



Communities in Limbo: Land profiteering after the Tsunami

by Sayamol Kaiyoorawong
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Tsunami Aid Watch is a programme of the Southeast Asia Regional Office of Heinrich Böll Foundation, in co-operation with Southeast Asia Consult and Resource Co., Ltd.

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Communities in Limbo

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By Sayamol Kaiyoorawong, Somyot Tolang
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Krabi Declaration on Sustainable Post-Tsunami Rehabilitation

The participants of the forum would like to extend their gratitude and heartfelt thanks to all individuals, communities, national and international groups, parties and organizations for the help and aid they have provided for the individuals and communities affected by the tsunami of December 26th 2004. We hope that they will continue to give us unwavering support during the remaining task of long-term rehabilitation. The tsunami has left Indonesia, Sri Lanka, India, Thailand, the Maldives and other countries with devastated coasts, shattered communities, economies and hundreds of thousands of people in need of support. This destruction was, however, only the initial direct impact of the tsunami disaster. The ensuing aid efforts were part of just the first phase of tsunami rehabilitation.

Nine months have now passed since the tsunami and in most affected areas treatment has been delivered to the wounded and basic shelter is available for the surviving victims; in many cases the boats and fishing gear needed for livelihood restoration of the fisher folk have been provided; the remaining tasks are ready to be overseen by restored community structures and local administrations. The situation can, thus, in most instances be described as approaching stability. However, it is a far cry from being normal.

The tsunami recovery now enters a second phase of transformation that is the recovery from a disaster into a more permanent and functioning economic and social set-up, i.e. the mitigation of the secondary tsunami impact. While the aid to rehabilitate from the initial direct impact of the tsunami was characterized by speed and efficiency, the recovery support effort needed for the indirect impact recovery must strive for long-term effectiveness and sustainability. Taking into account livelihood, economic recovery, disaster management, issues of land and housing for the displaced, the landless, women, children, gender issues as well as migrant labor problems. In order to achieve this, a number of measures are urgently needed. Based on past aid delivery experience we therefore ask the international community and supporting NGO's and GO's to mobilize all available resources to:

- Ensure that the long-term rehabilitation of the tsunami affected area is based on definitions of fairness, justice, sustainability and stability as perceived and defined by the tsunami affected communities and individuals;
- Develop the secondary tsunami recovery support into an opportunity to address and solve pre-tsunami problems that have been worsened and/or exposed by the disaster;
- Deliver assistance and support in an accountable and transparent form that ensures participation of those affected in planning, implementation and execution of long-term rehabilitation programs;
- Establish – a vitally important point - a proper, honest and forward-looking information system and data-base on the tsunami disaster for the use and to the benefit of its affected individuals and communities, independent of nationality, race or religion;
- Initiate an aid-tracking system / mechanism to avoid the misuse of aid-resources or its appropriation for something other than aid purposes;
- Ensure that the remaining rehabilitation becomes a stepping stone for further development of the affected areas leading to better conditions than before the tsunami disaster.

If the international community, governments and civil societies help to continue with the tsunami recovery support based on the conditions given above, the tsunami disaster itself can be turned into an opportunity for development that is in line with sustainability needs and economic progress of all mankind. We believe in the strength of cooperation, coordination, openness and solidarity in times of need.

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Acronyms

BAAC	Bank of Agriculture and Agricultural Cooperatives
CODI	Community Organizations Development Institute
NESDB	National Economic and Social Development Board
RDP	Regional Development Plan
SAN	Save Andaman Network
SAO/TAO	Sub-district administrative Organization (Tambon Administrative Organization)
TAW	Tsunami Aid Watch

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Preface I

In the first days after the December 2004 Tsunami, while the rest of the world was still trying to digest the disaster's enormous consequences, crews of workers employed by land developers started to fence off areas of land they wanted for their future investments. While these cases were surely the most extreme ones, they were just the tip of the iceberg of conflicts over land rights.

This report written in collaboration between Sayamol Kaiyoorawong, Somyot Tolang and Dawan Sanlee documents cases along the Thai Andaman coast and gives a voice to some of the stories of the affected individuals and communities.

The imperative of tourism development for economic growth in Thailand, as followed by successive Thai governments, has meant a significant increase in the value of land and is, hence, to be considered the structural root cause behind land conflicts. After the Tsunami, the severely damaged tourism sector was amongst the first recipients of government aid. The opportunities for profiteers led to a dramatic rise in the number of new cases erupting between the marginalized coastal communities and land developers, as well as governmental bodies. Most cases have not been solved yet – resulting in 'Communities in Limbo'.

To analyze and bring into the rehabilitation discussion some of the issues that have arisen during the long-term Tsunami reconstruction process, as well as to link them to the broader development process in the area, has been one of the main objectives of the Tsunami Aid Watch program (TAW) of the Heinrich Böll Foundation's Southeast Asia Regional Office. It has been at the heart of the TAW concept to do this by providing a stage for the views articulated by the affected local communities.

The Heinrich Böll Foundation wishes to thank the authors Sayamol Kaiyoorawong, Somyot Tolang and Dawan Sanlee for all their efforts in writing this publication.

Chiang Mai, April 2008

Dr. Heike Löschmann

Director of the Heinrich Böll Foundation's Southeast Asia Regional Office

Preface II

Observing the Tsunami rehabilitation process, we had to take notice of the fact that local communities already impacted by the natural destructive force of the Tsunami, were victimized once again by unscrupulous (re-) development, especially of the tourism industry. While the problem of land conflicts along the Thai Andaman Coast has been frequently mentioned in previous Tsunami Aid Watch publications, the one at hand looks at the issue in depth.

Land conflicts had been a permanent fixture of development in the past, which increased after the 2004 Tsunami struck and continue today. Policies of the public and private sectors alike, to turn southern Thailand into a world center for tourism, have meant that the fishing communities of the Andaman coast have consistently fallen victim to tourism profiteering and the philosophy of economic growth, no matter what the costs involved.

Contested land rights and struggles ongoing for years keep communities in limbo. Making use of economic opportunities, also with regard to engaging in the tourism sector themselves, becomes impossible. Sustainable development gets beyond reach. Thailand is in danger of destroying its coastal communities' ways of life. It will take a great deal of soul-searching, improved flexibility and adaptability on the part of the government, international and local NGOs and investors to find appropriate means to secure the livelihoods of local communities, hand in hand with their inhabitants.

With this publication we wish to contribute to raising awareness and facing these challenges.

Finally, I would like to thank the authors Sayamol Kaiyoorawong, Somyot Tolang and Dawan Sanlee for all their efforts in compiling this report.

Chiang Mai, April 2008

Karl H. Segschneider

Director of the Tsunami Aid Watch programme

Part 1: Community land lost to government policies and land profiteers¹

The origins of the Andaman coastal communities

According to the archaeologist Amara Srisuchart, the settlements of the Andaman coastal communities can be traced back 5,300 to 7,800 years. At that time the sea level was six to ten meters lower than it is at the present day.

Apparently there were long sand bars lying above water level along both the western (Andaman Sea) and eastern (Gulf of Thailand) sides of the Malayan peninsula at the time when local ethnic groups were living there. They knew how to cook, using pots to boil their food. Their clothes were made of bark. There is also evidence showing that they had knowledge of how to heal broken bones.

Their culture and livelihood changed in response to the gradual rise in sea levels, inundating their ancient habitats and steadily adjusting themselves to live by fishing. Greater numbers moved to live near the coast and the adjacent flat areas, as shell food and fish became their main source of sustenance. They also practiced pictorial art which appeared on cave walls and cliffs. Contact via the sea with people from other countries began to be made.

Valuable natural resources that attracted off shore traders to the area were tin, lead and iron, for instance. Fabrics made of natural materials were being developed. All the advantages mentioned were attractive enough for people from other regions to either temporarily or permanently settle in the area. Inter-ethnic relations developed through marriage.

From approximately the 1st century BCE until the 1st century CE, ports along the west and east coasts of the Malayan peninsula were visited by ships of other countries wishing to trade, later forming trade routes by sea. The countries with commercial connections with this area included China, India, and some early civilizations adjacent to the Mediterranean Sea. The goods traded with these countries were mainly animals (elephants and rhinoceros), plants (aromatic woods), gold ornaments and products made of tin and lead. Some important ports at this time were located along the coastal areas of

¹ By Sayamol Kaiyoerawong

Nakorn Sri Thammarat province, while there was also Cheiw Li (which is the Taloh Nai area that is located around the present day Kwuan Look Pat in Krabi province). There was also the Tookhun port (or Cheiw Tookhun port), located somewhere between Ranong and Phang Nga.

The west coast ports sustained their businesses until the 3rd century CE, as there were many areas with abundant natural resources that provided products for trade such as Kwuan Look Pat, Khao Khanab Nahm, Krabi, Kuwan Praner and Phang Nga for example.

Later, the well known twin ports were established on the western and eastern coasts of the peninsula. The port of Muang Thong ('gold mine') was built on the western coast at Koh Kho Khao, Phang Nga province, and the twin at Lam Pho Chaiya, Surat Thani province on the east side. From 800 to 900 BCE the Thai southern peninsula was the main route leading to these ports.

In the 11th century Thailand had a port that was well known on the Arab peninsula. From evidence available, it was thought to be located somewhere between Takua Pa, Phang Nga province, and Trang province. The name of the area was Kedah state (Kadaha) and was recognized as a source of tin and aromatic woods. The people who moved in and settled down there, were mostly Persian Muslims and Indians.

This port was at that time the main hub that linked the routes connecting Takua Pa district, the west coast (Indian Ocean) to Thung Song district, the east coast of Nakorn Sri Thammarat (Gulf of Thailand). This port was large and the embarkation point for mining products. Overseas traders usually stored their goods around this port at that time.

Because there were decent ways to cross the peninsula from East to West, many different groups of people used it. So the numbers of people of mixed origin increased, while the original local seafarers or cavern people reduced in numbers. The lineages of the local people became multi-ethnic and the more time that passed by, the less the original local culture survived. However, some distinct groups of seafarers such as the 'Sakai' (Australoid tribal group) and 'Chao-Lay'² (Melanesian tribal group) who were living on

² *Chao-Lay* is a shortened version of *Chao Thalay*, a Thai word referring to the sea gypsies (sea nomads), a minority group in Thailand with their own unique culture

islands in the present day Andaman Sea, such as the Sireh Islands of Phuket, and Leepae Island of Satun, survived.

After the decline of the twin ports around the 11th century, there was an upsurge of other ports on both the west and east coasts in the south of Thailand. They belonged to people who came from the Middle East, Persia and India. So the Andaman communities played host to many ethnic groups, including sea gypsies, Sakais, Siamese, Muslims, Chinese, Persians and Indians.

From the 14th until the 19th centuries the south of Thailand was governed by Ayutthaya, the former capital of Thailand. There were eight provinces (Hua Muang) under the political control of Ayutthaya; these were Thalang, Phuket, Takua Thung, Takua Pa, Muang Ko-Ra, Muang Phang Nga, Muang Khura and Muang Khu Rod.

Divided by the Phuket mountain range that ran southward between Ranong and Chumporn, the eight provinces were blocked off from the other southern provinces. Tin mines in these eight provinces were the most popular businesses and open to concession auctions. Even the governors of the provinces, when the mines were open for auction, joined in. A share of the profits from the mining had to be allocated to the central government. Governors would also set aside another portion of the profit for professionals to manage the mine concessions they won, creating the private mine boss, most of whom were Chinese. The mine bosses who ran tin mines successfully in the undeveloped areas of Southern Thailand sometimes became governors themselves, such as in Ranong. (The mine bosses who governed Ranong were the forbears of those well known among Thais by the family name 'na (at) Ranong'). For decades, tin mining gradually faded into the background and eventually no longer played an important role in industry. However, one leftover that remained afterwards was the large number of people of Chinese origin who moved into the areas of the west coast of Thailand during the mining era. The population of Phuket for instance was mostly ethnic Chinese.

and languages. There are three main groups; Urak Lawoi, Morglan and Morgan, in Thailand (Narumon Arunothai et al., 'วิจัยชุมชนบน', Andaman Pilot Project, Social Research Institute, Chulalongkorn University, Bangkok 2006: pp. 1-2).

Economic development and the collapse of coastal communities

During the reign of King Rama 5th in the years 1868 to 1910, a reformation of the central and rural governing systems took place. There were new applications of authority established called 'Monthon'. Within one Monthon there were sub-divisions such as Muang, Amphur, Tambon (district) and Moo Bahn (villages). In the south, there were four Monthons. Among these were Phuket (established as a Monthon in 1894). The Phuket Monthon consisted of the Muang along the Andaman coast: Phuket, Krabi, Trang, Ranong, Takua Pa, Phang Nga and Satun. Many development plans were introduced for building roads and canals for transport and communication.

Tourism enhancement policies

In 1961, Thailand issued the first Social and Economic Development Plan. Business development projects flowed rapidly into the south, the most important of these being contracts for building roads, mining and forest concessions, rubber and palm tree plantations along with tourism businesses. The development policies provided an opportunity for people from outside the area to come and freely occupy vacant areas in the south.

Currently, policies to enhance both tourism and agricultural products for export are continually being made and introduced by the government, in the hope that they will reduce the debts and economic problems of Thailand. The Office of the National Economic and Social Development Board (NESDB) create strategies emphasizing tourism development in order to strengthen the industry as a sustained source of income. The current tourism areas would be extended and linked to the newly developed ones, such as the Tarutao Marine National Park, Satun province, and Koh Lanta located in Krabi province.³

³ Office of the National Economic and Social Development Board , 'การติดตามประเมินผลภาค และ ทิศทางการพัฒนาภาคได้ในระยะแผนพัฒนาฯ ฉบับที่ ๑๐' seminar papers for regional monitoring and evaluating the directions of development in Thailand, according to the 10th Social and Economic Development Plan , May 2006, pp 4-14.

In the 10th (current) National Economic and Social Development Plan, 2007 to 2011, NESDB has proposed a tourism development plan to adjust the service structures to promote tourism described in detail below: ⁴

‘The tourism development concepts aim to establish Thailand as a regional center for eco- and cultural tourism on the basis of its diversity of culture and unique natural ecosystems. Competitiveness in service provision would empower an expansion of production bases to serve at the regional level. All objectives should be achieved in regard to the various services such as education, health and spas, exporting and retail, financial services, information and technology, construction and the film-making industry.’

It can be inferred from the outline mentioned above that NESDB has formed its strategies to develop provinces in Thailand with tourism potential, especially those located on the Andaman Coast, to be ‘centers of world tourism’ and ‘a gateway to the South Asia economy’. Infrastructures, such as yacht marinas, five-star hotels and resorts, have been constructed to support the concept of developing Thailand as a global center for tourism. At the same time, these developments cause land prices to escalate. The rising prices lead on to land conflicts between developers and local communities sooner or later.

A report dated 2004, produced by the research department of Bangkok Bank (Public) Co., Ltd. reveals that there are about nine million tourists traveling to the southern provinces of Thailand each year. Five million visitors are from abroad, while four million are Thais. According to these figures, the Southern provinces of Thailand receive more than 100,000 million Baht. (Details are shown in the table further below.)

Phuket province is one amongst several tourist destinations in Thailand where tourism is at the heart of its sources of income. In 2004, Phuket had a total revenue of 73,263 million Baht. In 2003 its gross domestic product was 47,897 million Baht. The average income per head was 172,932 Baht per year (this figure was the highest amount of all the provinces in the south). Tourism and related activities contributed to 42.92 % of national GDP.

⁴ Office of the National Economic and Social Development Board , ‘การติดตามประเมินผลภาค และ ทิศทางการพัฒนาภาคได้ในระยะแผนพัฒนาฯ ฉบับที่ ๑๐’, seminar papers for regional monitoring and evaluating the directions of development in Thailand according to the 10th social and economic development plan , May 2006, pp 83 - 84

Provinces	Number of tourists (millions)	Tourist spending Baht/person/day	period of stay (days)	Total income (million Baht)
Phuket	4.05	3,635	4.93	73,263
Krabi	1.62	2,595	4.37	17,465
Phang Nga	2.33	1,687	3.42	6,398
Trang	0.54	1,637	2.90	2,596
Ranong	0.35	1,505	2.10	996
Satun	0.44	1,318	1.67	899
Total	9.33			101,617

Table 1: Estimates of tourist expenses and total incomes for the six southern provinces of Thailand in 2004 (Source: The Tourism Authority of Thailand).

The development vision of Phuket province focuses on creating a global center for tourism, improving the quality of life for its people, enhancing sustainable development, preserving cultures and unique Thai characteristics. The main goal is to steadily increase the numbers of tourists from 2002 to 2007 by 10% each year. It is expected that there will be more than five million tourists visiting Phuket by 2007. This would create an income of 100,000 million Baht.

