

## Draft

### Climate Change and Insecurities: Community Rights and Access to Resources

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#### Introduction

Insecurities brought about by climate change impacts are anticipated by several developing countries of the world<sup>i</sup>. Estimations that such impacts will likely be particularly severe in the developing countries reflect two interesting elements. First, those populations who are currently already in a vulnerable state will come under additional pressure as the problems they now face are magnified by new challenges resulting from climate change impact. Secondly, a major concern of most developing countries that effective response is beyond the capability of their governing system<sup>ii</sup> has become more evident over time. The fact that existing resource access institutions of many developing countries are problematic, even before taking into account the added burden of climate change, has been repeatedly witnessed by development practitioners and illustrated by a wide range of studies.

Generally, four main manifestations of climate change are expected: ‘...slow changes in mean climate conditions, increased interannual and seasonal variability, increased frequency of extreme events, and rapid climate changes causing catastrophic shifts in ecosystems’<sup>iii</sup>. According to Smit and Wandel ‘s identification of two broad contributing elements to vulnerability: exposure, sensitivity and adaptive capacity<sup>iv</sup>, the impact that these climate variabilities will have on human systems and human-environment systems are expected to be acute for those with high levels of vulnerability and low adaptive capacity.

For those in the developing world, their high natural resource dependency, their limited ability to adapt financially, institutionally, and their lack of safety nets are among the main factors cited as contributing to such high levels of vulnerability and low adaptive capacity<sup>v</sup>. Furthermore, while reliance on natural resource hinders their adaptation, it is compounded by inequitable access to the natural resource base<sup>vi</sup>, a phenomenon common to many natural resource dependent societies. So, it is crucial to note that though the need to adapt to a changing climate has come to be more widely acknowledged and

adaptation has come to be placed as a significant issue on the climate change agenda, adaptive action cannot be taken under the terms of climate change alone. Issues of equity and justice, rights and power are in fact inherent in the institutional structure under which communities and societies experience changing conditions and by which the process of decision making affect their livelihoods practices and their ability to adapt. Such institutional structure in most cases have been in place long before climate change became an issue. In this connection, institutions are defined as ‘...sets of rules, decision-making procedures, and programs that define social practices, assign roles to the participants in these practices, and guide interactions among the occupants of individual roles’<sup>vii</sup>. Whether from a collective-action approach or a social-practice approach<sup>viii</sup>, individuals and communities alike rely, by a large part, on resource access institutions to legitimize their entitlement to natural resource use and their management of their environment.

From a security perspective, the natural resource base and the environment are the fundamental basis for other security components. In their function as the support to all life forms, they constitute a foundation for sustainable development<sup>ix</sup>. When adaptation is considered as a response to stress, in terms of access to resources and abilities of people to cope, studies such as those in the field of entitlements and food security have shown that social, political, and economic processes at higher scales do shape and constrain individuals and household adaptive capacity<sup>x</sup>. In this regard, to improve societal adaptive capacity, and hence reduce vulnerability and maintain community resilience, practical initiatives required have been known to occur at the community scale<sup>xi</sup>. In the practical sense, adaptation in the area of climate change need to be considered in terms of ‘...local or community-based adjustments to deal with changing conditions within the constraints of the broader economic-social-political arrangements’<sup>xii</sup>. Thus adaptation could engender the attempt to change those broader economic-social-political structures, when they are particularly binding constraints<sup>xiii</sup>. The process of national responses, particularly the effects of national decisions and policies on local opportunities and abilities to adapt are pertinent to inform effective adaptation strategies design. This of course must include taking into account the issue of policy interplay<sup>xiv</sup>.

