

IMPACTS OF DECENTRALIZATION ON ENVIRONMENTAL MANAGEMENT IN THAILAND

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ABSTRACT

This paper describes the process, institutional and legal framework within which the environmental management operates in Thailand. It specifically focuses on the decentralization within central and local government's role in environmental management. The methods of this research use literature review. The aim of the paper is to examine how interface between the central and local loci of power have affected pieces of legislation relating to management of the environment by central and local government in Thailand.

Keyword: Decentralization, Environment Management, Thailand

ABSTRAK

Tujuan artikel ini adalah untuk menggambarkan proses, institusionalisasi dan ketentuan hukum tentang manajemen lingkungan di Thailand. Pembahasan dalam artikel ini fokus kepada prinsip desentralisasi antara pemerintah pusat dengan pemerintah daerah tentang pembagian peran manajemen lingkungan. Metode penelitian dalam artikel ini menggunakan metode studi pustaka. Tujuan lain dari artikel ini mencoba untuk memetakan bagaimana relasi antara kekuatan di pusat dan daerah dalam mempengaruhi manajemen lingkungan oleh pemerintah pusat dan pemerintah daerah.

Kata - kata kunci: Desentralisasi, Manajemen Lingkungan, Thailand

Kata Kunci; Desentralisasi, Manajemen lingkungan, Thailand

INTRODUCTION

Decentralization—the assignment of fiscal, political and administrative responsibilities to lower levels of government is occurring worldwide for different reasons. In Thailand, the rationale for the quest of a decentralized environmental management framework revolved around the view that failure of the state in the management of the environment is attributed to the concentration of decision making powers and ownership of natural resources by the central government. The failure of the top-down approach to environmental management can no longer, alone fulfill the ideal management of the environment.

Thailand has attempted to decentralize environmental management during the past decade. Decentralization has taken a number of forms- decentralization of functions within the central bureaucracy, delegation of semiautonomous or quasi-public corporation, devolution to local governments, and the transfer of functions to non government organizations. Base on the reviews of available literature, pieces of legislation and interviews of local government officials and other stakeholders, this paper will asses the status of the decentralized institutions. Objectives of this paper are (1) to review the implications of decentralization, (2) to describe legislation relating on the decentralization process and the local government institutions charged with the task of protecting and managing the environment in their areas of jurisdiction, (3) to identify gaps and overlaps in the policy, legislation, administration and/or institutional structure; and (4) to provide recommendations to curb these gaps and overlaps, including a recommendation for a process on how the local government institutions can efficiently manage their environment.

THEORITICAL BACKGROUND

Central government around the world are decentralizing fiscal, political, and administrative responsibilities to low-level government and to the private sector. Decentralization is particularly widespread in developing countries for a variety of reasons.

Table I
Reason of Decentralization Implementation

NO	Reason
1	the advantages of multiparty political systems;
2	the deepening of democratization
3	the transition from a command to a market economy;
4	the need to improve delivery to local services to large populations in the centralized countries
5	the challenge of ethic and geographic diversity
6	the plain and simple reality that central governments have often failed to provide effective services

In many developing countries, political pressure drives most decentralization efforts. But whatever its origins, decentralization can have significant repercussions for resource mobilization and allocation, and ultimately macroeconomic stability, service delivery, and equity. Since decentralization can greatly affect the way of life of people, it is widely accepted that decentralized structures facilitate genuine democratic participation, empower

grassroots and channel their input constructively into national development efforts (Mukandala, 1995).

The World Bank report (1998) recognized the multidimensional aspects of decentralization – the dispersion of fiscal, political, and administrative powers – suggests three implications that heavily influence the context for thinking through decentralization (Jennie and Richard, 1998). First, because decentralization can change mobilization and allocation of public resources, it can affect a wide range of issues from service delivery to poverty reduction to macroeconomic stability. Second, the management of decentralization requires intimate knowledge of local institutions and a nuanced understanding of the process of decentralization- that is, what is driving decentralization in a country (and sector) and which stakeholders are involved. Third, limited empirical evidence exists about what works and what does not. Together these three factors pose a daunting challenge for those responsible for designing and managing decentralization.

RESEARCH METHODS

This research use literature review as method to make analysis more depth. Literature review needed because of an scientific analysis need an argumentation which is include a proove answer in analysis. This research use more than literarature, so that a proove answer can be made because it is proved by more than one scientific literarure.

