

Chapter III

Access to Participation in Environmental Decision-making

Category A: Participation in National or Sub-National Decision-Making on Policies, Strategies, Plans, Programs, or Legislation

Introduction

Rationales of the Indicators

The content of this chapter focuses on indicators which are used to evaluate the level of participation in environmental decision-making from policy, strategic, planning, program, and legislative levels. The indicators are classified into three groups which are indicators assessing participation before decision-making, indicators assessing participation during decision-making, and indicators assessing participation after decision-making (Please see Diagram 1).

In this study, the researchers selected a series of case studies, each featuring a different level of decision-making, regarding the topic of "water resources". "Water resources" was chosen as the main focus of this study because water resource problems have a tendency to be highly controversial, complex, and very critical. It is a problem which can cause widespread impacts to the public in every sector. The government is highly concerned about these problems and invests a lot of effort in developing tools and water resources management techniques for Thailand to cope with the problems and the context of an ever-changing society.

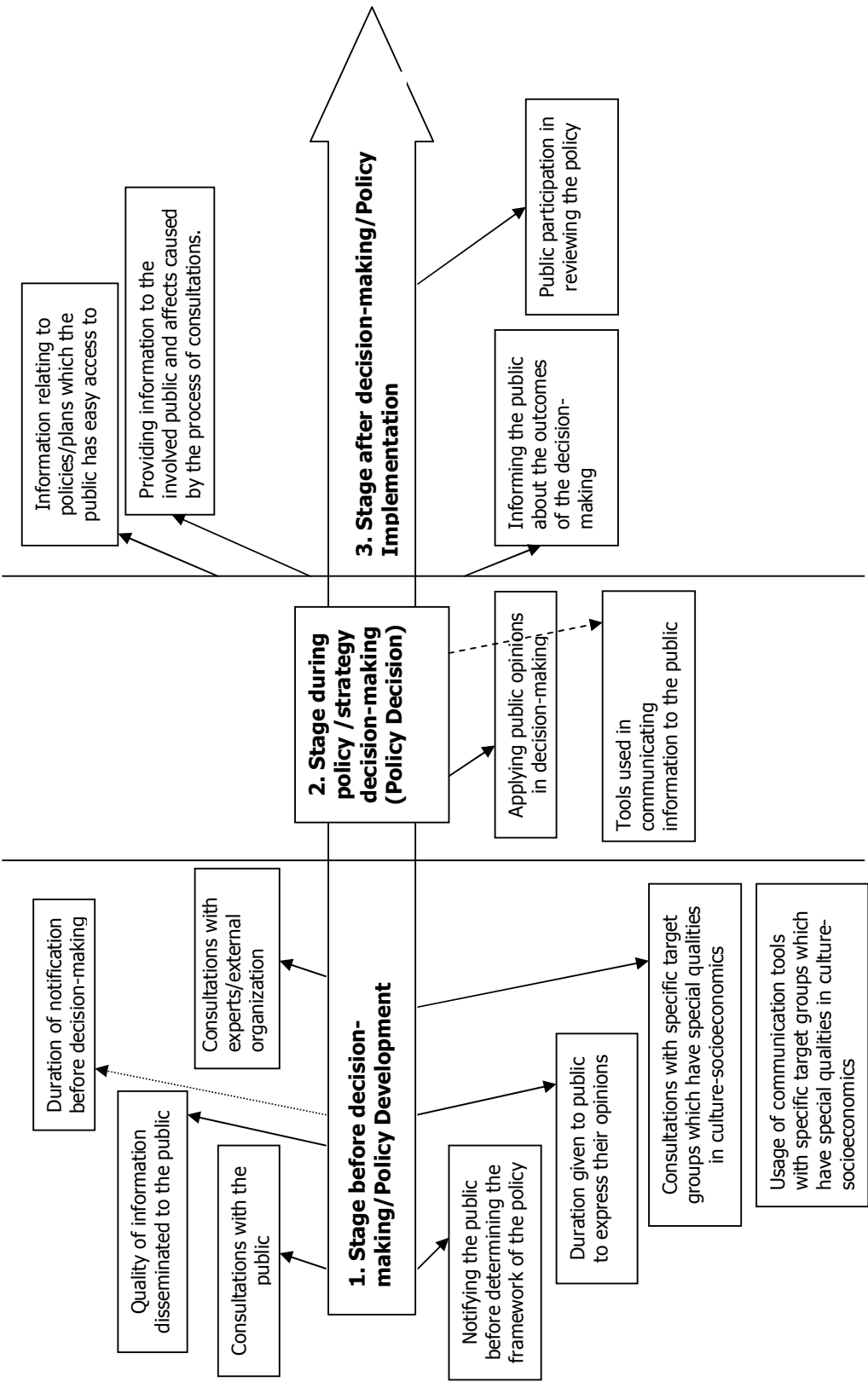
The Department of Water Resources was established under the Ministry of Natural Resources and Environment where a sub-committee on river basins was formed, plans on river basins management were developed, and water laws were drafted. These efforts are a result of environmental decisions which might have a widespread impact in both positive and negative ways on the management of water resources and the people who use the water. The indicators in this chapter were created to evaluate public participation at all levels of environmental decision-making so that the state of environmental decision-making can be determined whether it follows a stakeholder participation system, that the impact assessments will be comprehensive and cover all dimensions, and that there will be mechanisms or weighing scales for decision-making assessment present. These evaluations will help lead to effective problem management in environmental decision-making which will benefit society as a whole.

Case Selection

The researchers chose the following case studies to evaluate the state of public participation in decision-making:

- Policy level decision-making: Water Privatization Policies
- Strategic level decision-making: Water Grid Management Strategies
- Planning level decision-making: Management Plan for the Pasak River Basin
- Program level decision-making: Water Resources Management Plans of Saraburi and Petchaburi Provinces
- Legislative level decision-making: Draft of the Water Resources Act

Diagram 1: Access to Participation Indicators at the Policy, Strategy, Plan, Program and Legislation Levels



Case Study: Water Privatization Policies

Introduction

General Situation

We refer to water privatization in this study as one of two meanings. The first refers to the privatization of a state enterprise into a private company and the second refers to transforming water, a public resource, into a commercial product which uses market mechanisms to regulate the demand-supply. Water privatizations in Thailand have made substantial progress especially in the privatization of state enterprises.

The privatization of state enterprises in Thailand began soon after the country loaned money from the International Monetary Fund (IMF) during the 1997 economic crisis. One of the conditions set by IMF was for the government to hasten the privatization of state enterprises which meant the change in ownership from a state owned entity to a private owned entity. If an entity is more than 50% owned by the private sector, the state enterprise would be considered to be privatized. In the past, state enterprises in Thailand never underwent privatization under this connotation. There were only increases in the role of private sectors in various state enterprises such as contracting private sectors to manage the enterprise, giving concessions to the public, or engaging in joint-investments with the private sector (Nantawatana Borommanan, 2002). As for water distribution, the private sector has had a prominent role starting in 1992 when the Provincial Waterworks Authority established East Water Resources Development and Management Company Limited to manage and develop main water pipes. The company was to be also the sole distributor of water to the industrial sector in the eastern region for a period of 30 years. Another case would be the consensus reached by the cabinet on 20 June 1995 to permit a group of companies to invest in Pathumthani Waterworks Company Limited, a joint venture with the Provincial Waterworks Authority. A contract was made which gave the company the right to produce and distribute water for the Provincial Waterworks Authority around the Pathumthani and Rangsit waterworks zones for 25 years.

Due to the conditions installed by the IMF, Thailand issued the Capital of State Enterprises Act (Corporatization Act) B.E. 2542 (1999) to be used as a tool for the government to privatize state-owned enterprises to become one that is a limited company or a public limited company. The Act is also aimed at restructuring the shares in a state enterprise so that the shares belong to a company which is wholly owned by the state where mobilization of funds from investment markets will take place. Under this law, the "Committee of State Enterprise Investment Policy" was appointed where the Prime Minister is the president and the Permanent Secretary of the Ministry of Finance is a member of the board and the office secretary. This was to ensure that things go according the provisions of law.

As of today, the state enterprises which have reformed into public limited companies and mobilized funds from the stock exchange are Petroleum Authority of Thailand, Krung Thai Bank (Pcl.), Thai Airways Company, and Airport Authority of Thailand. Apart from these, there are two more state enterprises which reformed into public limited companies but have not mobilized funds from the stock exchange which are the Communications Authority of Thailand and Telephone Organization of Thailand. The state enterprises which have a direct responsibilities in water management are the Metropolitan Waterworks Authority and the Provincial Waterworks Authority, also have plans to privatize as well.

The Metropolitan Authority of Thailand is one of the state enterprises which has been ordained to be privatized and to offer shares to the public. In the process of doing so, the Committee of the Metropolitan Authority of Thailand reached a consensus during meeting no.2/2546 on 26 February 2003 that the Metropolitan Authority of Thailand will be privatized in accordance to the Capital of State Enterprises Act (Corporatization Act) B.E. 2542 (1999). In the initial stage, the Ministry of Finance held all shares and the current business structure was maintained. Thereafter, on 21 July 2003, the Committee of State Enterprise Investment Policy showed support in the indoctrination and direction of the privatization of the Metropolitan Waterworks Authority. On 19 August 2003, the cabinet approved the indoctrination and direction of the privatization of the Metropolitan Waterworks Authority and assigned the Ministry of Interior to examine the need of passing laws concerning waterworks businesses and also form a committee on the preparation of the establishment of the Metropolitan Waterworks Company. At present, the committee on the preparation of the establishment of the Metropolitan Waterworks Company has held eight meetings to examine the details in Section 19 of the Capital of State Enterprises Act B.E.2542 (1999) and will be holding a meeting to conclude the results of the preparations before presenting them to the Committee of State Enterprise Investment Policy and the cabinet. (Information obtained from the website of the Metropolitan Waterworks Authority on 24 February 2005: www.mwa.co.th/modify.html).

