

CHAPTER 5: VERIFYING FOREST GOVERNANCE ISSUES IN THAILAND

5.1. Introduction

The chapter details the findings from interviews from the first set of interviews. The interviews aimed to verify the validity of the 10 criteria for good forest governance derived in Chapter 4 for diagnosing forest governance problems in Thailand, and to provide initial intelligence about the extent to which forest governance satisfies these criteria.

Section 5.2 organises the ‘voices’ of the people under each of the criteria. Quotes are used to provide the reader with a sense of the dialogue and interviewee insights. Section 5.3 reproduces a paper published by the author that uses the criteria to examine the forest governance system in Thailand. Section 5.4 concludes that the criteria has provided useful insights but further research would be required to enable more robust recommendations to overcome Thailand’s forest governance problems.

5.2. The voices of stakeholders from the first set of interviews

Ten stakeholders participated in the first set of interviews: four from the Central Government, two from local Government and four from forest communities (see Table 2.1). After obtaining their agreement to participate in the study, all interviewees were sent a list of questions (see Appendix 1). The questionnaire was used to structure the interview but all questions were open-ended and interviewees were invited to expand upon issues and raise others they believed relevant to forest governance. All interviews were recorded and transcribed. Thematic analysis was used to examine the interview data to determine whether the ten criteria derived in Chapter 4 is a useful categorisation of forest governance issues, and to gain further insights into forest governance in Thailand.

The analysis showed that the criteria are useful as an instrument for evaluating forest governance issues. This section provides results of the analysis. Quotes and comments are organised under headings for each criterion and illustrate that interviewees agreed with the criteria for good forest governance and were able to verbalise the consequences of failures in each criterion. In some cases interviewees also noted ways in which adherence to the criterion could be improved. Interviewees also recognised that the criteria interact, supporting one another – as shown in the discussion below when quotes have found their place under two criteria.

5.2.1. Criterion 1: Reliance upon the rule of law

The application of the rule of law requires an impartially enforced and fair legal framework. Laws that are inconsistent, expensive or complex prevent the application of an enforceable and fair legal framework. Chapter 3 examined the documented institutional aspects of Thailand’s forest governance, finding that there were fundamental problems in satisfying this criterion. Interviews with stakeholders

also indicated that Thailand's forest governance laws were too complex and inconsistent to enable effective application of the rule of law.

An interview participant from the governmental sector noted:

Any particular area of forest can be designated under a number of laws established by different authorities. This is because [any particular forest may be] classified to be general forest; reserved forests which are under laws administered by the Royal Forest Department. As well, the forestland [may also be] categorised as a national park or a wildlife sanctuary, which are under another Act administered by the Department of National Park, Wildlife, and Plant Conservation. *(Interviewee P1)*⁶¹⁹

Another interviewee stated that:

Forestland is [governed] under a number of laws established by different authorities. Forestland may be classified to be general forest and reserved forests. These are under laws administered by the Royal Forest Department. Forestland may also be categorised as national park or a wildlife sanctuary and are under another Act administered by the Department of National Parks, Wildlife, and Plant Conservation. In addition, forestland is also under the law administered by the Fine Arts Department, if it is very old. It is necessary to clearly identify that a forest area should be [governed] under a specific law and authority. *(Interviewee P2)*

These statements were supported by an interviewee who implements forest laws and policy at the local level:

I don't understand why the contents of relevant forest laws are different. These laws are about the same story [issues]; so why do they have different content. Different authorities have and implement their own laws that are not consistent with laws from other relevant agencies even though such laws are talking about the same story. These are quite hard for me at the lower level of government to work with. It confuses me if I have to conduct my role based on [applying] which law from which agency. *(Interviewee L1)*

In summary, interviewees raised issues that indicate that Thai forest governance fails to meet 'the rule of law' criterion in a number of respects. Two issues, in particular, were highlighted:

1. Forest areas can be designated under a number of laws established by different authorities, thereby compromising consistency of approach and complexity of implementation of the law
2. Laws have different definitions of what constitutes 'forestland'. This confuses staff at the lower government levels, making it more difficult for them to carry out their role because they need to decide which law to in apply.

⁶¹⁹ Quotes are translated by the researcher from Thai to English.

5.2.2. Criterion 2: Transparency; Criterion 3: Accountability; Criterion 4: Stakeholders participation

If there is transparency, accountability and good communication, stakeholders are more likely to participate positively in ensuring that forests are managed sustainably. Interviewees indicated that Thailand's forest governance system lacked several of these factors. Specifically, analysis of the responses of interviews provided evidence of lack of effective communication, participation in forest management, and accountability (risking corruption).

Interviewees were particularly concerned about a lack of good information sharing (communication). This effected not only what people understand to be their rights to forests but also development of policy. For example, some people who have use rights for forestland must pay a land tax. Upon payment of land tax, officials issue a document (Por Bor Tor 5) confirming the payment. The Por Bor Tor 5 can be used to provide evidence of formal rights to or ownership of the forestlands since only those who have formal rights must pay land tax. However, confusion arises when officials wrongfully require payment from those who encroach (have no legal rights) on forestlands and then issue them with a Por Bor Tor 5, leading encroachers to believe they have legal rights. This example is the clearest illustration of multiple governance problems: ambiguous land titling; unclear legal obligations and rights; corrupt or incompetent officials; and limited capacity of the affected communities. Failings of transparency, accountability and stakeholder participation lie at the heart of such failings.

Two participants from the key forest authority highlight this particular problem of land tax payment.

People know that the land they have been settling on is forestland owned by the state. However, often the head of the village or the head of the sub-district, who work as officials at the local level, tell people settled on forest areas that people have to pay land tax – the tax payment is treated as land rental. When people pay the tax they are issued a 'Por Bor Tor 5' document proving that people have paid the tax. The consequence is people believe that they have paid rent for settling on forestland, and once they have been paying rent and been issued the Por Bor Tor 5 document for a long time, they automatically come to understand that they have a legal claim or even the ownership over forestland as evidenced by the Por Bor Tor 5 document provided by government officials. Very often then, people claim the ownership or try to trade forestland by transferring the Por Bor Tor 5 document, but they cannot. This is due to forestland being exclusively state-owned, even if people have been settled on the land for a long time. They cannot have ownership over such land, and do not need to pay the tax: people only pay the tax for land if they have a usufruct right or ownership over land. Transferring the Por Bor Tor 5 later becomes a source of controversy among stakeholders. The relevant authorities have to announce that Por Bor Tor 5 is not a land title deed, it cannot be transferred as a land title deed and that people do not have the ownership over forestland do not need to pay the land tax for maintaining land. However, there are some people who still believe that they have the legal claim or even the ownership over forestland as evidenced by that Por Bor Tor 5 document. (*Interviewee P1*)

The second interviewee noted:

Another issue that has also been overlooked is the issue of Por Bor Tor 5 which is the tax paid for land maintenance. Only people who have the ownership of land have to pay this tax for maintaining the land. Forestlands that people have encroached on belong to the state; people have no ownership, so they cannot pay the land-maintenance tax. What happens however is forest encroachers do pay the land-maintenance tax and, as a result, they believe that the land belongs to them. This causes serious conflict between the government and those people claiming ownership who have been paying land-maintenance tax. The need for an announcement that the Por Bor Tor 5 (land-maintenance tax) receipt is not a title deed and that there is no legal claim of land title due to the Por Bor Tor 5 is caused by misunderstanding by officials at the local level. There is a need to make things clear about this issue. (*Interviewee P 2*)

This instance points to many broader issues under Criteria 2, 3 and 4. A representative from local government suggested that many problems in forest governance also arise because of lack of involvement by forest communities in the formulation of forest policy.

In addition, it is necessary for the community to be involved in the meetings concerned with forest management with the government. This is because in reality the staff of government hardly ever visit in the field, so they cannot reflect reality. This consequently makes the forest policy they formulate inconsistent with the reality is on the ground. (*Interviewee L2*)

The application of the rule of law is also challenged by official wrongdoing being ignored; that is, officials are not been held accountable. Such corruption occurs at the level of land allocations:

The government has allocated degraded forestlands to landless people as a way of dealing with forest encroachment, but this initiative was not very successful as very often businessmen were granted such allocated lands instead of landless people. (*Interviewee P1*)

And

The key problem of forest governance in Thailand is corruption: even if there is an effort to allocate land to landless people[s], those lands are not really allocated to landless people; instead they are allocated to businessmen. Thailand needs more effective monitoring for dealing with corruption. (*Interviewee P4*)

As well, interviewees noted that the issue of land title deeds is problematic:

There are many problems our authorities face. One example is issuing land title deeds. This really depends on the staff and influential people in each regional area. Those staff and influential people (can) use the certificate of occupation rights issued for lands to claim land they would love to have ownership of (fraudulently), but this kind of action is rare. It needs to be collaboratively investigated by several relevant authorities. (*Interviewees P3*)

And

Prior to demarcation of forestlands, there was an announcement to people requiring them to inform the Land Authority about the boundaries of land they had been occupying at the time of the announcement. This was to register that land and to issue certificates showing that how much land was occupied and by whom. This certificate is intended to formalise the occupying rights of the landholders. Such certificate of occupation rights can be converted to land title deeds. Linked to this, often officials can make forged documents for issuing these certificates of occupation rights. The officials use this forged certificate to claim full-ownership title deeds for themselves. This affects forests because often the lands claimed for full-ownership are the forestlands; so forestlands are transferred to private property using forged documents. *(Interviewees P4)*

Corruption also occurs in the internal processes of responsible agencies:

We still lack proficient forest staff. This is because they are hiring unqualified authorities' own relatives as forest officials. *(Interviewee P 2)*

And

In relation to forestland classification, the Lands Department began to classify forest areas of 5 provinces through the Reshape Project in collaboration with the relevant agencies. This project was not continued because the Ministry that has the direct responsibility for forest management does not agree with the way forestland has been classified by the Lands Department. That Ministry has decided not to continue forest classification using the Lands Department system, but to conduct such forest classification by itself using a firm in which officials have an interest. *(Interviewee P 3)*

The lack of accountability was widely recognised:

Officials are among those who illegally cut the trees. *(Interviewee L1)*

The official may be an illegal logger himself /herself. *(Interviewee L2)*

I really would like the officials to have the will to manage and conserve forests. Sometimes the officials are the ones who are involved in illegal logging themselves. This is related to the issues of corruption and the power of influential people. *(Interviewee C3)*

One interviewee from the community suggested that the issue of limited public participation is tied to the problem of corruption.

