

Thesis Title	Legal problems regarding people's participation in a project impacting to environment resulting from power plants.
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ABSTRACT

The objectives of the study were to study a theory and a principle of right protection, a theory of people's participation including to study a principle, procedure and method of people's participation in a project impacting to environment resulting from power plants under the law of Thailand and overseas. As well as intention of the people's participation and their rights under the Constitution of the Kingdom of Thailand, B.E. 2550 and to study a problem and to give recommendation regarding solutions for the problems resulting from people's participation and consideration of Environmental Impact Assessment applied by a power plant in Thailand.

On the basis of the results of this research, it can be concluded that there are legal problems arising in relation of exercising the right of people's participation due to it is not in conformity with the Constitution of Thailand, B.E. 2550: the government applies and enforcing provisions of the Act on promotion and preservation of the quality of environment, B.E. 2535 to consider a project of the power plants which seriously impact to the environment. This leads to a legal problem which contrary the theory of participation because of the said law has not allowed the people an opportunity to participate in such activity actually. Therefore, the said act will cause harmful effect to those people who have an effect from the operation of the power plant project which impacts to the environment seriously. In some case, there is a legal problem of the right of protection to the people regarding to the consideration of applying for Environmental Impact Assessment because of the law specifying the protection right of people procedure have been issued by virtue of the power of the Official Information Act, B.E. 2540 only. This problem has made the people hardly access into environmental information and delay of accessing the environmental information directly. In addition, this causes a legal problem regarding the people's participation in applying to consideration of an unserious environmental impact of a power plant

because the government applies the Regulation of the Office of the Prime Minister on People's Opinion, B.E. 2548 to the consideration of such unserious environmental impact of a power plant *mutatis mutandis*. This legal problem is therefore contrary with the theory of participation and the right of protection and the said application of the regulation is unable to protect the impacts or damages arising from the operation of the power plant.

Therefore, we can see that a concept or a principle of Japan and a legal principle of Germany should be applied in Thailand in order to solve these problems arising in Thailand properly: the Act on promotion and preservation of the quality of environment, B.E. 2535 should be amended by expressly adding provisions regarding participation of people, especially, it should specify that the people shall be enable to access to the environmental information directly as well as the Administrative Procedure Act, B.E. 2539 should be amended and set out provisions of public hearings and the people's participation. The contents of the Act should be set out to enforce the government agencies shall give an opportunity to those people who involving and having interest to participate in handling of the government projects as well as problems as a result of the power plants or problems on power like Japan's. In addition, Thailand should issue a specific act on environmental impact assessment regarding the power plant and contents in such provisions shall specify process, procedure, criteria and method of preparation of the public hearings and reports on the environmental impact clearly in order to make impacting or affecting people as the result of the power plant to be enable to receive their right and liberty protection and to exercise their right to participate in such activity actually under the intention of the Constitution of the Kingdom of Thailand, B.E. 2550. Furthermore, this shall protect the affecting people's right from the operation of the power plant sustainably.