As for the Provincial Waterworks Authority (PWA), the cabinet reached a consensus on 20 August 2002 to ordain the PWA to prepare for registering into the stock exchange. At present, the Committee of State Enterprise Investment Policy has ordained the PWA to privatize and register as a public limited company within 2005. The Committee of the PWA therefore decided to contract consultants to prepare a study/analysis on the best path to privatizing the PWA in which will maximize benefits to society and to also prepare and see through with the privatizing in accordance to the Capital of State Enterprises Act B.E. 2542 (1999). The study, which will take approximately 400 days to complete, was started on 5 January 2004 (Website news from PWA on 13 February 2004: www.pwa.co.th/news/data/470213003.html).

Privatization of state enterprises has been widely opposed especially from state enterprise labor unions. The labor unions in each state enterprise organize various activities to continuously show their objection of privatization schemes such as presenting a petitions to the King. The main reason why the labor union of the Provincial Waterworks Authority opposes privatization is because of the incremental increase in the price of water which will follow. This is because there will be higher costs and it is the nature of the private sector to aim at profit maximization. Also they believe that the quality of management might not improve and might affect the country and the consumers (Petition No. 2/2547 of the Anti-Liberalization Coalition for Protection of National Utilities and People signed by the presidents of the labor unions concerned including that of the Provincial Waterworks Authority and the Metropolitan Waterworks Authority) .

The privatization to transform water resources to become commercial products for all activities especially for the agricultural sector solidified after the Thai government decided to receive aid from the Asian Development Bank (ADB) under the Agriculture Sector Program Loan for the about of \$600 million dollars. One of the conditions for the loan listed in the Development Policy Letter (DPL) and in the Policy Matrix was the condition that the Thai government reformed the management of water resources in general which covered privatization schemes and created legislative tools which determine water usage rights, water management, water distribution, water usage permissions, and the costs of water procurement. Apart

from this, the government was concerned with costs of developing an irrigation system in which the Ministry of Agriculture and Cooperatives was responsible for, as well as creating implementation methods and measures to recover the costs.

The government has been carrying out the commitments from the loan since 1999. The government created a vision on water and national water resource policies and also drafted a Water Resources Act. The draft of this legislature however has been objected by many parties for various issues especially those concerning the incorporation of agricultural mechanisms in water purchasing models, the issuance of water usage permits, and the commercialization of water usage rights.

When the Ministry of Natural Resources and Environment was established, the ministers during Mr. Prapat Panyachatraksa's office revoked the water laws which were drafted before hand and assigned the Department of Water Resources to draft a new set of water resource laws which will include the participation of those involved. The new set of laws was drafted only after an open forum where people from various provinces voiced their opinions. This resulted in the following sections which pertain to the use of agricultural mechanism in water resource management:

Section 10 To separate the use of water resources into three categories. Water usage under Category 2 requires permission from the Committee of River Basins and water usage under Category 3 requires permission from the National Water Resources Committee²⁸.

Section 12 and 13 Before submissions to the ministers, there must be recommendations from the Committee of the River Basins involved and support from the Committee of National Water Resources. Also, the ministers will have the power to pass ministerial laws which will determine standards, conditions, methods, rate of costs, service fees, customary costs, problem solving, and canceling procedures of water usage permits for water usage under Category 2 and 3.

This draft of water resource laws demonstrates that it is possible to commercialize water resources which are used for various activities including those in the commercial agriculture or livestock sectors. At present, the draft of the laws concerning water resources is being reviewed and commented for another round in the different provinces. It is deduced that the final draft before presenting it to the ministers for approval will be completed around August 2005.

The evaluation table of the access to participation in environmental decision-making on water privatization issues is a result of assessments specifically focused on the privatization of waterworks state enterprises. It is an evaluation which will constantly refer to the draft of water resource laws since the issue of water privatization is a critical part of the laws.

²⁸ Water usage that are considered under Category 2 are the usage of public water for commercial agricultural or livestock activities, industrial activities, tourism, production of electricity, waterworks, and other activities listed in the law. Water usage that are considered under Category 3 are the usage of public water for mega projects which use large amounts of water or might affect river basins or areas specified by the law.

Case Selection

- 1) Water privatization policies are policies which affect and influence the management of water resources. This, therefore, is a main rationale for this study of the access to participation in environmental decision-making.
- 2) Water privatization policies are policies which affect the society at large in all sectors.
- 3) It is a policy which is highly concerned and followed by the public and the press.
- 4) It is a policy which raises controversial issues and objections from all sectors involved namely experts, employees in state enterprises, public sector development organizations, and the general public.

Assessment Method

- 1) Inspection of information obtained from related documents and websites.
- 2) Interviews of those involved from various sectors who are:
 - Khun Pornpimol Churupant, State Enterprise Development Director, Ministry of Finance.
 - Khun Yajai Pattanasukawasan, Officer of the State Enterprise Policy Office, Ministry of Finance.
 - Chaiyudh Homwongse, Vice-President of the Metropolitan Waterworks Authority Workers Union.
 - Harnarong Yaowalert. Assistant Secretary General of the Wildlife Fund Thailand.
 - Montri Chantrawong, Life and Nature Rehabilitation Foundation.

Table of Indicators

Indicators	
III.A.1 Lead time for notification of draft policy, strategy, plan, program, or legislation*	
Values	Explanation and Justification
<p>(0) Not applicable/not assessed</p> <p>(i) <u>No public notification of the selected draft policy, strategy, plan, program, or legislation was issued</u></p> <p>(ii) Public notification of the selected draft policy, strategy, plan, program, or legislation was issued with minimum lead time (please specify)</p> <p>(iii) Public notification of the selected draft policy, strategy, plan, program, or legislation was issued with reasonable lead time (please specify)</p>	<p>In 2003, The Board of Directors of the Metropolitan Water Works Authority in its resolution dated 26 February 2003, and the State Enterprises Capital Policy Committee in its resolution dated 21 July 2003, approved in principle privatization of the Metropolitan Waterworks Authority (MWA) without informing the public in advance that they were going to decide on the matter.</p> <p>But when faced with an atmosphere of growing public opposition to the privatization of public enterprises in general, the Metropolitan Waterworks Authority arranged a closed hearing, limited to employees of the MWA, on 16th February 2004 at the Miracle Grand Hotel in Bangkok. Subsequently, a public hearing proper was held on 22 February 2004 at the BITEC Exhibition Centre, Bangkok. The public was informed about 20 days in advance, through television, radio, and newspapers, and asked to register if they wanted to attend. This public hearing information procedure is specified in the State Enterprises Capital Policy Committee regulations concerning the consideration of people's opinion dated 2000. The regulations specified that the "Committee to Consider to the Opinions of the People" arrange for a public hearing and complete the whole process within 45 days of the committee's establishment.</p>
III.A.2 Quality of information supporting participation in policy, strategy, plan, program, or legislation*	
Values	Explanation and Justification
<p>(0) Not applicable/not assessed</p> <p>(i) No relevant information was provided to the public</p> <p>(ii) Information provided to the</p>	<p>For public hearing of 22 February 2004, a book titled "Information for the Public Hearing" was prepared as background for participants. The book contained information and data on public enterprise development policy, an overview of the MWA, information on the</p>

public included one to three "elements of quality" (please specify) ²⁹ (iii) <u>Information provided to the public included four or more "elements of quality" (please specify)</u>	overseeing of MWA branch offices, details on the proposals to privatize the MWA, and its rules and regulations. Included also were forms for the submission of opinions, suggestions, questions for distribution to public hearing participants. The book was distributed in advance of the hearing.
III.A.3 Existence and availability of policies, strategies, plans, programs, and laws at public registries/records*	
Values	Explanation and Justification
(0) Not applicable/not assessed (i) No registry or record of policies, strategies, plans, programs, or laws is accessible at any public location (ii) <u>Registries or records of policies, strategies, plans, programs, or laws are accessible in one public location (please specify)</u> (iii) Registries or records of policies, strategies, plans, programs, or laws are accessible in more than one public location (please specify)	Information concerning privatization of waterworks in general (including enterprises other than the MWA) is contained in the MWA and Provincial Waterworks Authority (PWA) website, but not much is provided. From the website of the State Enterprise Policy Office (www.sepo.go.th), whose tasks and responsibilities are directly related to public enterprises, no detailed information on privatization was found. An official from this office explained that since the privatization process had not been completed, information was not yet available. In the case of the MWA website (www.mwa.co.th/modify.html), information on "corporatization" equivalent to an A-4 page was provided. As for the PWA, information was provided twice in the shape of a newsletter, on 16 December 2003 (see (www.pwa.co.th/news/data/461216004.html), and on 13 February 2004 (see www.pwa.co.th/news/data/470213003.html). As to information on privatization of water in print format, the Office of BWA has not provided it for the public in accessible form.

²⁹ "Elements of quality" include:

1. Explanation of the background of the policy, strategy, plan, program, or legislation;
2. Description of options and their implications for the environment;
3. Complete text of the draft decision or the envisaged procedure (commencement, opportunities to participate, time and venue of any envisaged public hearing, etc.);
4. Information on when, where, and how further information will be available;
5. Information on when and how members of the public can submit comments or questions;
6. Information on what kind of environmental information is available, etc.

