
The two critical stages of land policy in modern Thailand

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Abstract: *The presentation will be made by my documentary research in the reign of Rama V at the National Archives. Why was the land policy retarded for ten years from 1892 to 1901, just when the modern land tenure system began to be introduced into Thailand ?*

There may be given many reasons for the delay. The technical reason is the first plausible one. The ever expanding cultivated area on the vast frontier of the Chao-Phraya Delta might not be caught up by the survey techniques of the less trained technicians of mapping the land. The political reason might be another explanation. There peaked a crisis of French annexation of Laos and Cambodia border in 1893, and the King fell into too much nervous situation to do judge important policies until 1894.

We can find, however, the foregoing efforts on the legal and administrative preparation efforts by the concerned ministers, as Chaophraya Sisuriyawong, just during these ten years, as shown in 1894 and 1896 law manuscripts . They already had given many ideas to promote the modern tenure system by issuing the modern style title deeds. Anyway, the royal cabinet was greatly shuffled and eight of twelve ministers was replaced by “the Young Siam” members in 1896., and the ministry of agriculture was amalgamated into the ministry of finance under the influence of Prince Mahit.

This drastic political process suggests at least the last priority to the agriculture and land policies at this end of 19th century modernization process. It may be one of the reasons why the tenure proof administration and the tax collection administration was technically divided and not related with each other. The ministry of agriculture was merely allocated the former one and gradually limited her role to planting techniques since then, and it has become the long tradition. of the National Archives.

Introduction

In his famous thesis, David Johnston was interested in the difference of the damages by the Great Depression between the Chaophraya Delta and the Irrawaddy Delta, and caused it to the difference of the speed of the agricultural development in both deltas. In the former they should use mainly domestic capital and labor of the limited supply, but in the latter they could use the abundant foreign capital and labor, after the frontier had exhausted in the early 20th century [Johnston 1975:414-425]. However, this difference might be grounded by the difference between the small holder system by the domestic peasantry owner in the

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former, and the big landlordism by the foreign moneylender owner in the latter, and the land policy in both countries might cause this difference of land tenure.

The claim of the Thai mainstream of small holder system may be correct, but the problems are, firstly, if the Thai land policy has generated the small holding system constantly or not, and, secondly, if so, by what conditions this policy orientation was made possible.

In order to answer the first question, the two critical periods should be considered in more detail. They are the end of 19th century, 1890-1910 at the frontier rice field, and the first of half of the 20th century, 1915-1930, at the frontier forest land, which used to be the hinterland, but be advanced by the frontier. On these two critical stages on both frontiers, the option between the big scale landlordism and small scale holder system have been tried by policy makers, but the result was settled for the latter direction. In this sense, the historical path to the small holder system was not so straight as generally considered.

Until the present, the history of the Thai land policy has been studied better for the first period on the frontier rice field, than the second one on the frontier forest land, and it seems to have been some broad academic consensus already, which supports the ideal of such policy makers as Prince Ratchaburi of rejecting the big landlordism. Prince Ratchaburi was the minister of agriculture during 1912-1920, and he just stood on the threshold from the first stage to the second stage of land policy, whose target was gradually transitioned from the rice field to the frontier forest. It is well known that he tried to stop the frontier forest version of the big landlordism and big plantation by the Additional Land Act, Part II. However, we have yet only fragmental data for the another trials by other policy makers to promote the big plantation and land holding in contrast to the Prince's efforts.

Here I will give my perspective for the land policy making process on both of these critical moments, by depending upon my primary sources of historical documents mainly searched at the National Archives, and show the non-smooth and non-straight way towards the small holding system. The orientation for the small holding had summarized firstly in the First Land Act in 1909, and secondly in the Additional Land Act, Part VI, in 1936. The essence of these two acts was later systemized by the post-war 1954 Land Cord.

Until it was finally systemized into the First land Act, there had been many cases of trial and error of land act manuscript for ten years since 1891, and trials of the administrative division of land title and land tax for another ten years since 1900. The land tax act was rather earlier promulgated in 1900 than the first issuing trial of land title in 1901.

During the preparatory stage for the First Land Act, the policy for the landlordism formation was also adopted for a short while, quite contrary to the small holder system. It was typically shown in the case of Rangsit-Canal Thung Luang area on the rice field frontier, and it flourished until 1905, when Thailand was hit by the worldwide depression. The reconsideration to this orientation began after the 1905, and it peaked in the mid 1910, when a progressive policy maker, Prince Ratchaburi, was appointed to the ministry of agriculture. By promulgating the Additional Land Act, Part II, he tried to realize the smaller scale concession of the frontier land to the peasantry, and to prohibit the bigger scale concession to business group of partnership. This procedure was accompanied by his own efforts to

solve the problems of a typical case of monopolistic concession to the Rangsit Canal and Irrigation Company by the former ministry on the first stage in the rice frontier.

After his death in 1920, however, the new forest frontier expanded beyond the Chaophraya Delta into the other mountainous localities, his efforts seemed to be reversed by a new minister, Chaophraya Phonlathep, who easily recognized the big concession to the Northern teak forests and the Southern rubber plantations. It coincided with the era of the Inter-War boom between the First and Second World War. After the Great Depression burst in 1929, the boom ended, and the dream of Ratchaburi was again and finally realized by the Additional Land Act, Part VI. This line of small holder system was confirmed again by the Land Code 1954, which basically forms the present essence of land tenure. In this way, the course towards the small holder system was settled in the modern Thai land policy, but it was not straight at all as shown below.