Phang Nga province has a four year development plan (from 2004 to 2007) with the goal being a 'life long learning society, physically healthy people, moral and agricultural wealth, processed product industry, natural resources preservation and eco tourism'. For economic development, the strategies needed are to be a mixture of tourism development and public services and infrastructure. Besides these, market promotion, tour guide businesses, participation of communities in decision-making processes are considered to be the most important developmental factors.

Krabi province has a vision to develop itself as 'a center of eco- and historical tourism as well as a sustainable agricultural industry'. The Development Strategy for Krabi Province plan (2004 to 2007) aims to increase the numbers of tourists and incomes for parts of the agriculture and industry sectors and as already mentioned, to develop itself as a center of eco- and historical tourism. The information so far shows, how economic development structures and strategies for tourism development cause a rise in demand for land. The increase in construction of hotels, resorts and all kinds of tourist accommodation along with many types of services attract a

lot of developers into this region. So land prices have been rising accordingly.

In the case of Phuket province, it is clear that property development has been growing every year. It is mostly in the form of land investment and housing developments. The cost of houses range from one and a half million Baht (the lowest) for middle class people up to five or even ten million for the most wealthy (especially foreigners).

The expanding growth of asset development is partly derived from government policies. These policies are, for example, micro-credit provision with low interest rates plus the prolonged repayment duration omitting fees or income taxes. With these policies people have a greater purchasing power to buy houses at a higher price than they would normally expect.

In 2004, there were 46 hotel and resort construction projects with an investment value of 250 to 700 million Baht in Phuket. The target groups for these projects were foreigners who have a greater purchasing power. In addition to the golf courses under construction and housing development projects around the outskirts of Phuket city, there are a number of benefits for the customers, such as long rental periods of up to 30 years in some cases. The projects are of high interest to people and are mostly joint ventures between Thai and foreign developers.

Beaches	Market prices (Baht/ Rai)	Cost estimate (Baht/ Rai)
Mai Khao beach	4,000,000	2,000,000
Nai Thon beach	5,000,000	2,800,000
Bang Thao beach	8,000,000	3,200,000
Kamala beach	10,000,000	6,000,000
Patong beach	20,000,000	20,000,000
Karon beach	10,000,000	6,000,000
Kata beach	8,000,000	4,000,000
Rawai beach	6,000,000	2,800,000
Chalong beach	6,000,000	2,600,000
Makham beach	4,000,000	2,400,000
Sapam beach	3,000,000	400,000
Po beach	3,000,000	1,000,000
Maprao beach	2,000,000	400,000

Table 2: Different market prices and standard cost estimates of land in the coastal areas of Phuket (2004) (Source: Asset Value Assessment Foundation of Thailand)

Undoubtedly, the rise in the number of mining concessions in forests, tourist developments and services play a significant role in the land conflicts between developers and local communities. These factors push a lot of land into the arms of both legal and illegal developers while local fishing communities still live their lives the in same way they have done for generations, without realizing how important proof of land right possession is. Local fishermen and sea gypsies slip easily into a group of people who fall victim to unfair development because many are illiterate. This problem is, however, ignored by the government.

In many cases of land conflict between developers and local people, such as in Bahn Rawai, communities have had to rely on the law courts even though most of the lands have been in the possession of the villagers for generations. The process of judgment in the courts should prove the villagers’ rights over the land. But the challenge for the communities is, who would win ownership of the land in a contest between the local community and the newly arrived business developers with land title documents in their possession.

After the Tsunami of 2004, the Tourism Authority of Thailand estimated the cost of damages caused by the disaster that needed to be compensated, including the number of damaged hotels in Phuket, Krabi and Phang Nga. First, the results of the investigation on January 2004 revealed that previously there were 1,066 hotels open in the three provinces. All of these hotels combined amounted to 49,367 rooms in total. After the Tsunami only 808 hotels with 36,418 rooms were able to re-open for normal service.

Provinces	Number of hotels before the Tsunami	Number of hotels in January 2005	%	Numbers of hotels damaged
Phuket	572	471	82.3	101
Krabi	351	292	83.2	59
Phang Nga	143	45	31.5	98
Total	1,066	808	75.8	258

Table 3: The number of hotels in Phuket, Krabi and Phang Nga before and after the Tsunami (surveyed on January 2004) (Source: Tourism Authority of Thailand)

Provinces	Number of rooms before the Tsunami	Number of rooms in January 2005	%	Number of rooms damaged
Phuket	32,125	26,302	81.9	5,823
Krabi	11,709	9,042	77.2	2,667
Phang Nga	5,533	1,074	19.4	4,459
Total	49,367	36,418	73.8	12,949

Table 4: The number of rooms in Phuket, Krabi and Phang Nga before and after the Tsunami (surveyed in January 2004) (Source: Tourism Authority of Thailand)

Secondly, the cost of damage compensation came to between 1,500 and 2,000 million Baht, calculating just the physical damage, money lost because rooms have been left unserviceable and the loss of income from related activities. However, most hotel owners consider the situation after the Tsunami will gradually improve and they hope to continue doing business. They believe that tourists would understand the Tsunami was an unavoidable natural disaster and not something that happened because of lax safety regulations.⁵

The government's position after they had introduced tourism development strategies to be implemented during the years 2005 to 2008 was that they hoped the strategies would increase the numbers of tourists by up to 20 million, creating incomes of 700,000 million Baht by 2008. The government had, thus, established plans to develop Thailand as a tourism center for the regional and global tourism markets. The draft of the Regional Development Plan or RDP has been produced to recover tourism after the Tsunami for Phuket, Phang Nga and Krabi.

The objectives of RDP are to recover the environment of the Tsunami affected areas along Andaman Coast. This recovery especially focuses on developing the areas as 'special zones for tourism' without negative effects on communities. The RDP was developed to deal with the structural and area management and used to implement pilot projects such as planning tourism for specific areas or villages; and managing eco-tourism and

⁵ Research Department of Bangkok Bank (Public) Co., Ltd., 'Special Report: 'อุตสาหกรรมท่องเที่ยวในอันดามันปี ๒๕๔๘...จะไปในทิศทางใด' (the future tendency of tourism in the Andaman coastal provinces of Thailand in 2005)', 4 March 2005, www.thaiappraisal.org/Thai/Monthly/Monthly19.htm

economic developments in the area. The first part of the RDP is the structural plan. This part is meant to determine the direction of the areas' uses in the future, according to the type of land it is, population distribution, settlement patterns of the communities, business activities, social structure and infrastructure including transportation. The second part is the area plan for controlling development at the local level in Khao Lak, Ranong, Phuket, Koh Lanta, Phang Nga and Krabi as well as other areas nearby.

Late 2006, even though Thailand had a new government, they continued with the tourism development policies of the previous regime. Government agencies together with both the Thai and international private sector pushed forward many development projects like the construction of marinas for yachts (80 meters in length by five meters wide), wave breaker barriers, deepening sea lanes, setting buoys in the sea plus some in the Son bay. These projects, to a lesser or greater degree, have their role in destroying coral reefs and sea grass which are the nurseries and the sources of food for new marine life. Communities located on Tambon Koh Yao Yai oppose these development projects. However the Marine Office 5, Phang Nga branch has already allowed some aspects of the project to be implemented. Besides this development, there are other projects granted by government agencies in conjunction with private investors. Phuket, Phang Nga and Krabi have all been declared 'special areas of tourism development' under the RDP. For this reason, areas of land in these provinces are in high demand, creating a rush of purchases raising land prices. In the light of this situation it is easy to predict the future for local communities especially in the coastal areas where confrontations with land profiteers will be unavoidable.

Andaman charm under the shadow of unfair laws

In the eyes of the developers, the Andaman coastal areas are just meant to benefit the tourists, places to escape from chaotic lives for some rest. However, for the villagers living along the Andaman Coast, it is all they have left of a life led for hundreds of years. The lands they live on are their lives. Legal documents and papers are now being used by others to claim ownership over their birthright. For the communities these legal papers mean nothing, they are just pieces of paper allowing developers from outside to grasp everything that belongs to them.



Picture 1: Three days after the Tsunami, developers sent in teams of workers to fence off land



Picture 2: Public land occupied by the tourist sector

The coastal ecology is an environment which consists of an abundant physical diversity like the various kinds of beaches and other ecosystems that facilitate life both onshore and in the sea. Laws used for the protection of the natural environment try to determine the duties of many government departments to manage the natural system.

Coastal ecology and related acts

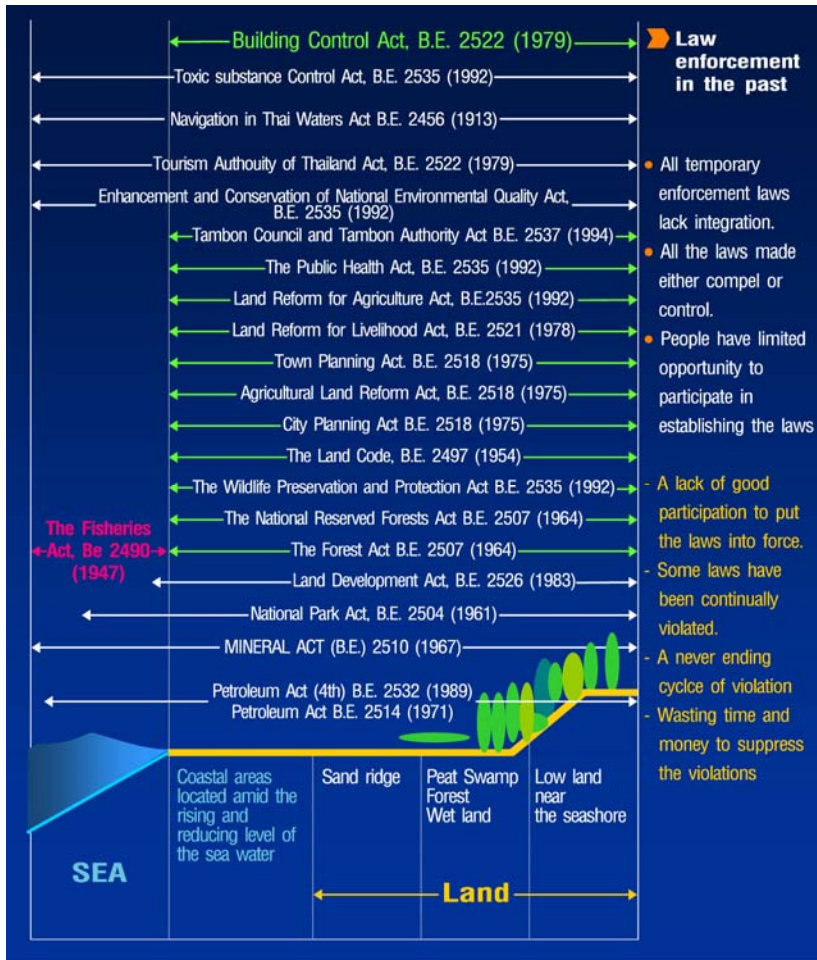


Figure 1: Examples of laws which have been passed (Source: Department of Marine and Coastal Resources)

Save Andaman Network (SAN) has collected data from 119 cases where communities have been struggling with land conflict problems (as of November 2005). The problems with land conflicts involve many types of lands according to the law. The types of land in the affected communities assisted by SAN are categorized in the table below.

Villages assisted by SAN	Categories	Number in each category
22 communities in Ranong (30 assisted areas)	Land belonging to individuals	2
	National parks	8
	National reserved forest	10
	Mangrove forests	5
	Harbor Department land	2
	Treasury Department land	2
	Public land	1
32 communities in Phang Nga (34 assisted areas)	Land belonging to individuals	5
	National parks	7
	National reserved forest	15
	Mangrove forests	3
	Harbor Department land	-
	Treasury Department land	1
	Public land	3
Eleven communities in Trang (Koh Muk) (eleven assisted areas)	Land belonging to individuals	1
	National parks	1
	National reserved forest	-
	Mangrove forests	5
	Harbor Department land	-
	Treasury Department land	-
	Public land	4
30 communities in Phuket (31 assisted areas)	Land belonging to individuals	8
	National parks	2
	National reserved forest	1
	Mangrove forests	12
	Harbor Department land	2
	Treasury Department land	4
	Public land	2
24 communities in Krabi / Koh Lanta (36 assisted areas)	Land belonging to individuals	3
	National parks	7
	National reserved forest	18
	Mangrove forests	2
	Harbor Department land	4
	Treasury Department land	1
	Public land	1

Table 5: Land classifications in 119 villages (Source: Office of Andaman Community Rights and Legal Aid Centre, Andaman Coastal Areas and Tsunami Affected Victims Network; ‘Stability, Lands for Work and Living after the Tsunami’, 25 December 2007)

- **National Park areas.** National parks are made up of all the land from the highlands to the areas adjacent the sea. The parks are reserved as a place for tourism, recreation and research. People are not allowed to utilize or live in them.

Provinces	National Park
Ranong Muang district Muang district Muang district Kaper district	Ngaow waterfall Kraburi canal Phayam Islands Lam Son
Phang Nga Thai Muang district Takua Pa district Takua Pa district Kuraburi Kuraburi	Lampee Hill – Thai Muang beach Khao Lak – Lum Roo Sri Phang Nga Koh Ra - Koh Prathong Islands Surin Islands
Phang Nga Thai Muang district Muang district	Similan Islands Phang Nga beach
Krabi Muang district Muang district Aaow Luek district Koh Lanta district	Phanom Benja Hill Noppharat Thara – Phi Phi Islands Than Bok Kharanee Lanta Islands
Phuket Thalang district	Sirinath
Trang Sikao district	Jaomai beach
Satun Langu district Langu district Khuandon district	Tarutao Phetra Islands Thalaebun

Table 6: 20 national parks along the Andaman coastal provinces in Thailand (Source: Office of the National Park, Wildlife and Plant Conservation Department)

A landscape of mountains and beaches make up the national parks which are currently governed under the National Park Act B.E. 2504 (1961). Under the act, the Department of National Parks is charged to preserve areas set aside as national parks, including its flora and fauna. Enforcements that

cause problems related to fishing and existing houses within the preserved area and the building of new houses in close proximity to the park because of extending the boundaries, are on the rise. Most of the disputes have been settled sympathetically by the government, but new permanent houses are not allowed to be built at all. However, where the locals have grown rubber trees to harvest rubber is allowed but the felling of any trees is prohibited. An added problem is corruption. As the settlement procedures described above are conducted by officers who have absolute powers of discretion relating to any case brought by the park.

After the Tsunami disaster, many villagers who lived in the national park areas suffered severely. To help provide aid, those trying to resolve land problems decided to negotiate with the head of the national parks' officers to see if the affected victims could be offered an exclusive right to continue living in the protected areas; depending on the urgency of individual need and the kind of problems in a case by case basis, whilst overlooking for the time being the main issue of resolving long term land possession in the park.

The government currently adheres to a resolution made by the Council of Ministers dated June 30, 1998⁶, detailing what the standard criteria for land problem settlements are and the level of proof necessary, to show that an individual was entitled to the land included in the conserved forest area. However, it is the local fishermen and native villagers who are the most likely to build their houses along the coastline without any type of land

⁶ The example of where a reserved forest area and mangroves are constituted by governing laws and the resolution of the Council of Ministers, its terms and conditions clearly specify that ownership of land within the parks by individuals has to be explored clearly and the registering of their rights of ownership must be accompanied by aerial photographs taken by the military map department or by satellite. Investigating the evidence of uninterrupted occupation before the land was first protected as a conserved area must also be done. If evidence shows that the villagers occupied and utilized the land before the announcement, the Forest Department will delineate the area clearly and will not allow it to be expanded whatsoever. However, if the evidence proves the contrary and reveals that the eco system might possibly be destroyed or it will be found that villagers occupied the land after the creation of the protected area, occupation can only take place in accordance with the law. The example of a National Conserved Forest or Permanent Forest, the Forest Department will empower *Sor Por Gor* to announce the revocation of national conserved forest or permanent forest status and approve the ownership rights of villagers on land located in appropriate areas since B.E. 2536 (1993), in some areas a rental process may be taken into account.

entitlement documents because most of their time is spent on the ocean. Therefore, in cases where proof of ownership is required with entitlement documents, they are unable to do so. Another important issue is that the park officers do not allow villagers to build temporary houses in the park area for refuge in case of storms, an example of this can be seen in the case of fishermen at the Had Nopbharattara Conserved Area on Koh Pai.

The government's policies relating to national parks are to ensure the preservation of natural resources on the coastline and in the ocean. Nevertheless, if the process lacks public oversight corruption may occur through state officers who have absolute powers in regard to the park. If that happens, the guidelines for long term settlement of the conflicts will be undermined, which must be upheld by all those working on it together. This includes both the state and the local community to preserve the natural resources of Thailand and also the stability of community life. In order to fulfill the foresaid objectives, amending the laws concerning wild animals and conserved forest areas like those in national parks might be considered by providing a co-management of the forest between the public and state. Or by enacting a resolution by the Council of Ministers approving forest co-management, recognizing the community's rights to reside and make a living in order that the encroachment onto national park lands may be reduced in the long run.

