

## **Obstacles to the Provision of Public Services in Local Government of Chiang Khong District in Thailand: Area and Authority Overlap**

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### **Abstract**

This study aimed to find out what were the obstacles in providing public service by authorized government agencies in the border district which is Chiang Khong district in Chiang Rai province. It was based on qualitative data, especially from government documents and in-depth interviews. This article demonstrates that local governments in Thailand have very limited authority. On the other hand, central government has held enormous power in various roles. This circumstance reflects the structural problem of the country which is fragmented centralism. Overlapping both in operating areas and in their authorities has led to many conflicts between central and local government agencies. Certainly, when the conflicts rise, the central government always exercises its authorities and powers over local administrative organizations. The Bug Pier and National Highway 1020 cases in Chiang Khong District perfectly show and support the finding.

**Keywords:** Local government in Thailand, fragmented centralism, decentralization

## Introduction

For many foreigners visiting Thailand, a tangle of overhead power lines continues to surprise them. The media have often paid attention to the issue – examples being Microsoft’s Bill Gates (Manager, 28 June 2016) and a Japanese television news network (Thairath, 31 August 2017). Taking a quick look at this tangled power lines problem, it seems to be just another problem of Bangkok, and the Metropolitan Electricity Authority is the organization involved and responsible for solving it. But when we look closely, this problem can show us an overview of the problem of Thailand's political structure, which is “fragmented centralism”.

Laothamatas (2014) has proposed the idea of fragmented centralism by portraying that, in Thailand, central and regional governments have almost complete power and dominant roles over local governments. The combination of the central and regional governments is much larger than that of the local sectors, both in terms of the number of personnel and the size of the budgets that are received. The central government can broadly work in any area of the country, while local governments are limited in power. Ministries and departments of the central government can set up their own branch offices in any province or district with no need to consult or ask for permission from any existing local administrative organization.

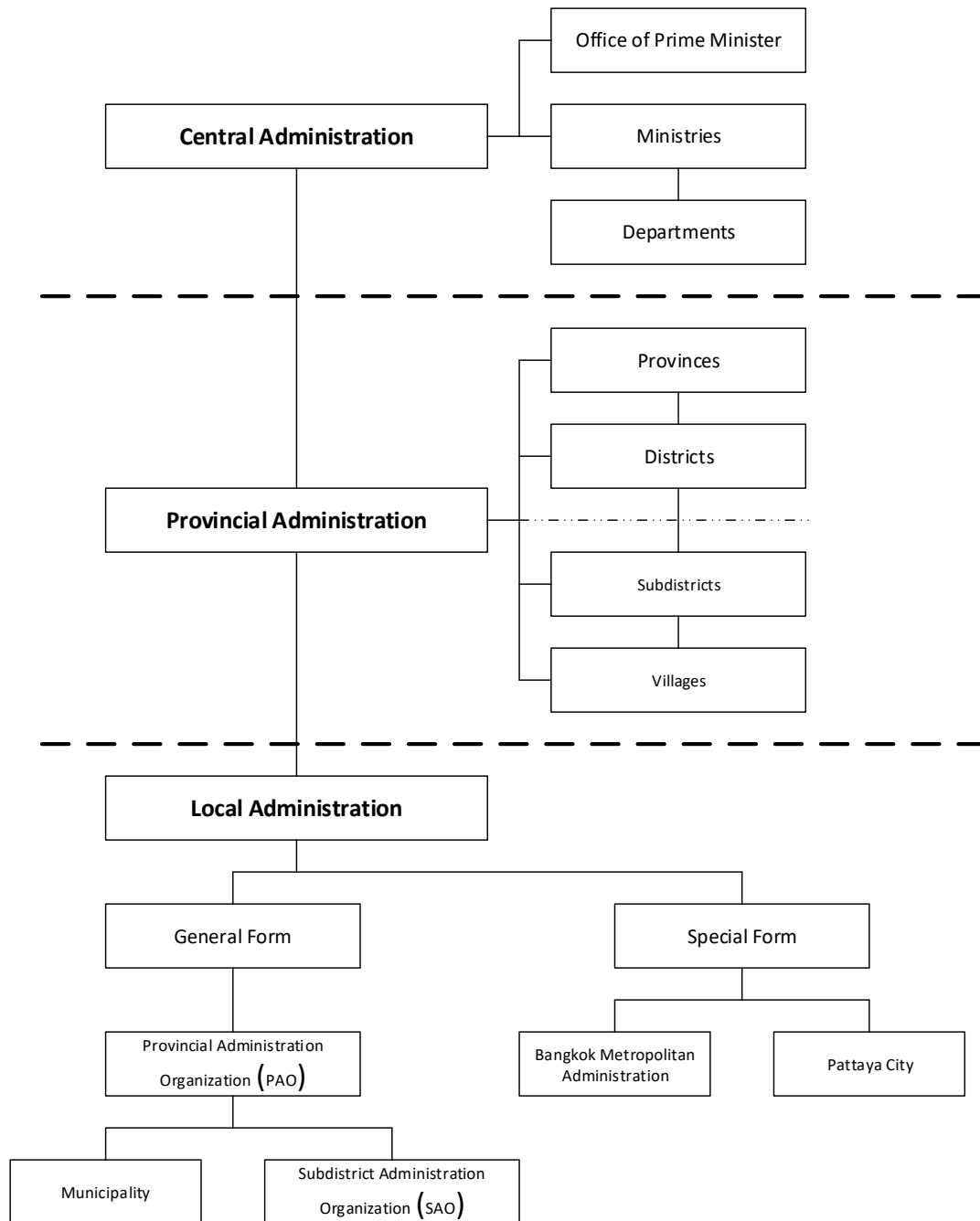
Laothamatas concluded that Thai bureaucracy has “departments” as its core operating units. The central government has extended control over local decisions through “departmentalism”, resulting in fewer roles for local administrative organizations. Some specific laws give significant powers and authorities to the departments and ignore local administrative organizations. This has caused fragmented centralization, as power is distributed to many different departments. Some departments fall under the same ministry which causes an authority overlap, conflicts, disunity, and lack of integration.

