



South East Asia Regional Cooperation in Human Development

SEARCH strengthens legal and institutional mechanisms for the promotion and the protection of the rights of children, ethnic minorities and migrant workers in Southeast Asia. Working with three regional partners, as well as national civil society organizations, the project encompasses seven countries: Thailand, Vietnam, Cambodia, Indonesia, Philippines, Laos and Timor Leste.

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THE PERSONAL LEGAL STATUS FOR ETHNIC MINORITIES PROJECT IN NORTHERN THAILAND

“I have been given a new life!” exclaimed a migrant worker upon receipt of his document.

“To be able to move and work anywhere without fear of being arrested, harassed, or molested; to be able to plan for the future; to be able to access the services available for citizens; to be able to access the justice system; to be able to demand for accountability for human rights violations; to be able to explore the world. Surely, that is a new life, a new life out of an invisible prison.”

Background

Approximately 1.2 million people belonging to Thailand’s richly diverse ethnic minority community reside in the so-called “forest area” in the northern part of the country. While these primarily hill tribe people are mainly dependent on rotational agriculture for their livelihoods, some of them have adopted lowland wet rice cultivation. However, no matter what their settlement and farming patterns, many of the country’s hill tribe people lack citizenship and as a consequence are deprived of access to land and sidelined from the development process.

Thus it is not surprising that Thailand National Consultation Workshop on Ethnic Minority and Indigenous Peoples organized by FORUM-Asia¹ and IMPECT² that took place in Chiang Mai in April 2007 identified the lack of personal legal status as one of the seven factors contributing to the low level of well-being and high level of vulnerability amongst hill tribe people. Not only does it hinder their freedom of movement and access to basic social services like health and education, it also pose a threat to their personal security, and in particular to the personal security of women and girls. As well the workshop noted that heads of households, poor in part because of their lack of legal status, often find themselves too poor to send their children to school or to access community health services even if they are legally entitled to such services. As a consequence the ‘citizenship trap’ cascades downward from generation to generation. The workshop’s response to this troubling analysis of the impact of citizenship exclusion on ethnic minority well-being was to create a number of issue-oriented working groups. The first to respond

¹ FORUM-Asia is an Asia-wide network of human rights defender organizations.

² IMPECT is the Inter Mountain Peoples Education and Culture in Thailand Association which has been working for more than 15 years to increase the empowerment of ethnic leaders and networks.

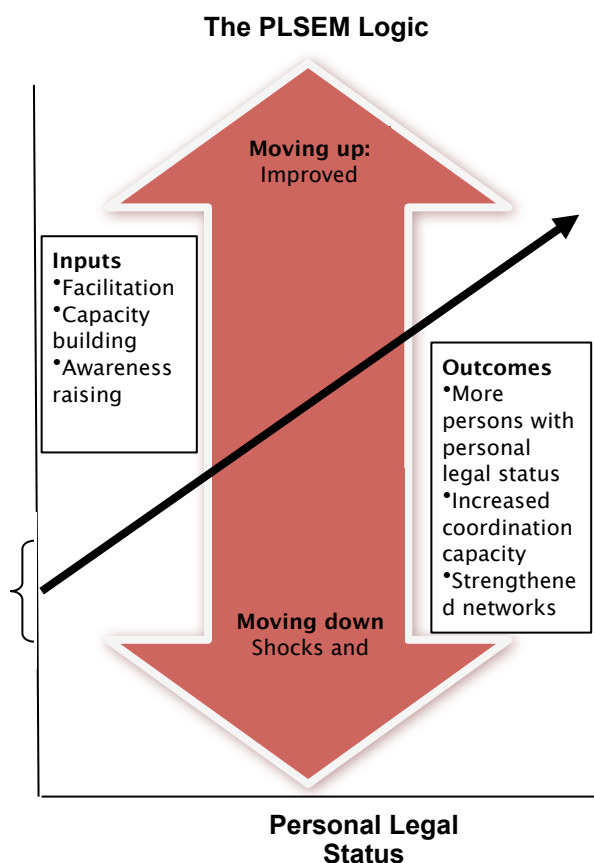
to this “call to arms” were the Karen Network for Culture and Environment (KNCE) and the Upland Holistic Development Project (UHDP).

