Technical Paper 3

Review of Land Tenure System in Thailand: Constraints to Future Development in Respect to Growth Versus Distribution

submitted to

Japan International Cooperation Agency

by

International Consultancy Network Co., Ltd.

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1 Rural Land Situation

1.1 Physical Aspects

Changes in land resources is discussed in two broader aspects. The first is on the physical and technical aspects, i.e., in terms of the diminishing scope for further expansion of crop areas, in terms of suitability or unsuitability of land use and soil degradation. Lastly, the discussion of land resources will also touch on the socio-economic aspects, i.e., on tenurial issues.

1.1.1 Land Use Pattern

a. Expansion of Cultivation Area

As shown in Table 1, the total cultivated areas in 1991 has reduced to 212,800 km^2, steady reduction trend since the end of the Fifth Plan Period. The two regions where increase in cultivated areas are noted include the Northeastern region from 90.400 km^2 in 1987 to 92,320 km^2 by 1991 and the Southern Region from 24,480 km^2 to 27,680 km^2 during the same period. The region where significant reduction in agricultural acreage is noted is the Central Region where urban and industrial expansion has in parallel been the fastest. Regional acreage increased from 47,360 km^2 in 1987 to 45,760 km^2 in 1991.

Table 1. Expansion of cultivated area between 1987-1991.

Unit: km^2

Year	North	Northeast	Central	South	Total
1987	47,520	90,400	47,360	24,480	209,920
1988	47,680	90,080	46,880	26,080	210,720
1989	47,680	90,400	46,240	26,400	210,880
1990	47,520	90,720	45,920	27,200	211,360
1991	46,880	92,320	45,760	27,680	212,800

Source: Office of Agricultural Economics, Ministry of Agriculture and Cooperatives

b. Profile of Agricultural Land Use

Details in Table 2 show the present land use of Thailand based on the Agricultural Statistics of Thailand Crop Year 1992/93. Paddy land represent 52.09% of the total agricultural land, upland crops (25.19%), fruit trees and tree crops (15.10%), the remaining are livestock grazing area, vegetables and flowers, fallow and idle land, etc.

Table 2: Pattern of agricultural land use

Unit: Thousand rai

	Northeast	North	Central	South	Total
Total land holding	92,349,627	47,030,845	45,807,165	27,743,864	212,921,901
Housing area	2,004,341	1,507,803	1,364,011	782,238	5,658,394
Paddy land	60,756,548	2,555,152	20,049,243	5,779,861	110,900,805
Field crops	21,527,885	16,759,928	15,101,450	240,547	53,157,438
Fruit trees and tree crops	2,950,568	2,806,387	7,007,098	13,939,494	32,157,458
Vegetables & flowers	334,544	440,984	495,008	102,552	1,373,088
Livestock farm areas	631,710	214,653	199,242	85,294	1,130,899
Idle land	3,310,003	690,782	711,733	1,081,490	5,794,00 8
Others	834027	295155	879470	268,787	2,277,440

Source: Agricultural Statistics of Thailand, Crop Year 1992/93, Office of Agricultural Economics, MOAC.

1.1.2 Land Suitability

Of the 513,120 km^2, areas that is not suitable for crop production is 256,000 km^2. The Department of Land Development estimates that 69,920 km^{2}of land already brought under cultivation is unsuitable. This includes, for example, 21,600 km^2 million rai under rice equivalent to approximately 22% of total rice acreage, 26,360 km^2 presently under upland crops and 2,720 km^2 under tree crops. In principle, the land use pattern of a total area of 69,920 km^2 could be changed towards a more suitable cropping pattern which may result in better production performance.

1.1.3 The Changing Supply Situation.

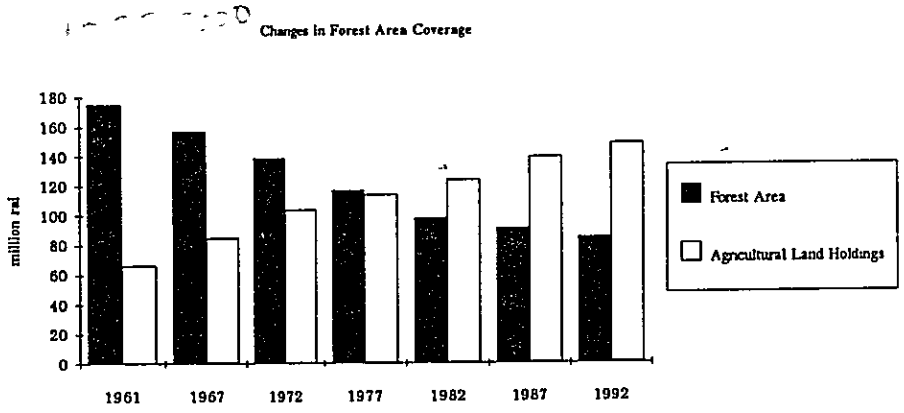
One of the most important factor underlying the steady growth of the Thai agricultural sector is the expansion of area under cultivation. Throughout the 1970s, what is evident from available statistics is the expansion of agricultural land parallel to the decline in forest coverage. Net reduction of forest land between 1961 and 1981 was an alarming figure of 129,920 km^2. Increasing frequency of natural hazards combined with public pressure led to the withdrawal of all logging concessions in 1989. The effect has been to marginally slow down the rate of deforestation from 4,800 km^2/year to 4,000 km^2 per year. To give a more vivid illustration, at this rate, in 31 years time, there will be no more forests left in Thailand.

To a certain extent deforestation was influenced by public investment programmes to expand road networks particularly in the North and Northeastern Region. It was also related to market opportunities for cash crops, especially upland crops cultivation, combined with a lack of a unified and comprehensive land policy and an apparent *laisser faire* attitude towards land clearance and occupation which resulted in a vast clearance of forest cover to bring under cultivation.

Detailed studies on land use in Thailand reveal that agricultural land expanded quite significantly between 1972-1981, i.e., at a rate of 1.5% p.a.; paddy land expanded at a lower rate of around 1.3% p.a.; upland crops acreage increased at a much faster rate at 5.5% p.a.; fruit trees acreage expanded at a pace of 2.3% p.a. Livestock grazing land expanded at the highest rate of 8.5% p.a. In the past 10 years between 1981 and 1991, the expansion rate of agricultural land slowed down significantly to only 0.9% p.a Along the same trend, paddy land increased by only 0 .8% p.a., vegetable and flower crops which has increased at only negligible rate in the previous decade is now the sub-sector with the highest acreage expansion rate, i.e., at 12% p.a. followed by fruit tree crops with 7% p a.

Details in Chart 3 shows the reduction in forest coverage in the beginning years of each of the Five Year Plans up to the Seventh Plan in 1987 and to the mid-plan period, together with statistics on increase in agricultural land holdings. [1]

Chart 1: Changes in Forest Area Coverage



Source: Office of Agricultural Economics, Ministry of Agriculture and Cooperatives

Current forest coverage in 1990 was 135,520 km^2, approximately 26.6% of the total area of the country. It has been argued that the perceived abundance of land has influenced an extensive rather than an intensive cropping pattern; a situation in which increased in output can be achieved through bringing more land for cultivation, thus postponing the necessity of rationalizing land use to ensure greater land productivity. With only around 26% of forest coverage left, increase in land productivity is now an imperative and the only important mode of deterring and delaying further encroachment on forest areas.

Of late, the increasing competition for land from non-agricultural activities have resulted in infringement of agricultural land from urban and industrial activities. Particularly in the more fertile central region where heavy investments have been made in road and irrigation infrastructures.

[1] Baseline figures are from the Royal Forestry Department based on interpretation of satellite images of areas identified to be under forest coverage.

1.2 Social and Distributional Aspects

1.2.1 Land Tenure Indicators

a. The Man-Land Ratio.

During the periods 1955 to 1975, Thailand was, compared with other developing countries, the only one where the man-land ratio did not increase rapidly.[2]

This can be explained mainly by the expansion of cultivated land through clearance of forest reserve. Between 1973 and 1976, the rate of forest depletion averaged 7,760 km^2. p.a.; but thereafter, forest encroachment accelerated significantly with the rate of annual depletion reaching as high as 11,568 km^2. From 1978 onwards, mainly through physical constraint of supply rather than through effectiveness of forest protection measures, the rate slowed to approximately 4,800 km^2 p.a. between 1978-1982 and further to 2,512 km^2 p.a. between 1982-1985. Between 1985 and 1988, the area under forest coverage has reduced by 7,056 km^2, or an average of 2,352 km^2 p.a. [3] Satellite imagery shows however, that only 143,680 km^2 are still under forest cover equivalent to only 28%, as opposed to the target of 40% to be retained [4]. Between 1961 and 1988, a total area of 129,920 km^2 has been encroached upon [5] and this figure agrees closely with the net increase in area under cultivation; which over the period 1966-1988

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[2] Compared with Bangladesh, India, Pakistan, Sri Lanka, Indonesia and Philippines, Hayami and Kikuchi, op. cit., p. 40. This has been mainly through extension of cultivated areas into forest areas. On the other hand, distribution appeared to have deteriorated as statistics on tenancy and landholding distribution clearly indicate

[3] Royal Forestry Department (RFD), *Forest Areas in Thailand in 1988,* (Bangkok: Remote Sensing and Forest Mapping Sub-division, Forest Management Division, RFD), 1989, p. 6

[4] NESDB, *Second National Economic and Social Development Plan (1967-1971)*, (Bangkok: NESDB), 1967.

