B. Forests

Exit, Voice, and the Depletion of Open Access Resources: The Political Bases of Property Rights in Thailand

Scott R. Christensen Akin Rabibhadana

The authors argue that the depletion of the open land frontier in Thailand has not led to the development of a strong central state, even though it has led to demands for innovations in the formal-legal order governing access to land. Institutional factors preventing the state from providing formal rule enforcement for the population combined with the lack of a landed aristocracy have maintained the discrepancy between legal rules and customary practices that prevailed when an open land frontier allowed people to avoid conflict by moving away. Since the mid-1980s, when the Royal Forestry Department drafted a new policy to promote commercial tree plantations, conflicts over forest reserves have increased, centering on the commercial tree plantations, on squatters who refuse to leave the reserves, and on the preservation and management of so-called community forests.

When addressing conflicts over natural resources, agrarian societies typically assign very low value to the formal-legal procedures associated with the state as the means for arbitrating disputes. In a typical rural Thai setting, as William J. Klausner (1987:236) reminds us, formal rules are neither perceived to be universal nor consistently applied; as a result, there is a widespread discrepancy between "the positive law and the living law of customary behavior." This discrepancy, in the view of another legal specialist, "exists on a grand scale and leads to disobedience and lack of respect for the law where . . . [statute and custom] diverge" (O'Neill 1992:1167).

The gap between formal law and prevailing customs reflects a much wider inconsistency between the national institutions of the central state and local, informal power relations not only in Thailand but throughout Southeast Asia as well. While central state organizations have developed the technical capacity to assert their will in a specified territory, this "modern institutional framework is a relatively recent import," according to James C. Scott. In the predominantly agrarian societies of Southeast Asia,

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he contends (1972:102), the modern state "finds minimal support from indigenous social values and receives only sporadic legal enforcement."

We argue that one of the primary reasons for this discrepancy between form and practice has been—until only recently in Thailand—the availability of an open land frontier. By permitting a relatively low population-to-land ratio and the treatment of new land as an "open access" resource, the agricultural land surplus has been a key ingredient in the maintenance of what Albert Hirschman calls a neo-laissez-faire political order.[1] Hirschman (1978:90) argues that the open frontier affords the possibility of "exit" for the rural population—the option of avoiding conflict by breaking away from the group, village, or state and "tak[ing] one's business elsewhere" (ibid.; see also Hirschman 1970). These conditions in turn prevent the emergence of "large, centralized societies with specialized state organs" (Hirschman 1978:94). Hirschman then suggests that the exit pattern of conflict behavior is difficult to change "except through some outside event such as invasion or exhaustion of the 'open resources' " (p. 95).

In this essay we address whether the depletion of the open land frontier does in fact encourage the emergence of a state that differs from the decentralized neo-laissez-faire political order, in which loosely enforced formal laws and a multitude of local customs persist side by side. In other words, do resource constraints lead to the institutionalization of the political process, and what conditions might disrupt the development of an effective and legitimate political order? The evolution and application in Thailand of property rights in land are the material for our discussion. We argue that although the closing of the land frontier leads to "voice" and the subsequent demand for innovations in the formal-legal order, these conditions may not necessarily motivate the kinds of collective action, and the social consensus for it, that have been associated with the consolidation of nation-states in many industrialized countries.

Hirschman's ecological theory of the state may have proven valid when there was a social or ideological consensus for the privatization of land or when political elites who had a vested interest in the development of a uniform system of formal property rights formed an important coalitional base for the state. In rural Thailand, however, these features are typically lacking. The very basis of the law, of land tenure, and of the authority of the state remain highly contested issues. There is no ideological consensus about property rights law among the officials of the state or throughout society. The political economy has not produced

[1] Gunner Myrdal used the term *soft state* in reference to this sort of political order. Hirschman's "neo-laissez-faire" society is a reference to the social and ecological bases of the soft state.

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enough demand for the state to be compelled to supply the institutional innovations necessary for effectively managing land resources and mitigating wrangles over land. We identify certain historical and political-economy factors that account for the divergence from the outcome anticipated by Hirschman. As we shall see, these factors have instead fostered a brand of legal pluralism that is characterized by an acute lack of any political consensus on the specification and enforcement of property rights.

