

## CASE STUDY

# Adaptation in Forest and Wildlife Laws of Thailand<sup>1</sup>

MEKATITAM, Pratheep<sup>2</sup>

Thailand is an important source of biodiversity in Southeast Asia, including the diversity of ecosystems, species, and genetics. The rapid changes in natural resource conditions have resulted in the loss of ecosystems and biodiversity. Thailand has begun to enforce the Wildlife Conservation and Protection Act, B.E. 2503 (1960), (amendment to the Wildlife Conservation and Protection Act, B.E. 2535 (1992)) and the National Parks Act B.E. 2504 (1961). Both laws are important to authorize power to the government to establish protected areas in the form of wildlife sanctuaries, non-hunting areas, national parks and forest parks aiming to protect ecosystems, wildlife and wild plant's habitats, and other living organisms; at the same time to maintain these areas as the source of education, learning and recreation for the public. Most of the rare and endangered species listed on the IUCN Red List are in these protected areas. Therefore, these four types of protected areas are nationally, regionally, and globally significant in terms of being an important biodiversity conservation site.

## 1. Situation and challenges in Thailand

Since 1960, Thailand successfully declared protected areas in the form of wildlife sanctuaries, non-hunting areas, national parks, forest parks, national botanical gardens, and arboretum, to secure its ecological habitats and species of wild animals and plants. As of 2019, there are 458 protected areas, with a total area of 67,633,277.42 rai (10,821,324.39 hectare).<sup>3</sup>

**Table 1** Protected areas in Thailand

Type of Protected Area	No. of site	Total area (rai)	Remark
Wildlife Sanctuary	60	23,360,679.25	Section 121
Non-hunting Area	75	3,794,047.95	Section 121
National Park	133	39,707,805	Section 64
Forest Park	119	714,410.22	
National Botanical Garden	18	30,900	
Arboretum	53	25,417	
Total	458	67,633,277.42	

Source: Department of National Parks, Wildlife and Plant Conservation (DNP)

Over the last six decades, it is undeniable that the management of protected areas has encountered several barriers and challenges as well as creating conflicts over agricultural and community settlement areas, while also affected accessing and using of natural resources, community participation in the management of protected areas which including the local communities that settled inside or close to these protected forests. Even though the government has been attempting to solve the problem through various forms such as issuing the cabinet resolutions or developing government policies, as well as forming various mechanisms of committees, subcommittees, or task forces. The problem still cannot be fully addressed. Most importantly, a large portion of the budget and staffs were invested in the defense and repression of offenders but still continued to deal with the loss of forests and biodiversity. Records during 16 years period (1998 - 2014) informed that the conservation forest area had been lost for 1,204,166 rai (192,666.56 hectares), representing an average of 75,260 rai (12,041.6 hectares) per year. It is equivalent

1 Meeting documents for the Global Assessment of Biodiversity and Ecosystem Services on May 6, 2019, organized by the Thailand Environment Institute in collaboration with the International Union for Conservation of Nature and the Office of Natural Resources and Environmental Policy and Planning

2 The International Union for Conservation of Nature (IUCN)

3 Reference: Progress report of driving the management of biodiversity in Thailand. 2019. Prepared by Thailand Environment Institute. Summary of the 6th National Report on Biodiversity in Thailand

to annually losing an area about the size of Mae Wang National Park<sup>4</sup>, Chiang Mai province or the Khao Sanam Phriang Wildlife Sanctuary<sup>5</sup>, Kamphaeng Phet province. The loss of conservation area also impacts the existence of biodiversity.

While law enforcement can prevent the loss of ecosystems and biodiversity, however intensive enforcement has unavoidably affected people living in the protected areas. Although there have been evidences that proved people had settled before the declaration of protected areas, however it is no official documentation of legal existence. These communities are confronted with insecurity regarding agricultures and settlements. They also face difficulties in accessing the basic rights and services provided by the state on an equal basis with other populations. For example, they cannot apply for a construction permit and permanent electricity system (they can only get temporary electricity, which costs more), cannot receive aid from the Rubber Replanting Aid Fund, and cannot apply for disaster compensation, etc. Furthermore, they are continuously losing traditional knowledge, local wisdoms, cultures, and traditions that are interconnected with nature. Often a sense of injustice and inequity has caused a local conflict between communities and government, which affects the effectiveness of protected area management. In many cases, local conflicts have frequently escalated into political gatherings, undermining state security. It is estimated that there are approximately 462,448 households or 1,849,792 persons<sup>6</sup> located in the protected areas prior to and following the protected areas declaration.

