

Driving Learning Policies and Legal Regulations for Transferring the Ancient Site Mission

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Abstract

The aim of the article is to drive learning policies and legal regulations for transferring the ancient site mission. The target groups performed in-depth interviews, group discussions, and comparative studies with neighboring communities. The study found that 1) the delegation policy lacked the impetus, decision-making, and clarity of the competent authority for future local government projects, and 2) problematic legal measures and barriers to the exploitation and management of archaeological sites at risk under The National Antiquities, Antiquities, Artefacts, and Museums Act 1961 and as amended (No. 2) B.E. 2535 (1992), influenced policy ideas favoring the transfer of management of historic places.

Keywords: Archaeological site management, Legal measures, Mission transfer

1. Introduction

Archaeological sites and antiquities are national cultural resources, also known as “cultural heritage”, and deserve to be preserved for future generations. That is, to study and experience the beauty of each area’s culture and traditions as reflected by the interactions of people in the past that have been refined and created into a way of life, a way of thinking, and wisdom (Taylor, 2009). The people and communities that lived near these places and objects played an important role, just as they played an important role in preserving antiquities before the change of Thai rule in 1932. It is based on beliefs and practices that give each region its own method of preservation. Then, in 1933, official powers and duties under the Antiquities Act were delegated to the Fine Arts Department. In 1934, Antiquities, Artifacts, and the National Museum were created. This marks the consolidation of administrative powers into the central government. In this case, there are certain limitations to the preservation and restoration of antiquities that may not have been achieved following the intent (Morrison et al., 2000).

Ideas about community and local contributions to conservation restore art, culture, and wisdom (Fernández-Llamazares & Cabeza, 2018) as outlined in the provisions of the Constitution of the Kingdom of Thailand B.E. 2540 (1997). It provides a way to encourage communities and localities to participate in conservation and restoration, as well as some practical benefits and ambitions that seek to separate community rights and individual rights. This gives the community in the legal dimension another legal right (Taylor, 2009). There is also a push to expand the definition of “constitutional community rights holders” to include cooperation between communities and local governing bodies or other relevant government agencies (West, 2014). Allowing individuals or communities to operate without the support and encouragement of government agencies is difficult under the provisions of the Constitution of the Kingdom of Thailand, B.E. 2550 (2007). Article 57 of the Constitution of the Kingdom of Thailand (B.E. 2560, 2017) specifically provides that the state has to act. The word “state,” as defined in the provisions of the Constitution (Strasser, 2012), includes government agencies and government officials whose duties are responsible for maintaining and protecting historic sites. In this case, it refers to the “Department of Fine Arts” as the main agency in operation (Kootiem & Poolsatitiwat, 2019).

The concept of community-local engagement is based on community rights to the management of historic sites. It led to the policy of transferring the mission of maintaining the historic site to the local governing body (Ye et al., 2021). In 2003, the decentralization committee for local government organizations under the local government planning and procedures act of 1999 approved the transfer of six missions with 245 drivers, including the arts and culture, customary, and local wisdom missions. There are 2 activities for the transfer mission, namely basic archaeological maintenance and maintenance of archaeological sites at the local level, and currently, many areas of the archaeological site have already been transferred to local government organizations, including 1) Nong Ku Castle (Prang Ku), Mueang Subdistrict, Thawat Buri District, Roi Et Province, and 2) That Kong Khao Noi is in Thadthong Subdistrict, Muang District, Yasothon Province, which is governed by Thadthong Subdistrict Municipality indicates that the archaeological site is developing in a positive direction.

The That Yaku Nong Pan Subdistrict, Kamalasai District, Kalasin Province, 10th Regional Office of Fine Arts, Roi Et, in which those in charge of the area attempted to promote the policy with Nong Pan municipality but had yet to reach an agreement on the policy to be transferred. However, in 2020, the 9th Regional Office of Fine Arts, Ubon Ratchathani as the (new) responsible person informed the policy guidelines of the Nong Pan municipality once more. In order to implement the policy objectives as quickly as possible, the transferee still suspects the local government authorities. Responsibility for transitional phases of agency management and management of historic properties from a legal, factual, financial, and personnel perspective

The flag is known as “Thung” in Isan society and the cultural dynamics of using flags in Phra That Yaku area with the invention of tradition (Rhahnok & Phanchan, 2021). Local government organizations located in the area of responsibility of the Phra That Yaku area have played an increasing role, as, during 2018, activities have been held that have attracted

the attention of tourists and the general public in the tradition of worshipping and water worshipping Yaku. The color of the event, in particular, generated a large income in the community and Kalasin province by bringing in large amounts of Thung (flags) from Kalasin province village representatives, known as “Talay Thung”. The revenue generated from the event, such as the sale of tickets, Donation boxes, the rent of privately owned distribution areas, etc. With ambiguity to legitimate practices, revenues generated for Yaku area management, such as cleaning, utility bills, community fund establishments, and so on, may be incurred as unlawful, *i.e.*, the exploitation that generates income in the area of the archaeological site under the Antiquities Act.

