



Transboundary Environmental Governance in the Greater Mekong Subregion: The Politics of Participation

By Kevin Woods

The Mekong River Basin has become more economically integrated, despite different political economies and cultures, through aggressive infrastructure development funded by regional financial and governance institutions. These institutions, such as the Association of Southeast Asian Nations (ASEAN), the Asian Development Bank (ADB)-funded Greater Mekong Subregion (GMS), and the Mekong River Commission (MRC), have responded to growing resentment over their environmental assault by “greening” their economic development policies.

Kevin Woods explains how the environmental mandates of these institutions monopolise transboundary environmental governance, further marginalising civil society from participating in the decision-making process.

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Introduction

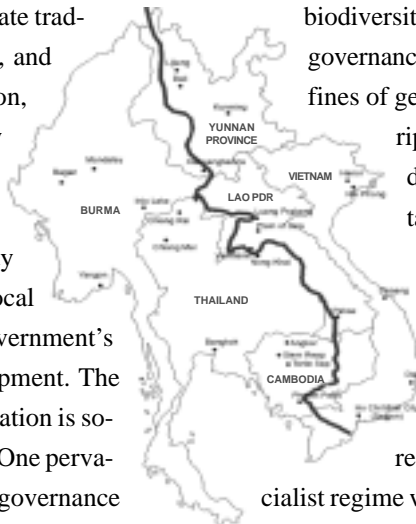
“New regionalism” promoted in mainland Southeast Asia (MSEA) integrates the riparian nations into a coordinated Greater Mekong Subregion (GMS). The GMS countries include from most upstream to most downstream countries: Yunnan province (China), Burma, Lao PDR, Thailand, Cambodia and Vietnam. The GMS framework lays down the rudimentary groundwork for transboundary environmental governance among bilateral international donors, regional institutions, state apparatuses and civil society. With increasing market neo-liberalisation to foster inter-state trading relations, infrastructure development, and cross-border natural resource exploitation, environmental concerns have increasingly circulated within civil society networks and regional institutional policies. Tensions have arisen between national sovereignty and regional governance, and between local people’s environmental concerns and government’s unilateral promotion of economic development. The cost, however, of this economic transformation is social upheaval and ecological destruction. One pervasive and perverse discrepancy in regional governance is the dichotomy between economic and environmental agendas. National governments eagerly advance economic regionalism, but when environmental concerns are raised, largely by nongovernmental organisations (NGOs) and civil society, governments remain less willing to adopt regional environmental governance mechanisms.

With increased GMS integration, through expanding infrastructure and markets, local and regional boundaries are constantly broken down and re-created, thus wedging village people between their local communities and beyond national borders. This dynamic shifting of socio-economic boundaries leaves local people affected by regional environmental degradation but without regional representation to take action. In response, regional governing and financial institutions have restructured their mandates to incorporate environmental policies based on transparency, accountability, and public participation. Despite attempts to “green” and democratise

regional governance, civil society still remains marginalised from the decision-making processes that directly affect their local livelihoods.

Geo-political Scales and Shifts

With increasing concern over the management of the Mekong River Basin, especially with dam construction in Yunnan, scientists and activists have demanded coordinated management among all riparian states so to maximise protection of river biodiversity and local livelihoods relying on fish biodiversity. However, transboundary environmental governance must appreciate and work within the confines of geo-political and economic realities. All six riparian GMS countries operate under vastly different political systems, with Burma’s military dictatorship and Thailand’s pro-western market capitalism representing the two extremes. Even though MSEA has shed its Cold War baggage, several political and economic constraints persist. For example, the new Cambodian government remains weak; Laos remains stifled by a socialist regime with little progressive change or civil society



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spaces; China’s market socialism continues to obtain high economic growth and expanding markets into MSEA, yet the Chinese Communist Party dampens civil society voices; and Burma remains ruled by a military regime with a deplorable human rights record and a raging black market economy. Corruption remains the norm. Social and political organisation influences how governments act in inter- and intra-state affairs. This wide range of socio-political freedom within the different riparian nations severely impedes regional governance. With varying political systems in the different GMS countries, it remains difficult to operate on a governance system guided by democratic principles.

The different hues of political culture of the GMS countries also determine the degree of civil society participation. A country that does not permit local participation in governance, such as Burma and Laos, will subsequently restrict their participation in regional matters. However, a country

China's regional economic development dream and nationalism

China's regional development policies along its borders often equate to China exploiting rich natural resources in order to sustain its high economic growth and concomitantly "develop" the Yunnan border. Beijing manufactures Yunnan into a "Great Cultural Province" and "Green Economy Province" in order to create a capitalistic market niche for China's tourism industry and to take advantage of Yunnan's potential comparative advantage in protected natural resources, respectively. Thus Yunnan manifests as the development frontier in the national strategy for "Developing the West." The pro-development ideology employed by Chinese authorities attempt to mask cross-border socio-ecological distress. This began in the mid-1980s, when the Yunnan provincial government promoted a strategy of "Onward toward mainland Southeast Asia." The central Chinese government has developed several other national principles, such as the "East connecting with the coasts, the West towards Southeast Asia" in 1990, and the "Opening up of the southern gate of China, onward to Asia and the Pacific" in 1991.

