefully timed clock, they turn at the right moments, then move freely about. The turns set at the right times, seem little inconvenience, in perspective of not just the individual, but the village, the entire system of villages and the whole race going on, very close to the earth, closer than most other parts of society in Thailand, under much more harsh conditions.

Akha culture and law dictates festivities and ceremonies at particular times of year, rotating around the planting and harvesting of rice. There are also rituals for births, deaths and marriages. Seemingly odd from the outside, it is carefully constructed with a rhythm in mind, keeping on track but with the greatest flexibility.

The Akha work hard, consume not much more than the food they eat and have much more free time than their western counterparts. Yet they are continuously told by others that they are backward and must consume more in order to prove otherwise.

The government has attempted to move schools into the regions in which the Akha live and the children are moved into this educational structure. Unfortunately this is often at the expense of their own educational system which is not recognized. Schools generally do not have Akha language lessons. Traditionally an Akha child will grow up learning all they need to know to raise their kids and the food to feed them. They extract from the land chiefly only what they need to eat and feed their children. The consumption burden on the earth is small. Yet they are told their education, which does not include books, is not good enough. Children in the western style schools are told that they must go to school to be a part of society, to know how to support themselves, and to be able to take jobs in an industrialized world. Yet if we

look at the Akha model, we see that in this model, not only are the resources not heavily exploited, but that the Akha, if undisturbed, do very good at both taking care of themselves and raising enough food to eat. So it would appear that the Akha model, based on farming, cuts much more quickly to the goals than the western model, but without supporting industry. For if all the Akha are farmers, who will work in the factories? Certainly not the Akha. The Thai school system further does damage to Akha culture, on one hand not being integrated into their culture and on the other hand removing them from their traditional education environment along with their parents. This is the first step in the state taking over control of the children, away from their parents. Children offer an important role in village and family farming life, working along with the family in the fields, learning from a very small age what it takes to farm, information about the natural world around them, every component. An Akha child can readily identify bugs, which ones are dangerous, which ones eat the crops, and which ones can be eaten. The western model education system divorces them from this natural world.

Children learn through festivals, more than twelve regular ones per year, how the crops are maintained, their view of God, and the forces that control nature, and how not to disturb these forces such that crops are always abundant. Ceremonies and festivals occur at every important stage of the rice crop that it be healthy, that the soil turns out well, that the heads be strong, that the rains come, and that the bugs don't eat the crop. Any abnormal variation in the crop will bring about more ceremonies to rebalance the environmental spiritual balance such that the crop becomes healthy again. Even in the case of insects, they are not killed, as many more will come to replace them, instead the village takes the day off and asks the insects to leave, closes their eyes it is said, and send them on their way to another place where there is no rice plants to eat. Respect is given to ones parents and the parents before them for living wisely and bringing children safely to this stage, such that they could grow and have children again for their own part in the future of their clan. Year after year the cycle is successfully repeated. The Akha model could best be described as an agricultural and environmental theology. If we do not draw comparisons of the Akha model and the outside forces that are being imposed on them with ill results, we can not understand the heart of the issues involved in community based rights, which should include right to run your own lives, education and religious beliefs without domination from other cultures.

One is reminded of what occurred in many places in Africa, where the colonizers required a tax, which was placed on people that had plenty of food, so that they would have to move themselves into the jobs offered, in order to get the coinage to pay the tax. They could not pay it in other resources, and by this means their communities were often broken up, families separated, men having to go off to work in distant mines and so forth.

Thai administrators in Chiangrai Province stated that jobs were being increasingly offered in the towns to hill tribe people through their government programs to encourage the hill tribe youth to move out of the mountains. This would not sound all that odd, except it was spoken combined with the often stated desire of many agencies to move all hill tribe villages out of the mountains. Once again, it is defeating such agendas that is back at the heart of community based rights.

Comparative Village Examples

Huuh Mah Akha is a village near Haen Taek that was caught before it was moved. This village had been at their current location for more than 78 years and had a level of nutrition reflective of this. Extensive rice terraces were built, there were plenteous fields with no new cutting of trees required. Pigs, water buffalo, cattle, and horses were plentiful. The children enjoyed good sources of fruits and vegetables, the nutrition level in the village quite satisfactory.

Huuh Mah Akha had no record of arrests or illegal activities. There are no drug users at Huuh Mah Akha.

Against this backdrop of a healthy life, Forestry Department Officials and Local Army officials decided to move Huuh Mah Akha to set up more region for planting pine in the guise of protecting the water shed. This mentality is not a solely Thai creation, and we must be careful and exact to point that out, but is backed by policy from the Asian Development Bank to relocate mountains peoples and streamline watersheds for city use.

In this scenario the Akha, the Lahu or the Lisu, are seen as non-relevant species to the environmental process. This situation also denies the contradictions that exist. For on one hand the natural jungle is removed, and replaced with a bio desert, and at the same time, the most serious known agents of toxification to the watershed are freely sold in Haen Taek. So high altitude or low, the most dangerous toxins are being freely allowed to move into the watershed system. Rather than ban the use of these agents that would stop the pollution, the officials take the opportunity to displace people, which does not stop the pollution. In addition, the location that was prepared for Huuh Mah Akha to move to, in itself did serious environmental damage, causing massive erosion and reckless silting of existing rice terraces of the Lisu community below the site where the mountain was bulldozed away for houses. This was just another case of short-term thinking. However, the moving of Huuh Mah Akha was stopped, further disturbance to the environment was halted, and the village continues to prosper. The military, like having a one track mind to change something, determined that if the village was not to be moved then a new disfiguring road should be carved up through the pristine central canyon, which makes up the chief view of Huuh Mah Akha, and that power lines should be brought in, even though Huuh Mah Akha has an ample solar supply. It seems the only answer is develop or nothing. No

healthy alternatives are considered.

Pah Nmm Akha was a village across the valley from Huuh Mah Akha also near the Thai border. So close in fact, it would be very hard to say that the village was surely in Thailand and that the citizens were in fact Thai. It would be more logical to presume that these Akha were Burmese citizens. The village had a long and secure history on the ridge top, farming the same location for so many years. Investments had been made in terracing, fruit trees, and water. The small area around the village was cleared of trees but the great forest was below, undisturbed. Lahu and Lisu lived nearby. But close to nine years ago the Thai army arbitrarily decided to move this village as if no other solution was available for border security. They moved the village several kilometers down the hill. The Akha stopped on top of a hill, while the Lahu and Lisu and one other Akha village moved into the very bottom next to the creek, a most unhealthy and unnatural choice for any. The villages near the creek saw the greatest drug dependency, cultural breakdown and criminal activity. Pah Nmm Akha which remained higher fared much better. The village environment was also much healthier, but not without problems that previously did not exist. For one thing, and this may seem a small matter to some, but the Akha always were people who chose to live high in the mountains, where it is cold, the wind blows and your eye can see forever. To move them to the bottoms was similar to taking away the ears of a great musician. There was no longer room for pigs and cattle to roam, and the pig population declined radically. Chickens also fared off worse and died of fever. There was no adjacent land to farm so the villagers had to still walk back up the mountain to find fields. So it was o.k. to farm up in the mountain, but not live there, in a most perverted form of imposed logic on the part of the Thai Forestry and Army. But since most the old fields were still too far away, the Akha were told to farm the lower lands. So areas that were fully forested for years were cut for farming again, by the Akha under the direction of the Army. Of course, neither the Army nor Forestry takes account for this. Just the same, the distance that has to be walked to the fields, instead of minutes at a normal village location such as the old one, but more than an hour, close to an hour and a half. All farming tools, materials, seeds, and crops had to be transported by back and by horse this distance. A woman working in the fields would have to walk three hours per day, just to get to the fields and back, to say nothing of the long hours in the field. Impracticality of field location imposed by the Army eats up one third of the working day of these people. And as if this was not enough, the forestry begins to plant more and more pine on these depleted lands, pushing the Akha once again.

If in fact the Akha are aliens, then they are aliens that the Thai Army acquired, not aliens who strayed or migrated into Thailand.

Cheh Pah Kah is a village closely located to Pah Nmm Akha, close to that

original altitude, but for a number of factors it was not relocated. Comparing the prosperity of Cheh Pah Kah and Pah Nmm Akha we can see that where Pah Nmm Akha went backward, Cheh Pah Kah prospered. The village grew in size, tea and fruit plantations flourish and a tea drying plant has been bought means of a village co-op. The Akha in this village continue to enjoy years of terracing and water work investment, as well as stable living environment.

Factors of Increased Land Degradation

While there is much discussion of land use, forestry, and watershed protection we must assume that these motives are the cover for a different agenda due to the incredible contradictions of fact that they include.