The opportunity for taking the decision to set up working groups had been created two years earlier in May 2005 when the Thai Ministry of the Interior adopted a “strategic plan” to finally address the personal legal status issue, but in the course of doing so created a plan so loaded with burdensome and confusing processes that neither its target population nor its ministerial implementing offices could make it work easily and effectively. Apart from this, there was the continuing communication divide between the ethnic minority clientele of the ministry and its officials, not just in terms of language barriers and physical accessibility, but also in terms of the difficulties encountered in interpreting the complexity of the regulatory framework and procedural requirements of the plan. As a result the stage had been set for an NGO intervention aimed both at “intermediating” community-government cooperation in untangling the bureaucratic red tape and in processing individual citizenship applications.

As far back as 2001, UNESCO trained organizations like IMPECT (of which KNCE is a member) and UHDP had taken up a Highlands Citizenship Registration Project aimed at helping highland people to register for Thai citizenship or permanent residency. Then in 2007, building on this initiative, several organizations such including UHDP were able to form a cooperative alliance with the Fang district office in Chiang Mai to solve personal legal status processing problems. In doing so, they were jointly able to assist more than 600 people to get included in the registration process. But even more important than modeling how to help people to prepare their citizenship documentation, the Fang initiative became a model of best practices in community-government cooperation

The Personal Legal Status for Ethnic Minorities Project (PLSEM)

One of the replication sites of the Fang experience was a pilot project in two districts consisting of eight sub-districts in 33 villages in Fang district of Chiang Mai province and Karen villages in the Mae Wa Luang sub-district of Mae Ra Mad district in Tak province. These two districts were ones where UHDP and KNCE had already been working on an ongoing basis and where they could recruit volunteers relatively easily. As well, they were districts in which the two organizations had already developed a rapport with both village leaders and government officials, making it easier to facilitate participatory processes. The objective of this Personal Legal Status for Ethnic Minorities Project was **to realize the right to a nationality of at least 1,000 individuals from selected villages in Tak and Chiang Mai Provinces.**



In May 2009 an evaluation was undertaken of the “pilot” in order to determine the lessons that could be learned from it. What follows is a summary of the findings of that evaluation exercise.

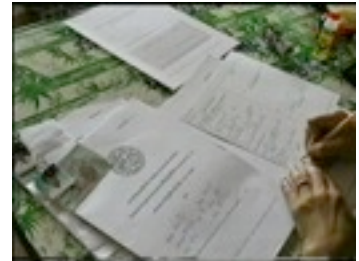
The Results Achieved

PLSEM was expected to achieve three interconnected outcomes: (i) the granting of personal legal status to more than 1000 individuals in selected communities in northern Thailand; (ii) an increased capacity to coordinate the efforts of stakeholders to improve the personal legal status of at least 1,000 individuals; and (iii) a strengthened network of community leaders, academe, government officials and NGO workers in the target area ready to participate in the personal legal status examination and approval process.



In fact, out of the 4,500 individuals who filed applications, 1,761 or 39% were granted either citizenship, alien registration or migrant worker permits. However, it is worth noting that 66% of those who did not get any status actually were persons who did not live within the target area but were surveyed because they

lived within the Karen ethnographic area. If this non-resident group is factored out, the achievement rate for the target area jumps to 65%. While 1,800 of those in Tak Province were not granted a legal status, the simple act of getting them enrolled in the registration process gave them a white card, which means that they at least gained residency status and that the process of evaluating their legal status was begun. As for the remaining 939 persons who were not granted immediate legal status, the district office has at least acknowledged their presence and their application. The ethnic mix of the applicants included Dara-ang, Kachin, Karen, Chinese, Shan, Akha, Lahu, Wa, and Burmese. The gender ratio of those who received legal status was 911 males to 850 females.



One of the objectives of the project was to encourage the collective participation of community leaders, academics, government officials and NGO staff in the personal legal status examination and approval process. Interestingly, those who picked up the challenge came from all levels of society:

- a. From the village/tambon (sub-district) level: village leaders, tambon officials, sub-district staff, volunteers, target individuals and families, support groups;
- b. From the oboto (district) level: officials, staff, volunteers, support groups;
- c. From the provincial level: officials, support groups; and
- d. From the ministry level: officials.