If only forest officials are empowered to manage the forest, there is a risk that the officials will collaborate with a third party to illegally log the trees. If people manage the forest with government, for example patrolling, these people can provide a watchdog role in forest monitoring activities and related advocacy. *(Interviewee C1)*

Interviews provided instances of limited participation.

Forestland areas are very large, and governmental staff alone is not sufficient for effectively preserving it. People should be allowed to join in such things as forest patrols with the government. People spend their daily life with the forests, the forest is their lives, and they have traditionally known well how to live in harmony with the forest. Under our customary approach, we have the groups those are responsible to patrol the forests. This is to monitor forest fires, to collect herbs, collect food, and to collect seeds of important trees which need to be maintained. In contrast, officials are not necessarily native to some forest areas, so they may not know the real conditions of the forests they are monitoring. (*Interviewees C3*)

It would be better if there were a law that clearly allows us to manage forests, such as by shared patrolling of forests with government officers. (*Interviewee C1*)

Forestland is conserved for all Thai people, so everyone has to be involved in forest management. It is impossible to conserve forests with no access for anyone. In the extreme, lack of access to forestland also means the loss of forestlands. (*Interviewee P4*)

In summary, interviewees raised a number of intersecting several issues related to lack of transparency, lack of accountability and lack of stakeholder participation – all factors that can lead to corruption. The major issues distilled from the interviews are:

1. There is a lack of information sharing (communication), highlighted in the case of land tax payments (the Por Bor Tor 5 document), which requires people to pay the tax only if they have formal rights to the land. This exemplifies that the principle component ‘dissemination of information’ is not operating well.
2. Lack of involvement by forest communities in the formulation of forest policy so that the policy that is formulated is inconsistent with what the reality is ‘on ground’. This is evidence that stakeholder consultation and engagement are not working well in the forest governance system.
3. Lack of accountability, particularly in land allocation and hiring staff. The consequences are:
 - a. Forestlands may not be allocated to landless people according to the objectives of the law, but can be allocated to businessmen.
 - b. Officials can conduct their role illegally and favour their own interests, such as using forged documents for issuing certificates of occupation rights, using a firm in which officials have an interest, and collaborating with influential people to illegally log forests.
 - c. Lack of proficient forest staff.

5.2.3. Criterion 5: Effectiveness

When asked to reflect on the effectiveness of forest governance, interviewees generally recognised that monitoring is important.

To make sure that the funding that is allocated is spent effectively and that activities carried out are in line with state objectives for forest management, it is important to have assessment at the end of each forest management project. (*Interviewee C 1*)

To ensure that forest management is in line with stated objectives, the members of forest management groups need to conduct regular meetings, monitoring and assessment. (*Interviewee C3*)

Based on my experience of forest management at the communal level, to ensure the success of forest management it is very important to regularly and continuously carry out monitoring and evaluation of what work has been conducted. (*Interviewee C4*)

Interviewees from the Central Government noted that, although recognised as important, the monitoring task was not well carried out:

Apart from a need for staff for forest patrols, regular assessment and monitoring are also needed for Thai forest governance. (But) for example in the patrolling the forest in practice the responsible authority only uses a helicopter for the air-patrol of forests infrequently.” (*Interviewee P3*)

Thailand needs more effective monitoring for dealing with corruption. (*Interviewee P4*)

Achieving effective monitoring requires capacity – which is often lacking – such as the capacity to measure and monitor changes in the state of forests. Unqualified staff often lacks the capacity to reliably monitor changes in the forest management.

Two interviewees stated that unqualified staff is problematic:

We still lack proficient forest staff. This is because they are hiring unqualified authorities’ own relatives as forest officials.” (*Interviewee P2*)

People know that the land they have been settling on is forest and owned by the state. However, often the Head of the village or the Head of the sub-district who work as officials at the local level, tell people settled on forest areas that people have to pay land tax – the tax payment is treated as land rental. When people pay the tax they are issued a ‘Por Bor Tor 5’ document proving that people have paid the tax. (*Interviewee P1*)

In summary, interviewees did indicate that Thai forest governance often fails to meet standards of effectiveness that would be expected as ‘good forest governance’. The particular concerns were:

1. Lack of regular monitoring, such as lack of regularly patrolling the forest and lack of monitoring in land allocation. This is attributed largely to insufficient capacity and resources.
2. Non-delivery of objectives stated in government policies and laws. A lack of reliable monitoring makes it difficult to assess the extent to which governance is delivering the value implicit in the government's policy statements and objectives of the relevant laws.
3. Misapplication and/or misappropriated forest resources. There are indications that forest resources are being misapplied and/or misappropriated. Without monitoring, these activities remain undetected.

5.2.4. Criterion 6: Efficiency

Inefficiency occurs when activities increase unintended costs for stakeholders.

Two interviewees from the Central Government were particularly concerned that Thailand's current forest management policies change too frequently, resulting in inefficiencies. Policy changes result in changes to projects that have already been partly conducted and have already had resources and time spent on them. The result is wasted resources and effort.

Interviewee P1 from the government said that:

Forest policy is frequently changed and when the policy is changed the officials also have to change the way they work, to follow such changed policy. (*Interviewee P1*)

Interviewee P3 provided an example in the Reshape Project⁶²⁰ of the effects of frequent changes:

In relation to forestland classification, the Land Department has classified forest areas of 5 provinces through a Reshape Project in collaboration with the relevant agencies. This [project] is not [being] continued. This is because the Ministry that has the direct responsibility for forest management does not agree with the way forestland classification has been done by the Land Department. So, the Ministry has decided not to continue forest classification ... but to conduct forest classification by itself (hiring a firm that officials have an interest in). This contributes to wasting a great amount of time and money invested for forest classification. (*Interviewee P3*)

Although market competitiveness is argued to increase efficiency, Interviewee P 2 highlighted how agency competitiveness resulting from unclear legal arrangement can cause inefficiency:

In addition, the relevant agencies have competitive roles; they do not like to talk to or negotiate with each other, they prefer to compete. (*Interviewee P2*)

⁶²⁰ As described by the interviewee P3, the Reshape Project is meant to be a collaborative effort by forest-related agencies to *reshape* the areas of forest reserves, national parks and state-owned land with an aim of clarifying the boundaries of those areas.

Interviewee P2 provided an example of how unclear rights could cause increases in costs because of the additional costs of verification and disputes:

We have a policy to expand preserved forest areas up to 15 per cent of the total land area of the country. To achieve this, we have to remove people who have been settling on reserved forest[ry] areas... We have to prove whether they have settled before the demarcation of forestlands or not, which is very slow. (*Interviewee P2*)

An interviewee from local government supported this view of the effects of unclear tenure and rights:

Sometimes the demarcation of forest areas was never completed or was done badly. This is the result of competition between forest-related agencies. Those authorities were in a hurry to finish the demarcations of forestlands, but without consulting other relevant authorities or even local authorities about demarcated areas. This has contributed to errors in forest demarcations - such as overlapping of [harvestable] forests with land areas occupied by other agencies or private people. This consequently opened a 'border dispute' between the state and other affected occupiers, which requires that they spend more time on investigation [title verification]. (*Interviewee L1*)

In summary, interviewees highlighted that the current Thai forest governance system is inefficient because of: frequent changes to government policies; poor competitive practices; and poor definition of stakeholder rights. These issues overlap with the related comments about effectiveness, transparency, accountability, participation and rule of law.

5.2.5. Criterion 7: Fairness and Equity

Interviewees were particularly concerned with the many ways that the current forest governance system failed to provide a fair and equitable system.

Thailand has a constitution that recognises forest traditions and the rights of community to participate in natural resources management. However, as noted earlier, there are no specific forest laws that clearly specify what rights people have over forest resources and there are no laws allowing people to live in the forest areas. As discussed in Chapter 3, there are currently a number of people living in forest areas, either with or without a morally valid claim. There are many problems of equity embodied in these institutional failing to clarify tenure, land use and cultural rights; and to manage improper use.