Currently in the Haen Taek region a significant amount of the area is farmed and lived on by Akha, Lahu and Lisu hill tribe. Tai Yai make up another ethnic group, but there are few "central Thai" living in the area. While stating concern for the land condition, more roads are built with great damage done due to silting, erosion and land slides, totally burying terraced rice in some cases. Bottom land terraces of black clay are now filling with red mud. The population is increasing as the road is built and more and more Thai relocate into the tiny mountain location, putting up big gaudy houses and shops on every roadside. The quantity of trucks and cement moving into the region and the condition of the road as a result is plenty testimony to the influx of new comers. Now their shops are demanding wood from the mountains for cooking so more and more trees are being cut. There is a much greater creation of sewage and garbage, putting more strain on the local water supply and drainage. Herbicides are now plentiful in the stores and encouraged for use, totally in denial of what they are doing to the watershed of a before pristine area.

It would appear that the true agenda of this region is a racially based agenda, to move as many Thai into the region and take away as much of the land from the hill tribe as possible to reinforce the Thai for Thai mentality of nationalism. The Army is in place to continuously tighten the living conditions and freedoms of the Akha, both land restrictions and arrests for drug use are such instruments. It is worth noting that the village with the least desirable location given to them by the Army, also have high drug trafficking problems and criminality. Should not be any surprise.

Disturbing the original farming has also created over-farming of some lands, increasing corrosion and depletion, the normal rotation cycle of the land having been put to an end.

So as we look at events that effect the environment, we must ignore who made the decisions that did the environment such damage and ignored so many rights of the people. When we ask administrators why these actions are taken, they can only point concerns for the environment and the security of Thailand, while having ignored all the factors which they promoted which actually increased the problems. The Akha

and other hill tribes are of course, caught in the middle of this propaganda and administrative action. It is worth noting that racial bias and geographical isolation made these actions possible.

Predators

In this highly marginalized environment with little representation we find the Akha being harassed non-stop by foreign missionaries and local missionaries supplied with moneys from the foreign missions. Villages that are marginalized the heaviest are the first to succumb to the pressure. A host of fabrications are erected to show the Akha how they are themselves to blame for all that has occurred to them and that as soon as they become Christian or whatever, their lives will improve. A more sinister set of lies could not be fabricated or imposed on a poorer people, robbed of most all they had. Though the government supports Buddhism in Thailand, it would appear that their allowance of the missionaries into these tribal regions to "civilize" them is rather convenient. In the villages that have been pacified in this way, the worst living conditions are found and the least resistance to the events that have impoverished them can be found. It is clear that the missions do not raise the standards of the people, but demand that they give up their souls for tiny morsels of help, the most money can be found invested in dark church buildings. Young people particularly those who can bear more Akha children are taken away from the village to low land schools to "help" them while it is fully known and desired that they should not and do not go back to the village or their culture. The Thai government has knowingly stood by while the Christian missionaries have harassed, pressured and denied the Akha their culture under a host of guises and fabrications to the truth. The Thai government cannot show where it has acted in good faith to either recognize the Akha as refugees, annexed citizens, or tribal peoples worthy of protection. The Thai government has failed to show good faith in protecting the culture of the Akha from these proselytizing forces and the deterioration that occurs with forced village moves and marginalization. Local army policy has been to marginalize and displace the Akha to the greatest possible degree. Local administrators make no secret of wanting to move all the hill tribe to the towns in the valleys where they can be nothing more than a serf labor class. The men selling drugs, the women prostitutes, a degradation of the poor visible in many countries in the world.

At the same time this lack of moral will on the part of the government has highly damaged Thailand's reputation as a safe haven for distinct cultures. Possible the host of tourists to the hill tribe are over and now it is only time to relocate them all and see their culture disappear for good? The tourism money has been spent, the Akha the bait, but certainly not the recipients of the money made off the process of showing them off to the outside world.

What ever the complaints of the poor and land use, we see it is the cynical

actions of the greater society that create the injustice. Without redress of this ongoing stream of injustice, we can hardly expect to progress toward community rights of land and forests. To whom should the Akha appeal for this justice?

Ongoing Problems

The Akha and other hill tribe groups now fight an ongoing effort of many years to assimilate them into Thai society as a non distinct group, and to displace their villages from their native locations in the mountains. While throughout the mountains we see plenteous resorts which consume a huge amount of land with benefit to only a few elite, the Akha are denied land because there is a "land shortage". At the same time many new Thai are moving into the area, taking more and more of the land that was used for farming.

The Akha will continue to face these problems as long as they lack governmental and legal representation and as long as the government maintains policies that work against them. The Akha language is not taught in schools built in their communities, and assimilating them as a backward people continues to be the talk. Increased political and human rights for the Akha are the only basis for a policy of improved community rights of land and culture.

Hope For The Future

If community land rights, protections for human and cultural rights are put in place and administered in Thailand, then rather than assimilation and failure of the Akha community, we could expect to see the respect for distinct cultures and the complementing of these cultures to each other. The Akha as a mountain people, willing and able to farm the mountains and make them flower, preserving water and soils and forests and animals. Certainly it is a benefit to all to have this variation of culture within a larger country.

As well, in this manner, the extensive knowledge of the forests, soils and plants of the mountain jungle regions will not be lost. It is the most just consideration to include people as components in the environment, not just so many humans to be displaced for convenience and policy. This is best for the environment and the people who live in it. When we deny that there is this relationship we can expect to see cost accrue that are not so easy to pay later on.

LOSS OF MON RIGHTS: A Mon Nationalist's Perspective from Sangkhlaburi Sunthorn Sripanguen*

Sangkhlaburi is the northernmost Amphoe (District) in Kanchanaburi Province, the most heavily forested province remaining in Thailand. 230 km north of the provincial capital, Sangkhla still has the feel of a 'wild west' town. Amphoe Sangkhlaburi contains 3,350 km², comprising 2,500 km² of forest and mountains, and 335 km² are under the water of Khao Lam dam. The remaining 515 km² are used by the populace of 19 *muu* (villages), mostly ethnic Karen, Mon and Lao.

It was only in 1984 that Sangkhlaburi became accessible year round by road. The town was re-located to its present site when the Electricity Generating Authority of Thailand constructed a hydro-electric dam at Thong Pah Phom, 70 km below modern Sangkhlaburi on the Kwae Noi river.

The town is split in two by the lake. On the Eastern side is 'Sangkhlaburi proper' - 'Thai side', where the Thai and Karen live. Here is the school, the main market and the Amphoe office. Five minutes walk across the longest wooden bridge in Thailand is Wangka: the "Mon side". At the foot of the western embankment are dozens of floating houses, where 'longtail' boats and dug-out canoes plying to and fro.

Today, the Mon constitute the largest segment of the town's population of approximately 10,000. Nearly all of them are living on the temple ground of Luang Pho Uttama's Wat Wangka Wiwaikarm on the Mon side. Most are engaged in small business, day labor, trading or fishing. Very few have full Thai ID (many have relatives in Burma and/or the refugee camps). Apart from Sangkhlaburi municipality, there are several other Mon communities surrounding it such as Baan Mongsathay, Baan Mai, Songklia and Phra Chedi Saam-ong. Other ethnic groups in Sangkhlaburi include Karen, Burmese - Tavoyan, Arakanese and ethnic Burman (workers, and political dissidents). A small Bengali Muslim community is centered around the market and the Mosque.

Dominating the Western skyline is the golden, Mon-Khmer style stupa of Wat Wangka Wiwaikarm. The sixty foot stupa is coated entirely in gold-leaf, and has more in common architecturally with the ruins of Ankor Wat in Cambodia than it does with the Thai or Burmese genre. Luang Phoo Uttama, the revered Mon abbot, is able to offer patronage and some protection to the estimated ten thousand Mon living in and around the temple grounds. The Luang Phoh's birthday at the beginning of March

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is a major festival, which draws Thai and Mon visitors to Sangkhlaburi from Bangkok and beyond.

The roof of the monastery at old Sangkhla can be seen poking out of the lake not far from the foot of the new pagoda. It is said that further south, beneath the water, there are three more small pagodas, marking what was once the ancient border gateway and Mon community site where the confluence of three rivers namely Bee Kee, Song Klier, and Rantee is situated, but there were no ethnic Thai villages to the West, or for many miles to the North of the town.

In the 1970s and 1980s, Thai-Chinese merchants were attracted to the town by the cross-border trade, and several Kanchanaburi trading families established a Sangkhlaburi branch.

