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SOTHONSINEE SUPANUSORN: THE POSSIBILITY OF JUDICIAL
RECOGNITION ON COMMUNITY RIGHTS CONCEPTS: A CASE
STUDY OF BAN MAE OM KI IN TAK PROVINCE, THAILAND.
THESIS ASVISOR: NARUEMON THABCHUMPON, PH.D., 106 pp.

This study aims to examine the possibility of judicial recognition on community rights concepts. First, the study examines the concept of community rights as recognized under international human rights law and constitution of Thailand. Second, the study attempts to examine conditions of recognition community rights perspectives and the way of life of the affected communities and their experience of getting legal recognition of their rights.

The concept of community rights is recognized under the 1997 and 2007 Constitution of Thailand. It has also been recognized by the international human rights legal framework. However the laws in Thailand still do not recognize community rights. In this scenario, the judges have played an important role while adjudicating cases before them that pertains to community rights.

In this context, the research aims to study the case of Ban Mae Om Ki where two villagers were arrested under the charge of 'encroachment over forest land' while they were preparing the land for swidden farming or shifting cultivation. Although only two individuals were arrested, the arrest was significant for the entire community. The exercise of self-management of natural resources by the community, though guaranteed under international human rights law and the constitution, is unacceptable at the level of law enforcement. The officers of the forest department, the police and the prosecutors do not recognize this system of management and apply the law on forests on all people and arrest them for violating the law. However, co-operation of civil society networks and legal assistance helps the arrested persons to present evidence before the court that explains swidden farming and supports the concept of community rights. In this way, new judicial principles are formulated.

This is a one case of human development as explained under the framework of Human Right-Based Approach to Development (RBA). The process of empowering the villager and cooperation inside community network helps in recognition of human rights. It shows how litigation and judiciary can help in shifting paradigm shifting of the state in order to protect the rights of citizens. For the purpose of balancing the state power influence by law which is violated people rights under Critical legal study (CLS) concept.

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