Two interviewees spoke about how unclear forest rights created insecurity for people settled on forestlands:

Actually the [informal] settlement of people on forestlands is not right: people can only settle on forestlands when they are allowed. However, it was estimated in 1998, there were around 400,000 people living in preserved forest areas. We divide forest into three zones: the agricultural zone, the

economic zone and the conservation zone. The agricultural zone is transferred to the Agricultural Land Office for allocation to people [to be settled] in forest areas. Those who are granted this forestland have to strictly follow the conditions made by the state. This is to ensure that people are living in harmony with the forest. At present, we still have to find a solution for the problem of people settling on forestlands. (*Interviewee P1*)

And:

We have a policy to expand preserved forest areas up to 15 per cent of the total land area of the country. To achieve this, we have to remove people who have been settling on reserved forest[ry] areas. The problem of people settling on forestlands is a problem that we must sort out but it is not easy. There are a number of people settling on the large areas of forest, such as two provinces in the north that have been encroached upon by a number of villages. We have to prove whether they have settled before the demarcation of forestlands or not, which is very slow. (*Interviewee P2*)

Participants from government emphasised that:

The problem of forest governance in Thailand is how to deal with people who have settled on forestland; there are a huge number of them. (*Interviewee P4*)

And further:

We need to think about how to deal with people who have been living on forest areas, and find alternatives to arrest for encroachment. (*Interviewee P3*)

The discussion highlighted that there are differences in the 'moral' claims of people who are not legally authorised who are settling in forest areas. This is a key problem that needs to be solved and is a matter of concern particularly to policy- makers. Where people have a traditional connection to the forests, there are particular concerns with their limited and insecure rights. The Thai government is struggling with how to deal with both the problem of unauthorised settlement in forest areas and at the same time, how to provide assurance of long-term equitable, clear, and secure rights to forests.

Stakeholders from the community pointed out that their traditional methods for managing forests are strong and need to be legally recognised:

We have been managing forest in our community based on our traditional rules for years, such as by making promises to protect forests at the shrine of our ancestors. Such rules are real influences on people to ensure that they do protect forests. However, this is not well recognised as (our uses of forests are subject to the laws of the government but our traditional rules have not been enshrined in national laws. For our traditional forest rules to become acknowledged by law requires that the law recognise customary forest rules. (*Interviewee C4*)

And:

According to our traditions, we focus on the exploitation of a forest based on its capacity. We try to maintain the trees as the sources for long-term use. We only collect the products of trees such as seeds; fruit; or leaves. At the same time, we plant seeds to increase the number of the important and valuable trees. We not only conserve the forest, but also allow people to use the forests for their subsistence. We have meetings and share information among our networks. However, we are still not confident in what we are doing, as there is no recognition from the law of our practices. If our practices were assured by law, we would have a stronger incentive to manage forests; particularly if we were able to prevent people from other communities from encroaching on our communal forests. (*Interviewee C2*)

To allow the community to manage forests with officials enables the community and officials to have a closer relationship. For example while they patrol forests together the community can share with officials methods of traditional forests use. However, at the present it is quite hard for us (community) to manage forests based on our traditional approach. We need to get permission from officials first, and this process is quite slow and discourages us from managing forests. (*Interviewee C1*)

The interviewees identified that in Thailand the interests of communities are poorly acknowledged by forest laws and policies. Interviewees identified agency silos and inequitable settlement policy as particular challenges. Interviewees from key government agencies highlighted the effects upon governance of ‘siloes’ responsibilities:

The objective of our authority is focussed on conserving and maintaining forestlands. The uses of forestland have to be approved by our authority. (*Interviewee P1*)

The objectives of our agency are ‘maintaining the reserved forestland and expanding the reserved forestland for protecting of valuable fauna and flora. (*Interviewee P2*)

A government interviewee emphasised the need for the objectives of Thai forest governance to be redesigned to simultaneously address both conservation and development:

The solution for deforestation in Thailand is for Thai policy makers to always formulate policy taking into account both conservation and development - the policy has to aim at both conserving forest and enabling the community to live in harmony with forest; it should not only focus on arresting the community as squatters. The policy has to distinguish clearly between areas for conservation and areas for settlement of people. (*Interviewee P3*)

Another interviewee from the government sector reinforced this view:

A lack of access by the people to forests means we cannot benefit from the forest, equivalent to the society having lost that forest. To formulate forest policy, policy-makers have to consider the

public's interests. An important problem in forest governance of Thailand is our lack of effectiveness in dealing with landless people. Thailand has a big gap between wealthy and poor people regarding landholding. The former group has a large area of the land, while the latter group has little or none. To formulate forest-related policy, it is important to pay attention to landless people and those who encroach on the forests as a result of this. Forest classification needs to be more specific about what must be conserved and what should be allocated to landless people. In addition, better instruments to enable those people who use the forests to sustainably manage forestlands are also needed. (*Interviewee P4*)

A participant from local government noted that the current governance system favoured the wealthy:

Forest laws should serve society as a whole, not serve only wealthy people. (*Interviewee L1*)

A representative from local government provided an example of how interests of communities are overlooked:

In reality the staff of government hardly ever visit in the field, so they cannot reflect reality. This consequently makes the forest policy they formulate inconsistent with the reality on the ground. (*Interviewee L 2*)

To serve the community, a community interviewee pointed out that it was important to understand the needs of the community:

Before formulating forest policy or laws, the government should visit in the field to realise the on-ground problems since this can be very helpful to make such policy and laws meet the real needs of the community. (*Interviewee C2*)

Forests should be allocated not only with a focus on conserving them, but also to enable people to benefit or exploit the forest, within the capacity of the forest. It is necessary to involve all affected parties in establishing a forest management plan, including people from upstream and from downstream. (*Interviewee C4*)

The state should conserve forestland simultaneously with allowing the community to use the forest for subsistence. It is impossible to absolutely conserve the forest without enabling the community to exploit the forests. (*Interviewee C1*)

Involving the next generation in forest management was acknowledged as an issue of equity and capacity building:

To ensure sustainability, the younger generation has to be aware of how important the forest is. It is very important to train young people about how to sustainably manage the forest. They have to be inspired by older people to value the forest to influence them to protect and exploit the forest sustainably. (*Interviewee C4*)

To achieve sustainable forest management, young people have to be inspired to protect and manage forests. In our jurisdiction, the young people were trained and transferred the knowledge about the value of the forest and how to manage the forest sustainably. To do this, they are learning by doing: they learn from undertaking the role of forest tour-guides for visitors.

(Interviewee LI)

In summary, interviewees raised issues that indicate that Thai forest governance falls well short of the good forest governance criteria of fairness and equity. The major issues identified were:

1. Lack of clear definition of forest rights, which results in insecurity to those who have settled in forestlands. The equity issues are particularly relevant to traditionally forest dependent communities.
2. Traditional forest-related knowledge is undermined by laws, undermining the cultural interests of some communities.
3. Inequitable benefits sharing. As forest resources in Thailand are mainly vested in the State and focused on forest conservation, the interests of those who rely on forest for subsistence, are not given sufficient attention.
4. The need to account for the interests and capacity of the next generation has also been indicated as a concern.

5.2.6. Criterion 8: Coordination

The interviews reveal many forest-governance challenges related to the lack of coordination in front line forest management. These coordination problems have many dimensions:

Each government agency has a different policy - the existing government does not consider and does not continue policies of the previous government, even if the policies of previous government have been workable. This is the main problem for officials who implement such policy at ministerial level, as once the government has established the policy, the officials have to follow and implement that policy. Then as often as the policy changes the officials also have to change the way they work, to follow such changed policy. This really causes difficulty to officials at work, as they have to work under unstable circumstances. So I think the way government formulates policy should be based on the benefit for forest, not based on political interests. As well, Thailand needs a master plan that cannot be changed by any government so that every government has to rely on this master plan for further formulating the national policy.

(Interviewee PI)

Another Central Government interviewee illustrated lack of coordination by describing changes in policies in how to deal with forest-dwelling people:

[An] example is dealing with people who have been settling in preserved forestland. In this instance, the solution [to the problem of their interests] was already planned, but it is still hard to

implement. This is due to the plan being significantly guided by the policies formulated by government, according to the interests of the current government and lacking an articulated vision and strategic approach. This results in disputes over policies, which are not continuous or consistent with the policies of the previous government; even if the policies of the previous government [may] have been workable. This confuses the officials at the ministries about how they should do to carry out their responsibilities, which depend on such contentious policy. This consequently has produced little significant improvement of forest management as a whole.

In addition, the relevant agencies have competitive roles; they do not like to talk to or negotiate with each other, they prefer to compete. An instance is the LD that is in charge of issuing land title deeds to people, while the RFD is concerned with conserving forest areas. In reality, the LD attempts to issue title deeds to people covering as much land as possible, whereas the RFD makes an effort to conserve as much as possible of forest areas. This often causes a difficulty of collaboration between those two authorities. The responsible agencies very often do not like to talk and consult, they work competitively to maximise their [own] output [goals]. I conclude that in order to successfully deal with deforestation, all responsible authorities need better co-ordination and to work in collaboration, by formulating forest policy and law together.

A further example of why all forest agencies have to work together [is] the use of herbicide. There is a widespread use of herbicide by forest encroachers to destroy plants and trees, for rapidly clearing forestland for agriculture. The forest authorities and the agricultural agencies need to work together to formulate forest laws and policy [for such issues]. (*Interviewee P2*)

This lack of cooperation is also evident in administrative and decision support systems:

One main problem of forest governance in Thailand is that the forest-related authorities establish forest management plans independently: they do not collaboratively establish plans. This can have a profound effect on forests. We need a strategy that enables all relevant authorities to formulate forest-related policy together.