The above network of actors that was established through the project stands ready to serve as a support mechanism for future work on the issue of statelessness and birth registration. Geographic spread of the network extended over 33 villages in 8 sub-districts in 2 districts in 2 Provinces in northern Thailand. UHDP provided 50 volunteers to the project of whom 30% were women and 70% were men; KNCE provided 15 volunteers and 2 staff persons to the project.

Project Challenges

The project faced a number of challenges in the course of its implementation.

Firstly, there are a number of state laws and policies, the enforcement of which can have negative consequences on the legal status of Thailand's tribal/indigenous peoples. For instance, many of them still practice a traditional form of rotational agriculture, which runs up against national environmental laws and regulations. Furthermore, those that live in communities within national park boundaries face the problem that traditional practices such as gathering wood for house-building or for firewood have become criminalized. A record of offences related to these matters can put applications for legal status in jeopardy.

Secondly, the attitude of the Thai government towards tribal/indigenous peoples is ambiguous. It tends to be benevolent if indigenous culture and villages are required for tourism promotion purposes but to be malevolent if their way of life has adverse environmental effects, poses national security threats or stands in the way of development.

Thirdly, government policies and strategies to solve "the problem" of citizenship and legal status have also been ambivalent. Over the years, various policies have classified the country's indigenous peoples into different categories and subjected them to different legal systems. This has rendered current efforts to define their status under the law doubly difficult. To illustrate: in 2004, 48 Palaung men and women were arrested for living in a national park, which had been their home for generations. But more alarmingly, they have been arrested two more times since the announcement of the Ministry of Interior's new policy of the personal legal status of ethnic minority persons.

Fourthly, there have been recent cases where the state has withdrawn the citizenship of individuals without due process, which does not augur well for a sustainable solution to the country's stateless problem.

And lastly, a lack of public awareness about human rights in general creates an adverse environment within which to promote and protect the rights of the country's ethnic minorities.

FORUM-Asia's Facilitating Role

External support agencies like FORUM-Asia often face challenges in working out exactly how they should support local initiatives like the PLSEM project and in determining the type and depth of involvement in their operations. FORUM-Asia decided to take a three-pronged approach to this dilemma: provide financial support on a flexible basis, facilitate networking processes and link the project to regional efforts at human rights advocacy. The following table is a FORUM-Asia analysis of some of the factors that lead to the project's success and how it was able to add value to it.

SUCCESS FACTORS	VALUE ADDED FROM SUPPORT BY FA
• Volunteers trained and utilized at every level from village to district	• Funds provided to support volunteers
• More community leaders paying more attention to their members	• More community leaders trained on the relevant laws and regulations and their obligations
• Clearer and more accurate data and information about village members	• Training of leaders and volunteers on the need for credible data to support applications
• Budget available to support volunteers	• More people focusing specifically on the process and ensuring quality data
• Having advisors from UHDP and NGOs which make the process easier	• Advisors used to enhance the knowledge of volunteers on the law and to share best practices regarding registration processes
• Collaboration and cooperation among all stakeholders: government, NGOs, communities and target individuals/families	• Less corruption but increased risk for the partners from those who have benefited from the previous modus operandi
• Database and information on target groups available at the project making it is easier to support the implementation of the process	• Utilization of available data which otherwise would have become stale or lost
• Government policies and laws in place which made it easier for people to acquire personal legal status	• The timeliness of the contribution made status acquisition more efficient, i.e. It was timed to take advantage of the passage of the 2008 National Act the aim of which was to facilitated citizenship acquisition
• Communities were already organized by the KNCE and UHDP	• Recognition of the inherent strengths of the participation community-based organizations
• Commitment of KNCE and UHDP to achieve the goal of registering at least 1,000 individuals	• Confidence in capacity of KNCE and UHDP to implement the project
• Wider support from other organizations like the Thailand Lawyers Council, the IJM, the church groups, and academe	• Support for KNCE and UHDP networking and advocacy efforts

It should be noted, however, that FORUM-Asia's support for the PLSEM project, however significant, was not sufficient to cover all its needs. Right from the project's outset it was understood that the individuals that it targeted would have to bear the costs related to the preparation and processing of their documents. On top of this, other project inputs like video and still cameras were provided by IMPECT and UHDP. To its lasting benefit, the PLSEM project was locally driven and locally owned.