The information obtained from the Andaman Beach Recovery Cooperation Network B.E. 2547 (2004) shows that the number of communities assisted by ABRCN after the Tsunami disaster totaled 87 villages. There are 36 communities who are seriously affected because the lands where the villages are located, are now part of national parks situated in the six provinces of the Andaman Coast.

Province	Location	Solutions
Ranong	Tharue Bangkruey Community, Moo 3, T. Naka, A. Suksamran, C. Ranong. 45 families have lived on about four <i>Rai</i> of land; most of them are Thai Muslims and the remainder Buddhist. Their main livelihood is fishing from small boats and they have been settled on this land since 1980, before Laemson was protected as a national park.	The community asked to use an area of degraded forest of about three <i>Rai</i> to build houses for their families.
Phuket	Bahn Hinlukdeaw, Moo 5, T. Maikaow, A. Thalang, C. Phuket. There are 29 families altogether; 15 families built their houses inside the boundary of the Sirinath National Park. Most of them are Morgans and they generally work for wages but some of them work part time as fisherman in small fishing boats.	Phuket provincial committee now is making a decision on the case
Trang	Bahn Changlang, Moo 5, T. Maifad, A. Sikaow C. Trang. 44 families live on ten <i>Rai</i> of land in an area of Had Chawmai National Park and Mangrove Reservation Centre Number 31 (Sikaow), most of them are Muslims.	A working team was set up by the Provincial Governor to examine land details in order to block continued possession by communities without asking permission from the Harbor Department because this process was set up before the 19 th Feb 1972 (according to Marine Department guidelines). The case is waiting for official approval from the Trang provincial office

Satun	Bahn Koh Bulon, Moo 3, T. Paknam, A. Langu, Satun. This is a Morgan community of 120 families who work at fishing for their livelihood. In 1947, about 20 families lived temporarily on a piece of land beside Tarutao beach to fish and were expelled in 1984 by the National Park officer. So, they moved to Muang bay, Koh Bulon. Since then, land title documents have been issued to individuals for land they had occupied in 2003 then entitlement document holders tried to purchase the land for constructing a resort.	Currently, national park officers allow the villagers to conduct daily activities without prohibition
Krabi	Koh Phi Phi community, Moo 7 and 8, T. Ao Nang, A. Muang, C. Krabi, people have occupied the island since 1983 when 2,000 <i>Rai</i> of Hadnobarathara, Phi Phi Island were protected as a national park. The argument made is that for 20 years the villagers possessed the land before the National Park was created.	Local fishermen and people still live and conduct their livelihoods in the area of the national park and the government suspended their plan to establish a special development area. At present, the villagers have been allowed to continue on living in the area, however, private land owners who are staking a claim to the land by using legal documents have been trying to push villagers out.

Table 7: Communities affected and possible solutions to the conflicts

- **Areas of conserved national forest and coastal land.** This category covers areas of forest and mangroves governed under the National Conserved Forest Act B.E. 2507 (1964). It empowers the Royal Forest Department to manage land located in national parks. The Department of Marine and Coastal Resources is entitled to manage mangrove forests by the resolution of the Council of Ministers classifying land utilization dated on the 15th December 1987.
- **Coastal land:** The Department of Marine and Coastal Resources defines the meaning of the word 'coastal land' in that it is land lying above the high watermark which is measured from the highest point the sea reaches on the land and is in a coastal province. As for the term 'coast line' it is defined as the stretch of land that is adjacent to the high watermark.
- **Conserved Areas constituted under a resolution of the Council of Ministers:** means the area of mangrove forest protected against any type of alteration by leaving it to develop naturally, so as to conserve the environment and ecosystem. There are about 266,737 *Rai* around the country.
- **Economic Areas constituted under a resolution of the Council of Ministers:** It measures around 2,061,062 *Rai* and can be classified into two categories. Economic Area Class A is where only the department of forest affairs is allowed to work sustainably in the mangrove forest. Economic Area Class B is where other agencies are allowed to work and develop the mangrove forest but the environmental effects must be taken into consideration.
- **National Conserved Forest** is a protected area with the objective of utilizing the forest, for example, timber concessions and charcoal producing in the mangroves, plantations, mining, giving local communities the right to make a living through the Forest Village Project or Infrastructure Project (*SorTorGor*) and the right to improve degraded land.

The government currently resolves land conflicts in accordance with guidelines set down in a resolution by the council of ministers dated on the 30th June 1998. The investigation of land occupation within the boundary and proof of possession rights must be completed before establishing a conserved forest area. As for the problems of the Tsunami victims, the government has negotiated with them to solve their problems by surveying the area that had been occupied by them before disaster occurred, as in the cases of Bahn Modtanoi, T. Kohlib, A. Kantang, C. Trang.

As part of the national conserved forest, provincial governors empower local administrative organizations to solve their conflicts case by case; local TAO submits a petition to request the right to use land. At present, the government has not come up with a policy yet to reform land located in areas of national conserved forests but communities are able to use the land by only paying a ten Baht fee per one *Rai*. Villagers still have the right to make their living. But cutting down trees is not allowed under the governing law.

The number of communities hit by the Tsunami disaster located on the boundary of the national conserved forest is 17 and those located in mangrove forests 20.

Province	Location	Solution
Trang	Bahn Kho Mud, Moo 2, T. Kho Libong, A. Kantang. 480 families in 420 houses have widely settled in six bays for more than 100 years. Some of them, about 145 families, are living on land inundated by the Tsunami and were subsequently expelled by the land owner, about 92 families lived on degraded mangrove land located in Pakang Bay.	The Subcommittee on Resolving Land Conflicts made a resolution to reserve 19 <i>Rai</i> of degraded mangrove forest for villagers in trouble. The Trang governor agreed that the TAO of Koh Libong could use the land with responsible organizations which has been submitted already. Now The subcommittee has made a decision allowing local people to live on the public land. However, in practice, this agreement still needs to be legally approved.

<p>Trang</p>	<p>Bahn Kuantungku, Moo 3, T. Bang Sak, A. Kanrang is a native fishing village which suffered from the Tsunami and the Ngangchang Storm, causing them to evacuate their homes twice.</p>	<p>The team in charge of land investigations for the province and district have prohibited this location's use and reserved another area for the villagers but they did not evacuate until they were faced with the Ngangchang Storm one month later. So they relocated to three <i>Rai</i> reserved for them in a mangrove forest. The use of the location had been approved but the entitlement documents had not been issued. At another location of one <i>Rai</i> previously occupied by 16 families they constructed eight houses but had to stop building temporarily. A developer who lived nearby confirmed that where the villagers had built, huts for keeping their fishing equipment and a bridge to cross a canal is on land that he holds a <i>SorKor</i> 1 document. He tried to coerce them into signing a rental contract for 200 Baht a year, but they refused. The Land Office in Trang notified former land owners to survey their land with a <i>SorKor</i> 1 to clarify any outstanding issues. Land owners have taken 11 land conflict cases to the civil court.</p>
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Trang	Bahn Tanoi Community, Moo 3, T. Koh Li Bong, A. Kantang. About 150 fishing families had settled on 32 <i>Rai</i> of land governed by the Marine Department and Mangrove Conservation Centre 30. Villagers were to be expelled but they refused to move, citing they are able to look after the mangroves very well. Here they stayed until the Tsunami.	A team working for the Provincial Governor to solve land conflicts, surveyed the area in order to conserve the area where the villagers used to live. The subcommittee for solving land problems in the six affected provinces has agreed to allow Tsunami victims to live on public land but there is a delay until the agreement has been approved by the government.
Satun	Bahn Sakorn community, Moo 2, T. Sakorn, A. Taepae. Villagers have been settled beside a canal connected to a mangrove forest for about 50 years. In 2000, the Royal Forest Director-General issued an order expelling them but they continued to live there. Some of them received <i>SorKor</i> 1 documents but about another 30 individuals do not have any because the state claimed they lived in an area of mangrove forest. Another 50 families also having no entitlement documents live in a prawn nursery belonging to a businessman holding a <i>SorKor</i> 1 and a <i>NorSor</i> 3.	The former land owners agreed to allow continued habitation by the villagers on proof of land occupation. Land owners wish to establish their rights over the land and will allow this issue to be investigated in cooperation with relevant government agencies and the public.

Table 8: Examples of (possible) solution processes

- **Public Coastline Area.** This category is constituted a public area belonging to the state and is governed by the Marine Department. There are twelve communities in total located in such areas. The guidelines say that if a villager erects a building upon such land that encroaches on the coastline before the 19th February 1972, he is not in breach of any law because the law in force at the time of the act did not define this as being illegal (According to a letter written by the Legal Division of the Marine Department).

Province	Location	Solutions
Trang	<p>Bahn Tasae, T. Tasae, A. Hadsamran is a fishing village situated on the coast. Currently, there are 18 families living in a mangrove forest reserved as a national park. 67 families live beside a canal presently governed by the Marine Department. 1,500 <i>Rai</i> of mangrove have been supervised by this community since 1992. In 2003 there was conflict with the owner of a bird's nest concession in the same area. The boundary of the supervised mangrove where the community lives is unclear.</p>	<p>A team was set up by the Provincial Governor to examine information in order to block the area formerly possessed by the community. Now the subcommittee for solving land problems in the six affected provinces has agreed that local people should be allowed to live on public land. However, in practice, this agreement still needs to be legally approved.</p>
Trang	<p>Bahn Laemsai, Moo 3, T. Kowkaew, A. Sikao. About 20 <i>Rai</i> of land was occupied by a fishing village of 58 families. This community had a conflict with land owners who wanted the villagers to move off the land. Some were forced to move by not being allowed to have electricity. Some villagers tried to</p>	<p>A working team set up by provincial governor used to examine land information and survey in order to block an area formerly possessed by the community. The subcommittee on solving land problems in the six affected provinces has agreed that local people should be allowed to live on public</p>

	negotiate with the Marine Director-General for permission to live there but have yet to succeed.	land. However, in practice, this agreement still needs to be legally approved.
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Table 9: Examples of communities located in coastal public areas

- **Public Land** or land belonging to the domain of the State ⁷ is governed by the Land Department according to the Act Promulgated in the Land Code B.E. 2497 (1954).⁸ Where it is physically appropriated for the public interest, who use it for raising livestock; or where the natural resources are used in common by the people and it is officially registered as the public domain of state; or where there is a document declaring it to be state land (*NorSorLor*) issued. In part, supervision duty and duty of approving utilization shall be exercised by the organization of the local administration, e.g. provincial administrative organization (*OrBorJor/PAO*) or district administrative organization (*OrBorTor/TAO*).

In cases where the land is abandoned and the public do not use it anymore, the Tambon administrative organization (*OrBorTor/TAO*) will resolve any land problems by giving its approval to present the land conflict to the provincial level or the Director-General in order to revoke public interest in the land. To help the Tsunami victims, the Land Department allows the villagers to occupy areas of land for a five year term according to a regulation by the Ministry of Interior entitlement conditions, granting permission under Section 9 of the Land Code B.E. 2543 (2000), allowing a search for land to construct a building for the Tsunami victims.

⁷ Section 1304, The Civil and Commercial Code ‘The public domain of the State includes every kind of State property which is in use for the public interest or reserved for the common good, such as: (1) waste land and land surrendered, abandoned or has otherwise reverted to the State according to the land law; (2) property for the common use of the people e.g. foreshores, water-ways, highways, lakes; (3) property for the special use of the State e.g., a fortress or other military buildings, public offices, warships, arms and ammunition.’

⁸ Section 8 paragraph 1 ‘All kinds of land being the public domain of State or State property, in cases where there is no law that specifies otherwise, the Director – General of Land Department is entitled to govern and protect it as the case may be. The other State Organs shall have such powers and duties as determined or entrusted by the competent minister.’

Province	Location	Solutions
Phuket	Bahn Noklay, Moo 3, T. Kamala, A. Krathu. The community lived on two areas of land belonging to the public domain of State; the first 27 <i>Rai</i> and the second 12.5 <i>Rai</i> . The villagers occupied them for about 50 years. The total number of houses severely damaged was 97 and partly damaged 201.	Villagers are given permission to occupy the land for five years under a regulation set by the Interior Ministry entitlement process in accordance with Section 9 of the Land Code B.E. 2543 (2000). The subcommittee for solving land problems has agreed that local people should be allowed to live on public land. In practice, this agreement still needs legal approval.
Trang	Bahn Hadsaitong, Moo 4, T. Koh Sykorn, A. Hadsaoran, a native fishing village of many years consisting of 130 families living on 84-1 to 16. 9 <i>Rai</i> of public land that can be seen in a State Land Document (<i>NorSorLor</i>) dated the 12 th of March 1984. This community was damaged by Tsunami disaster which occurred in 2547 (2004).	Villagers are granted permission to occupy the land under Section 9 of the Land Code by renting it at minimal cost because it is registered as a deprived area for the poor. Currently the villagers have submitted a new petition to prove that they possessed it before 1984.

Table 10: Examples of villagers under Section 9 of the Land Code B.E. 2543 (2000)

- **State land** denotes all kinds of immovable property excluding in the public domain of State specified under Section 4 of State Land Act B.E. 2518 (1975)⁹. State land is governed by the Treasury Department, Ministry of Finance and must be registered and also have issued a document of state land under Land of State Act B.E.

⁹ State Land denotes (1) waste land and land surrendered, abandoned or otherwise reverted to the State according to the land law; (2) immovable property for the common use of the people or reserved for the common benefit e.g. foreshores, waterways, highways, lakes excluding immovable property of state enterprise being a juristic person or the organization of local administration.

2518 (1975). The Treasury Department has resolved the problem by offering villagers the right to rent state land for three years. Examples provided as follows:

Province	Location	Solutions
Ranong	Koh Trakrut, T. Paknam, A. Muang. There are 41 families occupying 600 <i>Rai</i> of State land in the northern area located by a small bay and a mountain with a distinctive peak. In 2520 (1977), Mr. Sahak Wechakla persuaded his Moslem neighbor who was a fisherman to settle there. Thais were displaced from living on 20 <i>Rai</i> by the Tsunami disaster; they use about 152 <i>Rai</i> to make their living.	The villagers have asked for cooperation from the Ranong provincial office, but the office has yet to act. The villagers have no choice but to continue living temporarily in the area.
Phang Nga	Thungwa community, Moo 5, T. Kuekkak, A. Takua Pa is a village of Morgans, consists of 71 families. They settled on 26 <i>Rai</i> of State land. After the Tsunami, the Bureau of Community Development and Welfare, Phang Nga did not allow the former occupiers to erect permanent houses on this land because <i>AorBorTor</i> (TAO) had a plan to construct a hospital with money provided by the German Government.	Currently, villagers are allowed to erect houses on the land they used to occupy by signing a new contract every five years. Such land must be allocated in two parts; part 1 (about 16 <i>Rai</i>) is reserved for the communities, part 2 (about ten <i>Rai</i>) is reserved for the use of state organs for the public interest. However, villagers confirm that they have been given permission to live there for the duration of their and their families' lives by the Subcommittee for Resolving Land

		Conflicts. This is still under consideration by the Governor.
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Table 11: Villagers with the right to rent state land for three years

- Land claimed by individuals.** There are so many land conflicts arising out of this kind of situation between communities making their living and individuals. Most of the villages do not have any land entitlement documents but some hold the *NorSor* 3. The main reason why problems occur is because those six provinces are situated on the Andaman Coast which is an attractive area for tourism. As a result, business groups and developers attempt to obtain this kind of land through making quick purchases of land without having the entitlement documents, then obtaining the entitlement documents without using them; obtaining entitlement documents after the termination of mining concessions without using the land; possessing the land by paying local taxes and/or holding the entitlement documents, then establishing evidence of possession by renting the land out to communities, then expelling them.
- Under the governing law, in cases on state land where an individual is allowed to exercise a mining concession and it is about to expire, the land should revert to the state. However, most of concession owners request *SorKor* 1 or land entitlement documents illegally, because procedures for issuing the entitlement documents by the Land Department do not require them to investigate. This type of situation can be found mostly in Phuket and Phang Nga because of its attractive location for tourism.

Province	Location	Solutions
Phuket	Bangrakmai community, Bahn Makprok Moo 1, T. Maikaow, A. Thalang. There are 18 families with 80 individuals; they were expelled from their houses by the land owner.	Mai Khaow Sub-district Administration proposes that the villagers move to spoil areas of the mangrove forest in Sirinart National Park, currently, the villagers have permanent homes near to this area.