The Open Frontier, the Central State, and the Popular Response

While acknowledging that open resources could provide the ecological conditions for a highly coercive system of slavery or for a centralized state that aims to control its fissiparous population with brute force, Hirschman suggests that the most likely outcome of a land-surplus situation is a "frequent recourse to exit" and an effective condition of "statelessness." The availability of open resources, land in particular, encourages a "conflict avoidance" approach to dealing with others. The contribution of "voice," meaning the political process, is thereby limited, because members of the population take matters into their own hands with individual strategies of avoidance or evasion. The political organization of such a society is decentralized, characterized by the rise and fall of small, informal tribes, patron-client bands, and the like. These groupings survive by offering services to their members that diminish or obscure the obvious attraction of exit. In the absence of coercion, groups that fail to perform in this regard lose their members to other groups that provide superior services.

In Southeast Asia, central state apparatuses were imposed by colonial powers or, in the case of Thailand, by a modernizing monarch. Modern bureaucracies, professional armies, courts, systems of formal law, were all imported or reshaped from above *prior* to the conditions that Hirschman suggests give rise to voice and that thereby create the demand for a collective set of rules and procedures for reconciling the diverse interests of a population. These imported frameworks were staffed with professional civil servants who effectively assumed dual roles as the makers and adjudicators of the law and as the governing political elite (Riggs 1966).

Two aspects of this mode of national-state formation in Thailand have shaped the institutional bases of property rights in land and social attitudes toward legal institutions. The first involves institutional history. The problems of indigenizing the administrative innovations associated with state building in Southeast Asia have been the subject of both scholarship and political conflict. For a variety of reasons—low official salaries, poor pub-

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lic services, lack of a consensus regarding the utility of formal laws, and the ease with which representatives of the state can be bribed, in addition to a host of so-called cultural factors that go beyond the scope of this essay—central state administrations have often not been effective in providing formal rule enforcement for their populations. Nor have such services been in great demand. Agrarian social groups in particular often rely on informal methods and local networks of authority to manage day-to-day affairs, and even the formal application of authority by the state might be based on the patronage considerations of individual officials. Informal networks often perform useful functions for superiors and subordinates in both official and nonofficial settings; "direct personal ties based on reciprocity substitute for law, shared values, and strong institutions" (Scott 1972:102), typically identified with the modern state administrations that emerged out of the colonial period. Even where relations with officialdom have a long history, the population prefers to rely on customary procedures for settling disputes in the face of a formal legal system that is enforced inconsistently by the state. Klausner (1987:227) aptly summarizes:

> The villagers follow custom; the authorities, however sporadically, enforce the law. . . . [Villagers] do not, for the most part, have an appreciation of the social, economic and scientific rationales and justifications underlying such laws. There is also an element of winning a battle of wits with officialdom. . . . It is a game villagers have been playing from time immemorial; how to successfully evade the laws, orders, and burdens perceived as arbitrary and imposed upon them by those in power.

As indigenous social values prevail, there is a tendency not to regard the formal law of the state as the codification of universal truths of justice. The courts—and the state more broadly—are not seen as neutral adjudicators of universal rights and wrongs. Personal, kin-based, or face-to-face contacts, rather than any universal rules, dictate popular reactions to social conflict. Relationships rather than laws form the basis of the social and political orders. In such an environment, conflict arbitration tends to be local, informal, and ad hoc, assuming the form of personal bargains and compromises. Bargaining and exchange skills are assigned high social value, as is the art of striking a peaceful compromise. Kin or patrons to whom one is loyal are counted on to support one's case in the settlement of a dispute, regardless of the legality of the case in formal-legal terms. They, too, will encourage compromise, given the usual encumbrances and transaction costs associated with formal procedures.

The inconsistent application of the law is also found in the way that state agencies relate to one another. The central administration itself in Thailand has been unwilling or unable to develop the institutional coherence that would be necessary for a

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more consistent application of formal laws. Laws are often designed simply to cope with the unintended consequences of existing laws, or they are enacted out of frustration with the state's inability to enforce the laws on the books. Furthermore, formal laws often become tools for the advancement of individual agency objectives or of the interests of individual governing officials. In the Thai administrative law code, the legal acts assign discretion to officials in the bureaucracy who then enjoy the authority to interpret and apply the law according to the specific legal mandates of their agencies. Within the broad acts approved by Parliament, civil servants promulgate multiple and multiplying subordinate legislations that they perceive to be consistent with their administrative mandates. This discretion provides individual departments of the central bureaucracy with a fair degree of autonomy from the population, and from other government agencies as well, in determining who wins and loses in the allocation of resources regulated by the state (Surakiart Sathirathai 1987; see also Rangsan Thanapornpun 1989:ch. 5).

