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| Thesis Title | Legal Problems Relating to Water Management of The State in Thailand |
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| Academic Year | 2013 |

ABSTRACT

The purpose of the thesis is to study concepts, theories, and principles regarding the water management, the law concerning the water management both in Thailand and other countries, the right to public in acquiring the allocation of natural resources and the environment from the State, and the right to public participation in the water management. In the thesis, the writer researches such matters in order to find the ways to protect people's right in acquiring the allocation of natural resources and the environment from public sector. Moreover, the research is to find solutions concerning the absence of the Water Resource Act as a principal legislation or Model law on the overall water management as well as the nonexistence of a central agency for the total water management. Besides, the study is to search for a way to affirm the authority of National Water Resource Committee, including finding a mean for public to virtually participate with the State in the water management.

According to the research, at the present time, the allocation of natural resources to the citizen is one of the public services which the State has the duty to provide and carry out such service. The allocation of the water resource, in particular, is an element of people's livelihood and a basic factor in national economic and social development. Therefore, the State should give priority to the management of the water resource in order that it will be advantageous and in accordance with the right of public in participating to preserve and gain from natural resources as prescribed in Constitution of the Kingdom of Thailand. However, the water resource management in Thailand by public sector at the moment is inefficient; there are several reasons as follows.

Firstly, although Thailand has existing laws in relation to the water management which specify the use, the development, the management, and the conservation of the water resource, including the prevention of public danger from the water, such existing laws cannot govern the water management as a whole. Besides, currently, there are many Acts regarding the

water resource; nevertheless, such Acts are separated into each specific matter. That is to say, there are no any particular provision to be the main legal framework or the model law on the water management for administrative agencies, namely, central and local administration, communities, and citizens, to comply with. Secondly, an authorized central agency for the overall water management is absent. In other words, at the present time, there are many state agencies under the supervision of several Ministries which have authority and function as to the water management. As a result, this leads to the overlapping of responsibilities between the state agencies and of course the lack of unity in operation. Thirdly, since the National Water Resource Committee, which has duties to formulate and put forward policies, projects, and action plans regarding the water resource management to the Cabinet, is appointed by virtue of the Regulation of the Office of the Prime Minister on the Water Resource Management B.E.2550, there is no any Act of Parliament in respect of the water management to uphold authority of the Committee. Consequently, the Committee as aforesaid has no genuine power in formulating policies and monitoring the administrative agencies to comply with. Lastly, lack of public participation in the water management is one of the reasons why the management of water resource in Thailand by the State is impractical. Nowadays, merely the government and administrative agencies are the plan and policy makers in the water management. In other words, public cannot take part in stipulating policies and strategies in the water management. Consequently, the water management of Thailand appears to have a loophole, be inconsistent with reality, be unfair in allocation, and lack of the explicit rule. These cause ineffective in the water management.

In this thesis, the writer proposes solutions to the problems as follows. Firstly, all of the existing laws in relation to the water management should be repealed, and then solely the Water Management Act as the principal legislation or the model law on national water management should be enacted. Secondly, a central organization in particular should be established to be responsible for the management of national water resource as a whole to collect data concerning the water resource, manage the water resource, and create the unity in the organization. Thirdly, the authority of the National Water Resource Committee should be prescribed in the new Water Management Act in order to assign genuine power to the Committee. This results in the recognition by other organizations to the Committee. Finally, virtual participation by public in the water management should be specified for the purpose of fairness by applying the principle of law of the Netherlands, France, and Japan to Thai law so that the water management by public sector in Thailand will be extremely effective from now on.