<p>Phang Nga</p>	<p>Had Lampom, T. Bang Muang, A. Takua Pa. The villagers formally worked as miners, after mining finished they settled on the land permanently in 1974. In 1983 a relative of the original holder of the mine concession announced that he now owned the land by showing a <i>SorKor 1</i> he requested a <i>NorSor 3 Kor</i> in 1990. The villagers were unable to request title deeds because Hok Jong Seng Company who had owned the mining concession protested and then sold the disputed land to Far East Trading and Construction Co., Ltd. Currently, there are 30 villagers being sued for trespassing offences.</p>	<p>The Subcommittee on Resolving Land Conflicts and nationality problems on which the Interior Minister worked as the president, negotiated between the holders of the land entitlement documents and villagers living on the land. The villagers requested entitlement deeds for 43 <i>Rai</i> of land but the company protested. Some of the villagers were not allowed to discuss the case outside the court.</p>
<p>Phang Nga</p>	<p>Had Thabtawan, T. Bang Sak, A. Takua Pa is an established Morgan community of more than 60 years. Individuals are trying to gain ownership of the land and were given a <i>SorKor 1</i> even though it was a forest. The speculators sold their entitlement documents on before the issuing of a <i>NorSor 3 Kor</i>. The villagers could not request title deeds because of opposition by developers.</p>	<p>The solution process is the same as in the Lampom case but the community has confirmed they will bring their case to the court.</p>
<p>Phang Nga</p>	<p>Bahn Nai Rai, T. Natuey, A. Thai Muang is a long established Islamic community confirmed by their possession of old Ku Bow documents. The villagers sold the mining rights to the land without any type of entitlement</p>	<p>144 villagers have been sued for criminal trespass of the land claimed by the capitalist. They have requested to live on 50 <i>Rai</i> of an old mining</p>

	<p>document to a private owner which included an oral agreement to return it to the community after the mining operation ended. The owner gave the land back to villagers as agreed. The villagers returned to the land and constructed houses, fished and farmed clams as a business. Then the capitalist took back about 23 <i>Rai</i> by being given a <i>NorSorKor</i> 3. This is an illegal document issued on the land which is in the legal possession of Bahn Nai Rai.</p>	<p>area to start a fish farming business but there are objections from the private owners. The 144 villagers agreed to a compromise with the companies and the two parties have agreed that each family in the village will receive 50 square <i>wah</i>. The land titles have been issued and they now have to move from the old location to the new one in accordance with the compromise. Transportation will cost between 10,000 and 100,000 baht. The villagers will receive recompense for their fish farming business of 10,000 baht each.</p>
Trang	<p>Bahn Koh Mud, Moo 2, T. Koh Li Bong, A. Kantang. A mostly Muslim community widely dispersed in six bays for more than 100 years. Some of the community live on rented land owned by Thais with Chinese nationality holding <i>PorBorTor</i> 5 documents. Before the Tsunami a land officer gave an order to expel the villagers, post Tsunami, villagers relocated to build houses in a safe area of waste mangrove forest not far away. There were 148 families</p>	<p>92 families built their houses in the mangrove forest that used to house former communities; both lie within a 20 <i>Rai</i> area allocated by the state. There are two cases of private land owners suing villagers for trespassing on their land. Prosecutors agreed not to take action in one case but another is in the civil court process.</p>

	living in houses situated in the danger zone, those included families who did not own their own land and were expelled.	
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Table 12: Examples of community land claimed by individuals

Process of solving land conflicts

There are a number of mechanisms for solving the land conflicts of Tsunami victims: A state process, a process by independent organizations according to the constitution, such as the National Human Rights Commission of Thailand. The role of individual organizations in respect to legal cases are helping and monitoring the state processes in solving the communities' problems. Information contained in this document will be on the foresaid processes that have been in operation for two years starting from the 26th of December 2004 until 31st of December 2006.

The National Human Rights Commission of Thailand

The commission has appointed a subcommittee to be especially responsible for natural disasters, such as the Water and Mine Resource Subcommittee which is empowered to examine rights violations happening mainly in abandoned mining areas. As part of the general area adjacent to the coastline, another subcommittee is appointed to supervise the resource rights on the sea and along the coastline. Both subcommittees revealed their current cases:

- Lampom Community, T. Bang Muang, A. Takua Pa, Phang Nga
- Bahn Thabtawan, A. Takua Pa, Phang Nga
- Bahn Nai Rai, T. Natuey, A. Thai Muang, Phang Nga
- Bahn Hadsaikaw, Bahn Kaelaw, Ranong
- Pakbang canal, Kamala beach, Bahn Layen, Phuket
- Bahn Khora, Bahn Thungwa, Phang Nga
- Cases between villagers, the national park and national reserved forest office in Koh Phi Phi and Koh Lanta Yai.
- Bahn Ba Ra Mee Soi 8 which is under the authority of Pa Thong municipality, Amphoe Krathu, Phuket province.

The commission completed a final report for three of their cases; Lampom, Bahn Nai Rai and Bahn Thabtawan communities. There the conflicts took

place on the land claims of individuals and the commission has made their recommendations as follows;

- The government must recognize and approve the entitlement of communities to the land where they have their homes and earn a living.
- The government must examine and revoke entitlement documents for land illegally issued to individuals only concerned with making a profit and developing tourist projects.
- The government must assist the villagers to repair the damage they suffered from the Tsunami disaster.

The Subcommittee on Resolving Land Conflicts in the six Tsunami affected provinces

This subcommittee was set up by the Committee for Solving State Land Encroachment Conflicts (*KorBorRoe*) on 2nd of March 2005 in accordance with the policy of the Centre for Fighting Poverty (*SorTorJor*) set up by Gen Chawalit Yongjaiyut who became its chairman. The team consisted of Gen Surin Pikultong as the chairman, Mr. Chaiwat Limpwantha as head of the bureau of Public Land Management, Land Department and delegate of the Community Organizations Development Institute secretary. The subcommittee has formulated the following resolutions;

- The communities damaged are given permission to live on the state lands located in the five affected provinces; Bahn Kho Mud C. Trang, Bahn Hualae-Sangau C. Krabi, Bahn Thungwa C. Phang Nga, Pakbang canal community and Bahn Nokley, C. Phuket.
- For seven villages in Trang and ten villages in Satun, whose buildings were damaged by the Tsunami, it is the case, that if the buildings were constructed on state land, they are able to continue occupation. But, where their homes were built on land owned by individuals, villagers must be assisted by the state to negotiate with the owners.

The outcome of the subcommittee was presented to Mr. Pinij Jarusombat, Deputy Prime Minister and it was approved by all the concerned parties to operate in accordance with the resolutions dated on the 28th October 2005.

The Subcommittee supporting land conflict resolution, addressing poverty in the Tsunami affected and related areas

This subcommittee was set up by the Centre for Fighting Poverty (*SorTorJor*) on the 27th June 2006 when the Permanent Secretary of Interior Ministry was installed as chairman, the Land Department and the Community Organizations Development Institute provided secretaries. The subcommittee conducted an investigation into the issuing of entitlement documents on land belonging to individuals (cases: Lampom, Thabtawan, Bahn Nai Rai C. Phang Nga) but the investigation has not yet reached a conclusion. Ten cases in Phuket and nine in Ranong were also presented for consideration. This committee was dissolved and changed to the Poverty Elimination and Rural Development Centre in accordance with the Philosophy of Sufficiency Economy (*SorJorPor*), after the second election victory for Prime Minister Thaksin and before the military coup at the end of 2006.

The Subcommittee on Resolving Land Conflicts and nationality problems in areas affected by earthquakes

This subcommittee was set up because community leaders had presented cases of land conflicts occurring on the land of individuals to the cabinet on the 27th of December 2005. After some consideration, the cabinet agreed in principle and assigned the Ministry of Interior to appoint a subcommittee. The Interior Minister acted as its chairman (29th December 2005) and they negotiated between the group of individuals holding the land entitlement documents and the communities occupying the disputed area. This subcommittee was dissolved at the end of 2006.

The Subcommittee on Resolving Land Conflicts

This subcommittee was set up by the Centre for Fighting Poverty (*SorTorJor*) on the 3rd of February 2006 with Gen Surin Pikultong appointed as chairman. The subcommittee laid down the guidelines for solving the land conflicts to be initiated at the district level, with as much participation from the communities as possible. The role of *Nai Amphur* (District Officer) was to cooperate with all the involved parties in order to solve the conflicts in a cooperative manner. This subcommittee was dissolved along with *SorTorJor*.

Andaman Community Rights and Legal Aid Centre

The Andaman Community Rights and Legal Aid Centre was set up with the objective to assist communities in regard to legal procedures. The network has coordinated with the Law Society and the Law Centre of Thammasat University. Legal assistants are of the utmost necessity, especially when

disputes occur on the land of individuals and therefore require lawyers who have an understanding of the conflict's issues in the law. Mr. Sutin Boromajet, from the Law Society has provided some interesting insights: Especially into the process of solving land conflicts, in instances where litigation is undertaken in court to decide possession rights on land which has been occupied permanently, but another party such as a business group or an individual holds the entitlement documents without ever using them.

As part of the solution process, the National Human Rights Commission requests all relevant information from both the state and petitioners. The information is then taken into consideration with decisions based mainly on the evidence of land use on a case by case basis, as seen in instances at Lampom, Thabtawan and Nai Rai. The Commission decided on a resolution saying that when someone has occupied the land permanently, but others such as a business group or individuals held the land entitlement documents, this was unfair. As a result, its report was taken as an encouragement for the concerned parties to be more aware of their rights and duties regarding their legal status on the land.

The Director-General of the Land Department will revoke a land entitlement document if it is found that it was issued illegally. Villagers know they must take their disputes into court and contest document holders in order to acknowledge and affirm their rights on land they occupy.

Section six of the Land Code empowers the Director-General of the Land Department to submit a petition to a competent court in order to revoke land entitlement documents and co-opt land to the state, especially land that has been abandoned or left waste for

- more than ten years consecutively after the issuing of the land title deed
- more than five years consecutively after the issuing of *NorSor 3*

This section stipulates the objective to protect the land from being left waste or abandoned because this leads to an enormously dissipated economic value for the country. Though, this section is not widely enforced in Thailand due to the fact that if evidence shows that an owner still possesses the land, the Director-General may be sued in return. Moreover, to prove that the owner is not using the land is very difficult because an owner may plant or employ an outsider to use it in order to protect themselves from section six of the land code.

Litigation in court for the ownership rights is the final chance for people who have occupation of the land but do not have any land title documents. However, going to court to prove ownership is not easy because a court's decision is based on documentary evidence and aerial photography without investigating oral evidence or photography showing real communities on the ground. Actually, using aerial photography as the main evidence to show the boundaries of communities is considered insufficient because it does not show proof of possession, especially in regard to Morgans due to the fact that they only build small houses without cutting down the trees around. When an examination by aerial photograph is made, it will only focus on the evidence of trees having been cut down. This method of establishing proof of habitation as described above, is an inadequate technique and should instead emphasize dignity and the principles of basic human rights protection.

In addition, judgments delivered by the courts will also specify punishments for the offence of trespassing on State land which can be quite extreme, even though villagers do not always encroach on the land intentionally, as seen in the case of the Layan community. Villagers living in that community confessed they had actually breached the law because they preferred their case to be brought to a conclusion rapidly, after which they wanted to move to land that they had received from a Christian priest. The case revealed that the villagers had lived alongside a canal that did not belong to any individual but they were still punished with imprisonment for two years which was suspended for the same period unless they infringe again.

Another litigation problem relating to possession rights is where villagers surrender their claim intentionally to the then land owner because they were offered some benefits they desperately needed as can be seen in Lampom; there were 28 cases taken to the court, but the litigants came to a compromise in 25 of them. This undermines the strength of people to organize cooperatively. Moreover, in instances where the access road crosses the land of an individual owner and villagers do not take notice of this by including it into the community map, this will inevitably cause problems in the future.

As described above, the process of solving land conflicts must be implemented as both a part of a policy and partly by promulgating the relevant law in order to protect state land from being encroached on; and to prevent state land to become an issue of conflict with communities by

collecting taxes at a progressive rate to support the objective of controlling rush purchases of land and occupation without using it. Amending the section for the examination of land occupation in the Land Code must be preceded by cooperation between the state and public sector. The approval of communities' rights to manage their own land and acknowledging occupation rights as being more important than holding entitlement documents is also very important.

No.	Community	No. of families	No. of cases	Remark
1	Bahn Layan, Moo 6, Tambon Shengthale Thalang district, Phuket.	12	7	The case has finished, SAN giving advice, completing a follow-up on accommodation
2	Prachasamakke, Moo 2, Tambon Korkaew, Muang district, Phuket.	more than 200 houses	one civil case involving 77 individuals and 14 criminal cases	The court has temporarily struck the cases off the list (awaiting the result of the plaintiffs' suit against the governor of Phuket)/SAN giving advice to plaintiffs
3	Koktanod, Tambon Chalong, Muang district, Phuket	650 families	15	Submitting testimony and making a map of the area. A notification has been sent to 100 people of Koktanod and Chalemprakiet communities insisting they demolish their houses

4	Chalermprakiet, Tambon Chalong, Muang district, Phuket	250 families	85	SAN providing advice
5	Thasak, Moo 4, Tambon Paklok, Talang district, Phuket	63 houses/ 80 families		SAN providing advice and coordinating with the NHRC. to investigate land ownership
6	Aow Tokhun, Moo 2, Tambon Maikhao, Talang district, Phuket	53		SAN providing advice and checking documents
7	Prabaramee Soi 8, Patong Municipality, Kratu district, Phuket	63, 8 cases have already filed suit	8	SAN providing advice and coordinating with NHRC (three cases have finished, two have appealed the judgment)
8	Danyid, Moo 2, Tambon Kor-en, Talang district, Phuket	10		Providing advice and coordinating with NHRC, to investigate
9	Plakataktakhang, Moo 7, Tambon Ratsada, Muang district, Phuket	38 houses/ 47 families	5	All cases have finished providing evidence, a document has been submitted to 30 families
10	Bahn Rawai, Moo 2, Tambon Rawai, Muang district, Phuket	more than 100 houses		SAN providing advice/meeting on March 19, 2007 with Phuket province regarding land problems,

				infrastructure, felling coconut trees/identity cards
11	Bahn Thabtawan, Moo 7, Tambon Bang Muang, Takua Pa district, Phang Nga	95 families	37 cases including one criminal case	A date has been appointed for the defendants to submit testimony/check disputed maps/investigate a witness/five cases have finished
12	Lampom, Moo 2, Tambon Bang Muang, Takua Pa district, Phang Nga	32	28, 26 cases trying to compromise, two cases left	Providing testimony and waiting for the investigation of a witness, 26 cases will attempt a compromise, one case has ended
13	Bahn Nai Rai, Moo 7, Natei district, Thai Muang district, Phang Nga	187	144	SAN/ advice, coordinating with NHRC, 144 cases signed an agreement/finding new homes
14	Tumtua, Moo 4, Tambon Tumtua, Takua Pa district, Phang Nga		One, with four defendants	the case is finished/in the process of being appealed
15	Bahn Tabyang, Moo 9, Tambon, Tedsabantaymuan, Thai Muang, Phang Nga	97 families	17	16 cases are finished, one case is providing testimony
16	Bahn Bangwan, Moo 5, 7, Tambon		3	SAN providing advice and

	Bangwan, Kuraburi district, Phang Nga			working with the province to suspend the cases
17	Klongnil, Moo 6, Tambon Koh Lanta KoH Lanta district, Krabi		One case, two defendants	Providing testimony/case is finished, public prosecutor is appealing the judgment
18	Pachaylenrongleay (Bahn Tai), Tambon Klongtom, Klongtomtai district, Krabi	50	17	SAN providing advice and coordinating with the NHRC in the investigation with the province to propose that the community benefits from the land/suspends the case
19	Huay Nam Khaw, Moo 1, Tambon Huay Nam Khaw, Klongtom district, Krabi province		3	One case will be investigated. The Forest Industry Organization of Thailand (FIO) withdrew two cases
20	Nong Thale, Moo 6, Tambon Nong Thale, Muang district, Krabi province	About 100 families	1	an appointment has been made to investigate the witness/SAN providing advice
21	Nong Thale, Moo 6, Tambon Nong Thale, Muang district, Krabi province	60	7	SAN providing advice/coordinating with the province to investigate

22	Bahn Kuantungku, Moo 4, Tambon Bang Sak, Kantang district, Trang province	16 families are expected to be sued	11	Arranging an appointment to mediate, providing advice, and investigating a witness in 2008	
23	Bahn Koh Muk, Tambon Koh Li Bong, Kantang district, Trang province		2	SAN providing advice and coordinating with the province to investigate a witness in 2008	
24	Bahn Rongkluang, Tambon Tedsaban, Muang Ranong, Muang district, Ranong province	156 families	3	One case has lodged an appeal/ investigating a witness, to be heard in 2008.	
25	Bahn Shimi, Tambon Muang Kluang, Kapor district, Ranong		8	SAN giving advice/ Investigating the land.	
Total 25 areas, 28 communities		2,278 families	408 cases involving 419 people	Five are being appealed	
Remark: the number of the cases which have been completed in the lower courts					
No. 1	Bahn Nai Rai	144 cases	No. 7	Prabarami	4 cases
No. 2	Bahn Lampom	26 cases	No. 8	Plakatak	3 cases
No. 3	Bahn Thabtawan	5 cases	No. 9	Bahn Klongnil	1 case
No. 4	Bahn Tumtua	1 case	No. 10	Bahn Kormuk	1 case
No. 5	Bahn Tabyang	16 cases	No. 11	Bahn Huay Nam Khaw	2 cases
No. 6	Bahn Layan	7 cases			

Total number of cases: 408 affecting 419 people. 210 are complete with six in appeal. Discharge documents have been received from the private sector in 1,010 cases.

