

## Mekong Water politics Role Play

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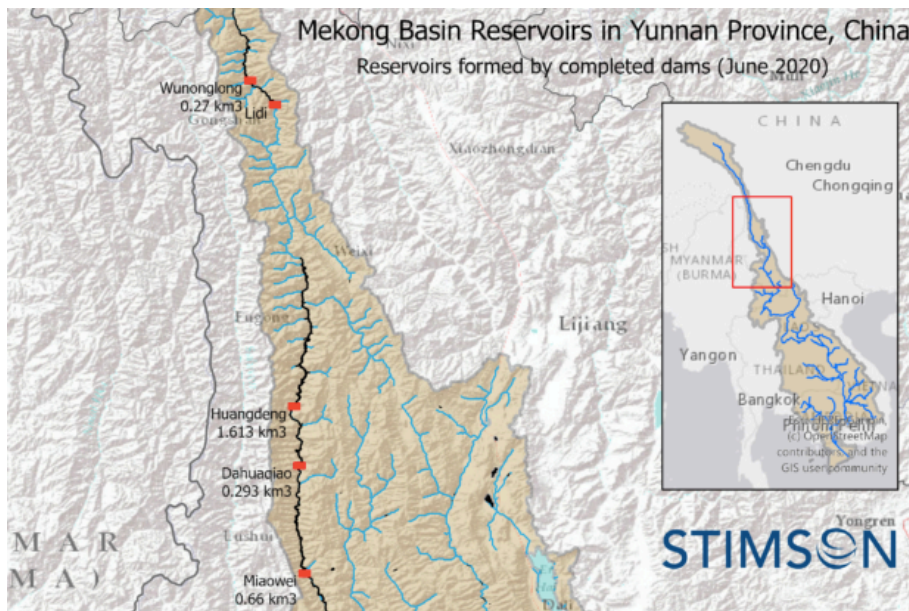
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Venue: Zoom

Time: Dec 21& Dec 23, 2021

## 1. Introduction

### 1.1 Mekong physical characteristics

The Mekong River is one of the world's greatest river systems. It flows approximately 4,909 km through three provinces (Qinghai, Xizang and Yunnan) of China, continuing into Myanmar, Lao PDR, Thailand, Cambodia and Vietnam before emptying into the South China Sea. The basin of the Mekong River drains a total land area of 785,471 km<sup>2</sup> from the eastern watershed of the Tibetan Plateau to the Mekong Delta. More than 80 million people depend upon the Mekong River for resources ranging from drinking water, fishery, transport, and irrigation to the fertile land and forest products of its basin area. However, the utilization rate within individual countries varies dramatically ranging from Thailand (32.1%), the highest, to Cambodia (0.1%), the lowest. This rate reflects huge differential development process among the Mekong countries. From the population distribution perspective, the riverbank is the most suitable place for people to live. The lowest population density is 36.26 persons/ km<sup>2</sup>, which means all the six countries and people heavily rely on the rich resources of this river as a source of social and economic development.

**Table 1. Area, Discharge and Population of Mekong Basin**

Country (With national available water being utilized)	Area ( km <sup>2</sup> )	Discharge (km <sup>3</sup> )	Population	Population Density (persons / km <sup>2</sup> )
China (19.3%)	171,363(21.82%)	90(18.60%)	8,810,800(10.18%)	51.42
Myanmar (0.4%)	27,581(3.51%)	10(2.07%)	1,000,050(1.16%)	36.26
Laos , People's Democratic Republic of (0.8%)	197,254(25.11%)	176(36.36%)	8,639,810(9.99%)	43.80
Thailand (32.1%)	193,457(24.63%)	78(16.12%)	35,711,700(41.28%)	184.60
Cambodia (0.1%)	157,831(20.09%)	97(20.04%)	16,793,300(19.41%)	106.40
Vietnam (2.8%)	37,986(4.84%)	33(6.82%)	15,564,900(17.99%)	409.76

<b>BASIN-WIDE SUMS:</b>	<b>785,471</b>	<b>484</b>	<b>86,520,560</b>	
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## 1.2 Mekong water politics

Since 1957, Four lower basin countries, namely Thailand, Cambodia, Laos and Vietnam, which contribute nearly 80% of the total river discharge, began to cooperate in managing the Lower Mekong basin through the “Committee for the Coordination of Investigations of the Lower Mekong Basin” or the “Mekong Committee” (a forerunner of the Mekong River Commission) under a statute supported by both the UN Economic Commission for Asia and the Far East (ECAFE) and the United States. The committee focuses on the development of a cascade dam system for hydropower purposes. In 1978, as the political situation in the region deteriorated, Cambodia withdrew from the Mekong cooperation and the Mekong Committee transformed to the Interim Mekong Committee. From then to the early 1990s, Mekong development was stunted due to political turmoil in the region. In early 1990s, the four lower riparian countries, Thailand, Cambodia, Laos and Vietnam, again banded together. After 21 months of negotiations, the four countries signed the *Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin* (MRC agreement) in Chiang Rai in Thailand on 5th April 1995. And at the same time, the Mekong River Commission was established.

At the turn of the Millennium, there exist more than ten international initiatives specialized in development or protection of Mekong water in this region. Most are nongovernmental organizations (NGOs) such as Mekong Regional Law Center (MRLC), Mekong Watch Japan, Imaging Our Mekong, Living River Siam, Mekong Programme on Water, Environment and Resilience (M-POWER), Save the Mekong etc., Whereas Mekong River Commission (MRC) is the only regional intergovernmental organization mandated by the international treaty with a clearer task of managing the Mekong River Basin among the four lower Mekong countries (China and Myanmar are observers only). The creation of a separate organization which keeps the MRC from interfering is a reflection of emergency of integrated management along the Mekong River. It puts lots of pressure--- the member countries would escape from MRC regulations--- on MRC if the MRC would not reform its mechanism.

After taking office in 2009, former US President Barack Obama showed a strong interest in Southeast Asia and made a high-profile "return" and launched a series of measures to strengthen his presence in Southeast Asia. During the Obama administration, under the guidance of the Asia Pacific rebalancing strategy, the United States gradually increased its political influence on Mekong River. During Trump's administration, although the United States tried to shrink on issues such as global environmental protection and climate change, its involvement in water politics in hot spots has not been reduced. The Biden government continues the Mekong-US partnership of the previous government and continues to support the governments and local communities in the Mekong region.

The Friends of the Mekong (FOM) was launched in July 2011. It is a multinational effort intended to create integrated sub-regional cooperation among Cambodia, Laos, Myanmar, Thailand, Viet Nam, and the United States. It is an important convening platform and mechanism to improve donor coordination in programming development assistance in the Mekong sub-region. Participating FOM members include Australia, Japan, New Zealand, the European Union, Asian Development Bank, and World Bank.<sup>1</sup>

Under such circumstances, the **Mekong-Lancang Cooperation** (LMC) mechanism proposed by China was formally established in November 2015. The LMC aims to promote the socio-economic development of the Mekong Sub-region, narrow the development gap and promote the all-round cooperation between ASEAN and China. Members include Cambodia, China, Laos, Myanmar, Thailand and Vietnam - all countries along the Mekong River. The cooperation will focus on three pillars (political and security, economic and sustainable development, and social and people-to-people communications) and five key areas (connectivity, production capacity, cross-border economy, water resources, agriculture and poverty reduction).<sup>2</sup> By March 2021, the LMC had held three leaders' meetings, five foreign ministers' meetings, seven senior officials' meetings and 10 joint diplomatic working group meetings.<sup>3</sup>

### 1.3 Role Play Rational

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<sup>1</sup> <https://mekonguspartnership.org/partners/fom/>

<sup>2</sup> [http://www.lmcchina.org/2017-12/08/content\\_41448201.htm](http://www.lmcchina.org/2017-12/08/content_41448201.htm)

<sup>3</sup> [https://www.fmprc.gov.cn/web/wjb\\_673085/zjzg\\_673183/yzs\\_673193/dqzz\\_673197/lcjmgghz\\_692228/gk\\_692230/](https://www.fmprc.gov.cn/web/wjb_673085/zjzg_673183/yzs_673193/dqzz_673197/lcjmgghz_692228/gk_692230/)

On Dec 21<sup>st</sup>, 2021, the students from the class *International Water Politics* of HNC conducted a simulation of “**Lancang-Mekong Cooperation Working Group Meeting**”. The negotiation is designed to discuss the principles of the Declaration of Water Use under Lancang-Mekong Cooperation. Students are assigned roles as the representatives from the Lan-Mekong River riparian countries and international non-governmental organizations to discuss and modify the drafted 8 principles, the details are shown below:

Name	Representing the Country/Organization
JIA Jiameizi @Beijing, China	UNEP (moderator)
HAN Xiaotian @ Nanjing, Jiangsu, China	China
Brooks, Daniel @ Saint Louis, MO, USA	Myanmar
Rose, Nathaniel @ Salt Lake City, UT, USA	Laos PDR
Hand, Stephanie @ Coalinga, CA, USA	Thailand
Tanos, Eljoy @ Silver Spring, MD, USA	Cambodia (Also the CEO of MRC)
Sorenson, Hannah @ Minneapolis, MN, USA	Vietnam
McGleam, Hailey @ Chicago and Taiwan	Friends of Lower Mekong (FLM)
JIANG Zhoujin @Nanjing, Jiangsu	Observer and time keeper
WANG Zhijian @Nanjing, Jiangsu	Instruction

Students have diverse academic backgrounds ( Asian and Chinese studies, jurisprudence ; international politics and economics ; environmental politics and policy ; water governance etc. ) and different understandings of the relationships among water and politics, economy, environment and society. They live in diverse backgrounds, from humid and rainy areas (Nanjing, Chicago, etc.) to arid and semi-arid areas (background, Utah, California); therefore, they have different understandings of water.

Considering the coordination and environmental - related work UNEP has been doing in recent years, as well as China as an initiator of LMC, the representative from **UNEP (JIA Jiameizi, PhD student of UCASS, Chinese nationality)** and the representative of China (**Han Xiaotian, Chinese nationality**) drafted 8 principles of the declaration based on the principles of international law . All the representatives of downstream Mekong Countries as well as FOM

(Students of HNC, all American Nationality) are requested to state their positions and the opinions regarding the drafted principles, particularly on a list of specific consensuses the nations reached, such as how the principles should be modified, what states must do, what states may or may not do, and what states may do only when certain conditions apply. The simulation was designed to have 2 rounds of discussions to encourage all the representatives to address their positions based on their roles. This series of essays contains the analysis and the negotiation strategies from all the representatives to present their ideas.

## 2. General Principles with comments proposed by China

**(Author: HAN Xiaotian from HNC)**

China and the five Mekong River countries are long-standing friends, natural partners and close neighbours. Yet for the nascent Lancang-Mekong Cooperation (LMC) mechanism to grow strong, we shall act in accordance with the following general principles:

### 2.1 Sovereign Equality of States

**All six countries have equal status in international law, regarding the territorial integrity and sovereignty of natural resources.**

Comments: All the six countries have equal status in international law, regarding the territorial integrity and sovereignty of natural resources. They *have equal voting rights*.

### 2.2 Cooperation

**The principle of cooperation between Lancang-Mekong countries on the basis of sovereign equality, territorial integrity, mutual benefit and good faith in order to attain optimal utilization and adequate protection and conservation of the Lancang-Mekong River and to promote joint efforts to achieve social and economic development.**

Comments: The principle of cooperation between Lancang-Mekong countries on the basis of sovereign equality, territorial integrity, mutual benefit and good faith exists in order to attain *sustainable water development and utilization*, hydrological data and information sharing, adequate water protection and environmental conservation, and conflict resolution of water rights of the Lancang-Mekong River and to promote joint efforts to achieve social and economic development.

### 2.3 Equitable and Reasonable Utilization

**The principle of equitable and reasonable utilization of the waters of the Lancang-Mekong River System.**

Comments: The principle of equitable and reasonable utilization is built upon no significant harm to the waters of the Lancang-Mekong River Stem Stream. Compensation shall be planned whereby inequitable and unreasonable is found.

