

EXTERNAL CONSTRAINTS ON PARTICIPATION OF LOCAL PEOPLE IN LAO P.D.R.

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INTRODUCTION

From the perspective of biodiversity conservation, the establishment of conservation areas is an effective measure for protecting rich natural resources. In those areas, biodiversity is protected, and forest resources are not exploited, including not only timber resources but also various other forest products.

On the other hand, in many places local people have lived in and around rich forests for many years. Many of them make a living from the forest resources through shifting cultivation, hunting, and gathering of Non Timber Forest Products (NTFP).

In recent years, several countries have established conservation forests in which local people are still living. However, the establishment of these conservation areas is not necessarily useful for those people who live in and around them. They may find their entry to the forest restricted and may be forced to forfeit their customary forest use rights in some cases. In conservation forests, there are two competing issues: the limitation of forest utilization for the purpose of biodiversity conservation, and the securing and improvement of living conditions for local people.

The forest area in Lao P.D.R. has been rapidly decreasing in recent years. The proportion of the area of forest in this country rapidly decreased from 70 percent in 1940, to 54 percent in 1973, and further, to 47 percent in 1989 (Kamphay, 1992). In response to this rapid loss, many conservation areas have been established in order to protect the remaining rich biodiversity in this country. Conservation areas account for an equivalent of 12.5 percent of the total area of the country, and 754 villages find themselves located in and around those areas (see Table 1).

Under these conditions, disputes between local people and the government can be expected, concerning the land use by those people on one hand, and the conservation system on the other (Berkmuller, 1993). For the purpose of biodiversity conservation, it is necessary to think about the coexistence of governmental conservation efforts, and the efforts to secure a livelihood by local people.

This report first discusses the issues of forest management policy objectives in conservation areas through the utilization of forests by local people. Next, it describes the gap between the real situation of forest utilization by local people and forest management policy in the Phou Xan Hae National Biodiversity Conservation Area in Lao P.D.R. Finally, it presents key issues relating to conservation forest management policy in Lao P.D.R.

DEVELOPMENT OF CONSERVATION FOREST POLICY IN LAO P.D.R.

In May 1989, the First National Conference on Forestry was held in Vientiane, Lao P.D.R., to cope with the country's rapid deforestation and environmental deterioration. Proposed as countermeasures were the cultivation of cash crops, the

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implementation of land use classification policy for the management of land and forest by local inhabitants, and the encouragement of tree planting activities (Inoue and Hyakumura, 1999).

After the Conference, preparations began for legal systems relating to land and forests, and consideration of policies relating to conservation forests was initiated for the purpose of biodiversity protection. To date, there are three legal instruments relating to conservation forests:

1. The Prime Ministerial Decree on National Forestry Reservations over the Country (No.164/PM) (1993).
2. The Forestry Law (1996).
3. The Decree on the Ministry of Agriculture and Forestry at Instruction on Land and Forest Allocation for Management and Use (No.822/AF) (1996).

THE RESTRICTION ON FOREST UTILIZATION AND MANAGEMENT BY LOCAL PEOPLE CAUSED FOREST POLICY RELATED INTO CONSERVATION AREAS

1. Restrictions of the Prime Ministerial Decree on National Forestry Reservations over the Country

Establishment of National Biodiversity Conservation Areas

The first legally recognized National Biodiversity Conservation Areas (NBCA, in Laotian *Paa Sagwan Hensaat*) in Lao P.D.R. came into existence in October 1993 with the promulgation of the Prime Ministerial Decree on the National Forestry Reservations over the Country (No.164/PM).

Twenty NBCA sites (initially only eighteen) were demarcated on a total of 3 million hectares, or 12.5 percent of the country's total land area, and one quarter of the total forest land. Seven hundred fifty-four villages are located in and around 13 of these NBCAs. (See Table 1.) According to the Prime Ministerial Decree, the objectives of establishment of NBCAs are as follows: 1) to preserve natural resources, 2) to protect the abundance of nature and the environment of such nature, and 3) to preserve the beauty of natural scenery for leisure resorts, study and research (Article 3).

On the other hand, the following prohibitions or restrictions created through the establishment of NBCAs are as follows: 1) cutting down any trees, 2) collecting forest products, 3) excavation, mining or construction of water reservoirs, 4) expansion of shifting cultivation or settling of people, 5) exploitation or movement of cultural or historical assets, 6) use of explosives, chemicals or poisons, 7) burning or use of fire for crop plantations (Article 4).