China's most ambitious national campaign, the "Great Opening of the West," strives to "not only equalize living standards between the interior and coastal regions of the country, but also to integrate more tightly with the rest of the country politically troublesome regions".^a This equates to economic development as a nation-state building project for enhancing regional security and national sentiment. Thus China uses economic development to decrease economic disparity between eastern and western China, to force open markets (mostly reliant upon natural resources along the frontier) connecting MSEA to mainland China (through Yunnan), and further nationalism in ethnic frontiers of the nation-state. While the transboundary economic development promotions have the potential to foster new regionalism, Chinese authorities seem intent on its opposite – to use development as a nation-state building exercise to augment national power along ethnic borders. This "development for the nation" doctrine manifests with dam building as well, whereby local people adversely impacted by dams "constructed in the national interest" are asked to sacrifice for the benefit of the country. But this is in the face of regional development schemes, funded by GMS-ADB and ASEAN+3, which promotes regional integration.

Furthermore, although Chinese leaders claim that "we drink water from the same river, so we are relatives." China does not appear to be interested in maintaining friendly relations if it would jeopardise the implementation of development projects which may negatively impact downstream nations. But this national disregard for regional ecological disruption must be balanced with needing to maintain friendly relations among riparian nations in order to further integrate Yunnan into MSEA and thus provide a kick-start to economic growth in western China's poorer provinces.

A relevant case study that reached regional awareness in 2002 is The Upper Mekong Navigation Improvement Project (UMNP), generally known as the "Mekong rapids blasting project," which is a component of the ADB's GMS North-South Economic Corridor Flagship Programme. This is an agreement among China, Burma, Laos and Thailand to improve navigation on the Lancang-Mekong River for large commercial vessels by blasting rapids along a 350-kilometre section near the intersection of the four countries. China's motivation for engineering the project is to realise its national policy goals (stated above) of balancing economic growth between the east coast and the land-locked western provinces, while the other countries hoped to cash in on China's pulsing economy through increased trade. A two-day Environmental Impact Assessment (EIA), which did not include downstream countries Cambodia and Vietnam, was conducted along the section of the river and concluded that there would be no long-term impacts on the fisheries and fishing-based livelihoods (see *Watershed* Vol. 8 No.2). Of course, this report has been severely criticised for being "substantively inadequate and in many places fundamentally flawed." In fact, the village people living along that stretch of the Mekong River only informally heard about the project after it already was given the go-ahead. As a result, *Rak Chiang Khong* [Chiang Khong Conservation] has worked to inform local people of the project and its possible side-effects. This resulted in petitions and forums organised by local people to oppose the project. Fishers argued that the blasting project violated several sections of the Thai Constitution, including the section that recognises the rights of local communities to participate in the decision-making process and management of natural resources.

a. Economy, E. 2002. "China's Go West Campaign: Ecological Construction or Ecological Exploitation." China Environment Series, No. 5, 1-12

like Thailand which already has an active civil society network monopolises regional participation; for example, many of the NGOs that work on regional environmental problems operate from Thailand. This imbalance poses problems in achieving equitable regional civil society participation. Any regional participatory network must therefore be inclusive of each country's (in some cases minimal) civil society networks in order to ensure that Thailand does not dominate the process.

In addition, the six riparian countries have different clout based on their geographical position relative to the major rivers of the GMS, such as the Lancang-Mekong and Nu-Salween rivers. China trumps all other countries by being upstream from MSEA countries. In addition, China's outstanding economic growth creates a power imbalance that few MSEA countries would dare challenge. Therefore, the relative political-economic power and geographical position of each country must be taken into consideration when outlining transboundary natural resource management plans.

China's Economic Growth: Transboundary Environmental Escapism

China's economic miracle and displacement of ecological costs across their national borders helps to de-mystify the "sustainable economic growth" dream. Yunnan, China provides an excellent case study which epitomises the discrepancy between economic and environmental concerns, regional disparity between high and low economic activity, regional gaps between natural resource rich and poor areas, and the neglected environmental impacts of unfettered economic activity. According to Principle 14 of the Rio Declaration, "States should effectively cooperate to discourage or prevent the relocation and transfer to other States of any activities and substances that cause severe environmental degradation or are found to be harmful to human health." However, there appears to be little considera-

tion of this principle in the region, since GMS countries with strong economies, such as Thailand and China, continue to export their ecological costs of economic development to other low-GDP/rich natural resource base GMS countries, such as Burma, Laos and Cambodia. The ecological costs of Yunnan's dams drain to downstream countries on the Lancang-Mekong River, and Cambodia, Laos and Burma act as a source of raw timber to feed China's domestic (and regional/international) timber markets. China has targeted Burma as a major trade partner to revitalise the struggling economy of Yunnan province and to expand China's influence in the region, especially since Yunnan's logging ban, growing inequities between China's eastern and western provinces, northern Burma's recent ceasefires, Burma's increased isolation from western development influence, and increased competition with India to monopolise access to Burma. China and Burma have had a long past with each other, from communist comrades to black market buddies. But now northern Burma, particularly Kachin State, acts as China's resource rich frontier.

Resource diplomacy plays a major factor in much of the regional development packages, where trading, especially of natural resources, aid diplomatic relations. For example, China's new foreign minister, Li Zhaoxing, met with the Burmese counterpart, U Nyan Win, in late April 2005 to discuss strengthening "bilateral high-level exchanges and

expanding cooperation in various sectors including economy, trade and drug-control." However, mounting Taiwan tensions demanded diplomatic intentions as well, with Nyan Win reassuring China of her loyalty to the one-China policy and Anti-Secession Law. Seemingly apolitical regional economic development packages may be used to access natural resources, further

nationalism and national hegemony, and tighten national security. And under "new

regionalism" directives, development packages increasingly secure regional support to maintain and expand regional institutional and national hegemony.