Charoenmuang (2008) explained that after King Rama V had established a “centralized government”, Thailand had gradually developed into an over-centralized state. In the time of “bureaucratic polity” in Thailand, a reform of fragmented centralization was started in 1961. This has resulted in the establishment of many departments under control of the central and regional governments in provinces further away from Bangkok, especially in the big cities like Chiang Mai which were directly under the central government. The Chiang Mai provincial governor had no true authority and became more like a coordinator for the central government. The heads of all government agencies were referred to as ministry

representatives. They could do anything within the scope of their authority and because each of the ministries worked separately and had their own plans, projects, and budgets, disunity increased as a result.

Tejapira (2015) likens this circumstance to a fragmented pyramid in which an “over-centralized but under-unified state structure” causes ineffective performance and corruption. These problems are the result of the overlapping jurisdiction among government agencies and the lack of effective checks and balances in many aspects whether it involves traffic, water resources and forest management, mining, the environment, solving flooding, medical and public health services, etc.

This feature could be found abroad such as in the Czech Republic where, during 1862-1928, overlapping responsibilities of local and central authorities were called the “double-track system” (Pomahac, 2013).



**Figure 1** Structure of administrative organization in Thailand<sup>1</sup>

Please note that agencies responsible for providing public services are not limited to government agencies (see Figure 1 above), but can be state enterprises, public organizations, autonomous universities, or the private sector.

The purpose of this this paper is to find out whether or not, in the last two decades of growing decentralization in Thailand, the argument mentioned above can still be used to

<sup>1</sup> Adapted from Mektrairat *et al.* (2003).

describe the characteristics and problems of local government in Thailand. The process of finding the answer is similar to fixing the tangled cables, so that we can clearly see each one of them. In the same way, we will eventually identify each department, its background and aims. The paper focuses on a case study of the transport services in Chiang Khong, Thailand.

### **Objectives and methodology**

This paper was developed from a part of the author's research on the topic "Preparation of Government Sectors and Local Administrations in Providing Public Services for Border Tourism: A Case Study of Chiang Saen and Chiang Khong, Chiang Rai Province", submitted to Thai Universities for Healthy Public Policies (TUHPP) in 2013 (Vititanon, 2013).