Not cause significant harm *should as the premise* of fair and reasonable utilization, and make compensation to the institutions opposed to the resolution. The scope of the resolution is limited to the mainstream of the Mekong River, not the Mekong river region.

### 2.4 Hydrological Information and Data Sharing

**Hydrological data, metadata, and information should be openly shared among Lancang-Mekong institution, subject to national or international jurisdictional laws and policies.**

Comments: It should be persistence that hydrological information is the principle of *national secret*.

### 2.5 Water Protection

**Water protection in areas of hydrological disaster prevention, minimum discharge maintenance of Lancang-Mekong mainstream, coordination among dams on Lancang-Mekong mainstream.**

Comments: There should be coordination among water-related projects on Lancang-Mekong mainstream, *not just dam*.

### 2.6 Household Water Consumption Right within Territories

**The basic household water consumption shall be protected within territories.**

Comments: The basic household water consumption shall be protected within the *Mekong Basin*.

### 2.7 Majority Voting Mechanism

**Lancang-Mekong Cooperation shall adopt all the drafted resolution by the majority vote (4 votes). Once approved, **meeting minutes become** a legal bylaw after 1 month without objections; all parties shall act in accordance with the bylaw.**

Comments: One country or NGO, one vote. All six countries have equal voting rights, which constitute *90% of total voting* rights. Other funding NGOs share the remaining 10% voting rights proportionally to the funding. All drafted resolution shall *pass by 60% of the vote*.

## 2.8 Establish Lancang-Mekong Cooperation Organization

**In order to form the Lancang-Mekong Cooperation Organization, each party shall send 3 representatives (a foreign affair representative, an environmental representative and a hydrological representative) to the institution. The LMCO welcomes third-party observer agencies to join. All parties shall share the funding for LMCO equitably.**

Comments: ~~All parties shall share the funding for LMCO equitably.?~~

Establish the General **Representative** Conference<sup>1</sup>

The General Representative Conference is the highest policy-making body. Each country and funding party shall send 3 representatives (a foreign affair representative, an environmental representative and a hydrological representative, electrical representative) to the institution.

## 3. Respond from the Lower Mekong Countries and FOM

(**Author: Daniel Brooks** Representing Myanmar, **Nathaniel Rose** Representing Lao PDR, **Stephanie Hand** Representing Thailand, **Eljoy Tanos** Representing Cambodia and MRC, **Hannah Sorenson** Representing Viet Nam, **Hailey McGleam** Representing FOM, **All HNC Students**)

### 3.1 sovereignty : is sovereignty the main focus or not?

**Myanmar's** Tatmadaw government agrees to the fundamental principle that all nations have equal status in international law and firmly opposes any entities, be they governments or international companies, from interfering with Myanmar's internal politics, i.e. by arranging hydro projects in collaboration with separatist elements or rebel ethnic groups in Myanmar's border provinces.

**Lao PDR** upholds this principle as written. Lao PDR would also like to clarify that while the participation of NGOs and other non-governmental groups is appreciated, sovereignty is a right reserved for states.

**Thailand:** a. Thailand agrees with this concept. Principle 21 of the 1972 Stockholm Declaration claims that, "states have in accordance with the Charter of the United Nations and the principles of environmental law, the sovereign right to exploit their own natural resources pursuant to their own environmental policies, and the responsibility to ensure that activities

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<sup>1</sup> The congress is the most important decision-making body. Only six countries and investment institutions can send representatives to form the congress.



within their jurisdiction or control do not cause damage to the environment of other states or of areas beyond the limits of national jurisdiction.” (Dinar, 152)

b. The Sanakham Dam located in Laos near Thailand is an impediment to Thai sovereignty, posing a strong threat to civilian livelihood including agriculture and fisheries in Thailand.

**Cambodia** believes *national ownership* is the prerequisite for long-term sustainability of regional projects and initiatives. Therefore, Cambodia supports this principle and wishes for the principle of sovereignty to be adhered.

**Viet Nam** recognizes and wishes to preserve the sovereign equality of states, including territorial integrity and sovereignty of natural resources.

**FOM:** Acknowledge that this can include how one country affects another (water output affects overall Mekong ecosystem with dams, pollution, etc. /.....) . Then will agree.

### 3.2 Cooperation:

**Myanmar** takes no issue with this principle.

**Lao PDR** generally upholds this principle on the following bases

- Territorial integrity, plus principle 1, means that LAO PDR has claims to develop it’s *Mekong resources*.
- Mutual benefit could mean benefit sharing. Benefit Sharing means that Lao PDR has markets *for the hydropower* generation it is creating
- Joint efforts for development mean that countries can help finance Lao PDR projects. *Shared benefit; shared cost*.

**Thailand:** a. agrees with this principle. Laos and Thailand have cooperated on many hydrological projects with Thailand financing projects and benefiting from a portion of energy produced in Laos. As we aim to become increasingly environmentally conscious, however, we are worried about Laos’ increased dam production, especially the Sanakham Dam, a joint venture between China and Laos located near the Laos-Thailand border. While cooperation can help foster trust, it should not be done at the expense of other riparian countries

b. Thailand encourages the continuation of multilateral research, education and technology sharing programs. For example, the “Master Program on Youth Talents for Lancang-Mekong Water Recourses Cooperation” and the “Joint Assessment on the Current Status of Flood and

Drought Management in the Mekong River Basin (Phase 1)” project sponsored by the LMC fund.

**Cambodia** agrees with the practical cooperation due to LMC’s compatibility and complementarity with the existing regional mechanisms, including the South-South Cooperation, which refers to development cooperation and mutual support between developing countries.

In addition, Cambodia encourages the LMC to build synergies *with existing regional* mechanisms such as the MRC and GMS. Although the LMC includes sustainable management of the Mekong River, it hasn’t been clear how its work in this area will complement that played by the MRC. In order to promote good governance and strengthen institutional capacity, cooperation learning from existing regional mechanisms is necessary.

Lastly, Cambodia requests to *define “joint efforts”* and whether it includes multi-national management of hydropower and other water-related projects (perhaps in a separate meeting).

**Viet Nam** agrees to the principle of cooperation as stated above. Per the 1995 Agreement on the Cooperation for Sustainable Development of MRB (Thailand, Lao PDR, Cambodia, Viet Nam), Viet Nam supports the *Lao PDR delegation’s request to specify benefit-sharing in hydropower development*. Furthermore, Viet Nam would like LMC countries commit to formulating an Agreement on the Cooperation for Sustainable Basin Development that is inclusive to all LCM parties. The Vietnamese delegation likewise supports Civil Society Organization (CSO) observation of and participation in the cooperation process, but will *not support voting power for CSOs*.

**FOM:** We need to be more specific, conservation of the Lancang-Mekong River ecosystem, otherwise it provides legal loopholes to what is considered adequate protection. But overall, I agree.

### 3.3 Equitable:

**Myanmar:** So long as implementation of this concept takes into account all relevant factors and circumstances of involved states, including weighing and balancing the competing, albeit reasonable *interests of states*, including need for access to electricity *for poor populations*, Myanmar agrees.

**LAO PDR position:** equitable does mean some form of compensation

- *Hydropower* dams have a lot of storage capacity: battery of SE Asia doesn't necessarily mean electricity
- There is an inherent trade-off between economic utility of water (as an input itself) and utility of electricity
  - Proposal: countries with *hydrodams can be compensated for letting water flow*
    - What *price*?
      - Compromise: current spot price of electricity
      - -Other potential: run through generator: price before – revenue generated from sub-optimal flow

**Thailand:** a. The 1997 UN Convention of the Law of the Non-Navigational Uses of International Watercourses states in Article 7 that "...states shall, in utilizing an international watercourse in their territories, take all appropriate measures to prevent the causing of significant harm to other watercourse states." (Dinar, 153)

b. Currently, there is no existing written equitable water sharing agreement between China and lower riparian countries. Additionally, climate change and fluctuations in water availability should be taken into consideration.

**Cambodia** believes that the LMC will help to create strong political *will and mutual trust* necessary to solve environmental challenges and nontraditional security threats facing the Mekong sub-region. Thus, Cambodia believes that every member who agrees to this principle will strive for a balance between *national interests and basin-wide needs*. Therefore, Cambodia has no recommended change for this specific principle.

**Viet Nam:** In accordance with figures provided by the MRC secretariat (or new research conducted by LMC), Vietnam would like to suggest that this principle specifically identifies the average or expected resources per each country. As of July 2020, *MRC's figures suggest that of the river's mean annual discharge (475 km<sup>3</sup>); approximately 17% is contributed by China, 1% by Myanmar, 41% by Lao PDR, 15% by Thailand, 19% by Cambodia, and 8% by Viet Nam*. Viet Nam would like to embed in this principle the acknowledgment that each country is entitled to their *approximate percentage of annual discharge*, such that in severe drought conditions lower riparians are not without resources. Decision-making based *on percentage also enables us to*

*adjust for lesser or greater annual flows*, such that water shortages in any one country are not immediately blamed on another, and we may therefore continue to respect each other's sovereign use of basin resources *as well as* seek to cooperate, meet needs, and support the entire basin's growth (per principles 1-3).

**FOM:** Human development will lead to disruption of the Mekong environment as it already is, so utilization should be fair. Research into methods of resilience thinking should be highlighted.

### 3.4 Data Sharing: to what extent ?

**Myanmar** Agrees;

**Lao PDR:** Agreed BUT *China must also share its data*

- Support the Thai position: must be some sort of binding commitment from China
  - Strike down the “subject to national.. laws” clause
    - *National laws must be changed to facilitate information sharing*
- Why this position?
  - LAO PDR doesn't want to get blamed for China's lack of water. Open data makes it so that blame can be spread to China

Open Data would be consistent with broader goal of creating water/energy market

**Thailand:** agrees with this principle. *On October 22, 2020* China agreed “to provide the MRC with year-round hydrological data, contributing to better river monitoring and flood and drought forecasting in the Mekong countries.” We believe this is a vital step in fostering multilateral relations and ensuring the continued development of lower riparian countries.

**Cambodia** believes that transnational data sharing is an important factor of building mutual trust and sustainable cooperation. Therefore, the Cambodia supports this principle of data sharing.

**Viet Nam** supports the *amended principle* (as written above). Viet Nam likewise supports Thailand's request that all riparians conduct comprehensive and coordinated research on the

impact of damming today and would like to expand the request to include construction of new dams.

**FOM:** Agree

### 3.5 Protection: is it dominant value?

**Myanmar** agrees so long as benefit-sharing arrangements are arranged with all riparian countries.

**Lao PDR:** coordination with compensation

**Thailand:** a. Lower riparian countries chronically suffer from droughts and flooding which affect our agriculture, infrastructure and the livelihood of citizens. We all hope to continue to benefit from a healthy Mekong River. We must thus focus our joint efforts on solving problems such as climate change, increased natural disaster, pollution and stripping of nutrient rich sediment from dams. While dams are necessary for the protection against floods, they can also be harmful. It is thus necessary that both upper and lower riparian countries are transparent in their river infrastructure projects and work hand-hand to develop more sustainable agricultural and economic development methods.

b. In this vein, Thailand feels increasingly threatened by increased dam development in Laos. As Laos strives to become the “Battery of Southeast Asia,” we worry that environmental concerns are not being fully addressed. Economic development should not take precedence over the health of our shared stream. Environmental concerns such as pollution caused by construction, the stripping of nutrient rich sediment from dams that negatively affect our fisheries and create a change in water flow should be taken in full consideration prior to dam construction. Additionally, LMCO countries must possess the proper resources to properly maintain their dams.

c. All infrastructure development on the Mekong River should receive at least four votes

**Cambodia** believes *that regional integration* is an important pathway towards narrowing the existing development gap among the Mekong countries. For Cambodia, the main concern is the management of **Mekong water resources**. The construction of hydropower dams on the main river has caused significant damage to biodiversity and the quality and quantity of water flow especially during the dry season, which in turn affects the livelihood and wellbeing of the local people. Thus, Cambodia supports this principle with an emphasis on *coordination among dam building*.

**Viet Nam** agrees to principle of water protection and asks that it is expanded to include a coordinated year-round water release schedule along the entirety of the river so as to avoid both exacerbated drought conditions and *accidental flooding*.