Chinese truck transports logs from Burma through Yunnan province

Local-National-Regional Trichotomy

The institutional context within which the decision-making process is embedded “helps to determine the extent to which specific social, economic, and political interests have greater or lesser control, or influence, over the decisions made.”¹ The decision-making process orients along a geo-political scale, with a range of geographical scales underlying the degree of resource competition, conflict and cooperation. Political economy issues, distribution of resources, control over the decision-making process, management of GMS development, and environmental and social impacts must all be analysed according to how they manifest at the local, national, regional and global scales. It is also important to examine the relationships among the scales, such as national and regional objectives competing against local interests.

However, defined geo-political scales are not always neat categories which abide by their political borders. The boundaries become blurred. It is no longer acceptable to view water resource development as a conflict between national and local interests, or just about water. Local

concerns cannot be viewed as separate and removed from regional and global phenomenon; nor are local matters just environmental issues, as they are often embedded within the local-to-global political economy. The boundaries between the nation and society further break down as the state becomes inserted at the local level. Therefore, it becomes more difficult to ascertain when a local environmental problem qualifies as a transboundary environmental crisis.

Governments are organised to govern countries, not regions, so problems arise when regulations move beyond the nation-state. With increasing awareness of the transboundary effects of development projects in the basin, the unit of “nation-state” versus “region” becomes articulated. A new domain for struggle is born. This tension among scales reflects local-national-regional dimensions “is itself part of the politics of legitimization that reflect dominant power structures.”² Many statements reported by national governments claim that threats to national sovereignty inhibit further regional integration to address environmental concerns. For this reason, the GMS framework manifests tension between national sovereignty and new regionalism. Nation-

states claim it is their national right to develop the Mekong River. Thus, a new sense of national identity and nationalism arise, triggering national claims to the Mekong River as a valuable asset to national heritage and culture. Therefore, nationalism surfaces as justification for relaxing transnational environmental governance.

Transparency, accountability, and participation are democratic ideals formulated within the nation-state based on governments representing their citizens; but by moving into the “unbounded” space beyond the nation-state, no avenue for people opposition, representation and accountability exists. Citizens of the nation-state must become citizens of

the region or globe in order to participate in regional/global environmental decision-making. Therefore, instead of focusing on the messy “local-nation-region” trichotomy for the unit of analysis, it is more appropriate to examine power structures embedded within the processes of decision-making that operate within and among the different scales.

Finally, local communities are not monolithic, and instead should be viewed as complex, dynamic entities.

Communities embody pluralism, and act as complex and fluid functioning local social systems that manifest multiple expressions of local power. Just as national or regional interests are not confined to a single agenda, local communities also do not represent a unified front. This presents an immense obstacle in inserting local participation into the development process, since local power structures greatly influence whose voice is most heard. Different people in the local community would benefit or suffer differently pending on their socio-economic status in the village. For example, a large land owner might advocate an ADB-funded irrigation project, but a landless fisher may object since they have no land to irrigate and it may divert water from the water source they rely on for fishing. These disparities must be incorporated into the decision-making process by ensuring that as many people from as many different socio-economic backgrounds and marginalised groups, such as women and children, are heard. The diversity of people must be taken into consideration so that pluralism becomes reflected in regional environmental governance. The most appropriate form of governance is one that best accounts for the diversity of stakeholders.

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Regional Institutional Pluralism

The GMS development negotiations involve many actors and institutions. The various levels of institutions include GMS governments, civil society organisations, NGOs, private businesses, multilateral and bilateral organisations, academic institutions, and research and/or advocacy networks. However, despite the institutional pluralism, the intergovernmental regional cooperation framework monopolises the decision-making process for environmental issues just as it does for regional development planning.

Intergovernmental regional institutions, such as ADB-GMS, Association of Southeast Nations (ASEAN) and Mekong River Commission (MRC), affect the political, economic, social and environmental shape of the region. Regional institutions perform a valuable role as they open up more channels for cooperation and collaboration among riparian nations. However, Mary Douglas cautions institutional hegemony: “Institutions systematically direct individual memory and channel our perceptions into forms compatible with the relations they authorize. They fix processes that are essentially dynamic.”³ Mandates of the regional institutions are highly varied, but it is very important to note that none of the intergovernmental regional institutions were specifically established to address environmental or social problems. According to Nathan Badenoch, “no single institution in the MSEA region has matched a specific mandate for resolving environmental problems with a broad-based foundation for engaging relevant stakeholders.”⁴ This contrasts with civil society organisations and local, national and international NGOs, which formed to address neglected environmental issues.

The Asian Development Bank’s Greater Mekong Subregion Fantasy

The Greater Mekong Subregion (GMS) Economic Cooperation Programme was established in 1992 through UN/ADB financing to unite Thailand, Laos, Burma, Cambodia, Vietnam and Yunnan for the explicit purpose to develop energy, transportation and telecommunications infrastructure. This has enabled the ADB to promote a regional programme of market-based economic development in MSEA. The GMS framework is not without its criticisms, however. Although the GMS Programme has expanded the opportunities for governments to collaborate, this has been done at the expense of further

marginalising an unacceptably large sector of society. Even though the GMS does serve as an institution in which agreements can be negotiated, these contracts predominately promote infrastructure developments.

As part of enhancing good governance, the ADB has incorporated suggestions from civil society to open greater dialogue with NGOs. As such, according to the ADB’s Annual Report, in the last two years NGOs have participated in about 60 per cent of ADB-approved loan projects and programmes



In May 2000, over 1,200 people from Thai civil groups, along with representatives from Asian and Northern countries, participated in the People’s Forum in Chiang Mai, Thailand to share their experiences of the impacts of ADB projects and criticise the undemocratic process of the Bank.