III.A.4 Degree of external consultation in defining the parameters or scope of policy, strategy, plan, program, or legislation *	
Values	Explanation and Justification
<p>(0) Not applicable/not assessed</p> <p>(i) No independent experts or organizations representing the public interest were consulted about the parameters and scope of the policy, strategy, plan, program, or legislation</p> <p>(ii) <u>One or two independent experts or organizations were consulted about the parameters and scope of the policy, strategy, plan, program, or legislation (please specify)</u></p> <p>(iii) Three or more independent experts or organizations were consulted about the parameters and scope of the policy, strategy, plan, program, or legislation (please specify)</p>	<p>Consultation with experts and hiring of consultants for the preparation of a master plan for the reform of state enterprises (1997) were carried out. Moreover, there was commissioning of studies on specific state enterprises such as the MWA and the PWA.</p>
III.A.5 Comprehensiveness of consultation at drafting stage of policy, strategy, plan, program or legislation *	
Values	Explanation and Justification
<p>(0) Not applicable/not assessed</p> <p>(i) <u>No public consultations were held at the drafting stage</u></p> <p>(ii) One consultation was held at the drafting stage</p> <p>(iii) Two or more consultations were held at the drafting stage</p>	<p>In the preparation of the draft policy on privatization of state enterprises, there was no process in place for consultation with the public. One impetus to privatize state enterprises came from the fact that Thailand had entered into an agreement with the IMF whereby one condition was that Thailand would accelerate the privatization of public enterprises.</p> <p>In the case of the MWA, a committee to oversee privatization was established, with MWA union representatives included as committee members. The latter expressed their objection to the committee's resolution to privatize, adopted by the majority. The committee did make a note of the opinions of the union members in an addendum attached to the record of the committee resolution.</p> <p>After a WMA Board of Directors' resolution dated 26 February 2004 approving the</p>

	<p>conversion of the MWA to a limited company, representatives of the Ministry of Finance explained in about 12 meetings such changes to those concerned, including MWA employees.</p> <p>A public hearing was held on 22 February 2004, after the concerned state agencies—the MWA Board of Directors, the Ministry of Interior, the State Enterprises Capital Policy Committee, and the cabinet-- had already made the decision to privatize the MWA.</p>
III.A.6 Timeliness of information given to the public about outcomes of consultations in development of policy, strategy, plan, program, or legislation*	
Values	Explanation and Justification
<p>(0) Not applicable/not assessed</p> <p>(i) No information was provided to the public about the substantive input or comments from the public consultation process</p> <p>(ii) No information was provided to the public about the substantive input or comments from the public consultation process</p> <p>(iii) <u>Information was provided to the public about the substantive input or comments from the public consultation process within 3 months of the decision</u></p>	<p>The Company Establishment Preparation Committee did provide information to the public after organizing the meeting to hear opinions. The committee produced a book reporting the public's opinion and distributed it to libraries of educational institutions and sent it to those who attended the 22 February hearing. The hearing was covered live by Channel 11 television station and by Radio Thailand</p> <p>It is to be noted that the State Enterprises Capital Policy Committee Regulations concerning Public Opinion No. 15, stated that when the Company Establishment Preparation Committee has considered the State Enterprises Capital Policy Committee's public hearing report, the conclusions derived from considering such opinions must be made public.</p>
III.A.7 Public participation in implementation and review of policy, strategy, plan, program, or legislation	
Values	Explanation and Justification
<p>(0) Not applicable/not assessed</p> <p>(i) The decision-making authority has not established a process for public participation in oversight of implementation and review</p>	<p>After related agencies, namely, the MWA Board of Directors, Ministry of Interior, the State Enterprises Capital Policy Committee, and the cabinet, had in 2003 decided to privatize the MWA, there was much opposition to it by state enterprise unions and the public. A public hearing was thus organized in February 2004, using the State Enterprises Capital Policy</p>

<p>(ii) The decision-making authority has established a process for public participation in oversight of implementation and review</p> <p>(iii) <u>The decision-making authority has established a process for public participation in oversight of implementation and review, and is actively providing information to the public and soliciting input</u></p>	<p>Committee Regulations on Public Hearings of year 2000 as a guideline. For example, regulation No. 9 stated that an announcement must be made on the planned holding of a public hearing and a summary of the topic be provided on radio or television and in the newspapers for at least three consecutive days.</p> <p>However, the MWA unions expressed the opinion that although such regulations had good content but in the actual conduct of the hearing, a genuine process of participation was lacking, because of certain obstacles resulting from the public hearing regulations itself, for example, the rule that opinions must be written down, not expressed verbally, etc. In addition, few actual water users attended—not more than 100. And these water users were not randomly selected independently. After the public hearing was held, the MWA union sent a letter to the Permanent Secretary of the Ministry of Interior objecting to the summary of results of the hearing.</p>
<p>III.A.8 Incorporation of public input in design or implementation of policy, strategy, plan, program, or legislation</p>	
<p>Values</p>	<p>Explanation and Justification</p>
<p>0) Not applicable/not assessed</p> <p>(i) Official documents or publications on the policy, strategy, plan, program, or legislation do not discuss whether or how public input was incorporated in design or decision</p> <p>(ii) <u>Official documents or publications on the policy, strategy, plan, program, or legislation mention public input (whether consultations were held, how many were held, etc.)</u></p> <p>(iii) Official documents or publications on the policy, strategy, plan, program, or legislation discuss how public input was incorporated, and summarize/explain the results of public input</p>	<p>Article 14 of the State Enterprises Capital Policy Committee Regulations on Public Hearings year 2000 states that the Committee on Public Hearings must bring the hearing results to the attention of the Company Establishment Preparation Committee, so it could be used in its deliberation process. Article 12 specifies that the Committee on Public Hearings must prepare a report containing all the arguments made by hearing participants, the issues proposed by the Committee for the Public Hearings for discussion, the conclusions resulting from the hearings, as well as the reasons articulated by all parties. However, it should be noted that Article 10 of the regulations required only that the Company Establishment Preparation Committee use the information from public hearings for purposes of corporatization only, and do not have to use it for consideration of other issues</p>

Analysis

The water privatization policy is closely connected with Thai state enterprise privatization policy, the latter initiated by the state, and at the same time encouraged by international financial organizations. The result has been limited public participation at the policy level. Even though there has been clear and continued public opposition to the policy of public enterprise privatization, nevertheless the current government is clearly committed to push through the process of state enterprise privatization, to meet its targets therein.

In Thailand, decisions on privatization of state enterprises supplying water services lack a process of participation by stakeholders and the general public. Policy-makers have already made the decision to privatize the water state enterprises, but only when faced with widespread opposition from the public and stakeholders that it became a hotly debated issue in various media, did they organize a series of participatory activities.

This arrangement to bring in public participation only after the decision has been made, or one might say after conflict has arisen, is the key problem in building a process of public participation in decision-making in Thailand, as can be seen in the water privatization issue. The problem is some lack of cooperation by the public and stakeholders, lack of confidence and trust in the public hearings organized. Suspicion is expressed that the hearings were arranged merely as a way of legitimizing a decision already made, rather than arranged for genuine solicitation of public opinion. In the end, suggestions from the public did not have any impact in terms of review or change in decisions.

Recommendations

▪ For Thailand

The current political and social situation is that the government is committed to privatization and is attempting to meet clear predefined targets, with the state enterprise unions firmly opposed to the idea of privatization. This impasse is now elevated into a broader social conflict problem, with the danger of dragging the society down the road to violence. The enhancing of public participation could result in the alleviation of the problem, and it is suggested that the public participation 'space' be broadened to encompass wider sections of the general public, i.e., concerned people and those who are affected by the policy, not just limited to arranging participation by the state bodies doing the privatization and by the state enterprise unions only. There also should be public participation by water users at the policy level. One way to implement this idea successfully is to organize a referendum which in fact is allowed for in Article 214 of the Thai Constitution.

Case Study: Water Grid Management Strategies

Introduction

General Situation

The Water Grid System is a water management strategy which was officially announced to the public by the Prime Minister on 23 July 2003 at a meeting room in the Ministry of Foreign Affairs. It was the government's strategy in solving problems of water scarcity, floods, and poverty through linking water sources in various areas together so that resources can be pulled between areas with abundant water resources and those that are in drought. The Water Grid System strategy was lead by Mr. Suwit Khunkitti who was the Deputy Prime Minister during that time (as Mr. Suwit was the President of the Committee on National Water Resources).

After announcing about the Water Grid System, various government agencies developed projects to meet the needs of this strategy. An example of this is the Office of the National Economic and Social Development Board who proposed a water management strategy which increases Thailand's competitiveness, develops pipe irrigation projects, links irrigation systems in areas which are economically suitable for agriculture, tourism and industrial activities. Another example would be a proposal by the Ministry of Agriculture and Cooperatives for the Water Grid and Integrated Agriculture Sector Development Project or the Water to Alleviate Poverty Project. This approximately four billion baht project, targeted agricultural areas all around the country and had a goal of adding another 11 million rai (17,600,000,000 square meters or 4,356,000 acres) of irrigated areas. This project aims at increasing the earnings of 5.79 million farmer households by 1.2 hundred thousand baht/household/year.

Actually, projects on the development of irrigation piping systems in Thailand have been in existence since 1996. These projects were supported by the Ministry of Agriculture and Cooperatives and were a part of the ministry's action plan under the 8th National Economic and Social Development Plan on natural resource conservation which was submitted for cabinet approval on 19 November 1996. The budget for this five year project was 13,465 million baht. The Royal Irrigation Department appointed a group of consultants to conduct a study on this project first on a designated 50,000 rai (80,000,000 square meters or 19,800 acres) pilot test plot for a three year duration (1997-1999) with a 875 million baht budget. After the three year duration, an evaluation will be made before furthering with the actual project.

