

Community rights: The role of social movements in the community

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Abstract

This article depicts the way of life in a community under authoritarian power where people's rights as citizens and community rights are neglected or ignored. These rights are naturally people's rights as citizens or as a community. Such negligence and the state of being ignored can cause continuous conflicts under the "right discourse" in society even though presently, the principle of people participation has increasingly been included in many processes. Nevertheless, the state has widened the gap between individual rights and those of capitalists, from both within the country and abroad, allowing the latter to take over and hold ownership of community resources and take advantage of these resources. In doing so, the state neglects and ignores the community and infringes upon important rights that are community rights. The problem of resource sharing results in conflicts between various disputants, for example between the state and the community and between the community and individuals. However, the most important of the various disputes is between the state and communities that eventually leads to social movements by people demanding their rights. These social movements act in many different methods to build a new definition for the community, or to demonstrate the existence of the community which is able to take care and manage its own resources. This will eventually become community power which leverages outside authority to cause the recognition of community rights. Thus, community rights can be deemed as discourses that lead to a widening in the sphere of a community's social movements.

Keywords: *community rights, community's way of life, role, social movement, citizenship*

1. Introduction

Globalization has caused numerous changes in many aspects of Thai society and these changes have resulted in conflicts in a number of social aspects, one of which is the conflict of rights, called community rights, that has continuously taken place from the past to the present. However, these conflicts are different depending on their location and social situations. There have been social movements for recognition of community rights to create a new definition of community in order for community rights to be recognized under the community rights discourse. There are various definitions of community rights. Taking the definition of the term "right" which means "a legal or moral entitlement" (The Royal Institute of Thailand, 1999), this discourse becomes the starting point of the awareness of community rights that gradually forms itself amidst the fighting and the process of social movements over the local community to assert authority to control their own resources.

Considered carefully, we will find that sustainable development has to be based on the concept of community rights in which the area that owns the resources has the rights to self-determination and can participate in community resources management with community members possessing mutual rights over the resources and assets of the community (Jamrik, 2006; Santasombat, 1999; Trirat, 2009). By possessing the rights to community self-determination and the recognition of power and authority in community resources management this can lead to a stronger community with self-reliance and sustainability which reflects concrete community rights. Nevertheless, community rights cannot develop easily even though it is accepted that the community naturally has such rights. It is necessary for the community to rise up and protect its rights.

In addition, community rights have been widely discussed in society, and community rights were originally demanded by localities in the northern part of Thailand in the cases over

community forests that eventually resulted in recognition of community rights as set forth in Section 46 of the 1997 Constitution of the Kingdom of Thailand. However, the Section ends with the phrase “as provided by law” which has made it problematic when used to settle disputes. As a result, in the 2007 Constitution of the Kingdom of Thailand, Section 66, on community rights and local community rights were added so as to cover the case of persons assembling as to be a community, not necessarily defined as a traditional community which has existed for a long time. Moreover, Section 67 includes statements about public hearings for people and stakeholders before projects are commenced and establishes community rights for court action against government agencies (Sriwilai, 2007; Suzuki & Bunnag, 2009). Even though community rights are protected by the state and it is understood that community rights are protected by law, there have in fact, been conflicts in Thai society regarding community rights violations. In 2009, 695 cases, or an average of 58 cases a month, were filed of which 314 were cases of rights violation by state agencies and 212 by state officials. (National Human Rights Commission of Thailand, 2009). Such cases have constantly caused communities to fight for community rights through social movements.

Regarding the human rights movement, it was found that most social conflicts concerning community rights often arise between the state and the people as a result of a simple idea that overlooks the complexity of the local community. When the community is aware of trouble, a social movement takes place to demand community rights. Nevertheless, the occurrence of community rights violation has not decreased, but the number of conflicts has increased, most of which are founded on natural resources. Many communities that have lost land owned by their ancestors from instances of land invasion. Many communities have lost their occupations and living quarters. The health of people in many communities has been affected by carelessly operated projects. Many communities have lost leaders who led the community in protecting community resources and community rights. These incidents have resulted in violence derived from a violation of citizen rights and

community rights. This can eventually lead to a gatherings of people in the community to fight for their rights, building a community rights discourse. The intention is to protect the community’s natural resources and environment in order that the community continues to exist under the community’s sustainable way of life. Thus, social movements will continue in Thai society unless the power of the state is reduced and social inequality is eliminated.