In relation to forestland classification, the LD and the RFD classify land based on their own maps; the RFD does not want to make its decisions based on the maps provided by the LD. This is because the RFD is concerned that the maps made by the LD may reduce forest areas [for forestry]: [by] making an effort to classify lands as allocated for people, not as forestlands, [thereby] extending land areas for meeting by the LD's objective. This contradicts the objective of the RFD, which is to extend the reserved forest areas [for forestry].

In relation to forestland classification, the LD has classified forest areas of five provinces through a Reshape Project in collaboration with the relevant agencies. This [project] is not [being] continued. This is because the Ministry that has the direct responsibility for forest management does not agree with the way forestland classification has been done by the LD. So, the Ministry has decided not to continue forest classification, but to conduct forest classification by itself (hiring a firm that officials have an interest in). This contributes to wasting a great amount of time

and money invested for forest classification. It is necessary for all forest-related authorities to formulate policy together and work collaboratively. The main policy that all relevant agencies [should use] for conducting their roles should be established. (*Interviewee P3*)

The issue of coordination of policy and law for landless people was a recurrent concern in the interviews:

One key problem of forest governance in Thailand is lack of effectiveness in dealing with landless people: people encroach on forests as they do not have land for subsistence. To deal with landless people, sometimes policy-makers should consider a wider range of solutions. It may be helpful to ensure coordination between forest agencies and the authorities that deal with [issues] about labour, such as the Ministry of Labor and Department of Industrial Workers. Thailand has limited forestlands, so instead of allocating forestland to landless people, it may be possible for those landless people to improve their working skills and to work in a factory. All of the relevant authorities [would] have to work in collaboration to effectively implement this. However, the responsible authorities hardly take into account [opportunities for] dealing with landless people by working in collaboration with the agencies that are in charge of labor. (*Interviewee P4*)

Another interviewee from local government provided additional evidence of the problem of inconsistency in the actions of responsible authorities, and in identified accountabilities:

It is [often] unclear whether a forest area falls within state or privately owned land. Sometimes the demarcation of forest areas was never completed or was done badly. This is the result of competition between forest-related agencies. Those authorities were in a hurry to finish the demarcations of forestlands, but without consulting other relevant authorities or even local authorities about demarcated areas. This has contributed to errors in forest demarcations - such as overlapping of [harvestable] forests with land areas occupied by other agencies or private people. This consequently opened a 'border dispute' between the state and other affected occupiers, which requires that they spend more time on investigation [title verification]. To me, there seems to be no harmony in the way relevant agencies conduct their roles. Relevant authorities need to significantly coordinate among themselves, particularly before formulating any policy or regulations, as this contributes to the inconsistency affecting relevant policy and which makes it very difficult for staff that implement such policy and regulations. An example of why the coordination among all relevant agencies is so important is the case of reforestation. To achieve this requires collaboration from all parties, such as the foresters who can provide the information on how to plant forests, what type of trees should be selected for planting, and the people from the land development sector who can provide knowledge about how to keep land fertilised [to ensure] the good growth of trees. (*Interviewee L1*)

Lack of coordination among authorities also occurs in the Communal Land Title Deed Program

As an interviewee from one of the key forests agency noted:

There is a number of people who have been settling on reserved forestland. To deal with this problem, the issue of a communal land title deed is the contemporary solution. (*Interviewee P3*)

But a forest agency manager from other key forest departments did not share this positive view of communal land titles, particularly for areas that are environmentally sensitive:

Communal Land Title Deed is misunderstood. This can easily lead to further forest encroachment or forest degradation. I have visited sites in the field, for example in Nan province, forestlands on which the community are living that are mostly first-class watershed areas. These lands, however, are potentially going to be allocated as communal land under the communal land title deed project. It is necessary to more carefully consider the communal land title deed project. (*Interviewee P2*)

Normally, people are not allowed to live on the first and second-class watershed areas; we have to move those people to the provided areas. If those provided lands are not available, the people may be allowed to stay in the first and second-class watershed areas. However, such staying has to be very strictly controlled and there is an urgent need to find the land that people can move to. (*Interviewee P1*)

These three interviewees from the different agencies that play a key role in effective forest governance in Thailand reflect largely incompatible views of the best ways of addressing the competing social, environmental and economic interests in forest governance that makes collaboration and consensus difficult. The quotes illustrate the lack of harmonisation of law and policy goals, and agency responsibility and culture – also discussed in Chapter 3.

As already quoted under the Criteria 2, 3, and 4: Transparency; Accountability, and Stakeholder participation, one interviewee provided the reasons why coordination among authorities is needed:

There are many problems our authorities face. One example is issuing land title deeds. This really depends on the staff and influential people in each regional area. Those staff and influential people (can) use the certificate of occupation rights issued for lands to claim land they would love to have ownership of (fraudulently), but this kind of action is rare. It needs to be collaboratively investigated by several relevant authorities. (*Interviewees P3*)

Interviewees P1 and P2 explained that the problem of land tax payment (discussed above) has its roots in poor government coordination. Interviewee P1 stated:

People know that the land they have been settling on is forestland owned by the state. However, often the head of the village or the head of the sub-district who work as officials at the local level, tell people settled on forest areas that people have to pay land tax – the tax payment is treated as land rental.

This statement suggests that it is necessary for the Central Government and the Head of the village or the Head of the sub-district to coordinate and have a mutual understanding about the objective of the Land Tax and issue of the ‘Por Bor Tor 5’ document.

In summary, interviewees raised issues that strongly evidence that poor coordination exists and the consequences of poor coordination include adverse impacts upon all three dimensions of the possible outcomes of forest governance: economic value from forest resources, conservation of forest biodiversity, and improved social inclusion of disadvantaged people. In particular, two coordination concerns emerged:

1. Lack of continuity of policies across governments, with each new government deciding to implement new policies, causing confusion among agencies and those relying on forests.
2. Lack of shared vision and a strategic approach among agencies for forest management.

The consequences of this are:

- a. Agencies define forest area management to suit their own objectives, causing a network of overlapping boundaries. These cause confusion about what can and cannot be carried out in areas.
- b. Lack of agreement about how to deal with the interests of landless people, particularly cultural minorities.
- c. Lack of clarity about land titling and related land administration.
- d. Competition among government agencies to maximise their own goals, with little attention to maximising synergies.

5.2.7. Criterion 9: Capacity building and incentives

Ensuring that stakeholders have the capacity (both physical resources and know-how) and incentives to implement good forest management is vitally important in enabling good forest governance practices. A number of interviewees highlighted concerns about Thailand’s lack of resources for forest management. Two quotes from central government staff provide insights into the nature and causes of insufficient capacity:

We have a clear forest management plan. However, it is very difficult for it to be implemented. We lack staff and money to implement such a plan. In considering the problem of insufficient funding, the way the government allocates funds is strange. The potential funding for each project is not linked to what is happening on the ground. The government calculates funding based on their own estimates and arrives at budget limits for funds for each project. An example is the budget to build a fence for a public forest boundary. This is limited to 10 per cent of the total of allocated funds, but in the reality the budgets are inadequate. There are several fencing projects that have been stopped even though incomplete because of insufficient funds for completion.

(Interviewee P2)

We still lack proficient forest staff. This is because they are hiring unqualified authorities' own relatives as forest officials. (*Interviewee P2*)

Pragmatically, Interviewee P3 points to the enormity of the task facing forest managers:

One main problem of forest governance in Thailand is that we do not have sufficient staff, particularly for patrolling the forests. Forests are very large area, but we have few staff to protect those areas. (*Interviewee P 3*)

One interviewee from local government suggested that this issue reflects an insufficient prioritisation of forest management at a national level:

Forests are normally not the first priority of policy in our country, but it is the second or third rank which still depends on how much available funds we have got. (*Interviewee L1*)

The limited availability of funds could be alleviated, particularly when the community is able to voluntarily share some works:

Mostly, members of the community voluntarily help each other to manage forests within the community. We do not want to just wait for the funds granted from the government. We used to be granted funds from the government, but it was only small amounts and not enough. (*Interviewee C1*)

And:

To manage the forest in our community, there are very few funds available from the government. We cannot rely on such grants from the government, so normally members of the community pool their money or labour for forest management by the community. (*Interviewee C4*)

A participant from the Central Government noted that ensuring a greater understanding of forest management could increase community capacity to participate in forest governance:

An issue we have to take into consideration if we would like to change forest governance is public participation. To make public participation more effective, the public have to be educated and have to have explained to them what such participation is, and what the impact and the benefit of such participation are. (*Interviewee P2*)

The issue was reinforced by other interviews:

In involving the public in forest management, there is a need to educate people and to disseminate information to improve the forest-related knowledge of the public beforehand. This is to ensure that they have knowledge and ability that is close or equal to that of government officers. That is needed to enable them to effectively make decisions on forest management together with the government. (*Interviewee P4*)

An officer of one key agency described attempts to increase community capacity and the difficulties of doing so:

We have made an attempt to disseminate information about the severe impact of deforestation. For example, we emphasise that it is necessary to maintain the natural or the native trees because this type of tree has long roots. These roots are deep, tight, and strongly set into the ground, which keeps the trees alive and long lasting. In contrast, a commercial tree species that is not native, such as the rubber tree, has its roots loosely pressing into the ground, and is not long lasting. However, even given a lot of effort in disseminating information about the severe impact of deforestation, people still do not understand and are not aware of these impacts. *(Interviewee P1)*

An interviewee from local government highlighted the interconnection between institutional issues, such as land titling, and adequate information and education:

For the process of investigation to prove whether or not the community has been settled in a forest area before demarcation by the government, it is necessary to select representatives of the community who are sufficiently well educated to jointly investigate this issue with the government. This is to ensure that people understand what is being investigated. *(Interviewee L1)*

Compounding the difficulties of knowledge and information and governance is that the agencies have different understandings of forest-related management. This makes it difficult to coordinate government action and information sharing across agencies. Interviewees from different agencies demonstrated widely different perspectives of potential solutions to the problem of people who encroach on forest areas.