[5] Based on the RFD's estimation from ariel photographs, forestry area in 1961 was 171.03 million *rai*.

totalled approximately 128,000.[6] The current estimate is that 12,360 villages are located within national forest reserves and about 1.3 million households are reported to be living in the 60,800 km^2 actually surveyed out of the 129,920 km^2 of encroached forest area.

b Tenant farming.

According to the National Rural Development survey of a total of 5.6 million farm households, the owner-operators from the largest group, representing 76.56%. Part-tenants, referring to those who rent land to supplement their own holdings, represent 13.26%; while full-tenant sor those renting all their land, account for 10.18% of the total. (Table 3)

Table 3 : Land Tenure Indicators in 1989

Unit : '000 households

Region	North	Central	Northeast	South	Whole Kingdom
Owneroperator	947.0	583.7	2,077.	687.5	4,295.1
Part-tenant	220.2	220.2	199.7	103.9	744.0
Full tenant	208.7	166.9	15	43.4	571.1
Totals	1,375.9	970.8	2,428.	834.8	5,610.2

Unit %

Region	North	Central	Northeast	South	Total
Owneroperator	68.3	60.1	85.5	82.3	76.6
Part-tenant	16.0	22.7	8.2	12.4	13.3
Full tenant	15.2	17.2	6.3	5.2	10.2
	100.0	100.0	100.0	100.0	100.0

Source : NESDB and Thammasat University, *Basic Village Development Indicator*, (Bangkok: Rural Development Coordination Centre of the NESDB, and the Information Processing Institute

[6] See Chapter 2, p.29

of Education and Development of Thammasat University), 1989. (in Thai only)

In 1983, the area under tenant cultivation totals 22,080 km^2, or 12.2% of total agricultural land, and in terms of regional distribution, the highest concentration of tenant farming is in the Central Region where tenancy accounts for 57.70% of the total tenanted area of the country, and 29% of the cultivated area of this region. The scale of tenant farming is also significant in the Northern Region, covering 15 74% of the region's cultivated area. By 1989, tenanted land has increased to 42,080 km^2, a net increase of 20,000 km^2 or nearly 100%. Concentration of tenancy farming is still in the Central region in terms of ratio of tenanted to cultivated area within the region as well as share of the total tenanted land of the country. Second to the Central Region is the Northern region where 25.6% of regional cultivated area is tenanted.

Table 4 : Distribution of Land Classified by Area Owned and Tenanted.

Unit area· km^2

	1973				1989			
Region	Agricul-tural land (1)	Tenanted land (2)	% (2) to (1)	% of tenanted area to regional area	Agricul-tural land total tenanted area	Tenanted land	% (2) to (1)	% of tenan ted land
North	37.12	5.84	15.7	26.4	54.43	13.97	25.6	33.2
Central	43.64	12.77	29.3	57.7	54.34	16.29	30.0	38.7
Northeast	78.07	2.55	3.3	11.5	97.32	9.08	9.3	21 6
South	21.90	0.97	4.4	4.4	3038	2.78	9.2	6.6
	180.73	22.13	12.2	100.0	236.48	42.12		100

Source· 1/ Figures for 1973 is derived from K. Phiphatseritham, *Land Reform Programme, 1977-1981: An Analysis*, in Journal of Social Sciences, Vol. 15, No.3 July-September, 1978. (in Thai only)

2/ Figures for 1989 derived from the *Agricultural Statistics of Thailand, Crop Year 1987/88*, (Bangkok: OAE, MOAC), 1988, p. 129

Recent data for 1991, indicated that area rented, mortgaged and leased out free of charge amounted to 18.72%. Table 5

Table 5: The status of land ownership in Thailand in 1991.

Unit km^2

Region	North	Central	Northeast	South	Whole Kingdom
Owned	0.03472	0.032	0.0808	0.02544	0.1728
Rented	0 00832	0.01152	0.0048	0 0008	0.0256
Mortgaged	0.00016	0.000096	0.00096	0.000112	0.000128
Free of charge	0.00384	0.00208	0.00576	0.00128	0.01296
Total	0.04704	0.04576	0.09232	0.02768	0 2128

Source: Converted into km^2 baseline data from the Office of Agricultural Economics

c. Security and Registrable Title to Land.

One facet of land tenure which is more frequently discussed is the insecurity of tenure of a larger number of settlers who are, by definition of national forest boundary, living in the ***protected area***. It can be said that the statistical evidence of the destruction of forestry resources have brought home the realization that some things are drastically at fault with the structure of forestry administration which calls for readjustment of both the legal and the institutional structures of the forestry management. At this point, the State has come to a realization that the existing mechanisms for forestry management does not work. Hitherto, all the public agencies have been able to do is grant occupancy rights through various land settlement programmes which are, unfortunately ridden with bureaucratic complexities with so many 'responsible' agencies, operating under different ministries, legislation and

approach. But the time it has taken to accomplish what is minimal leaves doubt that land settlement can be anything more than merely recognizing forest encroachment and acquisition of forest land for agricultural production as a fait accompli.

Rationalisation of land tenure system is one of the urgent mandates given the precariousness of the 26% of remaining forest area. The magnitude of the problem is no less than 60,800 km^2 of land being occupied by settlers claiming de facto as opposed to legal rights and approximately 13,788 villages equivalent to 24% of the total number of villages who have no ownership rights to land.

1.3 Institutional and Legal Aspects Pertaining to the Rural Land Market

1.3.1 Pertinent Legislation pertaining to Access, Control and Utilization of Rural Land Use.

The policy framework for land administration has been derived in recent years principally from the National Economic and Social Development Plans which in content are an amalgamation of Ministerial and Departmental Plans and provide broad guidelines with regard to development concepts, priorities and targets for achievement. Beyond the National Plans, the framework can be best understood from legislation and from various policy statements: altogether eleven statutes of which nine deal specifically with rural land tenure. Several of these were formulated to address particular issues of land tenure as they arose and they function jointly as a code of conduct for the various Departments and Ministries responsible. These statutes are occasionally in conflict one with another and over the years revision and amendments have aimed at greater coherence and consistency; alterations being introduced through Ministerial Decree, or by Ministerial or Revolutionary Orders depending on prevailing

circumstances. In addition to the legislation, several policy statements have also been formulated by national committees set up to address key issues in land administration, such as the Land Use and Ownership Policy (1982); the Forestry Decree (1985) and Land Policy (1987) .

State intervention in land administration can be classified into four categories: the statutory evolution of land administration; the land classification component; land allocation ; and tenure reform. Each of these will now be explained more fully.

a. **The Statutory Evolution of Land Administration.**

The earliest attempt to clarify the land law was made during the Ayudhaya period (1351-1767) [7] Administrative and juridical power over land was entrusted to the Ministry of Agriculture which in turn bestowed the right to utilize land.[8] Given the abundance of land at that time, Government's attitude towards acquisition of land for agricultural production was generally one of '*laissez-faire*'. [9] Under customary law, de facto rights belonged to those who cleared, occupied and cultivated land; although the ultimate prerogative vested the King. [10]

With the signing of the Bowring Treaty in 1885 during the reign of King Rama IV of the Rattanakosin era, Government actively encouraged the expansion of paddy production to exploit the opportunities of the new export market. [11] Profit motivation led

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[7] as part of the Miscellaneous Law.
[8] Keiwalinsrit, Siri. , *Land Administration in Thailand,* Occasional Paper No. 37, unpublished. Department of Land Economy, Cambridge, 1969, p. 4
[9] See Kemp, J.H., *Legal and Informal Land Tenures in Thailand,* Modern Asian Studies, 15, 1 (1981), p.5
[10] Toru Yano, *Land Tenure in Thailand,* in Asian Survey, October 1968, Vol. VIII No. 10, p.853.
[11] Feeny, D. , *The Political Economy of Productivity: Thai Agricultural Development 1880-1975,* (Vancouver: University of British Columbia Press), 1982

enterprising landholders and entrepreneurs either to assume direct cultivation or to assert more managerial control over land use for commercial agricultural production. This led to large scale dispossession; although those evicted needed only to move to nearby areas [12]

Modernization of land administration began under the reign of King Rama V (1868-1910) Several of the land laws were amalgamated into a Land Code (1936), which was later revised as the Land Code 1954 which still constitutes the most comprehensive enactment pertaining to ownership, utilization and control of land resources. [13]

This Land Code is significant for two fundamental reasons. With the Land Code came the concepts of individual and private property rights, for it distinguishes between mere de facto occupancy and legal recognition of rights of property. Also, through the sanctioning of private property, the Land Code simultaneously made a legal distinction between private land, (i.e., registered under various legal forms listed below) and public land; which term is interpreted as referring to all remaining land not claimed by private ownership.

