Legislation to legitimize community forest management was once again stymied by the dissolution of the Thai Parliament in November 2000. Continuing differences on how to resolve several key issues, such as where communities can manage forest area and who should have final decision-making power, have stalled attempts to institutionalize community-based forest management. This article presents an update on the legislation attempts in 2000 and a forward looking analysis of past attempts in Thailand to develop community forestry legislation.

After struggling for the last 10 years to pass legislation which would recognize community management of forestland, there was some movement in 2000 by the Thai government to pass community forestry legislation. In July 2000, the Thai Parliament approved in principle a draft Community Forestry Bill. Subsequently, a commission was setup to consider the drafted Community Forestry Bill. Unfortunately, the commission could not come to a consensus or decision and in November, parliament was dissolved and there was a general call for elections.

Since the parliament failed to pass the drafted bill, it could be canceled, unless the next government convenes a commission to reconsider the Bill within 60 days of forming a new government. This would effectively mean that a whole process would have to be initiated.

The Commission on community forestry

In early March, a "People's version" of the Community Forestry Bill was submitted to the Thai Parliament after the collection of 52,698 signatures of Thai citizens. Development of the Bill was coordinated by The Assembly of the Poor and a coalition of NGOs (see box for more details). In response, the Parliament formed the commission to consider the "Peoples' version" as well as various drafts that had been developed over the last ten years. The commission was tasked to develop one draft which incorporated elements of all these drafts. The commission consisted of 27 members. Each political party was supposed to be represented, along with five people chosen by the government. However, opposition members resigned from the commission for political reasons. The RFD's top manager and the director of its law division were selected as secretary and assistant secretary respectively.

How many draft bills can be made?

Legislative support for community forestry has been discussed for more than a decade (see volume 11.1 and volume 13.1 of APCFN). Table 1 depicts a historical background of community forestry development in Thailand.

In 1992, the Royal Forest Department (RFD) drafted the first Community Forestry Bill which was largely a set of rules and regulations to allow local people to participate in government reforestation schemes. In 1993, a group of academics, NGOs, and researchers drafted an "alternative version" which was based on a three-year national research program that documented local management systems.

How did they do it? Civil Society in action

Presenting a bill to parliament is not easy. First, the AoP, a coalition of NGOs and rural networks held extensive discussions with villagers, forestry officials and others to reach consensus on a bill that might be acceptable to all. Once they had completed a draft bill, they then had to round up the necessary amount of signatures to sign the petition. In Thailand, this means...
In 1996, academics, NGO staff and government officials developed a "compromise version" between the two. This "compromise version" sparked an outcry from a range of environmentalists, who disagreed with the idea that community forests should be established in protected areas (PAs). Subsequently in 1997, the government called three public hearings, and then further revised the compromise version, the changes included:

- Community forests could be established in PAs but with strict preconditions and rules for utilization.
- The government had previously opposed commercialization of community forests, but now supports commercial activities in community forests.
- Before there was no provision for final decision-making, now final decisions rest with the RFD.

In response to the changes made by the government, the AoP drafted a "People's version" CF Bill. This draft is based on the 1993 alternative draft bill and the new constitution which mandates people's participation in natural and environmental resource management. This version also accommodated concerns from the environmentalists and the government, including:

- The 1993 version recognized rotational systems of cultivation and other traditional forest management strategies that were seen as sustainable and vital both to ethnic people's traditional forest management regimes and culture. The new version focuses only on forest area and does not include shifting cultivation areas.
- The 1993 version made no provision for delineation between villagers who had houses or residences in forest area and community forests. Now there is clear delineation between forest area and village area.
- Before there was no conditions to establish a community forest. Now communities need to show that they have been managing the forest for more than five years.
- Before there was no clear articulation of final decision-making. Now final decision-making would rest with a national-level committee.

Since the first draft in 1992, more than six draft CF Bills developed and besides the ones just mentioned, different political parties have created their own versions which are primarily similar to the latest RFD draft.