**FOM:** There should be an agreement that no more main stem dams should be constructed, and even small dams because they often aren't worth the environmental damage for the small amount of energy relatively that they provide. If dams are created, they need to be created with the highest standards and experienced companies. Strongly Disagree.

3.6 Water Right: How to define water rights? Is the water right within Territories or Basin? Does the water right belong to people or country?

**Myanmar** Agrees.

**LAO PDR:** no disagreement

- A practical reality: LAO citizens need to use the water

**Thailand:** a. agrees with this principle and would like to add the responsibility of China to assist lower riparian countries during times of drought. In other words, lower riparian countries should receive more water from China during times of drought. In the past, we have been denied assistance due to Chinese water shortage claims.

b. The 1992 Dublin Statement on Water and Sustainable Development, states, in Principle 4, that it is the “basic right of all human beings to have access to clean water and sanitation at an affordable price.” (Dinar 153)

**The Cambodia** representative *encourages the principle to include that LMC member nations use the same calculation method* to calculate the basin household water consumption. This will help build trust within the information sharing system of the LMC.

**Viet Nam** supports this principle insofar as it complies with the *principle of sovereignty*. Viet Nam also firmly supports the MRC CEO's request for countries to use the same standards in measuring sovereignty over water and reasserts the request to use average percentage proportion of Mekong discharge as a metric.

**FOM:** This also should explicitly state the inclusion of general water pollution with sediment, chemicals, and plastics. Agree

### 3.7 Voting Mechanism: 4 votes or 5 votes?

**Myanmar** supports the notion of a five-vote majority and opposes voting rights for outside observers.

**Lao PDR:** should be increased from 4 to 5

- Objections need to be clarified

**Thailand** agrees with this proposal.

**Cambodia** has no objection to this principle.

**Viet Nam** approves of the amended *five-vote majority* and firmly *opposes voting rights* for observing CSOs and NGOs.

**FOM:** Need to establish who will enforce resolution, since there is a strong imbalance of power due to China being the regional superpower. Otherwise, it will be worthless like the Kyoto Protocol. *Disagree due to the exclusion of FLM and other ENGOs and NGOs*, an independent body is important for ensuring fairness.

### 3.8 Organization: Fund Matters, Should NGO be engaged?

**Myanmar** approves of the 8<sup>th</sup> principle, and wishes for arbitration authority to be vested in the FLM organization to resolve disputes, and a provision to submit disputes to the ICJ should the FLM arbitration body prove insufficient.

**Lao PDR:** given the importance of hydropower to national economies and the health of the Mekong river itself, petition to add energy representatives to the institution.

**Thailand** requires greater clarification to the last statement that “All parties shall share the funding for the LMCO equitably.” We believe contributions should be made on a case-to-case basis taking into consideration financial restraints and economic development. Since China is far better off than fellow LMCO members, a greater portion of funding should thus come from China.

**Cambodia:** Since member countries have different levels of development and resources, Cambodia agrees with the “equitable” sharing of fundings. In addition, The Cambodia representative believes a further agreement and funding sharing should be discussed.

**Viet Nam** supports the eighth principle defining delegations and participation. Viet Nam asks participant countries to commit to building dispute resolution process, such that enforcement of LMCO agreement is not solely contingent upon extant international law.

**FOM:** Need to verify the reliability of the science representatives to ensure their fairness and honesty.

This is an important tenet of the agreement to include China, and although FLM is excluded from decisions, it's *better to have at least some form of regional cooperation that includes China*. Amendments can be made in the future to include FLM when countries need more funding to development sustainably.

#### **4. Negotiation (Facility) Strategy**

##### 4.1 China

**Author:** Xiaotian Han

The purpose of the Lancang-Mekong Cooperation Organization (LMCO) is to foster integrated river governance and cooperation in terms of sustainable water management, hydrological data and information sharing, ecological conservation and water rights dispute resolution, among China, Myanmar, Laos, Thailand, Cambodia and Vietnam. LMCO does not have a broad scope of cooperation like the Lancang-Mekong Cooperation, nor is it focused on coordinating aid programs among members like the Friends of Mekong, nor is it exclude Myanmar from the conversation like the Mekong River Commission. LMCO is dedicated to realizing the integrated river governance from theory to practice.

All international organization requires general principles. It is the foundation for cooperation as well as the guidance to general practice. The proposed LMCO principles need to support the initiation of integrated river governance as well as leave room for further modification. This paper proposed the following 8 principles.

#### **Sovereign Equality of States**



**All six countries have equal status in international law, regarding the territorial integrity and sovereignty of natural resources.** This is the most important principle because it recognizes the equal legal status of the six countries in LMCO,<sup>1</sup> despite our differences in country size, population, resources, economics, culture and politics. **Sovereign equality of the states guarantees the equal voting right among countries, and weighted voting rights for other members.** In addition, Myanmar could be discriminated by other countries because they have unstable internal affairs and minimal water contribution to the Mekong River, this principle could prevent such unfair treatment toward each other. One emphasis on equality is the respect to the territorial integrity because many Mekong countries use the river as state boundary and the change of river could affect the territorial integrity. The other emphasis is **the sovereignty of water as natural resources.** In order to realize the integral river governance, we must recognize the nation's sovereignty over its resources, **thus the nation can participate in further water right resolution and trade. In conclusion, sovereignty is absolute but equality is relative.**

## **Cooperation**

**The principle of cooperation between Lancang-Mekong countries on the basis of sovereign equality, territorial integrity, mutual benefit, and good faith exists in order to attain sustainable water development and utilization, hydrological data and information sharing, adequate water protection and environmental conservation, and conflict resolution of water rights of the Lancang-Mekong River and to promote joint efforts to achieve social and economic development. Poverty is an important index for social and economic development. The poverty index, Gross National Income per capita, and Gini Index are three commonly used indices for economic evaluation. However, theoretically, it is still unclear how hydro-management can promote social and economic development. Water right dispute will eventually resolved by specific clauses, the real conundrum is to define water right itself,<sup>2</sup> but to include the word “water right” in the general principle is meaningful for the development of LMCO. Water protection and environmental conservation is interdependent, the problem is around environment damages by dam and other hydro-projects; but climate change,**

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<sup>1</sup> Ansong, A. (2018). The Concept of Sovereign Equality of States in International Law. *GIMPA Law Review*, 2(1), (2016), pp.14-34.

<sup>2</sup> Biswas, A.K. (2004) Integrated Water Resources Management: A Reassessment. *Water International* 29(2) : 248-56

such as extreme El Nino, is also affecting the Mekong environment and dam is particularly useful in adjusting drought and flood. Thus we can use “**Convention on Biological Diversity**” as the foundation to define the purpose of environmental conservation on Mekong River or as a guide to restore the environment after completing any hydro-project. Water development and utilization cannot be realized without data sharing and information sharing, the data sharing procedures can be specified in further rules, but it is important to LMCO to include this notion. **Sustainable water development is an ambiguous concept, but the basic requirement on sustainability is to do no more harm to water**, environment, national or regional interests, and the purpose is to maximize the profits. Do no significant harm is also the foundation for mutual benefit, albeit very difficult to realize that for all countries. Thus the **voting mechanism can help to realize relative justice in practice**.

### **Equity and Reasonable Utilization**

**The principle of equitable and reasonable utilization is built upon to no significant harm to the waters of the Lancang-Mekong River Stem Stream. Compensation shall be planned whereby inequitable and unreasonable is found. Equity is relative,**<sup>1</sup> on operational point, it means fair voting mechanism and representative mechanism; on the beneficiary point, it means country as a main body to consider what’s fair to their nation; on the payer point, equity shall reflect “**able man should do more work**”; on practical point, **do no harm shall be evaluated by individual country on how much they can take**. And the compensation plan is particular useful in case of harm or disagreement done by relative equity.

### **Hydrological Information and Data Sharing**

**Hydrological data, metadata, and information should be openly shared among Lancang-Mekong institutions, subject to national or international laws.** This rule has many loopholes but hydrological data is not the end but the mean to achieve integral water governance. Gradual release of such data is useful to direct our focus to urgent matters. To China, such data is state secretes, gradual release create a buffer for China to adapt to this cooperation.

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<sup>1</sup> Lapidoth, R. (1987). Equity in International Law. *Israel Law Review* 22(2)

## **Water Protection**

**Water protection in areas of hydrological disaster prevention, minimum discharge maintenance of Lancang-Mekong mainstream, coordination among water-related projects on Lancang-Mekong mainstream.** The main body of water protection is the river's stem stream, not include tributaries. Hydrological disasters include drought and flood. Minimum maintenance needs to consider human consumption of water, environment consumption and other species need to water. Coordination among water project includes dam construction, water storage and release.

## **Household Water Consumption Right within Mekong Basin**

**The basic household water consumption shall be protected within the Mekong Basin.** Water use includes household usage, industrial usage, agricultural usage, freight usage, recreational usage, environmental usage and hydropower usage, but this principle considers household water consumption as the most important usage of water. Water rights distribution is a complicated process but household water consumption is easy to calculate, thus this principle is about to protect the minimal household right to water, not the optimal amount of water.

## **Weighted Voting Mechanism**

**One country or one funding NGO, one vote. All six countries have equal voting rights, constituted 90% of total voting rights. Other funding NGOs share the remaining 10% voting rights proportionally to the funding of the year. All drafted resolution shall pass by 60% of the vote.** LMCO is majorly cooperation among six countries, **NGO is helpful in balancing power differences among countries but they are never the main body of the cooperation. 60% is 4 country votes; this regulation is helpful from an operational perspective.**

## **Representative Mechanism**

**The General Representative Conference is the highest policy-making body. Each country and funding party shall send 3 representatives (a foreign affair representative, an**

environmental representative and a hydrological representative, electrical representative) to the institution. **The LMCO welcomes third-party observer agencies to join.** A clear distinction between country, funding NGO and other NGO is helpful from an operational perspective.

## Conclusion

The cooperation is limited to the stem stream of Mekong River, not the whole basin. From an operational perspective, LMCO cannot create significant harms to each other. From an administrative perspective, do no harm, equity, reasonable, and sustainable is based on the voting. **And the voting is a relative justice** among six countries.

## 4.2 Myanmar

**Author:** Daniel Brooks

In the world of transboundary water politics, Myanmar is a special case. After **the coup in early 2021**, the international community has needed to reassess existing international commitments and systems, and thoroughly consider whether or not to begin to or continue cooperating with **the Tatmadaw (Myanmar's military)** government. This article will summarize the main content of our class simulated conference, the special challenges presented by Myanmar, and my personal views on solving problems of this nature.

## Conference Proceedings

During our mock conference, we found that it is extremely difficult to bring together multiple parties with often-conflicting interests and reach a binding treaty. It is very difficult to even establish the most basic, most general and abstract principles. From the beginning, the eight principles we discussed were all based on the basic **common precepts of international law.** **Article 1 of Chapter 1** of the Charter of the United Nations stipulates: "This organization is based on the principle of the **sovereign equality** of all its members." **Reasonable and fair utilization** is also a concept full of contradictions. How do we define **the rights of a country to use water sources? What kind of water resources projects are reasonable?** In the meeting, the thinking of the Myanmar's **National League for Democracy** and the armed forces was actually not very different. The biggest difference lies in the international community's view of the new

government: Is the government of the **coup legal**? Can it participate in a formal international system?

Under the most ideal circumstances, **the eight principles we set would be difficult to achieve**. In **politically chaotic Myanmar**, these principles are even more difficult to realize. Before the coup, Myanmar wasn't exactly characterized by political stability. In 2017, the military faced charges of genocide for attacking its Rohingya Muslim minority. Nobel Prize winner Aung San Suu Kyi has been condemned by the world for failing to stop the atrocities. At the same time, the state could not resolve the grievances of minorities or provide sufficient security for communities, which created a real arms race among minorities. As a result, this country now has dozens of powerful non-state armed groups in most border areas. In addition, the Burmese army has been the most powerful group in the central government since its liberation in 1948. This government is not afraid of murdering its own citizens en masse, as it did after the student-led protests against economic mismanagement in 1988.

