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**Study of
National Water Sector “Apex” Bodies
and Civil Society Involvement
in Asia**

**SUMMARY of
Thailand, Bangladesh and Sri Lanka
Case Studies**

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A. INTRODUCTION

Water issues are multifaceted and the water sector typically involves a wide range of government as well as non-government actors in each country. Ensuring access to water is not just about water supply and sanitation at household level; it also requires management of water resources - surface water (rivers, lakes, wetlands etc.) and groundwater - to ensure that water supply is maintained for productive uses (e.g. agriculture) as well as to serve domestic needs. A major effort is needed to coordinate the large number of stakeholders involved in water issues, including water supply & sanitation (WSS) and water resources management (WRM) aspects.

To support this coordination challenge, a number of countries in Asia have established an “Apex” body for the water sector, while several others are considering a similar step. As part of its Water Policy¹, the Asian Development Bank (ADB) actively promotes and supports the development of these “National Water Sector Apex Bodies” (“NWSABs”)² in its developing member countries³.

The first Regional Meeting of National Water Sector Apex Bodies in Asia was held in Hanoi, Vietnam, in May 2004. The meeting was attended⁴ by participants from eleven countries in the region: Bangladesh, Cambodia, Indonesia, Lao PDR, Malaysia, Nepal, Pakistan, Philippines, Sri Lanka, Thailand and Vietnam. Of those countries represented, it was recorded that seven had established water sector Apex bodies, namely: Lao PDR, Nepal, Philippines, Sri Lanka, Thailand, Vietnam and Bangladesh⁵.

At that Meeting, questions were raised in relation to the level of presence and participation of civil society organisations in the Apex bodies, and the value of the contribution of civil society to the Apex bodies and the initiatives taken by Apex bodies. In short, it was asked, first, how civil society is involved in Apex processes, and, secondly, what contribution does that involvement bring?

Presentations by ADB staff, and consultants on behalf of ADB, in Hanoi gave guidance on various aspects of apex bodies, including on the rationale for establishing water sector apex bodies, their structure and the core functions they could be expected to perform, as well as their form. As per its Water Policy, ADB actively promotes and supports the development of National Water Sector Apex Bodies in order to:-

- “Promote the national focus on water sector reform, through the formulation and adoption of effective national water policies, water laws, improved institutional capacities, information management and a national action agenda for the water sector;
- Guide a water sector reform process in which the relevant stakeholders collaborate to achieve agreed water sector outcomes;
- Facilitate policy dialogue and investment partnerships in the water sector with development partners”

(Report of Hanoi Meeting, page 5 - emphasis added).

The importance of collaboration, referred to in the second bullet above, was reiterated in the Report of the Hanoi Meeting where a key rationale for establishing the water sector apex

¹ “Water for All: The Water Policy of the Asian Development Bank”, ADB 2001 www.adb.org/water/policy

² This is the full term and the acronym; the term “water sector apex bodies” is also used in this report, and where reference is not being made particularly to the water sector, simply “apex bodies”.

³ As reiterated on page 5 of the Report of the first Regional Meeting of National Water Sector Apex Bodies in Hanoi, in May 2004 available on www.adb.org/Water/NWSAB/firstmeeting

⁴ The source is again the “Report of the Meeting, First Regional Meeting of National Water Sector Apex Bodies: Leadership in Water Governance, Hanoi 18-21, May 2004 available on www.adb.org/Water/NWSAB/firstmeeting

⁵ Though not all with civil society involvement.

bodies was noted to be; **“to coordinate the many ministries, donors, financial organisations and non-governmental groups involved in the water sector”** (Report of Hanoi Meeting, page 3).

Research Study

The purpose of this project has been to study the nature of civil society's involvement in water sector apex bodies, and its participation in the processes which water sector apex bodies instigate, and to explore ways through which that involvement can better contribute to formulation and implementation of water policy.

Whilst the primary responsibility for providing leadership, to simulate the development and implementation of effective water policies and investments, lies with government, it is recognised that non-governmental actors also have a significant role to play, **including civil society organisations (CSOs)**.

The intention is that the study will⁶:- report back with **narrative of experiences in three study countries including the perceptions of representatives of both government and non-governmental entities as to what has, and what has not, been useful in these sector processes and civil society's involvement in them**, and if there have been problems, what are the perceived reasons for those, identifying lessons learnt and pointing to possible options for going forward.

The aim, in the longer term, is to contribute to ongoing efforts at national level, supported regionally by ADB, to arrive at more effective involvement by civil society in strengthening of water sector processes and water sector apex bodies. As will be seen from the case studies, it is appropriate that this goal, that civil society add value to the water sector Apex bodies and water sector processes, was recognised in Hanoi as being a long-term challenge.

Research Scope

The three study countries which have been selected are: **Thailand, Bangladesh and Sri Lanka**.

The scope of this study has been designed so as to gather information on⁷:-

- the experience of national water sector policy processes (particularly in the period since creation of an apex body in the water sector);
- how those processes have facilitated coordination between different parts or “sub-sectors” of the water sector (“intra-sectoral”, including WSS and WRM);
- how those processes have also facilitated coordination between the water sector and other sectors (“inter-sectoral”);
- the Apex body's contribution to that (strengths and weaknesses);
- the nature of involvement of civil society (strengths and weaknesses);
- and where problems have arisen in relation to civil society involvement, the reasons and (perceived) fault, as well as the lessons learned.

In the course of the interviews in the three countries, it has been found that the individual experience and familiarity of interviewees extended to some, not all, of the above questions. Questions have, therefore, been posed as a function of the knowledge of interviewees on these issues, as well as their readiness to be questioned on them. Further, not all the questions, are relevant to each country - depending on the particular circumstances of national Apex bodies. The purpose is here to “take stock” of what is happening in terms of dialogue and partnership between government institutions and civil society organisations, to check progress made.

Whilst, in each case, there are certain facts which can be noted (such as dates, or content of published documents), much of the interview time has been spent recording the **perceptions**

⁶ As set out in the consultant's terms of reference for this study.

⁷ Summarising page 2. of the consultant's terms of reference.

and impressions of the persons consulted on the subject of this research, namely the dialogue which has occurred between institutions and individuals in the Apex body meetings and other water policy fora - as observed from the viewpoints of government, civil society, research and academia, as well as of independent specialists/experts. Such perceptions tend to be subjective. The method employed here is, without naming individuals, to report the views of the persons consulted, noting perspectives which differ, but also identifying where perceptions are common - particularly where opinions are widely held.

Each country context is of course specific, so the case studies present examples of how water policy debates are being conducted in Asia, and the nature of participation by civil society organisations. ADB notes⁸ that “there is no standard approach that fits all needs”. This important point was reiterated in the report of the first regional meeting of national water sector apex bodies⁹ (page 6 of the Report of the Hanoi Meeting): “Establishment of apex bodies should consider specific country contexts. There are no single answers to complex issues”.