The Thai population in Sangkhlaburi is the only community with full citizenship. The Mon, Karen and other groups have either a limited refugee status, or no ID at all (the indigenous forest Karen generally have a *bat chaao khau* 'hilltribe card' - a kind of second class Thai ID). Although their numbers have grown throughout the 1980s and 90s, the Thai/Thai-Chinese are still outnumbered in Sangkhlaburi by both the Mon and the Karen. The workers in the restaurants and shops are nearly all Mon or Karen, often from the Burmese side of the border. Several thousand Mon from Burma, who arrived in Thailand before 1976, were issued with 'pink cards', allowing them to stay indefinitely, and work in the border provinces.

This paper traces Mon nationalist rhetoric in Burma and Thailand with emphasis on the town of Sangkhlaburi.

An Ancient Mon Community in Sangkhlaburi area'

There are ruined *chedii* (stupas) in Sangkhlaburi area. Some square ones bear architectural characteristics of the Dvaravati period, while others were also constructed by the Mon in later times in octagonal shape. Fragments of Buddha images, votive tablets and earthenware urns containing bones have been unearthed from the crypt of the stupas.

Judging from the geographical positions of the sites, it can be assumed that Buddhism was introduced in the area from India via Moulmein, across the Tanao Si mountain range, through the Three Pagoda Pass, and reached the Upper Khwae Noi river area, later proceeded to the Mae Klong river and Tha Chin areas, and finally flourished in the area covering Pong Teuk, U Thong, Khu Bua, and Nakhon Pathom.

In the mid-16th century, the Burmese King Tabinshweti suppressed the Mons in Lower Burma which had affected the Mons to move to Moulmein in lower Burma and

¹ Muang Boran journal, July-September 1984

many of them moved still farther, crossing the border, to Kanchanaburi province in western Thailand. Various activities of them are covered in detail in the chronicles entitled *Kong Trawen Khwa Kau Dam* (The Tight Regiment of Border Patrol), and *Kong Athamat*.

These Mon immigrants were Buddhists, and thus they constructed *chedii* and halls like all other Buddhists. Particularly in the area near Pak Lam Plok, remains of ordination halls, assembly halls and *chedii* of various types have been discovered in groups, showing that the settlement size must have been considerable. This area appears in the chronicles as Sai Yok. Later the name of the settlement was changed to Tha Khanun, became devastated and finally was abandoned as a result of continuous wars between Burma and Thailand.

Immigration of Mons into Siam

One would almost expect to find a great influx of Mon into Thailand on the occasion of the taking of Pegu by Alaungphaya in 1757, but there seems no trace of any general flight at that time. Perhaps the Mon were so paralyzed by the slaughter which ensued that there was not sufficient strength left for any general movement. According to the Mon Chronicle, on a Friday in May, 1757, (on the 5th day of the dark half of the month Vaisakha, according to the lunar calendar) at the time when old people sleep (about 9 o'clock in the evening), the Burmese King Aungzeya took Pegu. On Friday the 6th of the dark half of the month Sravana (August of the same year), an earthquake took place. The Muhtau (Shwemadaw) Pagoda fell down, and the umbrella and crown fell also. Aungzeya was of a very fierce and cruel disposition, and made no account at all of life. There were over three thousand monks put all to death. Only the monks who lived right out east of the Sittang River took flight across to Martaban, and went away on to the Siamese cities of Lampun and Chiangmai, to escape from death.

In the year 1759, Aungzeya marched an army into Siam. On this march having taken Tavoy, Tenasserim, Tanao-si, Petchaburi, Ratburi, he at length reached the neighbourhood of Ayuthaya, but on the west bank of the river. There the king contracted a swelling in the hidden parts, and remaining only six days, he struck camp, and marching on the return journey reached Raheng. On a Friday in May 1760, (5th day of the light half of the month Vaisakha), Aungzeya struck camp and marched his army from Ayuthaya on the return journey. On Sunday the 13th of the dark half of Vaisakha (May), he reached Raheng. On Friday the 13th of the light half of Jyestha (June), he reached Mae Phra and passed away in the jungle.

A great influx of Mons into Thailand apparently took place in 1774, in the reign of Sinbyushin, a few years after the fall of Ayuthia. Siam had again asserted itself under Phaya Taksin with a new capital at Thonburi. Sinbyushin was determined

to recover what he considered lost ground. An army was sent to operate in the north. The governor of Martaban had collected a force chiefly of Mon to enter Siam by way of Tavoy. When a few days out the Mon troops mutinied. The Burmese governor returned to Martaban with a guard of his own countrymen, but was soon followed by the Mon with Phanya Cin at their head. He fled to Rangoon and was pursued thither. The near approach of a Burmese army only hindered the Mon from taking him in his own stronghold. The Mon people retired to Martaban and a month later were obliged in their turn to flee with their wives and families. Some fled to Siam. Others remaining in the forest were taken by the Burmese.

Paya Maha Yotha, the general in command of the Siamese force sent over toward the Burma frontier to watch events during the first British-Burmese war, must have come over at this time or very shortly after. He told Captain Burney, when the latter was paying him a visit, that he had come over from Burma when only thirteen years of age. His father had been governor of Martaban under the Pegu dynasty. He was surrounded by much more military state, Captain Burney said, than any chief he had yet seen. Captain Burney was much impressed with the old general.

In 1814 again there was another rebellion of the Mon in Martaban, when a great number sought refuge in Siam. They were looked upon as desirable immigration, and on this as on the previous occasion responsible parties were sent out from the capital to meet the fugitives and conduct them to suitable places where land was given and necessaries for their immediate needs amply provided. There is a village and monastery up the Menam in the Pathomthani district, and it is said that paddy was stored there for the use of the Mon. It is of interest to note that Prince Pra Chom Klao, who afterwards became King as the well-known Maha Mongkut, was appointed by the king to meet the Mon of this last immigration, at Kanchanaburi, and to accompany them to Bangkok. The King ordered three royal warboats and lictors as guards.

The Role of the Mon in Siam

Historically, the Siam [*thai sajaam*] and Mon had a profound relationship. At 1281 A.D., Magadu (Phra Chao Faruea) attained assistance from Sukhothai and declared independence from Burma. In A.D. 1565, Phra Narasuan Maharaj, in return, attained assistance from the Mon of Pegu and declared independence from Burma. In the beginning of Rattanakosin period, the Mon, who were posted at seven frontier townships in western Siam, took responsibility in protecting the country from invasion by the Burmese. The Mon took that important task until the British occupied Lower Burma. Then, the war between Burma and Siam had ended, too.

It was only in the reign of King Rama II. of the Ratanakosin Dynasty that ordered Chau-Phraya Maha-Yotha Ramanraj to move all the Mon communities from the western border back into Bangkok. However, after the British had occupied lower Burma in 1824, some Mon from the western frontiers of Siam re-turned into their

ancestor's land and founded their own communities such as Yebu, Aklaw and Chukla village in the State that can still be found to the present day.

The British and the Mon in Burma

Historical Evolution Regarding the Teaching of the Mon Language

Lower Burma was once a Mon Kingdom under the name of Hongsawatoi also known as Ramannadesa. Ramannadesa was culturally well developed since the 9th century. Mon literature was established in Buddhist monasteries since the ruling era of Mon kings. Although sovereign independence of the Mon was lost to the Burmese kings, the Mon monasteries served as the only center of Mon language and literature teaching. Under the British colony (1885-1948), the education system changed from a Buddhist monastery education to various vernacular schools. The Mon language was allowed to be taught in schools in the Mon areas under the British administration. After the independence, the democratically elected government appointed skilful teachers to teach Mon literature in the Mon territory. However, the military government, which got power in 1962 ordered the teachers of Mon literature to step down from their position. Many teachers had to resign. As a consequence, the Mon language was no longer taught in 1965-1966. But villagers who treasured Mon language and literature hired at their own expense Mon teachers to teach their children. It would be difficult for the Mon language and literature to survive without official recognition by the government.

The Number of Schools, Students and Teachers (1999-2000)²

	Schools	Students	Teachers
Primary School	327	42815	748
Middle School	5	3231	71
High School	1	156	7
Total	343	46202	826

The New Mon State Party (NMSP), amongst other ethnic groups, has joined the armed insurgency since the independence of Burma in 1948. The NMSP formed an Education Department in 1972 and opened Mon National Schools in areas under their control Tha-Ton, Moulmein and Tavoy. There are two committees in the Education Department: the Mon National Education Committee (MNEC) and the Textbook Committee. MNEC opened primary and secondary level Mon National Schools. There are 150 Mon National Schools. The medium of instruction in Primary Schools is the Mon language. In Junior Secondary Schools (Middle Schools), Mon History is taught in the Mon language and the other subjects are in Burmese. In the

² Source: Mon National Education Committee

Senior Secondary Schools (High Schools), the medium of instruction is Burmese. Burmese is taught as a subject in all schools. In the Mon area (the three districts of Tha-Ton, Moulmein and Tavoy), there are altogether 340 schools (see the following table). Some 190 schools are under the control of the Burmese Government. MNEC organises evening and weekend classes at monasteries to teach the Mon language to pupils attending government-controlled schools.