### **Myanmar's Special Challenges**

Currently, despite the National League for Democracy having become Myanmar's first non-military government in 54 years after the overwhelming electoral victory in 2015, the **2021 coup suddenly stopped the country's long-awaited democratic transition**. Any international political party that wants to deal with Myanmar will have to face the fact that their present government is illegitimate. Under such circumstances, what is the meaning of sovereignty? Is there any way for the international community to ensure a reasonable basis for cooperation? **Can an illegal government really become a party to a legally binding international treaty?**

These problems are difficult to solve. At present, the international community is unwilling to interfere in Myanmar's internal political situation. It seems that most countries are forced into reluctant dealings with the military government. As far as China is concerned, the reason for dealing with the Tatmadaw is obvious: **there is investment that needs to be protected**. At the same time, the best thing **the United States has done is piecemeal sanctions, which may not have a lasting impact**. In the mock meeting, **enacting the coup was to show the dilemma that the political conditions of various countries have brought to the international cooperation organization**.

## Possible Solution

In my opinion, under special circumstances like Myanmar, protecting transboundary natural systems like rivers requires **more than the authority of a country**. The doctrine of humanitarian intervention has a controversial basis in international law, but it may be applied here. When a **multi-party cooperative organization like the United Nations takes the initiative to intervene for humanitarian ideas**, the **screening is usually very weak, and the execution is inefficient**. Even in extreme cases, our intervention basis is weak, so there isn't much precedent for intervention on ecological terms. As I said in the previous essay, the only reasonable way to solve this problem is **to delegate the management of transboundary river basins to a system-wide governance structure**. Of course, this line of thinking contradicts our commitment to national sovereignty. However, there is a framework of thinking in international law: **In 2001, the International Intervention and National Sovereignty Committee** believed that sovereignty is accompanied by its responsibilities, and all countries have the responsibility to protect their citizens. In the case of atrocities, the committee believes that the international community has a responsibility to intervene.

A recent trend in the laws of some states is to grant ecological entity legal personality. If this trend can develop to its logical end, it should be possible to establish a system in a future world with a global population of 10 billion where, even if a country is not a signatory to the watercourse treaty, abuses of natural systems or "ecocide" can be managed, even through force, by international governing bodies.

## Conclusion

Myanmar is very special. It can be said to be one of the most politically chaotic Mekong countries. With decades of military rule, its political society and its participation in international institutions have huge uncertainties. Currently, the armed forces do not seem to have a particularly bad policy on the Mekong. However, **the 2021 coup indicates that unstable countries cannot become reliable international partners**. The international community has recognized the basic idea that countries have the responsibility to protect the environment under various circumstances. However, international law actually only considers environmental crimes committed as deliberate acts of warfare. I think a more **reasonable system** will give river basins and **other natural systems international legal personality**. If a country commits environmental

atrocities, the system can use precedents of humanitarian intervention to justify the intervention in the country's internal affairs. This will resolve the potential conflicts of sovereignty in a situation like Myanmar.

#### 4.3 Lao PDR

**Author:** Nathan Rose

Lao PDR embraces such multilateral initiatives. Such multilateral initiatives may allow for a more integrated basin, and may facilitate mutual development and funding for LAO PDR projects. Lao PDR wants to become the battery of Southeast Asia. “Benefit Sharing” through a more integrated basin is not only a great way to gain investors for hydro-projects, but also to find markets for electricity generated from such projects. Thus, LAO PDR's unilateral ambitions generally dovetail with a more cooperative basin under the LMC.

#### **Background:**

Lao PDR (also known as Laos) is centrally located in Southeast Asia and in the Indochina region, and is bordered by China to the North, Vietnam to the east, Cambodia to the south, and Thailand and Myanmar to the west.<sup>1</sup> Regarding the Mekong River, Laos is in a relatively advantageous position relative to other Mekong basin countries: the Mekong mainstream flows from China upstream to a shared Myanmar-Laos border, then turns and flows into Laos, then runs along the Thailand-Laos border, then turns back into Laos, then finally flows into Cambodia.<sup>2</sup> In other words: aside from shared borders with Myanmar and Thailand, most of the Mekong river mainstream is located within Laos' borders. Moreover, Laos' contribution to total Mekong river flows is relatively high, contributing 41% of Average Mekong flows (for comparison, the second highest contributing country is Cambodia at 19%).<sup>3</sup> Therefore, according to the principle of national resource sovereignty, Laos could build on the Mekong mainstream, which would strengthen its geographic power within the Mekong river hydro-political complex.

However, up to now opportunities for Laos to develop its own water resources have been limited. Although Laos' poverty alleviation programs have experienced significant successes

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<sup>1</sup> UNDP, “About Lao PDR”

<sup>2</sup> Mekong River Commission , “Integrated Basin management plan”

<sup>3</sup> Ly, Thim, “1995 Mekong River Agreement”

over the past few decades, Laos is still considered a Least Developed Country (LDC).<sup>1</sup> Because Lao is still a relatively poor country, its ability to unilaterally build projects on the Mekong river remain limited, and it must rely on outside investment to fund such projects.<sup>2</sup> The Xayaburi Dam is an excellent example of such a project: although the Xayaburi dam is located in Laos territory, Thailand is the primary financier of the project, and most of the electricity generated by the dam is sold to Thailand.<sup>3</sup> Moreover, Laos' development has been impeded by previous violent conflict. The Lao Civil war started in 1975 and just ended in 1991.<sup>4</sup> Because of the instability created from the civil war, it wasn't feasible for Laos to develop national development strategies until after 1991. Therefore, despite having ample water resources, Laos hasn't fully utilized the potential in its own water resources.

Now, building of infrastructure (especially hydroelectric dams) is **a key part of Laos' national development strategy**. The Lao PDR government, in developing its water resources, has ambitions to become the "battery of South-east Asia."<sup>5</sup> This plan has a couple advantages. First, according to the most recent Mekong River Commission Basin Development plan, Hydropower plays an important role in meeting the region's future energy demand and increasing clean energy supply.<sup>6</sup> Moreover, developing its water resources represents a development opportunity for Laos. Laos **already exports hydropower; by developing its own hydropower capacity, it can further develop its own economy and country**.<sup>7</sup> However, a development strategy emphasizing hydropower development could also raise a lot of problems for Laos.

First is that hydro dams are **very environmentally destructive**. Dams on the Mekong River already threaten natural ecosystems and livelihoods, and thus are subject to much scrutiny and criticism.<sup>8</sup> Second is that Laos is in a relatively weak economic position relative to its neighboring countries. Because Laos is relatively poor, it relies on other countries to invest in

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<sup>1</sup> UNDP, "About Lao PDR"

<sup>2</sup> Stimson, "Lao People's Democratic Republic"

<sup>3</sup> Stimson, "Lao People's Democratic Republic"; Sasipornkarn, 15.01.2021 ; Ebbigahausen, 25.07.2018

<sup>4</sup> UNDP, "About Lao PDR"

<sup>5</sup> Stimson, "Lao People's Democratic Republic"; Sasipornkarn, 15.01.2021 ; Ebbigahausen, 25.07.2018; The Economist, "Requiem for a River"

<sup>6</sup> Mekong River Commission, "Basin-Wide Needs, Challenges, and Opportunities"

<sup>7</sup> ASEAN, "Lao PDR"; UNDP, "About Lao PDR"; Stimson, "Lao People's Democratic Republic"

<sup>8</sup> Stimson, "Lao People's Democratic Republic"; Sasipornkarn, 15.01.2021 ; Ebbigahausen, 25.07.2018; The Economist, "Requiem for a River"



order to build its dams.<sup>1</sup> If other countries do not approve of Laos' dams, it can be very difficult for Laos to complete such projects without foreign support. Third, Laos hydroelectric **exports are similarly vulnerable**. Generally speaking, Laos sells hydropower to Thailand. But recently, electricity demand in Thailand has declined, and as other renewable energies become cheaper (and Thailand pursues its own renewable programs), Thailand has been considering the negative environmental consequences of Laos' dams more recently, and is even considering boycotting Laos hydropower as a way to protect the environment.<sup>2</sup> This situation reflects a flaw in Laos' hydroelectric plan: Laos often builds dams to generate hydropower for export, but often neglects to secure purchasing agreements with neighbors, **resulting in surplus hydropower**.<sup>3</sup> Finally, Laos' power grid is underdeveloped. Laos doesn't have a national grid, instead it has four sub-national regional grids.<sup>4</sup> While there have been improvements made in grid connectivity in recent years, gaps in electrical supply still exist in Laos: Laos' northern grid (where most of Laos's generated hydropower is located) often has energy surpluses, while Lao's southern regions lack energy.<sup>5</sup> Moreover, Lao's international grid is also underdeveloped: aside from Laos-Thailand connections, Laos' international electric grid has relatively low voltage, limiting Lao's ability to sell hydropower abroad.<sup>6</sup> If Laos really wants to become the battery of Southeast Asia, then perhaps it is more important to improve its domestic and international grid rather than build more hydropower dams.

### **Negotiating strategy:**

Lao PDR occupies an interesting space in the Mekong River hydro-security complex because it is both an upper basin and a lower basin country. As the Mekong River flows from China to Lao PDR, Lao PDR's geography gives it a strategic advantage over other countries in the lower Mekong Basin (Vietnam, Cambodia, Thailand). Therefore, policies that benefit upper basin countries would also benefit Laos. At the same time, relative to China, Laos is a lower basin country. Therefore, policies that benefit lower basin countries would also benefit Laos.

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<sup>1</sup> Stimson, "Lao People's Democratic Republic" ; UNDP, "About Lao PDR"

<sup>2</sup> Sasipornkarn, 15.01.2021 ; Ebbigahausen, 25.07.2018;

<sup>3</sup> Stimson, "Lao People's Democratic Republic"

<sup>4</sup> Stimson, "Lao People's Democratic Republic"

<sup>5</sup> Stimson, "Lao People's Democratic Republic"

<sup>6</sup> Stimson, "Lao People's Democratic Republic"

The strategy I adopted in the simulation can be approximated to “shared benefit, shared support.” Recognizing that aside from geographic advantage, Laos is a relatively weak country. Economically speaking, Laos is at a disadvantage: in order to develop the economy Laos relies on exporting hydropower. In order to export hydropower Laos needs dams, in order to build dams, Laos relies on foreign investment. In other words, Lao PDR’s economy relies on foreign support. However, because Laos has an upper basin geographic advantage, lower basin countries would certainly want to negotiate while Laos might not be that powerful of a country, it also cannot be ignored. In negotiations, if I could turn projects that I (as Laos) wanted to build into projects that could provide shared benefits, and then I could gain public support (and even possibly gain foreign investment). Moreover, hydropower could be considered a “public benefit”; under the principle of “benefit sharing”, it is possible to create new market opportunities for exported hydropower. Therefore, Laos supports the principle of benefit sharing; providing public benefits also provides Laos with benefits.

However, under the principle of national sovereignty, Laos vehemently opposes any prohibitions on building dams on the Mekong River. Because Friends of Mekong river (FLM) had the strongest anti-dam stance, Laos’ strategy was to attempt to isolate FLM, and emphasize country-to-country relationships and cooperation.

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#### 4.4 Thailand

**Author:** Stephanie Hand

During the most recent Lancang-Mekong Cooperation Working Group Meeting Cambodia, China, Laos, Myanmar, Thailand, and Vietnam made substantial headway in forging a mutually beneficial framework to ensure the rights of lower-riparian countries and protect the biological health of the Lancang-Mekong River. The meeting covered the sovereign equality of states, cooperation, equitable and reasonable utilization of waterways, hydrological information and data sharing, water protection, household water consumption rights within territories, the majority voting mechanism, and the establishment of the Lancang-Mekong Cooperation Organization. Negotiations were successful with many countries in agreement on key issues. However, in creating the initial principles, China left out key phrasing paramount to the concerns of lower-riparian countries. This paper will address key concerns of Thailand and proposed alterations of these initial principles.