From the results of the Irrigation Pipe System Project (pilot project) of the Royal Irrigation Department, it was found that in the Isan region, there are three projects in the areas of Amphur Nongrear, Khonkaen which are up and running. From the tests, the main problem that was faced in the irrigations were broken and cracked pipes which caused a disruption in the distribution of water to water tanks in agricultural plots. Apart from this, the Tambon Administration Organization and the water consumers have no confidence and do not accept this project because it is not capable of really distributing water. The Tambon Administration Organization is also unable to subsidize the costs of maintaining such system. As for the other projects which were developed simultaneously, most have laid down their main systems but have not been used yet (Report of the Results of the Implementation of the Royal

Irrigation Project on Pipe Systems (Pilot Project) and Future Direction on the Implementation of Royal Irrigation Project on Piping and Water Supply Through Using Electricity of the Royal Irrigation Department 2004).

From experience gathered from these problems, when the government announced the use of the Water Grid System strategy, which is also part of the Irrigation Pipe System Project, there were objections from several parties involved. Examples of those who had objections to the system were the National Economic and Social Advisory Council, Hydrologist Club, Engineering Institute of Thailand, environmental NGOs, and so on. Objections were based on schools of thought, engineering feasibility issues, cost management issues, and social impact issues.

At present, the Department of Water Resources of the Ministry of Natural Resources and Environment is one of the agencies responsible for carrying out the implementations of the Water Grid. Consultants were hired to prepare a pre-conceptual study within a two month period and also run a feasibility study at an area level for areas in Petchaburi and Prachuab Kirikhan within an eight month duration. The feasibility study is currently still in progress and therefore no conclusions have been met yet.

This case study's main analysis is on the decision-making process determining water management strategies on 23 July 2003 which was carried out by the National Water Resources Committee. The case study assesses the process of public participation of stakeholders in the consideration of strategy determination from the strategy drafting preparations step, the decision-making step (on 23 July 2003) and to the step after the strategy has been determined through using participation indicators developed in this study.

There is an issue which should be of high concern with the decision-making procedures of the National Natural Resources Committee. On 23 July 2003, the Prime Minister officially announced about the Water Grid System. The goal of the announcement was to explain clearly about water management strategies at the policy level. The government organizations which were involved with this strategy were determined that the next step would be to run detailed studies on the feasibility of the strategy and then only decide whether this strategy is suitable and should be implemented. In contrary, when the Prime Minister announced about the Water Grid on 23 July 2003, the public was left with an understanding that the decision has already been made on the policy and that implementations of the Water Grid will soon create results in the near future.

Case Selection

- 1) The Water Grid is a water management strategy which can cause large impacts on the management and deployment of water resources in various dimensions - environment, economic, and social.
- 2) Implementation of the Water Grid requires high funds and faces debates from several factions concerning schools of thought, engineering techniques, and acceptance from the areas where the systems are implemented.
- 3) The reason of selecting the Department of Water Resources as the focus of this case study on the Water Grid System is because there are cases at the planning, program, and legislative level which the department is responsible for. The case study on public participation in decision-making at the strategic level also focuses on the Department of Water Resources where a connection

of all levels can be drawn together so a wide and clear perspective on the whole study can be seen. This will be useful in assessing the decision-making process and obtaining suggestions to improve Thailand.

Assessment Method

- 1) Inspecting information from concerned documents and websites of organizations involved.
- 2) Interviews of involved individuals from various sectors who are:
 - Director General of the Department of Water Resources, Deputy Director General of the Department of Water Resources, and Director of the Bureau of Water Resources Policy and Planning of the Department of Water Resources, Ministry of Natural Resources and Environment.
 - Prawatwit Sawatduang, Leader of Irrigation Project of Petchaburi
 - Water Resources Officer, Region 7 (Rachaburi)
 - Saksri Larpprasert, Subcommittee of Petchaburi River Basins (Civil society sector)
 - Harnarong Yaowalert, Assistant Secretary General of the Wildlife Fund Thailand.
 - Montri Chantrawong, Life and Nature Rehabilitation Foundation.

Table of Indicators

Indicators	
III.A.1 Lead time for notification of draft policy, strategy, plan, program, or legislation*	
Values	Explanation and Justification
(0) Not applicable/not assessed	The Prime Minister formally announced to the public a water network or "Water Grid" strategy on 23 July 2003 at a meeting room of the Ministry of Foreign Affairs, without informing the public in advance.
(i) <u>No public notification of the selected draft policy, strategy, plan, program, or legislation was issued</u>	
(ii) Public notification of the selected draft policy, strategy, plan, program, or legislation was issued with minimum lead time (please specify)	
(iii) Public notification of the selected draft policy, strategy, plan, program, or legislation was issued with reasonable lead time (please specify)	
III.A.2 Quality of information supporting participation in policy, strategy, plan, program, or legislation*	
Values	Explanation and Justification
(0) Not applicable/not assessed	From interviews with those involved, working in both state agencies and in private development agencies concerned with the environment, it was found that no information and data was provided to the public in advance of the water grid strategy announcement
(i) <u>No relevant information was provided to the public</u>	
(ii) Information provided to the public included one to three "elements of quality" (please specify) ³⁰	
(iii) Information provided to the public included four or more "elements of quality" (please specify)	

³⁰ "Elements of quality" include:

1. Explanation of the background of the policy, strategy, plan, program, or legislation;
2. Description of options and their implications for the environment;
3. Complete text of the draft decision or the envisaged procedure (commencement, opportunities to participate, time and venue of any envisaged public hearing, etc.);
4. Information on when, where, and how further information will be available;
5. Information on when and how members of the public can submit comments or questions;
6. Information on what kind of environmental information is available, etc.

III.A.3 Existence and availability of policies, strategies, plans, programs, and laws at public registries/records*	
Values	Explanation and Justification
<p>(0) Not applicable/not assessed</p> <p>(i) No registry or record of policies, strategies, plans, programs, or laws is accessible at any public location</p> <p>(ii) Registries or records of policies, strategies, plans, programs, or laws are accessible in one public location (please specify)</p> <p>(iii) <u>Registries or records of policies, strategies, plans, programs, or laws are accessible in more than one public location (please specify)</u></p>	<p>There is some information on the water grid in the cabinet news bulletin, which can be accessed through the Prime Minister's website, but very little detail is given, limited to stating the cabinet resolution on this (17 February 2004). Some information is provided in the website of the Department of Water Resources, Ministry of Natural Resources and Environment. (www.dwr.go.th/iwrm)</p>
III.A.4 Degree of external consultation in defining the parameters or scope of policy, strategy, plan, program, or legislation *	
Values	Explanation and Justification
<p>(0) Not applicable/not assessed</p> <p>(i) <u>No independent experts or organizations representing the public interest were consulted about the parameters and scope of the policy, strategy, plan, program, or legislation</u></p> <p>(ii) One or two independent experts or organizations were consulted about the parameters and scope of the policy, strategy, plan, program, or legislation (please specify)</p> <p>(iii) Three or more independent experts or organizations were consulted about the parameters and scope of the policy, strategy, plan, program, or legislation (please specify)</p>	<p>From interviews with relevant officials in state agencies, it was found that before announcing this water grid strategy on 23 July 2003, no consultation was made with external independent experts or organizations in the determining of the components and scope of the strategy. But consultants were hired to do a pre-conceptual study and feasibility study" after the public announcement was made.</p>

III.A.5 Comprehensiveness of consultation at drafting stage of policy, strategy, plan, program or legislation *	
Values	Explanation and Justification
<p>(0) Not applicable/not assessed</p> <p>(i) <u>No public consultations were held at the drafting stage</u></p> <p>(ii) One consultation was held at the drafting stage</p> <p>(iii) Two or more consultations were held at the drafting stage</p>	<p>From interviews with people concerned, working in both state agencies and private development agencies, it was found that no consultation was done with the public prior to the water grid strategy announcement on 23 July 2004.</p>
III.A.6 Timeliness of information given to the public about outcomes of consultations in development of policy, strategy, plan, program, or legislation*	
Values	Explanation and Justification
<p>(0) <u>Not applicable/not assessed</u></p> <p>(i) No information was provided to the public about the substantive input or comments from the public consultation process</p> <p>(ii) No information was provided to the public about the substantive input or comments from the public consultation process</p> <p>(iii) Information was provided to the public about the substantive input or comments from the public consultation process within 3 months of the decision</p>	<p>Because there was no consultation with the public before the decision on strategy was made, we can not assess this point using the indicators given.</p>

III.A.7 Timeliness of notification of intent to develop policy, strategy, plan, program, or legislation	
Values	Explanation and Justification
<p>(0) Not applicable/not assessed</p> <p>(i) No public notification of the intent to develop the selected policy, plan, program, or legislation was issued</p> <p>(ii) <u>Public notification of the intent to develop the selected policy, plan, program, or legislation was issued with minimum lead time (please specify)</u></p> <p>(iii) Public notification of the intent to develop the selected policy, plan, program, or legislation was issued with reasonable lead time (please specify)</p>	<p>State agencies take the position that the announcement of the water grid strategy on 23 July 2003 is equivalent to a handing down of a water management policy, and what has to be done subsequently is to just prepare details on the strategy before moving on to the implementation stage.</p> <p>In the case of the Department of Water Resources, it did inform the public in advance. For example a seminar was organized jointly with the Hydrology Society on 23 September 2004, another seminar organized jointly with the Water Resources Society of Thailand was held on 15 October 2004.</p>
III.A.8 Timeliness of communication of final policy, strategy, plan, program, or legislation	
Values	Explanation and Justification
<p>(0) Not applicable/not assessed</p> <p>(i) No public communication of the final decision was issued in the selected case</p> <p>(ii) The final decision was publicly communicated more than 3 months after adoption in the selected case (specify when)</p> <p>(iii) The final decision was publicly communicated within 1 to 3 months of adoption in the selected case (specify when)</p> <p>(iv) <u>The final decision was publicly communicated within 1 month of adoption in the selected case (specify when)</u></p>	<p>Information was given to the public through reporting by the mass media whose correspondents attended the 23 July 2003 press conference, and through the Prime Minister's weekly "Talk with the People" radio programme</p>

III.A.9 Communication tools used to disseminate policy, strategy, plan, program, or legislation	
Values	Explanation and Justification
<p>(0) Not applicable/not assessed</p> <p>(i) The public was not notified about the policy, strategy, plan, program, or legislation</p> <p>(ii) Only one communication tool was used to notify the public (please specify)</p> <p>(iii) <u>The public was notified through the use of several communication tools (please specify)</u></p>	<p>The public was informed, in newspapers, televised news, and radio programmes, of the formulation of a water grid strategy from representatives of the media who attended the conference. In addition, the Prime Minister did let the public know about the water grid strategy in his weekly "Talk with the People" radio programme.</p>

Analysis

The water management strategy using the concept of water grid system is a good case study of decision-making without a process of public participation. It is a top-down type of decision-making, done mainly by politicians.