Issues relating to the Prime Ministerial Decree on National Biodiversity Conservation Areas

Two problems arise concerning the Prime Ministerial Decree relating to forest utilization and management by local people: a) unclear selection standards, including ecological aspects, and b) lack of mention about the right of forest utilization and management by local people in and around conservation areas.

a) Unclear selection standards

- 1) Although the Prime Ministerial Decree mentions the necessity of biodiversity conservation, it does not mention the concrete standards of ecological value. Objectives and restrictions are stipulated, but it is not clear exactly what is protected.
- 2) In NBCAs, some areas have become secondary and degraded forests as a result of slash and burn cultivation (Berkmuller, et al, 1995). In addition, in the case of Phou Phanang National Biodiversity Conservation Area conservation was used rather as a tool for political stability relating to the area inhabited by hill tribes. Some NBCAs have been created where there is not much biodiversity to protect (Berkmuller et al, 1995).

b) Lack of mention about the right of forest utilization and management by local people in and around conservation areas

On the Prime Ministerial Decree, regulations about utilization of timber and forest products in the conservation areas are strongly stated. However, whereas many villages exist in and around conservation areas (see Table 1) it does not mention their rights of forest utilization and management. The delineation as Conservation Areas, with restrictions on forest utilization, only deprives the products of the forest from local people who relied on the rich forests long before establishment of NBCAs.

Table 1: List of National Biodiversity Conservation Areas (NBCAs) in Lao P.D.R.

| | Name | Province located | Area (ha) | No. of Villages | Source of Support |
|-------|------------------|------------------------|-----------|-----------------|---------------------|
| 1 | Xe Bang Nouan | Saravane/Savannakhet | 150,000 | 8 9 | IUCN/LSFP |
| 2 | Phou Xang He | Savannakhet | 109,900 | 8 7 | IUCN/LSFP |
| 3 | Phou Kao Khouay | Borikhamxay/ Vientiane | 200,000 | N.A. | IUCN/LSFP |
| 4 | Nam Poui | Xayabury | 191,200 | 4 5 | IUCN/LSFP |
| 5 | Khammouan LS | Khammuane | 150,000 | 1 0 9 | FOMACOP |
| 6 | Xe Sap | Saravane | 133,500 | 5 9 | FOMACOP |
| 7 | Xe Pian | Champasack | 240,000 | 6 2 | FOMACOP |
| 8 | Dong Houa Sao | Champasack | 110,000 | 7 8 | IUCN/Netherlands |
| 9 | Phou Xieng Thong | Saravane | 120,000 | 7 8 | IUCN/Netherlands |
| 10 | Nam Ha | Luang Nam Tha | 69,000 | 1 9 | WCS |
| 11 | Na Kai Nam Theun | KM/BR | 353,200 | 3 6 | IUCN/WCS/World Bank |
| 12 | Phou Phanang | Vientiane Municipality | 70,000 | N.A. | Canada Fund |
| 13 | Phou Den Din | Phongsaly | 222,000 | N.A. | C.E. |
| 14 | Nam Et | Huaphanh | 170,000 | 1 8 | Govt. of Norway |
| 15 | Dong Ampham | Champasack/Attapeu | 200,000 | 1 4 | N.A. |
| 16 | Dong Phouvieng | Savannakhet | 53,000 | 6 0 | N.A. |
| 17 | Phou Sam | Huaphanh | 70,000 | N.A. | N.A. |
| 18 | Nam kading | Borikhamxay | 169,000 | N.A. | N.A. |
| 19 | Phou Leui | Huaphanh | 150,000 | N.A. | N.A. |
| 20 | Phou Hin Nam No | Khammuane | 82,000 | N.A. | WWF |
| Total | | | 3,012,800 | 7 5 4 | |

Source: CPAWM (Center for Protected Areas and Watershed Management, Department of Forestry, Lao P.D.R.)

LSFP: Lao-Swedish Forestry Program, **FOMACOP:** Forest Management and Conservation Programme. **WCS:** Wildlife Conservation Society, **KM/BR:** Khammuane and Borikhamxay Province, **C. E.:** Confirmed European Union

2. Restrictions under the Forestry Law

Establishment of National Biodiversity Conservation Areas under the Forestry Law

After 1989, the Laotian legal system concerning forests and forestry was established. Key elements were the promulgation of the Prime Ministerial Decree which relates to protection of biodiversity, and an ordinance of the Ministry of Agriculture and Forests. In October 1996, the Forestry Law was promulgated, making it the first comprehensive law concerning forests and forest land.

The Forestry Law does not refer clearly to NBCAs. However, according to the interpretation of the Ministry of Agriculture and Forestry's Department of Forestry, Conservation Forests (*Paa Sagwan*) referred to in Article 18 are assumed to be the NBCAs.