The objective of the research was to determine the readiness of five local administrative organizations - Wiang Chiang Khong Municipality, Wiang Municipality in Chiang Khong District, Wiang Chiang Saen Municipality, Wiang Municipality, and Ban Saeo Sub-district Administrative Organization in Chiang Saen District - in providing public infrastructure and supporting tourism, and to comprehend the problems those local administrative organizations confronted.

The different collected data and information sources used in this study were Thai laws, local legislation on annual expenditure budgeting, the three-year development plan for the areas, questionnaires, and interviews with relevant parties such as mayors, municipal clerks, local officials and in-the-field observations.

The results of the study were applied for the preparation of a tourism strategic plan for Chiang Saen and Chiang Khong District which was the principal goal of this research project.

This article presents only the Chiang Khong case because this area has been continuously affected by government policies. As a marginal city in the colonial period, Chiang Khong became an important military site during the Cold War. Nowadays, in the era of globalization, Chiang Khong is rapidly changing as a trading gateway.

### **Background of the studied area**

Chiang Khong is a district with a long history. The district is part of Chiang Rai Province and is located about 100 km northeast of the city of Chiang Rai. To the east of Chiang Kong is Bokeo Province of Laos; the Mekong River flows at the northern end of the district and partially forms the boundary with Laos. Being a border district, Chiang

Khong forms a gateway for the neighboring countries, through both water (the Mekong River) and ground (R3A route) transportation. This increases Chiang Khong's potential to be a gateway for expanding trade and investment, for instance from China, as the value of border trade through Chiang Khong has continued to grow over the past years. The Thai government is increasing the investment value of the industrial estate in Chiang Rai and aims to improve its infrastructure to serve as the logistics hub for the Greater Mekong sub-region. All the mega-projects in the province that have been promoted by the government - the fourth Thai-Lao Friendship Bridge and Chiang Khong Intermodal Facilities are examples - are to pave the way for this goal. In addition, Chiang Khong has also been included as part of the Chiang Rai Special Economic Zone.

Due to its location as a border district that has the Mekong River marking part of the border between Thailand and Laos, many central government agencies have been established in Chiang Khong, especially those responsible for border security and protection. Among the 36 administrative government agencies in Chiang Khong, 15 are central government agencies, for example Chiang Khong Customs House, Chiang Khong Area Revenue Office, Chiang Rai Forest Protection Unit 8 (Hat Krai), and Chiang Khong Wittayakom School. Eight of them are regional government agencies – Chiang Khong District Fisheries Office, and Chiang Khong Community Development Office, for example. Eight of them are state enterprise agencies, for example Wiang Chiang Khong Waterworks Authority and Chiang Khong Thailand Post Office, and 8 of them are local government agencies.

#### **A mission on transport infrastructure in the studied area**

There are many government agencies which are responsible for the development of transport infrastructure in Chiang Khong. Almost all of them are under the central government and often have no branches in Chiang Khong. This has resulted in much limitation in their operation, with slow response to the people and failure to understand problems in the studied area being instances.

**Table 1** Government agencies related to transport in Chiang Khong

<b>Institution</b>	<b>Affiliation</b>	<b>Legal Authority</b>
<b>Central Government</b>		
- Chiang Khong Highway Depot	Department of Highways Ministry of Transportation	- Prescribing Fees for Use of Highways and Bridges by Auto Vehicles Act B.E. 2497 (1954) - Highways Act B.E. 2535 (1992)
- Chiang Rai Rural Provincial Road Office	Department of Rural Roads Ministry of Transportation	- Highways Act B.E. 2535 (1992)
- Chiang Rai Regional Harbor Master's Office 1	Marine Department Ministry of Transportation	- Navigation in Thai Waters Act B.E. 2456 (1913) - Thai Vessels Act B.E. 2481 (1938) - Multimodal Transport Act B.E. 2548 (2005)
- Chiang Khong Police Station - Boon Rueang Police Station - Marine Police Station 2 Chiang Khong District - Highway Police Station 5 (Phayao)	Royal Thai Police	- Empowering Law Enforcement to Prevent and Suppress Marine Crime Act B.E. 2496 (1953) - Road Traffic Act B.E. 2522 (1979) - Response in all criminal law enforcement
<b>State Enterprises</b>		
- Chiang Khong Port	Port Authority of Thailand	- Port Authority of Thailand Act B.E. 2494 (1951)
- Chiang Khong Bus Terminal	Transport Co. Ltd.	- Established by civil and commercial codes
<b>Provincial Government</b>		
- Chiang Rai Provincial Transport Office Thoeng District Branch	Department of Land Transport Ministry of Transportation	- Land Transport Act B.E. 2522 (1979) - Vehicle Act B.E. 2522 (1979) - International Carriage of Goods by Road Act B.E. 2556 (2013) - International Carriage of Passengers by Road Act B.E. 2557 (2014)
<b>Local Government</b>		
Chiang Rai Provincial Administrative Organization		- Provincial Administrative Organization Act B.E. 2540 (1997) - Determining Plans and Process of Decentralization to Local Government