However, teachers of the Mon language and literature run the risk to be punished by the government authorities. Some teachers have been arrested. In 1994, some 30 schools were ordered to close because of teaching the Mon language. Again in 1998, 120 Mon schools attended by 6,000 students were ordered to close by the government. Negotiations between the New Mon State Party and the Burmese Government meant that these schools could reopen, but the teaching of the Mon language and literature was not officially allowed.

By the time the British returned to Burma in 1945, it was a question of when - not if - Burma would gain independence. Burmese nationalists had been dis-appointed by the 'false independence' granted by the Japanese, and were eager to get rid of the British as quickly as possible, in order to get on with the task of building a free Burma. However, from the outset there was considerable dis-agreement as to how this might best be achieved. Powerful interest groups dominated national politics, often putting their own concerns above those of the state.

Mon Resistance: 1945-1962

"The Mon aimed to reclaim the traditional and historical homeland of the Mon people which was conquered by the Burmese in 1757 and which did not receive its own rights after independence from Great Britain in 1948."

(Shwe Kyin, President of the New Mon State Party)

Burma attained independence on the 4th January 1948. The constitution, when actually drawn up, turned out to a centralized unitary system with the subtle name of a federal union. This sowed the seed of discontent amongst the signatory non-Burman ethnic groups. Since the military coup of 1962 which brought General Ne Win to power, the situation of ethnic minority groups - which make up nearly half of the country's population - has deteriorated significantly.

At the end of World War II, the All Ramanya Mon Association (ARMA) was revived, under the Chairmanship of Chit Thaung, whose statue still stands outside the Dammar Yon 'Mon Halls', a little to the South of the Shwedagon pagoda in Rangoon. Other prominent post-war ARMA members included the future Mon Peoples Front (MPF) and Mon National Democratic Front (MNDF) leaders Ngwe Thein and Tun Thein, and Ba Lwin, who as Shwe Kyin was in the 1960s to assume paramount leadership of the Mon nationalist movement in Burma.

Because of restrictions placed by the ARMA on overtly political activities, in late 1945 the Christian Mon leader, Po Cho, formed the United Mon Association (UMA). The UMA was founded on November 9th 1945 with the intention to fight for MON freedom

>From the beginning, the fortunes of the Mon nationalists were bound up with those of the Karen. Karen nationalist aspirations had been formulated by a small mission-educated elite in the 1920s and 30s - the period of the Dohbama Asiayone Burman nationalist movement.

A 'Conference of the Nationalities' was held in February 1947, at Panglong in the Shan State, northern Burma. At this historic conference, General Aung San's government-in-waiting issued certain guarantees to representatives of the ethnic groups.

Twenty-four seats were specially reserved for the Karen, the KNU boycotted the April 9, 1947 elections to the Constituent Assembly, which were won handsomely by the Burman (BIA)-dominated Anti-Fascist People's Freedom League (AFPFL). Before the election, Shwe Kyin had been Chairman of the Paung District AFPFL, in Thaton Township. However, due to their frustration at the League's centralised decision making and the lack of attention paid by Aung San's party to their concerns and interests, the Mon group in the AFPFL had broken away shortly before the election, in which six independent Mon candidates stood in support of the "inalienable rights of the Mons in the Constituent Assembly."

The United Mon Association affiliated to AFPFL boycotted the election, too. As the Mon had no separate seats in the parliament like the Karen, the Mon Freedom League competed in the elections for separate representatives.

Mon people's support in the elections prompted the AFPFL to invite the Mon candidates for dialogue. Demands were brought up by the Mon representatives stressing on three main points dealing with political rights, namely:

- (1) To take census of Mon population and allot Mon members of parliament in the House of Representatives;
- (2) To form a Mon affairs council comprising of the Mon members of parliament with executive powers over Mon affairs; and
- (3) To form Mon regular army battalions just as allowed to other ethnic groups.

None of these were conceded. Another vital point of importance demanded was to allow fundamental democratic rights to Mon political organizations striving for their rights of self-determination. This right, the AFPFL leaders said was universal.

The Mon representatives came back dissatisfied and convened the Mon Conference in August 1947 at Moulmein to report back to the Mon masses. At that conference the masses argued that the demand of a small percentage of Mon rights

had been rejected, they now urged their leaders to struggle for full statehood of which the Mon have the rights to claim the whole of Lower Burma where the old Mon kingdom had thrived before.

In the meantime, the Karen National Union also held its conference at Moulmein during the summer of 1948 and decided collaboration with the Mon in the struggle for the creation of Karen and Mon States. In August 1948, Mon and Karen came to an agreement and formulated a four-point pledge, namely:

- (1) Mon and Karen would jointly struggle for the establishment of Mon and Karen States;
- (2) if need be, both are ready to sacrifice their lives for the attainment of their desired aspirations;
- (3) without the consent of one party, the other party is not to go into agreement with the third party;
- (4) when the ultimate goal is attained the masses of the Mon and Karen are to decide whether they would form one bilingual state or form separate states.

Almost immediately after signing the pledge, the AFPFL government ordered to retrieve all the village defense arms from the Mon and Karen villages in Thaton and Moulmein districts. To counter this order the Karen National Defence Organization (KNDO) and the Mon National Defence Organization (MNDO) seized as much arms as they could muster from the villages.

The negative response of the Mon leaders resulted in detention of Mon top leaders. After three days in detention and on the fourth night, the KNDO's army occupied Moulmein town on 31st August 1948 without even a shot being fired and urged the District Commission to sign the release warrant for the Mon leaders. Thaton had been occupied by KNDOs and MNDOs armies the day before. One week later the AFPFL government announced forming of the Regional Autonomy Enquiry Commission for Arakanese, Karen and Mon comprising representatives of all the main ethnic groups, including the Burmans.

At the first session of the Commission the Mon demanded the whole of Lower Burma, which covers areas under the old Mon Kingdom as an Independent Sovereign Mon State. The Karen demanded areas dominated by the Karen in Lower Burma, too. The areas overlapped, but the Mon and Karen reached a full understanding.

The political atmosphere became explosive with the Burmese newspapers airing their prejudicial attitude against the Mon and Karen. During the last week of December 1948, both the KNDO and MNDO organizations were declared unlawful by the AFPFL government. Some of the top Mon leaders were assassinated in Moulmein and surrounding townships and some detained along with the top Karen leaders. The AFPFL government declared state of emergency over the whole country.

Thus aggravating the situation into a full-fledge civil war which lasted over 50 years and is now still on.

Despite vigorous campaigning and strong support among the Mon community, the Mon candidates failed to win seats. This was a major consideration in the Mons' decision to go take up arms the following year. Another factor was the progress in negotiations with the new AFPFL government in waiting which, after the murder of Aung San in July 1947, was headed by the pious and canny U Nu.

In a short account of his life written in 1994, Shwe Kyin states that in late 1948, "because the AFPFL candidates won with a narrow margin of votes over the Mon independent candidates, Prime Minister U Nu invited Mon representatives for talks. A delegation of Mon representatives led by Shwe Kyin (known at that time as Ba Lwin), and including San Thu (assassinated in 1948 by a government secret death squad in the centre of Moulmein) and Sein Tun, met with Prime Minister U Nu and a delegation of the AFPFL government. Mon representatives put up a seven point demand comprising of religious, cultural and executive administrative rights to preserve the identity of the Mon. With the exception of minimal religious and cultural rights, right of self-government over the Mon was rejected."

Shwe Kyin and the Mon Resistance

On the eve of Burmese Independence, Shwe Kyin founded the Mon Freedom League (MFL). The League was formally launched in August that year, at a three day 'Mon National Conference' at Pa Ork village, in Mudon Township, where, "it was resolved unanimously that... the Mons now demand their full birth-right for creation of a Mon State exercising full right of self-determination." The Mon nationalists were now calling for autonomy – if not outright independence – from the Burmese state. The headquarters of the new group was established in Moulmein, under General Secretary San Thu. Other senior members included Tun Thein and Ngwe Thein, Hla Maung, and a rare female Mon leader, Mi Hongsa; Ba Lwin (Shwe Kyin) was MFL President.

As well as the UMA and the MFL, a third new Mon nationalist movement was active in Burma at the time of Independence. This was the Mon United Front (or Mon Independence Organisation), a nationalist 'umbrella group', under the Chairmanship of Hla Maung. The front was well-organised, containing both women's and youth sections (the Samot Mon). Vice-Chairman of the MUF was Mon Thakhinkyi, with Ngwe Thein as General Secretary, and Ba Lwin (later known as Shwe Kyin) as Information Officer.