Table 13: Examples of litigation relating to land conflicts on land claimed or belonging to individuals in the Tsunami impacted area¹⁰ (Source: Andaman Community Rights and Legal Aid Centre)

Land possession rights along the Andaman Coast

The following are case studies which provide an overall picture of land problems for communities along the Andaman Coast. These problems reflect the typical land problems happening in Thailand. The root of the problem that causes the conflicts between people, government agencies or investors and communities is primarily the land itself. Land is regarded as a particularly valuable commodity, especially with Thailand being open to international economic development. Land ownership rights for individuals written on legal documents are so attractive that many people will go out of their way to seek any method enabling them to own a piece of land and that means money. This situation has been reinforced in the globalized world where, land obtained through mortgages from banks or financial institutions can be transformed into financial capital based on the policy of the previous government (Thaksin's government).

The idea of occupying land so it can become an individual's asset is just another form of colonialism. In this invisible way, economic development operates to grab small pieces of land into developers' hands that controls the structure of mass production. So it is not surprising that national development policies support the process of land ownership to be passed on from ordinary individual owners and their communities to bigger organizations in the economic development structure. This is a crucial factor causing the monopolization of land possession without any measure of protection for the vulnerable. This will cause in the future significant other problems in protecting land as a natural resource for Thailand.

The reason why land investors and developers from outside the communities of Bahn Nahm Khem, Bahn Thabtawan, Bahn Nai Rai, Bahn

¹⁰ Locations involved in land conflict court cases on the Andaman Coast, December 2007 (Source: Andaman Community Rights and Legal Aid Centre)

Rawai and Bahn Kuantungku are able to obtain land title deeds is that they have close relationship with the local administration and land department officers as part of the patronization system. Some local government officers have made it possible for those investors to obtain land title deeds. Land developers either do not realize or do not care how important the land is to local people like the sea gypsies, Muslim or Buddhist local Thai fishermen. The land department and its officers monopolize the issuing of land title deeds, an important legal gap, allowing the possibility of fraud to happen. Moreover, the investigation process gives greater weight to the evidence provided by those who hold land title deeds, and so by and large dismissing land use history as evidence to prove local people's rights on land they have often occupied for many years. Where can ordinary people without influence obtain a voice to ask for justice? Given this situation in judicial proceedings its not surprising there are many injustices.

In a nutshell, land problems are created by;

- the value that land as an asset which is able to be freely bought and sold by anyone with money,
- the weaknesses in the process of investigating land rights by the government,
- marketing mechanisms as an important factor in land ownership,
- government policies to support land investors and developers as key players in the national economy and
- ordinary people's lack of power and knowledge to obtain the information needed for them to adjust in accordance with the changes to social situations. They are often threatened, deceived, and taken advantage of until they become displaced without anywhere to go.

Land problems have been caused by the restrictions placed by the government on the local communities together with the issuing of land title deeds to the private sector (developers and investors). There is, especially, the prohibition to live in designated forest areas which also has many other restrictions. In addition, there is the restriction to state land which is only for government use and public land that is under the control of both the Land Department and local administrative government. When there is a land conflict where there is no clear cut resolution from the outset together with the rising cost of land, ordinary people (like farmers or the poor) can not obtain the information they need to help their cause. They are vulnerable to

being taken advantage of by both government power and the market mechanism. When they finally lose their land, their way of life, dependent on it, collapses immediately after the loss.

The intention to solve land conflicts has to be based on new concepts toward the communities. Land is not merely an asset to be traded, but the source of food and resources for the local people. Land, especially community land is where people's lives take place and develop, where houses are located, food is caught or grown, clothes are made and medicines produced for everyone equally. Land seen in this light is indispensable for local people, fishermen and farmers who are poor. The land when used in this way needs the protection and support of the government as a way of ensuring primary human rights for local communities. The application of the principle in only considering evidence from land owners who have land title documents is not in harmony with this reality. Such principles only leave Thai people, most whom are poor, with burdening problems caused by economic development. Laws in place at present are not responsive to the real problems and situations local people face. The arbitrary declarations of restricted areas here and there without participation from local communities, corruption in the administrative processes allowed to happen because of legal loopholes, all cause a never ending and serious problem where many poor people find themselves without any land to produce a grain of rice.

Sustainable resolutions for land conflicts have to cover and consider all related aspects, including human rights protection, respecting ways of life and traditions. There should be plans to protect coastal areas from an overwhelming invasion of investors and tourism businesses. Policies to distribute land to the poor and limited access to the rich plus an advanced tax collecting system should contribute to a more promising future to protect land from falling into the hands of unscrupulous developers.

Part 2: The disappearing voices of land conflict victims¹¹

After almost three years since the Tsunami on the 26th December 2004, occurred destroying villages and life, several communities have both psychologically and physically recovered from the wounds caused by losing their loved ones, incomes and houses. However, one thing that needs more time for rehabilitation is the multi-layered problems both in principle and practice at national level to resolve land problems. Many Tsunami victims have been asking,

“why we cannot have the right to live on land we occupy based on basic living needs. Is it our fault if we want to have land just for living on? Why are we considered invaders on our own land while others, and we don't know where they come from, have had their rights approved once they show their land entitlement documents.” (Phakcheera Kheawnin, Bahn Nai Rai, Tambon Natuey, Thai Muang district, Phang Nga province)

The raised voices of the victims at Bahn Nahm Khem, Bahn Thabtawan, Bahn Rawai, Bahn Nai Rai and Bahn Kuantungku are examples of protest reflecting the land problems between investors and villagers throughout Thailand. A lot of land possessed by investors or developers has been left alone creating little benefit for the country and its people in return. This growing picture shows us how, and we never know by exactly how much, this country wastes its resources because land is the primary asset in production, housing and living acknowledging its diversity in raw materials.

Land problems have actually been in existence before the Tsunami. They occurred rather like a current moving beneath still water spreading everywhere in Thailand. This issue has been consistently neglected by government agencies while the policies to grant land rights has come into being quickly as land prices have increased. The policy of promoting tourism as the main income source of Thailand fuels the development of various kinds of tourism businesses, especially the strategy of developing the three provinces of the Andaman Coast by using Phuket, Phang Nga and Krabi as tourism hubs for these provinces. Since then minority groups, the

¹¹ By Dawan Sanlee (taken from the summary report about land problem resolutions for the Tsunami affected victims in Trang province, along with additional interviews).

marginalized and the poor in Thai Muslim, sea gypsy or Thai Buddhist communities have been affected by land conflicts.



Map 1: Andaman coastal communities

The government has added to the difficulties in life for these people by declaring extensions to national park areas to promote tourism. Local people have been restricted by not being allowed to enter these areas where they used to earn their living. Some families have had to migrate to other areas. In the future, if the government declares the provinces to be under the exclusive control of an administrative organization for areas of special development for sustainable tourism, we will see still more problems between communities and investors in the name of tourism development. The problems will become steadily more serious and local people will become a marginalized group in the new development era. The following are examples of current land conflict cases.

1st case: Bahn Kuantungku's fishermen

Local fishing lifestyle and the rights for dwelling

Bahn Kuantungku, Moo 3, Tambon Bang Sak, Kantang district, Trang province, is a good example of a Tsunami affected community that is facing problems, problems which may occur in many other areas as well. The issues were caused by the same players and factors, the underlying process of which could not be uncovered leading to a real solution. Although finding a solution to the problems is not exactly easy, it is not at the level of impossibility if those involved are determined and have compassion for the problems that the community is facing.

There are a total of 16 households that are confronted by the problem of finding a place to live. In the past, this group was living at the Kuantungku canal entrance, in an area under the jurisdiction of Had Chao Mai National Park. When the Tsunami occurred, a number of properties were destroyed, then approximately two months afterwards the same area was hit by a major storm, causing more property damage, as well as the discomfort and insecurity of living in the area, finding a new place to live was needed.

If anyone has had the chance to visit Koh Muk or the Emerald Cave, by the route passing through Bahn Kuantungku, they would find this Tsunami-affected community of 16 households making a settlement on the right side of the road, in front of the traffic circle. The area used to be a mangrove forest, and if anyone were to sail out all the way to the canal entrance to the sea and look towards the left, they would see where the fishing community was once located on a pristine white sandy beach. Now there is nothing but the ruins of the houses, even though there may be some houses where there is some trace of beauty and stability.



By asking around, it was discovered that the villagers who were living in the area originally migrated from Nakorn Sri Thammarat province by becoming professional charcoal burners at the Bahn Kuantungku charcoal burning facility since the time when concessions were being given

Picture 3: The spoiled forest areas at Bahn Kuantungku

out for establishing charcoal burning in its early days, around 30 to 40 years ago. At first there were twelve households living in the area. Then the community expanded to 16 families.

The majority of the villagers' lifestyle is connected to the sea and every villager is a coastal fisherman, laying shrimp nets, setting traps for squid and crab, as well as catching fish up to the present day. Therefore, the original site of the village is the best location for them to moor their boats and go out to catch fish. It is not a surprising that even though the Tsunami had a devastating effect on their houses and their emotional and mental health, these villagers still insisted on staying in the area because they believed that the Tsunami was not something that happened every day. Then, the storm hit their village, and this time they were affected so badly, like the straw that broke the camels back, they needed to find a new place to live, and fast.

A new community, a new start in life, or the start of a problem?

The Thai government set up a subcommittee to find solutions to the land issues in the six southern provinces affected by the Tsunami and began to work on land issues in eight villages in Trang province, which included Bahn Kuantungku. The subcommittee had set up a provincial committee presided over by the Governor of Trang province on the 23rd of March, 2005, at the Trang Provincial Assembly Hall. The remit of the subcommittee was to set up a working group to survey damage and consider new and appropriate living areas for those affected by the disaster to move in to and live securely in the future.

Afterwards, on the 3rd of May, 2005, the working committee which was composed of representatives from the Provincial Land Office, the Provincial Resources and Environmental Officer, the Forestry Office, the Mangrove Conservation Office and the head of the 31st Mangrove Development Station, Merchant Marine and Transportation Department of Trang province, head of Had Chao Mai National Park, as well as representatives of the local Traditional Fishermen's Association of Trang. Together they surveyed the damaged area and considered new habitat areas for the affected villagers of Bahn Kuantungku.

The committee reached an agreement that the flooded mangrove forest on the right side of the road reaching down to Kuantungku dock, occupying an area of three *Rai*, was the most appropriate area. Officers from the 31st

mangrove development station mentioned that the enclosure was in the mangrove forest reserve area under the care of the station. The area was tidal and no longer pristine with a very low level of marine life. Thus it was deemed to be appropriate, if the committee would propose this place to be used as the new dwelling area for the community without having to disturb other areas of pristine, natural forest.

On the 27th of May, 2005, at the meeting of the Subcommittee on Resolving Land Conflicts in the affected areas at Krabi Maritime Hotel, approval was made for the Trang provincial committee to allocate the mangrove area to Bahn Kuantungku's 16 Tsunami-affected households as a new location for their community. The congress proposed that the Bang Sak Tambon Administrative Organization, which is the local administrative unit, head the request for the mangrove to be used as a dwelling space for the community from the authorities according to the established protocol.

On the 23rd of January, 2006, Bang Sak Tambon Administrative Organization issued the request to use of the mangrove reserve area via the Kantang District Officer to the Trang Forestry Office the responsible agency.

Even though the land use request was still incomplete according to established protocol, due to difficulties because of the lack of dwelling areas, and concern over natural disasters which had caused damage in the past, the 16 affected households had to temporarily relocate to the mangrove area.

While the houses were being built, Mr. Phimol Na Nakorn, a supervisor at the charcoal burning facility of Bahn Kuantungku village near the mangrove enclosure where the villagers had been given permission to build their houses, claimed that the land in front of the mangrove area belonged to him. He indicated that this area was part of the land ownership rights granted to him by the local authorities prior to the Land Code (*SorKor* 1) which was issued in 1955. Mr. Nakorn communicated this claim to the affected villagers by both spoken and written means (a letter from an attorney), prohibiting villagers to make any use of the mentioned area. The dwellings that had already been built were to be dismantled as well as the walkway.

Then Mr. Nakorn made an offer to the villagers to sign a rental contract on the property and assured them that no lawsuits would be filed. However, the villagers agreed that the state authorities were the ones to solve the

problem as they had requested the use of the land according to established protocols, thus Mr. Nakorn's offer was rejected.

"At first, there were officers coming into the area to sort out a place for us to live. We believed them because we thought that it was what they did for a living: They were responsible for doing this, so there could not be any mistakes being made. So we followed them up here. But then, once we had finished building our houses, there were problems," said Pairoj Sudsawart or Dam, one of the affected villagers.

"Actually, we did not really want to move up shore, but it was what we needed to do. At night, when we heard the news, we have to evacuate families ashore. Once they told us it was safe, we would rush back down there again."

Another villager said, "We would have been very happy living there if there were no tsunamis or storms. Even though we were living in a national park, they did not seem to mind and were living there for a long time. It was peaceful without the hustle and bustle of the towns. It



Picture 4: New houses for fishermen at Bahn Kuantungku

was easy to go out to sea even though it was a bit hard to go and buy things from the shore, and it was a lot more soothing than right now." Noi, one of the canal entrance community members, said, "I do not understand why when the authorities were coming into our community to relocate us, Phimol (Mr. Nakorn) did not object, but once we were building our houses, then he made his claim. Had he objected from the start, there would not have been any problems because the situation would have had to be verified before hand", said Mong or Sayan Kaewnakorn, one of the community members who had relocated from the canal entrance after the claim was made to evict villagers from the mangrove area.

“At first he came in and spoke against building a walkway over the drainage canal. When we did not do what he wanted, he came back when we were building our houses and threatened that he would put up barbed wire to block the entrance.” Dam said once again, and mentioned that there was a written document (a letter from an attorney) prohibiting villagers from making any use of the area. Furthermore, houses that were already built were to be dismantled within 30 days, as well as the access routes, causing even more concern among the villagers.

“Well, his land was right in front of where we live. I have heard that he wanted to build an office to be rented by a tourism business operator. I guess it was a great loss for him,” said one of the affected villagers.

The community battles for their rights

Then, a complaint was made to the authorities as well as the subcommittee who were responsible for the allocation of the plot of land, to notify them of the problem.

“We went to meet with the authorities: the governor, the district chief, etc. and they told us to wait and not take any action and conformation would be made on the claim, but it was unknown when that would be,” Sompop Makittithorn, a village leader said after having made contact with the authorities involved. There were attempts to negotiate and make a settlement, but this produced no results.

“At first he was suspicious and anxious about who allowed the villagers to live in this plot of land without letting him know,” said one villager. “The fault in this whole matter is with the authorities for not having properly verified everything before moving us up here. It can not exactly be said that the villagers intruded on the area because they wanted the land,” said another. Finally the villagers submitted a petition to the National Human Rights Commission, who accepted the appeal, visited the area and set up appointments to investigate the facts of the matter from the authorities e.g. The Kantang District Office, Trang, the Provincial Marine Department Office, the Mangrove Conservation Office, the Provincial Land Office, the Tambon headman, the village headman, Bang Sak Tambon Administrative Organization President, and the affected villagers. The consensus arrived at was that the district should act as mediator to resolve the issue and attempt a settlement on the dispute, as both parties were still living in the same area and knew each other.

The action taken under mediation turned out to be ineffective to which both parties had had a part. Afterwards, Mr. Nakorn made an offer to the villagers to sign rental contracts. However, the villagers refused when they asked to see the terms of the contract, so nothing was agreed. More importantly, the villagers had considered the matter together and agreed that no contract should be made, so the rent offer was jointly rejected. The villagers then received a threat that the disputed area would be fenced off.

“He sent a lawyer to talk us into signing a rent contract in order to stay in the area by paying a small amount of rent, but none of us took up the offer because one day if he changed his mind when he was not happy with us, he would evict us out of the area for sure,” said Lim, one of the community members.

This situation continued as both parties cautiously watched each other's moves until the 28th of June, 2006, when Mr. Nakorn hired workers to clear out the area and the workers were arrested by the mangrove protection officers out of the Mangrove Resources Development Station 31, Sikao district, Trang province, under a charge of trespassing in the mangrove forest and an arrest record was made. All of the suspects stated that they were hired by Mr. Nakorn. The case is still current.