**Table 1** Government agencies related to transport in Chiang Khong (Cont.)

<b>Institution</b>	<b>Affiliation</b>	<b>Legal Authority</b>
<b>Local Government</b>		
		Organization Act B.E. 2542 (1999) - Highways Act B.E. 2535 (1992)
- Khrueng Subdistrict Municipality - Boon Rueang Subdistrict Municipality - Wiang Subdistrict Municipality - Wiang Chiang Khong Subdistrict Municipality - Si Don Chai Subdistrict Municipality - Sathan Subdistrict Municipality - Huai So Subdistrict Municipality	- Municipal Act B.E. 2496 (1953) - Management of Motor Vehicle Parking in Municipalities and Sanitation Act B.E. 2503 (1960) - Determining Plans and Process of Decentralization to Local Government Organization Act B.E. 2542 (1999) - Highways Act B.E. 2535 (1992)	
Rim Khong Subdistrict Administrative Organization	- Subdistrict Councils and Subdistrict Administrative Organization Act B.E. 2537 (1994) - Determining Plans and Process of Decentralization to Local Government Organization Act B.E. 2542 (1999) - Highways Act B.E. 2535 (1992)	

The government agencies mentioned in Table 1 are those authorized to work on transportation in Chiang Khong. The work is complicated not only because of overlapping authorities for implementation of the law but also the involvement of many laws. Each law has different agencies responsible for implementing the law, such as the Ministry of Transport, police force, and local administrative organizations. These agencies usually authorize their own personnel to implement the laws, of which highway officers, inspectors, traffic police, and city law enforcement officers are examples. Among all agencies, the police department is the most powerful and has more authority than any of the others. The police department can enforce almost all the criminal laws, and generally any laws that indirectly relate to transportation such as the Maintenance of the Cleanliness and Orderliness of the Country Act, B.E. 2535 (1992) and the Public Health Act, B.E. 2535 (1992).



Despite political and administrative power being distributed from central to local government in many ways in accordance with the Determining Plans and Process of Decentralization to Local Government Organization Act, B.E. 2542<sup>2</sup> (1999), local government is still not ready for this power due to a lack of budget, skilled personnel, and decision-making authority. Moreover, most of the related laws have not been reviewed or modified at all to suit the work and projects that keep growing both in number and scope.

***Case problem 1: National Highway 1020***

The Chiang Khong – Thoeng road, or the National Highway 1020, is the main road running through the middle of Chiang Khong district. The highway stretches from Bug Pier in Chiang Khong to Thoeng district. Before the fourth Thai–Lao Friendship Bridge was constructed, this highway, especially the part that runs across Wiang Chiang Khong municipality, was used by many big trucks as a main road to get access to Bug Pier and the car ferry across the Mekong river to deliver to and receive goods from Laos. This resulted in many accidents and traffic jams in Chiang Khong.

Local government tried to solve the problem of the car accidents and traffic congestion by not allowing big trucks to use the highway. Ultimately, the effort failed because the national highway is under the authority of the general director of the Department of Highways. In fact, in order to be able to make such a decision for a particular local highway, the local government needs to be authorized and approved by the provincial governor<sup>3</sup>. However, this does not apply to national highways and rural roads. By law, local

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<sup>2</sup> For more details, please check the action plan for decentralization to local government organizations, which has all the details about scopes, steps, procedures, deadlines, a list of authorized local government organizations, and approaches that can lead to an accelerated project delivery.