On privatisation of landownership, four documentary stages leading to legal recognition of title were specified by the Land Code: [14] Claim Certificate, Pre-emptive Certificate, Exploitation Testimonial, and Title Deed; each indicating a step forward in the establishment of private property rights. Further importance lay in the introduction of this legal process to extinguish traditional rights belonging to those who cleared and brought land under cultivation.

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[12] Kemp, J.H., op.cit., p.5
[13] Yano op. cit p 853
[14] Keiwalinsrit, S., *The Titling of Rural Land in Thailand*, paper presented at International Workshop on Land Administration, August 20-24, 1984.
p. 8

The confusion was caused by a number of interrelated factors, such as limited knowledge of land registration and procedures, the accepted practice of using the *Sor. Kor 1* to endorse land transactions; [15] and the common avoidance of tax payment by the simple expedient of failing to register one's interest. The outcome is that many farmers fail to come forward to claim legal rights [16] Delays in building up the technical and administrative support have meant, in practice, the persistence of an informal land market system off the register.

Even with the imposition of a legal apparatus, the supply of land was not found to be a constraint, for the Land Code itself made provision for the colonization of new land. Section 33, for example, allows the occupation of parcels less than 1.6 km^2 in extent provided that they have not yet been "proclaimed for survey". Claimants may thus apply for Pre-emption Certificates and follow through the process of application for land ownership outlined above. Parcels of land exceeding 1.6 km^2 could also be allocated to claimants in accordance with the terms set out by the National Land Allocation Committee. In such cases, officials will make information available so that applications, selection, allocation and provision of development assistance can be made. [17]

The second major contribution of the Land Code 1954 is in distinguishing between private and public land. By data collection from various legislative sources and responsible agencies, it is calculated that out of the total land area of 512,960 km^2, 323,840 km^2 belongs to the four categories of public land; leaving the balance

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[15] Ibid., p.6 and Yano, op. cit., p8.55
[16] Yano, op. cit., p.855
[17] Land Code 1954, Sections 27-29.

146,880 km^2 as privately owned and 42,240 km^2 of undocument land[18] (Table 6). The Department of Lands (DOL) reports that 78% of private land is covered by some form of legally recognizable document; while 22% (42,240 km^2) is undocumented [19]

Table 6: Distribution of Public Land by Sub-category and Form of Ownership.

Unit: km^2

Public Land Category	Area Coverage	Legislative Source	Responsible Agency
1.Forest Reserve Land	259,520	National Parks Act 1961 National Forest Reserve Act 1964	Royal Forestry Department (RFD), MOAC
2 Government Real Estate	16,960	Government Property Tax Act 1975	Treasury Dept. Ministry of Finance (MOF)
3 Local Administration and State Enterprises Land	4,800		Provincial and Local Authorities
4. Public Domain	42,560	Land Code 1954	Department of Lands (DOL) (Ministry of Interior (MOI)
-for allocation		(for allocation: 15 m. *rai*) (coastal off-shore areas: 11.6 m. *rai*)	
TOTAL	**323,840**		

Source: Department of Lands (DOL), *Thailand:Land Department Project*, Annex 2, (Bangkok: DOL), December, 1981, p. 3

While State claims over land are set out in legislation, the lack of information on exact boundaries has been the basic reason for land disputes amongst various claimants of land ownership or use. Very few of the public land areas have been demarcated. Those agencies, directly responsible might have, at best, records of area coverage, sketch maps

[18] Undocumented land is used for State land settlement and allocation programmes under the Land for the Livelihood Act, 1968.

[19] DOL, *Thailand·Land Department Project*, Annex 2, (Bangkok: DOL), December, 1981, p. 3

and boundary descriptions; but some evidence will have disappeared over the years, with settlers being mostly unaware that it is publicly owned land. Very commonly, after two to three generations have passed, only the village elders can recall the former details. In the case of forest reserves, which constitute the largest stock of public land, official pronouncements may be made decades after de facto occupancy by settlers who thereby suddenly find themselves cultivating within forest boundaries Recognizing that demand for farming land, rather than deliberate intent to violate the law, has been the underlying reason for so-called 'encroachment', dealing with farmers in forests reserves has become a very delicate political issue, in view of the contending interests: particularly environmental conservation and commercial timber extraction.

Over the years, expansion of cultivation either as a consequence of population pressure or in response to improving market opportunities, has always been faster than the development of legal and administrative structures attempting to systematize land occupancy, usage, ownership and control. This phenomenon constitutes the root cause of confusion in current land administration, where a major sphere of conflict lies between the State as owner or trustee of public land, and farmers claiming de facto rights. The method of assertion of State control has been predominantly, by means of legislation defining rights of the State over various categories of 'public land', establishment of implementing agencies and specification of legal processes through which the State will permit the usage of those lands. Numerous agencies have been instituted at various stages to implement the legislation; and redundant policies have remained in force despite their irrelevance to the changing conditions. (Table 7)

In connection with public land, a degree of official vacillation has been noted. In a situation of increasing land scarcity, a fundamental

contradiction arises between the intention to preserve public land for environmental protection and national security, and the need to satisfy increasing demand for agricultural land to serve both growth and equity objectives.

Table 7: Chronology of Land Administration in Thailand

Year	Legislation/Policy	National Committee	Executive Agency
1941	Forestry Act		RFD
1950	Paddy Land Rent Control Act		MOI
1950	National Forest Reserve Act		RFD
1954	Land Allocation for Social Justice Act		
1954	Land Code	National Land Allocation Committee	DOL
1960	Conservation and Protection of Wild Life Act		RFD
First Plan Period (1961-1966)			
1961	National Parks Act		RFD
1963	Formulation of Land Use Plan		LDD
1964	National Forest Reserve Act 2/		RFD
Second Plan Period (1967-1971)			
1968	Land for the Livelihood Act		PWD, DCP
1968	Tenancy Act		MOI
Third Plan Period (1972-1976)			

1974	Paddy Land Rent Control Act		MOI/MOAC
1974	Land Consolidation Act	National Land Consolidation Committee	Central Office of Land Consolidation
1975	Government Property Tax Act	Treasury Department	MOC
1975	Agricultural Land Reform Act	National Land Reform Committee (NLRC)	ALRO
Fourth Plan Period (1977-1981)			
1979	Approval of S.T.K. Programme		RFD
1981	Agricultural Tenancy Control Act	National Agricultural Land Rent Committee	MOI/MOAC
Fifth Plan Period (1982-1986)			
1982	Land Use and Ownership Policy		LDD
1982	Implementation of the S.T.K. Programme		RFD
1983	Land Development Act	National Land Committee (NLC)	
1983	Draft of Land Policy	NLC Sub-Committee	
1985	Land Use Policy	NLC	
1985	National Forestry Policy	National Forestry Committee	RFD
Sixth Plan period (1987-1991)			
1987	Land Policy Statement		various public agencies
1989	Amendment of Forest Act 1941		

1989	Amendment of Agricultural Land Reform Act, 1989 (Third amendment)		
Seventh Plan period (1992-1996)			
1992	Zoning of forest land use within the National Reserve Forests according to Cabinet Decisions on March 10 and March 17, 1992.		
1992	Policy directives to accelerate execution of land reform activities as a means of solving problems of continued encroachment of natural forests with a target of 4 million rai/year.		RFD, ALRO

Note 1/ It is not always imperative that a National Level Committee exists which acts as supervisory body for implementing agencies. Other than the five listed above, there are five other Committees which are involved in aspects of land resource utilization which may not be related to the agricultural usages.
2/ Was subsequently amended in 1979 and 1985.

Legal measures clearly reflect this dichotomy. Following from the First Plan period (1962-1967), a policy statement was made that an arbitrarily chosen 50% of the country's land area, (amounting to 160.5 million *rai*), should be kept under forest cover; along with the promulgation of a number of laws which aimed at protecting and conserving forest resources.