From the sixth to the tenth of August, 2006, Mr. Nakorn set up measuring instruments and did a survey of the area; he notified the villagers that a survey on the plot of land had been lodged with the Kantang District Land Office and that a title deed would be issued related to the marked territory. This turned out to be larger than what had previously been claimed and the marked plot covered the entire area that had been allocated to the villagers.

The villagers could no longer remain passive, because if a survey had been lodged in order to obtain a title deed for the land which covered the entire area allocated to the villagers, and no one objected to the survey within the allotted amount of time, the land in that area definitely would fall into Mr. Nakorn's hands. The villagers again met together to find a solution, reaching the conclusion that there should be negotiations with the concerned parties once again by using the housewarming party of the community for the opening of the Kuantungku local fishery savings office as a way of getting the involved agencies together to hear their problems and find a solution on the 25th of September, 2006. The event was attended by the Kantang District Office, Merchant Marine and Transportation Office of

Trang Province, Mangrove Conservation Agency, Provincial Land Office, Tambon headman, President of the Bang Sak Tambon Administrative Organization, and the affected villagers. Discussions were held and the conclusion reached was that the villagers should submit a complaint to the owners of the area, the 31st Mangrove Development Station Sikao, that there was an act of trespass in the area by cutting down a number of trees in the mangrove forest in order to conduct a survey to apply for a title deed from the Land Office. The Mangrove Development Station would then file an appeal objecting to the survey and the issue of a land title deed from the Land Office.

Current situation

Afterwards, the villagers proceeded to build a wooden bridge for access, which was not opposed by Mr. Nakorn.

“The guy went quiet after we organized the house-warming party, opening the office and invited the government agencies. He is no longer bothering us. I guess he now knows that he should follow up on things with the authorities rather than us”, a villager mentioned.

However, at present the villagers are still having the same trouble as in the past over the lack of electricity. Cables were connected from other households and there was a problem with the high expense of doing so. So, the villagers wanted an extension of the power grid and informed the Kantang District Electricity Authority who in return sent notification that all land disputes in the area must first be concluded. If the area was still under dispute and further objections were made, then the new electricity line connections work could not proceed any further.

“Actually, we would like to lay down a power grid for them, but if the land is still under dispute then the Electricity Authority cannot do so because if someone objects to it, even verbally, the entire process must be halted, and the expense is quite high” stated an employee of the Electricity Authority. He also suggested that the villagers contact the Bang Sak Tambon Administrative Organization to check the roadside area and ask for a support budget to help the villagers, the important point was that permission from the legal land owner must be given.

After receiving the advice, the villagers along with the Tambon Administrative Organization members went to the Bang Sak TAO office and

their staff investigated the related documents. At that point, the villagers discovered that Mr. Nakorn had also filed a request for all the documents related to the land dispute from the TAO, which meant that he had still not halted his objections, but in fact was collecting information to use in the legal fight against the villagers.

Following this, the 31st Mangrove Development Station sent a letter to the villagers that the disputed area was outside the control area of the Development Station, but continued to insist that it (the disputed plot) was considered to be a tidal mangrove forest and may still be under the purview of national forest reserve area, which was outside its own jurisdiction.

The statement from the Mangrove Development Station caused a great deal of confusion among the affected villagers and impacted the dispute-solving process.

Due to the lack of clarity regarding the land, Mr. Phimol Na Nakorn then filed a complaint with the Trang Provincial Court on the 3rd of November, 2006, to take legal action against Pairoj Sudsawart and Sompop Makittithorn, who claimed to lead the villagers in their attempt to establish a new community in the now disputed area and had objected to Mr. Nakorn's request for a title deed.

The court had made two appointments for a settlement. The first was on the 19th of December, 2006, and the second on the 14th of February, 2007, in which Mr. Phimol Na Nakorn insisted that the area belonged to him, but he said that if the affected villagers were willing to drop their objections to the issue of the title deed, then rental contracts for the area could be made.

The villagers responded by asserting that moving into the area was not an intrusion, but rather an allocation made by the working committee which was composed of state officials from many agencies. Including officers from the Mangrove Conservation Agency, thus the lawsuit would involve many state agencies. An appeal was then made to the concerned agencies such as the Subcommittee on Resolving Land Conflicts, headed by General Surin Phikulthong, and the National Human Rights Commission, to notify them of the current situation and suggested a solution by having the subcommittee inform the provincial working committee of the problem in order to immediately gather evidence from the land allocation process. The villagers also requested that verification be made on the land right title granted by

local authorities prior to the Land Code (S K1) of Mr. Phimol Na Nakorn, which was used in the lawsuit and asked for a speedy resolution of the ownership claims of the mentioned plot of land following actions taken at the local level. They also requested that the National Human Rights Commission verify all documents from the involved agencies wanted for examination in the court.

Afterwards, a letter was sent to the Director of the Department of Marine and Coastal Resources during a meeting concerning the Database System for the Management of Coastal Resources Project on the 16th of March, 2007, at Thumrin Hotel. Requesting an immediate inspection of the disputed area to see whether it came within the purview of the national mangrove forest reserve under the responsibility of Department of Marine and Coastal Resources. Furthermore, they asked for coordination with the responsible agencies at the departmental, provincial and local levels to verify the inspection paving the way to solving the dispute.

Conclusion

This case study about the grievances of Bahn Kuantungku community, though not overtly violent unlike other areas where there were open clashes, is nonetheless a case that sent repercussions through various agencies that are tasked with solving the land disputes in the Tsunami affected areas of Trang province. It also had a significant effect on the trust of villagers in governmental agencies. This can be considered an important lesson in the work the authorities are involved with, because if we look at it from the very beginning, we would see that all of the problems that happened in the area were due to the fault and lack of professionalism amongst government officials. They did not properly check on the area before moving in the villagers. This indicates a problem that arises from a lack of cooperation from each agency within the bureaucracy who continue to work independently. Thus, instead of improving the quality of life of the affected villagers, more burdens were put on their shoulders and further aggravated their situation. Since now the villagers are faced with further insecurities in housing and in their lives, wasting time needed to work and support their families.

What little trust is left in the authorities further diminishes by the day, as sometimes it seems as though “the authorities were following orders rather than working from their heart and soul.” This also showed that the paternalistic system is still very much alive and has yet to diminish.

Furthermore, as highlighted by the documented events, it appears that the villagers were 'abandoned', even though there were ways to help them, the actions taken did not go far enough. Local people who make their living day-by-day had to find a way to fight and struggle by themselves against an individual with more power and wealth who was always trying to find a way to trick and manipulate them into leaving the area. Even now, the authorities still cannot provide an answer on how everything will conclude and it does not seem like there is anyone or any agency that has the authority to actually help the villagers. Each party is off loading its responsibility to others.

Even though in the near future the villagers still have to resolve many issues, from small ones such as basic infrastructure i.e. electricity, which cannot yet be resolved as long as there is still no definite proof of who owns the land, to bigger ones such as the lawsuit being filed from the individual who claims the land, all of which require the cooperation and solidarity from every individual in the community. Up until today, all of the villagers have insisted on their rights, even though sometimes their hopes seem slim. But the fight will be to the end, no matter what the outcome will be.

2nd case: Life after the mining concessions

*Bahn Nahm Khem*¹²

Bahn Nahm Khem is located at Moo 2, Bang Muang, Takua Pa, Phang Nga province, and is a highly populated village with a total of 1500 families; most of them immigrated into the area looking to make their fortune in mining and mining related occupations since 1971. Many families spent time working for mining companies who were granted the mining concessions, some families operated their own small-scale mines, and others took to trading and fishing.

Lampom community is part of Bahn Nahm Khem. It is situated towards the southern beaches; from the beginning of the road that goes to the Fifth December Park. The general appearance of the area can be described as sparsely occupied, with an approximate distance of 100 meters between each house and roughly two to three *Rai* owned by each family. A total of 52 houses have 140 family members. There are coconut and pine trees distributed evenly around the mine works and workers homes.



Picture 5: Lampom beach after the Tsunami

After a license for the land expired, licensees would send a request for land title deeds thus causing a conflict between the actual occupiers of the land and the company claiming to own the land which used to be within the area of the mining concessions. Especially, the Hok Jong Seng Company who were granted a license for two estates and claimed ownership over most of

¹² By Somyot Tolang.

the land, based on a *NorSor* 3 title deed, they sold it to Far East Construction Company¹³ before arranging the prosecution of the locals.

Life after the mining concessions ended

The two areas that the Hok Jong Seng Company had a mining concession for contain the bulk of the local population. Hence, issuing a land title deed to the owner of the former mining license, has caused unrest among the locals.

‘On December 7th, 2002, approximately 50 armed men claiming to be a militia and police force arrived with bulldozers and vandalized the property and houses of more than ten families and sent for police records on six families.’

‘On December 20th, 2002, approximately 30 armed men came with bulldozers and buried Mr. Suwit Kongsong’s bungalow and restaurant.’

‘On December 5th, 2003 Khao Sod Newspaper, the daily news, reported an explosion at a commercial building located on Soi Chareon Chai, which belongs to the company with a *NorSor* 3 title deed no. 1020. There were two casualties, one dead and one injured. The police believe that the motive was a land conflict in which Mrs. Somjit and Mrs. Lamaii Kulwanich were sued for trespassing in 1999 but this was nullified by the court, and Mrs. Lamaii was in the process of asking for a *NorSor* 3 document.’

‘On December 2003, a year before the catastrophic Tsunami event, Far East Construction Company sued 50 local families individually.’¹⁴

These reports represent only a fraction of the overall events that occurred.

Life after the Tsunami

In the morning of the 26th of December 2004, tidal waves hit the beaches of the Andaman Coast including Lampom community. The devastating power of these waves caused a total destruction of 52 houses, leaving only their

¹³ The report on human rights in the Tsunami affected areas; a case study of Bahn Lampom, National Human Rights Commission, March 2006 p.60.

¹⁴ The report on human rights in the Tsunami affected areas; a case study of Bahn Lampom, National Human Rights Commission, March 2006 p.60.

concrete foundation posts. It took 42 souls with it and left behind 98 survivors.

Uncle Porn, one of the victims said,

“After the Tsunami there was confusion and chaos. Everyone was looking for their loved ones and friends and prayed for their survival. We walked through every track and searched amongst the ruins and debris left by the waves.”

“None of victims paid any interest to the treasure swept up onshore by the waves. Everybody concentrated on finding their lost relatives. In the first days after the disaster we would leave then return to the area periodically because there were rumors of recurrent waves,” Uncle Wieng added.

On 27th of December 2004, the mission to find survivors continued and everyone tried their best to search.

“Surviving villagers continued their search on the second day because the water had significantly receded.”

The search for survivors on the second day was different from the first a woman, a sister of one of the community members, told us what happened, “The company’s personnel stopped and threatened us near the entrance to their land prohibiting everyone to enter and search for bodies.”



Picture 6: Barriers for restricting outsiders

“Please do not mess with this estate any more. If the Tsunami did not kill you, I will.” This is what was said to her by a groundsman for the company only a day after the disaster.

Many of the community's survivors begged the groundsman permission to enter and search for bodies and survivors but this was denied," the woman continued her story. On 28th of December 2004, the third day after the Tsunami event, the company brought in its employees to install a fence, beginning from the road entrance to King Rama V Park, to stop anyone from entering the area, including no-trespassing warning signs installed at a number of locations.

"After the searching had stopped, many of community's members were found dead, but a lot were still missing. Therefore, a few local people trespassed to look for more survivors; many bodies were still warm to the touch when they were found. If we had been allowed to search beforehand, we think there could have been many more who could have survived," the woman concluded.

Life begins at home

The surviving community members tried their best to find wooden wreckage littered over the area to build temporary shelters to ease the cold at night. They only received donations of food and water from people who happened to be in the area.

"We tried to contact the authorities asking help for our houses and electricity from the concerned government organizations, who came to help, but our pleas were rejected and we forfeited all help because of the problem with the company," Sister Orn told us.

When their houses were wiped out of existence by the Tsunami wave along with their loved ones and friends, their homes stolen by the company, they appeared so miserable to the eyes of passers-by.

When everyone in the community decided to go back to the community's original site, organizations from outside and many groups of people expressed their willingness to help. So 30 houses were constructed in the same place.

"When everybody decided to go on living in the same spot, we grouped together to help each other build our houses and ask for material support from people who came. Many organizations were periodically threatened and harassed by police officers, lawyers, and the company's

employees up to the point where many groups withdrew their support. We had a meeting every morning and evening to make plans for solving the land problem and collaborating with each other to build our houses on the original land. During the daytime, everybody helped out building houses without showing any tiredness," Sister Orn said. Many who came to help expressed their feelings to the community,

"When we came to Lampom beach community, we realized our true value and felt the importance to and try to help people in need since we could not support the harassment dished out to the community."¹⁵

"This is the second time I have come to help with house construction. I feel great whenever I come. I recognize that look in the eyes of the villagers who have a good feeling towards us. Even though their eyes have sadness in them, they still have that fighting spirit look about them. Although we come from Chiang Mai we could still sense their feelings and be sympathetic."¹⁶

Thirty houses were built at Lampom beach community as a result of cooperation between the community's members and people who came to lend help. Every house was finished by the middle of the year in 2006.

The future of community and the concession land estate problem

The litigation in court with almost 50 cases of villagers being sued is still current, according to court, even though an investigation report completed by the national committee on human rights clearly states that; "In the four estates where mining licenses were granted, amounting to a total area of 682 *Rai*, there is only one area of approximately four *Rai* that belongs to the company. The other areas are unoccupied and without title deeds, so must remain the property of the state should the mining licenses expire. Since the state has a duty to oversee appropriate possession and systematic use of the land, it has the right to allocate the land in Lampom beach to the genuine

¹⁵ Summarized document about the experience of field inspection, Bahn Kanchanaphisake, September, 2005.

¹⁶ An interview with Kawita Sirichu, Psychology faculty, Chiang Mai University, October, 2005.

long term residents and citizens accordingly.”¹⁷ This may account for the illegal obtainment of title deeds.

After a report was made by the National Committee on Human Rights, there are still no government departments acting in accordance with their conclusions and making an effort to terminate the conflict as should have been done according to the process.

If the problem concerning these licensed lands remains unsolved, the conflicts between the land holders and established communities in the area may continue to last. This is not only of concern to Bahn Nahm Khem only, but for all other old mining sites along the coast of the six provinces of the Andaman Sea.

¹⁷ The report on human rights in the Tsunami affected areas; a case study of Bahn Lampom, National Human Rights Commission, March 2006 p 74.

3rd case: The conflict over land after the Tsunami: The history of the Morgans at Bahn Thabtawan¹⁸



Picture 7: The sandy mine spoils caused by scooping soil during the mining process

One day at Bahn Thabtawan under the midday sun we suffered from the heat, which was partly reflected by the enormous hills of sandy mine spoils located behind the community. This is part of what is left over from the mining concessions of the past. Throughout the village, domestic pigs can be seen lying under the shade of trees or

soaking themselves in shallow ponds. These pigs are called *Moo Khi Pra*, and they stroll around the village eating whatever they want for food

We were going to interview a young lady called Orawan Hanthaley or Nok; she was with two youths around her age and was waiting for us at Thammasart Rest house. We interviewed them for a couple of hours and concerned the background information of Bahn Thabtawan; we got both current and historical information from her.



Picture 8: Orawan Hanthaley, representative from the youth group at Bahn Thabtawan

¹⁸ By Somyot Tolang.

At first, Nok talked about the Morgans at Bahn Thabtawan by telling us that there were two groups of Morgans who live there, the first group of 70 families, with 225 member's lives in the Thung Kru area. The second group consisting of 28 families, with 106 members lives at Bahn Bon Rai. Bahn Thabtawan is located at Moo 7 Tambon Bang Sak, Takua Pa district, Phang Nga province. This community contains families of Morgans who here have similar family names, such as Hanthalay, Klathalay, Jusakul, Phusakul, Limsakul, Hosakul or Nawarak.

She added that in the past Morgans also lived at Thung Khi Sai (so called because of the huge amounts of mining spoils left there). Later, they moved to Thung Thu¹⁹, and Thung Kad²⁰, respectively. They stayed in Thung Kad for 20 years until a company that had been granted a mining concession in the area asked them to move. When the mining ended, they moved back to (Thung Kad) again and the first person to arrive back was uncle Phern.

In the past, the area around Bahn Thabtawan used to be a tropical forest habitat with wild animals such as tigers and boars. Paths cut through the middle of the forest were made by domesticated herds of buffaloes. The number of buffaloes in those days implied how rich a family was. About ten families owned large herds. The name of the community, Bahn Thabtawan, took its name from a resort called Thabtawan. Some stories say the villagers in this community came from Malaysia but others also exist telling a different tale, so there is no clear information for where they were from.