Based on problem of this research focuses on policy-driven approaches and legislative measures for transferring appropriate management missions to the Yaku Relic Site, reducing conflicts between communities and government agencies, and suggesting clear operational guidelines between government agencies to contribute to the promotion and development of archaeological sites in collaboration with the community and the nation.

2. Method

2.1 Content

This research is qualitative, consisting of documentary research and relevant legal documents, namely the Constitution of the Kingdom of Thailand, B.E. 2560, the Plan and Determining Plan and Process of Decentralization to Local Government Organization Act, B.E. 2542 (1999), and the Municipal Act, 1953. The National Antiquities, Antiquities, and Museums Act of 1943, for example, documents the resolutions of the Cabinet and related committees. and in-depth interviews with relevant government officials of the 9th Regional Office of Fine Arts, Ubon Ratchathani Provincial Cultural Office. The data obtained by content analysis and inductive summaries are used to find the appropriate policy approach to solve the problem.

2.2 Demographic Information

Selecting a specific population to interview, including administrators, the 9th Regional Office of Fine Arts, Ubon Ratchathani, and officers of Thadthong Subdistrict Municipality and officers of Thadthong Subdistrict Municipality in Yasothon Province (transfer agencies; (In the case of the elemental specimens, Kong Khao Noi Kha Mae: The Tale of the Stupa and a Small Box of Rice.) Yaku Pratap Fund Committee, community leaders, and village sages.

3. Results and Discussion

According to research studies and data analysis, the transfer of the Phra That Yaku Archaeological Site’s mission to Nong Pan Sub-District Municipality to maintain basic archaeological sites and preserve archaeological sites at the local level did not succeed in achieving that goal.

3.1 Transfer Policy of the Mission of Maintaining the Historic Site

3.1.1 Scope of Mission Transfer Authority

According to the Decentralization Committee, the local governing body approved the transfer of the arts and culture mission. Local traditions and wisdom from the Department of Fine Arts to the local governing body, it is responsible for that. There are two activities for the transfer mission: basic archaeological maintenance and local historic site maintenance (Poulios, 2010). Both of these are primarily the form and nature of the archaeological site's physical activities, such as keeping it clean, preventing intrusion, providing academic information, disseminating it, and maintaining public relations. With these activities already underway, Nong Pan municipality has already done its initial part, so it is not possible to solve the problem and meet the needs of the people and local government agencies to take advantage of the current Yaku Relic Site. (Rezaee Khongi, M., Bahramzade, M., & Khamseh, H, 2020)

3.1.2 The Process of Participation from the Public and Related Agencies

The problem with staying informed is the lack of information or knowledge among citizens and community members to utilize or carry out activities at the Yaku archaeological site (Dumaru, 2010). After the national register of historic places was announced, administrative powers and duties belonged to the Department of Fine Arts, where this system and mechanism are seen as a major obstacle to the development and utilization of the Yaku archaeological site and have led to the actions of the people and communities themselves without notice or permission as required by law. The transfer policy of the mission to the preservation of the historic site was established. The public and the community lacked awareness of the information and the process of participating in expressing their opinions on the policy as key stakeholders, although the Nong Pan District Municipality's mechanism of using the Nong Pan Municipal Council as a platform for exchanging such issues did not cover the factors that led to the agency's decision to accept the transfer of missions under this policy.

3.1.3 Preparation of the Structure and Human Resources of the Transferee Agency

The role of the Nong Pan Municipality in maintaining and carrying out related activities at the Phra That Yaku archeological site is the duty of the Education Division. In arts and culture, there are activities depicted in the ordinance, such as the "Majapurmi Dwaravadyingla" day. Yaku's water traditions, fireball boons, and other activities for which no officers are directly responsible; landscaping and infrastructure improvements around Yaku and adjacent areas will be carried out by the Ban Sema community, which has jointly mowed the lawn and repaired the pedestrian crossings. It uses funds from the community's self-established Yaku Relic Fund and proceeds from the sale of ritual offerings and donation boxes.

Personnel management in the case of Nong Pan Municipality has been transferred. Officials working on the maintenance of historic sites must implement a three-year force plan, according to the board of central committee for local personnel groups. Regarding the rules

and conditions relating to the personnel management of local government organizations.

3.2 Legal Measures Regarding the Transfer of Archaeological Missions

3.2.1 Constitution of the Kingdom of Thailand B.E. 2560 (2017)

Article 57 of the Kingdom of Thailand Constitution, B.E. 2560, Section 5, Duties of the State, provides that the state (the Department of Fine Arts) must conserve historic sites and provide public spaces for activities related to archaeological sites, as well as promote and encourage the public. Local government organizations, communities, and local government organizations have exercised their rights and participated in the conservation of historic sites. Therefore, it is an important approach to driving the policy of transferring archaeological missions from the Department of Fine Arts to local self-government. Constitutional community rights also promote the participation of citizens and communities in the preservation of historic sites in their management style (Dressler et al., 2010).