Table 1: Key events in Thai CF development

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
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<tbody>
<tr>
<td>1989</td>
<td>The community forest of Huay Kaew village in Chiang Mai was granted to a company. The company had conflicts with the community and lead to recognition for the need of a community forestry bill. There was also a general call for improved forest management because of serious environmental disasters, uncontrolled logging</td>
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<tr>
<td>1990</td>
<td>The first committee set up to develop CF development guidelines</td>
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<tr>
<td>1991-93</td>
<td>Extensive research on community management of forests conducted nationwide by leading academics, NGOs and natural resource management professionals.</td>
</tr>
<tr>
<td>1992</td>
<td>RFD drafts the Community Forestry Bill</td>
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<tr>
<td>1993</td>
<td>A group of communities, NGOs, and academics draft an alternative CF Bill</td>
</tr>
<tr>
<td>1995</td>
<td>The Government's Decentralized Regional Development Committee held seminar to discuss both drafts of the CF Bill</td>
</tr>
<tr>
<td>1996</td>
<td>Academics and government officials agree on a compromise draft of the CF Bill</td>
</tr>
<tr>
<td>1996</td>
<td>The Cabinet of Ministers approves, for the first time, principles of the CF bill but some dark green NGOs opposed the establishment of CF in the protected areas</td>
</tr>
<tr>
<td>1997</td>
<td>Public hearing on three major issues of CF Bill: CF in protected areas; forest utilization; and administration of community forest management.</td>
</tr>
<tr>
<td>1998</td>
<td>The Cabinet of Ministers approves (for the second time) the CF bill but the villagers oppose the idea of forest utilization for community forests within protected areas</td>
</tr>
<tr>
<td>2000</td>
<td>Assembly of the Poor (AoP) proposes a draft CF bill (people's version) with 52,618 names of supporters</td>
</tr>
</tbody>
</table>
Too many cooks in the kitchen?

Three interest groups dominate the debate:

1. The government centered group: made up primarily of government officials, influential politicians and conservative elements of society.
2. The community centered group: comprised of NGOs, academics, local people's networks, and some field-based government officers.
3. The national centered group: made of environmentalists, urban people, and some academics.

The conflicts between the three groups center around five major issues. Table 2 presents each groups stance on the five major issues, including: principles of the bill; structure of power; community representation; community forest funds; community forest establishment in protected areas

**Issues arising**

An interesting split has developed between the "community-centered" and "national-centered" groups both of which are part of the increasingly powerful civil-society evolving in Thailand and seem like natural allies. However, they differ drastically on many issues. These differences have been the key constraints in developing compromises.

The government and the national centered groups have little trust in communities' capabilities to manage forest, in terms of final decision-making and the make-up of a community forest committee, both groups feel there is a need for outside intervention, particularly to control power and to monitor the impacts of community forest management.

The debate has been further compounded by different perceptions as to the rights of hilltribes and ethnic groups living in Thailand. Most hilltribe groups live in areas that have been declared protected areas or class 1-A watersheds, even though many had been living there before the area was reclassified. The debate over the last two years has increasingly become nationalistic. Both the government and national centered groups assert that hilltribes and other ethnic people are not "Thai", and thus do not deserve the same rights. Their cultures and ways of life, deemed as not mainstream, are increasingly being questioned and old stereotypes are used to inflame the debate.

During the committee hearings in 2000, each group lobbied committee members and were influential as most members were politically appointed and had little understanding or experience in community forestry related issues. The national centered group mobilized students and villagers, who oppose ethnic groups from inhabiting government Input watersheds and protected areas, to sign a petition against the establishment of community forest in protected areas. The national forest policy committee supported the original "compromise draft" of 1996 because it incorporated many different views and was developed by a leading people in Thai society both in government and outside.

**Table 2: Stance of three groups on five most contentious issues**

<table>
<thead>
<tr>
<th>Issue</th>
<th>Government centered</th>
<th>Community Centered</th>
<th>National Centered</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principles of Bill</td>
<td>Supports cooperation of local people in state managed programs</td>
<td>Emphasizes the rights of local people and communities to manage all natural resources</td>
<td>Supports 'country's citizens' or all people to take part in the decision making process</td>
</tr>
<tr>
<td>Structure of Power</td>
<td>DG and Government hold final decision.</td>
<td>Supports social process in establishing and developing a multi-sector committee to make decisions</td>
<td>outsiders and citizens to influence and control the decision making process</td>
</tr>
</tbody>
</table>
While all sides see the need to develop appropriate legislation, the contested nature of natural resource management discourages politicians in taking any bold moves.

The commission made slow progress primarily due to political infighting over the basic principles of a draft Bill. Rather than developing a Bill that best met the needs of forest conservation and local peoples' needs, commission members sought to promote their own party's interests or government and business interested which have a stake in how natural resources are managed. Thus, any attempt to create a comprehensive and workable Bill were stymied by the inherent interests related to natural resource management in Thailand.

However, there was a trend to allow community forests to be established in protected areas with strict conditions such as: limited use of forest, long-term (over 20 years) demonstration of forest protection and capabilities in managing forest. Equitable benefit sharing was another issue.