RESULT AND ANALYSIS

1. Historical Development Of Environmental Management Decentralization In Thailand

The Thai Government is formed according to the democratic principles of parliamentary system and constitutional monarchy. Apart from the fundamental state policies to strengthen national stability and to promote the sound development of the society and the economy, the government policies focus on the promotion of democracy and civil society processes through public participation and power decentralization to local

authorities. Until 1991, the National Public Administration Act was promulgated to provide three basic levels of public administration.

- a. Central Administration : the central administration falls under the basic concept of centralization. Various departments, offices, bureaus, divisions and subdivisions are established in each ministry.
- b. Provincial Administration: This form of administration comes under the concept of deconcentration, which means that the central government delegates some of its power and authority to its officers who work in provinces and districts. These officers are from various ministries and departments and carry out their work according to laws and regulations assigned by the central government.
- c. Local Administration: Local Administration in Thailand is based upon the concept of decentralization, which allows local people to participate in local affairs under concerned laws and regulations. At present, there 2 types of local administrative organization in Thailand. The general type, which exist in every province, is composed of: 1) Provincial Administration Organization, which covers all areas in the province; 2) Municipalities, urban areas with a crowded population and development; and 3) Subdistrict Administration Organization whose jurisdiction is over the area of a particular subdistrict outside the boundaries of municipalities. The special type consists of two forms of local government: 1) Bangkok Metropolitan Administration; and 2) the City of Pattaya.

Under the country's existing administrative structure, authority is delegated from the capital to the region and then local areas. In general, development policy and planning in Thailand is a combination of top-down and bottom-up approaches, while the public administration system of the country is highly centralized. Thailand has gradually strengthened the capacity of local government. During the 5th and 6th National Plans, local government played a greater role in setting development priorities. Nevertheless, the proposed development plans still have to be agreed upon the budgets approved by the central government. To further enhance the role of local government and local development efficiency, the 7th and 8th National Plans called for the decentralization of fiscal authority and asset holding as important mechanisms to help strengthen local administrative capacity.

As the structure and management system of the local government have been put in place by the end of the 8th National Plan, the 9th National Plan (2002-2006) concentrates upon improving the development capability of the local administration. Development plans integrates all aspects, monitoring systems are enhanced, information system upgraded, and human resource capability increased.

As described above, Thailand has been modestly enhancing the role of sub-national entities for some time, but decentralization has been a priority only since the Seventh National Economic and Social Development Plan (1991-1996). The plan emphasized developing local infrastructure, providing credit to expand and improve local services, and helping local authorities mobilize capital and pursue development projects.

Moreover, the 20 year Policy and Perspective Plan for Enhancement and Conservation of National Environment Quality (1997-2016) developed by OEPP and approved by the Cabinet, establishes goals, principles, and policies and guidelines for environmental quality management. This plan also recognizes the role of local government authorities and NGOs in improving and protecting environmental quality by increasing awareness and monitoring.

The May five democracy movement emerged in the mid 1990s to demand stronger democratic institutions more insulated from the military, which has long played a pivotal role in Thai politics. The Eight Plan (1997-2002) advocated stronger local institutions, the 1997 Constitution formally enshrined decentralization, and later legislation detailed how it would work. The country has formally adopted many reforms but implemented few of them, and political consensus on further progress remain unclear. In Thailand, local governments prepare and execute their own budgets, but they are subject to central direction. A significant share of local expenditure is centrally mandated, with the largest portion devoted to personnel expenses (representing 30 percent of local budgets, on average).

Central directives govern staff numbers, salaries and benefits. Major reforms, however, are intended to eventually move this highly centralized civil service to one where local governments have considerable authority over personnel management. In 2002, sub-national government spending accounted for about 10 percent of the total government spending, an amount which is expected to increase. Among all environmental management reform initiatives, decentralization of environmental management has less progress as compared to

the others. The Thai Constitution of 1997 accelerated process of environmental management decentralization through the Development of the Decentralization Action Plan. This plan indicates which public services should be transferred to be managed by local authorities. And because of this transferred responsibilities, related government budget and staffs will be transferred accordingly.

