

Regional Features of Institutional Evolution in Southeast Asia

*Charles L Abernethy*¹¹

IN THIS CLOSING summary of the Workshop on the Institutional Framework for Irrigation, I will attempt to identify some principal areas where consensus, or at least convergence of thinking, seems to have been demonstrated by the five country statements **as well as** by other things that have transpired during this week. Perhaps, **as well as** indicating areas where certain degrees of agreement are emerging, I should also draw attention to one or two quite important areas where that has not happened.

At the beginning of the workshop, maybe, we doubted that anything like a regional consensus could be found. We noted that it is not practical to prescribe some theoretically ideal arrangement of institutions that countries should adopt. Reasons of history, social structure, economic development and many other factors which might together be called the external context of irrigated agriculture, have exerted various pressures specific to each country, and the combined outcome is that we see today five very different sets of institutional arrangements in these five countries.

In the first day of the workshop we described, according to the scheme of analysis provided by Dr. Merrey's keynote address, these five present situations. Next day we listened to and discussed several other kinds of institutional arrangements that exist in other parts of the world. By the end of that day the diversity of possibilities seemed very great. In these circumstances, how should any country choose a path of institutional reforms; indeed, why undertake reforms at all?

During the third and fourth days we have, essentially, been trying to deal with those two questions. We addressed the institutional scene analytically, asking what improvements we might like to see in specific areas such **as** water laws, farmer/agency relationships and *so* on. We also addressed it functionally: how good is the system at serving its primary clients; what impacts does it have; are these effects verifiable by concerned parties (or, **as** the jargon puts it, do we have accountability?).

It seems to me that in these processes of analysis and synthesis our working groups have been rather successful, and have identified in their final country statements more commonalities than might have been anticipated. Even so, there may be a little difficulty in finding the correct language for expressing the degrees of convergence that we have found. Not many matters are really unanimously agreed among the five country groups. Where I use words like consensus it is meant to convey a strongly perceptible majority trend, but the country reports may sometimes show certain areas of dissent.

¹¹ Senior Technical Advisor, IIMI.

LAWS

In reviewing the areas of convergence, I prefer to begin with the legal framework. If we do not get that right, there is a strong possibility that actions in other subsectors will not succeed.

In many countries on the road to development—this is not specific to Southeast Asia—governments during the **1960s** and **1970s** had a tendency to undertake executive or administrative actions that did not necessarily conform clearly with law. The development process itself took priority; appropriate legal systems to regulate it evolved more slowly, so certain executive actions are taken in a sort of legal vacuum, or at least in an unsatisfactory legal context. This seems to be the case with water rights in the region. New irrigation systems were created, but often governments did not feel obliged to arrange formal, limited water rights for such new abstraction facilities, nor to define where they ranked in priority compared to other users of water upstream and downstream. Now, **as** we move towards increasing autonomy or devolution in the governance sphere, this lack of clarity in water rights appears dangerous to the interests of irrigators.

In his keynote address, Dr. Merrey spoke in favor of "clear, secure, and transferable" water rights for users or user groups. There seems to be **a** strong consensus in favor of the first two of these features, clarity and security. In general, our country groups do not seem convinced about the merits of transferable or marketable water rights. Some countries, particularly the Philippines and Malaysia, have certain of the legal structures of water rights already in place, but it appears that everywhere there is work to **be** done to create regulatory systems within which irrigators will really know what their rights to water are, whether anybody **else** can claim priority at times of crises, and whether there are any circumstances in which the rights might be taken away from them.

Although the groups apparently do not at this time feel comfortable about the question of transferability of water rights, it will tend to arise inevitably when water rights become formally assigned. Throughout the region, we can find some irrigation systems which are nowadays falling out of **use** or reducing their levels of activity. In a system of formally documented water rights, such situations would automatically provoke the question how such rights are to be transferred, when they are no longer being beneficially exercised by their holders.

Another aspect of the legal framework, about which an adequate consensus appears, is the need for a proper legal identity for water users' organizations. The Thai group differentiated this point slightly by saying that there ought not to be compulsion to conform to an official model. However, **all** agree that laws should provide a framework expressing the freedoms and constraints within which such associations may operate.

ORGANIZATIONS AND THEIR FUNCTIONS

There is a general consensus in favor of devolution of functions to lower levels where appropriate. The form that this will take varies and is not clear in **all** cases: devolution could be to smaller hydrologic units, or to units that match existing local government areas (**as** in the Philippines), or perhaps on some other basis. The justification for decentralization or devolution is perceived (most frequently) in terms of facilitating an increase in the farmers' role in management. It is also considered **as** a way of developing more efficient operation and maintenance processes, because organizations that are controlled at **a** more local level should be more responsive to their **users**.