Policy Engagement

Part of the function of this study will be to stimulate discussion between members of Apex bodies on what engagement by civil society in policy-making can or should mean. Each of the three example case studies serves to illustrate different modes of policy engagement. At this point, it is useful to emphasise that civil society engagement is about **proposing** ideas and possible solutions to water problems, as much as to opposing others’ ideas and suggested solutions. It may be that, in the opinion of some apex members in the case study countries, civil society groups generally adopt an oppositional mode. This does not need to be the case, and if it is the predominant mode, it is worth considering reasons why this may be so (see below).

Once it is acknowledged that it is not only government which can propose ideas and solutions, but also other stakeholders, then the engagement between government and civil society can be seen to be two-way. ADB pointed to this key element of dialogue at the Hanoi Meeting, where it was recognised that a key role of the apex body is setting up and managing the arrangements according to which a range of actors can meet to **exchange ideas and information** on policy. “The multi-stakeholder forum is a key mechanism for facilitating such dialogue in the water sector”.

This study examines what dialogue is currently taking place in and around the national water sector apex bodies in the three example countries, and how the opportunities for such dialogue are being used by civil society and - since dialogue entails two-way exchange - also by government.

Positioning of Apex Bodies

As indicated by the above reference to “highest level”, a key characteristic of “apex” bodies is that they are created with a mandate from prime ministerial or presidential level, and are placed close to that level of authority, as a means to (in the case of the water sector) “**demonstrate leadership in improving water governance**, both in the management of water resources and the delivery of water services” (Report of Hanoi Meeting, page 3).

Civil Society

It is, further, useful to consider what “civil society” means in this context. In its Water Policy¹⁰, ADB includes a section G. on “Fostering Participation” in which it is stated (page 29) that ADB

⁸ In the presentation by Wouter Lincklaen Arriens, Lead Water Resources Specialist at ADB on the “Need for National Water Sector Apex Bodies”.

⁹ “Report of the Meeting, First Regional Meeting of National Water Sector Apex Bodies: Leadership in Water Governance, Hanoi 18-21 May 2004, Asian Development Bank.

¹⁰ As cited before: “Water for All: The Water Policy of the Asian Development Bank”, ADB 2001 www.adb.org/water/policy

will incorporate in water projects carefully-designed components that “promote the participation of civil society”.

From that section (G) it is clear that civil society includes:-

- “communities” (who are the “de facto resource managers and protectors of the environment”);
- “individuals” who are underserved with water facilities, particularly women, ethnic minorities and indigenous peoples;
- “water users’ groups” and “irrigation cooperatives”;
- “consumer associations”,
- non-governmental organisations (“NGOs”).

The ADB interpretation of “civil society” for these purposes is broad - it also encompasses “private agencies”, where these are involved.

In summary, civil society includes a wide range of stakeholders which are involved in water issues¹¹. It refers essentially to all actors other than government – and is not confined to NGOs.

Civil Society will, therefore, include research institutes and academic institutions, and other independent analysis and “experts” in the water and related domains. As will be seen below, such “experts” are included as members of national water sector apex bodies.

As noted above, dialogue - exchange of ideas and information on policy - is an important part of policy processes. Dialogue involves two-way communication, and communication, to be successful, entails listening as well as speaking (as is sometimes observed, speaking is often easier than listening). A goal of water sector reform, as suggested above, is that stakeholders collaborate to achieve agreed water sector outcomes. If they are to be motivated to collaborate in implementation of water initiatives, stakeholders will¹² need to agree with the direction of those initiatives. The thinking behind participation is that, to obtain their agreement, it is necessary that those stakeholders participate in deciding what those initiatives are.

Evolution of Apex Bodies

ADB notes that the National Water Sector Apex Bodies are seen to be themselves a part of the water sector reform process, to help in managing the process of change and transition. In other words, the Apex bodies themselves are likely to evolve over time.

Neutrality

The Hanoi Regional Meeting, further, suggested that apex bodies, by being “neutral” bodies, will be able to accomplish their coordination of policy formulation and sector reform.

Role of Civil Society

As to the nature of the civil society role, it was stated at the ABD 2004 Water Week, that “civil society ... needs to become more active in advocacy and public awareness, based on a sound understanding of sector issues and solutions, and should be given opportunities to help in designing and implementing projects, as well as in setting up “watch dogs” or other monitoring arrangements. Specific roles should be created for NGOs, academics, and journalists to help catalyze reforms and work in partnership with, rather than against government”.

In other words, **the role of civil society includes the proposing of ideas and solutions to water challenges**, as well as a “watch-dog” role of monitoring, and, where appropriate, criticising, the performance of government in meeting those challenges.

¹¹ E.g. in the Sri Lanka case study below, civil society is used “to refer to private sector, trade unions, academics, NGOs, producer organisations - and the media”.

¹² In any system which is not authoritarian.

As will be seen from the case studies, for that potential to be accessed, there must be adequate opportunity for civil society to contribute – opportunities genuinely made available by government, and productively used by civil society organisations.

A challenge is also presented by ADB to civil society organisations working “in partnership with, rather than against government”, i.e. not only opposing, but also proposing . This is discussed further in section 3. below.

For the aims of partnership working to be achieved, in both the water and other sectors, **a measure of trust** - surely needs to be mutual, a responsibility of both civil society organisations and government, as well as other actors participating in the spaces created by the apex body.

“Spaces for Participation”

The concept of “space for participation” comes from recent work of the Institute of Development Studies (IDS), in the UK which points out that those who have sought to deepen democratic governance have often been divided on their approach to the problem. “On the one hand, attention has been made to strengthening the processes of citizen *participation* – that is the ways in which people exercise voice through new forms of inclusion, consultation and/or mobilisation designed to inform and to influence larger institutions and policies. On the other hand, growing attention has been paid to how to strengthen the *accountability* and *responsiveness* of these institutions and policies through changes in institutional design, and a focus on the enabling structures for good governance” (Gaventa 2003)¹³.

IDS and its partners’ research confirms that, to rebuild relationships between citizens and their local governments, means working on both sides of the equation - that is, going beyond 'civil society' or 'state-based' approaches, to focus on their intersection, through new forms of participation, responsiveness and accountability. “Increasingly, however, we are beginning to see the importance of working on both sides of the equation. As participatory approaches are scaled up from projects to policies, they inevitably enter the arenas of government, and find that participation can only become effective as it engages with issues of institutional change. And, as concerns about good governance and state responsiveness grow, questions about how citizens engage ... come to the fore” (Gaventa, 2003).

In both South and North, there is growing consensus that progress is found in a focus on:-
- both an active and engaged civil society which can express demands of the citizenry;
- and a responsive and effective state which can deliver needed public services;
the two are mutually reinforcing and supportive - strong, aware, responsible, active and engaged citizens along with strong, listening, open and responsive democratic governments” (Commonwealth Foundation, 1999).

This makes for a reciprocal process of not only passively participating in a given space, but actively shaping that space.

The empirical studies carried out by IDS have produced a description of **three different types of “spaces for participation”**¹⁴ :-

¹³ Gaventa, J. (2003), *Towards Participatory Local Governance: Assessing the Transformative Possibilities*, www.sed.manchester.ac.uk/events/participation03/Gaventa.