After the announcement of the water grid strategy to the public, many questions were asked by various parties concerning the appropriateness of the strategy, its technical feasibility, and its financial viability as well as whether other options were available to solve the problem. Such questions and doubts were raised by many organizations because a huge amount of capital would be needed to implement the strategy-- to the tune of thousands of billion baht. Furthermore, there had been some trials of the grid in many areas, and the results were not up to expectation. Thus, when the water grid plan was officially announced to the public, many concerned organizations, such as the National Economic and Social Consultative Council, the National Human Rights Committee, the Hydrologist Club of Thailand, to give examples, arranged their own public discussions on the water grid concept. It should be noted that the public discussions were not arranged by bodies directly responsible for the water grid, but by organizations concerned about the possible multi-dimensional impact of too hasty implementation of the grid concept, which they fear might in turn lead to more intense conflict in the future.

Recommendations

▪ For Thailand

1. Because the strategy is still in its early implementation stage, the administering agencies should clearly announce to the public a position that they are ready to review their work immediately if it is found from studies that it is not appropriate in some way, or that it is not worthwhile financially.
2. The many agencies responsible for preparation of details of the strategy should work together to collate the various studies done and jointly prepare a conclusion on, for example, the advantages and disadvantages of the strategy, and on the implementation options that will best benefit society overall.
3. The process of implementation should be adjusted to adhere to the principle of encouraging the participation of stakeholders and the civil society sector at every stage and every level of implementation. This means trying to arrive at a collective opinion, and also mutual agreement on what part of the strategy should be modified; it means participation should be present also at the decision-making level, and at the review stage should problems arise in the future.

Case Study: Management Plan for the Pasak River Basin

Introduction

General Situation

The size of the river basin area in Thailand is around 512,000 square kilometers, and can be divided into 25 basins, using the classification method developed by the National Hydrology Committee. It can also be further subdivided into 254 sub-basins.

The Office of the Prime Minister's Regulations on National Water Resources Management (second issue) dated year 2002, decreed that an organization in the form of a subcommittee be established to manage water resources in areas that had a river basin. The subcommittee is to comprise representatives from the state and private sector, from local organizations, water user organizations, and from stakeholders in the use of water resources -- all which work or reside in the river basin. Experts with experience in managing and administering water resources would also be included in the subcommittee. The size of the subcommittee and the proportion of each group in it will be guided by the principle of appropriateness and is subject to the subcommittee's consideration and approval. As for the chairperson and secretary, they are selected from members of the subcommittee.

A river basin subcommittee is charged with the following tasks. Firstly, drafting policy, work plan, and projects for the river basin. Secondly, coordinating implementation plans of relevant government agencies in the basin area so that the plans will be in accord with the national water resources management plan. Thirdly, prioritizing the uses of water, determining the quantities to be used, and finding measures to allocate the supply of water in a way that is appropriate, just, and efficient. Fourthly, monitoring and evaluating results of operational work, of mediation and of arbitration of disputes. Fifthly, solving any relevant problems in the river basin area.

The Pasak River basin area, which is the subject of this assessment case study, covers three provinces, namely, Lop Buri, Saraburi, and Petchabun (and also including some areas in Ayutthaya). The Pasak River Basin Subcommittee was established by National Water Resources Committee Order No. 27/2003 dated 21 August 2003. The Petchabun provincial governor was selected as chairperson, with the Director of Water Resources Office (Area 2) of the Water Resources Department, a subcommittee member, acting as secretary.

In preparing the river basin management plan, local working groups at various levels have been set up by the subcommittee, such as river basin working groups at sub-district (tambon), district, and provincial or sub-basin levels (on this last point, which type of group to be set up depending on the circumstances of each area). Technical working groups in three fields working under the subcommittee have also been set up.

The process of preparing the river basin management plan is as follows: (from "Guidelines for Operational Work: Preparing an Integrated Budget for Water Resources", Department of Water Resources 2003)

At the village level: surveys to be done to collect information from farmers such as on the nature of demand for water, how much for household use, how much for agriculture work, etc. Responsibility for the survey lies with the agricultural sector representative from each village.

Sub-district River Basin Working Group: gathers information from farmers on the nature of problems, on how water resources are managed locally. Then, the group prepares a sub-district level river basin plan.

District (Amphur) River Basin Working Group: collates and merges the sub-district plans into a district basin plan; considers, distills and checks the plan before submission to provincial or sub-basin working group (if no such working group exists, submission is made to the Working Group on Plans, River Basin Subcommittee.

Provincial or Sub-Basin Working Group: collates the district plans and harmonizes them so that they will be in accord with the provincial development strategy plan or the river basin strategy. Then, submits the provincial plan to the river basin subcommittee.

This working group is tasked with the analysis of plans, prioritizing the plans, provision of basic data for any analyses of projects and of the overall plan, etc. so that the provincial plan will lie within the framework of the general water resources plan. It also submits any pertinent observations and advice to the river basin Subcommittee.

River Basin Subcommittee: determines the vision and guidelines for the development of water resources; analyses the river basin plan for their congruence with the water resource plan in all three dimensions (see below); prioritizes elements in the river basin plan according to urgent needs, considers the plan's appropriateness i.e. whether it meet the visions and targets set; adjusts the plan so as to be in line with the provincial development strategy and that of the Department of Water Resources. (The water resources plan has three dimensions: management and administration, procurement and development, and improvement of the efficiency of water management)

The province then inserts the river basin development plan approved by the Subcommittee into the provincial development strategy document, and agencies then submit the basin development plan to the Department for budget approval.

Case Selection

The Pasak River basin covers not too many provinces. Thus, it is possible in future to build a fully participatory process in the preparation of the basin management plan. In addition, the area is not in a remote location so that the collection of data and information is easier.

Assessment Method

1. Review of information from relevant documents.
2. Interviews with people related to the issue, namely:
 - The Petchabun Provincial Governor, Mr. Direk Thungfang.
 - Mr. Pisal Kittitoranasombat, representative from the civil society sector in the Pasak River Basin Subcommittee.
 - Officials from the Area 2 Water Resource Office (Saraburi Province).
 - Mr. Hannarong Yaowalert, Thai Fauna and Flora Protection Foundation.

Table of Indicators

Indicators	
III.A.1 Lead time for notification of draft policy, strategy, plan, program, or legislation*	
Values	Explanation and Justification
(0) Not applicable/not assessed	<p>Preparation of the basin management plan is done annually, at a generally fixed time period (usually beginning around July to August), to harmonize with the budget preparation time period. Pasak Basin Subcommittee members were informed in advance of the process and invitations sent, but the public were not informed of the subcommittee's basin plan preparation activities.</p> <p>A person responsible for the plan preparation noted that the time frame allotted to plan preparation was somewhat too short.</p>
(i) <u>No public notification of the selected draft policy, strategy, plan, program, or legislation was issued</u>	
(ii) Public notification of the selected draft policy, strategy, plan, program, or legislation was issued with minimum lead time (please specify)	
(iii) Public notification of the selected draft policy, strategy, plan, program, or legislation was issued with reasonable lead time (please specify)	
III.A.2 Quality of information supporting participation in policy, strategy, plan, program, or legislation*	
Values	Explanation and Justification
(0) Not applicable/not assessed	<p>In the process of preparing the plan, no information was given out to the public. The subcommittee meetings were attended by representatives of various related parties, but there was no wider process of public participation outside of these meetings.</p>
(i) <u>No relevant information was provided to the public</u>	
(ii) Information provided to the public included one to three "elements of quality" (please specify) ³¹	
(iii) Information provided to the public included four or more "elements of quality" (please specify)	

³¹ "Elements of quality" include:

1. Explanation of the background of the policy, strategy, plan, program, or legislation;
2. Description of options and their implications for the environment;
3. Complete text of the draft decision or the envisaged procedure (commencement, opportunities to participate, time and venue of any envisaged public hearing, etc.);
4. Information on when, where, and how further information will be available;
5. Information on when and how members of the public can submit comments or questions;
6. Information on what kind of environmental information is available, etc.