In cases where the issue of access and control feature prominently in the problem of environmental security, rights analysis could provide insights with regards to the distribution of power. A rights approach, according to Conway et al., is a way through which the operation of institutions and political process that influence people’s livelihoods could be examined<sup>xv</sup>. Rights analysis as such,

identifies those who lack effective rights and those who deny rights to others, and therefore, helps identify the root causes by which poverty and vulnerability is generated and perpetuated<sup>xvi</sup>. Complementary to this, sustainable livelihood analysis (SLA) identifies constraints on people's livelihoods and could thus determine '...which kinds of rights are most important for a particular group at a particular time, or the sequence in which rights should be approached for a given group'<sup>xvii</sup>.

To address the issue of climate change insecurities in Thailand the rights and livelihoods approach is used to examine community rights with regards to their access to the natural resource base, so as to analyze the current baseline situation from an institutional perspective and identify the implications they have for communities' insecurities in dealing with livelihoods disturbances from climate change.

## **The Study**

"Community Rights Dimension of Human Security" is a research project which takes a rights and livelihoods approach to examine complaint cases of community rights violation with regards to natural resource access that have been filed to Thailand's National Human Rights Commission (NHRC), from the time of its establishment in July 2001, under the Human Rights Protection Act of 1999, up to 2007. In this context, human rights is perceived to be '...about the lives of human individuals – the choices they must have and be free to make, the kind of existence they must enjoy, their development and growth, and, ultimately, their security'<sup>xviii</sup>. When such rights are considered within the societal context, the notion that society has an obligation to support its members to realize their potential justifies the need for society to provide, at the very least, a social safety net. The more secured individuals are those who manage to make it above the marginal safety net. Upon doing so, they would be contributing to the social capital which '...in turn strengthens the society's capacity to provide a yet broader and more sustainable social safety net'. Here, Parichart and Detcharat point out that '...fundamental to this virtuous cycle is the expansion and protection of community's rights'<sup>xix</sup>, which was, for the first time, enshrined in the 1997 Constitution and later carried over to the 2007 Constitution.

However, there has been expressed concern by some that '...the concept of rights is an over-formalized and incomplete framework through which to understand and address the reality of differences in power'<sup>xx</sup>. In connection to this, past experience has shown that in practice, rights provided by law has not

been a sufficient condition to ensure that elites will respect those rights nor that the state will enforce them. To address such concerns the study looks into 492 complaint cases<sup>xxi</sup> filed as in violation to community rights in their access to natural resource base. These cases represent communities' efforts to seek for redress in the situation of their claims to resources which are critical to their livelihoods.

In Thailand, the concept of community rights has been advanced by the NHRC under the principle that to be a community is the fundamental rights of the Thai people whose livelihoods are natural resource dependent. Therefore, their existence rests on the integrity of the resource base, or in other words, on resource security<sup>xxii</sup>. By this definition, community livelihoods and natural resource base are the social capital of local communities and it is the fundamental rights of the Thai people to be acknowledged and protected by the state. Any policy advanced by the state in the name of 'development' must therefore not undermine community livelihoods and their natural resource base. While this reflects the NHRC's effort towards '...anthropological understanding of actually existing rights as claims that are legitimized by social structures and norms'<sup>xxiii</sup>, at the practical level, the increasing complaint cases over the years<sup>xxiv</sup> prove otherwise.

From an institutional perspective this study will examine the complaint cases filed to NHRC, in order to map the operation of institutions and political process, and identify the stage at which each case stands. This is an attempt to focus on interpreting the implementation (or lack thereof) of community rights in these cases through legal, policy and administrative processes. Related to this, the study will do an in-depth study of one case and under its context explore the policy interplay, whereby policy linkage, policy overlap, and policy interconnection facilitate or hinder adaptive decisions<sup>xxv</sup>.

## **Discussion**

Analysis based on a situation survey of food, economic, social, health, cultural and political security in Thailand suggests that the major security issue is access and control<sup>xxvi</sup>. In this connection, the majority of cases considered to be those of rights violation occur in rural societies<sup>xxvii</sup>. A classic example is the violation of rights in conflicts over natural resources, including land, water, forest and fishery resources, as a result of inappropriate land use and ineffective land use planning<sup>xxviii</sup>. At one point, upon which conservation forests were extended into lands traditionally but not legally inhabited by generations of local communities, 460,000 rural poor families were regarded as illegally encroaching on conservation forests and so live in constant fear of arrest and conviction<sup>xxix</sup>.