In this institutional setting, the application of rules becomes unpredictable, if not altogether ad hoc; administrative discretion enables officials to negotiate agency-based deals with favored interest groups, and public suspicion is aroused. Consequently, individuals often "view their rights as a function of their relationship with the enforcement authorities" (O'Neill 1992:1168). The lack of coherence among the governing arms of the state only contributes to the already inherent tendency for the population to assign very low utility to the law and to take its business elsewhere—beyond the scope of formal-legal procedures and into the realm of informal bargaining. As we shall see in the case of land tenure laws, inconsistent legal mandates and bureaucratic conflicts among the numerous concerned government agencies have inhibited the provision of private property rights in land for many smallholders in Thailand. In response to an unpredictable and sometimes hostile state, rural squatters often take land management matters into their own hands, relying on informal rules of land use and transfer while contesting, often violently, the administrative decisions of central state agencies.

The second aspect of state formation that has shaped land tenure institutions in Thailand is the historical absence of a landed aristocracy. The bureaucratic reforms of King Rama V in the later 19th century, which centralized formal political power in the capital of Bangkok, dislodged the *chao* (regional lords) from positions of authority in which they had amassed tracts of rural land. These centralizing reforms effectively quashed the nascent landed elite in the provinces. The prevailing property rights situation in Siam of the 19th century "was essentially one of usufruct rights" (Feeny 1988a:283). Siam had no haciendas or manorial estates, and agricultural production was managed by

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small-scale cultivators who paid nominal land taxes in exchange for cultivation rights. Formal private property rights in land were not introduced until the 1890s; before that time all land was recognized as the rightful property of the king.

With the adoption of a Torrens titling system[2] at the turn of the century, the bureaucratic families overseeing the new land administration were able to acquire tracts of land in commercial rice-producing areas and convert them into tenant farms. But unlike in England, France, or Prussia, for example, landlords never constituted a large share of the governing elite, nor did they form a coalitional base for the state. Consequently, no powerful political constituency demanded a system of enclosure of community lands or comprehensive property rights in the rural areas. The provision of property rights in land was instead conducted by, and at the behest of, the suppliers of the legal arrangements—the ruling administrative elite (Feeny 1988a; see also Feeny 1988b). Legal authority over land, moreover, was assumed not by one land bureaucracy but by several. While the Department of Lands in the Ministry of the Interior became responsible for land titling, the Royal Forestry Department assumed authority over public forest reserves, as well as deforested, occupied, cultivated land located within the boundaries of the declared forest reserves. In recent years agencies with mandates in the area of land policy have multiplied. Bureaucratic fragmentation, marked by often severe contradictions and inconsistencies among the laws of the various agencies, adds to the problems with collective action involved in reaching a political consensus over land tenure in rural Thailand (see Tongroj Onchan 1990).

Land Tenure Laws and the Governance of Land

The application of formal land laws in Thailand reflects both the durability of the "living law" of customary practices associated with usufruct land tenure, and the inconsistencies and administrative weaknesses typical of the central government's management of land resources. The Land Code of 1954, which is the primary legislation dealing with land management, was promulgated in direct response to the central administration's inability and unwillingness to completely implement the Torrens titling system, which had been adopted decades earlier. The code specifies separate documents for full ownership, utilization, and land occupation. In addition to full title deeds (N.S. 4) assigned by the Department of Lands, exploitation testimonials (N.S. 3 and N.S. 3K), which granted ownership rights on unsurveyed lands, were allocated by provincial officials from the Department of Lo-

[2] The Torrens system involves conducting comprehensive land surveys and issuing ownership documents for all surveyed lands. It also requires the maintenance of land ownership records.

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cal Administration. Local officials were also authorized to issue preemption certificates (N.S. 2) on encroached lands to "allow the holder temporarily to exclude others from using land as long as it [was] being developed" by the squatter (Feeny 1988a:285). While the N.S. 2 did not provide for the legal ownership of land, both the N.S. 3 and 4 varieties granted the rights to sell and transfer, and they were almost always accepted as collateral for institutional credit (Yongyuth Chalamwong & Feder 1986:7–8).[3]