For the second question, we can answer that it depended upon the unique modernization process, which could keep some of the traditional factors and adopt them partly, especially in terms of land tenure reform in the new frontier. In contrast to the neighboring countries under the direct colonial control, Thailand could sustain her independence narrowly, which made her policy options more flexible than the neighboring countries.

As is well known, the Western modern land tenure is absolute in its nature, that is, the owner, who is usually a person or a juridical person, is given the exclusive right to protect from other's invasion forever, regardless of its utilization, once he has been recognized the tenure by the state. In exchange of the proof of the absolute tenure by the state, the owner should pay the land tax to the state.

In comparison with this absolute nature, the nature of land tenure in old Thailand was somehow different. For instance, the land tenure was not absolute especially for the clearing land in the frontier field and forest. Principally people was admitted the land tenure only when they cultivate and pay the tax after a certain years of exemption. However, they should lose the title if they did not cultivate it into the farming land within the limited years. They should lose the title of their own farm also, if they abandon the land for a certain fixed years without using it. By luckily evading the direct colonization and the rigorous application of the absolute modern land tenure in the Western style, some parts of these tradition have been relayed to the modern land tenure system, especially into the new frontier land, and it has hindered such big scale absentee landlordism, as formed in neighboring countries. In this sense, generally, the amalgamation of the native factors into the modernization should be appreciated rather from a positive sense in the present period context.

The studies below are composed of the two chapters. Chapter 1 overviews the two critical stages of the modern land tenure in Thailand, by focusing on the confrontation of the policy orientation between the big absentee landlordism and the family peasant farm. The rival relations among the government forces and groups will also been slightly touched on, being related to it. In Chapter 2, the conditions and factors to hinder the big landlordism will be surveyed. It focuses on the indigenous factors to contribute to forming up the small holder, especially on the tentative occupancy (Chap Chong) customs, which did not permit any permanent absentee ownership in the new frontier. It was also made easier by the administrative and functional division of labor between land tenure issue and land tax

collection. In relation to it, the reform of rice filed tax is observed to proceed from rice product duty to land acreage tax, after being separated from other plant duties. These conditions should be supported by the lucky ecological conditions of man-land ratio in modern Thailand, which could expand the frontier into the hinterland by the clearance in the abundant forest and waste land.

1 Two critical stages in the modern thai land policy

The starting point of the modern land tenure system was roughly 1890. It was overlapped with the administrative reform in the Chakri Reformation, one of whose achievements was the introduction of the ministerial institution into the Thai royal government in 1892. After the recovery from the colonial crisis of clash with French by the territorial border problem, the second important reform was taken and the royal government was reshuffled, and most of the ministers were placed by “the New Siam” factions to support the King Rama V. It means the final success in winning hegemony over the “Old Siam” who came from such established aristocrat families as the Bunnak[Wyatt 1969]. During these reform dramas, the land policy could not be yet promulgated into the systematic land code, if the process was accompanied by other pure technical problems for the title issuing difficulties.

1.1 Land policy for the frontier rice field in 1890-1910

After the introduction of the new ministerial system and cabinet in 1892, the first minister of agriculture was Chaophyara Surasakmontri, who was rather a great general of able battler. His real predecessor Phatsakorawong, olden titled director of Krom Na (Agricultural Department), had started his efforts of land administration reform in the somehow modern style.

Chronologically, there were many trials of land act manuscripts before the two main laws , i.e., the 1900 land tax code and the 1901 Land Title Decree for Ayuthya were promulgated. The latter was more systemized into the First land Code in 1909. We can find the samples of manuscript in the National Archives documents as follows:

Table 1. Trials of Manuscripts on Land Code

Manuscripts of Patsakorawong period:

1888 Act of Occupancy Certificate Fee (partly implemented, but, the original name unknown,)

1891 Land Act (total 62 articles)

1891 Land Act (total 91 articles)

Manuscripts of Surasak Period:

1892 Land Title Act (total 40 articles, perhaps succeeded from Patsakorawong)

1892 Land Act (total 95 articles)

1894 Rice Land Act (total 41 articles)

1896 Rice Land Survey Act (total 41 articles)

The backgrounds for these acts to be rejected or postponed to promulgate are complex, but three main reasons might be considered. The first is the swaying policy for the big scale concession by the royal government. In 1889 the contract of the big monopolistic concession was made between the royal government and the partnership company of the elite, and it opened the way for the big landlordism.

The second is the first priority was laid upon the land tax reform rather than the modern style title issue. In other words, both reform were undividedly bound in trials of the same act and code manuscripts, and, the title form in the olden style was not drastically changed, but rather kept in harmony with the olden kind and rate of land tax, which was mere renewed in their collection method from the local officials contractor to the central government direct collection.