“by giving input on project design, conducting surveys and assessments, facilitating consultations, and contributing to implementation.”⁵ In addition, representatives of governments and NGOs from the GMS countries met with the ADB in January 2004 to “discuss multi-stakeholder participation in the development of the draft regional cooperation strategy and program” in order to increase civil society involvement in regional projects.⁶ The ADB-NGO coalition, formalised as ADB’s NGO Centre, is met with scepticism, however. Which NGOs were involved in the different projects, and more important, how did they contribute? Were the NGOs only international, intergovernmental organisations or were grassroots civil society organisations also included in the process? It appears from the documents that NGOs were not used to question whether the ADB project should occur in the first place, but rather, how it could occur with less opposition.

ADB claims that there are four aspects of sound governance: “accountability, participation, predictability, and transparency”. Although these are admirable goals, it remains

Asian Development Bank's money is not "green"

In keeping with post-Rio environmental awareness, the Asian Development Bank (ADB) established the Working Group on Environment (WGE) in the mid-1990s. In 2001 the ADB formed Country Strategy Plans (Cusps) to further address environmental concerns as a response to a heightened environmental and social awareness and protests. Environmental projects have included water sanitation and solid waste management systems, promoting market mechanisms for agricultural systems, methane production and improving energy efficiency. In addition, grants were awarded to "strengthen national institutions and build capacities for environmental and natural resource management, to explore alternative energy sources, to combat land degradation, and to develop environmental monitoring and management information systems."^a

Another environmentally-focused agenda, the "Poverty and Environment Program," integrates environment into poverty reduction projects in three main areas: "protection, conservation, and sustainable use of natural resources and ecosystem services; reduction of air and water pollution; and disaster prevention and reduction of vulnerability to natural hazards."^b And just in late May 2005 GMS environment ministers endorsed the "GMS Core Environment Program", and agreed on an Environment Operations Centre to coordinate the programme. The ministers also endorsed the GMS Biodiversity Conservation Corridors Initiative to protect high value terrestrial biodiversity conservation landscapes. But most of these environmental projects remain technocratic, apolitical, and anti-people, which eclipse real local environmental problems. Despite the uncritical acceptance of "sustainable pro-poor economic growth," the ADB's main strategies outlined at the 13th GMS ministerial meeting in Vientiane, Lao PDR in December 2004 of "strengthening connectivity and facilitating cross-border movements and tourism in the GMS," to be achieved by projects in "transport, energy, telecommunications, and trade facilitation," creates friction when put beside environmental directives. This same dichotomy between large-scale infrastructure development and environmental safe-guarding again emerged at the Second GMS Summit in Kunming, China, on 4-5 July 2005.

According to the Kunming Declaration, social and environmental issues will be addressed through "the strengthening of social and environmental infrastructure", which involves promoting tourism, biodiversity protection areas, information and technology exchange, and greater opportunities for "economic infrastructure".^c Despite the ADB's new green make-over, Article 36 of the ADB's Charter states that only "economic considerations are deemed relevant to Bank decisions." In other words, the Bank shall not interfere in the political affairs of any member country or to allow environmental concerns to influence the Bank's decisions.

a. Asian Development Bank (2004) Asian Development Bank's Annual Report At http://www.adb.org/Documents/Reports/Annual_Report/2004/default.asp

b. Ibid.

c. Kunming Declaration: "A Stronger GMS Partnership for Common Prosperity".

questionable whether these governance principles are closely adhered to by the ADB. Can local participation and transparency be inserted into major energy, transportation and telecommunication infrastructure projects? Building a four-lane road to connect Yunnan to Burma's natural resource sector is incompatible with "promoting their rights to access and to secure control over basic entitlements that allow them to earn a living."⁷ Many of the ADB infrastructure projects which serve to create regional economic linkages seem to be the antithesis of strengthening local livelihood rights. In addition, the ADB aims to "empower citizens", but this does not involve

participation in the decision-making process, as this is only reserved for "public employees".⁸

A relevant and very recent example of the ADB's lack of genuine commitment to civil society participation is articulated in the ADB's Public Communications Policy (PCP) R-Paper. Although there had been input from civil society organisations during the compilation of the report, the final version of the PCP made several important modifications; for instance, affected communities and the public in borrowing countries have been excluded as one of the key stakeholders. While the PCP R-Paper states "the success of projects often

depends upon building trust with people, communities, and organizations... and securing the commitment of people living in the project areas," important passages that uphold this principle have been erased. The ADB's principle target changed so that they only recognise project sponsors (those with "business links" to the ADB) as their principle stakeholder, which of course does not match ADB's mandates on participatory, inclusive development. The public should be the beneficiaries of ADB's projects and treated as the ADB's primary clients; this must include transparency of information so that affected communities can receive appropriate and timely information.

ASEAN: Economic Development, Environment and Civil Society Participation

ASEAN was established in 1967, with their fundamental ideology based on regional cooperation to achieve industrialisation while simultaneously combating communism. After including Cambodia in 1999, ASEAN completed its inclusion of Southeast Asian nations to include Brunei, Cambodia, Indonesia, Laos, Malaysia, Burma, Philippines, Singapore, Thailand and Vietnam. The unified front of regional cooperation has become known as the "ASEAN Way," which emphasises three qualities: non-interference or non-intervention in other member states' domestic affairs; consensus building rather than legally binding treaties; and preference for implementation of projects at the national level rather than relying upon a regional bureaucracy.