¹⁴ “While we are still seeking the appropriate terminology for these categories, our work seems to suggest ... spaces, which include...[the three types above]” (Cornwall 2002; Brock, Cornwall, Gaventa, 2001).

SPACES FOR PARTICIPATION

- **Closed or Provided spaces**

Some decision-making spaces are closed. That is, decisions are made by a set of actors behind closed doors, without any pretence of broadening the boundaries for inclusion. Within the state, another way of conceiving these spaces is as 'provided' spaces in the sense that elites (be they bureaucrats, experts or elected representatives) make decisions and provide services to 'the people', without the need for broader consultation or involvement.

- **Invited Spaces.**

As efforts are made to widen participation, to move from closed spaces to more 'open' ones, new spaces are opened which may be referred to as 'invited' spaces, i.e. 'those into which people (as users, as citizens, as beneficiaries) are invited to participate by various kinds of authorities, be they government, supranational agencies or non-governmental organisations' (Cornwall 2002). Invited spaces may be regularised, or more transient, through one-off forms of consultation,

- ◆ **Created/Claimed spaces.**

Finally there are the spaces which are created or claimed, by government or citizens or both. These can, for example, be spaces which emerge 'out of sets of common concerns or identifications' and 'may come into being as a result of popular mobilisation, such as around identity or issue-based concerns, or may consist of spaces in which like-minded people join together in common pursuits' (Cornwall, 2002).

Adapted from Gaventa, 2003.

As seen in section 2. above, a key objective for national water sector apex bodies is the promotion of policy dialogue between water stakeholders, including exchange of ideas and information so that debates and decisions relating to water policy will happen not just in formal institutional, "closed" spaces, but will also move into new spaces opened by apex membership and apex-facilitated multi-stakeholder fora (e.g. invited spaces).

A second important issue is how much do national water sector apex bodies allow "claimed" or "created" spaces to emerge and develop, as well as "invited spaces" - considering that question at both central and local, decentralised level.

Lessons from Existing Experience

The Report of the Hanoi Meeting recorded that each country presenter identified lessons learned to-date:-

Summary of Lessons Learned

- A successful apex body needs high level support and representation.
- Sustained political commitment is needed to advance water sector reforms.
- A strategic approach is essential. Prioritising and undertaking the most important tasks first and not to try to do everything at once.
- An agreed set of coordinated and prioritised actions provides a firm basis for cooperation with funding agencies.
- Piloting is vital in introducing new approaches to water resources planning and

management.

- The time has to be right for an apex body to be established.
- An apex body requires a clear legal mandate, which is recognised and accepted by other agencies. It should not be perceived as a threat to other agencies with legitimate water-related functions. Instead, NWSABs should be seen to add value and assist other water-related agencies to meet their own responsibilities.
- Management should take a multidisciplinary approach that addresses causes, not symptoms, wherever possible.
- A successful operation requires awareness raising of the general public, decision-makers, officials and participation of society.
- Decentralisation of certain water management responsibilities will give increased ownership at local level.
- Multi-stakeholder approach enables problem solving to take into account different perspectives and priorities.
- Awareness raising and multi stakeholder participation is important.
- Decision makers at all level should participate in the consultative process.
- Learning by doing is a good way to build stakeholders capacity.
- Progress takes time.

Source: Report of Hanoi Meeting, page 16 (emphasis added).

It will be seen how those lessons (particularly those underlined above) are reflected in the case study countries.

B. *Draft*/CONCLUSIONS from the THAILAND Case Study

On the basis of the narrative of the perceptions of the persons consulted in Thailand, the following are the findings from the example of the national water sector apex body, including in relation to what came out of the Apex process, and Civil Society involvement within it, for strengthening of the water sector:-

- the National Water Resources Committee is credited with having provided leadership in the water sector, as shown by production of the National Water Policy (and also, perhaps, the National Water Vision) which set directions for water resources policy, as well as by some support it gave to the initiative for drawing up a new water resources law;
- new policies relating to water supply & sanitation (WSS) have not (on the basis, at least, of the statements of the persons consulted during this survey) been specifically promoted by the Committee; the “leadership” in “improving water governance” (as per the Hanoi Meeting quoted on page 8 above) applies to “management of water resources” (the first part of the quote), but not it seems to “delivery of water services” (the second part) - with strengthening of the water “sector” understood accordingly;
- the persons consulted did not credit the Committee with having taken active steps to promote the better coordination within the water sector which was commonly agreed to be necessary (including between WSS and water resources management (WRM)), except creation of the Ministry of Natural Resources and the Environment (MONRE);
- efforts have been made to include civil society representatives (both experts and NGOs) within the membership of the Committee, but these have been only partially successful because of what are perceived by some civil society leaders as major “conceptual” differences which have, it seems, yet to be debated¹⁵; in this context, merely issuing an invitation to participate in the Committee and expecting all invitees to accept is not enough; if the presence of civil society, and particularly NGOs, on the Committee is to be increased, the “space” for invited participation needs to be opened in a more proactive manner;
- the majority of the civil society representatives (both experts and NGOs) who accepted to become members of the Committee have been disappointed in their expectations of what the Committee would do, because of the way the proceedings of the Committee are managed; the agenda of the Committee is dominated by government with key decisions taken outside the Committee prior to its meetings (i.e. in conventional “closed spaces”) - with proceedings during meetings being, therefore, only to a limited extent open to broader debate; in other words, the way the business of the Committee is being conducted means that civil society participation (and, it seems, inter-ministerial engagement) currently takes place in a confined “invited space”; this opens NGOs which agreed to sit on the Committee to (further) criticism from NGO colleagues who declined (who may be tempted to draw the conclusion that: “Since you who accepted seem to be making little or no inroads into policy debate - with your views seemingly not sought or listened to, we were right not to accept!”);
- although, as noted above, the Committee is credited with leadership in an earlier phase of its existence, the impression obtained from persons consulted is that the Committee has accomplished less, more recently, since 2000, so that it is not perceived as currently serving a useful function;
- contrary to the guidance suggested at the Hanoi Regional Meeting, the Committee has not benefited from sustained political support - it is seen as a political body subject to changing political power, unstable in its present form; the Committee is not perceived by the non-

¹⁵ It is perhaps unlikely that the Committee itself would be the right forum for holding such a debate, but an alternative mechanisms for dialogue could presumably be explored.

governmental members as being neutral: there is a lack of confidence that the Committee, as operated in practice to-date, is other than “created by government for government”;