For the people of Thailand, the Mekong River is our lifeline. We rely on the river for drinking water, food, agriculture, transportation, and tourist industry growth. Our greatest concerns are **irregular water flow, droughts, flooding and pollution**. As the Mekong River is vital for the prosperity of all riparian countries, it is important that we focus our joint efforts on maintaining the health of the Mekong River. For this reason, upper and lower riparian countries must focus on joint initiatives such as data sharing, transparency on river development projects, and the **development of new agricultural practices to curtail pollution**.

#### **Sovereign Equality of States and Cooperation**

Thailand agrees with the principles of sovereign equality of states and cooperation. However, due to experience, we have our reservations. Laos and Thailand have cooperated on many hydrological projects in Laos with Thailand financing hydrological dams and benefiting from a portion of energy produced in Laos.<sup>1</sup> **As we aim to become increasingly environmentally**

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<sup>1</sup> “Dam Projects and Disputes in the Mekong River Basin,” Climate Diplomacy (Climate Diplomacy), accessed December 28, 2021, <https://climate-diplomacy.org/case-studies/dam-projects-and-disputes-mekong-river-basin>.

conscious, however, we are worried about Laos' increased dam production especially the Sanakham Dam, a joint venture between China and Laos located near the Laos-Thailand border.<sup>1</sup> While cooperation can help foster trust, it should not be done at the expense of other riparian countries. The Sanakham Dam located in Laos near Thailand is an impediment to Thai sovereignty, posing a strong threat to civilian livelihood including agriculture and fisheries in Thailand.<sup>2</sup> Thailand encourages the continuation of multilateral research, education and technology sharing programs. This includes, the “Master Program on Youth Talents for Lancang-Mekong Water Recourses Cooperation” and the “Joint Assessment on the Current Status of Flood and Drought Management in the Mekong River Basin (Phase 1)” project sponsored by the Lancang-Mekong Cooperation (LMC) fund and spearheaded by China.<sup>3</sup> These fore-mentioned cooperation opportunities are beneficial to all riparian countries helping foster trust and development through technology sharing and multinational learning institutions that increase education on sustainable water practices. The LMC should strive for mutually beneficial cooperation with respect to the sovereignty and development of all riparian countries.

### **Equitable and Reasonable Sharing**

Regarding the equitable and reasonable utilization of the Lancang-Mekong River, Thailand agrees with the 1997 UN Convention of the Law of the Non-Navigational Uses of International Watercourses Article 7 that “...states shall, in utilizing an international watercourse in their territories, take all appropriate measures to prevent the causing of significant harm to other watercourse states.”<sup>4</sup> The principle of the prevention of causing significant harm is often ignored by fellow riparian countries in their economic development initiatives. In construction of the Don

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<sup>1</sup> “Thailand: Climate Policy Tracker,” Climate Policy Tracker, accessed December 28, 2021, <https://climatepolicytracker.org/countries/thailand/>.

<sup>2</sup> Sebastian Strangio, “Not Sufficient’: Thailand Rejects Report on Lao Hydropower Dam,” The Diplomat (The Diplomat, January 26, 2021), <https://thediplomat.com/2021/01/not-sufficient-thailand-rejects-report-on-lao-hydropower-dam/>.

<sup>3</sup> “Projects,” Achievements\_Lancang-Mekong Water Resources Cooperation Information Sharing Platform, accessed December 28, 2021, [http://www.lmcwater.org.cn/cooperative\\_achievements/collaborative\\_projects/](http://www.lmcwater.org.cn/cooperative_achievements/collaborative_projects/).

<sup>4</sup> S. Dinar, 2005. Treaty principles and patterns: selected international water agreements as lessons for the resolution of the Syr Darya and Amu Darya water dispute. In *Transboundary Water Resources: Strategies for Regional Security and Ecological Stability* (pp. 153). Springer, Dordrecht.

Sahong dam project, Laos failed to comply with the 1995 Mekong Agreement by not notifying fellow MRC members prior to its construction. The construction of the Don Sahong has the potential of causing significant harm on our fisheries since “fish migration routes as the Hou Sahong has been the major migration channel for fish to migrate in the dry season.”<sup>1</sup> Thailand like many other riparian states uses dams for flood prevention and hydroelectricity, and by no means is calling for an end to the use of dams. However, fellow LMC members, especially MRC members, should give prior notification through respective official channels to prevent the disruption of the natural habitat and development of downstream countries. Countries such as China (with expansive dam operations upstream) and Laos (with a growing number of hydrological dams) should conduct greater research on the effect of their dam projects on water flow to lower riparian countries and ensure that resources are in place to ensure the proper management of their dams.<sup>2</sup> This will only be possible through hydrological information and data sharing.

### **Hydrological Information and Data Sharing**

Thailand agrees with the initial principle on hydrological information and data sharing and is grateful for China’s increased cooperation and transparency with the MRC regarding river infrastructure projects and water flow. On October 22, 2020 China agreed “to provide the MRC with year-round hydrological data, contributing to better river monitoring and flood and drought forecasting in the Mekong countries.”<sup>3</sup> Data sharing efforts are imperative to cooperation between upper and lower riparian countries. In the past China has denied responsibility for water shortages and increasingly severe droughts downstream. However due to a lack of transparency

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<sup>1</sup> Mekong River Commission (MRC), “MRC Takes Don Sahong Project Discussions to Ministerial Level,” Mekong River Commission (MRC), accessed December 29, 2021, <https://www.mrcmekong.org/news-and-events/news/mrc-takes-don-sahong-project-discussions-to-ministerial-level/>; “MRC Talks over Laos Mekong Dam Project Reach a Dead End,” UN Watercourses Convention - Online Users Guide, accessed December 28, 2021, <https://www.unwatercoursesconvention.org/news/page/3/>.

<sup>2</sup> “Laos and Its Dams: Southeast Asia’s Battery, Built by China,” Laos and its Dams: Southeast Asia’s Battery, Built by China (Radio Free Asia), accessed December 28, 2021, <https://www.rfa.org/english/news/special/china-build-laos-dams/>.

<sup>3</sup> “China to Provide the Mekong River Commission with Year-Round Water Data,” Mekong River Commission (MRC) (MRC), accessed December 28, 2021, <https://www.mrcmekong.org/news-and-events/news/china-to-provide-the-mekong-river-commission-with-year-round-water-data/>.

in the past, this was hard to substantiate.<sup>1</sup> Greater transparency and data sharing will help foster mutual trust and cooperation enabling joint efforts to protect our shared water resource. With the growing risk of climate change and existing water issues, agreements such as this help ensure prosperity among all LMC countries.

## **Water Protection**

Lower riparian countries chronically suffer from droughts and flooding which affect our agriculture, infrastructure and the livelihood of citizens. We all hope to continue to benefit from a healthy Mekong River. We must thus focus our joint efforts on solving problems such as climate change, increased natural disasters, pollution and stripping of nutrient rich sediment from dams. While dams are necessary for protection against floods, they can also be harmful.<sup>2</sup> It is thus necessary that both upper and lower riparian countries are transparent in their river infrastructure projects and work together to develop more sustainable agricultural and economic development methods.

Thailand feels increasingly threatened by increased dam development in Laos. As Laos strives to become the “Battery of Southeast Asia,” we worry that environmental concerns are not being fully addressed.<sup>3</sup> Economic development should not take precedence over the health of our shared stream. Environmental concerns such as pollution caused by construction, the stripping of nutrient rich sediment from dams that negatively affect our fisheries and create a change in water flow should be taken in full consideration prior to dam construction. Additionally, LMC countries must possess the proper resources to properly maintain their dams. All infrastructure development on the Lancang-Mekong River should receive at least five votes prior to construction.

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<sup>1</sup> Thomas Fuller, “Countries Blame China, Not Nature, for Water Shortage,” The New York Times (The New York Times, April 1, 2010), <https://www.nytimes.com/2010/04/02/world/asia/02drought.html>.

<sup>2</sup> “Basin Development Strategy for the Mekong River Basin 2021–2030 & MRC Strategic Plan 2021–2025,” BDS-2021-2030-and-MRC-SP-2021-2025.pdf (The Mekong River Commission, April 2021), <https://www.mrcmekong.org/assets/Publications/BDS-2021-2030-and-MRC-SP-2021-2025.pdf>.

<sup>3</sup> “Dam Projects and Disputes in the Mekong River Basin,” Climate Diplomacy (Climate Diplomacy), accessed December 28, 2021, <https://climate-diplomacy.org/case-studies/dam-projects-and-disputes-mekong-river-basin/>; “Laos and Its Dams: Southeast Asia's Battery, Built by China,” Laos and its Dams: Southeast Asia's Battery, Built by China (Radio Free Asia), accessed December 28, 2021, <https://www.rfa.org/english/news/special/china-build-laos-dams/>.

## **Household Water Consumption, Voting, and the Establishment of the LMCO**

Thailand agrees with the last three general principles involving household water consumption, voting, and the establishment of the Lancang-Mekong Cooperation Organization (LMCO). However, certain principles are vague and do not place specific expectations on more economically endowed countries. We would like to add China's duty to assist lower riparian countries during times of drought. Water resources should be allocated to provide greater water provisions to lower riparian countries during times of drought and less during rainier seasons to prevent flooding. In 2016, China released an emergency water supply to lower riparian countries suffering from severe drought.<sup>1</sup> We are optimistic with China's increased efforts in the health, safety, and development of downstream countries and hope for the continuation of this trend. The establishment of the LMCO will help foster trust and accountability among members. Additionally, we agree that "All parties shall share the funding for the LMCO equitably." We believe contributions should be made on a case-by-case basis taking into consideration financial constraints and economic development.

## **Concluding Remarks**

Overall Thailand believes that the Lancang-Mekong Cooperation Working Group Meeting was successful and that the creation of the LMCO will lead to more equitable and efficient relations between all members. The Lancang-Mekong River is a vital life source to all riparian countries and should be treated as such. Economic development should not take precedence over environmental concerns, and countries must ensure the proper maintenance of their dams to prevent the environmental degradation of downstream countries. The equitable use of water and hydrological information and data sharing among riparian states will cultivate positive transparent relations among members and increase future cooperation. As the Lancang-Mekong River experiences climate change, it is increasingly important to develop sustainable practices on the Mekong River and communicate efficiently with all members of the LMC.

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#### 4.5 Cambodia

**Author:** Eljoy Tanos

The Lancang-Mekong Cooperation (LMC) is one of the existing sub-regional institutions, and arguably currently the most influential one, within the Mekong River basin. It consists of six countries, namely China, Cambodia, Myanmar, Laos, Thailand, and Vietnam. The benefits that the LMC has on the basin-wide cooperation and the sustainability of the Mekong River basin is undeniable. The Mekong countries have expressed support for the China-led LMC in varying degrees. Myanmar, Thailand, and Vietnam are more cautious of China's strategic intentions. On the other hand, Cambodia is enthusiastic about the LMC's role in helping create sustainable social and economic development plans in the Mekong River basin<sup>1</sup>. Specifically, Cambodia resonates with five key attributes of the LMC: collective leadership, mutual trust, practical cooperation, compatibility and complementarity with South-South cooperation and national ownership<sup>2</sup>. Using existing information as the base, we can explain the positions that Cambodia and its representative most likely have regarding the LMC's general principles.

#### **Principle of Sovereign Equality of States**

Cambodia believes national ownership is the prerequisite for long-term sustainability of regional projects and initiatives<sup>3</sup>. National ownership refers to the effective exercise of a government's authority over development policies and activities. This is reflected on how Cambodia is intensifying development of its water resources. The country's development projects include irrigation development, drainage works, and flood management around Tonle Sap and between Phnom Penh and the border with Viet Nam<sup>4</sup>. Therefore, Cambodia supports this principle because it reflects LMC's respect for a country's sovereignty over the use of its natural resources.

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<sup>1</sup> Chheang, Vannarith. (2018). *Lancang-Mekong Cooperation: A Cambodian Perspective*. ISEAS Yusof Ishak Institute.

<sup>2</sup> Ibid., 1.

<sup>3</sup> Ibid., 4.

<sup>4</sup> Mekong River Commission. (2021). *The Integrated Water Resources Management-Based Basin Development Strategy for the Lower Mekong Basin 2021–2030 and the MRC Strategic Plan 2021–2025*. Vientiane: MRC Secretariat, 19.