III.A.3 Existence and availability of policies, strategies, plans, programs, and laws at public registries/records*	
Values	Explanation and Justification
<p>(0) Not applicable/not assessed</p> <p>(i) No registry or record of policies, strategies, plans, programs, or laws is accessible at any public location</p> <p>(ii) <u>Registries or records of policies, strategies, plans, programs, or laws are accessible in one public location (please specify)</u></p> <p>(iii) Registries or records of policies, strategies, plans, programs, or laws are accessible in more than one public location (please specify)</p>	<p>Relevant information is stored in a way that is not easily accessible by the public and was not disseminated through a website, although files and documents are stored in paper form in the offices of the various state agencies concerned. These limitations on dissemination are due to:</p> <ul style="list-style-type: none"> - The Petchabun Provincial Office is in the process of being built, and an information management system will be planned after its completion. There is thus at present no investment in a hardware system. - The Area 2 Water Resource Office (located in Saraburi Province) and the Pasak Basin Subcommittee Office (situated in Lop Buri Province) have only recently been established, and do not have enough staff allocated to it.
III.A.4 Degree of external consultation in defining the parameters or scope of policy, strategy, plan, program, or legislation*	
Values	Explanation and Justification
<p>(0) Not applicable/not assessed</p> <p>(i) No independent experts or organizations representing the public interest were consulted about the parameters and scope of the policy, strategy, plan, program, or legislation</p> <p>(ii) <u>One or two independent experts or organizations were consulted about the parameters and scope of the policy, strategy, plan, program, or legislation (please specify)</u></p> <p>(iii) Three or more independent experts or organizations were consulted about the parameters and scope of the policy, strategy, plan, program, or legislation</p>	<p>Outside experts such as Mr. Pramote Maiglud and independent organizations were consulted. Local academic institutions such as Naresuan University in Pitsanulok province and Rajapat University in Petchabun province were invited to participate in studies and in the preparation of work plans and projects.</p>

III.A.5 Comprehensiveness of consultation at drafting stage of policy, strategy, plan, program or legislation *	
Values	Explanation and Justification
<p>(0) Not applicable/not assessed</p> <p>(i) <u>No public consultations were held at the drafting stage</u></p> <p>(ii) One consultation was held at the drafting stage</p> <p>(iii) Two or more consultations were held at the drafting stage</p>	<p>The preparation of the river basin plan was supposed to start from the preparation of village, sub-district plans in which it was specified that public participation activities had to have a role. But when the process of preparation moved to the subcommittee level, that is formulating the Pasak River basin plan, no public participation activities were specified. It was assumed that the format of having a basin subcommittee was inclusive enough as it had already formally incorporated stakeholders and representatives of the various parties concerned.</p>
III.A.6 Timeliness of information given to the public about outcomes of consultations in development of policy, strategy, plan, program, or legislation*	
Values	Explanation and Justification
<p>(0) Not applicable/not assessed</p> <p>(i) <u>No information was provided to the public about the substantive input or comments from the public consultation process</u></p> <p>(ii) No information was provided to the public about the substantive input or comments from the public consultation process</p> <p>(iii) Information was provided to the public about the substantive input or comments from the public consultation process within 3 months of the decision</p>	<p>After the River Basin Subcommittee meetings, results of it were transmitted to provincial governors in the Pasak basin area, but no information was given to the public.</p> <p>However, in the case of Petchabun Province, because a radio programme organized by the provincial governor is on air every Sunday, public news and information have been disseminated, including news on the river basin management plan.</p>

III.A.7 Public participation in implementation and review of policy, strategy, plan, program, or legislation	
Values	Explanation and Justification
<p>(0) Not applicable/not assessed</p> <p>(i) <u>The decision-making authority has not established a process for public participation in oversight of implementation and review</u></p> <p>(ii) The decision-making authority has established a process for public participation in oversight of implementation and review</p> <p>(iii) The decision-making authority has established a process for public participation in oversight of implementation and review, and is actively providing information to the public and soliciting input</p>	<p>There is no clear procedure set for public participation in reviewing the river basin management plan.</p>
III.A.8 Incorporation of public input in design or implementation of policy, strategy, plan, program, or legislation	
Values	Explanation and Justification
<p>(0) Not applicable/not assessed</p> <p>(i) <u>Official documents or publications on the policy, strategy, plan, program, or legislation do not discuss whether or how public input was incorporated in design or decision</u></p> <p>(ii) Official documents or publications on the policy, strategy, plan, program, or legislation mention public input (whether consultations were held, how many were held, etc.)</p>	<p>There is no document setting out a process whereby opinions, suggestions from the public could be fed in to the drafting of the basin management plan. However, in meetings of the basin subcommittee, some inputs from the public may have been discussed by subcommittee members, especially from those representing local or water user organizations.</p>

(iii) Official documents or publications on the policy, strategy, plan, program, or legislation discuss how public input was incorporated, and summarize/explain the results of public input	
--	--

Analysis

The establishment of a river basin subcommittee, with the function of formulating policy, plans, and projects to develop river basins is a move in the right direction. It is in accord with the wishes of the people. It fits in with the spirit of the constitution, in the areas of devolution, public participation, and the reaffirmation of human rights. It is a way of building up eventually the people's participation at the three layers of providing information, suggestions, and decision-making.

However, because the subcommittee is still at an early stage of progression, problems and limitations in its actual work in many areas have surfaced. For example, private representatives sitting on the subcommittee have limited understanding with respect to basin management as well as the nature of the basin's problems. Their participation has been more to push for water development projects in their provinces rather than to look at management of the basin as a whole, the latter which is one reason why the basin subcommittee was set up in the first place. In addition, the present structure of the subcommittee allows for the idea of public participation merely through representation, that is, some individuals on the subcommittee act as representatives of the people, but there is no mechanism to incorporate public participation directly.

The above mentioned problems are known to the government agencies involved. It is hoped that there will be improvements in the subcommittee's work, so that it will be more appropriate and more efficient.

Recommendations

▪ For Thailand

1. More channels for public participation in the formulation stage of the basin management plan should be developed, rather than relying on the present structure of participation via the Subcommittee. For example, public forums at the river basin level should be organized to consider and make improvement on the plans so that it will be more appropriate.
2. State agencies responsible for supporting the work of the river basin subcommittees should emphasize more on the quality of the basin management plan rather than aim for measurable indicators such as the number of projects or the size of budgets, to give examples.

3. There should be activities to promote a clearer understanding of the development of a river basin management plan, which means looking at the broader dimension of natural resources and environmental factors in the basin, not just focusing narrowly on water resources issues and on the development of water sources.
4. There should be a process of searching and selecting representatives of the civil society sector and water users for the basin subcommittees that are acceptable or recognized persons in the community. It should not be a search and select process done by state according to the rules of the bureaucracy, because in such a process a large number of limitations exist.
5. The capacity and strength of the basin subcommittees in various areas of work should be enhanced, to enable them to participate on a higher plane, for example, in the setting of general water policy for the basin, or in resolving conflicts in basin water resources management, so that their role would not be limited to just determining basin development projects or construction projects

Case Study: Water Resources Management Plans of Saraburi and Petchaburi Provinces

Introduction

General Situation

Formulating a provincial water resources management plan is a step in the preparation of water resources plan at the river basin level. The drawing up of provincial water resources plans began in Thailand in 2004, after a Department of Water Resources had been established in the Ministry of Natural Resources and Environment under the government administration reform programme.

The organization responsible for drafting a provincial water resources plan is the provincial/sub-river basin working group. (for details on the organizational structure and process of water resources management at various levels, please refer to the case study on Pa Sak river basin management).

Case Selection

The basic area under study is Saraburi Province, because it lies in the Pasak River basin of which is already a subject of a study in river basin planning. A study of basin management in Saraburi will make knowledge on participation at various social levels in the drafting of basin plans clearer and more complete.

At the same time, further study and collection of information on the basin planning situation in Petchaburi Province was also done in order to gain more data and cases on the area as a whole, which will make the final study more accurate.

Assessment Method

1. Review of information from relevant documents.
2. Interviews were done with relevant people in various sectors and areas:
 - The Phetchabun Provincial Governor, Mr. Direk Thungfang.
 - Mr. Pisal Kittitoranasombat, representative from the civil society sector in the Pasak River Basin Subcommittee.
 - Officials from the Area 2 Water Resources Office (Saraburi province).
 - Officials from the Area 7 Water Resources Office (Ratchaburi province).
 - Mr. Prawatwit Sawasduang, Head of The Petchaburi Irrigation Project.
 - Mr. Sakdisri Lapprasert, representative from the civil society sector in the Petchaburi River Basin Subcommittee.
 - Mr. Hannarong Yaowalert, Thai Fauna and Flora Protection Foundation

Table of Indicators

Indicators	
III.A.1 Lead time for notification of draft policy, strategy, plan, program, or legislation*	
Values	Explanation and Justification
(0) Not applicable/not assessed	Preparation of a provincial water resources management plan is done annually, and the Provincial River Basin Working Group has been invited to participate. But no information was given out to the public about these plan drafting meetings
(i) <u>No public notification of the selected draft policy, strategy, plan, program, or legislation was issued</u>	
(ii) Public notification of the selected draft policy, strategy, plan, program, or legislation was issued with minimum lead time (please specify)	
(iii) Public notification of the selected draft policy, strategy, plan, program, or legislation was issued with reasonable lead time (please specify)	
III.A.2 Quality of information supporting participation in policy, strategy, plan, program, or legislation*	
Values	Explanation and Justification
(0) Not applicable/not assessed	At the level of provincial plan preparation referred to above, no general information on the plan that would have enhanced the process of general participation was conveyed to the public, because the plan drafting was done in the context of working group meetings. Information on water resources management was known to the people only at the plan preparation stage at the village and sub-district level.
(i) <u>No relevant information was provided to the public</u>	
(ii) Information provided to the public included one to three "elements of quality" (please specify) ³²	
(iii) Information provided to the public included four or more "elements of quality" (please specify)	

³² "Elements of quality" include:

1. Explanation of the background of the policy, strategy, plan, program, or legislation;
2. Description of options and their implications for the environment;
3. Complete text of the draft decision or the envisaged procedure (commencement, opportunities to participate, time and venue of any envisaged public hearing, etc.);
4. Information on when, where, and how further information will be available;
5. Information on when and how members of the public can submit comments or questions;
6. Information on what kind of environmental information is available, etc.