2. Legislative Frameworks Of Environmental Management By Local Government Authorities

Thailand has experienced a number of policy reforms in recent years. Most of the policies have stressed the need for public participation and involvement in the management of the environment. This section examines the legislation pertaining to the local government authorities in Thailand and provides a brief description of the local government institutions. This part also looks into the functions and powers of the institutions involved in managing environment in areas of their jurisdiction. Further, it attempts to give an analysis of the problems of the legal framework, which acts as obstacle to the local government authorities in providing for efficient and effective protection and proper utilization of environment in areas of their jurisdiction. The main legislation examined in this section are :

- a. The Enhancement and Conservation of National Environmental Quality Act of 1992 and;
- b. The Constitution of the Kingdom of Thailand 2007

The Enhancement and Conservation of National Environmental Quality Act, 1992 was provided for environmental quality control and promotion including support of public participation in maintenance of environmental quality. According to this Act, policy and planning mechanisms are taken into account as a strategic tool for decentralization. It allows provincial and local authorities to formulate their own environmental management plans.

The implementation process of policy was adopted according to the Environmental Act. These processes consist of the long-term environmental policy and plan named "Policy and Prospective Plan for Enhancement and Conservation of National Environmental Quality,

1997-2016, 5 years Environmental Quality Management Plan, and annual Provincial Environmental Quality Management Action Plan.

Due to the Act, any province which has its territory designated as an environmentally protected area or pollution control area or other provinces which desire to enhance and conserve the environmental quality are eligible to formulate an action plan and submit it to the National Environment Board for approval. The Provincial Action Plan should be in accordance with the Environmental Quality Management Plan and should take into account social conditions in the area. Crucially, it emphasizes on public participation from all parties and at all levels.

In order to guide and assist provincial governments and local authorities in formulating their action plans, the framework of the action plan is set up which consists of water quality, air quality, solid waste, and hazardous waste. In addition, it should be in harmony with the conservation of their natural resource such as soil and land use, forest and wildlife, fisheries, coastal resources and the natural and cultural environment. It is, however, based on the actual circumstances, conditions and priorities of each area. The Provincial Action Plan consists of 4 programs: public awareness raising program, surveillance and protection program, remedy and rehabilitation program, and applied research program.

Moreover, according to the Environmental Act, the National Environment Board (NEB) is setup for controlling and supervising at policy level. At the provincial and local government levels, the Sub-Committee for Provincial Environmental Quality Management under the Committee for Provincial Development is set up as an advisory committee for environmental management. This Act also specifies the powers and duties of National Environment Board, Pollution Control Committee, and Environmental Fund Committee, involving control, preventions, and solution of power pollution. According this Act, provincial and local government authorities are allowed to formulate their own environmental management plans under the approval of the National Environment Board. This act which allows local government authorities to formulate their own environmental management plans provides more opportunities for local people to participate in the planning process.

Thailand's new Constitution of BE 2550 (2007), approved by a public referendum on 19 August 2007, guarantees the rights of citizens and communities to conserve and utilize natural resources and the environment, including biodiversity, on a sustainable basis. The Constitution also supports public participation in economic and social policy formulation and development planning. The roles of local government authorities in environmental management are provided for under section 290 of the Constitution as follows :

"For the purpose of promoting and maintaining the quality of the environment, local government organization has powers and duties as provided by the law. The law under paragraph one shall at least contain the following elements as its substance: 1. Management, preservation, and exploitation of natural resources and environment in the area of the locality; 2. Participation in the preservation of natural resources and environment outside the area of the locality only in the case where the living of the inhabitants in the area may be affected; 3. Participation in considering an initiation of any project or activity outside the area of the locality which may affect the quality of the environment, health, or sanitary conditions of the inhabitant in the area; 4. Participation of the people in the locality."

3. Advantages And Disadvantages Of Decentralizing Environmental Management To Local Authorities

The advantages of decentralization, which include allowing more participation in the process of governance, enabling local priorities to be more fully taken account of in planning service provision, thus facilitating greater local ownership and participation, have been well documented. The implication of decentralization for environmental management, and the extent to which environmental issues impact on the effectiveness of decentralization, have received far less attention. A number of issues in this regard should be highlighted.

First, decentralization by shifting responsibilities to lower tier of authority confronts complex issues of existing power relations. These issues often manifest themselves in staffing problems, such as reluctance to allow staff mobility or ambiguous definitions of representatives between different tiers of government. They are also appear as financial problems in terms of resource allocation. There is a temptation for central authorities to retain resources at central level where existing resources are already heavily concentrated. This can result in the decentralization of responsibilities without accompanying resource to undertake the new roles expected of staff.

Second, there is the general issue of personnel capacity and capability. The lack of adequately trained personnel to take on the environmental responsibilities of decentralization is a common cause of concern, and the scope for corruption and nepotism can increase unless transparency and accountability mechanism are robust. There is ample evidence that private sector participation in the delivery of municipal utility services leads to a change in the role of local authorities, from an implementing to a supervisory and law-enforcing one. In addition, successful decentralization increase the workload for local authorities and also require new and higher managerial and administrative competencies.