As can be seen in the present situation, community rights are conditions leading to an open space where the role of community social movements are increasing, demonstrating the community’s potential in managing itself. This study, therefore, aims to investigate community rights through the role of the community’s social movements: how the community carries out its social movements, what approaches it takes, and how it adapts itself in times of crisis. The data for this study was collected from documents on social phenomena, academic studies, interviews, and focus group discussions, as well as informal observation in the community.

2. Community rights and the community way of life under authoritarianism

The Thai community way of life has long been dependent on community resources even though the government has tried to lead the country toward becoming an industrialized society. The effort during the past 50 years of country development has not resulted in the ability to project the country itself as a developed, rather it has resulted in the collapse of many communities. The community way of life has changed in many aspects, such as in occupation and culture. Common people’s troubles have been placed at the “margins” and their rights are not protected and their essence as a community has been ignored.

Consider the Na Thap Canal Community in Chana District, Songkhla Province as a sample case. This is a 400 year-old community, with the Na Thap Canal, a brackish waterway, as its important resource, which has long supported the community with fishing, the main occupation of the community until the present as shown in Figures 1, 2 and 3.



Figures 1, 2 and 3 Native fishermen earning their living in and along Na Thap Canal

At present, the Na Thap Canal is a crisis as a result of development. Projects from the government sector, business groups, and industrial factories in the community, shrimp farming, and other projects have all affected the community's resources. According to local fishermen's perceptions, the amount of aquatic life has decreased significantly and some have become extinct. Na Thap Canal is an important indicator of a water source crisis and this phenomenon is very similar to that faced by native fishermen in the Chilika Lake basin of India (Udaya, 2004). As can be seen, problems resulting from negligence, or ignoring the community rights on the part of the government has affected the community's way of life. The crisis has made it necessary for people in the community to adapt themselves in many different ways for survival depending on different conditions, such as economics, resources, social or cultural conditions. People in the Na Thap Canal Community have adapted themselves to seek diversified occupations, for example, growing rubber trees, vegetables, or odd jobs. Many communities in Thai society have also faced the same situation and have adapted themselves in a similar way (Suknual, 2007; Bendem-ahlee, 2011). As can be seen, to maintain community rights within the Thai community way of life community power is particularly necessary. The community has to be alert in protecting the community's rights against authoritarianism.

3. Conflict under the discourse of "rights"

Presently, under the word "rights" there have been demands and social movements to protect civil liberties, yet conflicts derived from the violation of community rights remain complicated. These are social problems that are

difficult to solve in Thai society. There are over 500 cases of community rights violations nationwide, and 1-2 cases are filed each day. 90 percent of the complaints filed with the National Human Rights Commission of Thailand are cases of resource use ("Anand Panyarachun, Thailand's former Prime Minister, suggests reducing inequality! Reforming to build justice for Thai society's survival", 2010). In addition, in many communities, there have been clashes over three types of rights: individual rights, state rights, and community rights. It can be said that state rights versus community rights are the most important litigants which are seen as in opposition. Pinkaew Luengaramsri (2010) stated that community rights have been defined in many ways, but most definitions usually refer to different characteristics and are in opposition to the system of state rights. Community rights are rules developed from a community's tradition, whereas law is written by the state. Community rights are complex rights, whereas state rights are completely simple rights. Community rights emphasize participation while state rights emphasis protection. Community rights aim for livelihood while state rights aim for trading. Community rights movements are attempts to leverage the state's authoritarianism that is monopolized by the state's main institution and this institution has long been the only one with the rights to most efficiently manages resources. The community rights process that raises "the community" as an institution with ideology, an action plan, incorporating culture for resources management that is entirely different from the state is an interpretation of rights that gives importance to the "local" to decide their own destiny based on existing resources. Conflict under the discourse of "rights" in Thai society will decrease if state power

is lessened and returned to the community, giving equal rights to community members as citizens. Which direction the rights and citizenship of Thai society will develop is something we have to wait and see from the projects carried out by the government.