Many problems persist with ASEAN addressing regional development and environmental issues. First, ASEAN's "principles of non-interference in domestic matters" and "consensus-based decision-making" with respect for national sovereignty constrain any serious interventions over environmental concerns. Unfortunately, ASEAN's dominant cultural politics dismisses it from effective change due to their policy of not interfering in national domestic affairs. The "ASEAN Way," therefore, does not allow for holding national governments accountable to each other for transnational environmental impacts. Secondly, ASEAN does

not include Yunnan, China as an immediate member, although it is included in ASEAN+3 and the GMS framework. Thirdly, now that there is relatively more peace, stability and cooperation amongst Southeast Asian countries, there is now greater emphasis on cooperative economic development, exemplified by the ASEAN Mekong Basin Development Cooperation (AMBDC). Also, the inclusion of non-riparian states, such as Brunei, Malaysia and Philippines, makes ASEAN less unified on water development issues, the major environmental focus for the region. Furthermore, collaboration occurs among numerous international countries and financial aid agencies, which enables manipulation by stronger, non-riparian states for economic and political manoeuvring. Due to differences in geo-political and economic positions, each nation contributing equally to the decision-making process would be difficult to achieve.

Since China's ascendance to world economic power, ASEAN pulls harder to lure China into ASEAN-led economic

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strategies, such as the ASEAN-China Free Trade Area. At the recent ASEAN+China summit, the "Plan of Action to Implement the Joint Declaration on ASEAN-China Strategic Partnership for Peace and Prosperity Plan of Action" was adopted. The goal of the strategic ASEAN-China partnership is to "enhance trade, investment and economic cooperation as well as upgrade technical cooperation; and establish channels of communication with all the

stakeholders, such as government officials, chamber of commerce and industry, research institutions, think-tanks, etc.," which includes the promotion of "networking and cooperation among governments, business associations, academic institutions and corporations." The ASEAN-China stakeholders in economic cooperation do not involve any local people; the players according to ASEAN-China strategies include chambers of commerce, the ASEAN-China Business and Investment Summit, the ASEAN-China Business Council, etc. The only role people are supposed to play is to buy the goods that the cooperation is meant to help flow. Even if ASEAN-China did call for greater civil society participation and empowerment, it would be difficult to achieve given China's weak civil society, and NGOs, and poor human rights record.

Despite discrepancies between economic and environmental goals, ASEAN has set numerous environmental management goals, such as nature conservation, control of industrial waste, environmental education and training, environmental legislation, and environmental information systems. But all cooperation is among ASEAN, its member governments, and other regional institutions. The “equitable access and benefit sharing” of the region’s biodiversity is not among the Mekong River people, but rather among the governments. The only policy recommendation for public participation in environmental management is to “promote exchanges and cooperation between non-governmental environmental organizations and the general public.”

At an ASEAN conference regarding civil society and regional cooperation, ASEAN’s secretary-general, Mr. Ong Keng Yong, described how ASEAN will be in charge of “building the ‘hardware’ of a cohesive society, namely, setting up the people-based infrastructure and networks.”⁹ The leaders of ASEAN insist on ownership of the people-based network, on controlling the participatory process, and making sure it is under their direct rule. ASEAN also plans to push its civil society and regional cooperation plan even further by establishing a NGO-ASEAN Network Cooperation. But clearly the institution blamed for top-down approaches should not be in charge of creating a people-based network. Moreover, a civil society network, by definition, cannot be established by an intergovernmental institution.

Mekong River Commission (MRC): Maintaining River Control

In 1957 governments from the lower Mekong basin endorsed an act creating the Mekong Committee which on paper was supposed to deal with water development projects in the lower Mekong basin; but in reality they formed to fight communism with post-World War II infrastructure development. In April 1995, leaders of Cambodia, Lao, Thailand and Vietnam signed an agreement that established the Mekong River Commission (MRC), an intergovernmental organisation supervising the cooperation of the four riparian states on water issues. Whereas the 1975 Declaration created under the original Committee gave any one member country the right to veto another country’s projects if concerned about adverse downstream impacts, the new 1995 Agreement only gives its member countries the right to prior notification and consultation. According to MRC objectives, they will help

orchestrate an international river through infrastructure development packages while simultaneously “protecting the environment, natural resources, aquatic life and conditions, and ecological balance of the Mekong River Basin from pollution or other harmful effects resulting from any development plans and uses of water and related resources in this Basin.”¹⁰

In response to criticisms for institutionalised neglect of environmental and social issues, the MRC adopted the Environment Programme 2001-2005 and Natural Resources & Planning Division. However, the MRC is still criticised for being a pro-development organisation without much focus on sustainability. Tension exists among pro-economic development governments, pro-sustainable development donors, and pro-participation NGOs. Despite these different stakeholders, the MRC only responds to governments since the MRC is an intergovernmental organisation. Ian Campell, a senior environmental specialist at the MRC, even admits, “The MRC is controlled by the governments. We don’t have the power to tell the governments what to do or what not to do.”¹¹ Nonetheless, the MRC 2000 report acknowledges it is “important that decisions on development include a bottom-up process and is not confined to a top-down approach. The voice of the people directly affected, and of other stakeholders such as community groups or NGOs, must be heard.” Despite this recognition, the MRC confesses that it “has virtually no experience in this vital field” and that it must “drastically accelerate activities to promote public participation.” However, since they only cooperate with MRC-member governments, creating any channels that listen to civil society voices remains futile. It would only serve to conceal other problems, such as MRC’s questionable authority and pro-infrastructure development foundation. Institutionalising participation within the MRC framework only builds a hollow foundation, since governments that the MRC is subservient to hardly take into account the concerns of the people.