The first armed Mon organisation of modern times, the Mon National Defence Organisation (MNDO), was established in Moulmein, in March 1948. The MNDO was the para-military wing of the MFL, and was modelled on the Karen National

Defence Organisation (KNDO), which had been set up by Mahn Ba Zan in July of the previous year, as the armed wing of Saw Ba U Gyi's KNU.

The MNDO soon joined the Karen in revolt, and by August of late 1948 the Mon resistance was underway. Earlier that month the Mon insurgents, under Hla Maung and Shwe Kyin, and the Karen, under Saw Ba U Gyi, agreed a four point memorandum. This was to be the basis for a series of such important agreements between the Mon and Karen nationalist insurgents, and helped to forge a sometimes loose alliance that was to last for nearly fifty years.

The Karen and Mon forces occupying Moulmein could only hold out for a few weeks, and the fight for Mon independence since 1949 has been largely conducted in the jungles and villages of Southeast Burma. By the end of 1948 the government declared the MNDO and KNDO illegal organisations.

Burma and the Mon Resistance in the 1950s

By 1950, the Mon nationalists were represented by three different organisations: Shwe Kyin's Mon Freedom League; Po Cho's United Mon Association, and the Mon United Front, which was politically the most effective of the early Mon insurgent groups. Shwe Kyin was released from Mandalay jail on 28th November 1951, just after the 1951 elections, which were again won by the AFPLF... The three Mon nationalist groups united to form the Mon People's Front (MPF), under Chairman Aung Htun.

Following a decade of military set-backs, and the realisation that the Mon nationalists' demands were not going to be quickly granted by Rangoon, on July 19th, 1958 Aung Htun and the majority of the MPF leadership agreed a ceasefire with the government, and over one thousand Mon rebels laid down their weapons. Following the 1959 elections, the Front's Chairman, Aung Htun, went on to become Minister for Relief and Resettlement in Prime Minister U Nu's administration.

At the time of the MPF 'surrender', Shwe Kyin was one of the very few senior Mon leaders to remain 'in the revolution'. On the day that the mainstream Mon nationalists 'surrendered' to the government, Shwe Kyin formed a new underground Mon nationalist organisation - the New Mon State Party (NMSP).

The 1962 Burmese Coup d'Etat.

Until the mid-1960s there had always been the hope of a reasonable, negotiated settlement between Rangoon and the ethnic insurgent groups. The 1962 coup was launched on the eve of a scheduled meeting between the government and a number of ethnic leaders, and one of the main reasons given by the military for the seizure of power was to 'preserve the union'.

During his Union Day speech on 12th February 1963, General Ne Win announced that all ethnic groups within the Union would be guaranteed equal rights and status, but that any separate political entity for these groups was not negotiable. In July, leaders of the Mon, Karen and other groups, including the CPB, held talks with the newly-installed dictator. Shwe Kyin attended the talks as a representative of the Communist-influenced National United Democratic Front. By this time, Ne Win's Revolutionary Council had already quashed plans to establish the new Mon State.

Following the July talks, a remnant faction of the MPF, together with elements of the Karen insurgents, agreed to lay down their arms. Following the 1962 coup, a number of Mon students and others fled to the jungle, where they joined the NMSP. In the aftermath of these events several Mon leaders - including Aung Htun, Than Tin, Tun Thein, Ngwe Thein and Nol Lar - were imprisoned by the regime, on the grounds that they were planning to again go underground. Most were not to be released for a decade.

Founding of the Mon Community in Sangkhlaburi

The first group of Mon arriving at Sangkhlaburi in June 1949 numbered about 60, including two Buddhist monks. They were originally from Yebu village about 40 km northwest of the Three Pagoda Pass. The Burmese military troops accused the villagers of support to the Mon resistance group, looting and burning down their village. Thousands of villagers became homeless. Some of them fled to Thailand seeking their relatives.

After 1962, Sangkhlaburi boomed with border trade between Burma and Thailand. Many newcomers arrived at Sangkhlaburi and enlarged the village. About 800 houses were enlisted in Sangkhla Mon village by 1984 when it was re-located to its present site when the Electricity Generating Authority of Thailand constructed a hydroelectric dam.

The Thai authorities did not provide them land for housing and for farming, though they had lost their land for the construction of that hydroelectric project. At the same time the authorities provided 12 *rai* of farmland and housing site to each family of Thai citizenship in that area. Now, more than 1000 Mon families lived on the monastery ground with very limited occupations and many restrictions issued by the Thai authorities. The Mon people at Sangkhla village are not allowed to travel outside that district. The education program for their children is also limited. They are not able to get higher education when finished the secondary school there.

Three Pagodas Pass and Mon refugees in 1990 - 1994

The Mon had enjoyed the border trade business at Three Pagoda Pass for decades when it was under the control of the New Mon State Party, NMSP, with its

military wing Mon National Liberation Army, MNLA. Until the mid 1980s, it sometimes was possible to see armed MNLA members in Sangkhlaburi. As the Mon provided a useful service to the state, they developed a particularly close relationship with the Border Patrol Police. In February 1990 The NMSP lost its stronghold to the Burmese troops causing the flight of thousands of villagers at Three Pagoda Pass to Thailand. This will also be of use in putting into context the story of the Mon refugees, and fate of the Mon insurgency in the 1990s.

In the 1980s, Mon and Karen leaders close to influential Thai business interests had established a number of saw-mills and furniture factories on both sides of the border at the Three Pagodas Pass. The logging company secretly armed units of his Burmese 'workers', and fighting broke out in the vicinity of the pass. This betrayal by their erstwhile partner left the Mon troops to fight on two fronts, with their rear supply lines cut. The position was not sustainable, and the joint MNLA force at the Three Pagodas Pass was forced to withdraw. Over the next few days, the Burmese Army sent in reinforcements, partly by helicopter. MNLA casualties at the battle of the Three Pagodas Pass are recorded as twenty dead. With the fall of the Three Pagoda Pass, the NMSP was deprived of its single largest source of income. Upon re-grouping, a detachment of the MNLA was sent down South to the Huai Pak area, opposite Thailand's Prachuab Kiri Kahn Province.

Integration was the only option, thus providing the contrast with Sangkhlaburi where independence came at the cost of second-rate citizenship. Thus the Mon, from this nationalistic perspective, lost their community rights.

Ongoing Issues which Concern Nationalistic Mon Include:

- Repatriating thousands of Mon refugees to Burma
- Gas trade: Mon and SLORC: A major battle may be looming over gas pipeline
"Energy chiefs accused of complicity PTT, Egat denied the people participation";
(by *Ploenpote Atthakor, Kanchanaburi*; see: Bangkok Post - June 5, 2000)
- Relief agency 'cannot guarantee safety' of Mon refugees returning to Burma
(see: *The Nation* - August 1994)

STATEMENT OF THE MON UNITY LEAGUE ON THE FORCED ANNEXATION OF LANDS IN MON STATE BY THE SPDC GVMF.

1st June, 2000 (shortened version)

1. A cease-fire ... has not led to a political solution.

Instead, local battalions and troops of the junta continue to violate and suppress the human rights of the Mon people on a daily basis...

- forced sale of paddy by local farmers at heavily discounted rates; the banning of the Mon language curriculum and the closing of Mon national schools; the collection of porter fees and several unofficial taxes; the expropriation of properties and lands; torture; arrest; forced labor and forced relocation; all of which are regularly committed by order of the ruling military government.

2. Since the fighting between the two parties stopped following the cease-fire agreement, the military regime has taken advantage by illicitly expanding its control into Mon areas covered by the Agreement. In many places its troops have taken over land belonging to the people for the construction of military camps...

3. The violation of human rights and the suppression of Mon civilians by the military junta have increased their dissatisfaction with the government. It has also ruined all attempts at building trust and good relations with armed ethnic groups. Actions of this kind have clearly shown that the military government SPDC is taking the advantage of the cease-fire agreement.

4. On behalf of the civilian who have suffered severely from these abuses, the Mon Unity League demands the military junta:

- a) to cease forthwith from the appropriation of lands in the area covered by the cease-fire agreement and to provide compensation to those whose lands have already been annexed;
- b) to cease forthwith from its program of military expansion and the construction of bases and battalions in order to achieve trust with the armed ethnic nationalities;

We also strongly urge:

- a) that discussions be initiated with the ethnic nationalities, based upon their right of self-determination, and
- b) that a tripartite dialogue aimed at solving the political crisis in Burma be initiated.

5. Continuing human rights violations are the cause of the political tensions in Burma and they are in clear contradiction to norms established for international behavior.

We condemn the SPDC government abuses of the Mon people and other nationalities.