3.2.2 Determining Plan and Process of Decentralization to Local Government Organization Act, B.E. 2542 (1999)

The law divides the framework of public services into six areas: 1) infrastructure; 2) quality of life promotion; 3) community organization, society, and public order; 4) planning, investment promotion, commerce, and tourism; 5) management and conservation of natural resources; and 6) arts and culture, traditions, and local wisdom. The committee on decentralization of local government organizations considered and approved the transfer of six missions, a total of 244 transfers, 50 departments in 11 ministries, and six missions in arts and culture, customary knowledge, and local wisdom: 1) management of archaeological sites and antiquities; and 2) management of museums and archives, transferring the missions from the Ministry of Culture, Department of Fine Arts. Thailand has 74 sites, including the Ancient Site of Phra That Yaku (Fah Daet Songyang City), whose mission has not yet been transferred.

3.2.3 The National Antiquities, Antiquities, Artefacts, and Museums Act 1961 and as Amended (No. 2) B.E. 2535 (1992)

This law gives authority for the management of archaeological sites, antiquities, artifacts, and national museums to the Department of Fine Arts, the most specialized agency. The legal authority is the “Director-General of the Department of Fine Arts,” with a secondary law, the Department of Fine Arts Regulations on the Preservation of Historic Sites, B.E. 2528 (1985), which is a guideline for the management of archaeological sites’ public cases. For example, the construction of a building in the Nong Pan municipality area must be sought under the Building Control Act, B.E. 2522 (1979), *i.e.*, permission must be sought with the Mayor of Nong Pan Municipality, but if the construction is within the area of a historic site, the Department of Fine Arts shall take the second step (Moura & Teixeira, 2009). Therefore, it becomes an obstacle to management and causes disputes among stakeholders. The department’s format and manner of proceedings will preserve and provide academic information services without any direct purpose of revenue-generating exploitation or commercial tourism characteristics.

3.2.4 Municipalities Act 1953 (Amendment B.E. 2562)

The Municipalities Act 1953 (revised 2019) is a master law that defines the structure and authority of all types of municipalities, which have the authority to prepare for the transfer of the mission of preserving historic sites as follows: 1) The authority to care for the ancient site has only the following provisions: “Section 50, subject to the provisions of the law, requires the parish municipality to do the following in the municipality: (8) nurture the arts, traditions, local wisdom, and good culture of the locality; 2) have the administrative authority to seek income or benefits for local development; and 3) have the authority to have officials working on the care of historic sites.” The role of parish municipalities under this law in the care of historic sites has not been clearly defined.

The 1999 Act establishes decentralization plans and procedures for local government bodies, requiring states to transfer missions that are redundant to local governing bodies or those provided by local government organizations to local governing bodies. In the legal dimension, the results of the mission transfer are not immediately effective (Etzkowitz & Goktepe-Hulten, 2010). In other words, the department of fine arts delegated to the municipality the mission of caring for archaeological sites, not the executive authority that relies on executive orders or resolutions of the municipality to carry out, but the mission of caring for antiquities, which is the authority under the Law on Antiquities, Antiquities, Artefacts, and National Museums that the municipality is a public legal entity.

Actions must be made by the concept of the rule of law governing the legitimacy of the administrative department (Canevaro, 2017), namely the “principle of no law, no power” that requires government agencies to take any action only if the law provides for them, and the opinion of the Board of Regents, 25/2006 on compliance with the Local Government Planning and Procedures Act, 1999 (in the case of the management of the care of antiquities, antiquities, national museums and archives in the Municipality of Ayutthaya), and as amended (No. 2) B.E. 2496 (Amendment 2019) and the Antiquities, Antiquities, Artefacts and National Museums Act, 1961, and as amended (No. 2) B.E. 2535 (1992) and the National Antiquities, Artefacts and Museums Act, 1961 and as amended (No. 2) B.E. 2535 (1992), would make the transfer of the mission of caring for antiquities to local government organizations more effective. There should be the enactment of child laws or secondary laws that establish the practices of local government organizations in the management of historic sites, covering benefits or income-seeking to contribute to local development (Shah, 2006).

4. Conclusion

Informed informatics and decision-making by citizens and communities towards the transfer of care missions is a participatory process that is a key factor in achieving an effective implementation (National Research Council, 2008). The “Yaku Ancient Site Management Development Plan” is a master plan for local government organizations after receiving the transfer of missions to be used as tools for the management of archaeological sites, such as the preparation of ordinances, requesting rates, etc., and having a collaborative committee between the Department of Fine Arts, Municipalities, and Communities. It is responsible for reviewing the plan and resolving the issues raised by the planned management, which will be

in accordance with the spirit of the provisions of the Constitution of the Kingdom of Thailand B.E. 2560 (2017). Community and local management of historic sites.

5. Limitations

The potential and readiness of local government organizations to support the transfer of missions from the Department of Fine Arts should be studied because the management of archaeological sites requires specific science and expertise in their operations. An appointment of a working group to study the impact, establish guidelines for clarity during the transfer process, and disseminate and publicize the transfer of the Fine Arts Department's mission to the local government organization is necessary in order to drive the policy on transferring the ancient Phra That Ya Khu to success.

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