- this means that its role in leading the formulation (and implementation) of water policy is, currently, at least compromised; the positioning of the Committee at the “apex” is not currently working to the advantage of the water sector;
- if the above view, which is common to experts and NGOs alike, is to be taken into account, the Committee will need to be modified; as noted in section 2. above, the National Water Sector Apex Bodies are seen to be themselves a part of the water sector reform process, to help in managing the process of change and transition; in Thailand the process is evolving and the Committee arguably needs to reflect this (it seems, if the Committee is not adapted, civil society organizations will perceive that there is less incentive to spend time as a member of the Committee¹⁶);
- a new water (resources) law could provide a more neutral and solid basis for a re-constituted Committee, with its mandate and composition of membership set out and approved by the National Assembly, and more accountable regulation of its proceedings (see further below);
- perceptions are that “mind-sets” in the water sector on both “sides” of the debate, of certain government institutions and their staff on the one hand, and of certain civil society organisations (including NGOs) on the other, need to change; the culture of government as manifested by some government officials prefer (or so, at least, it is perceived) to hold onto “old ways” of working, despite the move in Thailand towards more public participation and open government (as per the Constitution); meanwhile some NGOs find it difficult to combine the role of policy advocate - proposing ideas and solutions to water challenges - with a role of “watch-dog”, of monitoring, and, where appropriate, criticising, the performance of government in meeting those challenges, and opposing government initiatives;
- undertaking of joint projects, such as the collaboration between the Department of Water Resources and Thammasat University for public consultation on the water law, is one means of establishing new working relationships and changing mindsets;
- there is a need for civil society participation to be mirrored at other levels below the Committee at the “apex”, including within the River Basin Committees, and below them (closer to the base of the “pyramid”): as well as mechanisms for participation at the centre and “top” an important issue is how much spaces for participation are being invited and created/claimed at local, decentralised level;
- the nature of the “space for participation” in the RBCs is, it seems, yet to be constructed: the leaders of the process to put the RBCs into full operation will need to prove wrong the view of the sceptics that these decentralised committees are or will be, also, within the control of politicians or other powerful vested interests, in order to succeed in making that participation of civil society productive;
- whilst the workings of the RBCs, including the spaces for participation, are being developed/built, the efforts made by the conventional structures of line ministries to open their project planning procedures to participatory approaches, as referred to above in relation to the Royal Irrigation Department, will be important;

¹⁶ On the basis, as suggested by Holmes and Scoones, 2000, that the degree of motivation in participating depends on the perceptions of the relevance of the deliberative process to the final decision.

- in answer to the broader question of what, as yet, has “come out” of the process of involvement of civil society in the Apex process, it is premature to say: due to some hesitancy or reluctance on both sides, little genuine civil society participation has occurred to-date, with as a consequence little “value added” being evident. That said, none of the persons interviewed expressed the view that the present process of development of more open dialogue within the water sector should be reversed.

The Apex Body in Thailand: options for the future?

The Hanoi Regional Meeting observed (as noted above) that the structure and functions of water sector apex bodies can evolve in accordance with the stage and needs of the policy-making process.

One option proposed by an expert, as a possible alternative to the Apex body in its current form, would be that a new Ministry of Water Resources would be created, and that Ministry could have a Board similar to that of the National Economic and Social Development Board. On that new Board, the different sub-sectors of the water sector could be represented (industry, agriculture, environment, etc.) and this would give balance in the Board’s advisory role, instead of power residing in the hands of one person, the Minister. The Board would not be chaired by the PM’s office and would therefore be more independent and more neutral, not subject to the instability of high-level political support and availability.

Another proposal, explained by a second expert, would be that an Apex body would continue to exist, with some of the powers of the Committee copied from the 1989 Regulation.

According to this second proposal - an alternative modality for strengthening the Apex body and the contribution of civil society within it - the composition of a newly-constituted National Water Resources Committee could be in two broad categories:-

(i) public sector/government;

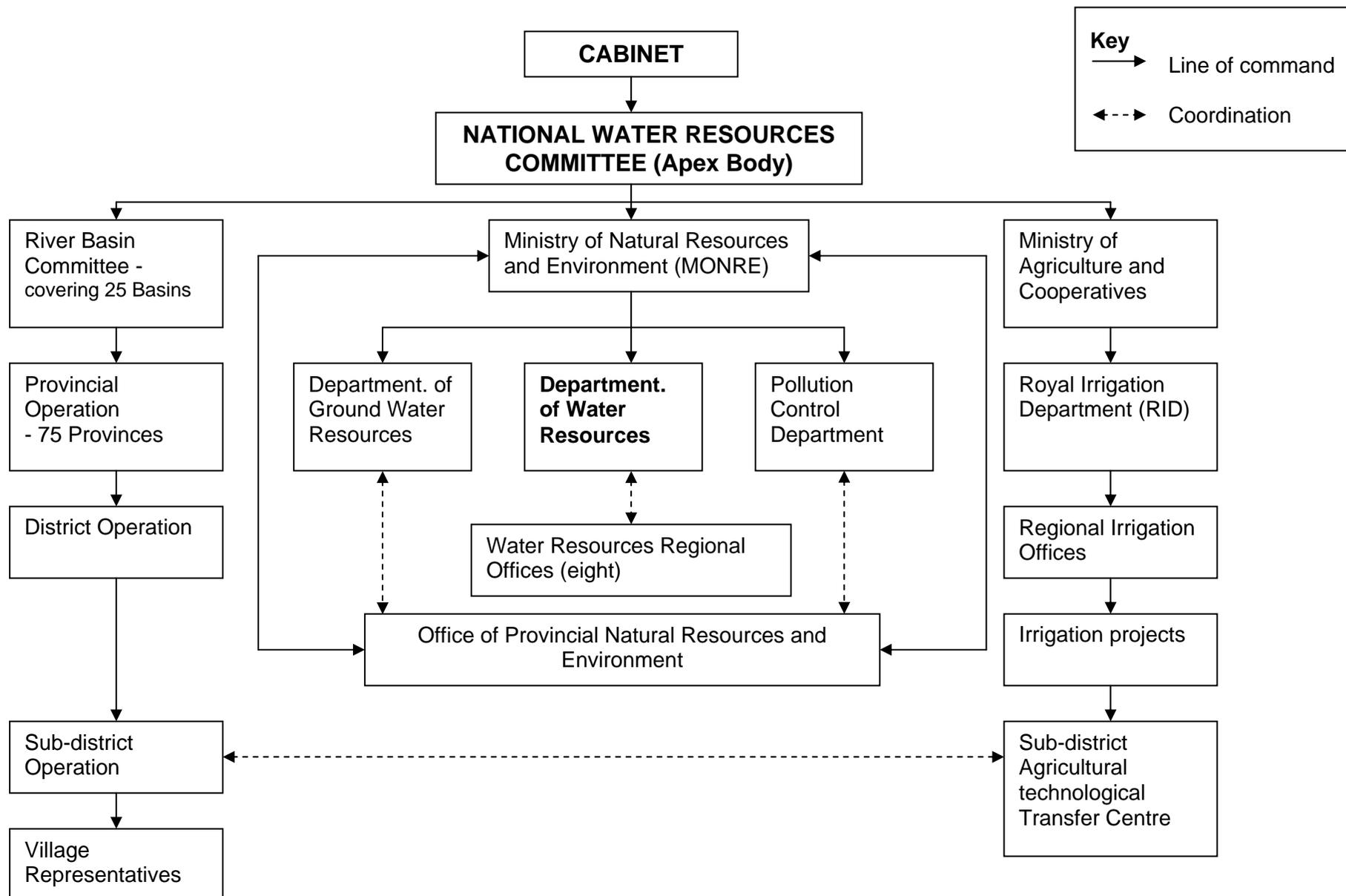
(ii) private entities/non-government;

- with fifteen members for each (i.e. $15 \times 2 = 30$), plus one Chair of the PM’s Office.