The third background is that in the administrative authority, however, the division of labor was finally made between the ministry of finance for the land tax collection and the ministry of agriculture for the title issue. Moreover, it was confusingly related with a supposed rivalry relations between the ministry of agriculture and the ministry of interior cum the ministry of finance. The ministry of agriculture might be side with the "Old Siam" and not so cooperative with the latter coalition of "New Siam". For instance, the dissolution of the ministry in 1897-1899 may be caused mainly by this kind of rivalry[Kitahara 1975:1976b].

Here I will mainly study on the first background of forming up the big concession and the big landlordism as the result of it, by slightly touching on the second and the third background.

The canal had traditionally been constructed by the state herself, and the vicinity land was mostly distributed among the influential royal families and aristocrats in the 19th century Thailand. This had made many inefficient big plantation of rice with the vast uncultivated part. The government reconsidered the land allocation system, and, it gave the priority of the canal land distribution to small holders, who support the canal digging costs, as typically shown in the case of the Prawet Canal connecting Bangkok and Chachoengsao in the latter half of the century. The principle of this land allotment was promulgated by the Canal Construction Act in 1877. However, when the rice economy flourished and the canal development became a good business, some elite of royal family members, aristocrats and privileged merchants became interested in it, and their group or companies themselves began to invest in the canal digging, and distributed the land to the applicants. The state also lacked her budgetary sources to construct canals, because of the first priority of the budget to the defense and diplomacy in the colonization circumstances. The role of the state has changed from the direct constructor of the canal to the concession donor of the canal land to a private person or company. At their first stage, the applicants were rather small holder peasant, as shown by the case of the Niyomyatra Canal by Phraya Samut in 1889, and the Udom Chonchon Canal by Phraya Siharat in 1889[Kitahara 1976b:66-274].

However, on the other hand, projects for the big scale applicants of the elite were planned and began to be dug alongside with it. The first and prominent trial of this line was the case

of the Siam Canal and Irrigation Company, which was recognized her monopolistic right of canal construction in Thung Luang area of Thanyaburi, and it constructed the systematic canal network around the main Rangsit Canal. The circumstances to admit this project were not clear, but we can find a royal member among the partnership members of the company. It was made the concession of the vast area in 1889 by the official letter, and completed the construction of the network of total 36 canals around in 1905. While constructing the canal network on the east side of the Chaophraya River, the company sent the application of the network construction plan on the west side, from 1897 on [Sunthari 1987:176-182]. However, it had not been approved. The director of canal department, van der Heide, had an idea to irrigate the whole delta since his appointment in 1903, and tried to compromise with the company by expanding the company's scheme into the west side. The government finally rejected his plan along with that of the company, and Heide was disappointed to return to his home country, Holland. Then, the company turned the target to the construction of east fringe of the Rangsit Canal network, Thung Dongrakhon (Nakhon Nayok), and dug partly, but later gave up the completion.

When the royal government firstly recognized the company's project to construct the Rangsit Canal, the old institution minister of Krom Na, Phraya Phatsakorawong did not agree with it. In September 22, 1900, he cast doubt upon the government contract with the company to admit its monopolistic construction in 1889. At almost the same time he received some cases of the same kind of construction by the partnership [R5 KS4.4/2]. It suggests at least he did not think the monopoly right of the company reasonable [Johnston 1975:68-70]. In contrast to Phatsakorawong's negative attitude to the company's monopoly, the new minister, Chaophraya Surasak seemed to be very active to urge the company to follow to dig up the branch canals of the Rangsit widely. He was proud of his good idea for the company to occupy all over the land of the canal network, if it rightly construct all the canal branches attached to 80 sen [Surasak 1933:456-459]. According to the contract, the 40 sen width land of both sides of the canal was distributed to the company. According to the transfer document of the ministry of finance to the ministry of agriculture in 1899, the number of such concession applications by the company amounted to 3000 cases [R5 KS1.5/3/1:9].

After the recovery of the ministry of agriculture, which was shuffled during 1897-1899 (), a new minister, Thewet tried to cautiously protect the small peasant to occupy the concession area of the company, and showed an idea of establishing the canal department to directly control the canal by the state [Sunthari 1987:176-177]. This attitude suggests the critical to the concession (2). The most famous critics to the company was made by the inspection report of the three young official of the ministry of finance in 1906 [R5 KS3.1/11; Kitahara 1976b:285-287], which was later translated into English [Chatthip & Suthy 1978(1981):333-337(430-434)]. It made the straight critics of the scheme, and attributed the reason of the slack rice plantation to the big landlordism as the product of the company's Rangsit canal network construction. Another hint to the negative attitude to the government is shown in the fact that the successive concession to the canal network's east fringe, Thung Donglakhon, was also earlier expired in June 6, 1911, three years before the contractual expire in 1914 [R5 KS5/8:483-486].

These facts cast light upon the problematical of the big scheme by the company, and the severe disputes of the Thung Donglakhon (Nakhon Nayok) area in the mid-1910 made the

new minister of agriculture, Prince Ratchaburi, reconsider the state's recognition of the Rangsit Canal scheme seriously. When he was appointed to the ministry of agriculture in 1912, he knew and understood this total plan of the privileged and monopolistic position of the company for the first time, and he finally decided to expire the concession right of the company, by returning the canal control administration in Rangsit area to the state. His energetic works to check the achievements of the company are filed over a thousand page documents which is presently classified in KS 4.2 and KS5, R5. I used to analyze the essential part of them, and made the situation of the Donglakhon Canal construction clear [Kitahara 1990:chap3](3).