According to Olivier Cogels, the Chief Executive Officer of the MRC, “the water of the Mekong offers a high potential for balanced socio-economic development in the sectors of irrigated agriculture, fisheries, navigation, hydropower, flood management, water supply and sanitation, land use, tourism and recreation. More – but careful – developments and investments are needed in all water related sector, including hydropower, to meet rapidly increasing energy demands.”¹² Almost all of these stated development goals usually do not benefit local people; in fact, it

MRC minus PRC [People's Republic of China]

The main problem with the Mekong River Commission (MRC) is that Burma and China remain only “dialogue partners.” Thus the agreement remains short of truly regional cooperation and coordination. The Chinese government remains reluctant to jeopardise its hydropower development plan on the upper Mekong River by subjugating itself to the MRC rules on water utilisation. But customary international law and the 1997 “Convention on the Law of the Non-Navigational Use of International Watercourses” of the United Nations’ International Law Commission requires an upstream country not to act in an inequitable fashion in relation to its use of rivers, so far as countries downstream are concerned. But China, as the uppermost riparian and most powerful state in terms of military and economic growth, does not want to compromise their territorial sovereignty. However, in 2002 China slightly conceded to the MRC’s requests towards greater cooperation by agreeing to supply data on river levels at two stations on the upper Mekong, but only during high water periods. With China’s higher economic growth rate and their incorporation into the Economic Quadrangle, it is necessary for Yunnan to participate in the MRC in order to achieve the mandate of sustainable development on a basin-wide scale. But Thailand’s good bilateral economic and diplomatic relations with China, and acting as one of the potential customers of the energy generated by their dam projects, effectively inhibits them to criticise China’s water development projects.

In November 2003, the MRC established the procedures for “Notification, Prior Consultation and Agreements” which requires that member countries inform each other about planned projects, such as dams and irrigation projects, which may significantly affect water quality and flow of the Mekong. But Thailand complained that this would violate their national sovereignty, which is the same excuse China routinely uses. Another issue is that many national governments refuse to allow public access to data that is considered sensitive to national interests, such as is the case with the transboundary environmental data compiled by the MRC Environment Programme.^a Furthermore, since China is not a member of the MRC, it is not legally bound to share information about development projects on the Mekong River. Finally, the MRC 2001 report on “Procedures for data and information exchange and sharing” never mentions local people involved in the process; rather, information is only shared among member countries, not civil society.

a. Badenoch, N. (2002) *Transboundary Environmental Governance: Principles and Practice in Mainland Southeast Asia*. World Resources Institute, p.16

usually destroys their traditional livelihoods that are dependent on free-flowing rivers. These development projects cater towards wealthy rural land-owners, urban dwellers, business people and politicians that operate and benefit from large water-dependent industries. Despite recognition of the risks of developing the Mekong River, MRC believes “the risks of non-development or of insufficient cooperation are even higher.” The MRC attempts to create a scenario where their intervention is necessary: the Mekong River needs development in order to alleviate poverty; the MRC works with governments to achieve development of the Mekong River Basin; therefore, the MRC should be involved. This rationale created by MRC necessarily justifies their intervention, since without the MRC people would apparently suffer from non-development. A similar line of argument is used for

transboundary environmental governance: the MRC is already an intergovernmental regional institution operating in the GMS, so the MRC should be the institution responsible for also working on regional environmental issues.

Transboundary Environmental Governance...or Democracy?

The regional institutional fight for MSEA environmental leadership highlights the institutional power struggle to maintain hegemony in governing MSEA. In order to appease public criticism and post-Rio pro-environmental discourse, regional institutions, such as the ADB, ASEAN and MRC, integrate sustainable development initiatives into their official pro-economic development mandates. By “greening” their policies,

they try to legitimise their attempt at consolidating power over all regional governance facets. But justification for their institutional control over environmental management remains lacking.

Increasing economic development, and its corollary, competition for diminishing natural resources, creates new opportunities for transnational cooperation through enhanced cross-border linkages. Government and business elites generate new trading deals, while civil society organisations forge new alliances to mitigate inflicting regional social and environmental impacts. But even if these wider cross-border contacts could help solve the myriad environmental problems plaguing the GMS, numerous obstacles impede its implementation. Differing degrees of political freedom for the riparian people in the GMS nations, such as space for civil society and direct public representation in national political processes, constrain effective transboundary environmental governance possibilities. The political will of national governments, linking grassroots decision-making to the national level, information access for the local people, meaningful participation by all strata of people affected by the projects, accommodating diverse interests of all stakeholders hinder effective transboundary environmental governance. The gap that exists among national governments, regional institutions and civil society wanting to take part in the decision-making process needs to be addressed first in order to enhance effective and appropriate governance principles. And to achieve this, the structures of power which underlie the decision-making processes that affect the environment, such as the way in which the issues are framed, decisions are made, and authority exercised, must be dissected.

Moreover, increased attention must be focused on the “important cross-boundary patterns in the flows of resources and the politics involved in the dispossession of peoples to facilitate resource extraction.”¹³ As such, global resource flows (i.e., political economy) must be incorporated more fully into transboundary environmental governance policies. In order to successfully mitigate transboundary environmental degradation, governments must address its inherently political-economic nature as well as not fall prey to the “territorial trap”, or the idea that environmental change acts only within

individual nation-states. Ecology, and development affecting it, is without political borders.