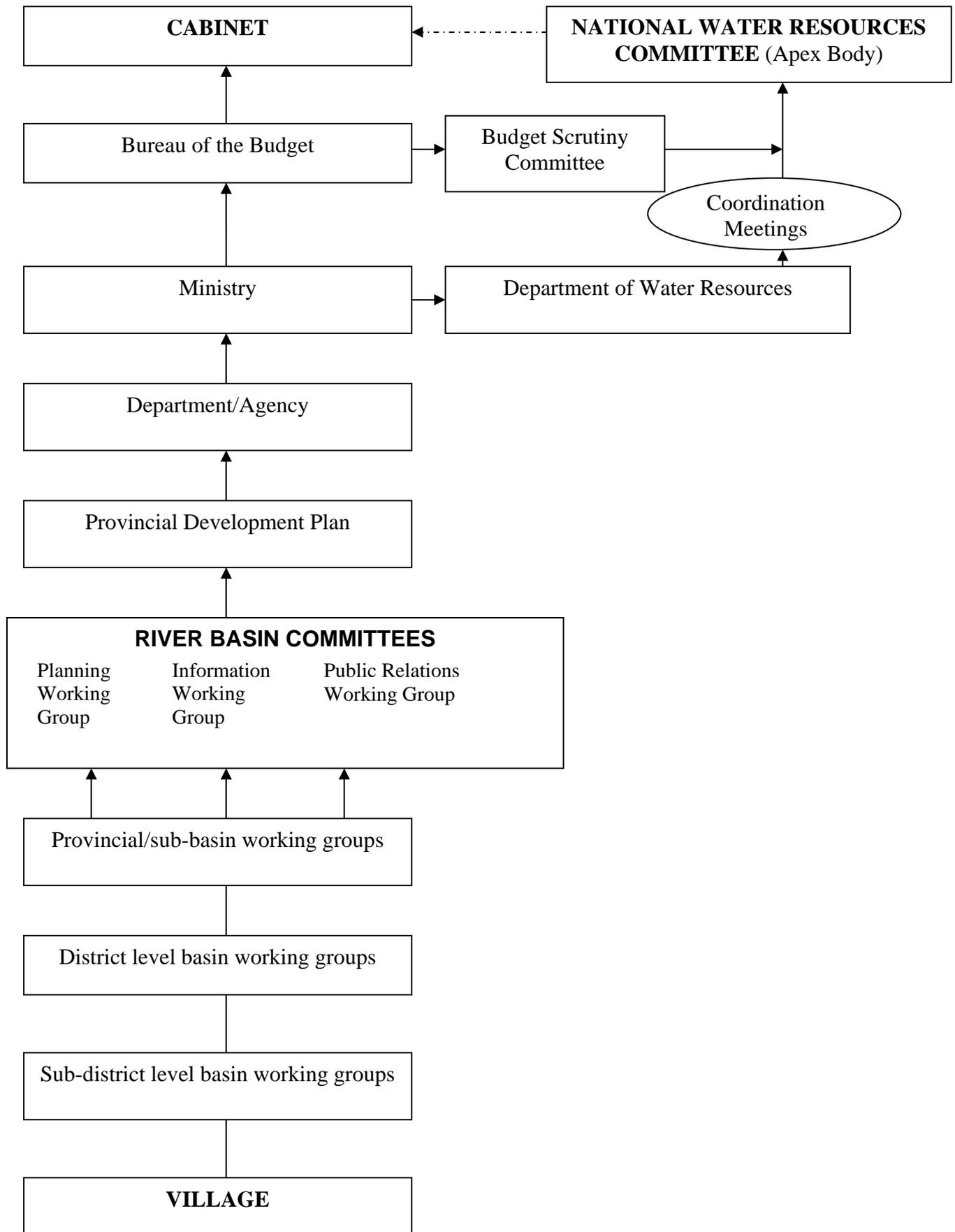
The Government would be entitled to appoint three experts, as well as nominating twelve representatives of government ministries/departments. The non-governmental representation would be composed of (again) three experts appointed by the members of the non-government section themselves, plus twelve other persons: four representatives of River Basin Committees, four water users’ representatives, three representatives of local administrations and one NGO.

Under this second proposed model, civil society would choose its own representatives and would be more strongly represented, so as to enable it to contribute more effectively.

Water Resources Management Organisation and Agencies with Water-related Missions in Thailand (adapted from DWR)



Procedure of River Basin Development Plan Formulation in Thailand



C. *Draft*/CONCLUSIONS from the BANGLADESH Case Study

On the basis of the narrative of the perceptions of the persons consulted in Bangladesh, the following are the findings from the example of the national water sector apex process including in relation to what came out of the Apex process, and Civil Society involvement within it, for strengthening of the water sector:-

- the apex process, through WARPO, has provided some leadership in the water sector, as shown by production of the National Water Policy which set directions for water resources policy, and the support the apex process gave to the drawing up of the National Water Management Plan; the Policy and the Plan are considered to be positive steps towards reform in water resources management, examples of how the apex process has strengthened the sector - at least on paper;
- the Plan included, in the first stages of its preparation, substantial participation by civil society which served to increase awareness of different stakeholders' perspectives on water management - the persons consulted clearly considered that civil society involvement had been important and productive in this respect;
- concerns are expressed, however, that the views of those at local level who took part in the participatory process were not reflected in the version of the Plan which was published with no feedback to them; this would seem to be a manifestation of a wider problem as perceived by civil society representatives, namely of an institutional culture which is closed and rigid, with each individual government agency pursuing its narrow interests; the (so to speak) wearing of institutional "blinkers" runs contrary to the spirit of integrated water resources management: although IWRM is acknowledged and increasingly accepted in Bangladesh on paper, it is not operational in practice;
- the opportunity presented by the National Water Management Plan to link a wide range of water programmes (as documented by the Plan) has, at least until now, been missed: in such follow-up of the Plan as has occurred (this was thought to be limited by many persons consulted), there is apparently little evidence of coordination and integration of the different water management functions, i.e. the "clusters" in the Plan "do not talk to each other"; this points to a general observation that the effort to construct dialogue between government and civil society does not just stop when a plan has been produced or other project/consultancy task completed;
- the National Water Resources Council - the apex body - and its supporting Executive Committee, have not, it seems, applied their powers effectively to bring about greater coordination; thereby not contributing to strengthening of the sector;
- the "space of participation" by civil society on the Council & the Executive Committee is limited - an "invited space" which is confined because debate and decision-making is taking place elsewhere, in other conventional "closed spaces", e.g. within line ministries; this may have a negative effect on the motivation of civil society representatives to participate;
- WARPO, as secretary to the Executive Committee, and "macro-level planner", is widely regarded as having made a useful contribution in terms of support to the process of preparation of the Plan as well as data collection and management, but civil society interviewees highlighted what they saw as WARPO's lack of resources and capacity, as well as the inadequate authority from which it suffers - which means that in practice it is unable to fulfill its (broad) mandate;
- an initiative to prepare a new national water law does not, at present, seem to be advancing;

- as noted above, a current gap in water governance in Bangladesh is the lack of river basin committees, which could act as decentralised institutions of mixed governmental and non-governmental composition, thereby permitting dialogue between government and civil society, on a more regular basis;
- persons consulted spoke of distrust and lack of understanding between government and many NGOs, in both directions;
- despite the importance of reflecting in institutional terms the “connectivity” of water, an institutional mechanism for dialogue is lacking; such dialogue between government and civil society is little evident at local, basin and national levels;
- the water supply & sanitation-WSS sub-sector of the water sector is currently experiencing a period of considerable policy-making activity and dynamism; it offers an example of good collaboration between water stakeholders, including in a high-level committee which is situated near the “apex”;
- as in Thailand, the interviews pointed to an example of a joint project, entered into by the public water authority in Dhaka (DWASA) with NGOs, as a modality of building practical working relationships and, it is intended, expanding water services to poor areas.