1.2 Land policy for the frontier forest land in 1915-1930

When Prince Ratchaburi was in his position of the ministry of agriculture, the basic direction to the frontier land clearance was also set. It was the Additional Land Act, Part II in 1916. This act partly adopted the traditional custom for the long term abandonment of land. For instance, according to the First land Act In 1909, if the land with the official title will be abandoned more than 9 years, it should be considered as the waste land(Article 4,5), and everyone can access and occupy briefly for the clearance and cultivation within 2 years of Bai Chon (Occupancy Certificate) issue limitation (Article 61). From the viewpoint of the absolute tenure-ship of Western style, it was a very strange prescription, but it was natural for the Thai tradition, and it might hinder the growing possibility of big absentee landlordism in the frontier. This principle of small holder system was however not straight just in the same way as the first stage of the land concession to the wild land for the rice field.

Mr. Sak Thaiwat, the former director of the Land Department showed an interesting project of big land development by a private land sale company. The applicant proposed to be supplied money from foreigner bank by the mortgage deposit of developed land in the same way as French "credit foncier" (land bank). This case was complex, as the formation of big landlordism was closely connected with the foreign colonial power's interest. The case seemed to be finally rejected by the government, and the King Rama VII ordered the minister of agriculture, Chaophraya Phonlathep, to stop such kind of forest destruction by freehand, and to control the tentative occupancy (Chap Chong) of the frontier forest on the principle of "small holding", "homestead" land policy. It was finally systemized in the Land Act, Part VI in 1936 [Sak 1968:7-8].

The Land Act, Part VI, regulates the Chap Chong systematically, and restricted its term within 3 years, and its scale under 100 rai, if a common people go to send application to the province governor. Moreover, going into the 1940s, the government herself began to plan and implement the big scale state settlement scheme to allot the developed land in the frontier forest to small holders(4). This tendency seems to show clearly the small holding homestead orientation by the state under their recognition of the limited forest frontier [Kitahara1973:106-111].

Until now I cannot find the above mentioned application of land development by the "credit foncier" way, but in around the mid-1920, we can find many similar examples of concession application for land development and forest cutting. In addition, we also can find Chaophraya

Phonlathep easily recognized such applications. It was against the small holder orientation, which Mr. Sak owes to the King VII.

In 1925, a Hakka Chinese sent an application to the Chaophraya Phonlathep to occupy 3000rai in Songkhla Province. The minister admitted the maximum scale of 2000 rai within 3 years, according to the former cases. In his official letter to the king, he wrote the minister can admit the maximum 2000 rai, and he should send the case over 2000 rai for the king to permit. When he exchanged official letters with other staffs he was told that the authority of issuing the occupancy certificate belonged to the ministry of interior, and that he should consult with the minister of the interior. By this administrative authority problems, it took several months, but the application was finally admitted[R7 KS6/4 4/78].

The administrative authority for the occupancy certificate was transferred again and returned to the ministry of agriculture in later 1927. It was transferred from the ministry of agriculture to the ministry of interior in 1921, by the reason that the local official as district chief and the provincial governor were concerned with. By checking the documents concerned, we know that a new land act was preparing at that time[R7 KS6/5 6/78]. It might be related with the process after the royal order to draft of a new occupancy (Chap Chong) rule, which Mr. Sak Thaiwat referred to in the paper above.

In 1927, a big scale of the new occupancy application was made by three Chinese of partnership, who want to develop 5050 rai in the frontier low land. In 1928 the minister of agriculture, Chaophraya Phonlathep, firstly thought to approve the acreage of 2000 rai, according to the former tradition, but at the cabinet meeting, he proposed to expand the scale into 3000 rai, for half of which was issued the occupancy certificate of 3 years effectiveness, and another half of which was reserved for the 3 years later.

In his explanation at the cabinet meeting, Phonlathep told that "this idea follows the new draft, which the policy committee on land policy had completed and was preparing for the king's judgment. By this act, the minister of agriculture can approve the scale of occupancy not over 3000 rai"[R7 KS6/6 5/78:March 26,1928]. It clearly shows that in 1928 a new draft of land act was completed and it ruled that the occupancy for the scale lesser than 3000rai could be approved by the minister of agriculture. At the meeting the minister of commerce and transportation opened his opinion that the application of the land development project had no problem, and that the maximum 3000 rai may not be sufficient for such commercial crops as sugar cane. The cabinet finally agreed with the proposal by Phonlathep. This atmosphere at the cabinet is quite contrary to the "small holder homestead" system, which Mr. Sak mentioned(5).

If this mention of the minister of agriculture, Phonlathep, is true, the provision of the Land Act, Part VI in 1936 is totally different from this line. It does not tell anything about the admission of the big scale by the minister of agriculture, but, only about that of the case lesser than 50 rai by the district chief, and that of the case 50-100 rai by the provincial governor. We could not yet clarify the real reason, why this proposal of the maximum 3000 rai was finally not agreed with on that moment. After the Great Depression, the Land Act for promoting the small scale occupancy was finally promulgated in 1936, in contrast to it.