The 1954 Land Code essentially relieved the land authorities of the expensive and time-consuming burden of carrying out comprehensive land surveys and assigning formal documents throughout the countryside. Such a task implied a level of administrative coherence, recordkeeping, and surveying skills that the bureaucracy, as in other developing countries, could not effectively provide. The land code also reflected a recognition on the part of officialdom of the central government's incapacity to keep land registration in pace with population growth and the customary practice of clearing available forest land for crop cultivation. A comparison of reported statistics illustrates a widening differential over time between encroachment rates and land registration. Jeremy H. Kemp (1981:8) cites a report by the Department of Lands in 1970 in which the department claimed that nearly 18% of all privately held land (meaning ownership recognized by officialdom), or 14.7 million rai, was under full title. By 1986 the same authorities boasted that the area under full title (N.S. 4) had increased to 18.4 million rai, but by then that area had dropped to only 12% of all nonpublic land (cited in Yongyuth Chalamwong & Feder 1986:table 1, p. 9). More significantly, in the same 1970 report cited by Kemp, it was stated that 43 million rai of land were registered under S.K. 1 status; reference is to yet another document that denoted the payment of income taxes but was "not mentioned in the Land Code itself" and did not in any case grant ownership rights (Kemp 1981:8). In 1986 these lands, plus those with N.S. 2 certificates, amounted to 38.9 million rai, while N.S. 3 and 3K titles had been issued for 64 million rai (Yongyuth Chalamwong & Feder 1986:9). In that year the total agricultural land area, whether formally titled or not, was estimated to be 150 million rai.

These numbers gain meaning when compared with the area designated by forestry officials to be public forest reserve and hence rightfully owned by the Royal Forestry Department (RFD). The National Forest Reserve Act of 1964 empowered the RFD to declare forest reserves in forested and deforested areas that may or may not have already been cleared and settled. Because state agricultural policies have encouraged the expansion of cash crop production into deforested public reserves, the state effectively

[3] The World Bank considered N.S. 4, 3, and 3K titled land throughout this study.

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maintains an economic development strategy that has become inconsistent with its own property rights laws. *The act prohibits the issuance of regular land title documents to anyone residing in the declared forest reserve zones.* It has thus created great insecurity and confusion for the residents of an area that now amounts to nearly half of the total land area of Thailand. Residents face summary eviction by the state, and they are often designated objects of one of the numerous state resettlement projects. Further, cultivators in public reserves cannot obtain institutional credit, because they cannot collateralize their land, and they are not entitled to the regular agricultural support services provided by the state. Thus, a large amount of this land does not undergo any capital improvement.

The area of cultivated land within the public forest reserves has expanded rapidly since the 1960s, when the public reserves were declared. The first national development plan (1961–65) established a target of 50% national forest cover, although the actual area of forest cover declined to below 40% by the early 1970s (Feeny 1988c:119–20). In the fifth development plan (1982–86), the RFD revised its target to 40% forest cover. In 1989 the RFD declared that 145.3 million rai—nearly half of the national land area of 320 million rai—was forest reserve area, yet the agency also admitted that only 90 million rai remained under forest cover (Thailand 1989:table 3, p. 5). Although agricultural land surveys are incomplete, independent researchers have estimated that in 1988 as much as all of the nonforested 55 million rai in the declared reserve areas were occupied or cultivated by squatters; Interior Ministry officials have put the occupied reserve area at 37 million rai for that year (Sopin Tongpan et al. 1990:11). The number of rural squatters is estimated at more than 8 million, or roughly 15% of the total population. Squatters make up the 12,400 villages—22% of the 56,000 villages in Thailand—inside the declared forest reserve boundaries. Formal land titling is prohibited in these areas, but "all types of land are in practice bought and sold," even though some types cannot legally be transferred (Yongyuth Chalamwong & Feder 1986:7).

Only recently have deforestation and land encroachment been treated as social or environmental issues at the policy level, because, at least where Forestry Department officials are concerned, the state has looked on the forestry sector as a source of raw materials to support industrialization—the lumber and paper pulp industries in particular. The depletion of the forest reserves has encouraged the state to take a more proactive stance toward the management of rural land and the forestry sector, but the state has not responded uniformly, and it has not always provided effective means for resolving the many wrenching disputes over rural land that have emerged with the closing of the forest frontier.

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By 1985 at least 14 different government agencies or parastate organizations had initiated land reform or resettlement programs. Reform in this context does not refer to a land redistribution program, which is typically associated with the term, but involves the application of irregular land-use documents in public forest reserves. These documents are designed to adjust the occupants' tenure status without necessarily changing the reserve status of the land. Some programs, however, such as those managed by the Agricultural Land Reform Office in the Ministry of Agriculture and Cooperatives, do change the land status altogether by "degazetting" the reserve land and assigning regular title deeds to it. Other programs do not alter the reserve boundaries but merely grant utilization rights to farmers or commercial foresters in areas deemed suitable for agricultural production or forestry projects. Almost 32 million rai of land were earmarked for all categories of these programs before 1985, and at that time about half of those earmarked had been assigned a new tenure status or had been degazetted from the reserves.