Due to the inadequacy of control mechanisms, however, encroachment of forest resources continued. The State subsequently modified its target during the Second Plan (1967-1971) allowing for degazettement

of encroached forest areas provided there was no adverse environmental impact.

In 1974, coinciding with the Third Plan (1972-1976), several violent incidents occurred between farmers and landlord/money lender in the Lower Northern Region. Demands were made by farmers for Government to take greater notice of problems over land for agricultural production, and in addition to the enactment of the ALRA 1975 and the establishment of ALRO, several concessions gave approval for degazettement of deforested, encroached areas; as well as some reallocation of national forest reserve.[20] The scale of continued encroachment, however, led to the reversal of this approach towards the end of the plan period and a general tightening up of penalty measures; until, in 1976, the Royal Forestry Department (RFD) was authorized to arrest encroachers under administrative regulation. [21]

During the Fourth Plan period (1977-1981), further provision were made for reallocation of forest land. These were administered partly through the ALRA 1975, by ALRO[22] as well as by the RFD under the *Sitti Tam Kin* (S.T.K.) [23] programme.

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[20] Cabinet resolution of January 1975 specified that deforested (encroached forest) areas within national reserve forests can be allocated to farmers either through land settlement programmes or under provisions of the Agricultural Land Reform Act, 1975. Allowance for utilization of National forest areas will also be permitted so long as this does not lead to deforestation or is in any way in conflict with the intention of preserving forest resources.

[21] On April 4, 1975 in response to a request made by the farmers, a Prime Ministerial Order was issued prohibiting the arrest of farmers who have encroached forest areas as well as granting permission to remain. The Order was later overruled by Cabinet resolutions, June 1975 . Rights conferred to beneficiaries under that order were also withdrawn.

[22] August 1977, a Cabinet resolution was passed approving of the degazettement of 6 encroached forest areas covering a total area of 740,000 *rai*. Considerations were given to the need to accelerating land reform in deforested areas as well as reforestation of deforested areas which were found to be unsuitable for agricultural production.

[23] *Sitti Tam Kin* literally means the right to farm. August 1979, a Cabinet resolution was also passed giving approval to the S.T.K. programme which was a settlement policy allowing a usufruct right over a maximum area of 15 *rai* per households for families in national forest reserve areas.

Within the Fifth Plan period, in 1983, a Cabinet decision referred to the National Forest Act (1950) to the effect that target reservation of area under forest coverage would be reduced to 40% of the total land area, of which 76,800 km^2 (or 15%) were to be forest conservation areas. [24] This target would require some reafforestation of land already brought under cultivation.

Statutory measures related to private land may be divided into two broad categories. The first embraces measures dealing with adjustments in land tenure; principally problems of land concentration and tenancy; the second concerns 'land titling' is reviewed, which is the second form of State legal intervention in private land.

a. ***Land Titling***

The titling programme of private land has always been one of the priorities of land administration, with continued emphasis in each of the successive National Plans. The supportive reasons for the granting of ownership rights follow from the contention that lack of security is inhibitive to long term capital investment; and lack of continuity in ownership prevents incremental gains in fertility and the preservation of soil structure. A widely believed paradigm is that ownership also provides access to institutional sources of credit. [25] Moreover, from Government's stand-point, a comprehensive titling programme leading to registration could eventually provide basic information for land use

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[24] Cabinet decision December, 1983

[25] DOL, op cit., p. 3. Other studies that reached the same conclusions include, Feder G., Onchan T., Chalamwomg Y., and Hongladarom C , *Land Policies and Farm Productivity in Thailand*, (Washington: The John Hopkins University Press), 1988; Hongladarom C., and Feder G., *Land Title, Housing Value and Ownership of Consumer's Durables.*, (Bangkok: Human Resources Institute/The World Bank), October, 1985; Onchan T., and Feder G., *Land Ownership Security and Farm Investment in Thailand*, (Bangkok: Kasetsart University), October, 1985; Chalamwomg Y., and Feder G., *Land Values and Land Ownership Security in Rural Thailand*, (Bangkok: Kasetsart University), November, 1985; Hongladarom C., Feder G. and Na Ranong V., *Choice Decision in Land Right*, (Bangkok: Human Resources Institute/The World Bank), October, 1985.

planning and for a more systematic approach to assessment and collection of landed property taxes. It has also been argued that the documentation and registration of private land is a precondition for the successful undertaking of land reform measures.[26]

Despite official acknowledgement of the merits of the titling programme, it is well known that the process of land registration had been slow. Up to 1990 land covered by various preliminary certification issued by the DOL, totalled 154,928 km^2. [27] Compared with the total of 189,120 km^2 of private land in 1981, this is equivalent to 82%; leaving 18% or around 33,600 km^2 yet to be documented. A target period of 12 years has been set, however, for the certification process to be completed;[28] and to reach this target a loan was obtained from the World Bank to launch a Land Titling Project. In addition to upgrading the capacity of the DOL to accelerate land titling, the project also seeks to rationalize cadastral mapping and documentation.[29] Allowing for scarce and incomplete information, the following diagram attempts to summarize the present situation in respect of property rights in public and private land.

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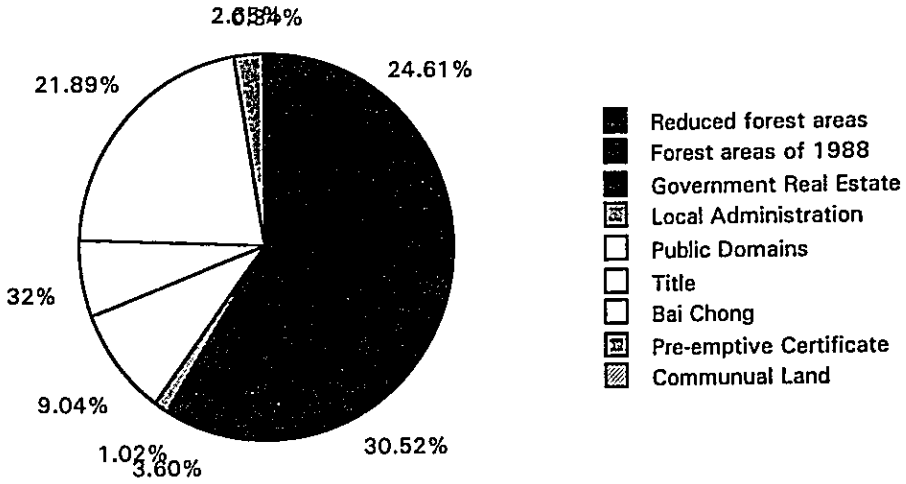
[27] Dilokkunanan, N., *Land Resources, Results of Implementation*, paper presented at Conference on Strategy for Management and Organization of Land for Agricultural Production organized by the Office of Agricultural Economics (Bangkok:OAE), April 19, 1990, p. 21. (in Thai only)

[28] Keiwalinsrit: 1984, op. cit., p.23

[29] Ibid., p. 24

Chart 2: Land Use by Categories



Note: Between 1981 and 1988, forest coverage has reduced by approximately 24%.

"Title" is the full legal recognition of property rights of the holder.

"Bai Chong" literally translates as the reservation ticket. Originally, the Land Code opens up opportunities for people to claim land by putting in a request for the reservation of pieces of land that they wanted under the assumption that eventual legal ownership will be granted which is subject to the number of years he or she has been utilizing the land.

b. Land Allocation

Land allocation is one of the mechanisms through which the State transfers public land to private occupation. The target group for land allocation is normally defined as "poor farmers": [30] i.e., small holders, tenants and landless; or farmers displaced in public investment programmes. [31] Usage of allocated land is strictly for the purpose of agricultural production and the transfer is normally carried out under a set of defined conditions with which beneficiaries must comply.

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[30] The definition of the beneficiaries of land reform is specified in the Agricultural Land Reform Act, 1975. The entitlements of the beneficiary are also specified in the Act. The much disputed issue is over the definition of the 'farmer' which has expanded from the originally more specific definition. See definition and arguments in Appendix.

[31] Usually, these are settlers in flooded areas of irrigation project who have to be settled elsewhere.

The earliest type of land allocation programme started under the Land for Livelihood Act, 1968 with the two leading responsible agencies being the Public Welfare Department (PWD) and the Department of Cooperative Promotion (DCP). In 1969, allocation was extended for compensatory settlement of farmers who had encroached forest land which cannot be degazetted, either for environmental or for national security reasons. At present, there are eleven major public agencies responsible for land allocation and details of their involvement, operations and scale coverage are indicated in Table 8.