The economic momentum to switch to the small holding principle might be very similar to that of the Rangsit Canal, that is, the depression and the end of land speculation and concession boom. The political situation after the fall of absolute monarchy would also make it easier. In this sense, the processes towards the Land Act, Part VI, which Mr. Sak wrote about, might be not so straight, but more complex.

The forest concession in the North was also another exceptional case of the small holder system. In the Rama V reign, there were some examples of the Northern Phayap aristocrats, who invested in lumber cutting of the vast area by the financial support of the foreign companies such as Borneo Co. and Bombay Burma Co. Some Chinese were also concerned with. The local aristocrats were also distributed a part of the concession fee, perhaps as the compromised compensation in exchange for their lost local power.

The situation, however, seemed to be restricted to the best quality teak forest and to the privileged circle of the investor. They were given the privileged concession of the wood in the forest. However, when coming into the Rama VII reign, the concession was expanded to the Thai officials and Chinese, and to the other wood forest too. In 1927, when the king ordered to check the teak forest concession, the minister of agriculture checked the concessionaires and reported their list. The concession period is 15 years. The maximum scale was 5670 rai, while the minimum scale was 32 rai. The acreage scale more than 1000 rai are 15 cases, and the acreage scale lesser than 1000 rai was 16 cases. The maximum scale of cut were 145,448 woods and the minimum scale were 4021 woods. Almost all the approves were made for the Northern province forest[R7 KS5/4 15/81:April 30,19227].

It seems that the concession of the forest wood was not so much problematic for the land policy principle as the case of the frontier land concession, as far as the land itself is concerned. The exhausted wood resources on the land, however, was a quite different question, and the Forest Preservation Act began to be promulgated from 1936, partly helped by other laws, to preserve the state forest[Narachuwong 1996:21-45].

Table 2. Main Acts on Land Title Deed and Land Tax

- 1888 Law of Occupancy Certificate Fee
- 1899 Proclamation of Land Certificate Issue in the Prawet Canal
- 1899 Proclamation of The Siam Canal and Irrigation Company
- 1900 Act of Collecting Rice Field Tax
- 1901 Proclamation of Land Title Deed in Ayuthaya
- 1902 Proclamation of Tentative Title Deed
- 1906 Amendment Act of Collecting Method and Rate of Rice Field Tax
- 1908 Proclamation of Collecting Rice Field Tax by “Na Khu Kho” Style
- 1909 Land Act, Part 1 (First Land Act)

Land Act, Part II

Land Act, Part III

1926 Land Act, Part IV

1936 Land Act, Part V

1936 Land Act, Part VI

2 Traditional factors contributing to the small holder system

In June 12, 1900, when a manuscript of Land Act was discussed in the land committee, it was claimed that the Thai tradition on “Chong” (occupancy) was maintained, and the direct adoption of such rule of the long term rent as the British law was rejected[R5 KS4.1/3]. It suggests the government efforts to bring traditional factors into the modern land code.

The traditional conditions to contribute to foster the small holder system are as follows. Firstly, the right to hold land is tightly connected with the obligation to use it. It means that, once they give up to cultivate land, they should lose the right to hold land. It should go back to the old concept of land holder. As Robert Lingat summarized the essence of “the Three Seal Law”(Kotmai Tra Sam Duang) very well, it regulate that, (1) the sole owner of all over the kingdom’s land is the king, (2) people is prohibited to sell and buy the land freely, and (3) the people’s tenure-ship to the land is not absolute and they easily lose it, if he does not continue to cultivate and abandon it[Lingat 1940:chap2]. Under these conditions, it was natural that they were recognized as the true owner, only when they cultivate it. Therefore, they loss the tenure once he did not cultivate and abandoned the land.

Before the modern land code was introduced into the Thai jurisdiction around in 1900, the Three Seals Law was still effective. Therefore, even in the latter half of the 19th century, some land disputes were judged by the promulgation of the Law. We could find in the first article of the Land Act, Part II, “If someone has the right to reside in others’ land by setting the boundary and surrounding the fence according to the “Miscellaneous Law”, and, if the land title was issued for the land before this proclamation is promulgated, then he should be considered to have the right to reside there, and he should come to the land registration office to register the right in one year”[PKPS 29:133]. As is well known, the Miscellaneous Law composes the last part of the Three Seals Law, and we are surprised to know even in 1916, a part of this Ayuthaya law collection was still effective.

As touched on in the above, the abandoned land for longer than 9 years was recognized the same as the waste land, which is open to everyone to wish the tentative occupancy, in the same act in 1916[PKPS 29:136]. It was a radical denial of the absolute characteristics of the modern tenure.

This tradition was transmitted basically to the regulation for the tentative occupancy land in the Land Code, Part VI in 1936. It regulated the obligatory abandonment of the uncultivated land, in case of the Bai Yiap Yam in one year, and, in case of the Tra Chong in 3 years.

The above referred zigzag way of the land policy might sometimes reverse the principle of small holding, but the motto that “those who cultivate the land have the legitimacy to own it” has the long tradition of the Thai land policy. Moreover, it has the universal nature to be applicable to every period and every country, and it was also legitimized as the logic of land reform in the 1911 Chinese Revolution. In this sense, this tradition has a nature of preoccupied land reform in the history of the Thai land policy.