Also often known to be cases where rights violation occur are the large mining, irrigation and power plant projects, whereby in the name of national interest people are made to sacrifice their way of life which had all along been in security with nature. In such cases, people that have to make way for development are forced to do so without reasonable compensation or proper arrangement to ensure their long-term security<sup>xxx</sup>.

Based on the principle of human rights and community rights advanced by the NHRC, the goal in addressing these issues as rights issues is to ‘...protect local communities and empower them to maintain and develop the sources of their security<sup>xxxi</sup>. Ultimately, it is a matter of effective and efficient human security enhancement through a shared and supportive system among community members so that they may cope with and adapt to a changing environment. But clearly, the rights of local communities as letter of the law enshrined in the Constitution and acknowledged by the NHRC have lagged behind at the level of policy and practice.

In Thailand, while individuals and communities are the direct bearers of development impacts, in most cases, it is the state that plays the dominant role in the rule of the games by which individuals and communities must abide so as to carry on their everyday resource dependent lives. Although studies have indicated that community-based natural resource management can enhance adaptive capacity ‘...by building networks that are important for coping with extreme events and by retaining the resilience of underpinning resources and ecological systems<sup>xxxii</sup>, community-based natural resource management is still more an exception than the rule in Thailand, as resource access institutions of most natural resource systems remain to be legally state dominated. In such cases, states generally take the view that rights of access to natural environment if granted to individuals or communities would lead to unsustainable exploitation of resources and even to the extent of possibly threatening the ability of the country to attract investment. The rationale that ‘...emphasis upon individual over collective rights, and on rights over responsibilities, ...threaten not only environmental sustainability but also economic stability and social cohesion<sup>xxxiii</sup>, underpins Thailand’s existing resource access institutions, whereby collective rights in the name of ‘national interest’ dictate actual decisions at the practical level. So, the rule of the games that define people’s access to resources<sup>xxxiv</sup> have in many cases become the external processes which inhibit the securing of individual and community livelihoods.

When considered in the context of anticipated climate change impacts, important development issues are threatened by climate change. Food security, human health, water supply as well as other natural resources and

environmental protection are but a few examples of development issues subject impacts of climate variability. As such, adaptation of natural-resource-dependent communities must be considered within the broader context of sustainable development<sup>xxxv</sup>, given the existing institutional structure which involves decision-making processes: who decides, who responds and the framework for taking and facilitating actions. The ability of communities to access their natural resource base plays an important part in reducing their vulnerability and in increasing their coping capacity. However, as the experience of some communities have shown, policy change could re-rout benefits from community-based management away from communities<sup>xxxvi</sup>. Thus, the argument that for sustained benefits to communities, their ability to access their natural resource base cannot be left to come only from policy interpretation but rather must be anchored in rights.

### **Next Step**

The study will take an institutional perspective, termed 'institutional diagnostics' by Young<sup>xxxvii</sup>, as the overarching framework. This would provide the study with a strong procedural dimension to analyze the existing patterns of rights in Thailand and reveal the embedded elements in the existing social, political and economic institutions that has constrained or ensured community rights in their ability to access natural resources, and hence the security of those within them.

From a rights and livelihoods approach, a basis in rights is crucial for achieving improvement in communities' access to natural resources. Thus the study will proceed on the assumption that unless a right to livelihood-related opportunities or provisions is established, a government is unlikely to address these as policy priorities, much less make any shift in public expenditure patterns to accommodate such prioritization<sup>xxxviii</sup>. Particularly, benefits gained are likely to be more sustained when entitlement to resources is established as a right, rather than merely as a policy objective<sup>xxxix</sup>. While community rights is enshrined in the Constitution of Thailand, the processes of interpreting and implementing such rights within policy continues to be inhibited from ensuring the realization of these rights. Through examining and mapping complaint cases of community rights violation with regards to natural resource access filed to the NHRC, the study will observe the scaling up of local concerns into an organized claim for rights, so as to identify the constraints and opportunities towards realizing community rights, as featured by processes under the existing institutional structure. This would lead to some fundamental questions relating

to equity and justice, and when considered in terms of rights, will be linked with notions of legitimacy<sup>xl</sup>.