In the Forestry Law, NBCAs are divided into two categories: Total Protection Zones (TPZ) as Core Zones, and Controlled Used Zone (CUZ) as Buffer Zones (Article 42). According to the Forestry Law, Core Zones are the primary ranges, habitats and breeding places of various animal and plant species. In those zones, forest activities including the harvest of any forest products and entry without permission is prohibited. Permission required is from the local administrative authority and the Ministry of Agriculture and Forestry. On the other hand, Buffer Zones are areas of forest, bordering or close to Core Zones, which people are allowed to use with certain restrictions on utilization of forest products, for effectively supporting the goal of protection and conserving the Core Zones (Article 42).

The restriction of National Biodiversity Conservation Areas in the Forestry Law

a). Forest Utilization by local people

According to the Forestry Law, local people are allowed to utilize forest products in Buffer Zones with restriction for protecting Core Zones. This is the first instance of legal recognition of the utilization of forests by local people, although it comes with restrictions.

b). Zoning between Core Zones (TPZs) and Buffer Zones (CUZs)

In Core Zones and Buffer Zones, the rights of forest utilization by local people are very different, even in the same NBCA. The right of forest utilization by local people is greatly affected by which category the forest is given. However, the standards of zoning between NBCAs are not dealt with in the Forestry Law, and there is no way of judging other than by interpretation of the text.

3. Restrictions of the Decree of the Ministry of Agriculture and Forestry

Outline of land and forest allocation

In order to shift smoothly to a market economy, the government is implementing a Land and Forest Allocation Policy as a basic policy at the village level, and is reforming the system by which the rights of forest utilization at the village level are legally

transferred. The Decree of the Ministry of Agriculture and Forestry on Instruction on Land and Forest Allocation for Management and Use (822/AF), provided an eight-step implementation plan. This policy admits various rights of land possession, utilization and succession to allocate land and forests, and imposed obligations relating to management of forests around the villages (Namura and Inoue, 1998). As of April 1998, the 3,096 of about 12,000 villages in the country have implemented the Land and Forest Allocation Policy (Anonymous, 1998).

The main purpose of the Land and Forest Allocation Policy in NBCAs is to effectively protect the Conservation Areas at the national level, and gives priority to defining village boundaries, clarifying the zoning between Core Zones and Buffer Zones, and categorizing land and forests, and does not give priority to allocating agricultural land for local people (Jones P.R., 1998).

Issues on land and forest allocation policy in National Biodiversity Conservation Areas

Two issues on Land and Forest Allocation Policy in National Biodiversity Conservation Areas have been mentioned.

a). The Differences of forest management in Core Zone and Buffer Zones

According to the Forestry Law, Core Zones are protected strictly by the state, and any forestry activities are prohibited. Exceptions are possible by the special permission of the local authority and/or the Ministry of Agriculture and Forestry (Article 42). Management is done by the state.

On the other hand, Buffer Zones are living areas where land and forests have been used in customary ways as local people have lived in and around conservation areas for a long time. Ownership is held by state, but management is carried out by villages after implementation of Land and Forest Allocation.

It is clear that since the body responsible for management and forest utilization by local people is very different for Core Zones and Buffer Zones, it is important that zoning be conducted carefully.

b). The gaps between real land use and legal systems in Buffer Zones

In buffer zones, land and forests are allocated to villager in and around the conservation areas where they obtain forest products.

The allocation of land and forests to villages in Buffer Zones is carried out based on their actual land use. Besides Conservation forests and Protection forests managed by villages, production and regeneration forest in Buffer zones are possessed by the state. In addition, residential and agricultural land can be allocated if a village is in a Buffer Zone.

Under the Forestry Law, Buffer Zones are regard as state conservation forests. However, in reality, some of these areas have been used since long ago for the livelihoods of local people for a long time and would be more suitably classed as agricultural land and production forests than as protection areas. In this regard, a big gap exists between the legal system and the actual situation.

THE ISSUE OF BIODIVERSITY CONSERVATION IN PHOU XAN HAE NATIONAL BIODIVERSITY CONSERVATION AREA

1. Outline of Case Study

Outline of Phou Xan Hae National Biodiversity Conservation Area

Phou Xan Hae National Biodiversity Conservation Area is located in central northern part of Savanakheth Province. The NBCA overlaps 5 districts, including Phalanxai district, and contains 87 villages located in and around NBCA. About 92 percent of the Conservation Area is covered by forest. Mountainous area covered by dry evergreen forest occupies 41 percent of total forest area. Hillside covered by mixed deciduous forest occupied 44 percent of total forest area. After the Phou Xan Hae NBCA was established as an NBCA by Prime Ministerial Decree 164 in 1993, support for the area was provided by the Lao-Swedish Forestry Program (LSFP).