Water Supply and Sanitation in Bangladesh: a model committee?

As noted above, recent activities in the water supply and sanitation “sub-sector” in Bangladesh indicate that this is, currently, an area of dynamic activity. Some possible explanations of why the WSS sub-sector is active were suggested by one person consulted: the MDG targets for water supply & sanitation which are especially high profile internationally, and have been prioritised in the (draft of the) national PRSP¹⁷; the fact that urban and urban slum related issues are “burning” in the country, e.g. with rates of growth of population in Dhaka very high (thought to be 5-6%); links between lack of sanitation and disease are now recognised in the country; there are many civil society organisations working on WSS (less working on WRM).

Amongst civil society organisations involved in WSS, there is a much more positive perception of high-level committees - which they do think can be useful as mechanisms for better sectoral coordination and collaboration, and for improving policy-making. An example of this is the National Steering Committee for WSS. It is another case of an inter-ministerial committee, though at a lower level than the NWR Council. It is headed by a permanent secretary at the Local Government Ministry. The Minister apparently attends some meetings - the impression is of high-level political commitment. There are also permanent secretaries of other Ministries, e.g. Water Resources, Planning, Information on the committee.

Finally, sitting on the committee are representatives of civil society: research, NGOs (the NGO Forum), plus representatives of donors and the UN (UNICEF) - the inclusion of members representing international parties points to an alternative modality for using an apex body to strengthen the water sector.

D. Draft CONCLUSIONS from the SRI LANKA Case Study

On the basis of the narrative of the perceptions of the persons consulted in Sri Lanka, the following are the findings from the example of the national water sector apex body, including in relation to what came out of the Apex process, and Civil Society involvement within it, for strengthening of the water sector:-

- interviewees note that although the reform process has not been smooth, there has at least been some progress;

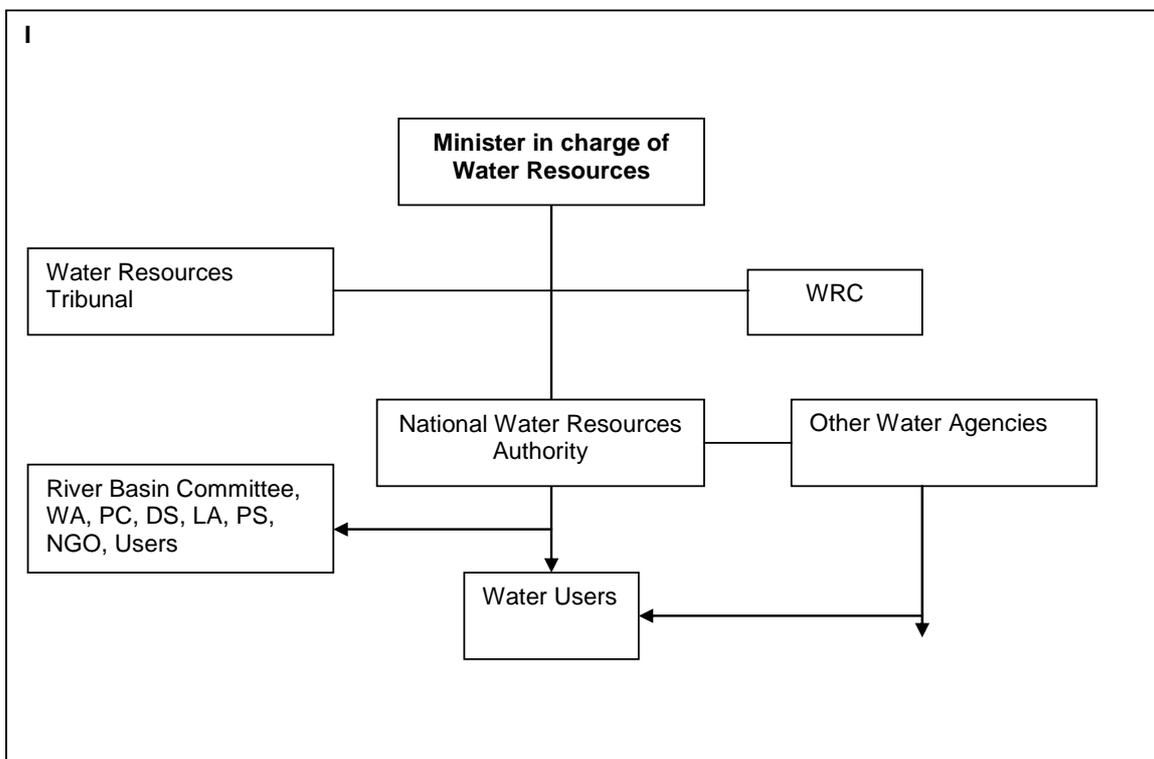
¹⁷ None of the water resources management specialists interviewed mentioned the PRSP.

