

The Problems of Muang Fai water management customary law in present day Thailand

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- The definition and the importance of Muang Fai customary law
- Muang Fai water management & sustainable development
- Problems & Challenges of Muang Fai water management in Present day Thailand



L = The distance such that points A and B of equal elevation



Definitions

- Muang [northern Thai language] means a small canal [ditch] for diverting water to the paddy field.
- Fai means a weir.
- Muang Fai is the traditional irrigation system, used in the northern part of Thailand and mountainous areas in Southeast Asia. It has



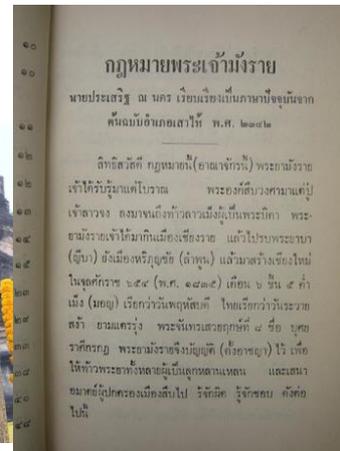
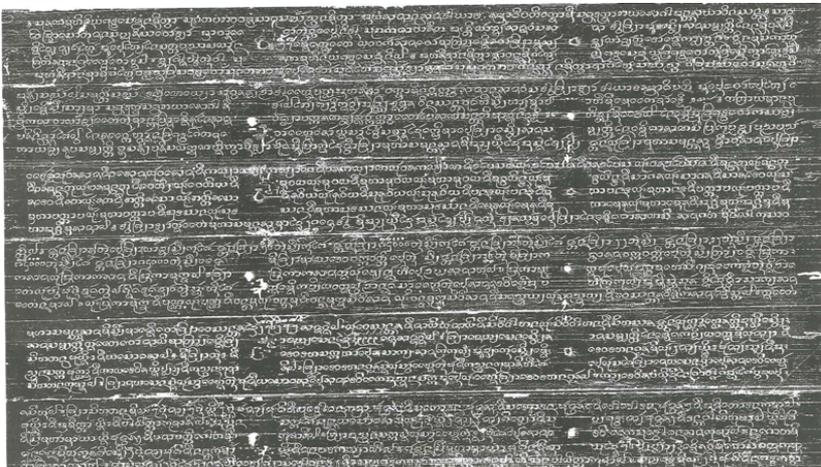
Chronology of Muang Fai Customary Laws

Origin of Muang Fai Customary Laws: appeared in ancient legend for over 1000 years

Incorporated into Muang Raisart Ancient Code of Lanna Kingdoms by King Mang Rai
1294

Incorporated into People Irrigation Act 1939 part 2

Trend to be abolished by the government of Thailand
2014



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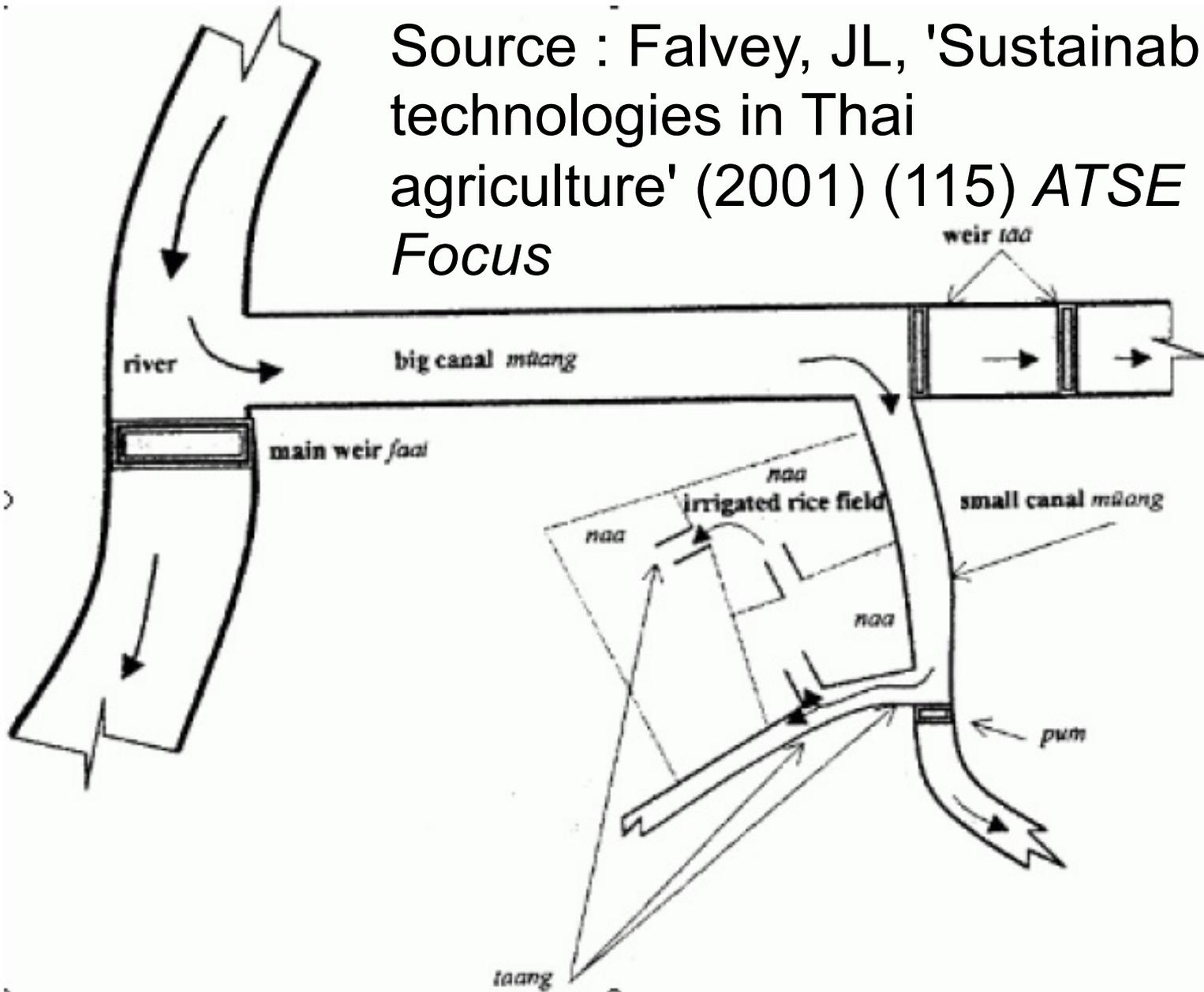