Several interviewees highlighted the crucial role of communication in forest governance:

Apart from communicating to improve people's knowledge for participation in forest management with the government, it is also necessary to think about ways to communicate, such as the face-to-face workshop in community areas. This can make it easier to communicate and enable the community to better understand what has been communicated. *(Interviewee P4)*

This perspective was reinforced by a community member:

The members of the community should be well trained to transfer knowledge about sustainable forest management to other members of the community. Communications among members of the community are easier to understand than communication between the staff of the government and the community. This is because the members of the community communicate with each other in their local language, which is easier for them to understand. *(Interviewee C3)*

An interviewee from the community noted that, in addition to transferring forest information to the younger generation (discussed under Criterion 7), there is a need to disseminate information to the broader community using social networks as a dynamic means to help protect forests.

Apart from transferring forest information to the younger generations, there is a need to transfer information to wider groups in the community. This can be done by using networks. The forest network is made up of many people, so it can be a dynamic means to help protect forests.

Valuable forest information, such as successful experience from the community, can be shared with another community within the network. To ensure success, people should bear in mind that whilst meeting they should express their ideas only for the purpose of sharing and providing encouragement; not for picking winner or finding the loser. The network meeting should be a place for sharing, aiming at reaching mutual solutions: not for fighting. (*Interviewee C1*)

Even though people have rights to forests granted by laws, if people are not able to understand the rights, the granting become meaningless. Problems arising from land tax payments have already been discussed under section 5.2.2 (Criteria 2, 3, 4) and show how there is a need to develop the capacity of both community members and government staff. The head of the village or the head of the sub-district, who work as officials at the local level, often lack of knowledge or understanding about the land tax and the 'Por Bor Tor 5' document. In addition to focusing on building capacity of communities about who should pay the land tax and obtain a 'Por Bor Tor 5' document, the knowledge of staff at local government level also needs to be enhanced.

In summary, the interviews demonstrate that the capacity building is needed for forest governance in Thailand. The main issues highlighted are:

1. Insufficient staff and funds.
2. The need to use more (and more divers) approaches to capacity building such as:
 - a. Works partnered with community.
 - b. Greater dissemination of information to the younger generation, right holders and government staff.
 - c. Greater accessibility to information – publicly accessible in an understandable language.
 - d. More reliable information
 - e. Coordination of objectives, programs, projects and agency strategies.

5.2.8. Criterion 10: Stakeholder Relationship

Good forest governance requires mutually supportive and cooperative relationships among stakeholders (see Criterion 4: Public Participation and Criterion 8: Coordination as discussed in Chapter 4). Public participation and coordination among relevant agencies brings different perspectives from stakeholders into forest governance, which can help to surface the needs and interests of all those involved. This can minimise conflict in the forest sector.

Interviewee P2 from the government discussed the consequences of misunderstandings regarding the Land Tax issue:

Another issue that has also been overlooked is the issue of Por Bor Tor 5 which is the tax paid for land maintenance. Only people who have the ownership of land have to pay this tax for maintaining the land. Forestlands that people have encroached on belong to the state; people have no ownership, so they cannot pay the land-maintenance tax. What happens however is forest encroachers do pay the land-maintenance tax and as a result, they believe that the land belongs to them. This causes serious conflict between the government and those people claiming ownership who have been paying land-maintenance tax. (*Interviewee P2*)

In summary, this interviewee raised one issue showing that lack of common objective (important to Criterion 8: Coordination) contributes to conflict among stakeholders.

5.3. Marrying the review of documentation and the first set of interviews

The following journal article ‘A Systems Perspective on Forest Governance Failure in Thailand’⁶²¹ integrates the tentative findings from both sets of data (documentation review and first set of interviews) and analysis. The result is the conclusion that nine areas of governance failure are indicated. These areas are the focus for the reform proposals addressed in the balance of this thesis.

⁶²¹ Wanida Phromlaha, “A Systems Perspective on Forest Governance in Thailand” (2013) 3(1) *GSTF Journal of Law and Social Sciences*.

A systems perspective on forest governance failure in Thailand

Wanida Phromlah

Abstract— This paper’s purpose is to diagnose Thailand’s governance system for forests which helps to identify the potential interventions for making the system more effective. The paper combines an extensive review of formal and informal literature with information from interviews conducted with key forestry stakeholders in Thailand. This is reflective of the ‘engaged’ philosophy underpinning this research, in contrast to a research approach in which the expert (drawing on documentation or a limited set of stakeholders) is the voice that defines and analyses the problem. This paper considers examples of forest governance arrangements from various countries facing comparable challenges to Thailand as well as legal doctrine, popular media and formal literature. This purposeful synthesis seeks to comprehensively understand the system under examination. The analysis reveals nine limitations in current governance system:

- A. The problem of legal complexity
- B. The problem of inconsistent agency roles and non-cooperation
- C. The rights of forest communities are poorly defined.
- D. Traditional knowledge and practices are under-recognised.
- E. Lack of capacity seriously impedes forestry management.
- F. Forest laws and policies overlook the interests of communities.
- G. Corruption undermines the forest governance system.
- H. Intelligence and information sharing are insufficient.
- I. Forest law and institutional objectives are frequently not met.

The nine diagnoses of the governance systems discussed in this paper are considerable inferences for the next step of the

research to analyse reform directions that provide a basis for better forest governance system in Thailand.

Index Terms— Engaged Research, Forest Governance, System Perspective, Thailand.

I. INTRODUCTION

The purpose of this paper is to diagnose Thailand’s governance system for forests which is important as the basic hypothesis for further discussion to arrive at a view about where reform was needed, and at possible directions for that reform for forest governance system in Thailand. To diagnose the governance issues, the research used a systems approach[1], drawing on academic literature, legal sources and informal media – such as newspaper articles – and blending these with the ‘voices’ of directly involved stakeholders. The research is, therefore, underpinned by an ‘engaged’ philosophy[2]. Such a philosophy equally values the contribution of experts and of stakeholders in helping to define the issues and possible solutions to problems system and enables the development of a reform program that is more likely to deal with the full suit of relevant issues.

Stakeholders were ‘front line’ participants in forest use and management who were selected for interviews on the basis of their detailed knowledge and experience in Thailand forest management. This sampling approach was preferred over using a large sample of people with less in-depth understanding of the issues. Given the purpose of the enquiry (to understand complex systemic relationships) this approach, combining field visits and interviews with other data sources, permitted triangulation forwards reliable conclusions about

complex social and institutional issues.¹ To ensure that differing perspectives were captured, in-depth interviews were held with ‘front-line’ stakeholders representing: central government (4 interviews, referred to as P1 to P4), local government (2 interviews, referred to as L1 and L2) and forestry communities (4 interviews, referred to as C1 to C4).² The thematic analysis[3]-[4] was employed to analyse the interview data.

To support objective diagnosis of the governance system, it was important to ensure that no stakeholder perspective was treated as dominant, though ultimately meaningful analysis has required that researchers weigh the evidence to arrive at conclusions about the state of forest governance and directions for reform. This paper summarises representative comments from stakeholders as evidence in their own right, without an attempt at an artificial reconciliation of diverse views. An important contribution to the objectivity of this paper is to present competing perspectives, though this is limited by word limits.

This paper also considers forest governance arrangements from countries facing comparable challenges to Thailand, as well as drawing upon legal doctrine, popular media and formal literature. This synthetic approach is purposeful in seeking to comprehensively understand the complex system under examination.

II. GOOD FOREST GOVERNANCE?

The quality of governance largely determines whether forest resources are effectively exploited, whether public good objectives of forest development are met, and whether uses are sustainable. Various authors propose the elements of good forest governance that could be used as a framework for analysis of limitations and reform directions for forest governance system in Thailand. The elements of good forest governance comprise:

1. Reliance upon the Rule of Law, applying fair legal frameworks that are impartially enforced. This implies that those in power obey the law and avoid establishing inconsistent and complex laws[5],[6], [7];

The research approach reflects a pragmatic policy research approach using purposeful enquiry to support policy inferences. No claim is made that the empirical content can be represented as statistically valid, as the interaction of values with complex issues, and the importance of implementation dynamics, would make any such claim deceptive. See Majchrzak, A. (1984) *Methods for Policy Research*, First ed (Sage, California USA), and in relation to environmental governance see Martin, P., Zhiping, L., Tianbao, Q., DuPlessis, A., and LeBouthillier, Y. (2012) "Introduction: the scholarship of environmental governance" in P. Martin, L. Zhiping, Q. Tianbao, A. DuPlessis and Y. LeBouthillier (eds) (Edward Elgar, Cheltenham UK).