- it is, however, difficult to ascertain how far the Apex has helped: it is generally agreed that the apex concept is sound, but it is thought it will only work if it has legal authority and everyone (including civil society widely) is represented;
- the water resources secretariat (WRS) is credited by persons interviewed as having made progress in piloting apex processes: interim mechanisms for coordination, consultation and conflict resolution are in place; however, ultimately these are not legally enforceable, and interviewees perceive therefore that the Apex body is a ‘toothless tiger’;
- the apex process previously functioned quite well, but requires continued high-level political support if it is to improve coordination within the sector and among sectoral interests; in this connection, there are limits to what can be achieved with an interim body. As noted above, the WRS currently has no legal authority to fulfil its intended functions. There are important questions as to whether a new organisation of 30-50 staff (including administrative support) can fulfil the apex role and coordinate bigger well-established water institutions¹⁸; ultimately the apex body has to prove itself capable and gain the respect of sector stakeholders at all levels;
- nevertheless, the interviews indicate that there is value in the WRS: as an independent body it has been invited to participate in and contribute technical inputs to numerous policy processes e.g. recent debates on sand mining. Some interviewees noted that the fact that it still exists (despite suspension of project funding) demonstrates that it has an important role to play;
- important questions surround how the WRS maintains independence and neutrality: its staff are ultimately public servants and cannot speak/act without the sanction of politicians;
- it should be noted that institutional strengthening, while necessary, will not be sufficient on its own. Experience shows that public awareness is key. Water is a fundamentally political and cultural issue, and reform requires genuine broad-based dialogue. To-date the approach in Sri Lanka has been to get politicians’ approval first, prior to going public; this approach has, however, not worked - instead it has led to confusion and suspicion which has ‘deadlocked’ the process;
- NGOs consulted noted that, in some ways, the controversy over the water policy has brought people together. There are very few NGOs working on water issues and most deal with technical aspects e.g. pollution rather than policy issues. However, civil society remains divided and relations with government are strained. There is some interesting experience of improved dialogue between civil society and government in other sectors, e.g. the Energy Forum, but it is unclear whether this can be replicated in the water sector. Linkages between civil society organisations in the water sector mostly remain personal/informal rather than formal/institutional e.g. through networks;
- water issues are undoubtedly back on the agenda in Sri Lanka which is arguably positive. There seems to be greater awareness and interest among NGOs, academics and even government officials. However, the issue of reform is highly politicised. WRS feel that media reporting has effectively ‘poisoned’ public perceptions, that the process of consultation has been ‘hijacked by troublemakers’ and that civil society involvement is often somehow ‘not genuine’. The argument against is simple and appeals to the sensationalist media. The argument for is more complex to articulate. To-date there has been a lack of informed broad-based debate on these issues;
- independent experts note a number of broader questions over the appropriate role for the the apex body, should it ever be established. There is certainly a role to play in setting

¹⁸ The Irrigation Department, for example, is over 100yrs old and approximately 6000 strong

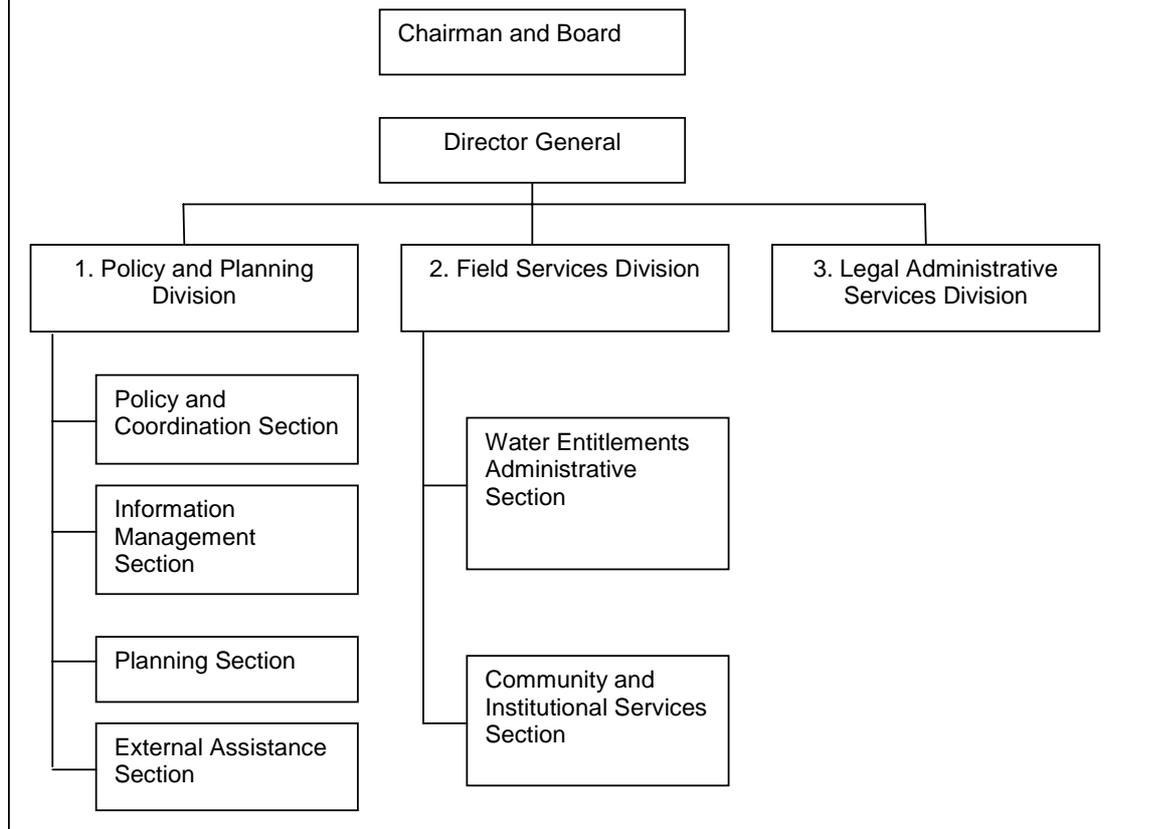
policy and coordinating the sector¹⁹, but it is unlikely to be able to regulate and enforce implementation other than through existing institutions. There are major capacity issues here and questions about sequencing reforms to fit with Sri Lanka's current socio-economic development. It would arguably be better to focus on incremental administrative approaches to implementation rather than top-down attempts to impose new legislation. The process should not attempt to duplicate local jurisdiction, but rather provide technical support and guidance centrally to assist people to make their own decisions locally;

- finally, several interviewees noted that in some ways the process in Sri Lanka is 'back to front' because the water policy has been drawn up with insufficient attention to the capacity of existing institutions for implementation. It is essential therefore to pilot some of these reform ideas incrementally through existing institutions and generate broad-based civil society support via 'demonstration effect'. This requires a more flexible, less top-down approach and a long-term commitment to the process of reform.



¹⁹ Useful comparisons can be drawn with the Central Environment Agency. Environment is a concurrent subject (central and provincial). CEA can set standards and guidelines, but these are enforced by the most appropriate (existing) institution.

Organisation Chart of national Water resources Authority



E. Draft/PRELIMINARY FINDINGS & CONCLUSIONS

Establishment of Apex Bodies

There is support in principle in all three countries for the concept of a high-level umbrella body in the water sector. In Sri Lanka, the name “apex” is, however, contested where it is considered by many to suggest that the apex process is intended to be hierarchical and “top-down”.

Different mechanisms can be used to establish apex bodies. For example, by executive order of the Prime Minister - in the case of the apex body in Thailand; by act of parliament - in the case of the secretariat to the apex body in Bangladesh.

In Thailand and Bangladesh, the water resources apex body has existed for some 15 years, with supporting secretariat. The circumstances in Sri Lanka have been substantially different:-

- the apex process has been supported from “outside” through an ADB-funded project;
- this has not resulted in full establishment of the apex body: it is still half-constituted;
- some commentators within the country criticise this approach, saying that it is not possible to “projectise” a process of this nature, which arguably, if it is to adapt to political and institutional circumstances, needs to evolve organically.

Proceedings of the Apex Bodies

The comments of persons consulted on the details of the proceedings of the Apex bodies in the three countries - the way their proceedings are conducted - indicate that the meetings of the apex body have been infrequent (and irregular) (in the case of Sri Lanka, since 2000) and that little real debate on water policy has taken place within the apex body - the policy agenda tending to be captured by major ministries. In Sri Lanka, the fact that the apex process has been contested (e.g. opposition to the water policy) has stimulated much debate “around” the apex body.