## Principle of Cooperation

This principle reflects LMC’s compatibility and complementarity with Cambodia’s push towards “South-South Cooperation”<sup>1</sup>. This concept refers to the deepening cooperation and mutual support between developing countries. In addition, any practical cooperation between Mekong countries requires the balancing between optimal utilization and adequate protection of the basin. Since this principle pays attention to this balancing principle, both Cambodia and its representatives are likely to support it.

One of the representatives of Cambodia in the MRC and current MRC Secretariat CEO, **Dr. An Pich Hatda**, agrees to LMC’s cooperation principle because he wishes for “deeper and stronger engagement from ‘friends’ of MRC”<sup>2</sup>. By incorporating China and Myanmar as voting members of the LMC, this institution encourages more possibilities of practical cooperation.

One suggestion that both Cambodia and its MRC representative has is for the LMC to build synergies with existing regional mechanisms such as the MRC and GMS<sup>3</sup>. This does not mean including other regional institutions as cooperation partners. Instead, the LMC should try to improve the quality of its program through analyzing how other regional institutions have tackled issues in the past. For example, MRC has included a plan on the sustainable management of the Mekong River. While the LMC also pays attention to this issue, it is not clear how its mechanisms will build on/ improve on MRC’s previous works. In order to promote good governance and strengthen institutional capacity, **learning from existing regional** mechanisms is necessary.

## Principle of Equitable and Reasonable Utilization

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<sup>1</sup> Chheang, Vannarith. (2018). *Lancang-Mekong Cooperation: A Cambodian Perspective*. ISEAS Yusof Ishak Institute, 4.

<sup>2</sup> Mekong River Commission. (2021). “MRC Secretariat CEO Urges Deeper Engagement During Friends of the Mekong Ministerial Meeting.” *MRC*.

<sup>3</sup> Chheang, Vannarith. (2018). *Lancang-Mekong Cooperation: A Cambodian Perspective*. ISEAS Yusof Ishak Institute.

Cambodia believes that the LMC will help to create strong political will and mutual trust necessary to solve environmental challenges and nontraditional security threats facing the Mekong sub-region. The country views this principle as a manifestation of the concept of mutual trust, which believes that each LMC member country will pay attention to how their utilization of water resources impact the other country's ecology as well as its own.

### **Principle of Hydrological Information and Data Sharing**

Both **Cambodia and its representative (MRC CEO) push for the modernization of** data and information acquisition, processing and sharing<sup>1</sup>. Therefore, Cambodia supports this principle of data sharing.

However, additional articles should emphasize the use of data sharing to strengthen trust with the civil society. One of the factors which hinder the MRC's success is the unbalanced, biased, and incorrect statements and journalism on water-related issues in social and other media<sup>2</sup>. Misinformation has contributed to conflicting perceptions across stakeholder groups, feeding mistrust and affecting regional relations. Unfortunately, by concentrating on transnational relations, **the LMC at the same time leaves out concerns of civil societies from its agenda<sup>3</sup>**.

Based on the MRC's data, to make successful long-term cooperation, regional institutions must gain the trust of civil society<sup>4</sup>. The reason is that understanding information such as differences in seasonal water discharge and fish migration routes will help the public assess the benefits and goals of the government's water-related project. By being more transparent with the impact of water-related projects as well as making sure the civil society's views are represented on LMC meetings, member countries, especially China, will gain more trust from the civil society of other nations.

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<sup>1</sup> Mekong River Commission. (2021). *The Integrated Water Resources Management–Based Basin Development Strategy*, 6-7.

<sup>2</sup> Ibid., 12.

<sup>3</sup> Williams, J. (2018). "Stagnant Rivers: Transboundary Water Security in South and Southeast Asia" *Water* 10.

<sup>4</sup> Mekong River Commission. (2021). *The Integrated Water Resources Management–Based Basin Development Strategy*, 12.

## **Principle of Water Protection**

Cambodia believes that regional integration is an important pathway towards narrowing the existing development gap among the Mekong countries. **For Cambodia, the main concern is the management of Mekong water resources and its ecological impact.** According to MRC's report in *Basin Development Plan*, nationally planned development is not sustainable<sup>1</sup>. On the one hand, national development plans created large national economic benefits, particularly in the hydropower sector. On the other hand, water-related projects have also negatively impacted Cambodia's civil society. For example, dam constructions have changed fishes' migration patterns, which decrease the fish population in the Tonle Sap. This has also led to a decrease in unemployment, which shows the shortcoming of the current water development projects.

In addition, Cambodia is concerned with recent hydrological disasters caused by the poor management and regulations of dams in its neighbors<sup>2</sup>. Because this LMC principle aims to prevent future hydrological disasters and coordinate the management of water-related projects within the Mekong River basin, Cambodia hopes that this principle will help protect the migration route of its fish and stabilize the quality of life of its population.

One suggestion that the MRC CEO would propose is to set up joint basin expert groups to oversee and direct the management of these projects. **The formation of these groups will reflect LMC's goal of joint leadership, information sharing, and sustainable development.**

## **Principle of Household Water Consumption Right within Territories**

Due to its experience with data sharing in the MRC, Cambodia would encourage the principle to include that LMC member nations use the same calculation method to calculate the basin household water consumption. This includes defining how to calculate water use within the Mekong basin. Other than this suggestion, Cambodia has no other problem with this principle.

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<sup>1</sup> Mekong River Commission. (2021). *The Integrated Water Resources Management–Based Basin Development Strategy*.

<sup>2</sup> Mekong River Commission. (2021). *The Integrated Water Resources Management–Based Basin Development Strategy*, 19.

### **Principle of Majority Voting Mechanism**

Since this principle reflects the LMC's respect for Cambodia's sovereignty as well as the institution's goal to **emphasise collective leadership**, Cambodia supports this principle. In addition, following the spirit of basin-wide sustainable development, the Cambodian representative would **encourage the planning** of further **discussions about the repercussion or penalty of failing to follow a resolution**.

### **Principle of Establish Lancang-Mekong Cooperation Organization**

Since Mekong basin countries are at different levels of development and have different capabilities to manage resources, Cambodia wants to highlight with the principle's aspect of "equitable" sharing of fundings. The term "equity" acknowledges that Cambodia does not have the same resources as some of its more developed neighbours.

One suggestion would be to discuss what responsibilities and power these representatives have. Particularly, since NGOs are able to participate and send representatives, **Cambodia wants to clarify on how much influence they have in the organization**. **Cambodia sees the involvement of non-Mekong country members as a threat to its national ownership of resources**.

### **Conclusion**

Cambodia's foreign policy is **defined by the concept of economic pragmatism**<sup>1</sup>. In other words, Cambodia aligns its foreign policy with economic interests and diversifies strategic partnerships based on economic calculation. One representation of this characteristic is Cambodia's long history of economic interaction with China. In fact, as of 2018, China now is the biggest trade partner for Cambodia, Myanmar, Thailand, and Vietnam<sup>2</sup>. **This trend will surely reflect Cambodia's participation and commitment to the LMC**.

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<sup>1</sup> Chheang, Vannarith. (2018). *Lancang-Mekong Cooperation: A Cambodian Perspective*. ISEAS Yusof Ishak Institute, 3.

<sup>2</sup> Song, Qingrun. (2018). "Opinion: Lancang-Mekong Cooperation Promotes Regional Development." *CGNT.com*.

Through its participation in the LMC, Cambodia expresses its desire to participate in a more cooperative and transnational water-management program. However, the country does not only have economic goals. Cambodia has already felt the impact of poorly managed hydropower project. As a result, Cambodia also hopes that the LMC focuses on the long-term development of the Mekong River while balancing economic development to the preservation of the ecology of the basin which sixty-five million people that depend on.

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## 4.6 Vietnam

**Author:** Hannah Sorenson

### 1. Opening Remarks

I am Hannah Sorenson, the representative for **Vietnam**, and I am grateful to have the opportunity to speak with each of you today. Since the birth of our country, Viet Nam has consistently engaged in cooperation with other countries. **It is only through the cooperation of our friends—China, Thailand, the United States, Japan, Korea, and so on—that we can realize prosperity and development in our own country.** We likewise emphasize cooperation with our close neighbors in Cambodia, Lao PDR, and Myanmar in the pursuit of shared development <sup>1</sup>. It is on this basis that we have encouraged region-wide development and environmental protection of the Mekong River basin since 1995<sup>2</sup>.

We gather today in light of the great risks posed to the Mekong basin. In each of our countries we are balancing economic development and environmental conservation. In our own country, the Mekong River flow has been drastically reduced, causing the Mekong delta to sink and serious losses for our agricultural industry. Rising sea levels bring sea water into the sinking delta, exacerbating these losses <sup>3</sup>. Thus, the outcome of today's negotiation is unimaginably significant for all of our interests, calling each delegation to work hard together to make the right choice.

The greatest issue faced by **Vietnam** is our water resource need. In today's negotiation, our main concerns are twofold. First, we encourage Mekong riparians with developed infrastructure to take the lead in sustainable development by concentrating new water projects in those riparians still developing their infrastructural capacity <sup>4</sup>. Second, no matter which governance mechanism is at play, Vietnam absolutely cannot overlook the dangers facing the Mekong delta,

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<sup>1</sup> [Stimson Center, "Vietnam's Infrastructure Gap"](#)

<sup>2</sup> 1995年《湄公河流域持续发展合作协定》

<sup>3</sup> [Stimson Center, Weatherby, "Lower Mekong Power Developments"](#)

<sup>4</sup> The argument represented here is my own perspective, rooted in my understanding of country relations within the basin. In order to pursue basin-wide shared prosperity, I argue that Vietnam would support such a cooperative development plan. "Lower Mekong Power Developments" touches upon benefit-sharing and Mainland Southeast Asia's previous energy cooperation mechanisms.

namely the issues brought about by extant storage and release schedules. In order to improve water quality and quantity, and to avoid the already persistent droughts downstream brought about by upstream facilities, each country present today must thoroughly, consistently research the environmental impacts of water projects; construct a highly **trans-boundary information sharing network**; and **establish a fair, timely, and regular water release schedule**<sup>1</sup>.

Lastly, regarding the proposed general principles, **Viet Nam views principles 2-7 as the prerequisite for the first principle (sovereignty)**. Without information sharing, cooperation, or water protection, sovereignty has no meaning; without the consistent fulfilment of principles 2-7 by all riparians, Viet Nam has no Mekong River, only environmental disaster <sup>2</sup>.

## 2. Summary

In the Mekong River basin, **Vietnam** has a complicated status, **making it difficult to determine whether the country holds an entirely advantageous or vulnerable position**. For example, if one's analysis is limited to the basin itself, although Vietnam faces water shortage, the country's energy sector is comparatively developed and diverse compared to other riparians, suggesting a rather advantageous position. However, if one's analytical framework is extended to include the **entire Indo-Pacific region, Vietnam's power is considerably less compared to China or the United States, making it a "middle power."** In order to properly reflect Vietnam's complicated position in the virtual negotiation, I considered additional influences on Vietnam's position equal to its position in basin management and on this basis evaluated the principles of the LMCO.

Generally speaking, the primary issue Vietnam faces is related to foreign affairs. Sun Wen, senior researcher at the Stimson Center, stated **Vietnam currently resides in a difficult state of proximity to the US endangering the party's legitimacy, and proximity to China endangering**

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<sup>1</sup> By comparing my preparation for this negotiation with knowledge from other courses (specifically Prof. Arase's "Indo-Pacific Strategy: Contestation and Cooperation), I argue that in such a negotiation, Vietnam's greatest concern is sovereignty. Simply put, Vietnam can only resolve the environmental risks it faces in the Mekong Delta when its sovereignty and usage rights are fulfilled. Additionally, from a political angle, sovereignty shapes Sino-Vietnamese relations, such as preserving regime stability or in the question of territorial integrity and a shared border.