All interviews were carried out in the Thai language by the author. Quotes in this paper are translations from Thai into English by the author and For ethical considerations, the key interviewees are encoded into Interviewee P1- P4, interviewee L1-L2, and interviewee C1-C4.

2. Transparency: dependent upon reliable information about the forest and how it is governed, which should be reasonably available to all[5], [6], [7], [8];
3. Stakeholder participation: all affected people should have an opportunity to be heard or to influence government decisions that affect the forest and their livelihoods[6], [7],[8];
4. Accountability: those in power should be accountable for their actions[5], [6],[7],[8];
5. Effectiveness: the mechanisms of governance should achieve the goals they are intended to achieve[6],[7],[8];
6. Efficiency: forests should be governed with the minimum waste of resources (viz. at minimum cost)[5], [6],[7];
7. Fairness/equity: the costs and benefits of forest resources should be equitably distributed; relevant costs should be taken into account (such as environmental, social, and financial costs); and the rights and traditional practices of marginalised groups should be secured[6], [7],[9];
8. Coordination: good coordination between all relevant forestry laws and agencies should be maintained[6], [7],[8] ;
9. Capacity building and incentives: the capacity of all stakeholders should be enhanced; and sufficient incentives for desired behaviour should be put in place[6],[8],[9];
10. Good relationships among stakeholders should be maintained to avoid or minimise conflict among stakeholders. Conflict management mechanism should be addressed[6],[7],[8].

III. THE CENTRAL ROLE OF INSTITUTIONS

To achieve good governance outcomes requires more than legal or economic incentives. Institutional structures[1], [10], [11], [12] are also pivotal.

Elinor Ostrom (1990), pp.51 pointed out that “Institutions” can be defined as the set of working rules that influence individuals’ behaviour. Ineffective institutional arrangements can complicate or frustrate interactions between stakeholders and can increase the costs of forest operations, and undermine governance[11].

Martin and Verbeek (2006) pp. 70 note that institutions shape relationships in a social system. They influence the flow of information and resources, which together create the patterns of outcome from that system. Change in one institution often leads to change in another[1].

This paper considers institutional arrangements as one key factor for good forest governance. Institutional arrangements from Africa, Latin America and other countries are considered to help identify how forest institutional arrangements experienced by those countries might best be matched with the Thai context.

International examples: institutional forest governance arrangements

A. International examples: institutional forest governance arrangements

At the heart of effective implementation of governance frameworks lies the need to match the regime to the capacity available to implement it. A three year program of forest governance workshops held by the Global Forest Coalition brought together stakeholders including Indigenous Peoples Organizations (IPOs), local communities, civil society organizations, government and academia from 24 countries around the world. The workshops revealed a lack of adequate institutional capacity was a significant underlying cause of deforestation in countries such as Bulgaria, Cameroon, El Salvador, Georgia, Ghana, Panama, and the Philippines. The lack of adequate institutional capacity is reflected in the lack of adequate equipment and research in forestry, poor management of forest titles, the use of outdated silviculture and other methods, inconsistent government policies, poorly-constructed timber-leasing agreements, and unfair revenue distribution[13].

An example of apparently effective institutional arrangements involving key actors in woodland management is Tanzania. The approach in Tanzania involves bottom-level actors (forest communities) in the landscape restoration process, combining their traditional knowledge to better manage traditionally reserved grazing areas. Villages have been encouraged to create their own local rules to protect communal *ngitilis* (enclosures of *acacia-miombo* woodlands); traditional village guards monitor activities in the *ngitilis*. This has ensured the success of forest restoration as the regime is well understood by the villagers themselves, who also benefit by being able to secure their livelihoods by obtaining dry season fodder and other non-timber forest products and services[13]. Gambia exemplifies the importance of institutional arrangements involving the community in forest management. Community forest management plans in Gambia have been substantially simplified, based on qualitative (rather than quantitative) forest assessments that are suitable to community supervision, as they do not rely on the availability of scientific experts. The forest management plans in Gambia consist of setting of simple harvesting guidelines, based on canopy cover rather than calculation of an allowed annual cut, and assessment of forest resources determined by participatory mapping and transect walks rather than by a detailed technical inventory[9].

A component of good governance is the quality and availability of information to the community. Insufficient forest-related information has been identified in Georgia[13] as a key factor in creating opportunities for corruption, contributing to a significant loss of national forests. Lack of institutional credibility, contributing to insufficient trust by the community, inhibits progress toward good forest governance. Building a relationship between government officials and the community based on mutual respect can encourage people to invest in forest management. If these

conditions are not met, community-based forest management is more likely to fail. An example is the mistrust between some forestry communities and the forestry agency in Burkina Faso[6], Pakistan and Nepal [14]. These demonstrate that mistrust can lead to conflicts among stakeholders that take a long time to resolve. This conflict considerably hampers effective forest management in the country.

The complexity of legal institutions can also cause high transaction cost and non-compliance by those who are regulated, and cause instrumental failures. An example is the establishment of community forests in Vietnam. This requires the completion of 11 steps, each of which has to be examined, approved, and endorsed by different authorities from the communal to provincial levels[9]. This takes a very long time, is expensive, and has proven to be difficult or impossible for communities to comply with. As a result, they have been effectively inhibited from managing forests in partnership with government.

In addition to generating high transaction cost and opportunities for non-compliance, excessively complex institutions can contribute to corruption. This is illustrated with forest management in Cameroon[9]. Community forestry management agreements in Cameroon must be renewed every five years. The application for renewal is submitted with a proposed management plan for the forestry administration's approval. This requires ratification by many local-level officials and administrative authorities. Consequently, it takes a very long time and is expensive. In addition, sub-national forestry officials can take advantage of the complex renewal process for community management agreements by undermining or delaying the process, or seeking payment from the village communities to approve plans.

IV. DIAGNOSIS OF THE FOREST GOVERNANCE SYSTEM IN THAILAND

This following section presents the intelligence that underpins my diagnosis of the institutional arrangements in Thailand for forest governance. An extensive review of formal (viz. legal, policy and scholarly) and informal (viz. popular media) literature is married with interviews with key forestry stakeholders in Thailand. The diverse evidence supports nine diagnoses of the governance system. These are:

- A. The problem of legal complexity
- B. The problem of inconsistent agency roles and non-cooperation
- C. The rights of forest communities are poorly defined.
- D. Traditional knowledge and practices are under-recognised.
- E. Lack of capacity seriously impedes forestry

management.

- F. Forest laws and policies overlook the interests of communities.
- G. Corruption undermines the forest governance system.
- H. Intelligence and information sharing are insufficient.
- I. Forest law and institutional objectives are frequently not met.

A review of each problem is provided below:

A. The problem of legal complexity

Thailand has more than one hundred forest-related laws, with many discrepancies and poor coordination among them [15]- [16]. An example of discrepancy is the requirement in the National Reserved Forest Act 1964 for the need for public consultation and consent before approval could be granted for a proposed forest reserve. This decision flies in the face of people's entitlement, provided in the Thai Constitution and the National Environmental Quality Act B.E. 2535 (1992), to participate in decision-making regarding forest management [16], [17].

An example of inconsistency in legislation is in the variety of definitions of 'forest'. Under The Forest Act section 4(1), "forest means land which has not been taken up or acquired by anyone under the Land Law". The National Reserved Forest Act 1964 gives a more detailed definition for forests: "forest means land which includes mountain, creeks, swamps, canals, marshes, basins, waterways, lakes, island or seashore which has not been taken up or acquired by a person in accordance with the law [16]." Both laws have the objective of protecting forest; the differing definitions have the potential to create judicial and administrative confusion when enforcing forest laws.

Interview Voices: the problem of legal complexity

Interviewees P1 and P2 from the governmental sector indicated that "due to the complexity of forestry laws in Thailand, a particular forest area can be differently designated by different authorities for fundamentally competing purposes."

These statements were supported by interviewee L1 who implements forest laws and policy at the local level. L1 noted: "different authorities implement their own laws that are not consistent with laws from other relevant agencies. These are quite hard for me at the lower level of government to work with."

B. The problem of agency inconsistent agency roles and non-cooperation

At present there are inconsistencies and overlaps in administrative functions among the forestry ministries and their divisions. For example, The Land Department (LD) under the Ministry for the Interior (MOI), this agency encourages rural people to secure lands for livelihood. However, the Royal Forest Department (RFD) and the Department of National Parks, Wildlife, and Plant Conservation (DNWPC) under the Ministry of Natural Resources and Environment (MNRE), which are in charge of protecting existing forest areas, restrict the use of lands for such purposes. As the lands under consideration are often not well designated for particular purposes (and indeed serve competing purposes), the result is uncertainty and conflicts of uses and policy that impact adversely on forest people and environments [18]- [19].

Interview Voices: The problems of agency inconsistency and non-cooperation

Interviews reveal that forest-governance challenges related to inconsistency and overlaps do impact on front-line forest management. Interviewee P1 from the central government reinforces the finding that "each government agency has a different policy. In addition the government does not consider and does not continue the policies of previous governments, even if the policies of a previous government have been workable. This is a significant problem for officials who implement policy at ministerial level."