Decentralization has created units of public services which are closer to the users and able to react more flexibly to their needs and expectations through more autonomy of decision-making at local government local. Decentralization can also shorten many bureaucratic procedures and make such procedures more efficient. The disadvantages obviously lies in the relatively small size of the units, which make their operations costly owing to lack of volume. Therefore, decentralization has to ensure that prices are affordable and quality standards of public services are available to all citizens. Accordingly, decentralized public services also have to be submitted to nationwide regulation. In order to gain a critical volume in their operations, certain functions have to be re-centralized, as in the case of the supply of wastewater treatment facility. Similar effects have been achieved by creating networks or other forms of cooperation among municipalities, for example in the case of solid waste treatment facility between neighboring towns. Even mergers between municipalities were established with mixed results however.

4. Capacity Of Local Government Authorities In Environmental Management

The Thai local governments have been unable to effectively and efficiently manage the environment due to the unworkable legal framework currently in place. This section attempts to examine and provide solutions to these problems.

- a. Poor Enforcement of Environmental Laws
- b. Weak Penalties and Incentives
- c. Capacity of Local Governments

Decentralization continues to spark continual debate in Thai polemics. A quick assessment, however, indicated that local governments have a limited capacity to manage the environment.

The capacity of local governments to manage cannot be enhanced under the current system of revenue sharing. In some districts protection of the environment is not a priority. It only becomes a priority if it is a source of revenue generation. In some areas, local councilors will not promote allocation of funding to the environmental sector because it is not viewed as important. This is a problem of political decisions being made without consideration of advice from environmental staffs. In some instances politicians think that in order to solve the environmental problems the only way is to apply high technologies through the construction of big treatment facility.

CONCLUSIONS

Environmental management reform initiatives have been implemented in Thailand during the past decade. This include the establishment of the Ministry of Natural Resources and Environment, establishment of the National Environment Board, enactment of the Enhancement and Conservation of National Environmental Quality Act of 1992, and etc. As a result, environmental management systems have been improved in many areas including increase of public participation in environmental management activities and environmental policy processes.

If decentralization of environmental management for local government authorities is reviewed as an incremental process of institutional capacity building, many of the past decade can be judged as moderately successful. However, success depends heavily on careful planning and implementation. The successful experiences seem to be those in which the program of decentralization were given adequate time to prove themselves, were centered around specific financial on management functions, and included a training component. In fact, decentralization must be an incremental process of building the capacity of local government organizations to accept and carry out effectively new functions and responsibilities. The process must be carefully nurtured from the center and accompanied by a shift in the orientation of central bureaucracy from control to facilitation and support. The

Thai governments have attempted to decentralize environmental management to local government organizations. However, they have faced serious problems of implementation. Some problems arose from insufficient central political and bureaucratic support and other from ingrained contrast attitudes and behavior on the part of political and administrative leaders.

Although, the governing policy for environmental management in Thailand is well formulated, but the mechanisms and plans at the local level are not well implemented. There is inadequate expertise in the field of environmental management and public awareness to implement those designed policy at all levels. The current process of decentralization in Thailand has produced mixed results in terms of degree in which power and responsibility for the management of the environment at the local level is shared. Decentralized institutions lack the capacity to manage the environment. This is further by the fact that little or no resources are available to the institutions entrusted with the duty of managing the environment.

Moreover, the role of local authorities under the current decentralization process for environmental management is not clearly stipulated. This is exacerbated by bureaucracy at the center resulting in the inadequate release of all allocated funds. This leads to frequent delays in the delivery of services or the completion of environmental projects. In addition, staff shortages and/or inadequate trained staff for dealing with environmental projects at the local level is a continual problems. As such, local government positions are often not respected not desired, and this leads to turnover, lack of morale and commitment to innovate or deal with local environmental issues creatively.

There is also inadequate policy and legal provisions, disintegrated authoritative, administrative and institutional mechanisms to handle environmental matters. In many cases, the authority is delegated to local organizations but they are not given the resources to perform their duties properly. As a results, local authorities are nothing more than bureaucratic instruments for the central government and do not generate alternative values, preferences or aspirations. In conclusion, environmental management lacks harmony and continuity from the national to local levels. It is at the local level where systems of environmental management become complex and serious attention is needed for sustainable

environmental development. Therefore, environmental management requires the integration of all institutions in the field and empowering local authority for management of the environment.

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