These programs "carry out their land settlement programs based on different laws; the land rights given to farmers differ accordingly" (Tongroj Onchan 1990:66). Most of the programs involve independent land surveys and the issuance of agency-specific land-use documents to target recipients. These programs have often become a vehicle for central administrative control over segments of the rural population, and often they have not persuaded reserve occupants to obey the formal law or to change their customary practices of land management and forest use. The RFD launched a program in 1982, for example, that provides land-use certificates (known as S.T.K.) for occupants of reserve areas. The intention of the program has been to limit forest encroachment and contain the squatters in designated forested reserve areas. In only a limited number of cases, however, has the program boosted productivity of the land or prevented further forest clearing. According to RFD terms for the program, most S.T.K. recipients do not qualify for institutional credit, nor are they entitled to subsidized inputs allocated by the Ministry of Agriculture, such as seeds and fertilizers. In other instances, the Ministry of the Interior has implemented squatter relocation programs, known as self-help settlements. There are numerous records of programs in which one group of squatters was removed to make room for another (Kemp 1981:12). Most recently, forest reserve lands have been designated as sites for commercial tree plantations, regardless of their occupancy status.

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Land Tenure in the Political Arena: The National Forestry Act of 1985

As long as the open land frontier afforded the option of exit for the rural population when disputes arose over land, a uniform and consistent property rights law was not needed. At the same time, there was little recourse to voice and, hence, no popular demand for innovations in property rights institutions and land tenure. Because officials and the rural population alike recognized the situation, the political process did not become the means for dealing with land management, and what prevailed was an "official system not in accordance with the law" (Kemp 1981:13). Recently, however, the depletion of the land frontier has narrowed dispute settlement options. Customary methods of dispute management offer little help against new attempts by the state to centralize control over the forest reserves. But official policies and procedures have not been effective either, in part because they have provoked so much hostility from the forest reserve occupants themselves.

The new state policy for the forest reserve, which has become the source of much of the conflict and violence in the Thai countryside since the mid-1980s, has centered on the promotion of commercial tree plantations in designated reserve areas. In 1985 the RFD drafted a new National Forestry Act intended to promote fast-growing tree varieties to reforest degraded reserve areas. The former RFD policy of reviving the reserves, which relied on the department's own tree plantations and on replanting by commercial loggers, had failed to show any promise of maintaining forest cover targets. The RFD therefore resolved to turn replanting over to private investors. In its new forestry law, the department authorized the Board of Investment (BOI) to offer promotional incentives for commercial eucalyptus planters and related user industries, such as wood-chip firms and pulp and paper factories.

The 1985 National Forestry Act reflected the desire by a number of state agencies to gain more effective authority over rural land resources and make these resources available for primarily urban industrial interest groups. In this regard, the state has often displayed contempt for rural squatters who occupy the reserves. The new forestry act did not address the issue of forest reserve occupancy, and no formal mechanisms were devised to provide legal recourse for squatters occupying areas designated for land reform or commercial reforestation projects. In these areas, farmers occupying the land have found their tenure increasingly insecure and arbitrary. In some instances, rural squatters have been paid cash informally by private companies to cede possession of the land; while in other instances, squatters have been evicted from reserve lands by state security forces. Because

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very few legal channels are open to squatters and because property rights in land are so weakly specified and arbitrarily enforced, such incidents have increasingly driven land tenure issues into the political process. As we shall see, however, the current recourse to voice has not produced any consensus on property rights. New policies toward the reserves have reflected a trend toward state centralization in the rural areas—an attempt by administrative elites to gain more regulatory control over the rural population while making way for urban industrial projects (Christensen 1993:ch. 6). But these centralizing projects have provided compelling reasons for squatters to contest the new rules as well.[4]

Partial Privatization: The Commercial Eucalyptus Rush, 1985–1991

One type of conflict over land that has emerged since 1985 centers on the commercial tree projects themselves. Commercial tree planters do not receive full property rights to the degraded forest reserve lands to which they are assigned; rather, they rent the land under 30-year concessions from the RFD at a nominal rate (U.S.$2.50 per hectare per year in 1991) and manage the capital investments on their own. In some instances, conflicts over land tenure have risen among three parties: state agencies, commercial tree firms, and squatters. These conflicts came to a head in 1990 after a boost in promotional privileges for eucalyptus and related user industries and a subsequent rush among predominantly new firms to set up eucalyptus farms and processing factories, mostly in the Central Plain. The case of the two largest ventures—Suan Kitti Reforestation, created in 1982, and Suan Siam Kitti, created in 1986, both owned by the agribusiness giant Soon Huan Seng Group—illustrates how the promotion of urban industrial interests in the rural areas and the lack of a consensus over a property rights issue provoked a three-way conflict and led to negative outcomes for all. The state could not provide a regulatory environment in which its own centralizing objectives could be realized, and squatters were encouraged to cut further into virgin forest areas.