Unresolved Issues and Emerging Opportunities

Like all small projects working on complex issues, the PLSEM project leaves behind it a number of unresolved issues:

- a. The unfinished business of awareness building in ethnic minorities communities concerning the nexus between rights and well-being;
- b. The lack of local resources to maintain the project's volunteer support program on an ongoing basis;
- c. The continuing communication gap between village leaders and villagers;

- d. The continuing indifference of some district offices to ethnic minority issues;
- e. The self-reinforcing effects of poverty (illiteracy, poor health and isolation) on people's ability to access government services, including the services of providing proof of citizenship; and
- f. The difficulty in disentangling the issues of citizenship, human rights, ill-being and ethnicity.

On the other hand the PLSEM project leaves behind a number of opportunities for a more sustained effort to help Thailand's ethnic minority communities to access the services available to citizens, including their access to justice and economic security. Most importantly, in this regard, it has modeled a rights-based approach to ethnic minority development that links their citizenship rights to their broader social and economic struggle. And opportunities certainly exist to take advantage of FORUM-Asia's regional network to channel the learning that has taken place on the PLSEM down at the community level up into the surge in human rights institution building processes currently underway at the ASEAN regional level.

Lessons Learned from the PLSEM Project Experience

The PLSEM was, if nothing else, a learning experience. What follows is a selection of the insights gained through the course of its implementation.

1. *Promoting the right of ethnic minority persons to citizenship in the Thai context was dependent of being able to mobilize voluntary collective action aimed at breaking old patterns of behavior up and down the system.*
Thus it became important in moving the project forward that villagers be willing to negotiate all the way up the chain of local government – from village to ministry – in order to get permission to access personal data sets, in order to get village officials to support the requisite processes, to incentivize local officials fulfill their duties, in order to recruit volunteers willing to be trained and be of help, and in order to build rapport between district and provincial officials.
2. *A human rights approach to development requires high levels of community participation as well as high levels of trust and risk taking.*
In the case of the PLSEM project, FORUM-Asia's local partners working at the community level had to build sufficient trust within the "community of vulnerable persons without legal status", first to share their personal information and then to be walked through the legalization process. The fact that such persons are not allowed mobility beyond their villages meant that bringing them to a district office in a town centre was high risk for them requiring of a high level of trust. In the end, the best way to build that trust proved to be a genuine commitment to full transparency up and down the line and to promoting local opportunities for dialogue and creating space for making people's voices heard.
3. *The issue of statelessness must be dealt with in a holistic way.*
For stateless persons, their statelessness is not so much a moral or rights issue; rather it is all tied up with the issue of basic well-being – with the individual's poor quality of life and deprived access to basic services.
4. *Small interventions in support of human rights promotion and/or capacity development can have a high impact.*
In this regard, it was the PLSEM project's very smallness that gave it the capacity to target its efforts on a limited number of communities, to build local confidence and awareness and manageable sized networks, and to avoid some of some of the chaotic context of the national debate on statelessness.

Conclusions

Current thinking about development holds that large not small interventions are required in order to achieve significant results – that large-scale interventions are both integrative and cost effective and that small-scale interventions are both intrusive and costly. The PLSEM experience is however proof that the opposite view also has validity – that “small is beautiful”. There are a number of reasons for this.

1. Although the PLSEM project was addressing the very complex issue of the human rights of Thailand’s indigenous peoples, it was small enough to be manageable and achieve concrete results.
2. In the final analysis rights struggles are local struggles and by harnessing local NGO knowledge and commitments PLSEM it was able to translate these local capacities into concrete rights and well-being benefits for over one thousand indigenous persons.
3. Being a small project, the PLSEM project was able to concentrate its efforts on a number limited number of villages and districts and to mobilize local volunteers to take the project to them.
4. Because the PLSEM project was organized hierarchically – volunteers supported by local NGOs (IMPECT and UHDP) supported by a regional NGO (FORUM-Asia) supported by an external donor (CIDA) - it was, in fact, an integral actor in a much larger program approach to human rights advocacy across Southeast Asia.
5. And finally, being a small compact project but with outward connections, the PLSEM project was able to take a holistic if local approach to the task of getting personal legal status for ethnic minority persons in Northern Thailand that combined awareness raising, capacity development, policy advocacy and civil society government engagement, making it a perfect example of a rights-based approach to development.