Leadership in Water Governance: accomplishments of Apex Bodies

Whilst it is difficult to assess exactly what the three Apex bodies have achieved, in each of the three countries new water policies or plans are attributed to them: in Thailand and Bangladesh, production of the National Water Policy, in Bangladesh, the National Water Management Plan also, and in Sri Lanka, the water policy which was drawn up by the water resources secretariat – (although a perception in Sri Lanka is widespread that this policy was drawn up by ADB).

Coordination and “Integration”

A key rationale for establishment of umbrella or “apex” bodies is that they will benefit from high-level political support, and on this basis be able to push forward a reform agenda. One important element for reforming and strengthening the water sector is promotion of coordination between different agencies - for more “integrated” water resources management. The persons consulted in Thailand and Bangladesh did not consider that the apex body/process has perceptibly increased intra-sectoral coordination, integration within the water sector, e.g. between WRM and WSS. In Sri Lanka, it is still early to assess the apex process on this basis.

In all countries, there seems to be a risk that establishment of an apex secretariat may have the undesired effect of giving rise to another element of institutional rivalry and complexity in the water sector.

There are examples in the three countries of partnerships between government and civil society organisations in the form of joint working on specific projects or tasks - this may be a useful practical means of establishing greater understanding and changes to culture on both “sides”.

As to inter-sectoral coordination, this has largely not been addressed at in the three countries (not a preoccupation of those interviewed). The river basin committees offer a possible

opportunity to promote inter-sectoral coordination, but, in all three cases, it is premature to assess whether they are succeeding or likely to succeed in that regard (see below).

Civil Society and its Involvement in (i) Apex processes (ii) other sector processes

Perceptions of what constitutes “civil society” may differ within a country, and from country to country, as well as of who are legitimate representatives of civil society (including who are selected as representatives and how they are selected). **In all 3 cases, the extent of participation of civil society in the Apex body has been limited - the “space for participation” has been in practice confined.** Many civil society representatives consulted feel they have not effectively been invited to debate on important principles of water policy. In Thailand, this caused some NGOs to decline to participate in the apex body, with the result that they are placed, or perceived as being placed, in opposition. In Sri Lanka, groundwater experts made available their expertise, but were not shown the bigger picture: they consider they contributed to production of “ingredients” of the cake, but not the cake itself.

“Participation” is not the same as consultation, whether it be the type of “information harvesting” referred to above in Sri Lanka, or the fact that, for example, in Bangladesh, the views expressed at consultative workshops did not find their way into the final version of the National Water Management Plan, with no indication communicated of why.

A number of possible reasons for the limited space for participation accorded to civil society have emerged in this study - as illustrated in the attached Table - including factors such as: the relative novelty of the concept of participation of civil society, an unfavorable culture of government, the predominantly oppositional mode of some NGOs etc (the last, arguably, being exacerbated by the two former factors).

This means in practice that the question of the effectiveness of civil society participation in the apex body is largely hypothetical. It is not the purpose of this study to re-examine the underlying premise that participation is useful - or, some commentators would argue, essential - for gathering support for institutional reform and ensuring successful project implementation.

However, in relation to relevant Lessons from the experience of Apex bodies noted at the Hanoi Meeting, it is useful to point to the further insights which have emerged from the three case studies:-

- sustained political commitment is needed to advance water reforms:
 - the experience of the apex bodies in the three case study countries has been that the political interest and support has been present at times, but variably and inconsistently;
 - the degree of political commitment required in order to modify the configuration of existing interests in the water sector may be substantial, e.g. over questions of priority of allocation (or re-allocation) of water resources for different uses;
 - it is not clear that political support at or above the apex has in practice succeeded in shifting the relative influence of sectoral interests (an exception is perhaps the creation of the new ministry in Thailand); a closer assessment of that would need to look at future implementation of policy;
 - an important issue arising from the experience in Bangladesh and Sri Lanka is: who exactly is convening whom? Is the Committee/Council convening the ministries and other members, or the secretariat and the ministry convening the Committee/Council, i.e. in what direction is the impulse for water reform being transmitted?
- an apex body requires a clear legal mandate:
 - in Thailand, some commentators propose modification of the form of the apex body in order to clarify its mandate, and thereby to strengthen civil society representation;
 - in Bangladesh, the (broad) mandate of WARPO as secretariat to the apex process is (in present circumstances) unclear in certain key respects, and the authority of WARPO is widely thought not to be sufficient to enable it to fulfill this mandate;

- in Sri Lanka, the necessary steps to formalise the establishment of the apex body have yet to be completed, some 8 years after the beginning of the apex initiative.
- an apex body should not be perceived as a **threat** to other agencies with legitimate water-related functions:
 - the evidence suggests, that whether or not the apex body or process is perceived as a specific threat, key water-related line ministries may use the apex body/process to advocate their existing sectoral interests, e.g. in Thailand and Bangladesh;
 - as alluded above, there is criticism that apex secretariats in two of the three countries have insufficient authority, that they are “toothless”; as such they are unlikely to pose a threat, but open to criticism as being ineffectual: can it be both ways?
 - institutional rivalries aside, a key factor in the achieving by apex bodies of acceptance from other agencies will surely be whether it is considered to be capable of fulfilling functions (including taking over some functions), i.e. as well as authority, it must have adequate capacity;
- according to the Hanoi Meeting an apex body should be **neutral**
 - the apex body needs to be “housed” somewhere and its attachment to a particular ministry means it will be difficult for it to be able to maintain its image of neutrality;
 - in both Thailand and Bangladesh it is part of the water ministry and not, it seems, perceived as independent of it;
 - in Sri Lanka, the apex secretariat has changed its institutional home three times - an indication of changing political circumstances and relations;
- **Decentralisation** of certain water management responsibilities will give increased ownership at local level:
 - in relation to water resources management, a key element of strengthening the “sector” will be the establishment and operation of decentralized river basin committees;
 - in all three countries, the process of putting into operation of the river basin committees is still to be completed;
 - it will be important to complement increased civil society participation at or close to the “apex” with such participation in these basin committees at basin and sub-basin level.

**CURRENT STATUS OF SPACES FOR PARTICIPATION
in Apex bodies and processes in the three case study countries**

	National	Decentralised
<p>Closed or Provided Spaces - decisions made by a set of actors behind closed doors, without any pretence of broadening the boundaries for inclusion.</p>	<p>No real policy debate in Apex bodies; decisions currently taken in conventional institutional spaces</p>	<p>Development of basin/local fora not completed</p>
<p>Invited Spaces. - in which stakeholders are invited to participate by government institutions and agencies</p>	<p>Despite some efforts to open policy debate, invited spaces which exist in Apex committees and councils are currently limited/confined</p>	<p>How will civil society be represented in river basin committees?</p>
<p>Created/Claimed Spaces. - by government and/or citizens</p>	<p>As yet, few examples of innovation...</p>	<p>... e.g. joint projects</p>