Interviewee P2 noted that "dealing with people who have been settling in forest land preserved by government is difficult because there is a lack of an articulated vision and strategic approach to policy for that land. These results in disputes over what the policy means."

Interviewee P3 highlighted that "a major problem of forest governance in Thailand is that forest authorities establish forest management plans independently; they do not collaboratively establish plans. The issue of policy and law for landless people is a recurrent concern."

P4 suggested that "to deal with landless people, policy-makers should consider a wider range of solutions. It may also be helpful to ensure coordination between forestry agencies and authorities that deal with labor issues, such as with the Ministry of Labor and Department of Industrial Workers." Another interviewee (L1) from local government provided additional evidence of the problem of inconsistency in the actions of responsible authorities. This interviewee noted that "it is [often] unclear whether a forest area falls within state or privately-owned land. Sometimes the demarcation of forest areas was never completed or was done badly. This is the result of competition between forest-related agencies to demarcate forest areas."

C. The rights of forest communities are poorly defined.

Thailand's Constitution recognises the rights of native communities to natural resource management, maintenance and exploitation "in a sustainable manner" and for this right to be protected "as appropriate" (Constitution 2007 s 66-67 (Thailand)). However, the nature or scope of those rights and the meaning of "sustainable manner" and "as appropriate" are not specified, and the ineffectiveness of Thai forest legislation to implement or reflect Constitutional ideals is notable. The government currently enforces restrictive, conventional forestry laws which provide people (particularly those with a traditional connection to the forests) with limited and insecure rights to forests[20].

Interview Voices: Impact of unclear forestry rights

That unclear forestry rights creates insecurity for people settled on forest land, was highlighted by several interviewees. P1, who plays a key role in forest management stated that "at present, we still have to find a solution for the problem of people settling on forest lands". P2 pointed out that "we must sort out the problem of people settling on forest lands but it is not easy. We have to prove whether they have settled before the demarcation of forest lands or not."

P4 emphasised that "the problem of forest governance in Thailand is how to deal with people who have settled on forest land; there is a huge number of them." P3 concluded that "we need to think about how to deal with people who have been living on forest areas, and find alternatives to arrest encroachment."

D. Traditional knowledge and practices are under-recognised.

Forestry laws do not recognise traditional forest management. Consequently, sustainable, traditional forest management practices are being undermined. For example swidden agriculture (shifting cultivation) of the hill-tribe people, particularly the Karen, in the North of Thailand has been identified by the government as the 'main cause of deforestation' [20]- [21]. The Karen people have traditionally practiced swidden agriculture by using the fields for a short period of one to three years, then leaving the fields fallow for a long enough period to allow for the regeneration of vegetation. The practice limited soil degradation, weed competition, and pest damage [22]. Various studies reveal that this type of practice may be relatively harmless when compared to industrial farming[20]- [21], [23].

Interview Voices: valuing forest traditions

Interviews, mostly of community members, provided instances of how traditional forest management knowledge is undermined by current forest management regimes. "Forest land areas are very large, and governmental staffs alone are not sufficient for effectively preserving it. People

should be allowed to join in such things as forest patrols with the government. People spend their daily life with the forests, the forest is their lives, and they have traditionally known well how to live in harmony with the forest. Under to our customary approach, we groups are responsible to patrol the forests. This is to monitor forest fires, to collect herbs, collect food, and to collect seeds of important trees which need to be maintained. In contrast, officials are not necessarily native to some forest areas, so they may not know the real conditions of the forests they are monitoring." (Interviewee C3)

Community occupation of forests is not only a matter of encroachment. It is suggested by some that the community should be an active partner in the protection of forest resources. Most interviewees from the community sector pointed out how community can play an active role in forest protection and management of forests with officials, which would enable the community and officials to have a closer relationship. For example, if the parties patrol forests together, the community could share with officials traditional methods of forest use. Forest communities have managed forests based on their traditional rules for years, focusing on the exploitation of a forest based on its capacity for long-term use (Interviewees C 1, C2 and C4).

E. Lack of capacity seriously impedes forestry management.

A lack of resources for forest management in Thailand is a significant limitation to the ability to implement forestry regulations and policies. Some instance can be illustrated, such as key failure of implementations of Forest village programmes initiated in 1975 is lack of sufficient fund[24]. Similar to the recent case of the government's failure to arrest illegal loggers, the responsible agencies do not have the equipment to discover illegally logged timber; the wrongdoers hide illegally logged timber in various ways, such as in refrigerated containers, which would require high-technology cameras to detect.

An illustration of the lack of resources to deal with deforestation is the destruction of 18 rai³ of forest on Kamala Hill National Park in Phuket province in the south of Thailand. The illegal loggers spent at least 15 days clearing this forest area before rangers arrived to stop them. Such illegal logging can occur without intervention from officials because the forest area is difficult to access without four-wheel drive vehicles and/or a patrolling helicopter. The Phuket Forest Division had to obtain these facilities from the central Royal Forest Department (RFD). Frequently the RFD has had to borrow a helicopter from the military, which can take a long time to be approved[25].

³ 1 ha equals 6.5 rai see Lasimbang and Luithui, 2006, p 15.

Interview Voices: The effects of under-resourcing

Two interviewees from central government voiced concerns about Thailand's lack of sufficient resources for forest management: "Thailand lacks staff and money to implement a forest management plan, particularly for patrolling the forests." (Interviewees P2 and P3)

One interviewee from local government suggested that "this issue reflects an insufficient prioritisation of forest management at a national level." (Interviewee L1)

Interview Voices: The potential of community partnerships

However, the limited availability of funds does not necessarily mean powerlessness, particularly when the community is able to voluntarily take up the load. Interviews from the community suggested that "the community can help to overcome some constraints, for example by pooling their money or labour for forest management." (Interviewees C1 and C4)

F. Forest laws and policies overlook the interests of communities.

In Thailand, for example, policies on logging concessions and commercial plantations have been focused on economic development rather than addressing the environmental function of forests and the needs of poor people whose lives depend on forests. For example, people who traditionally rely on forests for their livelihoods cannot afford to take advantage of concessions to conduct logging or to operate commercial plantations. Indeed the implementation of concessions for logging and commercial plantations often displaces people who depend on the forests – a social "spillover" of such policies. These inequitable policies contribute to chronic conflicts between stakeholders, particularly between government and the affected community[17].

Interview Voices: The problems of agency silos

Interviewees from key government agencies charged with forest management indicated the narrow nature of their responsibilities, which are focused on conserving, maintaining and expanding forest lands for protecting valuable fauna and flora (Interviewee P1 and P2).

A government interviewee emphasised the need for the objectives of Thai forest-management to be redesigned to simultaneously address conservation and economic development, enabling the community to live in harmony with the forest, rather than arresting members of the community as squatters (Interviewee P3).

Interview Voices: Silos and poverty

Interviewee P4 from the government sector noted that, "it is impossible to conserve forests with no access for anyone. A

lack of access by the people to forests means we cannot benefit from the forest, which is equivalent to the society having lost that forest. The public's interests have to be considered by policy-makers."

A participant from local government stated the matter succinctly: "Forestry laws should serve society as a whole, not serve only wealthy people." (Interviewee L1)

Interview Voices: The failure to realise the real need of community

A representative from local government suggested that many problems arise because of limitations in how forests are being administered "on the front-line". For example, "in reality the government staff hardly ever visits in the field, so they cannot reflect reality in policy formulation." (Interviewee L2)

This was reinforced by a community interviewee who indicated that "before formulating forestry policy or laws "the government should visit the field to realise the on-ground problems since this can be very helpful to make such policy and laws meet the real needs of the community." (Interviewee C2)

Interview Voices: The potential for policy synergies

Interviewees from the community reinforced the need to encompass sustainable local use within conservation forestry, suggesting that forests should be allocated not only with a focus on conservation, but also to enable people to benefit or exploit the forests for subsistence. It was suggested that it is necessary to involve all affected parties in establishing a forest management plan (Interviewees C1 and C 4).

G. Corruption undermines the forest governance system.

Corruption is identified as a significant cause of forest depletion and is a major challenge to Thai forestry governance. The problem of corruption comes in various forms. An example is the "Nai Tun" ("financiers" or "businessmen") who use "gaps in the rules" or "tricks" to convert public forest lands to their private ownership. These financiers reportedly include officials at local and national levels, mostly politicians. They help landless people to secure land title deeds, for example by contacting staff of the Department of Land to obtain any documents required to support the land conversion. Once land title deeds are issued, the Nai Tun purchases the land cheaply from their covert agents[26]. Another form of corruption is bribery, which is reported to be common[27]. In 2012, Thailand was globally ranked with a score of 37 out of 88 countries for transparency and corruption[28]. Interviewees from all three groups of participants noted that corruption is an important issue in forest governance.