<sup>3</sup> Highways Act, B.E. 2549 (2006) (2nd revision), article 61 states that “To preserve the highway, a highway director is authorized to publish in the Government Gazette to not allow vehicles that are larger than a specific size to use the highway, as they may destroy the highway. Such publication or announcement of the highway director, mentioned in the first clause, must be approved by a general director of the Department of Rural Roads for rural roads, or by a provincial governor for local routes”.

However, in 2011, Wiang Municipality Office in Chiang Khong district worked out a way and was able to have an “announcement from the mayor of Wiang Municipality to not allow vehicles that are larger than a specific size to use the highway, as they may destroy the rural route in Wiang Municipality”. This announcement was to protect the Ban Cho Ko - Ban Don Maha Wan route from being destroyed by heavily loaded trucks transporting construction materials to the fourth Thai–Lao Friendship Bridge.

administrators are the directors of local highways only within their areas<sup>4</sup>, but in fact they have very few local highways in their areas.

Besides the Department of Highways, the commander of a provincial police department is also authorized to be able to stop any truck from driving on any highway, street, or route in the country<sup>5</sup>. As we can see, there are overlapping responsibilities and authorities relating to decision-making in highway and route management in the country.

Chiang Khong Highway Depot once tried to solve the problem of car accidents and traffic jams in Chiang Khong district by not allowing big trucks, i.e. 6-wheel trucks and any larger sizes, to drive on the National Highway 1020, every day from 6.30 to 8 am and from 3 to 5 pm. However, history repeated itself. It was difficult and complicated to implement the regulation due to the true authority belonging to several agencies under the central government – the local police, highway police, and highway officers. To enforce the regulation, the Highway Depot needed to inform these involved agencies and ask for their personnel to grant implementation of the regulation.

There is, however, a law giving a local government some authority. This law is the Maintenance of the Cleanliness and Orderliness of the Country Act, B.E. 2535<sup>6</sup> (1992). Nevertheless, we can again see an overlap of law enforcement and implementation in the section dealing with a load falling from a truck onto the road. The same thing can also be

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<sup>4</sup> Highways Act, B.E. 2549 (2006) (2nd revision), article 15 states that “In case the minister does not appoint anyone to be highway directors, according to section 14, the following people will be highway directors [...] (3) president of provincial administrative organization, mayor of municipality, chief executive of sub-district administrative organization, governor of Bangkok, Pattaya City mayor, or chief executive of local administrative organization as stated by laws”.

<sup>5</sup> Besides the authority given by highway laws, a commander of provincial police who is considered a road traffic officer according to the order of the Ministry of Interior, is also authorized to manage the traffic for road traffic safety. The commander can approve an announcement to not allow vehicles that are larger than a specific size to use the route at a specific time, according to the article 139, Road Traffic Act, B.E. 2522 (1979).

<sup>6</sup> The intention of this law is to empower local administrative organizations. The law states that it will be implemented and will take effect on municipalities immediately. However, for sub-district administrative organizations, they need to wait for an announcement from the Ministry of Interior on a case by case basis. Under section 48 of the Act, 50 percent of the fines will be distributed to local government in a case that is settled without going to court. The law also states that the mayor of a municipality is a local officer, while a municipal clerk and deputy municipal clerk are local staff.

found in traffic laws, although there are different penalties<sup>7</sup> and different agencies under the central government authorized to enforce and implement the laws.

***Case problem 2: Bug Pier***

Bug Pier in Chiang Khong is on a river bank that is covered by sand. It is used as a station for people crossing the river in their daily commuting, and by car ferries. The pier is in the responsible area of Wiang Municipality, and is located at Baan Huawiang, Wiang sub-district, Chiang Khong district. It has a long history from the time of World War 2 and the Indochina Wars. The pier at first was used mainly for transport and transit of weapons and military equipment. It was built by local villagers, most of whom were from a group of ferry captains, on public land and a committee was set up to manage the pier. During the Cold War, the pier was used to transport construction materials instead. Later on, it was used as a temporarily permitted area before being turned into a Thailand-Laos permanent border crossing point.

The plan to transfer the budget and administration from central government to local government organizations stated that the Department of Maritime Transport and Commerce (using the old name of the Marine Department) must transfer its Water Transportation Terminal's mission to local administrative organizations. This was to comply with the Navigation in Thai Waters Act, B.E. 2456 (1913). Bug Pier was included in the plan, as it was inspected and considered a public terminal.