Three environmental governance principles articulated in the Rio Declaration – transparency and access to information, accountability in environmental issues, and participation in decision-making – assert that fundamental changes are needed in the process of decision-making in order to effectively address social and environmental problems. Securing rights and access to information about the environment is considered a meaningful step towards public participation. Knowledge is power. In fact, Article 59 of Thailand’s Constitu-

“The MRC is controlled by the governments. We don’t have the power to tell the governments what to do or what not to do.”

**Ian Campell,
MRC’s senior
environmental specialist.**

tion states that Thai citizens have the right to receive information, explanation and reasons from government agencies before the state gives permission for any project that could effect the environment. Also, local people have the right to express their opinions about the projects in accordance with the public hearing procedures. In addition, Article 46 states that Thais have the right to conserve their culture and local knowledge, and to participate in the management, maintenance, preservation and exploitation of natural resources.

Obtaining information on projects to be implemented and their potential negative impacts for communities may empower people to participate in dialogue concerning the environment. In addition, information about the official decision-making process itself would help people to better understand their roles and rights, which would facilitate their ability to articulate their interests in the decision-making process. Recent advances in information technology have permitted institutions to make project information available to the general public. But much of the public does not have access to the reports and do not have the ability to read and understand them. For example, at the recent Second GMS Summit in Kunming, China in July, the heads of government pledged to launch a “GMS agricultural information website” in order to “improve farmers’ livelihood and ensure food security for the poor.” In addition, the Kunming Declaration states that a “GMS Information Super Highway” will be implemented by building a telecommunications fibre optic network in order to “transform the digital divide into a digital dividedness by using it to empower people and build knowledge-based economies.” These high-technology, high-cost,

large-scale infrastructure projects will not be accessible to marginalised people and deliberately does not plug people into the decision-making process. Personal notification of potential negative environmental impacts to local communities is the initial step needed for people to get involved. But the people who are able to access the information and thus given the opportunity to act upon it do not always rightfully represent the sectors of the public which are not able to access the information.

Accountability mechanisms determine the degree to which institutions and governments remain subjected to public involvement. The various types of accountability mechanisms – political, financial and operational accountability – are important to ensure that institutions respond to public interests and opinions.¹⁴ Intergovernmental institutions, which comprise of representatives from national governments, should in theory be accountable to those governments, which, in turn, are accountable to its citizens. In practice, however, governments do not always represent its national citizens, especially all of its dynamic, diverse interests. Therefore, it may be unjustified and ineffective to target the aforementioned institutions for criticisms in not including civil society participation in their sponsored regional development projects. Furthermore, without formal membership of China and Burma in the MRC, and Yunnan in ASEAN, GMS is the only inclusive institutional framework for accountability among all riparian nations. Given the diverse range of political freedom in Southeast Asia, accountability remains seriously limited.

The degree of representation depends on the degree of a functioning civil society in the country, with Thailand at the front and Burma at the far back. The Rio Declaration asserts that authority and management decision should be made at the level of decision-making appropriate to the scale of the environmental issue, known as the subsidiarity principle. But authority at the lowest “appropriate” level does not necessarily define what is most efficient and/or effective, and an environment issue often involves a complex intersection of local to global scales. There must be representation of multiple interests in order for genuine participation to take

place. In addition, bilateral donors funding the different regional intergovernmental institutions make the situation more complex because then the institutions must represent external stakeholders with financial influence.

Usually national governments engage in the primary level of decision-making for regional environmental governance issues. However, opportunities should be created to allow authority to shift further downward to include civil society in the decision-making process. The most appropriate management decisions reflecting diverse interests stem from authority generated from a multiplicity of actors. The transnational environmental governance of MSEA remains complex in scale, interests and management; thus multiple leaders, from a wide-spectrum of civil society organisations, networks and alliances should consult on regional development plans in order to effectively challenge the status quo and enrich the MSEA environmental movement.

In order to successfully mitigate transboundary environmental degradation, governments must address its inherently political-economic nature as well as not fall prey to the “territorial trap”, or the idea that environmental change acts only within individual nation-states. Ecology, and development affecting it, is without political borders.

Transboundary Civil Society Participation

Public participation is the most important principle of governance, but is unfortunately often the most neglected. People need independent agency in order

to stop being subjects of the region/state/institution and start acting as participatory regional citizens. However, there often is a fine line between citizens and subjects. Therefore, civil society participation in regional institutional governance remains problematic by widening channels for state/institutional control to local levels.

Civil society participation within the institution appears linked to international, intergovernmental NGO dialogue, which does not necessarily represent grassroots voices. Any true grassroots participation in the different institutions’ decision-making processes would likely result in a re-orientation of the projects to address local land issues, which often trigger environmental problems, such as land tenure security, indigenous rights, community-based natural resource management, etc. Participation only involves, at best, making the pre-approved projects more locally nuanced with less resistance and better public relations. Genuine participation would

thus involve creating consensus on which type of projects would be carried out, not how pre-conceived projects should be implemented. Informal, regional, grassroots civil society networks should be included in the participatory process from the very beginning. And although this sector remains weak in the GMS, if encouraged to flourish then over time it will grow in strength.