Interview Voices: Corruption and land allocation

Central government staff outlined aspects of abuse of policies intended to benefit the poor. They suggested that “the key problem of forest governance in Thailand is corruption: even if there is an effort to allocate land to landless people, those lands are often not allocated to landless people; instead they are covertly allocated to business men.” (Interviewees P1 and P4)

Interview Voices: corruption and capacity

The issue of corruption reportedly operates at all levels, contaminating the internal processes of responsible agencies. Two interviewees from the central government provided examples. Interviewee P2 stated that “Thailand still lack proficient forestry staff because “they are hiring unqualified authorities’ own relatives as forest officials.” (Interviewee P2) Likewise, P3 noted that “the Ministry that has the direct responsibility for forest land classification uses a firm in which officials have an interest in the “Reshape Project”⁴ for land classification.” (Interviewee P3)

Interview Voices: Corruption and land titling

There is also alleged corruption in issuing land title deeds as part of the process of forest demarcation. Two interviewees, again from central government, commented that “issuing land title deeds to people remain problematic. It was asserted that the “officials and influential people (can) use the certificate of occupation rights issued for lands to claim land they would love to have ownership of (fraudulently).” (Interviewees P3 and P4)

Interview Voices: Corruption and government agents

Corruption by government officials would seem to be a significant aspect of the governance problem. Two interviewees from local government indicated that “officials are among those who illegally cut the trees.” (Interviewee L1 and L2)

Such statements were affirmed from community interviewees. Interviewee 3 noted that “sometimes the officials are the ones who are involved in illegal logging themselves. This is related to the issues of corruption and the power of influential people.” (Interviewee C 3)

⁴ Informed by the interviewee P 3, the Reshape Project is the project that is collaborated by forest-related agencies to *reshape* the areas of forest reserves, national parks and state-owned land with an aim to clarify the boundaries of those areas.

Interview Voices: The potential for community supervision

One interviewee from the community (C1) implied that “the corruption issue of limited public participation related to the problem of corruption, suggesting that “if it is only forestry officials who are empowered to manage the forest, there is a risk that the officials will collaborate with a third party to illegally log the trees.”

H. Intelligence and information sharing are insufficient.

Even if people are legally empowered to participate and make decisions about forest management, they cannot do so effectively unless they have sufficient knowledge. Scientific information is complicated for people who have limited knowledge. As a result, they make decisions based on limited understanding.

An example is in relation to Eucalyptus plantations. The Eucalypt trees used in such plantations are fast-growth trees, they provide a cash crop, and local people may foresee no adverse impacts from agreeing with the government decision to plant Eucalyptus plantations. However, such trees are known to have deep roots capable of consuming significant amounts underground water that may eventually cause harm to agricultural activities[29]. Such issues are not well understood by many communities, which limits their effectiveness in participation[30].

Interview Voices: Capacity for effective participation

Two participants from the central government supported the view that “an absence of understanding can limit the effectiveness of community participation. They pointed out that in involving the public in forest management; there is a need to educate people and to disseminate information to improve the forest-related knowledge of the public beforehand.” (Interviewee P2 and P4)

Interview Voices: Developing community capacity

An officer of a key agency noted the need for developing community capacity, stating that “even given a lot of effort in disseminating information about the severe impact of deforestation, people still do not understand and are not aware of these impacts.” (interviewee P1)

An interviewee from local government (L1) highlighted the interconnection between governance issues such as land titling, adequate information and education, and the control of corruption: “it is necessary to select representatives of the community who are sufficiently well-educated to jointly investigate whether or not the community has been settled in a forest area before demarcation by the government. This is to ensure that people understand what is being investigated.” This view reinforces the link between educational disadvantage and failures of forest governance.

Interview Voices: The importance of communications

Associated with many of the forest governance concerns are issues of knowledge, intelligence and decision-making resources. Some of these difficulties reflect failures of knowledge transfer and communication approaches used by government agencies.

One interviewee from government affirmed that “it is also necessary to think about ways to communicate, such as the face-to-face workshop in community areas. This can make it easier to communicate and enable the community to better understand what has been communicated” (Interviewee P4). A participant from the community (C3) reinforced that “expert members of the community should be trained to transfer knowledge about sustainable forest management to other members of the community. Communication among members of the community is more likely to be effective than communication between the staff of the government and the community.”

Interview Voices: Developing the next generation

Two interviewees provided an alternative perspective, suggesting that “information should be disseminated by transferring it to the next generation. To ensure sustainability, the younger generation has to be aware of how important the forest is. They have to be inspired by older people to value the forest influencing them to protect and exploit forest sustainably.” (Interviewees C4 and L1)

Another interviewee expanded on this perspective indicating that “apart from transferring forestry information to the younger generation, there is a need to transfer information to wider groups in the community using social networks as a dynamic means to help protect forests.” (Interviewee C1)

I. Forest law and institutional objectives are frequently not met.

Stated objectives of forest management are frequently not met in practice. For example between 1994 and 1996, the Thai government aimed to establish 800 000 ha of reforested areas, but planting was completed on only 165 000 ha by 1997 [31]. Likewise, allocation of degraded forest land to landless people is an endorsed policy aimed at solving the problem of forest encroachment, but it is reported that a large number of people who have been granted land under this program are wealthy (sometimes including politicians)[31]- [32].

A lack of sufficient monitoring is one aspect of this failure. The Thailand 2005 national report on forests to the United Nations highlighted that, without effective monitoring mechanisms, forest encroachment in Thailand has increased[33]. The country brief for Thailand in June, 2012, identifies that one of five key challenges of forest management in Thailand is the need for mechanisms for monitoring and evaluation of the community forestry program[34].

Interview Voices: The importance of monitoring

Several interviewees highlighted the need for effective monitoring to ensure that the stated objectives of governance are met.

A participant from the central government (P3) suggested that: “in practice, the responsible authority infrequently uses a helicopter for the air-patrol of forests. Thailand needed to agree to a regular assessment and monitoring approach with regular aerial patrolling.”

A number of community interviewees highlighted the link between monitoring, funding and meeting objectives, suggesting that “to ensure that forest management is in line with stated objectives or that the funding that is allocated is spent effectively, it is important to have assessment at the end of each forestry management project.” (Interviewees C1, C3, and C4)

V. CONCLUSION

The paper discusses the results of a systematic diagnosis of the governance challenges within Thai forest management. The approach draws upon findings from an extensive literature review and the views of the voices of stakeholders; treating stakeholders as genuine partners in the development of the governance system for their resources. The research outcomes indicate that there are a number of interconnected causes of governance failure in forest management in Thailand.

A critical difficulty in using a systems approach to diagnosing a complex problem is the potential to see only the complexity which emerges, and not be able to discern a clear path to resolve the challenges.

The nine diagnoses of the governance systems discussed in this paper are considerable inferences for further step of the research to form the intervention that provide a basis for making these systems more effective.

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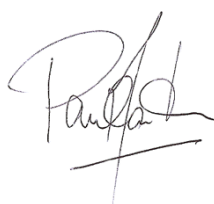


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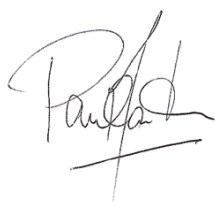


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5.4. Conclusion

The first set of interviews validates the relevance and usefulness of the ten criteria of good forest governance derived in Chapter 4, as detailed in Section 5.3 of this Chapter. They also supported findings from the review of documents (discussed in Chapter 3) and served to highlight specific areas that should be targeted for reform. The major conclusions from the review of documentation and first set of interviews are:

1. The *Forest Plantation Act*: See discussion in Chapter 3, Section 3.3.4.4. Even though the amended *Act* is intended to achieve economic development and compliance with international obligations opportunities, fail to do so because key issues are overlooked. The *Acts* seen as vulnerable under Criterion 1 (Rule of law) because government agents have excessive discretionary power for final approval which can contribute to complexity and potential corruption, and it contradicts other forest-related Acts; Criterion 5 (Effectiveness) because there are insufficient provisions for monitoring of implementation; Criterion 6 (Efficiency) because implementation of the *Act* is likely to be costly; and Criterion 4 (Stakeholder participation) because there is insufficient consideration of stakeholders, which seems likely to cause failures of implementation.
2. Development of rights to forests in Thailand: see discussion in Chapter 4, Section 4.4, particularly the *Community Forest Act*. Concerns relate specifically to two criteria: Criterion 7 (Equity and fairness) which highlighted issues of rights and traditional forest knowledge; and Criterion 10 (Good relationships among stakeholders) which highlighted problems of lack of trust among stakeholders and divergent view among stakeholders.
3. An overview of problems of forest governance in Thailand using the ten criteria: The discussion in Section 5.3 of this chapter identified nine major problems: Legal complexity which undermines the Rule of law (Criterion 1); inconsistent agency roles and non-cooperation which undermines coordination (Criterion 8); poorly defined community rights undermining equity and fairness (Criterion 7); under-recognised traditional knowledge and practices which also undermines equity and fairness (Criterion 7); lack of capacity which impedes forest management (Criterion 9); a failure to give weight to other interests of communities, which impedes equity and fairness (Criterion 7); risk of corruption which undermine the forest governance system and are caused by lack of transparency, accountability and stakeholder participation (Criteria 2, 3, and 4); intelligence and information sharing are insufficient to enable transparency (Criterion 2) which undermines capacity to act (Criterion 9); and the objectives of forest laws and institutional objectives are frequently not met, undermining effectiveness (Criterion 5).

Based on these investigations it was decided that, in order to arrive at firm recommendations for resolving the governance issues raised, it was necessary to obtain a more in-depth understanding of two issues:

1. The need and possible ways to balance the power to manage forest between the government and the community.
2. Issues underlying the lack of trust and divergent views among stakeholders, which may be an inhibiting factor in the recognition and granting of rights to people.

A second set of interviews was conducted to further explore such issues. This is discussed in Chapter 6.