The Thai political arena is evolving and politicians are now attempting to reach out to various interest groups. However in this case, each political party tried to promote their own draft CF Bill. Not surprisingly, these versions are "contextually rootless" and were developed with no input from rural networks or those actively working in community-based natural resource management. If political parties are supposed to represent the voice of the people, how can they develop draft bills without any input from those who will be most affected?

The way forward: a personal view

The issues are contentious to say the least. However, there is a way out: a process based on the government and the people's draft versions with the appropriate checks and balances (see Figure 1). Concerns from the national centered group need to be taken into account to ensure that their voice is represented. Otherwise, the conflicts between two the major peoples' groups will increase.
While there is nothing new in this approach, it must be reiterated that there is a need to move forward in a way which represents the increasing demand of civil society to participate in public policy in Thailand. The proposed way forward can be seen as a middle-path approach. All groups need to take a step back and allow local people to demonstrate what they can do. There is no way that everyone's concerns can be accommodated into one draft or until one side has won. The forests and people of Thailand cannot wait that long.

The figure reflects a collaborative learning process approach that is in-line with the overall spirit of the decentralization process taking place in the country. Checks and balances are emphasized as a way to ensure that while implementation occurs there is transparency and consensus in decision-making. It is not feasible for the RFD to manage such a state run program (as they are proposing) for two reasons. First, implementation of community forestry needs to take into account the reformation of the RFD (not just organizationally, but also the management and planning systems) to meet the new challenges of decentralization and multi-stakeholder participation in forest management. Second, the RFD lacks the capacity in facilitating people centered forest management and has limited resources (both human and financial).

On the community side, it must be recognized that this is a time of transition where the government is transferring many responsibilities to local government units. Thus, there is a need to prove to others that they can plan, manage and implement forest management activities in a transparent and democratic fashion. In addition, local decision-making and forestry management systems need to be better articulated so that outsiders can support local level activities.

Another point within the figure is the need to clarify roles and responsibilities for forest department staff, community representatives, NGOs and academics. All need to play a complementary role, rather than one
controlling the other. Three levels of management are recommended:

1. National level: CF policy committee to review legislation and issues arising in implementation.
2. Provincial level: Control, monitor and assist in implementation and resolution of local conflicts.
3. Community level: Community forest management committee acts as primary manager with support from the RFD and NGOs.

The committees at the national and provincial levels should have an equal ratio of community leaders, local officers, NGO staff and respected academics. At the village level, locally specific and unique contexts need to be taken into account, but overall there should be a focus on: forest conservation and sustainable use and promoting various cultural-based approaches to management and utilization of natural resources and people-government cooperation.

How can the deadlock be broken so that community-based approaches are recognized by higher authorities? The use of prescriptive national laws with standard rules and regulations is not feasible. Nine criteria should be considered in developing a community forestry policy:

1. Content of law clearly elaborated.
2. Clearly define how to implement the law.
3. Relevant rules and regulations are clearly defined (i.e. what and by whom)
4. Support to well managed community forests should be continued.
5. Stop people/groups that damage the forest.
6. Provide checks and balances in the decision-making process.
7. Clearly define roles and responsibilities of all concerned groups/organizations.
8. Be flexible and provide opportunities for improvement, with clear punishment if there is non-compliance.
9. Comply with the national constitution and amend outdated or contradictory laws and policies.

The nine criteria suggested above do not dictate strict rules and laws to follow, but rather reflect the practical principles of forest management. Detailed laws should be discussed and negotiated by the national community forest policy committee and the provincial community forest committee (such as the ministerial rules, regulations and agreements to guide community forestry management). At all levels, consensus, multi-stakeholder participation and transparency should be employed. The major issue of “trusting” local communities in using forest resources, particularly in the protected areas, can best be resolved by applying pluralism in local decision-making and regular participatory monitoring and evaluation.

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Notes

1 This article was written before the 6 January 2001 election date.

2 According to the new constitution, item 170 provides an opportunity for people to submit their own laws to Parliament if they have the support of more than 50,000 people (signatures need to be collected and submitted to parliament).

3 The Assembly of the Poor is an umbrella organization of rural people which advises rural people and supports the advocacy of solving a range of rural issues and problems (such as water, agriculture, land tenure, etc). Support for community forestry is one of the primary issues on their agenda.

4 By law, the government does not have to include those who submitted the bill on a commission.

5 The author was chosen by the ruling government to be on the committee.