In terms of climate change and insecurities, the study will examine the issue based on the notion that secured community rights with regards to natural resource access, provides natural-resource-dependent societies with the means to build resilience into their human and ecological system in order to strengthen their adaptive capacity. Therefore, community adaptation to climate change impact will be considered in the context of sustainable development in the human dimensions, as reflected in links across scale between communities and the institutional structures, involving the process, action or outcome in the community, in their struggle to cope with, manage or adjust to changes forced upon their livelihood practices<sup>xli</sup>.

## Notes:

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<sup>i</sup> UNDP, 2007.

<sup>ii</sup> Aerts, JC .J.H.. and Droogers, P., 2004.

<sup>iii</sup> Tompkins, E. L. and Adger, W. N., 2004.

<sup>iv</sup> Smit, B. and Wandel, J., 2006.

<sup>v</sup> Thomas, D S.G. and Twyman, C., 2005.

<sup>vi</sup> IPCC, 2001.

<sup>vii</sup> Young, O., 2002.

<sup>viii</sup> Young describes collective-action models as models which ‘...encompasses constructs that draw on the intellectual capital of economics and public choice and treat actors as decision makers basing their choices on utilitarian calculations’. Social-practice models are described as models which ‘...includes constructs that stem from anthropology and sociology and emphasize the roles of culture, norms, and habits as sources of behavior’.

<sup>ix</sup> Siwaraksa, P. and Sukkumnoed, D., 2002.

<sup>x</sup> Smit, B. and Wandel, J., 2006.

<sup>xi</sup> Ibid

<sup>xii</sup> Thomas, D. S.G. and Twyman, C., 2005

<sup>xiii</sup> Smit, B. and Wandel, J., 2006

<sup>xiv</sup> Urwin, K. and Jordan, A., 2008.

<sup>xv</sup> Conway, T. et al., 2002.

<sup>xvi</sup> Ibid.

<sup>xvii</sup> Ibid.

<sup>xviii</sup> Kraft, H. J. S., 2005.

<sup>xix</sup> Siwaraksa, P. and Sukkumnoed, D., 2002.

<sup>xx</sup> Ibid.

<sup>xxi</sup> From statistics provided by the NHRC, complaint cases categorized under community rights violation with regards to natural resource access from 2001 to 2007 numbers 492 cases. However, this remains to be reviewed under a more concrete definition to be provided under this study.

<sup>xxii</sup> Jamrik, S., 2006.

<sup>xxiii</sup> Conway, T. et al., 2002.

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- xxiv From NHRC statistics the number of complaint cases under community rights violation with regards to natural resource access increased to 229 cases between 2004 to 2005, equivalent to an increase by three times in one year.
- xxv Urwin, K. and Jordan, A., 2008.
- xxvi Siwaraksa, P. and Sukkumnoed, D., 2002.
- xxvii Jamrik, S., 2006.
- xxviii Siwaraksa, P. and Sukkumnoed, D., 2002
- xxix Ibid.
- xxx Ibid.
- xxxi Ibid.
- xxxii Ibid.
- xxxiii Conway, T. et al. 2002.
- xxxiv Eldis. Livelihood Connects. Resource access institutions involve social norms, customs and behaviors (or 'rules of the game') that define people's access to resources.
- xxxv Klein, R.J.T. et al., 2005.
- xxxvi Conway, T. et al., 2002.
- xxxvii Young, O., 2002.
- xxxviii Conway, T. et al., 2002.
- xxxix Ibid.
- xl Thomas, D. S.G. and Twyman, C., 2005.
- xli Brooks, N., 2003.

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