III.A.3 Existence and availability of policies, strategies, plans, programs, and laws at public registries/records*	
Values	Explanation and Justification
<p>(0) Not applicable/not assessed</p> <p>(i) No registry or record of policies, strategies, plans, programs, or laws is accessible at any public location</p> <p>(ii) Registries or records of policies, strategies, plans, programs, or laws are accessible in one public location (please specify)</p> <p>(iii) <u>Registries or records of policies, strategies, plans, programs, or laws are accessible in more than one public location (please specify)</u></p>	<p>The public could ask to see information on the provincial water management plan at the Area 2 Water Resources Office (Saraburi province), Area 7 Water Resources Office (Ratchaburi province), and at the Department of Water Resources in Bangkok. They are in print form and is not yet available on a website.</p>
III.A.4 Degree of external consultation in defining the parameters or scope of policy, strategy, plan, program, or legislation *	
Values	Explanation and Justification
<p>(0) Not applicable/not assessed</p> <p>(i) <u>No independent experts or organizations representing the public interest were consulted about the parameters and scope of the policy, strategy, plan, program, or legislation</u></p> <p>(ii) One or two independent experts or organizations were consulted about the parameters and scope of the policy, strategy, plan, program, or legislation (please specify)</p> <p>(iii) Three or more independent experts or organizations were consulted about the parameters and scope of the policy, strategy, plan, program, or legislation (please specify)</p>	<p>There has not yet been consultation with outside experts and organizations, as the project is in its early stages. But in principle, a technically oriented working group on plans will be set up, which will include representatives from agencies with expertise on water source engineering. It will be overseen by the Basin Subcommittee. The aim of the working group is to scrutinize, analyze plans/projects, and prepare an integrated water resource budget. Then, the output will be submitted to the Basin Subcommittee.</p>

III.A.5 Comprehensiveness of consultation at drafting stage of policy, strategy, plan, program or legislation *	
Values	Explanation and Justification
<p>(0) Not applicable/not assessed</p> <p>(i) <u>No public consultations were held at the drafting stage</u></p> <p>(ii) One consultation was held at the drafting stage</p> <p>(iii) Two or more consultations were held at the drafting stage</p>	<p>A forum for consultation with the public on formulating a provincial water resources plan has not yet been organized, because it is deemed that the Provincial River Basin Working Group already includes stakeholders and representatives from the civil society sector.</p> <p>In the beginning phase of the water resources plan formulation, the process was intended to start from the village and sub-district level, with support given to arranging a public forum to discuss it. Thus, participation in the basin management plan was to be at the village and sub-district level. But in practice, the context and degree of participation in each area varied, depending on the strength of the civil society in each area.</p>
III.A.6 Timeliness of information given to the public about outcomes of consultations in development of policy, strategy, plan, program, or legislation*	
Values	Explanation and Justification
<p>(0) Not applicable/not assessed</p> <p>(i) <u>No information was provided to the public about the substantive input or comments from the public consultation process</u></p> <p>(ii) No information was provided to the public about the substantive input or comments from the public consultation process</p> <p>(iii) Information was provided to the public about the substantive input or comments from the public consultation process within 3 months of the decision</p>	<p>There was no informing the public or those who participated in the village or sub-district planning directly about whether their suggestions and inputs were used in provincial planning. Communication on this was made to relevant representatives in the meetings of the provincial basin working group.</p>

III.A.7 Public participation in implementation and review of policy, strategy, plan, program, or legislation	
Values	Explanation and Justification
<p>(0) Not applicable/not assessed</p> <p>(i) <u>The decision-making authority has not established a process for public participation in oversight of implementation and review</u></p> <p>(ii) The decision-making authority has established a process for public participation in oversight of implementation and review</p> <p>(iii) The decision-making authority has established a process for public participation in oversight of implementation and review, and is actively providing information to the public and soliciting input</p>	<p>There is no clear process in place whereby the public could participate in a review of the provincial water resources management plan.</p>
III.A.8 Incorporation of public input in design or implementation of policy, strategy, plan, program, or legislation	
Values	Explanation and Justification
<p>(0) Not applicable/not assessed</p> <p>(i) <u>Official documents or publications on the policy, strategy, plan, program, or legislation do not discuss whether or how public input was incorporated in design or decision</u></p> <p>(ii) Official documents or publications on the policy, strategy, plan, program, or legislation mention public input (whether consultations were held, how many were held, etc.)</p> <p>(iii) Official documents or publications on the policy, strategy, plan, program, or legislation discuss how public input was incorporated, and summarize/explain the results of public input</p>	<p>There is no document which specifies a process whereby opinions and suggestions by the public could be fed into the formulation of the provincial water resources management plan. However, in meetings of the provincial river basin working group, some opinions of the people may have been taken into consideration, presented especially by members representing local organizations or water user groups.</p>

Analysis

The idea of drafting a provincial water resources management plan with a public participation process prepared for the village, the sub-district and finally at the provincial levels is a step in the right direction. It is part and parcel of river basin management planning, and is in accord with the spirit of the constitution. However, in practice, many problems were found in the village drafting process in some basin areas. That is, drafting was still limited to being done by representatives of organizations, without real participation by the civil society sector. The reason for this might be that the process is still at the beginning phase and improvements still have to be made. In addition, the strength and capability of people-based organizations and of the community varies depending on the area. Finally, the Water Resources Department has some limitations in its support of the basin plan formulation process i.e. it lacks the appropriate staff and various kinds of resources, as it has only recently been established; the staff consisting mainly of people transferred from various agencies.

Recommendations

▪ For Thailand

1. There should be efforts to strengthen the people's potential for participation in water resource management planning at the village and sub-district level, especially by providing them with relevant basic information and water management techniques so they can play their role fully.
2. To solve the problem of staff limitation in the Department of Water Resources, the Department could delegate and support private development organizations that are willing and have experience in devising community plans, to share in the responsibility of formulating village and sub-district level basin plans, at least for a time until the civil society sector is strong enough to do the task independently.

Case Study: Draft of the Water Resources Act

Introduction

General Situation

The ideas and work aimed at improving and drafting laws on water resources in Thailand have been going on for more than ten years, starting from the work done by the National Research Council during 1992-1993 which consisted of some research and the drawing up of a draft National Water Act. During that time also, the Department of Pollution Control commissioned the Faculty of Law of Thammasart University to do a study on improving the law on water resources, and to draft a water resources act; the result was that the content of the draft was both similar and different from the one drawn up by the National Research Council. In addition, in 2001, the Ministry of Agriculture and Cooperatives did a study and research on public irrigation and also drafted an act on irrigation. All three draft acts gave considerable power to the state in the management of water resources. The drafts spelt out that there was to be study and research done by a research team, then the resultant draft be brought to the public for comments and suggestions before being taken back by the authorities for possible improvement and modification. The fact that public participation is put at a later stage in the process resulted in the draft Water Resources Act not being accepted by many people's organizations.

As to the present process of drafting an overall water resource law, the Department of Water Resources commissioned Thammasart University to improve laws relating to water resources and to prepare a draft Water Resources Act. In this effort, the attendant study included a process of information dissemination, consideration of opinions and water issues that the people and related organizations were concerned with. At the beginning of the drafting process, consultation was done with experts, specialists, academics, and representatives from relevant agencies on preparing a conceptual framework. Then, seminars were arranged to listen to suggestions, information, and problems from the public in all provinces nationwide. Studies were also done of the form and content of similar water resources law of neighboring countries and other appropriate countries. After that, a draft Water Resources Act was prepared and subsequently presented to the public for a hearing in those provinces that had held seminars in the first round. Finally, a final draft would be prepared, for submission to the cabinet and parliament.

Case Selection

The Water Resources Act which is currently being drafted will have a far reaching impact on water resources management, especially on the agricultural sector, which is considered as the backbone of Thai society.

The choice of Ratchaburi as a site to collect on the ground data and information is because in the process of drafting the law on water resources two hearings were held for concerned parties in the province, one prior to the drafting of a water act, the other after the draft was prepared (please see the names of those who attended in appendix 4).

Assessment Method

1. Review of information and data from relevant documents.
2. Interviews with associated people from various sectors:
 - The Director-General, Deputy Director-General, and the Director of Policy and Planning Office, of the Department of Water Resources, Ministry of Natural Resources and Environment.
 - Mr. Sakdisri Lapprasit, water users' representative in the Phetchaburi River Basin Subcommittee.
 - Mr. Pravatvit Sawasduang, Head of the Phetchaburi Irrigation Project.
 - Mr. Tosapon Kaewtima, water users' representative of Ratchaburi Province and Local Conservation Club, Ratchaburi.
 - Officials of area 7 Water Resources Office (Ratchaburi Province).
 - Mr. Harnnarong Yaowalert, Fauna and Flora Protection Foundation.

All the people interviewed attended the seminars organized to consider opinions on the draft water resources bill.