Of the 78 villages in Phalanxai district, 4 overlap the area of the NBCA and 9 are located near it NBCA. Of only 4 villages which have already completed Land and Forest Allocation, the villages of Nalay and Xielekok village are located in and around the NBCA.

General description of Phou Xan Hae National Biodiversity Conservation Area

Nalay Village, located in the northwest part of Phalanxai District of Savanakheth Province, has no electricity, telephones, gas or water supply. In order to go to the governmental center of the District villagers must walk to 15 km National Route 9, and then ride a public bus an additional 10 km to the center of the District. Although local governmental bodies are located here, like the village there are no electricity, telephone and gas supply systems.

Nalay Village has 144 families, and a population of 723, consisting of the highland Lao (*Lao Teung*) of the Monkon ethnic group. Their religion is based on a belief in spirits. Villagers speak the Monkon language, which does not use written characters, although they can speak and understand the official Lao language. The village was established four generations ago when their ancestors moved to the present place. Villagers are mainly occupied with work in paddy fields and shifting cultivation. The average income is 93,686 kips/ year (1998).

In 1998, the Land and Forest Allocation of the Nalay village was completed, as the village overlapped with the southern part of the NBCA. A Joint Forest Management Program is being conducted in a natural dense forest in the southern part of Nalay village, and resulting profits have been used for the construction of a primary school.

2. The Influence on Forest Policy in Nalay Village

Superficial understanding about Conservation Area

As mentioned, the NBCA established by Prime Ministerial Decree overlapped with the village area. In the past, when necessary boundaries between villages were decided by mutual consultation among villagers. Rather than establishing actual boundaries, the consultation was necessary to prevent disputes concerning land use

management between villages. Even if village boundaries were decided customarily, the gathering of forest products (excluding timber) and shifting cultivation by other villages were permitted.

On the other hand, the deep forest land not connected to a nearby village was recognized as an area where forest products could be freely collected, as customary boundaries did not exist. Despite this open access, forest resources were not rapidly depleted in those areas.

Even after the establishment of NBCAs, due to inadequate communication concerning NBCAs from local authorities, and poor responses by villagers, forest utilization by local people inside NBCAs has not changed.

The misunderstanding caused the decision of village boundary

In January 1998, the Phalanxai District Agriculture and Forestry Office (DAFO) carried out Land and Forest Allocation in Nalay Village, with assistance of the the Lao-Swedish Forestry Program. This was the first time that local people became aware that the deep forest lands they had customarily used were to be classified as NBCAs.

Boundaries between villages continued to follow customary lines, but the deep forest land, that is, the NBCA became buffer zones managed by villages and core zones managed by the national government.

Issues relating to productive agricultural land caused by Land and Forest Allocation

As mentioned above, in Nalay Village the 144 households are occupied by shifting cultivation and paddy field cultivation: 40 households are involved in the former. As a result of Land and Forest Allocation, the households conducting only shifting cultivation were allocated land for cultivated paddy fields. Now all households in the village officially own land for cultivated paddy fields. The idea was that paddy field cultivation could improve the life of local people who previously depended on forest products from the lands which became the NBCA.

The government allocated paddy fields to villagers in compensation for a prohibition on shifting cultivation, as a part of the government policy to reduce of shifting cultivation. However, it was difficult for some local people, who have continued shifting cultivation for generations, to halt immediately. In addition, since much of the land allocated for new paddy fields was on sparse flat forest land on hillsides, another issue is emerging now about the rights of land use between former landowners and the new paddy farmers.

PROPOSED ISSUES RELATING TO FOREST MANAGEMENT POLICY IN CONSERVATION FORESTS

Based on the situations described above, the following are proposed as issues for future consideration relating to forest management policy in Lao P.D.R.

1. The Selection Standard of National Biodiversity Conservation Areas (NBCAs)

Standards for selection of NBCAs need to be clearly defined based on ecological values, and new NBCA boundaries identified.

2. Establish Boundaries between Core Zones and Buffer Zones

Boundaries should be established based on discussion with villagers, with special attention to actual land use, in particular hunting and gathering. Boundaries should be considered with the future in mind, with the participation of villagers. Alternatively, the drawing of strict boundaries could be avoided for the present, and reconsidered flexibly in several years.

3. Determining Land Use inside Buffer Zones

In principle, the land use rights of local people inside Buffer Zones should be decided based on current actual land use. Current patterns of land use by local people should not be forcefully changed by Land and Forest Allocation.

The Department of Forestry is now reviewing various regulations, including consideration of new policies relating to the National Biodiversity Conservation Areas. In this review process it will be important to clarify some of the ambiguity in the Prime Ministerial Decree, as well as the significance and objectives of conservation and protection, and the rights of local people in and near the Conservation Areas.

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