The Central Executive Committee, Mon Unity League

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THE AKHA STRUGGLE FOR COMMUNITY RIGHTS: An Internet Network Experience*

Cholthira Satyawadhna

I never knew Julia Trybe, the Australian lady, who suddenly sent me an e-mail. I met her on the D-Day (27 January 2000) at Ban Huay Mahk, Mae Fa Luang District, Chiangrai Province, after she cried for help and campaigned for human rights for the Huay Mahk Akha of Chiangrai, who were forced to re-locate, via internet.

Julia and her partner, Tony McDonald, assisted Matthew McDaniel, an American who created the Akha Foundation (Thailand) Home-page. Julia and Tony came across the news of the Akha of Ban Huay Mahk's forced relocation in Mathew's home-page. They then traveled to Ban Huay Mahk to seek further information and find out the truth. After reaching there, the young couples were sure that the information in the Akha home-page was valid and accurate. They went to meet Matthew and started working on the internet in his small residence at Mae Sai to campaign internationally for the Akha.

When I first received Julia's hot-mail, I gave her my moral support and listed some connections in Thailand for her to further contact and campaign via e-mail. When the situation led to a confrontation between the Akha, and the Forestry personnel, including the Military, with the support for the Akha by foreign human rights campaigners, Julia sent me another hot-mail inviting me to attend the meeting, which will be held to vote on the validity of the Akha's community rights. She said it was very important to have someone, a Thai, as witness for this landmark event.

I decided to join her in the far north and booked a flight immediately. On the 27th of January 2000, I reached Huay Mahk just on time. The Akha villagers seemed to be very happy having many witnesses observing their significant meeting. There were also an American NGO activist, two Italian national television reporters, and myself—an anthropologist, who all flew there after receiving the news from the internet. Of course, no one knew each other before, but we became good friends within a few minutes. When time came for the vote, the military authority did not show up. However, the vote to confirm the Akha's view in order to maintain their rights to live in the present settlement was conducted and the majority Akha including 35 households as representatives won the vote. The Chinese-Lisu under Taiwanese influence had become the minority having only 14 votes. Friends from abroad were very much impressed by the way the Akha expressed their legal consciousness and

* This field report is an *action research* conducted by Cholthira Satyawadhna in co-operation with the local NGO, the Akha Association of Thailand, together with some international internet networks. It may be treated as a case-study how internet functioned in such a remote area for the sake of an indigenous group in Thailand while in crisis.

belief in democracy by standing up and having their thumbprint in front of the Chairman, having the community members and international visitors as witness.

It was an open-voting without any fear or reluctance.

It was also interesting to have a chance to observe that during the open-forum before the voting, a Chinese-Lisu representative discussed and gave many *reasons*, in Chinese, to convince the Akha that the Taiwanese authorities would be helpful in many ways, such as housing, jobs, funding, schools, etc., if they relocated to the new place. I learned later that he was a village school teacher, giving Chinese lessons for years in this Akha community. However, his attempt was in vain, the Chinese-Lisu were not able to influence the traditional Akha who would like to maintain the simple Akha way of life and their subsistent economy. Also, it should be noted that among the Akha households, their vote was unanimous.

By the end of the voting process, the internet international friends who, by their human rights spirits and sympathy towards the Akha had traveled and reached the remote Akha community and witnessed the landmark event, covering one Australian, one British, two Americans, two Italians, and one Thai, *all did not know each other before*, signed willingly as witnesses in the thumb-printed document to support the Akha's will. They were all very much impressed with the daring position of the Akha who conducted traditional vote and practiced communal democracy. They could not understand why the Thai authorities did not value such a precious tradition and people.

After the vote, Athu Pocheat, Director of Association of Akha Education and Culture and Niwat Tami, a Lisu NGO – Director of CONTO, who came from Chiangmai and were appointed, by the Military, as Chair and witness of the meeting, led all the international friends, taking two 4-wheel-drive vans, on a hike up the cliff and trekking down the creek for another few hours to investigate the cemented *settlement* for the Akha at the new site. After having witnessed the new site, the internet alliances thanked for the Akha's right decision. They truly appreciated the Akha's strong will and their forecast as it could be imagined from seeing the new site that the Akha would have become *cultivated slaves* of the new global agricultural system if they were not brave enough to stand firmly for their community rights.

Another hour passed on the way to meet the Military authority. No one knew what would happen next if the Military authority said 'No', forcing or arrest the villagers who dared resist...? Burning the village...? Or even killing the victims...? After reaching the military camp at the Mae Fa Luang Project, myself, Choltira Satyawadhna – anthropologist, Local Community Rights Project Co-ordinator, the only Thai among the internet international friends and Akha representatives, had to play, because of the inevitable and needed circumstances, a major role in discussion and negotiation with the Military authority. Many good and reasonable arguments

concerning the Akha's sustainable way of life, their wisdom of forest conservation, including the King's supervision on people's '*subsistence economy*' were raised to convince the structured idea and the *master plan* of the Military and the Forestry Division in chasing highlanders out of the forest where it happened to be their traditional homeland for generations.

After a long discussion, luckily, the Military authority - Colonel Sawat Krataithong, who was very upset of the unanimous vote of the courageous Akha, seemed to be quite receptive and declared that he would stop the mission, not because of the internet alliances and international pressure, but in respect of the people's decision. Julia and myself tried our best to make him feel not too bad and relax. The last scenario at the military camp ended with smiles of almost everybody, cups of hot coffee, and hand-shaking between the Military authority and the internet international friends.

*What will happen next? No one knows...
Let's get our fingers crossed and keep an eye on it.*

Thanks to the Thailand Research Fund, the Office of the Prime Minister, and the Gender and Development Department, the Asian Institute of Technology, the two research initiations, which made it possible for me to fly and reach Ban Huay Mahk on time. We had, to a certain degree, stopped the crisis, and won another case, for the time being, apart from the case of Ban Khrua in Bangkok, to preserve local community rights in Thailand.

Let's hope that the peoples' rights will be respected as provided by law!

Before I left, I re-stated *Article 46* of the **Thai Constitution (1997)** to the Akha Headmen and youngsters who listened to me proudly with their twinkling eyes,

"Persons so assembling as to be a traditional community shall have the right to conserve or restore their customs, local knowledge, arts or good culture of their community and of the nation and participate in the management, maintenance, preservation and exploitation of natural resources and the environment in a balanced fashion and persistently as provided by law."

Not until the departure was my last question raised to Julia, how could she get my name - *Cholthira Satyawadhna*, which made it possible for her to send me the hot-mail and inviting me to join the significant event. It is amazing indeed to find out the answer that she could get it from the internet! She said that she typed and searched for "*Thai activists*" in the internet but failed. The only trace she got from the world wide web was "*The 7th International Conference on Thai Studies*" which took place in Amsterdam, in July 1999. On that web-site, she came across my name as Panel Organizer of '*Community Rights in Thailand and SEA*', together with my e-mail address and the Abstract on this particular issue.

That concludes the whole fantastic sequences of the international internet community

which brought at least seven international human rights alliances to join the Akha landmark event on top of Doi Mae Salong in Chiangrai and witness the Akha traditional vote for their community rights!

Three video cameras recorded the landmark event including mine.

Lessons from the Akha Case

The case of the Akha forced relocation was an urgent message. This resettlement was to occur on the 30th of January 2000, relayed via a meeting with village elders and authorities in Hin Taek on the morning of January 11, under order of the Thai Military. All 189 residents in this 78-year-old village - one of the oldest surviving in Thailand - requested remain. They had signed a petition which is posted on the internet at <http://www.akha.org/eviction.htm>

Thai military personnel said that the village was being forced to move because they were cutting down trees and polluting the watershed. However, local NGO sources monitoring the area said there was no proof that this village was involved in deforestation or contamination of water supply. The Thai Forestry Department had since backed out from the resettlement, but perhaps played an underground role. Nevertheless, the Military continued to be adamant that an enforced relocation would occur at the end of the month against the villagers' will.

An unknown Taiwanese charity recently donated money to Ban Huay Mahk via Thai authorities. The public purpose of this donation was to build new concrete housing and encourage conversion to a Chinese Christian religion. However, upon receivership of the funds (and perhaps unknown to the original charity), Thai authorities informed the villagers that no new construction would occur in the original village and that all 189 residents must relocate to a new site. There may have been something else behind the smoke screen.

This 'new village' has been rapidly constructed further down the mountain at 400 meters. It comprised 31 concrete boxes with iron barred windows and asbestos ceilings. The location was on a very steep hillside excavated in such a way that mud sliding was imminent next rainy season. It was reported that this new site resembled nothing short of a concentration camp and was a huge misappropriation of funds.