Basically, these allocation and settlement programmes were intended to settle beneficiaries on new or virgin land; but four observations must be made at this point. Firstly, most of these programmes do not place in-coming farmers on new lands, but merely recognize the rights of existing cultivators under legal authority of the various responsible agencies. Secondly, settlement programmes are often located on soils of marginal quality, so that a high level of investment is required; which may not be commercially justifiable or may be beyond the resources available. Such programmes can at best serve only equity objectives, as a form of subsidy to the sector, with expectations of low return to public investment. Thirdly, the pace of implementation has been markedly slow with the total area covered of 30,832 km^2 or the equivalence of 13% of current estimate of area under cultivation. Fourthly, two areas of indecision are exhibited: how to treat the so-called encroachers on public land, which involves finalization of legal status and conditions of land use; and who should be responsible, out of the 21 executive agencies participating; and vacillation on these points has generated legal, organizational, and procedural complications In 1984 for example, within the Fifth Plan

period (1982-1986), the MOAC was commissioned by the Council of Ministers to amend the Royal Forestry Act 1964, which would result in degazettement of some forest reserves.

By a Cabinet Decision of February 26, 1985 settlements in forest reserves were divided into the three following groups:

(i) Those established prior to 1967 which are detected on aerial photographs [32] and appear on the 1963 military topographical map.[33] Forest areas encroached prior to that date would be degazetted and ownership rights granted to claimants under the Land Code 1954. [34]

(ii) Those established between 1967 and 1975, which would be granted usufructury rights under the S.T.K. programme; provided that these settlements were not located in watershed areas. Settlements of this type would be identified from aerial photographs used for the Land Titling Project.

(iii) Settlements established between 1975-1981, whose occupants would be granted usufructury rights under the ALRA 1975. [35]

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[32] Series VAP 61

[33] series L708 scale 1:50,000

[34] It is still not clear as to the final outcome given that the cabinet's response was that only residential areas be degazetted whereas management of agricultural production areas would be managed under the land reform law. See Thaomahawong, P., *Forestry Resources, Results of Implementation*, paper presented at Conference on "Strategy for Management and Organization of Land for Agricultural Production" organized by the OAE, (Bangkok:OAE), April 19, 1990, p 45. (in Thai only)

[35] Ibid., pp 44-45. Cabinet decision, June 13, 1989

Implementation of this decision would require the application of three pieces of legislation and four executive bodies such as the DOL, the LDD, the RFD and ALRO. Difference in approach, legal implications and conditions of settlements under various public land allocation programmes are also illustrated in Table 9 which contains operational profiles of three of the main responsible agencies.

c. **A Rural Land Classification**

Unlike other components of land administration, this was related more to the soil and physical aspects of land; and land classification is seen as a contribution from the LDD considered to be of crucial importance for readjustment of land use according to land capability and as a means of verifying the stock of land available for allocation.

Between 1962 and 1967, the LDD classified an area of 259,536 km^2 as being permanent forest reserves; but by 1985, some 18 years later, only 217,984 km^2 had been so declared;[36] the remaining forests having been encroached over the years. The Land Use and Ownership Policy Statement 1982 called for reclassification of partly encroached *'pre-reserve'* forest into three major categories: land suitable for agricultural production, but are still under forest coverage; land suitable for reafforestation; and land suitable for agricultural production which will come under the DOL or ALRO.

[36] Thailand Development Research Institute (TDRI), *Land Policy, Main Report*, (Bangkok: TDRI), 1989, p.27. (in Thai only)

Table 8: Comparison of Land Allocation Programmes Between the PWD, DCP, RFD and ALRO

Public Welfare Department (PWD) and the Department of Cooperatives Promotion (DCP)	Agricultural Land Reform Office (ALRO)	Royal Forestry Department (RFD)
1. Legislation		
Land for the Livelihood Act 1968	Agricultural Land Reform Act 1975	Cabinet Decision, August 22, 1978
2. Profile of land allocation		
Resettlement of farmers in newly opened up areas	Confirmation of occupancy rights of settlers in public land, mostly encroached forest areas	Confirmation of occupancy rights of settlers in encroached forest areas
3. Holding sizes		
Not exceeding 0.08 km^2 per household Modal farm size is between 0.024-0.04 km^2/hh	Not exceeding 0.08 km^2/hh	0.024 km^2/hh
4. Land rights		
Beneficiaries are entitled to 'pre-emptive certificate' after a period of five years subject to his payment of loans from the government and from the Land Settlement Cooperatives. The Pre-emptive certificate can be used for subsequent request of the Title deed from the DOL, in accordance with the conditions set out by the Land Code	In public land, ALRO allocates land through leasing arrangements. In practice, most are issued with usufructury rights, ALRO 4-01. In private land, beneficiaries can either rent or hire-purchase.	Beneficiaries are issued the document S.T.K. 1, confirming usufructury rights. This document will be transferred to S.T.K.2 after 5 years.

5. Legal status of beneficiaries.		
Within the first 5 year, no land transactions are allowed except transfer through inheritance or back to the Land Settlement Cooperatives.	No land transactions are permitted save through inheritance Beneficiaries can return the land back to ALRO.	No land transactions are permitted save through inheritance.

Source: Adapted from Pungbun Na Ayudhaya, I. Saowalak and N, Bunjongjit, *Legal Status of Land Reform Beneficiaries*, a Consultant Report submitted to ALRO, (Bangkok: Chulalongkorn University), February 1987.

In addition to carrying out land classification, the LDD is also the prime mover in implementation of the Land Use and Ownership Policy Statement (1982) as well as the Land Development Act 1983 where it operates under the supervisory role of the National Land Development Committee. Part of the latter's mandate is to reinforce measures for protection of agricultural land in areas where Government has invested in physical infrastructure in accordance with the current Protection of Agricultural Land Bill. It also involves addressing technical problems of land use and reemphasizing problems like saline and acidic soils.

d. ***Tenurial Restructuring.***

In contrast to the often portrayed tranquillity of the Thai countryside, the rural unrest in the early 1970s were sparked off by foreclosures following crop failure and tenants' inability to repay loans Many cases of foreclosure, particularly prior to 1973, were concluded under dubious circumstances and constituted the fundamental cause for grievance. Conflicts also centred upon the conditions which converted owner operators into tenants or wage labourers

on land they once owned; and was not focused solely on tenancy per se. Political pressure at that time did not, however, favour abolition of tenancy but rather that the State should establish control over tenancy relations; particularly, in respect of rent reduction and control and protection against eviction at will. [37]

The initial approach in tackling this problem was to seek compromise through negotiation between the two conflicting parties, i.e., the landlord and tenant, and to investigate each incident of foreclosure. Concession to public pressure over this issue materialized in the establishment of the Committee for Investigation of Farmers' Indebtedness in 1974. [38] The magnitude of the problem was reflected in the number of cases filed by farmers; which, in the short space of four months, reached 536,000. [39] Once taken up by the bureaucracy, however, the settlement of disputes became complicated and time consuming; and placed farmers at a disadvantage vis a vis both landlords and bureaucracy, whose interests, more often than not, coincided. It was, in part, a reaction against this alignment, as well as farmers' demand to take to mobilize politically and to press for changes that led to the subsequent establishment of the Farmer's Federation of Thailand (FFT)in

however, was enforced only in 22 provinces, and, similar to the preceding Paddy Land Rent Control Act 1950 and its successor Agricultural Tenancy Act 1981, it was never more than a dead letter. [40] The underlying reason for this was clearly explained by the Vice President of the Farmers' Federation of Thailand:

"..... *But many villagers did not understand the importance of this issue, nor really comprehend the benefits they could get from the new law. I am now travelling through all the districts of Chiang Mai and Lamphun provinces to explain the law to the members of the Farmers' Federation and other villagers*" [41]

According to him, non-enforcement of the Tenancy Act 1974 was due to the indifference and the threatened interests of responsible parties. District officials and *kamnans* [42] failed to inform the villagers, and members of the Farmers' Federation of Thailand were warned that they should not be involved. Local groups set up to support the Act were dominated by influential people (in opposition) *kamnans* were able to conceal the existence of tenancies. Rather than the State, it was the FFT which became the active enforcer

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[40] Over previous Tenancy legislations, see Kemp, J.H., op.cit., p.19; Land Development Department, *Rice Production and Tenancy in the Central Plain, Thailand*, (Bangkok: LDD), 1965, p.8; Phiphatseritham, K., *Land Reform*, (Bangkok: Faculty of Economics, Thammasat University), June 1974, pp. 68-73 (in Thai only); Chuchart, C., *Land Reform in Thailand*, in Land Reform, Narong Sinsawat ed., (Bangkok: Phrae Pitaya), 1976, pp.176-178 (in Thai only); and Chiangkul, W., *Land Reform, A Case of Thailand*, in Economic Journal, Year 8 (Bangkok: Bank of Thailand), February 1976, pp. 66-69. (in Thai only)