<sup>2</sup> In accordance with the above perspective, I argue that Vietnam would pay close attention to organizational and agreement structure, as well as how they shape basin order and preserve or destroy its own sovereignty.

national sovereignty (7)<sup>1</sup>. In the process of transboundary basin cooperation, the Sino-Vietnamese Spratly Islands dispute, and the larger Indo-Pacific competition have a certain degree of influence. Will China use hard power to protect its border, as it has done along the Sino-Indian border? Will China dispute the legitimacy and jurisdiction of extant international law? American media and civil society also contribute to the perception of China's "hegemony" in the Mekong River basin, exacerbating the difficult equilibrium Vietnam faces<sup>2</sup> However, Sino-Vietnamese cooperation are beneficial to Vietnam's domestic regime stability by preserving the Vietnamese Communist Party's continuity and general order. Additionally, China is among Vietnam's primary trade partners, especially in the energy sector. Vietnam dedicates 5.8% of its GDP to energy and transportation annually, while also importing 1.5 terawatt hours of energy from China<sup>3</sup>.

In fact, advancing infrastructural development is a key policy goal for Vietnam, which has led the country to diversify its energy sector by obtaining foreign investment (e.g., Japan, South Korea, Singapore, Malaysia) and increasing solar, wind, water, and coal projects<sup>4</sup>. A diversified energy sector and multiple foreign investors are useful for Vietnam insofar as enabling the country to realize its own energy goals, yet also indelibly link the country's energy goals with the interests of the entire region. Still, comprehensive Sino-Vietnamese water cooperation likewise contributes to Vietnam's domestic energy goals. In addition to addressing Vietnam's water needs and environmental challenges in our virtual negotiation, I viewed the Vietnamese delegation's primary goal as mediating regional interests and domestic goals.

In addition to Sino-Vietnamese relations, basin relations similarly influence Vietnam's considerations in a basin negotiation. Vietnam has built water projects in upstream Laos and exports approximately 1 terawatt hour of energy to neighboring Cambodia. Thailand is also one of the country's primary trade partners and the Vietnamese government has notable connection

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<sup>1</sup> <https://www.stimson.org/2016/yun-sun-quoted-多维新闻网-us-china-vietnam-relations/>

<sup>2</sup> This portion is my own perspective. Although I relied on the Stimson Center's research in my preparation, I also recognize the complex role American think tanks and their researchers have on riparian decision-making processes. Also, when I was an undergraduate, my professor introduced me to the Stimson Center Southeast Asia Program Director Brian Eyler; this perspective is in part influenced by what I learned through conversation with him.

<sup>3</sup> [Stimson Center, "Vietnam's Infrastructure Gap"](#)

<sup>4</sup> *Ibid*

to Myanmar's Tatmadaw <sup>1</sup>. To summarize, Vietnam is intimately connected to its Southeast Asian neighbors and their development. Therefore, with the preservation of Vietnam's sovereignty as a primary goal, I prioritized Vietnam and its neighbors' developmental interests as a secondary strategy.

#### 4.7 Friend of Mekong

**Author:** Hailey McGleam

Ecosystems underpin all human life and activities. The goods and services they provide are vital to sustaining well-being, and to future economic and social development. The benefits that the Mekong River system specifically provides include food, water, erosion prevention, air purification, soil formation, pollination, and other immeasurable cultural connections. This is not a plea that animals are more important than supporting the livelihoods of the people who rely on the Mekong River as some people think wrongly about environmental protection. But rather the health of communities that absolutely rely on the resources of the environment is at risk here. In other words, ecological security of the Mekong River is required for regional security and peace.

Despite long-term intensive human use, the freshwater system has maintained connectivity between 11/13 ecosystems, which represents about 60% of the Mekong basin system in total. The desperation for energy in the greater Mekong system has led to an uncontrolled rate of dam building, impacting the freshwater ecosystem stability, the river's connectivity and flow, and generally the poorer people that rely on the benefits. Eleven dams are planned on the Mekong main stem. Main stem dams are dangerous: They cause ecosystem collapse and biodiversity loss; Hinder movements of fish up and down the river system to grow or spawn which fisherman rely on; Harm wild fishery industries in Laos, Thailand and Cambodia; Reduce sediments and nutrients that build and feed the delta's productivity and therefore affects agricultural productivity; and overall degrade the functionality of the whole interconnected ecosystem through all the Mekong countries.

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<sup>1</sup> [Stimson Center, "Vietnam's Infrastructure Gap"; Nikkei Asia, "Vietnam's 'mediation diplomacy' faces key test in Myanmar crisis"](#)

Our goals are to protect this river system, which is the lifeblood of 300 million people across Southeast Asia for food, safe drinking water, renewable energy and sustainable livelihoods. Through protected area management, information sharing, community engagement and long-term financing, we need to work together to minimize the impacts of dams and water diversion. Only then can we continue to safeguard the water that supports life downstream.

WWF identifies four key drivers of change of the Mekong region ecosystem: one is human population growth and increasing population density, which is made worse by increasing income inequality as the rich abuse the natural resources that the poor depend on every day to eat. Another issue is that unsustainable levels of resource use throughout the region which have increased the demands of external economic growth as opposed to subsistence use. Furthermore, unplanned and unsustainable forms of infrastructure development, such as roads and dams, pose many long-term challenges to the region. Finally, all of these problems continue to go unsolved due to weak government policies, specifically a general lack of integrated planning, poor governance, corruption of resources, and wildlife crime on a massive scale.

This is where the Friends of the Lower Mekong come in. The Friends of the Mekong (FLM) is a multinational effort intended to create integrated sub-regional cooperation between Cambodia, Laos, Myanmar, Thailand, Vietnam, and the U.S. It also includes an extensive donor community, which consists of Australia, Japan, the Republic of Korea, New Zealand, the EU, the Asian Development Bank, and the World Bank. It is a vital and complex coordination platform, where the overall goal is to improve donor coordination, specifically financial development assistance. The Mekong River Commission also joined as a member in 2021, which is the oldest intergovernmental organization focusing on jointly managing the Mekong River's water resources. Thus, increasing the political pressure, which can be put on other countries, and maintaining a sense of legitimacy with the FLM actions.

Without question, the Mekong plays a crucial role in the economies of lower Mekong Basin countries, and therefore the FLM focuses on international financial institutions and political coordination to increase coordination efficiency, identify and fill resource gaps, and avoid development redundancy. For instance, the Mekong supports one of the world's largest inland fisheries, which has a total economic value estimated at about 3% of the region's combined gross domestic product. Fisheries are more economically vital to Cambodia and Laos,

reflecting 18% and 12.8% of the economy respectively. Millions of local subsistence fishing communities also depend on the waterway for their survival and are not included in the previously mentioned statistics. Additionally, the river is also a source of irrigation for all four lower Mekong Basin countries. Unfortunately, all of these industries are likely to be affected by the construction of large dams, especially along the Mekong's main stem, despite the claims of the Myanmar and Laos that there will be little effect to lower riparian countries.

China is crucial in leading the Asian region because it is the most powerful country in the region, so it should guide other smaller countries. If the quality and quantity of the Mekong River are not protected, supporting China's economic and regional stability will be at risk. Friendly relations on the Chinese border are particularly important. If the shared resources are not respected, it will bring border instability to China, which is very dangerous, because China is already very tense with Russia and India. This is especially true in Myanmar, because Myanmar is in the midst of a military coup, so the level of corruption is high, and considering environmental factors, it is also politically unstable. On the other hand, Vietnam is more affected in terms of food and environmental security than any other Mekong country. This is obvious in the debate. Compared with upstream countries, Vietnam has almost no say. If all countries focus only on their own economic interests for their own sovereignty. This may explain why every country continues to build dams for the benefit of its own people and for short-term benefits, with almost no safety standards. In contrast, the long-term benefits provided by a stable Mekong ecosystem can be supported by FLM's international organizations. Its purpose is sustainable development, such as the World Bank.

In short, it is clear that no country is willing to give political power to FLM, which may prompt countries to continue to follow economic motives rather than ecologically sustainable motives. Although countries may argue that dams are good because hydropower is a renewable resource, it is not worth sacrificing the lifeline of the region for development. Hydropower is also destructive to the environment, so Cambodia and Laos have shown little response to the fact that coal-fired power plants are used to avoid disruptions to their inefficient dams.

#### 4.8 UNEP

#### 4.8.1 “MRC+1” Working Group Meeting

##### Round I: December 21<sup>th</sup>, 2021

Participants:

- Country Representatives from Cambodia, China, Laos, Myanmar, Thailand, Vietnam
- International Organization Representative from UNEP
- Non-Governmental Organization Representative from FOM

Moderator: UNEP delegate

##### **Topic: Building Regime of Langcang-Mekong Cooperation**

The meeting is scheduled for 90 minutes

15 mins. Opening remarks from 7 representatives (2 mins. each in Chinese)

40 mins. Discussion of issues and interests and negotiation

- Please state clearly what is your country’s position regarding water use and management in this basin, are you satisfied with the status quo? Do you want to make any changes? What changes do you want to make?
- Please state in detail what challenges your country is facing in terms of water use and management in this basin.
- Please state clearly what you want to get from this negotiation.
- Do you want to make any concessions? Is concession absolutely unacceptable? Please think carefully what concessions you could make during the bargain.
- You might be able to get support for something you want from other members if you utilize "side payments," which are compromises or agreements made with another party on any topic that isn't part of the working group's stated focus. Consider what you have to offer and what compromises you would like in exchange when you prepare for this negotiation. Any such additional payment should be written down in a word document briefly with your typed signatures on it.
- Think carefully that do you want an official document as a result of this meeting?

20mins. Draft an “MRC+1” Declaration 2021 (if you can reach this step), if not, explain why the parties cannot reach consensus and what the next step would be.

10mins. Announce the results of this working group meeting

5-10mins. Comments from Prof. Wang

## **Round II: December 23<sup>th</sup>, 2021**

Participants: same as Round I.

Topic: Negotiation of the eight LMC cooperation framework rules based on proposal of China  
Background

The Five-year Action Plan of Lancang-Mekong Cooperation (2018-2022) 4.2.5 particularly mentioned there should be a “Five-year Action Plan on Water Resource Cooperation”. In reaction to this initiative, together with UNEP and Friends of Lower Mekong, LMC has formed a working group to hold a negotiation on the principles of the Declaration of Water Use under Lancang-Mekong Cooperation, the representative of China has drafted 8 principles for this Declaration, in this round of negotiation, the working group will discuss if the 8 principles are addressed appropriately.

LMC would like to have a list of specific consensuses the nations reach, such as how the principles should be modified, what states must do, what states may or may not do, and what states may do only when certain conditions apply.

LMC hopes that the whole working group can agree on at least 4 most significant principles, and that the ultimate result will be a balanced document that all working group members can endorse.

The meeting is scheduled for 90 minutes:

16 mins. Opening remarks from 8 representatives (2 mins. each in Chinese)

50 mins. Discussion of issues and interests and negotiation (in English).

20mins. Modify the principles of the Declaration of Water Use under Lancang-Mekong Cooperation, list the points that are endorsed by at least 4 parties in this negotiation. A declaration document will undoubtedly be a significant boost to the LMC as a whole. Points agreed by 5 or 6 of the 7 major parties will have some weight, and it will put political pressure on the lone dissenter. A 4-member agreement is of lesser significance, but it may aid the LMC states in better understanding the nature of main agreement hurdles.

5-10mins. Reactions from everyone & Comments from Prof. Wang

Procedure:

The MRC CEO will start the opening remark and introduce the moderator to the working group

The 50 mins’ discussion breaks into two rounds:

**Round 1** (25 mins): The representative of China has 3 mins to introduce the



drafted principles, then the representatives take turns to address statements (followed by the alphabetic order, that is 谭乐杰—韩啸天—任宏斌—柏誉达—陈宜—苏涵娜—刘琳), each country has 3 mins to specify their positions regarding their most concerned principles.

**Round 2** (25 mins): free discussion and negotiation

During the 20 mins' modification, 15 mins' discussion is provided to modify the declaration and 5 mins for the final vote.