## 2. Policy and legal changes

Between 2015 and 2019, Thailand sought to alter its vision of land and forest management policies towards a more integrated and systematic approach<sup>8</sup>, for example establishing the National Land Policy Committee (Kor Tor Chor) to be a mechanism for integrating the overall land management of the country<sup>9</sup>, in addition several policies developed to promote high-value tree plantation and community forests, as well as to expand green zones<sup>10</sup>, and the One Map policy, etc. With regard to handling of land and forest disputes in the protected areas, two relevant acts have been amended include the Wildlife Conservation and Protection Act B.E. 2562 (2019) and the National Parks Act B.E. 2562 (2019).

Both laws are amended and substantiated the contribution, access, and exploitation of natural resources and biodiversity, particularly legal measures to address the long-standing problem of agricultural and settlement lands for the people. The primary objective is to have the Department of National Parks, Wildlife and Plant Conservation (DNP) investigate the agricultural and settlement lands for people living in protected areas including wildlife sanctuary, non-hunting area and national park, which were declared before 25th December 2019. The survey of those areas shall be completed within 240 days following the laws endorsement (ending on July 21, 2020). It consists of two target areas: the area surveyed according to the Cabinet Resolution on June 30, 1998 (occupied and utilized until 2002) and the area under NCPO Order 66/2557 (occupied and utilized during 2002 -17 June 2014, only for impoverished person - without land). After that, the project will be formulated to be presented to the Cabinet for the enactment of Royal Decree. The length of permit to utilize the lands shall not exceed 20 years. Under this project, if it is normal activities for living<sup>11</sup>, that person will not be punished.

Additionally, to address problems on agriculture and settlement lands, both laws establish legal mechanisms for the exploitation of renewable natural resources for communities that rely on natural resources in national parks and wildlife sanctuaries for living, by allowing people or communities in the areas surrounding the parks, terrestrial or marine, to utilize natural resources as part of their traditional community livelihoods.

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4 Mae Wang National Park has total area of 74,776 rai or 11,964.16 hectares

5 Khao Sanam Phriang Wildlife Sanctuary has total area of 63,125 rai or 10,100 hectares

6 Reference from Prime Minister's Delivery Unit (PMDU)

8 This recommendation was proposed during the works of National Reform Council (Sor Por Chor), National Reform Steering Assembly, continually during the period of the National Strategy Committee

9 Additional information refers to the National Land Policy Committee Act B.E. 2562 (2019)

10 Additional information refers to Section 7 of the Forests Act B.E. 2562 (2019)

11 Section 65 of the National Parks Act B.E. 2562 (2019)

For wildlife sanctuaries and non-hunting areas, the head of the wildlife sanctuary has the authority, with approval from the Director-General of the Department of National Parks, Wildlife and Plant Conservation; to develop projects for local people to utilize natural resources in compliance with the principles of education and culture of the community. Harvesting or using natural resources shall not damage the ecosystem, natural conditions, or wildlife, taking into consideration the type, class, amount or quantity of resources authorized for collection or use, duration of processing, impact inspection and monitoring measures, as well as restoration of the area or resources<sup>12</sup>.

### 3. Progress in operation

The consequence of creating a guiding policy affects the government agencies as the key operating unit, resulting in the management of protected areas (wildlife sanctuaries, non-hunting areas, national parks) tend to accept the existence of the community, enable access to biodiversity benefit-sharing and give greater importance to the participation of local communities and local governments. The Prime Minister's Delivery Unit (PMDU) has appointed an Ad Hoc Committee to drive the policy on solving settlement and agricultural problems in the protected area<sup>13</sup>. The main mission is to coordinate and monitor the implementation of DNP to complete the survey following to Section 121 of the Wildlife Conservation and Protection Act, B.E. 2562 (2019) and Section 64 of the National Parks Act, B.E. 2562 (2019). The survey found that there are 226 sites in three types of protected areas: wildlife sanctuaries, non-hunting areas, and national parks. Covering 4,192 communities, 316,560 cases with a total area of 4,273,726.2 rai (683,796.19 hectares)<sup>14</sup> or 6.39 percent of total areas protected.

**Table 2** Number of communities, agriculture and settlement area in protected area

Type of protected area	No. of site	No. of communities	Agriculture and settlement areas (rai)
National park	126	2,745	2,550,044.18
Wildlife sanctuary	60	1,003	1,471,908.37
Non-hunting area	40	444	273,548.69
<b>Total</b>	<b>226</b>	<b>4,192</b>	<b>4,295,501.24</b>

Source: Department of National Parks, Wildlife and Plant Conservation (DNP)

On February 8, 2019, the Department of National Parks, Wildlife and Plant Conservation has made a Memorandum of Cooperation with the Office of Decentralization Commission for Local Administrative Organizations, Community Organizations Development Institute, to promote and enhance the quality of life of communities living in protected areas that have been identified.