[41] Sribunruang I, Prachachart Weekly, July 10, 1975. (in Thai only)

[42] Structure of local administration starts from the province, district, *Tambon* or subdistrict, and village. A Tambon comprises of 10 or more villages and the formal head of the Tambon is called the Sub-district head, or *Kamnan*. Similar to a village headman, a *Kamnan* is elected by villagers and will stay in this position till the age of retirement at 60. The long period in which he remains in power thus gives considerable scope for wielding personal influence within their communities.

of the Act; an involvement which placed it in direct opposition to landlords and bureaucrats [43] The cost to the FFT was some 48 assassinations of farmers' leaders between 1974 and 1979, which has crippled the movement.[44]

Through their promises to restore land to the farmers, the land reform measures introduced in 1975 may be regarded as an extension of this abortive tenancy reform Concessions were forced on the State largely due to students making use of increasing conflict between two powerful military factions; in such a situation, reform measures were no more than an instrument political and personal gain. With the demise of the Sanya government (October 15, 1973-May 22, 1975 and May 27 1974-February 14, 1975), the pressures for reform, also subsided; political momentum was not maintained and subsequent civil governments were more concerned with reaching a compromise between contending factions.[45] With successive governments bent on maintaining the status quo, the militancy of the FFT was crushed through elimination of its leadership and cooptation of the student movement.

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[43] Kaewthep, K., *Farmers' Federation Thailand, 'The Movement of Thai Farmers during the Period of Democratic Growth'*, in Journal of Political Economy, Year 2, Vol. 4, (Bangkok: Chulalongkorn University, April-June 1983). (in Thai only) In an interview 10 days before he was assassinated, Intha had said, in an interview that, *"When I tried to attend a farmers' meeting to explain the contents of the law, I was not allowed"*. Intha Sribunruang, "Land Hunger in the North", in the Investor 7 (8): 17, August 1975.

[44] In Kaenchampi, *Politicization of the Farmers of Thailand*, Bangkok, 1981, p.40, cited by Kaewthep, op cit.

[45] Following the Sanya Thammasak's government were: Seni Pramoj, February 15, 1975-March 14, 1975; Kukrij Pramoj, March 17, 1975-January 22, 1976; Seni Pramoj, April 21, 1976-October 6, 1976; Thanin Kraivichien, October 22, 1976-October 27, 1977; Kriangsak Chamanand, 12 November, 1977 to February 29, 1980; Prem Tinsulanon, March 12, 1980-August 5, 1988. The Chartichai Chunhavan's government which followed were overthrown by the military coup d'etat on February 23, 1991.

This historical background largely explains the lack of political will to enforce reform measures The tendency of the State has been primarily to seek institutional means for problem solving by negotiating a compromise with landowners whose property rights were never disturbed. [46] The State merely requested that tenants be allowed to remain in possession until alternative land could be provided and legislation drafted.

Land reform, according to the Act, means "*the improvement of rights,* (and) *ownership of land for agricultural production*" To achieve this, the State will purchase or expropriate land from those holdings in excess of the ceilings specified by the Act (See Chapter 5) Allocation of such land to landless or nearlandless farmers, or to those who have insufficient land to sustain a minimum livelihood, or to farmers' organizations, will be on the basis of rental, of hire-purchase, or rights of occupancy. In addition, the State will provide assistance for the improvement of agricultural production and marketing.[47]

To execute land reform, ALRO was set up as a new institution within the MOAC.[48] It deals with both private and public land. Responsibilities in private land is one of transfers ownership to tenants as well as providing supportive development activities for beneficiaries. In public land on the other hand, ALRO is allocating land to the landless, which involves, in practice, legalizing the existence of squatters and providing basic development support.[49]

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[46] See Chapter 5, Section 5.2 on the Statutory Authority for Land Reform
[47] Agricultural Land Reform Act (ALRA) 1975, S.4
[48] ALRA, S. 6
[49] S. Chirapanda and W. Tamrongthanyalak, *The Challenge for Agricultural Economists in the Making of Land Reform in Thailand*, (Technical Report No.10), (Bangkok: Division of Research and Planning, Agricultural Land Reform Office), August, 1979.

Just as reform has been spearheaded by political imperatives, it was also the reversal of the political situation in 1976 that caused a loss of interest in reform programme when politicians felt that they were once more in control of the situation. The outcome has been that the release of funds, along with institutional and legal support mechanisms, has never quite matched the political rhetoric favouring land reform. [50]

Nevertheless, references to land reform as a foundation for agricultural production continued to be made both in the Fourth and Fifth Plans (1977-1981 and 1982-1986). In the latter, focal points of attention were the Central Region, an area with a pronounced problem of tenant farming, and the Lower Northern-Region, in view of the high concentration of small and nearlandless farm households found there.

Another significant advance in supportive measures during this plan period was the readjustment of the organizational structure for land administration in terms of a clearer allocation of duties to ALRO and the LDD. With the exception of these two, all public agencies were not to expand their scope of operation.

[50] Phiphatseritham, K., *Land Reform Plan, 1978-1981: An Analysis*, in Journal of Social Science, Vol.15, No.3, Jul-Sept., 1978, pp. 94-95 (in Thai only); Ramsay, J.A., *The Limits of Land Reform in Thailand*, in Journal of Developing Areas, Vol.16, no.2 , Jan. 1982, p.178; and Suehiro, A., *Land Reform in Thailand. The Concept and Background of Land Reform Act of 1975*, the Developing Economies, Vol. 19., No 4, Dec 1981.

1.3.2 Institutions Involved in the Management of Rural Land

Land administration in Thailand is conducted under the framework of a highly complex bureaucracy responsible for decisions on social, economic and environmental aspects of land resources. There are, altogether, 24 public agencies, affiliated to six different Ministries, which are involved in implementation of land policies; eleven being responsible for land allocation Separate from the executive mechanisms are ten national level Committees which function as decision making bodies.[51]

The power structure is highly centralized and personalized; i.e , even the national level bodies are only intermediary and ultimate power vests in the Cabinet Ministers.

The State , on the other hand, is not a homogeneous entity but is comprised of different segments of the bureaucracy representing Departmental interests which are seldom consistent with one another.

From the very onset, land policy has not been based on any long term perspective regarding the functions of land resources in the overall context of agrarian development. Policies are carried out, not so much in response to the needs of the masses but of politicians, with details of implementation being subject to inter-departmental politicking and bureaucratic manouvering. [52] There is no effective participation of the rural masses, so that land policies are only reflections of their needs in so far as the State perceives them.

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[51] Dilokkunanan, N., op cit., p. 5

[52] That is, although the latter may be mere executive bodies acting on directions provided by higher level decision making, given that positions are political rather than professional, assertion of influence by executive bodies may be possible through their control over basic information required for decision making

Characteristically, policies and legislation are framed in response to immediate issues, they change according to circumstances and in the inter-departmental balance of power, and are subject to influence by individuals in strategic positions within that complex structure This means, amongst other things, that past policies have lacked both long term perspective and continuity.

Notably, agencies involved in land administration are created not because circumstances call for different procedures, but because of indecision over choice of effective and long term solutions. Their undertakings differ only in details, each follows different approaches and procedures; they operate under different legislation and supervisory bodies; division of authority is never clearly spelled out; there is no formal provision for integration or coordination, and empirical evidence of informal integration is rare. In the forest reserves, for example, there are four public agencies involved,i.e., RFD, ALRO, PWD and the DCP; and approximately eight separate procedures to determine degazettement, ownership rights, and leasing or issue of usufructury rights.

Thus apart from duplication of efforts, wastefulness of resources and inter-departmental conflicts, the existence of numerous agencies also creates a number of management problems. At a very basic level, land information is dispersed among these various agencies and is often inaccessible.

Moreover, variation in approach often results in difference of treatment for beneficiaries and provides grounds for discontent particularly on the issues of size of parcel allocated and the content of property rights. Discrepancies arise, for example, when farmers under the S.T.K. programme who were earlier settlers, are allocated 15 *rai* per household whereas the later settlers under the ALRA 1975 have up to 100 *rai*; differences unsupported by any justification other than the different operational concepts of implementing agencies. General confusion also arises over the varying legal properties of documents; and conflicts where a parcel of land is found to have more than one type of document or claimant.

All these measures may be peripheral to the fundamental problems of the agrarian sector because there is little attempt to understand, or draw connections with the prevailing social and economic relations of production. Their contribution to agrarian change may also be limited by a number of conditions confinement to technical aspects of land administration and the systematizing of tenure of public land; failure to take a longer term perspective over the demand and supply of land and adoption of an approach that involves least disturbance of existing occupiers, and minimizing readjustment of the current distribution of land resources

With these limiting conditions, State intervention, even if effectively implemented, may only affect a segment of the rural sector; the size of the segment being subject to the physical availability of public land.