Essential to the partial privatization strategy was for private companies to locate suitable reserve areas and show that they were uninhabited. Usually these areas were occupied by untitled farmers, although often the RFD had not surveyed the land. To vacate plantation sites, many eucalyptus firms took it on themselves to informally transfer untitled lands out of the hands of their occupants. Once lands were identified, and perhaps while

[4] Lohmann (1993) provides an eloquent discourse on contestation, though informed by a rather misplaced notion of "the commons" in the Thai political economy.

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informal transfers were being worked out, firms needed to obtain formal permission from the Ministry of Agriculture to go ahead with their projects. Up to 60 bureaucratic hurdles had to be cleared, and the approval process was known to take nearly two years. If a company wanted to plant more than 5,000 rai, the project needed cabinet approval—an even longer process, involving inevitable horsetrading among the political parties. Many firms, therefore, parceled their plantations into 5,000-rai plots for project applications.

Confusion over land tenure and obfuscatory procedures eventually undermined commercial reforestation and led to conflict on the reserves. The event that shelved the strategy was the detention of Suan Kitti Reforestation employees and the proprietor, Kitti Damnernchanwanich. Suan Kitti had hoped to create a mammoth full-cycle pulp operation. In pursuit of that objective, the firm amassed huge tracts of private property and forestry reserve land. The project was designed to be the Soon Hua Seng Group's largest commercial venture ever—a full-cycle eucalyptus plantation and pulp operation. The group proposed to build two wood-chip plants and one of the world's largest pulp mills and to create the largest commercial plantation in Thailand, with a total investment of 20 billion baht, or $800 million. Where untitled farmers occupied reserves, Suan Kitti paid them to cede possession. By 1989 the firm had amassed some 300,000 rai, for only 25,000 of which it had received approval from the Agriculture Ministry. With its pulp operation scheduled to open in 1992, Suan Kitti managers feared that the supply of raw materials would fall short of pulp-plant capacity. The firm quickly began planting trees on reserve lands while awaiting official approval to do so. On 23 January 1990 local police arrested 100 Suan Kitti employees for encroaching on unauthorized reserves.

The Suan Kitti arrests turned into a national scandal. The proprietor was a leading businessman, senator, and adviser to Prime Minister Chatichai Choonhavan. He was also a major financial contributor to the Democrat Party, whose secretary general was serving as the minister of agriculture.[5] At the root of the scandal was the means by which the firm had acquired land. While awaiting rental approval from the RFD, Suan Kitti had hired middlemen to "buy" cassava fields from squatters in the reserves. While the firm built roads into degraded areas, middlemen encouraged squatters to encroach further into virgin forests (*Manager* [Bangkok], 26 Feb.–11 Mar. 1990, p. 12). The scandal put government policy on hold as evidence emerged that the commercialization strategy in fact had encouraged more forest clearing, contrary to the intended outcome. In the face of mounting criticism from academics, the press, and opposition

[5] Party secretaries generals control the campaign funds.

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parties, the cabinet suspended private reforestation permits in May 1990.

Land Wars and Military Intervention: Buri Ram, 1988–1991

In other instances of conflict, reserve occupants have refused to leave the reserves and have instead dug in for a battle of attrition against state security forces. The perseverance with which some squatters on land targeted for commercial forestry projects have clung to their claims has prompted the military to intervene to evict them. Resistance to commercial reforestation in Buri Ram Province provides a particularly instructive example. Small farmers in the Dong Yai forest reserve drew typically harsh treatment from the military owing to their steadfast resistance to official forestry projects.

Dong Yai was declared a national forest reserve in 1959, when more than 630,000 rai of virgin forest covered the area. It became an ideal hideout for communist insurgents in the 1960s, and these insurgents had often stirred the ire of the army. Logging, road building, and counterinsurgency operations helped to deplete the forest and encouraged farmers to move into the reserve. When the Communist Party of Thailand folded in the early 1980s, only 20,000 rai of forest remained. About 40,000 rai of reserve land straddling the rim of the forest were converted into farmland. In 1991 the reserve was occupied by 5,000 families residing in 25 villages.

