

Executive Summary

This research report on “Impact on livelihood of ethnic minority in Mae Hong Son province from the national forest law and policy compliance, the National Council for Peace and Order (NCPO)’s order No. 64/2014, is compiled by “Legal Advocacy Center for Indigenous Communities (LACIC)”, a local non-governmental organization working to provide legal assistance to highland indigenous groups in Mae Hong Son province. The research is funded by **Takagi Fund for Citizen Science** (Japan). The main objective of this research is to study and examine relevant NCPO’s orders, laws and policies and how government staff implement the orders. The study also looks at the social impacts on families and communities of the target groups. The study framework focuses on the rights to arable land and timber for residential constructions in Mae Hong Son province.

After reviewing available documents, the researcher finds the NCPO’s Order No. 64/2014 an order imposed by the junta to direct relevant government agencies, specifically the National Security Department, to suppress, arrest or charges any citizen who violates the forestry regulations. This power is increased on the basis of the existing 4 forestry laws. In addition, there are a few more policies and orders issued at the time to support the authority’s justification that it is protecting the country’s national forests and resources. For example, the NCPO’s order No. 13/2016 which grants military personnel starting from lieutenant level the power to search without court order and the National Forestry Master Plan which sets a goal to increase forest area to cover 40% and co deforestation area in mountainous area (known as “bald mountain” area in Thailand) under the Area Operation (AO) policy.

The majority of the population in Mae Hong Son province is indigenous peoples living on the highland. More than 70 percent of the populations sustain their lives by practicing agriculture. However, only 1.3 percent of the area has land title deed. On the other hand, over 90 percent of the arable area does not have land title deed to protect the owners. This consequently leads to ubiquitous cases of confiscation and arrest as local community uses the land to make a living and the timber for housing. After the NCPO issued the order No. 64/2013, the numbers of arrest and confiscation cases rises significantly. Between June 2014 and September 2017, there are 1,172 cases in total. In average, there are 326 cases annually. At least 136 persons are arrested and filed cases against. At least 3,675 hectares of land are confiscated in total.

In the implementation of the NCPO order No. 64/2014, the authority alleges that the magnates and powerful groups are behind the incidents in Mae Hong Son. Villagers, on the other hand, become a part of the raid or victims of the incidents. This leads to more serious and violent measures to search and arrest locals, specifically for possessing woods. Directly involved government agencies include the military, the Forestry Department, the district authority and the polices.

The research team interviews 85 affected individuals in 22 villages. The interviewees are either directly affected by or their relatives are the ones affected by the NCPO’s order No. 64/2014. In addition, the research team also interviewed another 21 community leaders. We find 2 issues stand out. The first is using wood for house construction and cultural customs. Normally, villagers accumulate wood until they are ready for construction. This takes about 5-10 years or more. However, the authority alleges that the villagers are part of the illegal logging group. The allegation includes collecting wood to make coffins of Lisu ethnic. In many cases, this kind of allegation opens the way for the authority to search a whole village or a specific house en masse.

The second issue is land use. The affected lands include areas where villagers practice rotational farming and permanently farm, both prior to and after 2002. The lands are confiscated by either pressing charges or the AO policy. In the land owners’ and community leaders’ opinions, they cannot grow rice as much as before as the available arable land decreases. To replace the loss, they have to consider other cash crops to grow in order to have enough money to buy rice. There are also problems such as land rights, the lack of arable land, poor soil quality, low crop yield and fluctuating pricing. Alternative options appear dim to the villagers. In addition, relevant government agencies including the agriculture department have not sought measures to seriously tackle the problems. When these villagers are cutting down wood to build their houses or expanding farming areas, their actions should not be perceived as criminal acts but a reflection of the neglected citizen groups struggling to survive in the society.

The research team find the implementation of the NCPO’s order No. 64/2014 has 3 significant problems. Firstly, it’s a systemic problem. The laws and policies related to conservation are highly influenced by prejudice against the indigenous peoples and western concept on forest management. Secondly, there are

problems in the implementation. Government staff has to accomplish the goals and orders set by policy. This could create violent conditions and fear among locals. The third problem is the impacts on the ways of life of the peoples, specifically those who have already lost or soon will lose their land and arable farms. This further emphasizes existing inequality in the Thai society. It is not only inequality in the economic status but also race.

The researcher uses the Critical Race Theory (CRT) to analyze the NCPO's order No. 64/2014 and forestry laws and policies. The analysis reveals that the injustice against highland indigenous groups in natural resources allocation is historically embedded deep in Thai society. The injustice is endured through medieval beliefs, laws and policies on land and forestry management. The NCPO's order No. 64/2014 is one of the means created by the state to reinforce its power in managing natural resources and interests. The following are the analysis:

1. Using the laws to coerce indigenous peoples becomes the norm in their daily lives in Mae Hong Son. The majority of the local people accepts such coercion—for example, when a villager is arrested and pressed charges—has become a regular thing. The oppression is not questioned because they believe that indigenous peoples are lower citizens and possess illegal status
2. Politically powerful peoples control the national natural resource management policies based on capitalism. They use the government authority, through forestry laws, to allocate interests while discriminating highland indigenous peoples. The forestry laws are crafted by using western forestry management concept. This means that they would monetize the values of forest land into assets or preserve the forests but excluding the peoples of the forests.
3. Thailand's forestry and land policies are "nationalism." They are set on the belief that the land is Thai's and the natural resources, in consequent, are Thai's. However, as the highland indigenous peoples or the "hill tribe" are not fully Thais, when they cut the trees in the forests, their actions are perceived as stealing natural resources from the Thais. Subsequently, the state has the justification to use its authority, including violence, to resolve the problem. Such belief oppresses the highland indigenous peoples.
4. As the state defines the highland indigenous peoples, by implication, the forest destroyers, it propagates the image of the highland indigenous peoples as dangerous and threats to national security. The NCPO's order No. 64/2014 further emphasizes the threatening image by controlling government agencies, media and specifically the legal system to consistently construct, hone and stress the state's definition of the Mae Hong Son highland indigenous peoples as forest destroyers.

This research proposes the following resolutions:

1. Short-term solution: While awaiting for the policy on arable land and land rights to change, the affected people need urgent resolution. The research proposes investigations on the ownership of the land. Then, the land shall be returned to the previous owners or allow individuals who are landless or have inadequate amount of land to make a living to make use of the land temporarily. In the case of housing, immediately stop using the NCPO's order No. 64/2014 to confiscate land, demolish houses and arrest and press charges on the peoples who have genuine intentions to use the land for housing.
2. Long-term solution: Abolish the NCPO's order No. 64/2014. It is clear that this is the military's strategy to use the laws to oppress indigenous peoples who are already facing injustice in the society. Instead, the state ought to opt resolutions by using political means specifically by decentralizing the power to manage forest resources.

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Note : Translated from Thai to English by Miss Areeya Tivasuradej