Table of Indicators

Indicators	
III.A.1 Lead time for notification of draft policy, strategy, plan, program, or legislation*	
Values	Explanation and Justification
(0) Not applicable/not assessed	Advance notice was given to those who attended the public forum to consider the draft water resources bill. Invitations were issued by the organizers about one month in advance by post, but the time when people actually received the invitation varied, with some receiving it only 1-2 days prior to the meeting. This was probably due to local postal delivery problems.
(i) No public notification of the selected draft policy, strategy, plan, program, or legislation was issued	
(ii) <u>Public notification of the selected draft policy, strategy, plan, program, or legislation was issued with minimum lead time (please specify)</u>	
(iii) Public notification of the selected draft policy, strategy, plan, program, or legislation was issued with reasonable lead time (please specify)	
III.A.2 Quality of information supporting participation in policy, strategy, plan, program, or legislation*	
Values	Explanation and Justification
(0) Not applicable/not assessed	Information was given to the public to encourage participation, by sending them a copy of the draft water bill and a questionnaire, both which were attached to a letter inviting them to the public forum. In addition, experts or the organizers elaborated on various points during the question and answer period of the forum.
(i) No relevant information was provided to the public	
(ii) <u>Information provided to the public included one to three "elements of quality" (please specify)³³</u>	
(iii) Information provided to the public included four or more "elements of quality" (please specify)	

³³ "Elements of quality" include:

1. Explanation of the background of the policy, strategy, plan, program, or legislation;
2. Description of options and their implications for the environment;
3. Complete text of the draft decision or the envisaged procedure (commencement, opportunities to participate, time and venue of any envisaged public hearing, etc.);
4. Information on when, where, and how further information will be available;
5. Information on when and how members of the public can submit comments or questions;
6. Information on what kind of environmental information is available, etc.

III.A.3 Existence and availability of policies, strategies, plans, programs, and laws at public registries/records*	
Values	Explanation and Justification
<p>(0) Not applicable/not assessed</p> <p>(iv) No registry or record of policies, strategies, plans, programs, or laws is accessible at any public location</p> <p>(v) <u>Registries or records of policies, strategies, plans, programs, or laws are accessible in one public location (please specify)</u></p> <p>(vi) Registries or records of policies, strategies, plans, programs, or laws are accessible in more than one public location (please specify)</p>	<p>All the core data and information is kept in the Department of Water Resources, Ministry of National Resources, in paper form; none have yet been disseminated through a website.</p>
III.A.4 Degree of external consultation in defining the parameters or scope of policy, strategy, plan, program, or legislation *	
Values	Explanation and Justification
<p>(0) Not applicable/not assessed</p> <p>(i) No independent experts or organizations representing the public interest were consulted about the parameters and scope of the policy, strategy, plan, program, or legislation</p> <p>(ii) One or two independent experts or organizations were consulted about the parameters and scope of the policy, strategy, plan, program, or legislation (please specify)</p> <p>(iii) <u>Three or more independent experts or organizations were consulted about the parameters and scope of the policy, strategy, plan, program, or legislation (please specify)</u></p>	<p>The Department of Water Resources set up a special committee to provide opinions and suggestions on the scope and key issues in the draft water resources bill. This committee is comprised of representatives of various involved parties such as private development organizations and educational institutions.</p>

III.A.5 Comprehensiveness of consultation at drafting stage of policy, strategy, plan, program or legislation *	
Values	Explanation and Justification
<p>(0) Not applicable/not assessed</p> <p>(iv) No public consultations were held at the drafting stage</p> <p>(v) One consultation was held at the drafting stage</p> <p>(vi) <u>Two or more consultations were held at the drafting stage</u></p>	<p>In preparing the water bill, the Department of Water Resources commissioned the Research and Consulting Services Unit of Thammasart University to draft the bill in a way that involved the public. Thus, about 20 consultative public forums were held with concerned parties both before and after drafting the bill, and it could be said that the process of public consultation were well-planned.</p> <p>However, some forum participants felt that the involvement was not of sufficiently high quality. For example,</p> <ul style="list-style-type: none"> - Some parties were not proportionately represented in the meetings. - There was a lack a procedure for building up of adequate basic knowledge about the draft law among the participants. - There were time limitations in the opinion and discussion period in the meetings. - Summary of points in each meeting was not presented so that subsequent meetings were not able to utilize them.
III.A.6 Timeliness of information given to the public about outcomes of consultations in development of policy, strategy, plan, program, or legislation*	
Values	Explanation and Justification
<p>(0) <u>Not applicable/not assessed</u></p> <p>(i) No information was provided to the public about the substantive input or comments from the public consultation process</p> <p>(ii) No information was provided to the public about the substantive input or comments from the public consultation process</p> <p>(iii) Information was provided to the public about the substantive input or comments from the public consultation process within 3 months of the decision</p>	<p>It is not yet possible to assess on this point, because the drafting process has not yet been completed. It is expected to be completed by July 2005.</p>

II.A.8 Incorporation of public input in design or implementation of policy, strategy, plan, program, or legislation	
Values	Explanation and Justification
<p>(0) Not applicable/not assessed</p> <p>(i) Official documents or publications on the policy, strategy, plan, program, or legislation do not discuss whether or how public input was incorporated in design or decision</p> <p>(ii) <u>Official documents or publications on the policy, strategy, plan, program, or legislation mention public input (whether consultations were held, how many were held, etc.)</u></p> <p>(iii) Official documents or publications on the policy, strategy, plan, program, or legislation discuss how public input was incorporated, and summarize/explain the results of public input</p>	<p>It was specified in the terms of reference of the study on water bill done by the Department of Water Resources that suggestions made by the public be used in drafting the water bill. This specification is also contained in another study on the water bill done by those responsible for arranging public consultation on the matter.</p> <p>However, Forum participants who were interviewed did not know whether and in what way inputs from the forums were really used. Some participants observed that some of the content of the bill drafted after the first round of public forums dealt with issues not discussed in such forums, e.g., disaggregation of water users into various types, collection of water fees specifically from the agricultural sector.</p>

Analysis

- 1) Efforts to draft a law on water resources for Thailand have been going on for more than a decade. It has been a contentious public policy issue, extensively debated in Thai society. Up to the present time, the impetus to draft the bill has come mainly from state agencies, and many drafts have been produced at various times. But in the end, the draft law has not yet been passed and promulgated, due to continuing opposition from sections of society, by private development organizations, and academics.
- 2) The present draft water resources act is under the responsibility of the Department of Water Resources, Ministry of Natural Resources and Environment. This is in effect a good indication of the determination of state agencies to build up a process of public participation in their work, which is in congruence with the intent of the constitution. It could be said that the water resources bill episode represents the first time in public law drafting in which the inclusion of a public participation process came about as a result of an initiative from a state agency.

- 3) The latest effort in drafting a water bill has incorporated a process for public participation, both at the pre-drafting stage and at the post-drafting stage. The key participation mechanism has been the holding of about 20 public forums in every region of the country to consider public opinion and the gathering of inputs from the people in the form of questionnaires. Participation by the people has then been one of receiving and submitting pertinent information and data, and of expressing opinions, but it has not yet been one of involvement at the decision-making level. The fact is that the final contents of the draft act before its submission to cabinet and parliament is still determined by the research team and the committee set up by the Water Resources Department. The result is that some in the civil society sector do not have a proprietary feeling that the draft arises from a joint effort between the people and the Department, but rather is a draft one-sidedly inspired by the Department of Water Resources. Once the drafting is finished, it is thus the Department's task to continue to take the steps required according to the process of law-making.

Recommendations

▪ For Thailand

This case study on the drafting of a water resources law is an example of an initiative to build up a participatory process of the people in the area of law-making. Suggestions for such efforts in the future are:

- 1) Participation by the civil society sector should involve many channels and formats, not just limited to arranging public forums. More varied modes would create a sense of collective feeling and understanding that the resultant water resources law is one derived from a joint state and civil society sector effort, similar to which was in the case of the National Health Act.
- 2) Activities to build up the civil society sector's capability in participating in law making should be done concurrently, since the content of laws are mostly of a technical and academic nature, and involves complex legal issues, all of which are difficult for the general public to understand.
- 3) A summary report on public forums held in the past should be prepared, collating the key issues raised and proposed by the forum organizers, and capturing the opinions of the people participants, distilling them into conclusions and options on every issue raised. The report can thus be used as a vehicle for elaboration and discussion in subsequent forums. The language used in the report should be easy to understand, avoiding the legal or academic language that should be restricted to the actual draft law itself. In this way one can lessen the doubt that the forum results may not have actually been utilized; that the final product, i.e., the act itself will only be a reflection of the concerns of the commissioned research team and the agency-appointed committee; and that some content may have been added on to the draft without having given the public the opportunity to know about it and consider it in forums.
- 4) There should also be encouragement of public participation in the decision-making process, that is, involving them in decisions regarding the substance of the draft version of the act that is going to be submitted to parliament.

- 5) An accounting of the lessons learned from the water resources act drafting process should be done, so as to provide information and examples that could be used for improvements in the future operational work of state agencies.

▪ **For Development of the Indicators**

In evaluating indicators of public participation in environmental decision-making on the policy, strategy, planning, programming, and legal dimensions, one should not focus only on the form of participation, for example, the time frame given to the public for discussion before a decision is made, the type of information provided to the people, and information sources made accessible to the public, etc. One should also seek to develop indicators that could be used to assess the quality of participation. Some useful indicators to develop are:

- 1) To see whether opinions arising from the process of participation have been utilized in decision-making, what were the procedures and methods used in utilizing them, and how much importance was given to such suggestions by the decision-makers.
- 2) The extent to which the public were able to participate in decisions concerning the environment, whether in a direct way, i.e., by being a joint-decision maker, or in an indirect way, i.e., helped to decide through representatives sitting in the responsible committees. This would help to assess whether and to what extent the civil society sector is seen as an important player, and whether they have the opportunity to participate in decision-making.

These qualitative indicators will tell us whether public participation in environmental decision-making is real and significant, or whether it is more form than substance.