พระราชบัญญัติ
การชดเชยงานราษฎร
พุทธศักราช ๒๔๗๒

ในพระปรมาภิไธยสมเด็จพระเจ้าอยู่หัวอานันทมหิดล
คณะผู้สำเร็จราชการแทนพระองค์
(ตามประกาศประธานสภาผู้แทนราษฎร
ลงวันที่ ๙ สิงหาคม พุทธศักราช ๒๔๗๐)
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ตราไว้เมื่อวันที่ ๑๙ ตุลาคม พุทธศักราช ๒๔๗๒
เป็นฉีก ใน ราชกิจจานุเบกษา

Figure 1: The Muang Fai Irrigation System⁷

Source : Falvey, JL, 'Sustainable technologies in Thai agriculture' (2001) (115) *ATSE Focus*



Muang Fai in Present day

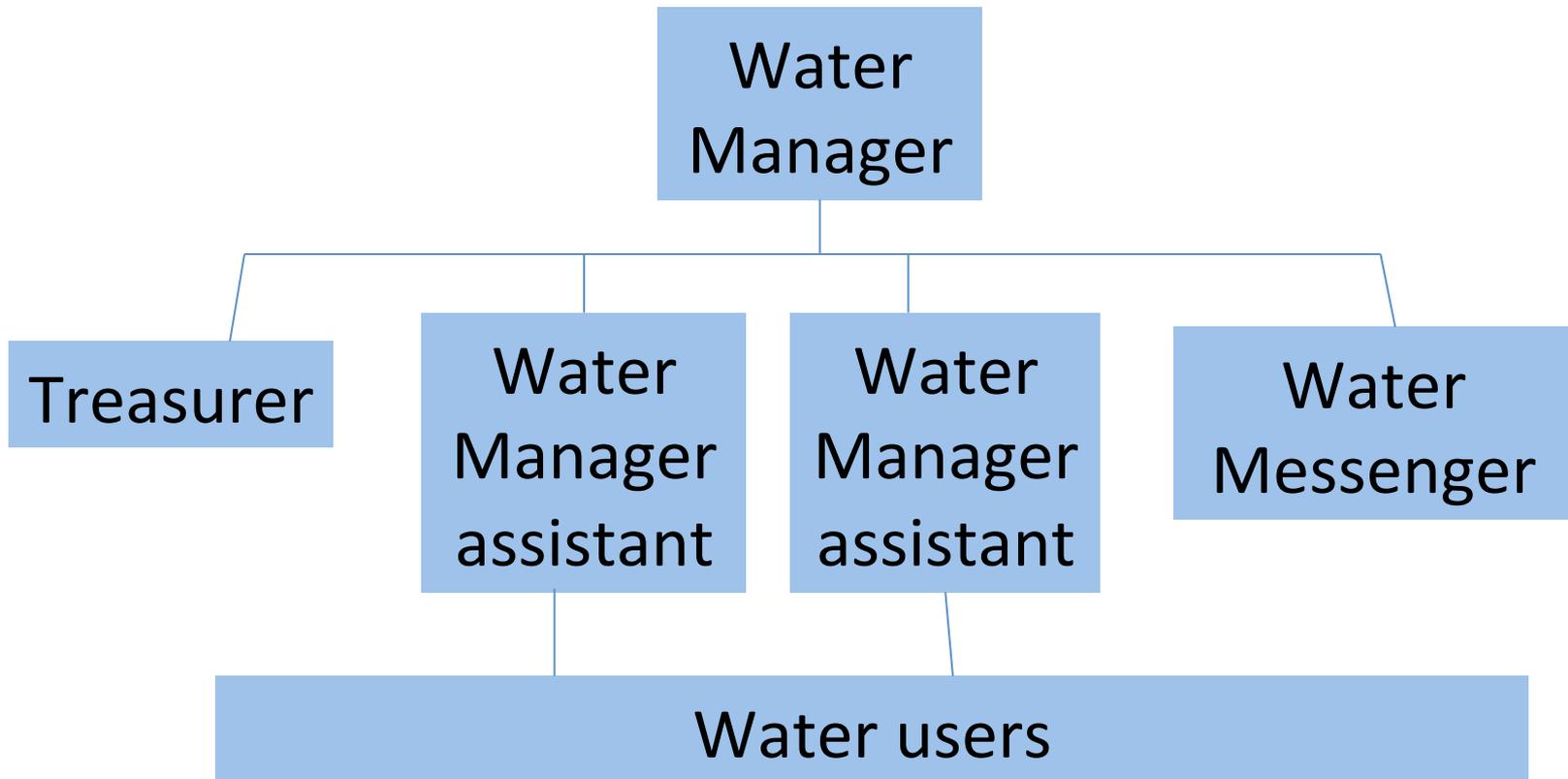
- **At least, 300,000 farmers still use the Muang Fai customary laws and practices to irrigate 80,000 hectare of agriculture areas in the northern part of Thailand.**



Process of Muang Fai

1. Farmers meeting
2. Elect the water manager and assistants
3. Make a water contract [Sanya Muang Fai]
 1. To share the cost of the construction and maintenance
 2. To locate the water source area and the construction areas
 3. To allocate the water
 4. To share the duties among water users [farmers] etc.
4. Construct Muang Fai irrigation system [Weir, ditch, water gate, dike]
5. Organize a meeting annually to sacrifice the ghosts, protecting water and river sources area
6. Organize a meeting annually to maintain, to repair cannels weir and dike
7. Organize a meeting occasionally to accept the new

Muang Fai organization chart



Type of weir

Traditional weir



Concrete weir



Public participation

- Concluding water contract
- Annual meeting
- Transferring information to the water users
- Construct and maintain Muang Fai
- The ritual to sacrifice Muang Fai spirit



Cost sharing

- Depends on the size of the land
- The water administrators receive the exemption as a remuneration for managing water by allowing them to use water without paying the water fee.