According to Julia's field investigation, the original Huay Mahk village, at 1000 metres, was remarkable in a way that it had independently developed sustainable agricultural eco-systems of self-sufficiency. It featured exemplary rice terracing, lychee, papaya, tea and even coffee plantations, in addition to bountiful green vegetables, legumes and ginger. There was no evidence of malnutrition, illegal activities, or drug abuses. Huay Mahk was an ideal case study of indigenous self-reliance and preservation. (Julia Trybe 1999)

If the village was forced to move from 1000 m down to the new site at 400 m, it would be a certain move into poverty, disease and social welfare disaster. The villagers would have to abandon all their land and homes in exchange for no land to farm. Livestock would never survive as well at lower altitudes, nor would there be enough room for them. The protein and iron supply of the village would drastically diminish, causing general nutrition reached its end. The inevitable move into a market economy would strip the Akha of all assets and their unique traditions of self-sufficiency would be replaced by dependence.

The effects of forced assimilation in other Akha villages that had been relocated to lower areas had been well documented. Tragic situations of villagers who had been reduced to the only options of amphetamine trafficking, prostitution, missionary reliance or labor class positions (to local Thai farmers at \$2 a day) more frequently come to light, where such relocations had 'succeeded' in the past.

The people of Huay Mahk had been informed by the military that non-compliance with the deadline of January 30 would lead to a refusal by authorities to grant "white cards" (Thai citizenship) to all villagers. This was despite the fact that most of them were born in Thailand and some had lived at Huay Mahk since 1920. (Julia Trybe 1999)

A serious question should be raised to the Thai authorities that, as a member of ASEAN, it is of extreme concern that Thailand, a country receiving much of Western developmental funding, is party to such indigenous civil rights abuses. It is also alarming that this country is not protecting its human resources, which bring in so many tourist dollars, due to the attraction of trekking to visit some of the world's last surviving indigenous groups.

The relocation of highlanders for various development projects, security, and assimilation policies, has been occurring in Southeast Asia for decades. Without identity or legal recognition, much of their plight goes unquestioned. However, the plight of Huay Mahk Akha village is an injustice, documented on video and the internet's freedom of information. It may set a precedent for the future civil liberties of indigenous peoples if their plea is not ignored, as forecasted by Julia.

It was first believed that a foreign presence would help protect the villagers' rights and bring world attention to the inhumanity of this relocation procedure. It was reported via the worldwide web that two Embassies - British and Australian, Amnesty International, UNHCR, Human Rights Watch/Asia, and many other human rights organisations had been notified. International press and television agencies had also been informed to monitor this potentially tragic situation.

It has been a big challenge to the Thai authorities!

When a meeting was held on January 27, 2000, at Hintaek, Chiangrai

Province, in the evening with the Royal Thai Army official in charge of moving the village, Colonel Sawat of Mae Fa Luang District Security Development Project had gone on record to say that he would not relocate the village.

Present as witness were independent human rights workers - Julia (Trybe) McDonald (Australia), Anthony Martin McDonald (Britain), Dan Kahn (United States), AFECT and Akha Heritage Foundation representatives, as well as press from The Nation – Prathai Piriyastrawong (Bangkok), and a television crew from Italy – Lorenzo Hendel and Massimo Gabrielli, and a community rights researcher – Choltira Satyawadhna, Thai Studies Program (International), Rangsit University (Thailand).

Acting as mediator was Athu Pochea, Director of AFECT (Association for Akha Education and Culture in Thailand), Chiangrai, having Niwat Tami, a Lisu NGO, as Co-ordinator between governmental and people's sectors.

In the meeting, a new petition by all villagers against the move, was presented to the Colonel. The signing of this document had been witnessed that morning in the village, when the heads of 35 families representing around 200 people, lay their thumbprint in a last attempt to prevent what would be a gross human rights violation.

Receiving the thumbprinted document of the people of Huay Mahk at his army base, Colonel Sawat was willing to engage in a lengthy discussion concerning the fate of the village. He said that if the village did not move, he would neither be longer responsible to protect it's security in the region, nor implement any Thai development projects concerning roads, electricity, health or education. He asked why did the human rights fighters, concentrate on the plight of the Akha when Thai people such as himself were also poor. Julia argued that the issue was not one of monetary wealth, and that the people of Huay Mahk Akha had flourished on their own for over 80 years at this location. They were aware of technology but had designed other methods to sustain their lives. Some spoke up to four languages. Incidentally all were aware of their rights and only desired them to be recognised.

In evaluating the landmark event, Julia credited it as an incredible breakthrough for community rights - that electrical technology could help bring such situations into the open, and expose potential injustice to the international community. When the Thai press was reluctant to cover such a story because *'it happens all the time'* and criticism of the Military was unheard, the internet proved to be an invaluable tool. This village was geographically isolated. There were no official Akha human rights groups in the country for them to turn to. They had no legal recourse because they were neither recognised as citizens of Thailand nor displaced persons. They were simply and discriminatingly referred to as the *'hill-tribers'* [*chao khau*].

However, in just three weeks of campaigning for the rights of this village via

the net, and finally being face to face with the 'powers that be', we have witnessed history being written on a new page of humanity. It is an amazing lesson on how very possible it is to influence world events through the power of individuals' compassion. Julia ended up her views via the internet:

*Human rights are universal,
and the far reaches of the internet are helping them be heard.*

But for Matthew McDaniel, the true *breaker* of the Akha crisis, also the creator of the Akha Heritage Foundation Home-page, he seemed to be more pessimistic. After the event, he wrote me a letter:

Dr. Cholthira:

First I want to tell you how much I appreciate that you came up, this was all frantically put together, and then Julia had been in touch with me for a year and then she and Tony ended up at my tiny room/office in Maesai, hammering out emails for days, and then that brought you to the meeting.

My feeling?

Well, I think that this planting of pine on the part of forestry is an incredible theft of the environment on the part of the people involved first off.

It is an environmental disaster. But secondly since it requires the displacing of Akha instead of working with them and allowing them land, it is also ecocide.

The situation in the villages concerning land now is horrible, these people know what they are doing, they are squeezing the villages hard and know it and it is pushing the men towards dealing in drugs, crime, and the women toward prostitution, but then they are just living up to the propaganda so "so what" forestry seems to say.

There is a very big inertia on this pine planting and these people are not going to back down easily. So I think that is a major concern to me.

There is Huai Mahk but also there are a score of other villages that are losing much of their land, the list is incredible, and the Forestry position is that they are intruders so "do what we have to with them, it is our land".

The meeting with the Col. I have to say that I did not trust.

I like the Col. but I am far too familiar with what the attitudes are toward the Akha, how they are treated by both army and police.

To me it was not a victory so much as a pause and then need for much greater work. I am also still concerned for my security in dealing with an issue that obviously has millions of dollars behind it.

We are trying to track this down with Asian Development Bank to see if they are involved also.

I hope you don't mind my asking, but I was concerned that he asked you to step out of the room and wondered very much what he said to you?

As I see it, the Army is the hired gun of the forestry department or vice versa.

I would very much like to see this pine issue get the attention of Her Majesty the

King's Daughter.

I also dream that there could be some kind of autonomous administration of the Akha some day, that they could be allowed to handle some of their own affairs, and that they could deal more directly with the international community on issues of aid.

The issue seems very much to me, "are they going to be allowed to be a people, a mountain people, with rich knowledge and heritage, or a slave class, does Thailand have the room intellectually and social for the former?" The dangers of the latter are very apparent.

I would also like to talk to you very much about the Christian missionary presence in North Thailand taking advantage of the troubles of the Akha and pressuring them all to convert and abandon their culture in a time of crisis.

What can you suggest could be done about this?

I think that as far as the indigenous are concerned, it is time that the church be held accountable for its negative role.

I would like to appeal to the King or whoever to stop the prosyletizing in North Thailand, I see it as a threat to Thai society and hill tribe societies as well.

Thank you once again for coming. I hope we can continue to discuss.

*Matthew** (Personal letter to Cholthira Satyawadhna via e-mail, 8 February 2000)

Unfortunately this was not an isolated case, just critical and challenging than most others. It served to highlight the difficulties that many environmentalists have in trusting a bureaucracy that is also actively seeking to expel local ethnic communities from protected areas for 'conservation' purposes. However few would dispute that biodiversity, ecological, recreational, watershed, spiritual and other such values that do not compete well in the market system need some special form of protection if they are to survive for the benefit and enjoyment of future generations. Establishment of centralized protected area systems is a mean towards this goal, but it should not be mistaken as the goal itself. National parks and wildlife sanctuaries are not always successful in achieving these goals, nor should they be thought of as the only way to achieve conservation goals.

Conclusion

The purpose of my 'action research' is to outline some of the key challenges faced by the environmental movement in Thailand in reconciling the need to protect conservation values in the future with provision of sustainable livelihood opportunities for the present and the role of people's participation in achieving this goal. With increasing interest in environmental issues, there has been an increasing ethnic discrimination and racial acts upon the hill-dwellers and forest-settlers in

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almost every part of Thailand.