Many years later, the mayor of Wiang Municipality tried to manage the pier and make it another income source for the municipality. The plan was to increase its safety and capacity to welcome more tourists and more trucks. In 2010, the project was proposed. A budget of 834,000 baht was set for reinforced concrete road construction, asphalted road repair, and improvement of a bare ground parking lot. Furthermore, the municipality passed a municipal law on the pier in 2009, with the approval from Wiang Municipality Office and Chiang Rai provincial governor. This municipal law started to be implemented on December 1st, 2009.

The municipal law sets out the regulations for the use of the pier, which are for helping staff and officers in the orderly management of the pier. The content is mainly about the pier's terminal service charges – 100-500 baht for each stop of a cargo boat or a car ferry,

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<sup>7</sup> According to section 55 of the Maintenance of the Cleanliness and Orderliness of the Country Act, B.E. 2535 (1992), a fine shall not exceed three thousand baht. Section 20 of the Road Traffic Act, B.E. 2522 (1979), states that a fine shall not exceed five hundred baht. Section 45 of the Road Traffic Act, B.E. 2522 (1979), states that the penalty shall be a jail term for not more than three years, or a fine but not exceeding sixty thousand baht, or both (Sakyotintada, 2011).

100 baht per trip for a vehicle owner who needs a towing service, 300 baht per trip for a 4-wheel truck or a private car, and 30 baht per trip for a non-Thai passenger are examples. The service charges were reviewed and adjusted later to be more suitable. The mayor of Wiang Municipality Office approved the law and announced the changes on February 19<sup>th</sup> 2010. Some of the changes included reducing the terminal's service charge for a non-Thai registered car ferry to 200 baht per trip and cancelled the service fee for a foreigner who could present his/her passport.

Usually in the dry season, the water level goes down making it difficult or impossible for a ferry or cargo boat to operate, especially for big trucks that cannot be loaded onto the ferry. The municipality attempted to help relieve the problem by providing rocks to be put into the river, at specific areas, and by making a track for trucks to be able to get loaded on to the ferry. However, these rocks are usually washed away when the water level rises again. Therefore, it could be seen as an inefficient way to spend the municipality's budget in trying to solve the problem.

The municipality's work was difficult and faced many obstacles due to overlapping work and authority with several central government agencies - the Royal Thai Survey Department (under the Supreme Command Headquarters), Department of Treaties and Legal Affairs (under the Ministry of the Foreign Affairs), and the Marine Department (under the Ministry of Transport). Development of Bug Pier and the Mekong River are responsibilities of the government agencies mentioned above because the Mekong River is considered an international river and border, so it is under the responsibility of the first two agencies, and Bug Pier is a construction extended into the river, so it is under the responsibility of the Marine Department<sup>8</sup>. Eventually, Wiang Municipality Office was informed that any of its actions without permission from the Marine Department was against the law. This caused the project to be abruptly stopped.

The results of this study were consistent with the finding of Chardchawan (2012) regarding the allocated missions of the state and local government. The significant discussion was that transferring missions was only to act in accordance with the decentralization plan, without revision and amendment of the laws. Therefore, in practice, a local administrative

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<sup>8</sup> The Navigation in Thai Waters Act, B.E. 2456 (2003), section 6, miscellaneous section (C), in article 17 about intrusion into rivers states that "It is prohibited to build or extend a construction or anything above or into rivers, ponds, marshes, reservoirs, lakes, seas, sea beaches, and Thai sea boundaries that are a public passageway or public property, unless having a permission from the Marine Department."

organization almost has no authority to deal with these missions. Furthermore, these specific laws have been enacted and operated under the context of strong centralization.

### Conclusions

This paper shows that in practice local government in Chiang Khong has very limited authority, while the true authority largely remains with the local agencies of the central government - a fragmented centralism. Overlapping both in operating areas and in their authorities has led to many conflicts between central and local government agencies and certainly, when conflicts arise, the central government always has the greater authority and powers. The Bug Pier and National Highway 1020 cases perfectly show and support the conclusion. Even though the problems occurred in areas which were the responsibility of local governments, the local authorities could not handle the problems.

The solution proposed by the author is to have more decentralization which would make locals become more sustainably flexible in all aspects of managing themselves.

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