In November 2004, a civil society declaration was made at the International Conference on Natural Resources Management and Cooperation Mechanisms in the Mekong Region in Bangkok, Thailand (see Report page 48). They proposed a few initiatives to be considered “by the relevant government agencies, decision makers, and international financing institutions.” However, this is still pleading with the relevant governments and institutions to include participatory decision-making models that include the people that will be affected by the projects. Should, or even can, a government “strengthen and promote the local community network and civil society solidarity within the Mekong region”? Civil society and its action network appendages can not be born from any government or institution. Civil society networks must be born from within. It is one thing to request the governments to include local participation in the development projects, which should definitely be one goal of civil society networks, NGOs, etc. But to ask these institutions to build a civil society network is the antithesis of its very essence. Incorporating some form of “local” participation in projects can lead to the NGOs lending legitimisation to the project, rather than open up spaces for civil society to challenge certain development projects. Institutionalising public participation establishes directors and formalises processes, which necessarily changes the apparatus vocalising the grassroots. Institutional development desires change the nature of participation. Institutions adopting participa-



The Conference on Natural Resources Management and Cooperation Mechanisms in the Mekong Region in November 2004 called for a range of changes to facilitate increased and active participation by civil society through all stages of the development process.

tion within their official mandate reinforce the power hierarchy between the “empowerers” and the supposed “empowered.” These fears have divided civil society groups between engaging with the institutions versus fighting against them from outside.

Institutionalising civil society networks is not the only means to achieve participation goals. If civil society networks become formalised by various regional institutions (presumably be led by ASEAN/ADB-GMS), then there must also be considerable spaces created to allow for informal civil society organising over environmental issues. It is not possible for institutions to create avenues for grassroots participation in the decision-making process of institution- and government-led development projects. The only avenues opened to challenge regional institu-

tions’ monopoly on regional development have been through force in the form of protests, petition letters, sit-ins, etc. These more drastic actions have been conducted by a loose informal civil society network in order to challenge the development projects and the power structure enabling that type of development, not for their voices to be included in the institution’s decision-making process.

Under the GMS framework authority becomes centralised to address transnational concerns, thus displacing local authority and management. This centralising mechanism operates in tension to popular support for decentralisation trends. Civil society has called for devolution of power to local levels as a mechanism to amplify their alternative voices, often in opposition to state projects. So, does regional governance displace decentralisation trends, and therefore local community participation? Decentralisation could also trigger central government concerns of national security. Different GMS nations conceive differently how the modern state will accommodate strategies of public participation, which

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may in fact challenge the political hegemony of the state. This is because public participation is much more than just the exchange of information, but also a sharing of power and responsibility among regional institutions, governments and communities. Also, local environmental organisations which often better reflect local concerns may not be qualified to conduct regional EIAs. Finally, national and regional environmental standards are not well-fitted to local situations.

What social conditions and particular political configurations are necessary to ensure co-production and co-emergence of civil society spaces for participation in transboundary environmental decision-making? Can public involvement in the local decision-making necessarily travel up to the regional level? If not, then what mechanisms can assure transferring local accountability and participation to national and transnational authority? Certainly major challenges continue to persist for incorporating public participation into transnational environmental policies.

Conclusion

“Greening” an institution’s economic parameters versus civil society demands to protect local livelihoods characterises the discrepancy between the two different sectors and the

type of environmentalism they advocate. Institutions attack the environmental problem through institutional means, which manifests as generalised, apolitical, technocratic, top-down and expensive solutions. According to institutional thinking, the problem is not the institution, economic model or political system, but rather the problem is that the institution is not doing something about it yet. But the environmental

crises in MSEA cannot be solved simply by regional institutions and governments “fixing it.”

Environmental governance mechanisms must become aligned with the new expanding boundaries in order to achieve basin-wide “sustainable” development. But regional solutions must balance between institutionalising transboundary environmental governance within appropriate cultural-political contexts and opening spaces for local people to participate in the transformation of MSEA. There are two paths which

should simultaneously be achieved: for civil society networks to participate in the regional intergovernmental decision-making process; and two, a strengthening of regional civil society networks outside the institutions. An appropriate mediator between the different scales of authority and local people could be regional NGOs and civil society organisations that create a “culture of consultation” and which specifically focus on environmental and social issues.

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Endnotes:

1. Mitchell, M. 1998. “The Political Economy of Mekong Basin Development.” In Hirsch, P. and Warren C, (eds.). *The Politics of Environment in Southeast Asia: Resources and Resistance*, Routledge, London p78.
2. *ibid* p.87
3. Douglas, M. 1986. “Institutions do the Classifying.” In *How Institutions Think*. Syracuse University Press, Syracuse p.92
4. Badenoch, N. 2002. *Transboundary Environmental Governance: Principles and Practice in Mainland Southeast Asia*. World Resources Institute, p.10
5. Asian Development Bank. 2004. *Asian Development Bank’s Annual Report* At http://www.adb.org/Documents/Reports/Annual_Report/2004/default.asp
6. *ibid*.
7. *ibid*.
8. *ibid*.
9. Yong, O.K. 2004. “Civil Society and Regional Cooperation” Speech by Secretary General of ASEAN Plenary Session. 31st International Conference International Council on Social Welfare. Kuala Lumpur, 18 August 2004.
10. Mekong River Commission (MRC). 2000. *Mekong River Commission Annual Report*. At <http://www.mrcmekong.org/pdf/ar2000.pdf>.
11. Commission’s ‘middleman’ role attacked, *Bangkok Post*, 11 November 2002.
12. Cogels, O. 2004. “Water Resources and Poverty Alleviation in the Lower Mekong Basin.” Keynote address by Chief Executive Officer of the Mekong River Commission. At the IUCN World Conservation Congress, Bangkok, Thailand 18 November 2004.
13. Dalby, S. 2000. “Geopolitics and Ecology: Rethinking the Contexts of Environmental Security.” In Lowi, M. and B. Shaw (Eds.). *Environment and Security: Discourses and Practices*. St. Martin’s Press, New York p84-100
14. *Op. cit.* 4, p.20