Whether or not citizen rights are truly important, it is necessary to watch when the government holds a public hearing for state projects to see how much power locals will have in decision-making, or in forming state policy. Whether or not the rights of the citizen are truly recognized is not only a problem for Thai society. Soma and Vatn (2009), in their study on local democratic implications for coastal zone management - A case study in southern Norway - found that participation in public hearings when implemented at the local community level often fails and problems of unsuitable representation still exist. Similarly, the Thai state has carried out the process only ritually in many communities in Thailand. For example, in 2002, a public hearing on the Thai-Malaysian Gas Pipeline Project at Khoksak Sub-district, Chana District, Songkhla Province was held, but it was only a ritual (National Human Rights Commission of Thailand, 2005). Another case is the Klity Community, residents along the lower Klity Creek, Chalae Sub-district, Thong Pha Phum District, Kanchanaburi Province. The Provincial Court on December 20, 2010 ordered Lead Concentrate (Thailand), Ltd. and 7 others to pay compensation totaling 35.8 million Baht to 151 affected people. The Lead Concentrate Company also had to clean Klity Creek, which had been contaminated with lead, and to be responsible for all the clean up expenses (Buttan, 2011). Another case is a community consisting of six villages in Khao Luang Sub-district, Wang Saphung District, Loei Province, that had been affected by the Phu Thap Pha Gold Mine operated by Thung Kham Co. Ltd., where the amount of arsenic, cadmium and manganese were found to exceed standard levels. The company was licensed to operate the mine in 2006, but without a public hearing as stated in the constitution and without notice on the part of the government for people to be informed and gain understanding about the mining operation, causing complaints [see for example: Thung Kham Goldmine, concession and the community way of life (*Matichon Daily*, 2011, January 18, p. 2.)]. As can be seen, these projects took place during the

same period of time when the country promoted large projects in order to accelerate economic growth. As a result, many projects were carried out carelessly and community rights were neglected and public hearings were not conducted. Even though there has been a policy indicating an attempt to enforce the law under the constitution - which is the country highest law - there have also been suspicious actions in every area where interests can be gained.

4. The rights and citizenship

“Citizen” is associated with a political community. Political - which is derived from the Greek word “polis” - is also called the “state”. Thus, a citizen is a member of a political community or state, meaning a place where humans live together with the use of power in managing its internal activities. Rarely does such a community exist alone. Hence, being a human equals politics; in other words, people are politics. Being a citizen is participating in a political community; had there been no citizens, there would be no political community or no state. Moreover, being a citizen, one is entitled to rights and has duties or responsibilities. Citizens have the right to attend meetings, to form policy and plan projects to develop their community; to issue laws or regulations for everyone to observe; to elect a representative to carry out matters concerning legislation and administration and to express opinions on their behalf including making changes on what has been agreed on. On the other hand, citizens have duties such as to attend meetings, to express opinions on the state’s activities; to pay taxes; to become soldiers to defend the country and to serve on a jury. As mentioned, citizenship comes with natural rights - everyone has equal rights and duties in accordance with his legitimate authority (Charoenmuang, 2008). In Thai society, citizenship is a hierarchy designated by the political and economic structure that causes inequality in access to resources even though Thai people as Thai citizens should receive one thing in common - equal rights. Nevertheless, during the time of development, cross cultures across borders have resulted in violations of rights everywhere. The right of the state attempts to open interest-seeking channels for individual rights of capital, both domestic and international, to hold ownership and take advantage of community resources overlooking the existence of the

community and violating important rights that are community rights. Troubles and problems take place in the community when fights over resources lead to conflicts between diversified litigants such as the state and the community, and the community and individuals. However, the important parties are the state and the community, which eventually leads to movements by the people to create a new definition for the community making for the recognition of community rights.