### 4. Challenges and policy recommendations

The process of resolving dispute over forestland in the protected forest area is a hope that will lead to the resolution of long-standing conflict. Along with maintaining biodiversity, it will be an important first step towards cooperation in the long-term, to balance and ensure sustainable management of natural resources and biodiversity in protected areas. It also has significant implications for solving inequality and injustice in the society, according to the National Strategy's goal<sup>15</sup>. This will also prepare local communities to adapt to future climate change impacts.

12 Section 57 of the Wildlife Conservation and Protection Act B.E. 2562 (2019)

13 Order of the Prime Minister's Delivery Unit (PMDU) No.2 /2563 on the appointment of an Ad Hoc Committee to drive the policy on settlement and agriculture in protected areas dated February 3, 2020.

14 Reference website: The system for tracking the resolution of land problems of the people in the protected forest areas, Division of Land and Community Management in Conservation Area, Protected Area Rehabilitation and Development Office, Department of National Parks, Wildlife and Plant Conservation. <https://app.powerbi.com/view?r=eyJrIjoiMzBkNzVjZjQtYjAwZS00YTJjLTg1YmMtNGMzNWViMzhkNDhiliwidCI6ImEwOTU3ZjBhLTRhZjctNGExYy04ODQyLWYzZjczZWQ5OTU1YSIsImMiOiJlEwfQ%3D%3D>

15 Further information refers to the 20-Year National Strategy Website [http://www.ratchakitcha.soc.go.th/DATA/PDF/2561/A/082/T\\_0001.PDF](http://www.ratchakitcha.soc.go.th/DATA/PDF/2561/A/082/T_0001.PDF)

While policy initiatives have been launched, there is still long-term political uncertainty. Furthermore, many barriers and challenges can have an impact on the success of protected area management to be a source of biodiversity conservation, while improving the well-being of local communities in a balanced and sustainable basis.

#### Conditions and success factors

- 1) Having a clear guideline to manage the policy and being ready to support on budget and personnel to relevant departments in driving the solutions, and in accordance with the laws.
- 2) Enactment of subordinate laws/auxiliary regulations under the Wildlife Protection and Conservation Act, B.E. 2562 (2019) and the National Parks Act, B.E. 2562 (2019) that contributes to solving forestland problems and supports the management, conservation, and restoration of protected forest areas and local communities.
- 3) Coordinating and integrating cooperation to support the management of protected areas, towards the conservation, the rehabilitation of the area, as well as improving the quality of life of the community.
- 4) Develop knowledge and techniques, both in the domains of participatory land management, and knowledge of environmental, forestry and wildlife-friendly land use skills and techniques. This should be done in conjunction with improving the quality of life of local community residents to achieve balance and sustainability.
- 5) The legal foundations, particularly the important role that the justice process plays, both for prosecutors and for judges in making judgments on the law, must be clear, such as passages like “normal living activities”, “that person will not be punished”, etc.
- 6) Systematic and ongoing monitoring and assessment of performance through engagement processes with government agencies, local communities, academic institutions and stakeholders.

#### Recommendations to policy-makers

- 1) The administrative sector should enact subordinate laws/auxiliary regulations (Royal Decrees, regulations, orders) in accordance with the facts. The subordinate laws must not obstruct forest and wildlife management policies, including considering the enactment of the Ethnic Groups Promotion and Protection Act B.E. 2562 (2019) which is another the law according to the government's policy to be systematically consistent with the participatory process of all sectors.
- 2) The legislation would have to be following up in order to make recommendations for the preparation of the subordinate laws/auxiliary regulations in accordance with the intent of the Wildlife Protection and Conservation Act, B.E. 2562 (2019) and the National Parks Act B.E. 2562 (2019).
- 3) Policy research agencies and educational institutions should contribute to research, collection and development of knowledge in land use planning, community system design, development of engagement mechanisms, and guidelines for improving quality of life, based on balance and sustainability concept. The approaches that could be further explored and promoted such as agroforestry, forest landscape restoration (FLR), ecosystem based adaptation, nature based solution, co-management, etc.
- 4) Government through the Prime Minister's Delivery Unit (PMDU) should establish an administrative mechanism to monitor and assess long-term performance to achieve tangible results and promote awareness to create a model for other communities.