The minuscule scale of intervention in private land, on the other hand, is unlikely to increase the impact of land policies; with ALRO being the single agency, out of the 24 involved in land administration, with a mandate for intervention in private land, and the reform sector in private land comprising less than 0.2% of total agricultural land. In consequence, apart from land titling, the evolution of the private land market is left very much to itself.

While the quantitative impact is determined by the size of the reform sector, the qualitative result is conditioned more by the manner in which the State implements its measures. The information provided in this Chapter suggests inefficiency on various grounds: duplication, waste, and the slow pace of implementation.

Moreover, agencies involved in land administration share the social welfare approach, with a common outcome being failure to sustain their achievements. The risk of collapse upon withdrawal of external assistance, means, in practice, a long term commitment for government ; and, given that projects fail to be self-financing, continual competition for limited financial resources, thereby

perpetuating a situation where funds are dispersed and eventually prove to be insufficient

Within this context, one has a right to question the relevance of public intervention, taking into account the restrictive mandates and constraints which executive agencies are likely to encounter in respect of fluctuating political, financial and managerial support. It is with this intention that we next turn to the functional role of ALRO

2 THE URBAN LAND MARKET

Land use in BMR has been classified into two broader zones, comprising of the inner city districts within 10 kms of the Rattanakosin Area where land use is predominantly for government offices, commercial activities, educational establishments and living quarters. The outer bound is defined as the next 10 kms ring functioning as the new central business district accommodating outward increase in the numbers of businesses and commercial activities. Presently, the key government operations and businesses and commercial activities are concentrated in these inner city bounds and it continues to be the major employment areas. The land use development trend in the inner city areas is one of (verticle enlargement) due mainly to intensification of economic activities and the parallel increase in land prices.

The outer part of Bangkok is defined as the 20-40 km ring from the centre and linked to it by radial roads northwards and southwards to Nonthaburi and Samut Prakarn and eastwards and westwards to Chachoengsao and Nakhon Prathom. Around 25% of these surburban areas have been classified as residential areas, a ratio is likely to increase given the continued rise in land prices in the inner city area as well as the deterioration in urban pollution which are the main discouraging factors for middle to upper income level groups to live in the inner city area. The remaining 85% of the land are utilized for manufacturing and commercial activities while parts of the land remain under agricultural production. The outward expansion of economic

activities together with the economic and environmental push factors are likely to intensity land use in these fringe areas Though linked with the inner city by arterial roads, lack of adequate distributor roads and access roads and lagging development of urban amenities are said to be the prevalent problems of these areas.

Characteristic of the urban land use situation is that the pattern has been mainly influenced by private developers with limited (and often ineffective) control being enforced by the concerned authorities in the public sector. The pattern of land use is characterised by a leap frog situation, i.e., widespread features ribbon development along the road alignments with limited spread effects on the hinterlands. Urban development has also been accompanied by bottlenecks in provision of urban infrastructures which relies entirely on public spending. (or limitations of it on the part of the direct authorities)

2.1 Consequences of Development Trends

The result is evident in the present land use of BMA, insufficient road ratio, unsystematic road networks, numerous blind land parcels and an overall low efficiency in pattern of land use. Numerous private housing developments have been emerged to take opportunity of economic boom during the late 1980s, a period which increased business volume of professional developers and created many amateur developers. The slow down of the fever following the event of the Gulf war pushed many developers, professional and amateurs alike into backruptcy. Nevertheless, even of today, land speculation still continues to be one of the more 'sure' businesses that those with any substantial amount of capital to risk.

The outcome of the land/developers rush in addition to the economic pull which underlies the rapid increase in migrant population of the BMA together creates a situation where urban public facilities lag behind the demand.

While amenities within private housing projects may be **'complete'**, [53] there appears to be inadequate effort in linking up these private housing projects with the broader road networks or to link up with local existing urban systems to which ' **new communities'** [54] are superimposed. In short, urbanization as a result of rapid economic development has many externalities that are reflected in the poor quality of life, congestion of living space, air and noise pollution, problems of transportations and inadequacies of urban services In many respects, while solution from the public sector is slowed down by legal and bureaucratic procedures, private sector initiatives have provided immediate answers which while alleviating problems in the short run, may prove to be highly problematic for future management and control. Bottlenecks in public transport services for example, have generated an informal system of mass transport in the form of unregistered, but unofficially recognized motorcycle taxi systems

One positive indicator for the future is that the externalities of urban living environment have been recognized as a development priority in the formulation of the Eight Social Economic Plan is the acknowledgement of the inadequacy of provision of basic urban infrastructures in BMA and suburban areas. [55] The State recognizes that failure to efficiently manage and control land use, as reflected by the haphazard and unsystematic nature of urban land use, is due to the absence of a strategic plan and lack of appropriate town planning control measures. Reference is

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[53] Most private housing projects have all the utilities needed, i.e., water electricity, garbage collection services, security guards. The more up market projects will also have sport facilities, shops, restaurants. The intensive competition demands that developers build in these services as part of their marketing strategies.

[54] The real surburban areas of the Greater Bangkok Region such as Nonthaburi, Pathum Thani, Samut Prakarn are packed with recent private housing projects of varying price ranges. While there are comprehensive services within private housing projects, a large scale influx of new residents often create an overnight demand for public facilities such as roads, solid and water waste disposal problems Although private housing projects always include proximity to road development projects as an incentive, buyers often create a bottlenecks of existing road networks during the interim stage prior to completion of those planned projects. The mushrooming of numerous housing projects along the Pin-Klao Nakhon Chaisri corridor, Bang Yai and Bang Bua Thong districts and the daily congestion of in and out traffic can be cited as one of these examples.

[55] Concept and Strategy for National Development During the Eighth Plan, Seminar Document circulated in Meeting at Ambassador City, Phattaya, March 3-4, 1995 (Bangkok: NESDB), 1995

made to the lack of financial resources, to the inabilty of the State to bear all the costs, to the inabilities of local authorities to take independent initiatives as well as to the sub-optimum level of private sector participation.

3 FUTURE DIRECTIONS OF THE RURAL AND URBAN LAND TENURE SITUATION

From the second half of the 1980s onwards, coinciding with the Sixth Plan period (1987-1991), with the prospects of the land frontier being reached, the focus of land policy has been on efficient utilization of land. Considerable advances have been achieved during this period in the finalisation of concepts and direction of land administration into three avenues of policy, which are believed to be free of inconsistencies and contradictions: the Land Policy, Forestry Policy and Land Development Policy.

Central to current land administration is the Land Policy which was finally approved by the Cabinet on September 1, 1987. This provides the overall framework for future land administration. It divides utilization of land resources into 5 main functional uses which are (i) economic, (ii) social, (iii) conservation (iv) national security and (v) special policy for the hill tribe minorities.

Regarding the economic objectives of land use, measures are designed to encourage greater intensity as well as appropriate usage of resources which is consistent with suitability, capability and availability of physical infrastructure. Supportive technical measures include: formulation of a comprehensive land information system; completion of registration of private land ownership, replacement of traditional land tax by a progressive taxation structure; formulation of land use and development plans; division of agricultural land according to its production potential assessed primarily on the basis of availability of water resources.

On social objectives, measures are provided for degazettement of encroached forest areas for reallocation. Emphasis is placed on acceleration of distribution of land rights; and a time frame is set for compliance by public agencies responsible. Activities undertaken by the PWD, the DCP and the RFD for example, should be completed by the end of 1992 which is the last year of the Sixth Plan Similarly, ALRO should complete its land distribution activities in private land and public land within 10 and 15 years respectively. The Land Policy 1987 also calls for review and modification of laws, regulations, ministerial decrees and organizational aspects of land management and confirmation is made of the types of land for reallocation and redistribution.

As an operational concept, land allocation will be supported by the provision of basic infrastructure. Ownership rights will be granted after 10 years of occupancy during which period, farmers will have only usufructury rights Payments to be made by beneficiaries to meet land development costs will be increased. The idea of a land bank as a supportive tool for land allocation and land reform is reemphasized.