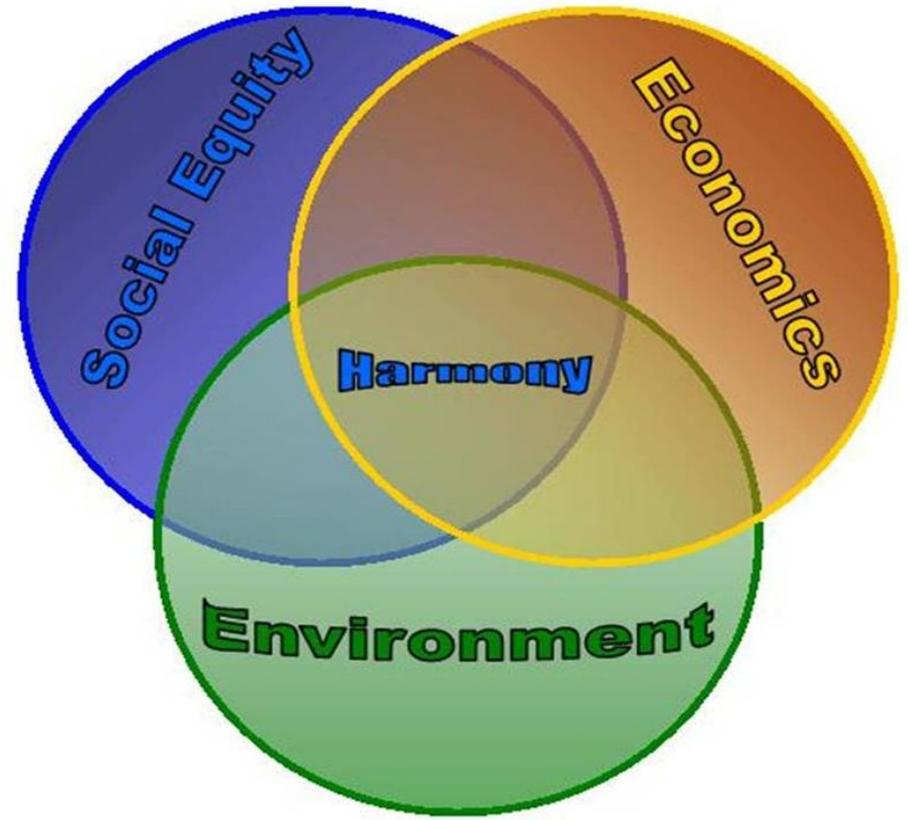
Water sharing

- **Intar-Muang Fai Community**
 - Depends on the land size but not exceed the limitation for each people
 - Depends on the water demand of each water user
- **Inter-Muang Fai Community**
 - ‘Lang Nam’ method



Benefit of Muang Fai

- Environmental aspect
- Economic aspect
- Social aspect



Limitation of Muang Fai

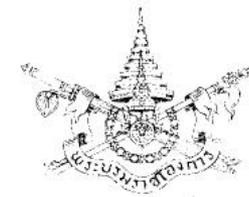
- Focus only on surface water management
- Focus only on water quantity but pay less attention to the water quality
- Flood
- Muang Fai can distribute water to only the same species of plant cultivation which require water at the same period



- **The legal problems**
 - **Conflict between customary law and statutory law**
 - **Insufficient legal provision**
 - **The disrespect for customary laws**
 - **The attempt to abolish People Irrigation Act**

Problems

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เป็นปีที่ ๖ ในรัชกาลปัจจุบัน

Thailand's Water Laws, Policies and Practice

- **No comprehensive national water Act**
- **Water laws and customary law dealt with in separate in legislation. E.g. People Irrigation Act 1939, Public Irrigation Act 1942**
- **No specific provision about water rights, water allocations, priority of water rights**
- **No specific provision to recognize customary water rights**
- **General government's policy to implement IWRM approach but fragmented approach**
- **The water user organization do not**

Challenges

- **The rural-urban migration**



Challenges

- Land use changes



Challenges

- **Governmental intervention**
 - Technology changes
 - Organization change
 - Rules changes

I'M FROM THE
GOVERNMENT,
I'M HERE
TO HELP



words in the English Language





**Thank
you
very
much
for
your
kind
attention**



**QUESTIO
NS
PLEASE**

Customary law

- **Customary law**
 - **Definition**
 - *‘Norm and institutions that tend to claim to draw their moral authority from contemporary to traditional culture or customs or religious beliefs, ideas and practices rather than from the political authority of state. We use ‘legal’ to acknowledge the fact that these norms are often viewed as having the force of law by those subject to them’*
International Council on Human Rights Policy,
When legal orders overlap: Human rights, state and non state law[2009]
- Customary law and sustainable development : Synergy and difficulties

Sustainable development, sustainable water resource management and relating

- **"Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs".**

[Brundtland, Gro Harlem, *Report of the World Commission on environment and development: "our common future."* (United Nations, 1987), Robinson, Nicholas A, *Agenda 21: earth's action plan* (Oceana Publications, Inc., 1993), Millennium Development goals]

- Definition of sustainable water management
- Approach to obtain sustainable water management
- Dublin principles on water and sustainable development

Sustainable water management

Sustainable water resource management is also defined as sustainable water resource systems.

They mean *‘the water resource systems which are designed and managed to fully contribute to the objectives of society, now and in the future, while maintaining their ecological, environmental and hydrological integrity’*.

[Loucks, Daniel P and John S Gladwell, *Sustainability criteria for water resource systems* (Cambridge

Dublin statement on water and sustainable development

- 1] Focusing on the integrated water resource management,**
- 2] Promoting public participation in all level of decision making in water management,**
- 3] Promoting the role of woman in the water management**
- 4] Treating water as an economic good.**

Reference

- Constitution of Thailand 2007
- Constitution of Thailand Interim 2014
- People Irrigation Act 1939
- Civil and commercial code of Thailand

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- Patcharee Arthan *The Adaptation of Local irrigation Organizations to Public Intervention : A Case study of Muang Fai Management of upper Mae ping Watersheds* (Master of Art (Social development) Thesis, University of Chiang Mai University, 1995)
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Preparation to answer questions