Morgan people here have a legend about their ancestor called Po (Uncle) Ta Sum Phan who had two brothers and a sister, namely Chao Nang, Ta Mor and Khu Hor. Later the sister Chao Nang married the local King and in order to empower him ordered three thousand soldiers and retainers mobilized and sent to find a lion to get its skin and lay it on his throne. Most of the men came from the surrounding villages, Bang Nieng, Bang Sak and Bang Lude. Joining them were the best three warriors in the area: Po Ta ('uncle, grandpa, older man') Sampun, Po Ta Khu Hoh and Po Ta Moh. On reaching the shores of the ocean, they all saw a leaf of the *bo* tree appear like the figure of a maiden in the sea. Those who craved for what they thought was a maiden jumped into the sea and were killed by a school of ferocious

¹⁹ The name of a local tree.

²⁰ The name of a local tree.

fish, though they had been told to stop their action by Po Ta Sampun. On board the ship only the three brothers and a group of their guardians were left alive and they continued on the mission and completed it.

On the way back to the town, the three brothers were confronted by a big storm. Their boat and everything in it sank into the sea. Candles that they brought with them transformed themselves into a red whale which carried them back to three different beaches one at a time. Nowadays, the villagers believe those locations are Bang Pling beach, located near Bahn Nahm Khem, Bang Nieng, located near Bahn Thungwa and thirdly Bang Sak close to Bahn Thabtawan. On the three shores there are located, spirit houses for the three heroes in the legend. The three villages mentioned are Morgan communities.

In the past, Morgans built their small sized houses using woven bamboo sheets as walls. House roofs were made of coconut leaves and were so airy that they would let the wind blow inside easily; this was very efficient for reducing the high temperatures in summer. Morgans who lived on this island were divided into two groups during World War II because of the war evacuation strategy. Bahn Bon Rai was used as a refuge area for woman and children with some men to protect them while the area at Bahn Thung Thu was where another group of men were stationed to observe the situation. Since then the villages have become divided into two parts as we can see today.

People here raise pigs and chickens and let them wander around to find things on ground to eat and sometimes give organic material found in the village to these animals as food. Fishing is the main activity for food or for sharing amongst relatives but not for trading. Orchards have also been planted at Bahn Bon Rai. During the mining era, Morgan communities had to move from place to place to escape the bad condition that the land consistently deteriorated into. The piled up sand waste from the excavated land left on the periphery of the mining areas were useless. They could not grow anything in those places with that level of soil degradation. Life at that time was not stable enough to permanently settle down at any area because of the shifting nature of the mine concession areas.

Bahn Thabtawan Morgan Life after the Tsunami: dealing with aid provision, land conflicts, problems over housing and where to moor their boats

During the Tsunami, 106 houses were badly damaged and 52 people died (23 were ethnic Morgans and 29 Thais). Several aspects have been recovered well; however, problems and inequality in aid provision remain. For example, a youth in an affected community said that his family had not been given equal assistance for house or livelihood recovery. He believed that was because his family and their community were not able to access information about aid provision and that made it difficult for them to find sources of help.

Housing problems and land conflicts

Morgans have been living in the area of Bahn Thung Thu on the last public area that they can afford of 24 *Rai*. Normally, Morgans will not occupy any piece of land for their own exclusive use; the land they live on can be accessed and used by everyone in some way. For this reason Morgans do not pay much attention to how important land titles are. This is why developers are able to take advantage of them by claiming ownership and asking for title documents for the lands around Thung Thu and Kao Keaw (the old mining concession areas). Thus, today, Morgans have been forced into a dead end because they are faced with an unexpected issue that is too complicated for them to deal with and may very well cause them to lose their last piece of land.

Nearly 20 years after the mining era ended, no one asked for the legal possession of areas occupied by Morgans. Until one day somebody came and deceived them into signing their names on some documents which they did not understand what they were because they were illiterate. They were given only a small amount of money from doing that and according to Nok, some of them received only 100 baht.

On 19 January 2005, Ms. Rumphapha Kulphanich submitted to the land department a petition to grant her land titles by using a *NorSor 3* document ref. no. 89. The plot of land was measured on the 14th February, 2005²¹. Nok added that many times, someone comes to threaten them into abandoning their lands, while others ask for information about it when the community

²¹ Human rights report about land conflicts in the Tsunami affected areas, a case study of Bahn Thabtawan p. 91.

believes they are hired by land developers. Thus, villagers do not like to give out information regarding their property to anyone they do not know and they always protest whenever the land department authority comes to measure the area in preparing to issue land title deeds for outsiders. This is the origin of the problem that began the 35 instances of land trespassing cases²² issued against Morgan families living in the community.

“Looking at it, it is curious that *NorSor* 3 documents can be issued for land that is part of the public road system. Normally, public roads are not allowed to be part of the land available for such legal documents,” said Nok

Khum Kheaw: public boat mooring

Khum Kheaw is the name given to a public mooring area of 30 *Rai*; it used to be a vast mining location that has now filled with sea water because it is connected to the sea. Because of this it is a suitable place to moor boats and the villagers have been using it as a community mooring area and it is also used as a refuge when storms occur. It is not only useful for public mooring but also offers itself as a habitat for sea life because it is surrounded by a mangrove forest. Currently, the place has been claimed by an individual and access has been prohibited to the villagers.

“We regard Khum Kheaw to be a public area. We still moor our boats there while the person who claims to now possess the inlet has tried to block access with cement pilings and barbed wire. He has said we have to pay if we want to moor our boats. We consider this to be unreasonable and if we had another choice we would prefer not to be involved with an argument with him, but it is impossible. This is a public asset and everyone knows that we have to fight over it.” One villager who had always moored his boat there told us, “This is just one more example of the problems we face at Bahn Thabtawan.”

Life after the Tsunami begins with fighting for rights

Morgan communities have their own unique characteristics and culture, of which nature is an important element for them because they rely on nature in all aspects of their traditional way of life. They gather food only for their families or to share amongst relatives. Their ancestor spirit, Po Ta Sampun, always protected them from any problems and determined what they had to do in their lives.

²² The Andaman Communal Rights and Legal Aid Center.

Legal knowledge of land ownership issues or human rights supported by national and international laws are incomprehensible issues they have no understanding of. Living in harmony with nature is what they know best. Developers are always able to take advantage of them because of their limited scope of knowledge.



The problems to access to aid provision plus the land conflicts force them into cul-de-sacs without an exit. Through various forms of mass media their problems have been revealed to the public, how can it be they have been neglected by the government and taken advantage of?

Picture 9: Daily life at Bahn Thabtawan

“Our perspective is that this society is open enough to hear our voices, as a minor ethnic group. The globalized world might have enough room for us to ask for our rights, but we have to fight for it ourselves, it is better if we speak out rather than keep our mouths shut. We now have more experience and knowledge and there is no reason, anymore, to run away from our problems. We cannot endure this any more, for once in our lives, we should try and see what we can get and they need to know we are not passive deaf-mutes. Even though we might be inferior to them in the ways of the modern world, our people are learning how to communicate to the public and are now drawing their attention to us. We know that it is not only us but the whole country which is struggling with its own problems. Now villagers are becoming more confident and familiar with speaking out about our problems. Each one of us someday will be able to find out how, who and where we can find help. We are either winners or losers on this issue; we have experienced many tough situations up till now, so many in fact that we have become exhausted. It is quite hard to encourage our people to continue to stand and fight.”

“We are not only waiting for someone from outside to help. Even the elderly are now insisting that they will fight, all of us have more experience. We are all at the point where we won’t retreat. However the journeys we

have to take in order to ask for our rights, especially in Bangkok, exhaust us and we desire for our old way of life, where we are able to live with our families and the sea. We need to get back to it as soon as possible," Nok and her friends emphasized. "Communal problems can be resolved if we participate together and stay unified. There is a light at the end of the tunnel fighting in this way. That is what I believe." As the leader of a youth group she is confident with the experiences she has had that they would survive all the way to the other end of a tough road.

After being involved with struggling for their rights for sometime, they have reached a certain level of achievement, even though it is only small part of what is needed to be done, however all the Morgans here feel it is a big step toward the goal. They have become more accepted now (in contrast to be seen as being a marginalized, uneducated group) and this is all because they have more courage now to show their feelings and importantly, are no longer afraid of being threatened like before.

"We want to learn and do everything that brings us benefits, such as higher education so our children would have more opportunities in the career market. Some of them want to be teachers. These teachers will be able to disseminate who Morgans are, their culture and way of life and help to preserve, through teaching if possible, Morgan languages as well. We never thought we would have the opportunity to tell our story abroad, we did not even imagine that we could go as far as telling our story in Bangkok, or on newspapers or television. The way we worked together has created a collective ideal amongst us."

"Wonderful things often follow the endurance of real pain," said Nok.

Many of the activities in their community has changed and there are even more changes to come in order to get more income from new kinds of work after the Tsunami, now they have to pay many new additional service fees for electricity and water, for example.

Everyone here desires the same thing which is that they want to have their houses in the traditional style. They consider houses with roof tiles to not be suitable for them. Modern houses require them to adjust their traditional way of life such as cooking by using gas which incurs more expense. Normally they use wood as fuel for cooking. They prefer using wood

because it is part of their traditional way of life. Their children should learn the way their ancestors lived as this will teach them about life. Now some Morgan children are unable to use wood as fuel for cooking. This is only a small part of their tradition, but it is important enough to keep it as a body of knowledge for future generations.

They want their children to learn and continue the traditional way of life their ancestors developed. Some things, such as the *Long Neng* (a folk dance), have begun to disappear in this generation even though they want them to continue. Otherwise in the future there will be no one who knows or able to practice their heritage anymore, it will be extinct.

The National Human Rights Commission has agreed to the withdrawal of the *NorSor* 3 no. 89 in order to approve the rights of villagers who had been living on their land before the Tsunami, but the agreement has not come into force because the commission has most influence at the stage of proposing measures and inspection. Implementation needs to begin by the order of the government.²³ It is not fair if Morgans should give up their rights to individuals who only have a land title deed document.

²³ The human rights report about land conflicts in the Tsunami affected areas, a case study of Bahn Thabtawan p. 94-95.

4th case: Bahn Nai Rai on the sea and land²⁴

Bahn Nai Rai is situated in Na Tei, Thai Muang district. The day I visited there was a community meeting of Bahn Nai Rai's villagers at the meeting house. Near the village meeting house there is a sign showing the tsunami escape route and a broad casting tower. When looking through the front window of the village meeting house, you can



Picture 10: Bahn Nai Rai

see the tower at the village's center. Around the meeting house, new houses and signs showing which organizations made donations can be seen of which there are many. Now it is almost two years (back from 2006) since the Tsunami and a number of problems remain to be solved.

With hot sultry weather the meeting begins in the afternoon whilst the practice of fasting in the Muslim community during Ramadan is taking place. Because of this the participants feel tired and lethargic. They offer few opinions and there are a number of participants who change their opinions from one moment to the next. There is a larger ratio of women to men in the meeting and I think there are few members who have joined this meeting because it is an informal gathering for consulting on a number of development projects.

The conversation between myself and Bahn Nai Rai's villagers begins when we move to a rest house in a social worker's office which is being built. These houses are made by using interwoven wood. At first glance aid for community housing has finished. However, there are still a number of problems with accommodation. The villagers must go to court over a land dispute between themselves and the land holders which occurred before the Tsunami disaster. The question in the minds of Bahn Nai Rai's villagers is

²⁴ By Sayamon Kaiyoorawong.

how the land came to belong to other people after Tsunami despite the fact they had occupied it for many years.

The history of this village is characterized by a settlement map, old mining areas and mangrove forests for which land title deeds have been issued. An old woman joining in the conversation tells us that, “Bahn Nai Rai is a Muslim community, engaged in farming, plantations and coastal fishery.

Originally there were seven or eight families who came from Bahn Bang Klee and Bahn Huay Sai Thai Muang. They farmed, kept plantations and fished before the mining operation came to the area. When I was born, I remember that my grandparents were part of the Bahn Nai Rai



Picture 11: Old mining areas at Bahn Nai Rai

community. When the mining operation first arrived the work did not provide enough of an income. The workers were from the northeastern part of Thailand and when the minerals ran out they left. After the disappearance of the mine those areas were left unused, so the villagers lived there because they thought there were no longer any owners for that land.”

The situation at Bahn Nai Rai community is the same as many other villages in Phang Nga i.e. in the old days, it was an old tin mining community. When the mines were closed, the villagers who used to be mine workers changed their jobs to become local fishermen like the majority of others which practiced fishing from the beginning. Currently (2006), the population of Bahn Nai Rai is 1,658 people. The population is divided into three sub-communities: Bahn Bor Dan on the Phetkasem Road, Thai Muang district, Phuket and Bahn Nai Rai divided into two districts east and west.

Mining occurred between the years 1957 to 1983. The techniques used consisted of hydraulic mining and sinking shafts into the ground. Work on dry land finished in 1974, after the concession ended tin mining only continued on the sea bed until 1983. The community consisted of different

ances from all over and the miners took advantage of the underground resources to earn money.

The most obvious landmarks in Bahn Nai Rai which is Muslim are the Nurul Islam Mosque and *Kubo tosae-armud* (community cemetery) located near the coast. Moreover, there is a new *Balai* (a place for religious activities) located at Bahn Nai Rai community on the east side. The Tsunami wrecked 72 houses and partially damaged 38. In addition, the fishing equipment, infrastructure, mosques, and the *Kubo* were flattened while most people escaped with few injuries, only one person was killed and eleven injured.

A conflict over land at Bahn Nai Rai occurred when the Tsunami survivors wanted to return to the old land to rebuild their houses.

“After the Tsunami our community chose this land and we helped each other to build new houses, and we shared our help in building this house,” says Pakjira Keawnil, a mother of two children and one of the leaders in the land dispute fight pointing to a new house. However, hope for rehabilitation was dashed because the capitalists’ lawyers informed the community that the developers bought 750 *Rai* of land from the banks and those lands have been issued with land title deeds and any construction in that area is not allowed.

Land possession is transferred on like a chain in a necklace. But the situation is different from the reality that Bahn Nai Rai’s villagers face having to earn a living and live on the same piece of land. What happens on the land has changed, together with an invasion of outsiders who use many strategies to take possession of it.



Picture 12: New houses in Bahn Nai Rai

The way in which developers obtain the land is recorded as follows.

“Naihua Aengtek, Ko Hin and Ko Tee’s father, who is the owner of Opas Mine Company, came from Phuket and bought the land from Nai To Sem Libamrung and Nai To Han Hiran. Naihua Aengtek asked for an allowance to operate a mine concession, he promises that when the mine operation finishes, he will give the land to the villagers. The area of mine operations is to the side of the community. There were villagers who applied to work in the mine receiving wages of 14-18 Baht each day. When the price of land increased in 1989, Ko Hin and Ko Tee bought the villagers’ land without losing any money. Before the Tsunami, the village headman of Na Tei asks his assistant to sign a land lease with two families but does not pay any money to them. A district officer wanted to issue a land title deed to the villagers but the village’s headman assistant protested against issuing a land title deed in some of the areas. According to the villagers’, there are about seven non local families who sold land.”



Picture 13: Fruit trees have been ringed, so they would die

Insecurity of accommodation becomes an obstacle when asking for help from the government. Pakjira says with despair there are too many conditions that the community has to meet in order to obtain help from the government.

“The government offered a budget to support fish farming on the understanding that the villagers formed a group to apply for a loan from the BAAC. However, when the villagers wanted to loan money, they cannot because some of them did not have the necessary land title deeds. Hence the village headman made the judgment that the business would not be allowed to continue. We felt as though we were nothing, our aspirations crumbled into the dust and our land belonged to others. On the one hand ten ordinary villagers together were unable to apply for loans but on the other it was possible for some individuals who had relationships with influential local personalities to be able to get loans from the BAAC (Bank of Agriculture and Agricultural Cooperatives). Instead of being able to go to work and earn a living we have to go to court to fight for our land. When it rains, we are

unable to work and during the time we are in court we have to spend money which we do not have. I have two children, some families have four or five but we must still fight for our rights and this further decrease our income," Pakjira explains pointing out her family problems.

"The village headman who is a member of the Saithong family (a well known family network) has an entitlement document showing that he has ownership of some land. Threats are constantly made towards us to prevent a return to our houses after the Tsunami. Since I began fighting the case in 2005 I have been shot once at Kokgloy, but my situation calmed down for a short period after Bang Run was hurt and then gunmen came to the village", Suthin Sribamrung, a young man who took part in the struggle with Pakjira, told us about the time he was threatened.

Sometimes when people got together to oppose the developers who were contesting the land ownership there was intervention by employees of the investors and the village's headman causing conflicts between relatives. Pakjira told us about the weaknesses in the community at Bahn Nai Rai.

"The community was undermined by all those organizations which gave aid and material to the villagers because they were unsure if they had all received their fair share and when problems occurred there was no one to turn to. Even the religious leader of the village did not want to become involved in it because he believed it did not figure religious issues. We hoped the local Sub-District Administration could help us, but even they did not want to help us. The villagers criticized each other and no longer wanted to get together and attend meetings. There are now just a few individuals who still work together and oppose the land grab. Some people try to take advantage of the court proceedings by asking for money, claiming they are wasting their time in court and want reparations. Some villagers who have land title deeds and have come to a compromise in court have been paid 2,000 Baht per *Rai*, for which they are satisfied, because they have no understanding of the land's true monetary value and now they no longer wish to join in the fight, which means we are losing a number of witnesses to our cause."

