

## Abstract

A consequence of adopting the way of country development which focuses on expanding the economic growth to the greatest extent possible is that a government has to spend a large amount of budget in constructing infrastructures/facilities in response to the rapidly increasing civilization, i.e., roads, ports, power plants. This has resulted in trespassing, utilizing and destroying numerous natural resources and, as an outcome, a lack of natural resources, a wide spread of pollution, toxics and waste materials have commonly been found nationwide. In addition, these will endanger lives and health of people in the society and therefore provoke them to fight and claim against the government, demanding for changes. People gather to express their opinions that they do not agree with the government's project and protect their civil rights. However, such gathering has previously occurred against the initial projects without any reaction from the government. Furthermore, the details about the project were kept secret or disclosed with false information and there is no opportunity to present any opinions or even though there is one, it was disregarded by the governmental organizations responsible for the project. The claim was not fairly treated because most claimants are merely civilians who have no or little knowledge and understandings of the project details. They may not be provided with sufficient details or may receive false details, including there is an expense which they cannot afford, not only in the Jone Dam Construction Project but also other construction projects as well as the present one, Power Plant Construction Project in Prachuabkirikhan Province.

From the studying on the commitment of Thailand to be a party to the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters 1998, in a case of the government's undertaking in a large-scale project, this thesis has found that the Convention has used public participation as a mechanism to protect and sustain environment together with the a guideline in economic development relating to the government's undertaking in the mega project, which endanger environment, living and health of people in the society.

Therefore, the mechanisms based on the Convention consist of (1) Access to information (2) Public participation in decision-making (3) Access to justice. In those three mechanisms, the Convention provides information about characteristics of framework which the parties can practice by accessing to information provided in item 4 and 5, to public participation in decision-making provided in item 6, 7 and 8 and by accessing to justice provided in item 9. If Thailand is a party to the Convention, Thailand is obliged to comply with the commitment stipulated in the Convention by drafting a new law or amending the existing law to make it consistent with the commitment. The study also found that the Constitution of Thailand B.E. 2540 and B.E. 2550 provides the mechanism of people public participation in the government undertaking in the project which affects environment and endanger the living of people. This thesis has studied the main laws regarding those 3 mechanisms under the Convention: Enhancement and Conservation of National Environmental Quality Act B.E. 2535, Official Information Act B.E. 2540, Regulation of Office of the Prime Minister re: Public Hearing B.E. 2548, Administrative Procedure Act B.E. 2539, Responsible for the Tort Liability of the State Officer Act B.E. 2539, Administrative Court Establishment and Procedure Act B.E. 2542. Therefore, such rights provided in the Constitution, in fact, are the laws that can be enforced without supports from other legislations. However, it is still necessary to amend some parts to make it consistent with details of right in which the Constitution provided. This is to avoid the right of opposition between people and the responsible state authorities.

In addition, the study also found that each law based on the mechanisms needs to be amended to make it consistent with the Convention. In some cases, the accession to the environment matters needs to be put in the disclosed information category. In the Enhancement and Conservation of National Environmental Quality Act B.E. 2535, there is no provision providing criteria to access to information, timeframe, public participation in decision making so the Act needs to be amended. Supporting of right should be conducted before the project has started. At present, the governmental organization has right in making decision to receive any opinion and administrative

procedure, which is non-bureaucratic, expedient, and inexpensive, can solve the dispute between people and the state. Therefore, being the party to the Convention, Thailand have already had certain laws which are consistent with the Convention except that there are some parts needed to be amended. Also, the tendency of the world is now alert and focuses on human right and environment which need corporation of every part of the society in solving the environmental problems to provide people with good living environment and, in the future, both governmental organization and private sectors are likely to use the public participation for environmental protection along with economic development. Thailand and its people will receive benefits from being the party to the Convention. Moreover, Thailand may benefit from accessibility to information, techniques, methods and help among the parties, as most of them are European and have advanced technology in environment protection. According to this thesis, Thailand should be the party to such Convention.