Secondly, the tradition to collect the land tax from cultivators themselves might support it. It was closely related to the nature of land tax, which was usually collected by the plant products on the earth rather than the acreage of land. The land tax was a kind of “Akon” or duty, which was levied typically on the tree plants, and the duty for the rice was also one of them, which was called “Akon Kha Na”. For the Na (rice field), there were traditionally two sorts of duty: “Na Khu Kho”, which levied on the total area of the field, and “Na Fang Loi”, which was levied only for the cultivated part. Originally, the former might be levied for the rice field to be able to cultivate every year with the abundant water, but the latter might be for the rice field not to be able to cultivate every year because of water shortage. This tradition had continued to the 1890, when the land tax reform was tried to be done [Kitahara 1976a; Niti 1982].

The Complex problem is the conventional authority of the ministry of agriculture (the former Department of Agriculture [Krom Na]) for collecting land tax. The custom was that the central official “Sena” (Inspector of Rice Field) of the Krom Na was sent to inspect the yielded area of the field to decide the charge of duty in the end of lunar calendar year, February. When Chaophraya Phonlathep was the minister of Krom Na, he contracted the king to send the fixed amount of land tax to the state just in the same way as the private tax farmer contractor did for other taxes. This case shows that even the state minister himself was easily changed into the tax farmer under the decentralized administration system before the Chakri Reformation. From 1973 on, the modern fiscal reform began by the centralization of tax collection authority into the ministry of finance. The land tax was also not the exception, and the control was transferred to the ministry of finance. By being luckily conditioned by the short time dissolution of the ministry of agriculture during 1897-1899, the ministry of finance succeeded finally in holding the hegemony over the land tax collection with the cooperation with the local officer of the ministry of interior, and the administration of land tax moved finally to the ministry of finance. It may be one of the reasons, why the administrative division of the land title deed issue by the ministry of agriculture and the land tax collection by the ministry of finance was made comparatively smooth. However, the other side of the situation was that this administrative division also meant the theoretical or logical division, and, as a result the land title issue was separated from the land tax on the theoretical level too. This theoretical or logical division is a unique characteristics in the modern Thai land policy, which is different from the Western cases, as well as other Asian countries cases too.

The Act of Rice Field Tax Collection in 1900 regulated in the article 4 that “this act is not related to the act for the title deed issue to occupy or possess the land, which will be arranged to be separated from this rice field tax collection” [PKPS 17:495]. It means that the “the rice field cultivator himself should pay the tax according to this act. However, the land owner has the responsibility to pay the land tax according to this act, if the officer could not collect it from the cultivator directly” (article 12) [PKPS 17:499]. It means that the tax

obligation was separated from the ownership, and the first duty was levied on the cultivator, who might include the tenant too. In this point, the tradition of “rice duty” instead of “land tax” was still kept persistently.

Along this line of duty collection reform, however, the land tax was gradually separated from the genuine duty, for example, the garden duty, and it began to have the characteristics of the land holding tax. The 1906 proclamation still contained the categories of land depending upon the cultivated conditions, that is, Na Khu Kho, Na Fang Loi and Thi Huan Ham (the occupant land), and the 5 ranks of plenty was set for each category. However, the article 5 suggested to expand the adoption of the Na Khu Kho style to other areas, which had hitherto restricted to four Changwat, i.e., Krungkao, Anthonng, Lopburi, and Suphnanburi [PKPS 20]. The land tax was gradually understood as the land holding tax, and it was paved for the way, where the owner should get to pay the tax.

The tree garden duty (Akon Suan) was next to the rice field in its importance among the plant duties. In the field of the garden duty, a trial was done for connecting the right of land tenure-ship to the duty of paying tax, but it does not seem to succeed too. In 1894, the minister of agriculture, Chaophraya Surasak, asked the minister of finance, Prince Sommot, to reconsider a too severe clause that the garden land of those, who neglected to pay the garden duty, should be confiscated by the state to be sold publicly. In 1900, a complaint was also made to the too higher rate of the tax for Suan Yai. In case of the tree garden, there often occurred the Khai Fak (the case that the borrower temporary sell the land to the money lender by depositing the tenure-ship until he return the money with interest), and the proprietor-ship became so complex that it would neither possible to apply the strict modern tenure- ship to the garden.

When manuscripts on the semi-modern land policy were tried, they promulgated the tax depending upon the kind of plants. For instance, the 1983 manuscripts (the total 95 articles) classifies the land into 7 sorts: 1. Land with fence, 2. Suan Yai, 3. Suan Chak, 4. Rai, 5. Rai with fence, 6. Na Fang Loi, 7. Na Khu Kho [R5 4.1/3]. This classification would rely upon that of the traditional duty. It should be studied more in detail for the process, but, after 1900, when the Chakri Reformation was almost completed, the division of duty collection administration among the plant was made clear, and, in the rice field tax administration, most attention was paid to the land tax to the land owner, if the remnants of the characteristics of plant duty were still attached to it.

The 1908 Proclamation on Na Khu Kho regulated to levy it for all over the Chaophraya Delta [PKPS 22]. It means that, for the rice field in the Delta at least, the nature of rice duty was placed by that of the land tax. It suggests the gradual manipulation of the land tax administration. From this period the ratio of land tax in all the state income items increased to 16-17% at its peak during 1906-1926 [Kitahara 1976:68] (6).