The land office employees behave badly towards people and favor the corrupt which makes Suthin realize that he has no legal options if he has no money.

“In protesting the issuing of a *Chanote* (a land title deed that can be sold on), we often lose these cases. Some villagers have occupied their land for as long as 70 years but this does not help the case. The land office’s employees say that they can not change *SorKor* 1 to *NorSor* 3. However, for the developers, they can always change a *NorSor* 3 to a *Chanote*.”

Going to court to uphold their land rights makes the villagers afraid because they do not know how to do it; they do not understand the law and are not confident whether it is the right way to go. Suthin explains the difficulties in rights protection.

“The head of the land office says that a petition from the community can not be used as a protest in the land conflict. But if the villager’s wished to continue protesting they had each to come to the land office with a copy of their identification cards and a house registration documents identifying the number of family members. Those people with a connection to the developers went to the office to register their claims but no one from the community went because they were afraid of being caught up in the system.”

Suthin, Pakjira, and other leaders of the protest continued to uphold the community’s rights by organizing publicity and revealing the unfairness of the conflict to the outside world using the mass media. This helped to protect them from being abused by their opponents once they began to appear on television.

“After going to the ITV television station, the developers took photos of three of the protest leaders, so we realized we could not stop or we would be in danger.”

Suthin and Pakjira did not become discouraged, even though Bahn Nai Rai’s villagers were not wholly united behind them, both of them intend to continue trying their best to fight against the land developers and will not stop. The proposal offered in compromise by the developers was not accepted by the protesters, even though some aspects of their offer had some benefits for them.

“The developers offered 30,000 Baht for pulling down each house and 2,000 baht for each cage in the fish farm. When this proposal was offered the villagers did not accept and neither did us protesters.”

Progress in solving land conflicts through government procedures is only a show for society, there is only one way left for the resolutions of land conflicts and that is through the courts. However, Suthin and Bahn Nai Rai's villagers now have a direct experience of this and they have more confidence than they had before.

"Now the developers have their land title deeds and have started to divide up the land and the land trespass protection commission is now investigating. The Office for Mangrove Forest Protection has claimed control over 58 *Rai* and this is being divided into plots. NHRC (The National Human Rights Commission) is allowed to claim 60 *Rai*, but the Department of Land has not followed the order of the commission yet. The head of the land office has been transferred to new duties, but before he leaves he is issuing as many land title deeds as he can to the developers. As the new head arrives, he says that he is yet to become familiar with his new duties. He does not know what the old head did."

Suthin and the villagers cooperated with an alliance that helped in the court case which included the Lawyers Council, social workers, and the National Human Rights Commission. Pakjira says that.

"We have appeared in court five or six times a month. Next month I will have to go there twice. I am not worried about the fight. There are always lawyers who will help us. What I am really worried about is the hunger problem. This is something that all the other activists complain about. At present, there are 80 cases of land conflicts left in this area, some of which are still occupied by villagers even though developers have sold them on. We continue the fight over these assets because we are always here even though others buy and sell them."

The way ahead is to prove whether Bahn Nai Rai's villagers can obtain their rights or not through the court proceedings. It does not matter who the name on a land title deed refers to, or how many times it has been transferred from hand to hand. Someday Bahn Nai Rai's villagers will have the justice they deserve, acknowledging the fact that that they have lived on this land for generations.

5th case: Sea gypsies who make a living on Rawai beach²⁵

Rawai beach is well known to tourists in Thailand and all over the world as an important tourist attraction in Phuket. The picture that comes to mind is of a beach which is connected by roads, has adjacent buildings, shops, resorts and plenty of noisy passersby. But in the background of the developments at one corner of the beach is a big community of Morgan and Urak Lawoi or *Shawle* (sea gypsies). There are 250 families who have been settled down here for many years, the population is about 2,000 people and they live on twelve *Rai* of land.

It is said that the Morgans and Urak Lawoi are major selling points for Rawai beach which attract many tourists to visit and then return home with the impression of a carefree and easy way of life for this community. By contrast, the reality is that they face being chased away from their land and becoming homeless in the future and this has yet to register as an important issue for the government. The struggle of Rawai beach's sea gypsies comes from their insistence on their right to accommodation and earning a living on Phuket.

Rawai beach community consists of seven villages situated at Tambon Rawai, Muang district, Phuket. The communities' homes are built near to each other in a big group of houses. Mr. Nirun Yangpan, a well known public health volunteer is a community leader and who can speak Thai fluently tells us about the Rawai beach community. He says that the original settlement on the land which is close to the sea happened more than 100 years after their ancestors immigrated from Malayu.

“The villagers settled here before 1954 but we did not ask for a *SorKor* 1 because there was a census after 1954. The villagers were able to live here because this land did not belong to anyone. Long ago it was a forest, the villagers did fishing and no one thought to chase them away. In 1955 the king visited his subjects in the area and the villagers presented him with coral. In the past, the house roofs were made of dried straw and there were not many of them. Other important evidence of occupation is the village's cemetery which goes back many tens of years.”

²⁵ By Sayamon Kaiyoowong.



Picture 14: Morgan village

In the past, the *Chao-Lay* had a nomadic culture and made their living from the sea. They did not settle down in any one place, own land or treasure. There is no concept of possession from the *Chao-Lay* point of view. Everything in the world is living

together, respecting the right of others which is

handed down from generation to generation. The *Chao-Lay* pays respect to nature in which life is nurtured. They spend most of their lives on boats and have an easy way with the sea. When they are on shore, they build simple houses made of dried straw, so that they can move easily. In light of this it is understandable why the *Chao-Lay* of Rawai beach do not have land title deeds. Each of them knows which houses that have been handed down for a long time, belongs to whom. This permanent settlement occurred before Phuket developed into a tourism destination, so it is now hard for them to become nomadic again even if that were possible in today's world.

The development of areas for commercial tourism purposes in Phuket is increasing rapidly. This development affects the *Chao-Lay's* way of life dramatically because the tourism which emphasizes money causes natural resources to deteriorate rapidly. Morgans depend on coastal land and sea resources to make a living. The changes occurring as a result from the developments means Morgans must adapt themselves to the new changing environment. They must settle on land permanently. Except for practicing local fishing, they have to seek employment from tourists and the owners of tourism business as well as open shops as businesses.

In Nirun's opinion, the effect of this development causes a big change in the community. Most Morgans are now concerned about money and making a living whereas the tourists feel that Rawai beach's Morgans are poor and are people in need of help.

“In the past, we had hope. Although we lived together in a large numbers, we earned a living legally. In the past ten years, our community has become a tourist attraction. There are many groups of tourists coming here each day; some tourists come to buy fish at Rawai beach whilst others throw coins to the children. They think we want to take something from them and like to steal. Now the villagers of this beach believe that the main principle is how they can earn the most money to support their families.”

The fight for their right of accommodation at the *Chao-Lay* community on Rawai beach began more than 20 years before the 2004 Tsunami. They were cut off from electricity and not allowed to build toilets; they are oppressed in every way. These events are important reasons that make the *Chao-Lay* know that their land has become the property of other people legally. Nirun talked about the procedure for getting a land title deed by the developers.

“Mr. Jumroen Pakdee was the owner of some land which had been handed down from his father. Now he has passed it on down to his children. Jumroen then bought 12 *Rai* of land to build his new house but there were four people occupying this land. He then intended to bring each occupier to court, some of the houses were dilapidated and in poor condition needing to be renovated and upgraded but Jumroen stated if the houses were upgraded he would go to the police to report them and commence an action in a court. He threatened the villagers and they were frightened, he told them the village committee will be taken to a court of law. He tried to make us sign a contract which we refused to do. One day a coconut fell down on his house and he went to the police station to contend that the villagers caused the coconut to fall down on it. He is well-known everywhere and knows the officers in the Sub-District Administration Organization.”

“There was conflict before the Tsunami, electricity and water supplies were not allowed to be installed. The villagers had to connect electricity from houses with a supply and rent it at an agreed price from others. There is water in some houses but those without it also have to pay those households with a supply, but in our family sometimes we do not even have enough money to buy food, so it is very difficult to pay for services like water. The villager’s land has also been bought by developers to become tourist accommodation. They are oppressed by the cutting off of electricity and water supplies or by police officers. If any person does not accept this they must go to court. There was one man; his name was Na Pun, who had

to go to court. However, he lost his case because he missed an appointment and the court made an immediate judgment.”

Mrs. Mae-ning Bangjak, who joined in the conversation, told me about the maltreatment meted out to her by Jumroen:

“Mr. Jumroen Pakdee (the land’s owner), who is an ex-village headman, asked me, where did I buy the wood I had for improving my house. I told him that it belonged to me; he said it was illegal and took some of it to the police station to make a complaint. When I arrived at Chalong police station, the police officers did not arrest me. After that he would not allow any electricity or water supply to be connected. I think he wants me to live like this until I sell the land to the developers.”

Nirun explained in brief as much as he knew about the development of land transfers.

“Mrs. Aean Areerob has lived here for 20 years. Her son used her land as collateral to take out a mortgage from a bank in order to get money to invest. He did not pay the principal or interest to the bank. The bank took the land away and put it up for auction. A company selling wood bought it for over 1,000,000 Baht. This land is next to eight houses. There are 226 families at Rawai beach. Three plots belong to the private sector but 20 plots are divided into separated units. Some plots are mortgaged off so now we have no idea where the boundaries are.”

“Once there was talk to try and solve the housing problems of the *Chao-Lay*, there was help from the officers of the Community Organizations Development Institute (CODI), but it was not successful. In 2004, CODI tried to buy the land but could not come to an agreement with the owner. The villagers are not ready to go to court because they are fearful and have been so for many years. CODI’s officers support the villagers to learn to try and find a way to solve their land problems with solutions from outside.”

The *Chao-Lay* at Bahn Rawai have fought for their rights for a long time, in fact since before Nirun moved here from Satun to get married. Today Nirun has a number of friends from outside the community and the *Chao-Lay* community feels more confident after their recent experiences.

Nirun tells a story about their experiences.

“The community always bears in mind that they want to own their own land. Then they can build toilets and other facilities, since currently, they have to make do with four public toilets. People who are not able to use toilets must go down the sea because the owners of the property will not allow them to be built. The owners seem to want the elders to die so that there will be no witnesses. To enforce this; they formed gangs to threaten the villagers. The villagers have responded by forming their own group for self defense so now it is difficult to do anything. We have fought against the land owners since before the Tsunami. One time we had a meeting at Koh Sirae so the villagers could consult with one and other to decide what kind of defensive organization they will form. How they would approach talks with the developers as we needed to conclude a successful compromise. In 2002, the day ex-prime minister Taksin Shinawatra came to Saphanhin, the villagers made a complaint to him. He promised that accommodation, water supply and electricity will be provided. However, that promise did not materialize. Government agencies only came here to collect information so now the community does not pay attention anymore to that promise. ”

“A community defense association formed, two of my friends Pee Shod and Bao joined them, and all the villagers had high hopes that they would keep them safe. Shod joins the gang when the road project begins. He hands in a petition of protest and everything stops. We protested this project because it meant that the houses of four of our leaders would be pulled down by the provincial deputy to make way for the road. They offered 40,000 Baht for building new houses for each of them. This was an insufficient sum because, for example, 10,000 Baht was not enough for renting the necessary piece of land needed for a new house. Plus the cost of zinc and wood is very expensive, so we turned down this proposal we then contacted General Surin for help.”

“The villagers then wrote out a complaint and General Surin talked to Highway Department and they stopped widening the road. After this success the villagers felt much better and continued to fight for their housing rights. Previously Bahn Bon and Bahn Klang declined to join our fight but have now changed their minds. Because we have shown them that we can be successful in stopping a project that is destructive towards our community. Bahn Bon is now asking our advice on how they can form a protest group like ours. At present around 200 to 300 villagers of Bahn Bon

and Bahn Klang will file complaints. If they lose the case, they will go up to the provincial level to protest against the current housing situation.”

The hopes of success for the *Chao-Lay* at Rawai beach has begun to rise again. The villagers are now preparing to face the injustice of their situation in order to keep their housing, community and their dignity.

Nirun sums up the current situation by saying,

“The hope of our community is now in the hands of my generation. We are the occupiers of this land but the owners are the intruders. They must be careful in their future behavior. Whatever conflicts they cause the police will always come to investigate.”

“At present I am a member of the Moo 2 committee but I am not part of the community committee. Last year I was feted as one of the best public health advocate volunteers. I always consider that development work is important. I have been involved with this work since I was 13 years old, trying to get more experience from working with communities in Trang and Surat Thani. I studied their ways of life, how they worked together and sometimes I helped as much as I could. If we are able form our collective it would be of great benefit for us all. At the end of this month we will have another meeting to discuss where we are now.”

“In my daily life I used to do fishing but now I have stopped for three to four months and no longer go out to sea. My wife is giving birth and I will live on my savings. I have some money left and I am trying to obtain an identification card. To my knowledge there are 28 people who have yet to receive their cards yet. We will keep on fighting for our rights any way we can.”

The most important thing is not that the rights of the Thai sea nomads are legal or not, but that they are able to live at Bahn Rawai until they die.

Publications of Tsunami Aid Watch

Forthcoming publications

1. Evolving from the Waves: Future prospects and tasks for a post-Tsunami NGO. By Phakphoom Withanthirawat.
2. Opportunity in crisis. Three years of Tsunami rehabilitation in Bahn Nahm Khem. Compiled by the community of Bahn Nahm Khem, written by Somsak Suriyamonthon.
3. Bridging the expectation gap: Lessons learnt from three years of Tsunami aid delivery and rehabilitation in Thailand. By Karl Segschneider and Lars Krause.

Previously published

1. TSUNAMI. A study on disaster response in Sri Lanka, with a contribution on the situation in Thailand by Karl Segschneider, Director of the TAW team, published in cooperation with Heinrich Böll Foundation, Brot für die Welt and medico international, July 2006
2. SCOPE-Charters. Sustainable Community Owned Professional Eco-Charters. Edited by TAW, Chiang Mai, December 2006. ISBN 978 974 88189 7 9
3. Renewable Energy Options on Islands in the Andaman Sea. A feasibility study for hybrid renewable energy/diesel systems in two Tsunami impacted communities. Edited by TAW, Chiang Mai 2007. ISBN 978 974 7093 51 3
4. Seal of Fair Recovery (SoFaR). A support tool for post disaster rehabilitation. A concept paper – Siegel „Fairer Wiederaufbau“. Zur Unterstützung des Wiederaufbaus nach Katastrophen. Ein Konzeptpapier. Edited by TAW, Chiang Mai 2007. ISBN 978 974 8266 12 1
5. Tsunami: CROSS-Effects? Christian Religious Organizations' Support and its Socio-cultural Effects on aid recipients in Tsunami Rehabilitation. A case study at Thungwa, Thabtawan and Nahm Khem villages of Phang Nga's Takua Pa district. By Pikula 76 Sithiprasertkula, in cooperation with Save Andaman Network, edited by TAW, Chiang Mai 2007. ISBN 978 974 8410 258
6. 78 Weeks later: A descriptive, quantitative and qualitative summary after the Tsunami in Thailand. By Karl Segschneider and Walaitat Worakul, edited by TAW, Chiang Mai 2007. ISBN 978 974 8410 24 1

7. The Tsunami Early Warning System in Thailand. A resource book, including a synopsis of comments by Tsunami impacted communities 30 months after the disaster. Edited by TAW, Chiang Mai 2007. ISBN 978 974 8418 26 1
8. Andaman Communal Development and the Tsunami. Part 1: The origins and culture of the Morgan Sea Gypsies. By Sumroeng Choeychuenjit. Part 2: Changing Coastal Ways of Life. By Somyot Tolang. In cooperation with Save Andaman Network. Edited by TAW, Chiang Mai 2008. ISBN 978 974 13 8162 3
9. The Ecology and Environment of Bahn Nahm Kehm Three Years after the Tsunami. By Thiwawan Chaikao, Karl Segschneider and Romlee Maeroh. Edited by TAW, Chiang Mai 2008. ISBN: 978 974 05 1622 4
10. Building for the Future: A communal approach after the Tsunami. Case study 1: Building houses. By Chalinee Sathanboa. Case study 2: Establishing and managing community shipyards. By Witthaya Aphorn. In cooperation with Save Andaman Network. Edited by TAW, Chiang Mai 2008. ISBN 987 974 8410 241
11. Tsunami Impact: The world of Morgan, Morglan and Urak Lawoi sea gypsies after the waves. By Sumroeng Choeychuenjit. In cooperation with Save Andaman Network. Edited by TAW, Chiang Mai 2008. ISBN: 978 974 05 4446 3

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