

ABSTRACT

**Thesis Title : Responsibilities of the Riparian States for Utiliaztion of the
Natural Water Resources in A Lower Mekong Basin :
A Case Study of Construction of Large Dams**

Student's Name : Mrs.Wilawan Suthiwartnarueput

Degree Sought : Master of Laws

Academic Year : 1998

Advisory Committee :

1. Prof.Sirot Bharksuwan

Chairperson

2. Assoc.Prof.Dr.Gomes Kwanmuang

After decades of war and isolation from the capitalist countries of the world, international aid agencies are renewing aid for market-oriented reform and development in the socialist regime of the Lao People's Democratic Republic. With its vast hydropower potential development for export to Thailand in an over-arching ideology of Lao PDR economic transition is sustainable development.

Though painstaking and exhaustive research, it was discovered that hydropower development in a lower Mekong Basin affects resource and users directly. First, there is the flooding of land and forests which causes a loss of resources. Second, there is the disruption or damage to fisheries and water resources caused by blocking the river and regulating flow for hydropower production (i.e. change in river flow, levels, flooding patterns, groundwater levels, decline in fish species and fish stock). Third, is the issue of compensation for resources lost or damaged; because most people do not have documented rights to common property resources, they are unlikely to receive adequate compensation from hydropower developers. The state has claimed that revenues from dams will be allocated by the state to local communities thereby usurping the right of local communities to negotiate directly with developers. Because areas surrounding many of the proposed

and the fact that hydropower projects have now been legally declared protected and the traditional claims to resources (including hunting and fishing) are illegal. Therefore the chance that hydropower developers or the state would compensate people for illegal livelihoods and resource use appears remote.

Not only have the absence of legal rights protecting resources encouraged environmentally destructive behavior but also the ambiguity of state policy and legal framework which is full of uncertain language of participation and recognition of legal rights which may not clearly be upheld. So, hydropower development in a lower Mekong Basin revealed that hydropower developers who seek to monopolize rivers for hydropower, through state authorities who believe traditional livelihoods are incompatible with state forestry, and by conservation organizations who seek to criminalize local resource use in watersheds, rank as a high priority for global biodiversity conservation. This approach to resource management has already caused decades of conflict between state authorities and local communities in Thailand and elsewhere in Asia.

In order to solve the aforementioned problems, the government of Lao PDR should seek advice and assessments from an independent financial and power industry analyst and legal counsel, to assess market risks associated with hydroelectricity exports to Thailand, evaluate market-oriented hydropower development options based on respect for local property rights, and to prepare a legal framework that protects not only foreign investors but local resource users prior to further project commitment. Such advice is likely to include the establishment of a transparent and competitive bidding process for hydro developers in Lao PDR which would eliminate the worst planned hydro projects.

Hydropower developers, conservation organizations, government aid agencies and international development NGOs in Lao PDR have tended to wrongly assume that local dependence on forests is the cause of forest destruction and hence dependence must be eradicated by alternative income-generating schemes. This analysis must be challenged because it reinforces the argument that resettlement to make way for hydro-

power projects is acceptable as a strategy for poverty alleviation, as promoted by the World Bank and other development agencies in Lao PDR.

Resource policies and Laws in Lao PDR have been guided largely by assumptions about local resource use that are based on defunct ideology. Further analysis of resource issues and property regimes in Lao PDR is urgently required if external agencies are to assist local resource users in becoming citizens with rights rather than recipients of aid and welfare programs financed with hydropower revenue.