The Third and most important background of this tradition is the environmental conditions, which make people move easily between the cultivated land and frontier waste land. The basic condition is the favorable man-land ratio. Usually the land was abundant enough to be unrestrictedly used by the smaller population. This condition was fit to the agricultural technology of taking form of shifting cultivation, or swidden farming. Usually there has been abundant waste and forest area to pull the small people, and they could move easily to the

better land. In the Northeast, people has the long tradition to move to look for the better land, "Ha Na Di", especially toward the frontier waste land and forest[Fukui 1993]. From the view point of the land, it was very difficult to divide the line between the already cultivated land and the newly cleared land, and in the frontier fringe the cultivated land often returned to the forest, in the same way as the forest easily changed into the cultivated land, vise versa.

Even in the Chaophraya Delta, there still remained the frontier in the latter half of the 19th century. In the west on the Tha Chin River of Nakhon Chaisi, people from the upstream, Suphanburi, immigrated to the fan fringe of Maeklong River, which comes slow down from the western direction, Kanchanaburi, and began to form a small hamlet, "Lan Laem" there, 4,5 km off the Tha Chin, in the 1880-1890. Lan Laem grew up into the 200 households after 100 years in 1980, when our team did an intensive survey of community studies there [Kitahara 1987:2000;Kitahara 1996:chap2](7). The nearest river sides of the Tha Chin were supposed to be occupied earlier than 1870, but the offside remained terrace and swamp were cleared later in the same way as this hamlet.

This tradition of searching the better frontier was the mainstream in the modern history of Thai rice economy. As Pasuk and Baker just correctly write, "rural Siam in the late nineteenth century and early twentieth century was a frontier society"[Pasuk & Baker 1995:3]. The cultivation zone expanded quite rapidly into the hinterland forest, and the former hinterland ever became a new frontier for the peasant small holder, at least until the 1950. The frontier finally disappeared in the 1980 and 1990 [Pasuk & Baker 1995: 16-].

The existence of frontier has given great impact to the nature of land tenure in modern Thailand. The land holding might be roughly classified roughly into the two. The first is to hold and cultivate it constantly for a longtime, but, the second is to tentatively occupy to clear it in future, but it would be easily abandoned. From the latter half of 19th century to the early 20th century in modern Thailand, the latter case was overwhelmingly dominant, and it has continued to appear to at least to the 1970 and 1980. This latter case is seen in the tradition of "Chap Chong", which literally means "catch and reserve" of tentative occupancy for the clearance for the prescribed years.

In the land policy of modern Thailand, we can safely say that the policy to deal with this latter case has been rather the mainstream. For instances, on the first critical stage in the modern land tenure-ship policy, how to deal with the newly captured and unstable land was more troublesome than that of the already settled tenured land, if the policy has been set aside until the second critical point, and finally systemized in the Land Code, Part VI in 1936.

The second critical stage would be the age of the exhaustion of frontier in the Chaophraya Delta, and the age of frontier expansion to the Northern, Northeastern and Southern Area. This exhaustion coincided with the disappearance of Northeastern workers migration to the Delta, which Johnston once paid attention[Johnston 1976]. The Land Code, Part VI, was lucky to regulate the tradition of small holder system for the frontier forest hill outside of the Chaophraya River. However, the situation would totally change, if the boom of the Inter-War period made the land speculation continue and the big concession was approved as before in the 1920. Then the landlordism or plantation was also dominant in some of the frontier forest, as in the case of the Rangsit Canal area.

Indeed Thailand was fortunate enough to enjoy the favorable ecological condition of man-land ration, but, we should think that, under the lucky situation by the economic shock and sluggish by the Great Depression, the tradition, where the tenure was guaranteed only if the owner cultivate the land, proved effective.

The land Code, Part VI, regulated clearly the Chap Chong certificate into Bi Yiap Yam with one year effectiveness and Tra Chong with three years effectiveness, and “ if he does not use the land in the prescribed years, he should lose the part he have not yet used”(article 12).

In the land reform program since 1975, the government has paid their main attention to the allocation of the cleared land in the frontier forest, which should not be considered illegal from the viewpoint of the long tradition of the “Chap Chong”. On the process of the “land reform”, the “reallocation” was mainly done for the cleared land by private settlement, but the allocation of the settled tenure-ship was tried merely for a small percentage of the whole tenured acreage. It is another face of the heritage of traditional land occupancy, which proceeded on the frontier, ever advancing into the former hinterland forest, since the 1920-30.

3 Summary

Thailand has been characterized as the country of small holder. It may be true, but there were the two critical stages for modern Thailand to go to the opposite direction in terms of land policy.

The first critical stage was the period 1890-1910, when many cases of application for the big concession were made, and when the official discussed on replacement of the role of canal and land development by a private person and partnership. The most famous case was that of the Rangsit Canal and Irrigation Company. The economic depression and political rivalry and conflict at that time might the factors to stop the big plantation and landlordism.