In fact, in the case of the Akha community, among the leading voices are the local elders who are articulating the interests and traditions of their own peoples in one hand and wider environmental issues in the other. Their strength has challenged the Thai authorities, the next scene has not been plotted. While drawing upon coexisting values and ideas in their own community, they are formulating a 'tradition' and ethnic identity that will facilitate the recognition of their rights to forest, land, and community. This process is indeed well fitted in with the spirits of community rights recognition declared in the *Thai Constitution (1997)*.

The people in the cluster of Akha villages in Northern Thailand where I have joined field 'action research', had been only peripherally involved in some of the recent 'extremely green' environmental policies and activities of the Thai State. In this field report, I have shown a discourse on the 'community rights' as perceived by the Akha people themselves and a conscious effort to maintain communal rights to land and forest resources – not only *land*, but also natural resources (e.g. *plants, vegetables*), in the present-day situation.

Through the contrast between the '*forest conservation*', which is the matter of '*state take-over*' and '*communal tradition*' which is part and parcel of '*community rights*' – creating discourse of some of the region-wide cases and the confusion that exists in specific localities, the focal point I want to dialogue is not that the current discourse is merely a created tradition, but that such creative discourse and movement have sprung right out of a complex state such as Thailand - *a multi-ethnic society* in its existence and reality, but *a unified Royal Siamese Kingdom* in its national, even *racist*, ideology.

In the final analysis, the Akha case evidently shows that, perhaps, some environmental theories, which are related to a stereotype paradigm of thought, and do not fit in with the Thai and Southeast Asian ecological contexts, were not based on reality. The Akha indigenous people have proved themselves to be genuine human with their dignity and identity, who participate in a process of formulating a 'civil society', making use of their identical shared cultural heritage, knowledge, and wisdom, to challenge the '*power-that-be*' in order to preserve their identities and community rights.

HMONG COMMUNITY RIGHTS: The Jom Thong Conflict Kwan-Isara Chatvanichkul*

Community Rights: Historical Trends with Differing Ecological Adaptation

The Hmong of Paa Kluay at Intanon National Park were formerly farmers who practiced rotated swidden cultivation. They planted rice, but, due to the cold weather at Intanon Peak, their production was not sufficient. Their methods of planting also earned them accusations for destroying the forest area. Although they believed that, as a community, they had a right to live and continue their lives as tradition ordained them, this lifestyle was in no way attractive. They could not grow enough rice to feed themselves and were in no way 'subsistent,' for their young men had to sell their labour for other farms in order to survive. However, their troubles ceased when they received support from the Royal Project. The Hmong turned from rotated swidden cultivation, or the slash-and-burn system as some would say, to planting cold weather products including foreign fruits and vegetables, such as cherries, strawberries and cabbages, and foreign flowers, such as roses. Formerly accused of destroying the forest area, they now are, in some way, recognized by the government. It may be said that they are now having "better" living conditions since some families could earn more than one hundred thousand baht per month.

The Hmong have many ideas of what rights they have as a community. The Hmong believe that they have both rights and obligations to protect the areas in the forest that they believe are sacred. This sprang from ancient traditions and customs. They believe that, as a community, they have the right to plant their crops and transport them, one way or another, to their customers. From the rice produce of the past, this belief prolonged to cover the flowers and cabbages of the present. They also believe that any road they build without outside help should be valid to them alone. They also believe that they have a right to access any resources included in the land they were granted. This belief originated in the fact that they have lived on the Intanon mountain for many generations and that the Royal Project, more or less, gave them an accountable ownership of land. According to their opinions, the land they lived on for centuries is theirs to work on forever, despite their troubles and that the land they lay claim on is legally part of a reserved forest and that they could have no

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legal claim for it. Thus, after their lives turned a new leaf with the presence of the Royal Project, they were doubly satisfied. They could not be accused for the destruction of the forest any longer and the fact that the community is now under the wing of the Royal Patronage, they need not be afraid that they would be ordered away.

Infringement of rights from outside the community: Lowlander Attack!

The first act of threat occurred in 1980 when lowlanders used the roads the Hmong built for transporting their flowers to the market in the city, to enter the forest and cut the trees in an area that the Hmong thought sacred. The Hmong tried to bring the lowlanders to punishment, but their acts were in vain. A few minute fines allowed the lowlanders to become active again. As a reaction to their slight, the lowlanders blocked the road connecting the Hmong to Jom Thong in 1981 and started to distribute pamphlets accusing the Hmong of forest destruction, illegal behavior, and opium farming in October, 1982. Violence broke out in 1984 when the Hmong decided to shoot a lowlander who attempted to steal their livestock.

Charitable Infringement?

A Buddhist monk named Pongsak Dechatammo arrived at Mai Soi in 1983 and decided to "save and restore" the area in a hurry. In the process, he demanded that the Hmong leave Intanon Mountain so that he could restore the area. Since he had no idea where the Hmong could move to, the Hmong decided against his demand, thus causing a conflict. On February 25th, 1986, he, in collaboration with certain lowlanders, ordered a barbwire fence to be built, fencing out 600 *rai* of the forest and forbade the Hmong from entering the area. The government disagreed with the monk's acts and ordered them to stop, however, they made no act to remove the fence they put up. From that point on, the monk and his followers, who founded the Thammanart Foundation, did their best to restore the forest and save the earth. However, their acts, whether it be the growing of a 2000 *rai* permanent forest in honor of the king, which ate up 600 *rai* of the Hmong's land or proposals to relocate all hill tribes to the lowland, seemed very unattractive to the Hmong.

Governmental Intervention

The Thammanart Foundation and the lowlanders submitted a series of petitions to the government accusing the Hmong and the Royal Project of certain factual and nonfactual behaviors. Because the program used chemical substances to grow vegetables and flowers, the Hmong became scapegoats for polluting the rivers whose source came from Intanon Mountain. However, they ignored the fact that the tests

claiming a 90% pollution result was taken after the river had already passed the city and that all tests taken in the areas between the Hmong's village and the city proved to the river to be non-polluted. In certain years when droughts occurred, the Hmong were also blamed for withholding water and overusing the water causing damages amounting to about 20,000 rai. Water shortages were abundant due to population increase both in the lowland area and on the hills. Industries, such as CP, needed a great supply of water, and water management became a major issue. At first, the government under General Chowalit Yongjaiyut granted the hill tribes, including the Hmong and the Karen, certain rights concerning the land and allowing parts of the reserved forest to be used by people in the community. This decision was criticized by most environmentalists, mostly for fear of outside investors intending to take the land from the hill tribes.

In 1997 the Thammanart Foundation with other environmental foundations began to take action. Petitions and protests under their leadership occurred in attempt to cancel the government's former decision. Fights on this matter occurred continuously, mostly started by an accusation by the Thammanart Foundation towards the Hmong such as "the Hmong destroy the permanent forest fields" or "the Hmong clear forest area in order to grow cabbage". It cannot be determined whether this is fact or fiction, for both sides stand their ground. The Hmong protecting their innocence, and the foundations condemning them. Both sides were an equal match and very little action occurred until the 25th of March, 1998. On that day, a widespread forest fire occurred all over the country, including Intanon National Park. Under the guidance of Mr. Nevin Chidchop, the Deputy Minister of Agriculture, 56 hill dwellers were arrested and a decision was made to amend the decision granting the hill tribes access to forest land. Together with petitions from the foundations, an indictment was made blaming the Hmong for the forest fires claiming that they wanted to occupy the land.

Observing the rather ungrounded accusations towards the Hmong, the Academic's Assembly for the Poor together with other private organizations demanded a thorough investigation on the causes of the fire. On the 9th of April, 1998, they demanded that the government release the Hmong and set up a public forum at Chiang Mai University. Reacting to this, the environmentalist foundations sent a paper to the Rector of Chiang Mai University accusing the professors who were helping the Hmong of malpractice and unethical use of the institution's name. They also made certain public displays such as burning images of the five main activists helping the Hmong.

Protestation continued demanding a lawful and formal retractment of the government's former decision. The environmentalists were heart-set on an order to relocate all the Hmong on the Intanon Mountain.

Response and Reconstruction of Hmong "Community Rights"

A resolution on this matter is not yet concluded. However, since a drought no longer exists, the tension has decreased. The Hmong agreed to use the water only during the daytime and refrain from using it at all in the night. This is mainly for appearances' sake, because it has been proven the Hmong could in no way cause a drought. Since this year, 2000, water is in abundance, a conflict is not present. However, there are still apparent attempts to drive the Hmong from the mountain. The Hmong seem to imply that there is a hidden reason, which only they could tell, though not in public.