The RFD declared the area a reforestation zone in the mid-1980s and initiated four relocation projects (known as Dong Yai 1–4) to prepare the site for tree farms. Squatters were classified under occupancy revisions in the RFD's rights of utilization (S.T.K.) program. According to the revisions, farmers who had moved onto the land before 1967 would receive full title; those entering the reserves between 1967 and 1975 would receive formal usufruct rights, which could be inherited but not sold; and those encroaching between 1975 and 1981 would receive temporary utilization permits. Anyone entering the reserves after 1981 would be required to vacate the plots. Two of the projects were doomed, however, when the RFD failed to locate new homesteads for nearly a thousand families from the Pha Kham District. In the meantime, local RFD officials encouraged these villagers to plant cassava and eucalyptus trees. Many farmers were allowed to remain in the reserve on the condition that they sign sundry RFD documents in exchange for rights to plant cassava. A few years later, however, the RFD announced that the villagers would be removed from the area and their fields converted into commercial eucalyptus farms (*Bangkok Post,* 28 Apr. 1991, p. 8).

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Leaders of 11 villages responded with an appeal to local Interior officials, forestry officials, and the army to halt eucalyptus planting and grant rights of utilization in the failed project area. The RFD had claimed, consistent with the S.T.K. program, that many villagers had encroached after 1981 and therefore had missed the eligibility date for receiving utilization permits. Several village leaders disputed these claims, but their appeals fell on deaf ears. Many reserve occupants then resorted to petty acts of violence to defend their claims to the land. Starting in March 1989, villagers from Pha Kham sabotaged eucalyptus fields at Dong Yai 2 and 4, setting fire to trees and sapling stations. Over the next two years, no fewer than seven incidents of sabotage and arson were reported (*Bangkok Post,* 24 Apr. 1991, p. 9). Total damage to the tree farms during this period was estimated at 20 million baht, or $800,000.

Farmer resistance caused a special problem for the RFD and the army because of the leadership role performed by a local abbot, Phra Prachak Kutajitto. Phra Prachak—one of several Buddhist monks who became active in rural development and environmental issues during the 1980s—became a nuisance for the state because he inspired local communities to preserve the remaining forest at Dong Yai. He safeguarded trees with religious paraphernalia, encouraged villagers not to encroach on the remaining forest, and often embarrassed officials by nabbing illegal loggers, who were often found to have collaborated with forestry officials and local police.

After the February 1991 coup, the army announced that it would assist the RFD in reclaiming forest reserves by relocating 1.25 million reserve occupants within the northeast. For the new program, entitled "Kor Jor Kor," the army committed soldiers to three years of conducting resettlements. Threatening arrest or violence for reserve occupants who resisted, army and police officials that spring moved into two villages adjacent to Pha Kham, dismantled homes, and uprooted cassava fields. The army promised equal parcels of land to all farmers who cooperated. Soldiers regridded plots in one of the villages to divide among the residents of both. Phra Prachak trucked in a bevy of farmers from Pha Kham to lend support to those who were forcibly evicted. The incident provoked a bloody and widely publicized fistfight between the Pha Kham residents and local police. Within days, about 300 soldiers and local "defense volunteers" led the counterattack. Soldiers unilaterally leveled the village of Huay Namphud and evicted residents who had not already fled in haste. In the aftermath, critics charged that the army's actions camouflaged high-handed plans to convert the areas into corporate pulp plantations (Handley 1991).

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Conflicts over Community Forestry in the North

A third distinct form of political conflict has arisen over the preservation and management of so-called community resource reserves. In northern Thailand, where the problem of reserve occupancy is much less severe than elsewhere, collective management of forest and water resources at the village level has enjoyed a long history, predating the 20th century. Collective management of local watersheds, woodlots, grazing fields, and community irrigation schemes is commonplace throughout the north. Local institutions, typically a committee with an elected elder, are the usual means for regulating access to these resources. Members of the community are usually entitled to limited access, which is monitored by the committee, in return for which the members must devote their time and effort to maintaining these resources. Community forests typically emerge in rice-growing communities in the valleys and watersheds of hilly terrain.[6] Their distinguishing feature is that members of the community maintain them, make decisions about how best the forests and water should be managed, and enforce the rules governing their use. Many village forestry projects imposed by the state thus do not qualify as community forestry, "since the local people are neither involved in the decision making nor are they sharing in the profits" (Sopin Tongpan et al. 1990:41).