The second stage was the period 1915-1930. During this period, especially after the First World War, many applications for the big plantation and forest were also fashioned, and among the official circle an idea of the big concession was discussed positively. There are still fragmental studies and data for this period, comparing with the first sage, but we can imagine the very similar situation with the first stage of the boom. The Great Depression and 1932 Revolution might give some momentum for the government to abandon the line of big plantation.

The traditional conditions were also favorable for the small holder system. In this point, first of all, the state sovereignty was a vital role for Thailand land policy. She could incorporate old customs into the modern land code system. The structure of these customs will be outlined as bellow.

The first condition laid in the division of the land tax from the title deed issue. This was possible by the short time shuffle of the ministry of agriculture in 1897-1999, and the total transfer of land tax administration authority to the ministry of finance. It might be helped by

the slow pace of modern title deed issue for the settled cultivated area, but it suggested the ever rapid expansion of the frontier from the later 19th to the early 20th century. It happened to coincide with the second condition, i.e., division of the rice field duty from such other duty taxes as the garden tree fruits. The rice duty was gradually changed from the characteristics of rice duty to that of land tax, typically on the Delta in the 1910. The introduction of “Na Khu Kho” style collection to the wider area suggested the turning point for this direction. The third condition was the limited issue of modern title and the vast amount of tentative occupancy certificate for the frontier waste land and forest. After the First Land Act was promulgated, the main efforts were devoted to amend and systemize the tentative occupancy and the staged process for the full tenure-ship in the new frontier forest land. It was completed by the Land Act, Part VI in 1936.

The period made its transition from the first critical stage, which was played on the rice field frontier during 1880-1910, to the second critical stage, which was played on the forest frontier during 1915-1930. The process came along with the advancement of the frontier into the former hinterland in the local region. The Land Act, Part VI, shows the completion and final end of this transition. It was finally regulated to the direction for the small holding even for the frontier forest.

The four factors would be essential: The non- exhausted and ever advanced frontier, shifting from the flat field to the hill forest, the customary right of land with the cultivation duty, the political will of decision to realize the small holder system, and the economic depression to end the boom for big plantation.

[Notes]

The relaying report of the administrative works, from the ministry of finance to the shuffled and reconstructed ministry of agriculture, in September 6, 1899 is one of the most important documents[R5 KS1/5 3/1]. By this document we can understand there were the two contrast views among the royal government members: i.e., the first one, “the present government feels that the royal recognition to the company was not fair, or that, at least, went beyond the limit to be recognized”, and the second one, “ the government appraise the company’s achievement, which were beneficial to the nation and the people”.

His position to the company is opportunist, when he tried to struggle the hegemony in land policy with the ministry of interior, which was doing the reform of local administration. In order to compete with the test of issuing the modern land title in such test area as Ayutahya and Krunthep, he seemed to urge the company to apply the other sort of land certificate. He also tried to issue the new “tentative occupying title” (Trachong Chuakhrao) to the other places in competition to the modern land title[Kitahara 1976b:305-309].

Just after Prince Ratchaburi was appointed the minister of agriculture, he faced with the severe land disputes in the Thung Donglakhon, eastern fringe of the Rangsit canal network, he should study on the process and problem of the government admission of such big scale concession to one private partnership company. He clearly understood the problematic of such privileged concession to one private company. In the long memory report of 68pages on the Donglakhon land disputes, which his secretary recorded the speaking and thinking of the prince, it is reported that in the 1904, when van der Heide was appointed the director of

the Canal department, he proposed the great irrigation scheme from the Fan top of the Chaophraya Delta, Chainat. "Among the official circle they tend to think that the canal by private company was not useful for the plant, because the canal could not irrigate the field, but only opened the route to access the field"[R5 5/12:21]. However, the ministry of agriculture, Thewet admitted the Donglakhon project, by the reason why it was not related to the Chainat scheme. This is rather the technical point of view, but, his critics might include the socio-politico-economical aspect too.

See, "Phraratchabanyat chatkan sahakon nikhom" (1940)[PKPS 53:783-786], "Praratchabanyat chat thidin phua kankrongchip" (1943)[PKPS55:383-386]. In Chiangmai, a law to develop the government settlement for the protective area was earlier promulgated in 1930.

Although the expropriation of private land for public use was discussed heated[R7 KS6/6 5/78;KS6/4 4/78], the maximum limitation for the frontier land development was not so severely considered. The big scale land development should be fashioned under the boom atmosphere under the Inter-War period

The frontier land was basically exempted from the tax, but the occupancy fee or charge, which the occupant should pay for all the application procedures and the every rai, can be considered as a kind of occupancy tax. However, after the cultivation was recognized by the official, the land tax for the recognized holders rather lower than the lowland. The contribution to the land tax by the occupancy right should be studied further.

I will make a summary of our Japanese survey reports of this hamlet, "Lan Laem" in 1980 and 1997 for distributing at the Symposium. The rough immigration history was summarized in Kitahara[1996:55-59].

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[Thai Original Document]

The National Archives Classification(Examples:[R5 KS1.5/3],[R6 KS1/5], [R7 KS6/6])

R5,R6,R7: The Rama V,VI,VII Reign

KS: Krasuang Kaset(The Ministry of Agriculture)

PKPS (Example [PKPS18])

Sathien Lailak(bannatikan), *Prachum Kotmai pracham Sok*, 2479(1936), vol.18.