With rapid urbanization and growth of the non-agricultural sector, the economic component of the Land Policy acknowledges the need to protect as well as reserve land suitable for agricultural production.[56] In support of this objective, the LDD was allocated the responsibility for formulating the Protection of Agricultural Land Bill Given that the aims and objectives of such a Bill are already covered by the existing Land Development Act 1983, the final decision has been that this be amended instead. [57]

Under the proposed amendments, Section 5 stipulates that areas suitable for agricultural production will be listed, together with boundary maps; and

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[56] LDD, *Protection of Agricultural Land: Problems and Policies*, paper presented at Conference on Strategy for Management and Organization of Land for Agricultural Production organized by the OAE, (Bangkok:OAE), April 19, 1990, p. 9

[57] Ibid., p. 9

LDD staff will be appointed to monitor and protect agricultural areas and any changes affecting the protected areas will have to be supported by Cabinet approval. Similar to the provision of ALRA 1975, large parcels of land not utilized by owners, or which await development infrastructure to be provided by the State, may be appropriated [58] The State will issue bonds to owners and reallocate land to farmers on a hire-purchase (See Chapter 5), or rental basis; alternatively, the land bank could purchase land for disposal under long term hire-purchasing contracts.[59]

The Seventh Plan (1992-1996) still refers to the need to accelerate reform measures, to enforce the tenancy legislation and to promote of 'an appropriate land use pattern'. [60]

In 1992, during the Chuan Government, land reform policies were actively enforced as a measure to alleviate land tenure problems of agricultural producers. The set target of 4 million rai per year necessitated the acceleration and completion of supportive measure of both the RFD and ALRO in verifying degraded encroached forest areas to be degazetted for land allocation. A Cabinet decision of March 10 and 17 commanded that the RFD classifies land use within national forest reserves into 3 categories, these being:

Protected areas refer to natural forests within the boundaries of national forest reserves which are still in prime condition covering an area of 88.23 million rai.

Economic forests which refer to areas where permission is granted for the private sector to utilize for commercial forestry. A total of 51.89 million rai was classified under this category.

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[58] This is at present, only a proposed strategy within the proposed amendment of the Land Development Act. The LDD working group are of the opinion that the enforcement of this clause may need, after all, the formulation and enactment of the Act for Protection of Agricultural Land,

[59] Ibid., p 14

[60] Summary of National Development under the Framework of the Seventh National Social and Economic Development Plan, (Bangkok: NESDB), 1990, p. 49.

Degraded forest areas which are suitable for agricultural production which have already been brought under cultivation. Estimated area of this category amounted to 7.22 million rai.

The land under the third category was transfered to ALRO by the RFD in 1993. In 1994, the RFD transfered an additional area of 30 million rai classified under the second category which has already been brought under cultivation to ALRO.

During the initial phase, a number of population who were to be affected, one way or another, by the accelerated pace of land reform activities were in opposition to the programme. One other reason for discontent was that parallel to the attempt to accelerate land reform, the Department of Lands was also speeding up its 'land titling' activities. Since the latter was issuing a 'title deed' as opposed to 'occupancy' rights, many of the would be beneficiaries naturally 'prefered' to acquire the former legal status.

An interagency meeting was thus arranged at the beginning of 1993 to solve the discrepancies, contradictions and overlapping of functions of the many land related public agencies. The solution reached and submitted to the Cabinet for approval on May 4, 1993 was that if it can be proven that 'occupiers' of land classified as being in the national forest reserves were there prior to the announcement of the boundary of the forest reserve, they will be issued 'title deeds' according to the stipulations of the Land Code. On the other hand, if they were there after the announcement, then they will only be granted occupancy rights under the Agricultural Land Reform Act.

With this principle endorsed, the opposition against conducting cadastral surveys and cross examination of land rights subsided with the general anticipation that rights could be verified and titles might be granted. As a result of

which, progress of cadastral survey works exceeded the target in 1993 with coverage of 4.5 million rai and 6 million rai in 1994.

Apart from the quantifible aspects of work progress, a number of basic dilemma has developed, among the more important being whether land reform activities, as they are presently carried out diviates from the original intentions of the law and whether indeed, it is benefiting the intended target groups. But the peak of the crisis over land reform was in May of 1995 with the issue of land allocation to a beneficiary in Phuket who, although fitting the definition of the 'agricultural' producer according the Law's definition, failed to satisfy the general public as to the entitlement given the relatively wealthy background from whence such a beneficiary came. The crisis led to the vote of no confidence in parliament and the end of the Democratic Government for this period. The future of land reform remains as uncertain as the unclear policy objectives of Chuan's succeeding government.

In conclusion, statistics on various aspects of land tenure described above tend to indicate that tenure problems are only slight compared with other developing countries [61] Up to the mid 1970s, the ability to expand cultivated areas has been the underlying reason for continued growth of output, constant man-land ratios and a relatively stable distribution of land holdings. Rural inequality has been mitigated by abundance of land, which has allowed the colonization of new land by the aggrieved or dispossessed. In many respects, ready availability of land was also the underlying reason for stagnation in technological innovation, which was reported to have been virtually non-existent between 1850-1950.[62] Current statistics on yields indicate that, even in the comparatively advanced Central region, both labour and land productivity are significantly low.

Thus, prior to the realisation that the 'land frontier' is being reached, the need to adjust tenure systems for output as well as for employment

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[61] Griffin, 1981, op.cit., p.287

[62] Ingram, J. C., *Economic Change in Thailand*, 1950-1970, (Standford: Standford University Press), 1971, p. 48

objectives, was not viewed as imperative; since the agricultural sector still managed to grow. On the other hand,the changing agrarian situation apparent from the mid-80s, differed from preceding decades in three very crucial ways, namely, (i) increasing land scarcity, (ii) marginalisation of agricultural producers; and (iii) increasing competition and protectionism in world markets for primary agricultural commodities.

In connection with growing land scarcity, pressure for land is likely to increase because of the slower rate of expansion of cultivated area, by comparison with population growth, and the limited absorptive capacity of non-agricultural sectors to accommodate labour. Surplus labour will force a spontaneous reallocation of resources; which could lead to excessive subdivision and fragmentation of holdings. Technological advance could alleviate demographic pressures for land, allowing for a downward readjustment of size of holdings without adversely affecting output, but, if appropriate technology cannot be advanced, diseconomies of scale are likely to result thus accentuating the polarisation and pauperisation processes as direct producers lose control and are separated from the means of production.

Marginalisation of direct producers or disintegration of an independent peasantry, would mean the direct producers operating under increasingly adverse conditions such as inaccessibility of land, working capital, market information, or supportive services. These conditions combine to create instability and unreliability in sources of income; also inability to reap the full benefits of production, and investment. Producers will be unwilling to allocate more than the minimum effort. Given that small scale producers constitute the dominant group among the '*cultivating class*', the outcome will have a direct and significant impact on performance of the agricultural sector as a whole. Recognition of this underlies the assertion that sustainable growth in the agricultural sector relies on '*repeasantization*'[63], or recreation of independent producers.

The third changed circumstance in agricultural production is the increasing competition and degree of protectionism in world markets, particularly for

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[63] Ghose, op cit., pp. 91-123.

primary agricultural commodities. The implication is that improvement of production efficiency is required, not only to ensure competitive prices, but also for maintaining quality standards for exports.

In the absence of policy intervention, it is likely that interplay of the three abovementioned forces will precipitate the production and distribution crises long experienced in other developing economies A rethinking of land policy is therefore essential, and resolution of a number of contending and often conflicting issues of efficiency on the one hand, and equity on the other. However, interpretation of official policies to date tends to detect reluctance, on the part of the State, to intervene in fundamental land tenure issues closely related to social and economic relations of production In many respects, land policies are based on a confirmed belief that any production crisis can be resolved through proprietary and tenurial changes, whilst adverse effects on growth, manifested in the marginalization of direct producers, can be mitigated through rural development measures. On the other hand, it is now widely acknowledged that technical inputs, while necessary, can be beneficial only if there is mobility of goods and services, or where there are no distortions of channel flows. Where this is not the case, technical inputs may be counter productive, accelerating rather than reducing differentiation [64] Similar reasoning can be applied in the case of rural development programmes where the inegalitarian base distorts flows of goods and services, which often results in capture by the less needy. More often than not, inputs for these programmes are far below the scale required to eliminate poverty and increase the welfare of the rural poor. Moreover, welfare type assistance can never be financially self-generating; but requires constant inputs from the assisting agency, at scales and levels of intensity that are hard to maintain.

To achieve effectiveness in countering the forces of marginalisation, the precondition on which to build a sustainable and dynamic agrarian sector, it is necessary to establish an egalitarian base in land and production assets. On the other hand, given regional variation in agro-economic potential as well as the level of integration of agrarian systems into the market economy, appropriate land

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[64] Griffin, 1987, op. cit., p. 19

reform measures must be devised on the basis of full understanding of the causal connections between land tenure and the agrarian systems that evolve To assert that redistributive reform is itself a universal answer to the agrarian crisis would not only be inappropriate, but may also be counter productive.