5. Retaliations/violence/movements for community rights

“I’ve raised my farm and plantation, but I became a defendant in a forest invasion case and a global warming case. People on Banthat mountain range have no choice, but to gather themselves to fight against it.” (Changsarn, 2010). There are many cases like this in Thai society as a result of a group of people sitting down, drawing maps and writing projects, selecting locations at meeting tables, writing a law for control, and soon after that an official letter bearing a Garuda seal representing absolute power is sent to a village stating that the people in the community have to report themselves within a given period of time, otherwise they will be charged with state land invasion and they cannot say that they don’t know the law. This is because a basic duty of all citizens is that they must know the law. Thus, cases under the state’s authoritarianism culture are being seen with more and more violence, and some leaders have lost their lives trying to protect their community resources or resources of the land that their ancestors have long handed down from generation to generation. The rise of the community is another alternative for social movements chosen by communities, according to the different area, context and culture in order to create a meaning of community rights in their own community for society to recognize. This implies the expectation to change state policy, which is difficult to do even for the most well-known of movements that has fought under a spotlight of publicity, such as the Assembly of the Poor which was not successful in changing state policy (Charoensinolan, 2002; Boonchai, 2010). These peoples’ movements would not have taken place if they had not felt the trouble that affected their livelihood, like land invasion to get community resources by outside authority mostly, by state authority. It can be seen that most community rights come from

negotiations and community social fights as Anan Kanchanapan (2006) states interestingly in the book entitled “Economic Culture in an Un-cultured Economy”, that community rights do not readily exist, but people have to help build them in order to balance the relationship of power between the state and the community.

Social movements for community rights by many communities have been organized when no other peaceful means could be used to solve the problem in the form of demonstrations against the project coming to the community. However, the length of time for the protest may be different from place to place. For example, Ban Laem Chong Thanon Community, Khoa Chaison District, Phatthalung Province, in demanding a dam be opened and protesting the impounding of Songkhla Lake or the Ban Khoksak Community, Chana District, Songkhla Province, who rose against the Thai-Malaysian Gas Pipeline Project. These were different from the movements by the Pow Karen Community, Ban Nong Lak, Thung Hua Chang District, Lamphun Province, or the Hat Chao Mai Community, Trang Province in that they were in the form of conservation that built community power into a conservation community. They also turned their power into a symbolic power in their social movement for their community rights to protect their community resources and emphasizing the concept of being a community that could manage its own resources (Chandaeng, 2007; Sangkhachat, 2009; Lertchai et. al, 2003). Even though more people’s participation is presently promoted, only some countries are successful in this attempt. The study by Nasuchon and Charles (2010) found that community participation in fisheries resources management is successful only in some countries, while others need more time for such success. Malaysia is a successful country in applying a community’s traditional principles along with fisheries resources management. As can be seen, a neighboring country of Thailand has gone one step further, therefore, Thais should be more alert. An important thing for a community to preserve its rights is its realization of community rights, and awareness of its own rights.

As mentioned above, it is evident that from the past to the present, there have been points of view of many people in society that are not different from this critique. Nevertheless, movements for community rights in resources

management in Thailand that have attempted, to leverage the state's authoritarianism, were criticized by Forsyth and Walker (in Pinkaew Luengaramsri, 2010, p 277), liberal environmentalists who stated that in reality descriptions of the environment by community rights movements in Thailand have not leveraged the state's authoritarianism as claimed, but rather promoted and supported discourses on the main environmental crisis and confined the agricultural community to a subsistence agriculture ideology rather than in a commercial agriculture ideology.

The reason the author mentions the critique is to show that different points of view on community rights and the state exist. Usually Thai society is easily trapped in an illusion where there is a controvertor or a question. The author sees that it can possibly lead to more space for community rights toward a better direction, and that the relationship between the state and community rights may have to be adjusted to be more positive, and that the state could look back and review its policy so that the destiny of the community, which is based on its own community resources, is looked after, and community rights are given more attention.

6. Conclusion

The constant situation of social conflicts in Thailand concerning "rights" and "community rights" violations has affected the community's way of life. Perception of such trouble has, therefore, resulted in communities gathering to retaliate against external power through social movements, in order to protect their rights over community resources. Many communities have built symbolic community power and used social movements to cause community rights to be recognized. This has shown that community rights as a discourse can contribute to an opening the space for social movements. Even though community rights have existed for a long time, in practice, social movements are needed to some extent, and the movement patterns have to be changed in accordance with the time and context of each community. Furthermore, the important role that the community has to play is to learn and understand its own rights and to realize the real value of community rights in order to make the collective for social movements successful in demand rights.

In conclusion, rights are important and all citizens have to realize and recognize them by respecting each other's rights and not "overusing

rights" no matter at what level the rights may be. Community rights are an important outlet for reducing conflicts and building justice in society. All sectors need to realize and coordinate to set policy that is in accordance with context and tradition so that the community and its development can move on hand-in-hand in balance with a community's way of life.

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