There is also a common wish to move towards some **stronger** organizational structures that can reflect the growing significance of managing water resources at national or hydrological basin

levels. This might take the form of a full Ministry of Water Resources as proposed by the Thai group, or some kind of National Water Resources Board as suggested by most others. The characteristics desired in such organizations are also agreed in most of the country statements: they should coordinate all uses of water, their processes should be transparent, they should be administered with reference to hydrologic basin units, and they should monitor the resources and the consumption of water and plan for future requirements. The question whether these organizations should be politically controlled or "independent" — technocratic commissions were mentioned by some — was not resolved.

The problem of the large number of public organizations which have some functional relationship to irrigated agriculture was mentioned by various speakers. In general, the multiplicity of organizations **is** not, in itself, the problem as it reflects the wide variety of different ways in which the governmental system is involved with aspects of irrigated agriculture. There **is** however a wish for improved clarity in the definition of the goals and the functions of each member of the institutional set, so that sources of inefficiency such as functional overlap, and the frictions these cause, can be reduced.

GOVERNANCE AND THE ROLE OF FARMERS

It is appropriate to consider together the questions of governance of the system, and the role of farmers, because the discussions have shown that at the present stage of development these areas are closely interconnected.

There **is** consensus about the general principle of expanding the role of farmers in governance at the lower levels of control. The situation is not **so** clear farther up the hierarchy of authority. The Malaysian view **is** that farmers' organizations should confine themselves to organizing operation and maintenance at lower levels; other countries seem to see a larger spreading of participatory processes and, in some cases, privatization.

Perhaps it would be accurate to say that, at this time, it is not possible to predict how far the development of participation will go. Most countries expect it to proceed farther, into new administrative areas, but the possible limits to this process have yet to be explored.

The views expressed in this area are probably quite significantly different from those that predominated ten years ago. Today, there is greater confidence in the capacity of the farming community to undertake management functions. There is also a general doubt that older management structures can deliver what **is** now wanted, in terms of overall system performance, cost control and reduction of water consumption.

Development of water users' associations is therefore a general goal. In the Philippines, the aim is to foster development of multifunctional capabilities, so that the associations can take up the delivery of support services to farmers. The Lao PDR group **aims** to have **all** irrigation systems farmer-owned, with the role of the Department of Irrigation confined to technical assistance. The wish to make such organizations self-reliant, and thus to restrict the governments' need to subsidize the irrigated agriculture sector, is general, although in Malaysia the strength of the overall economy makes these pressures less acute.

FINANCE

There is general support for the principle that users of services should pay for them rather than expect these costs to be supported by other sections of the community. On the other hand, everyone finds it difficult to see how farmers can meet the true costs of irrigation just now. Total costs are high; agricultural earnings are low. These must converge more, before full cost recovery policies can be expected to succeed.

The attitudes to subsidy, or transfer of costs to other!, naturally vary according to the state of the external economy and tax-base. It is certainly more possible for Malaysia to operate a subsidizing policy than it is for Lao PDR. There is however a common awareness, derived from the experience of more affluent countries such as Japan or France, that ultimately subsidy policies tend to generate socio-political difficulties, and that it may be better to move away from such policies as early as circumstances allow.

Where there is acceptance of the general goal of full cost recovery, there remain a number of serious problem areas which the country groups did not address. Farmers may agree to pay the immediate costs pertaining to actual operations on their systems. Costs which are less direct are likely to be more difficult: these include the costs of sustaining the superstructure of the irrigation agencies (headquarters, provincial offices and so on); historic costs invested in existing facilities; and future investments such as renewals and extensions. If cost recovery is pursued into areas such as these, it is likely to create a demand by the farmers, as payers, to exert more control over these matters.

Cost recovery policies, if they are strengthened, will also sharpen various other questions, about the destination and application of the funds after they have been collected from the users.

Thus financing questions can be expected to influence the other questions we have discussed, such as governance, organizational autonomy, and the appropriate degree of farmers' participation in management decisions.

CONCLUSION

Although the five countries that participated in this debate possess at present very different institutional arrangements for managing their irrigation, it seems that they share a quite wide range of common views about the kind of institutional framework that they would like to see. All want to see improved and formalized legal rights to water; decentralization of government irrigation organizations; increased roles for the farming community; and more (but probably not total) contribution to management and operational costs from the users of water.

Since the countries *me* moving towards these goals from differing present positions, the paths which they must pursue are not the same. We have used this week to think about the goals; maybe, now that those are somewhat clearer, we could next turn our attention to the management of the process of changes that is necessary in order to attain those **goals**.