About 150 community forests have been identified in the north, although only one is recognized by forestry officials as such. The failure of the state to recognize alternative forms of property rights has been a source of conflict and at times a cause of their breakdown. The depletion of forest cover in the context of increased demand for natural resources, however, has put a great strain on local autonomy. As external commercial threats to community resources loom larger than internal ones, community institutions often cannot enforce conservation on their own. And because these community institutions are not recognized as legally binding by state administrators, "their powers of enforcement are often discredited and challenged" (ibid., p. 44).

A chief illustration of this clash between state authority and local autonomy is the case of the Huay Kaew community forest in Chiang Mai Province, which to date is the only legal community forest. The RFD's decision to recognize this institution came in the midst of a heated dispute between villagers living near the forest and the wife of a prominent politician from Chiang Mai, who had gained permission from local RFD officials to plant a fruit orchard in the area. The villagers first charged that the woman's firm had destroyed healthy forest and then claimed that the area had been degraded in order to obtain a lease from the

[6] For a discussion of 22 of these institutions, see Social Research Institute 1991.

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RFD. Local forestry officials and police ignored these charges until the national media flocked to the scene during the fall of 1989.

The publicity surrounding the case brought members of the Countercorruption Commission to Chiang Mai, who found that the lessee's documentation had been forged. Accusations of official corruption and complicity followed, which embarrassed the RFD so badly that the acting director general of the department declared the area a community forest in December 1989 in hopes of dispelling the publicity. As a testament to the inconsistencies in the operation of the central bureaucracy, the woman's lease was never revoked, however. For yet another two years, both parties claimed rights to utilize the forest reserve while forestry officials deliberated behind closed doors over the extent of actual forest degradation in the area. The delay was ostensibly due to RFD officials' failure to decide which of the many land surveys conducted over the two-year period was correct (Suda Kajanawan & Pannec N. Kornkij 1989:8; *Bangkok Post,* 17 Sept. 1991). In spite of the RFD's formal recognition of community rights, the villagers were told by local RFD officials and police that they had no right to enter the area. Since that time, the villagers have persisted, rallying frequent protests and forming alliances with student groups, the press, and nongovernmental organizations, although the lease for the fruit orchard was never suspended.

Conclusion

The depletion of surplus forest reserves in Thailand has led directly to increasing conflicts over land resources. Such conflicts occur between individual agriculturalists, between small-scale agriculturalists and commercial interests seeking to exploit the land, and between agriculturalists and the state. Although the conflicts have led to greater voice and to demands for more consistently specified property rights to land, whatever the form, a legitimate basis for formal property-rights institutions and an effective political process for addressing conflicts over land have not evolved. The state, try though it may, has not succeeded at centralizing control over the land. But neither has the state provided a legal environment conducive to alternative land tenures or local autonomy. Thailand lacks a consensus on legitimate land tenures, and the rules governing land rights are actively contested.

Part of the state's trouble in this regard is the diversity of constituents who make the demands for reform in property rights institutions; a rural landowning elite is conspicuously absent. Today's business elites do not require ownership of rural land, only explicit agreements with the state that rural land can be made available for agribusiness. Owners of commercial livestock firms

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and tree farms, which are the largest commercial users of agricultural land, need only to gain access to land at a nominal fee, but actual ownership of the land is not necessary for their enterprises to thrive.

From the viewpoint of the administrative elite, the most urgent task is not to survey and title rural lands but to supply the concessionary arrangements for urban industrialists who are locating their commercial agribusiness enterprises increasingly in the countryside. Here, however, the state often appears to be on a collision course with itself. The organizational and legal bases of the Thai central administration have prevented the development and application of a uniform property rights law. The consequences even for those industrialists often favored by the state can be costly, as illustrated by the Suan Kitti case. The central administrators' dual role as lawmakers and enforcers of the law lends them great discretion. But the institutional fragmentation of the state leads to the formation of administrative fiefdoms whose collective application of the law appears arbitrary and ad hoc.

The absence of a coherent state or political consensus on property rights in land need not work against the interests of smallholders. Community institutions serving smallholders thrive in some areas of northern Thailand, though the case of the Huay Kaew reserve demonstrates that state intervention can be a key constraint on local autonomy. To be effective and legitimate, an institutionalized system of legal pluralism requires the recognition of alternative forms of land tenure on the part of the suppliers of the formal-legal framework—namely, the administrative elite of the state apparatus. Adjustments in the formal law are needed to mitigate the often bitter conflicts over scarce rural land. But to so reduce tension requires that the suppliers of legal arrangements recognize prevailing socioeconomic conditions in the countryside and the institutional diversity of an industrializing society with a large and populous agricultural sector.

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