**Ground Rules**

- 1) Please state clearly what is your country's position regarding water use and management in this basin, are you satisfied with the status quo? Do you want to make any changes? What changes do you want to make?
- 2) Please state in detail what challenges your country is facing in terms of water use and management in this basin.
- 3) Please state clearly what you want to get from this negotiation.
- 4) Do you want to make any concessions? Is concession absolutely unacceptable? Please think carefully what concessions you could make during the bargain.
- 5) You might be able to get support for something you want from other members if you utilize "side payments," which are compromises or agreements made with 3 another party on any topic that isn't part of the working group's stated focus. Consider what you have to offer and what compromises you would like in exchange when you prepare for this negotiation. Any such additional payment should be written down in a word document briefly with your typed signatures on it.
- 6) Think carefully that do you want an official document as a result of this meeting?

**4.8.2 General Principles-LMC with some results**

China and the five Mekong River countries are long-standing friends, natural partners and close neighbours. Yet for the nascent Lancang-Mekong Cooperation (LMC) mechanism to grow strong, we shall act in accordance with the following general principles:

**1. Sovereign Equality of States ( 7 “agree” )**

**2. Equitable and Reasonable Utilization** ( Laos “disagree” if the rule add “no significant harm” )

**3. Hydrological Information and Data Sharing**

Myanmar : delete “subject to national or international jurisdictional laws and policies.”

FLM: No more dams

Cambodia : Coordination on water-related projects

Viet Nam : store/release water cooperation

Thailand : Enough resources to sustain the dam.

**4. Household Water Consumption Right within Territories** (7 “agree”)

The basic household water consumption shall be protected within the Mekong Basin ) .

MRC CEO : MRC countries use the same criteria to calculate water rights

China : Cannot include the whole national human water use in calculation Mekong River water rights

FLM: the right of pollution?

**5. Majority Voting Mechanism** (FLM “disagree”)

Lancang-Mekong Cooperation shall adopt all the drafted resolution by the two-thirds majority vote (5 votes). Once approved, meeting minutes become a legal bylaw after 1 month without objections; all parties shall act in accordance with the bylaw.

FLM: enforced by whom?

Laos : 5 votes , NGO have no vote rights.

FLM : Need an independent bodies to establish voting mechanisms

China : Consider giving NGOs a certain amount of voting power, if only there is a certain percentage of funding from them.

Vietnam : LMC can have non-basin countries, or NGOs, but they can't vote.

**6. Establish Lancang-Mekong Cooperation Organization** ( 7 “agree” )

**4.8.3 strategy for facilitation**

Given that China now has at least five leadership positions in international institutions, it is highly likely that the Chinese could lead UNEC meetings and coordinate LMC meetings. But it

should be known that the delegate of UNEP has a dual status: his nationality of China makes his position in favor of China. On the other hand, as the representative of the UN agency, there should be certain fairness and the world and environmental protection view. Therefore, it is very necessary to give preferential treatment to MRC CEO (official from Cambodia).

Together with the representative from UNEP (JIA Jiameizi, PhD candidate of CASS Chinese nationality), the representative of China (Han Xiaotian, Chinese nationality) <sup>1</sup>drafted the 8 principles of the declaration based on the principles of international law.

## 5. Discussion

### 5.1 Water sovereignty

Papers by

Kevin Wu (HNC American Student 2019)

Water sovereignty and international water cooperation (*translated from Chinese*)

Water sovereignty is a very important concept for international water politics. Since water is mobile and flowing all the time, there are some differences between water sovereignty and land sovereignty. For example, the use by one upstream country of the water resources of its international rivers may affect another country and become a matter of national water sovereignty. In addition, water sovereignty is the basic framework in the negotiation of international water treaties, since the creation of rights and obligations based on water sovereignty is the starting point for negotiations.

Water sovereignty is not an indivisible concept. It has several important factors, which should be discussed separately. **The key points of water sovereignty are “independence rights” and “ownership rights.”** Generally, independence and ownership are complementary within the framework of sovereignty, but if you want to analyze the impact of the two on water conflict and cooperation, **you should separate them. The author believes that emphasizing ownership rather than independent rights is helpful to optimize the cooperation framework.**

Logically, **emphasizing independence** leads to water disputes. The basic definition explains why: *“just Don’ t ask,”* so within the framework of independent rights, international river basin states don’ t concern how their use of water affects other countries’ interests. Downstream countries that emphasize independence, for example,

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<sup>1</sup> add: why it is reasonable

get free rides from upstream countries on flood control, leading to complaints from upstream countries. On the other hand, upstream countries may also because of its unrestricted development of river resources, affecting downstream countries, leading to complaints downstream countries. Upstream countries use their right to development to confront the natural river rights of downstream countries, **which leads to the change of water politics from negotiation to power confrontation.**

The emphasis on the right to independence has led to disputes typically occurring in the Aral Sea basins of Central Asia, namely the Amu and Syr international river basins. The dispute arose after the collapse of the Soviet Union. The upstream countries of the Amu and Syr rivers are Tajikistan and Kyrgyzstan, and the downstream countries are Uzbekistan and Kazakhstan. The dispute was clearly caused by an **independent rights framework**. Upstream countries complain that downstream countries benefit from flood control free of charge. Downstream countries fear that the development of hydropower in upstream countries will affect their own interests, so they try to prevent them from building more hydropower stations. More importantly, because the downstream countries are economically and politically strong in this case, **they only emphasize their right to independence**. In Central Asia, some of the treaties on the Aral Sea in the lower and middle reaches of the Aral Sea still provide free access to water resources, but require that upstream countries not develop large scale hydropower, demonstrating that under the framework of independence, a country can gain from a powerful one, leading to disputes and unfair treaties.

On the other hand, **ownership frameworks** help to optimize water cooperation. First, a country's emphasis on its ownership **must recognize the ownership of** others. If it does not recognize the ownership of another country in its own part of the river, it does not recognize its basic territorial sovereignty. But, **because water is mobile, ownership is not just "someone else has to ask me for water," but also "you can not use water without affecting someone else's ownership."** Upstream countries will recognize that their use of water may affect the interests of downstream countries, and downstream countries will recognize the benefits they receive from upstream countries. Under the ownership framework, if upstream and downstream States do not wish to **encroach on the ownership of another State, they are willing to negotiate, cooperate and conclude fair treaties.**

The impact of the ownership framework can be seen in the Columbia River Treaty (CRT) in North America. Canada is an upstream country on the Columbia River and the United States is a downstream country. The details of the case show **that the two countries recognize each other's ownership**. Canada recognizes that its use of water

resources could affect American ownership, so it is willing to negotiate. For example, in terms of storage conditions and hydropower sharing. The United States acknowledges that he received downstream benefits from Canada, such as flood control benefits, so he is willing to pay downstream benefits compensation. **Eventually, the concessions led to a stable treaty that allowed both countries to enjoy the benefits of water.** Experts in Central Asia have also advocated a similar solution related to ownership.

The sovereign game theory in the figure below summarizes the above views. Both countries emphasize the advantages of ownership. Of course, if only one State emphasized the right to independence, that State would gain, but the dispute could not be avoided, as the other State would complain that it would switch to the framework of the right to independence, causing harm to both States.

主权博弈论

国家B (相对利益: A, B)

		独立权	所有权
国家A	独立权	(1, 1)	(4, 0)
	所有权	(0, 4)	(3, 3)

Therefore, the ownership and the independent right of water sovereignty should be separated, **emphasizing ownership rather** than independence. So the concept of water sovereignty will still exist, because it is the basic guarantee of successful negotiations. Since the ownership analysis framework can lead to water cooperation, **it will lead to fairer and deeper cooperation among future international river basin countries.**

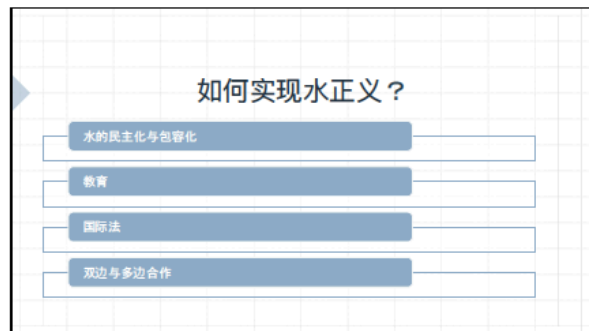
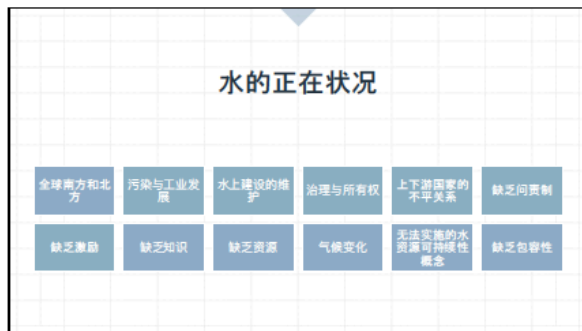
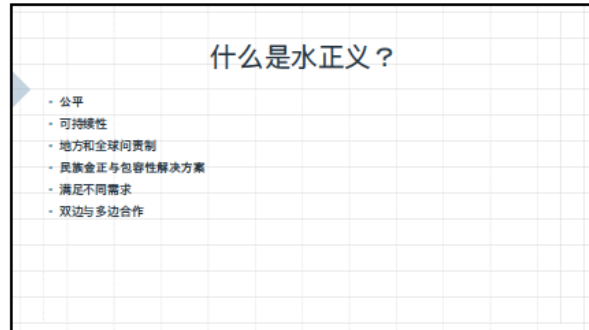
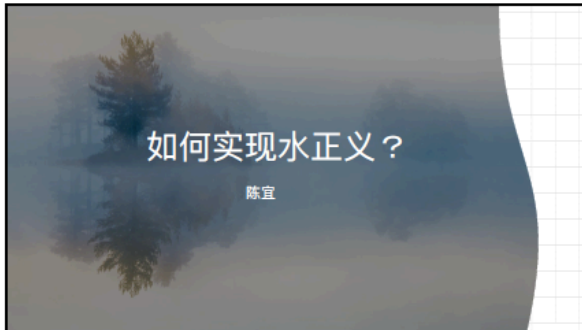
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1. Dinar, S., 2005. Treaty principles and patterns: selected international water agreements as lessons for the resolution of the Syr Darya and Amu Darya water dispute. In *Transboundary Water Resources: Strategies for Regional Security and Ecological Stability* (pp. 147-168). Springer, Dordrecht.
2. Cosens, B., 2016. The Columbia River Treaty: An opportunity for modernization of basin governance. *Colorado Natural Resources, Energy & Environmental Law Review*, 27(1), pp.27-42.

3. 王志坚：《水霸权、安全秩序与制度构建》社会科学文献出版社，2015年版。

## 5.2 International water justice

### Thailand:



### 国际法

- “没有国际法律框架来执行水和卫生设施的人权”
- “国际法是雄心勃勃的目标，缺乏对问责机制的有意义执行”
- 国际法作为决议和政策框架发挥作用
- 各国应在其主权结构内实施规则
- 联合国人权事务专员办事处 (OHCHR)
  - 可以派遣人权专家调查社区提出的投诉并进行国家访问向政府提供建议
  - “获得安全、清洁的饮用水和卫生设施是一项人权，是对于充分享受生活和人权至关重要”
- 经联合国大会和联合国人权理事会批准：122个国家支持决议，41个弃权，包括美国、加拿大、及其发达国家
- 公民可以通过决议起诉政府
- 社会运动
- 为各国制定标准
- 鼓励政府问责以改变法律或监管框架

### 上下游国家的合作

- 合作障碍：
  - 霸权主义，单边行动的水上设施
- 国际边界和水委员会 IBWC, 澜公河委员会
- 公平合理的分享
- 水文信息与数据共享
- 受影响各方的事先同意
- 多边研究、教育和技术共享项目
- 水利基础设施项目的利益共享

Laos:

## 如何实现国际水正义

任宏斌—国际水政治

### 水正义概念

#### 自然法

- 人类需要水
- 个人拥有灵魂与生活价值
- 自然权利
- 生态服务
- 公平
- 社会与国家之间
- 国家之间

#### 实在法

- 公平合理分享
- 赫尔辛基的规则
  - 6: 任何一种使用均不享有对另一种使用的固有的优先权
  - 7: 任何国家不可以为自己保留未来的使用权
  - 7: 除非另有规定，既有活动可以被推定为是公平合理的

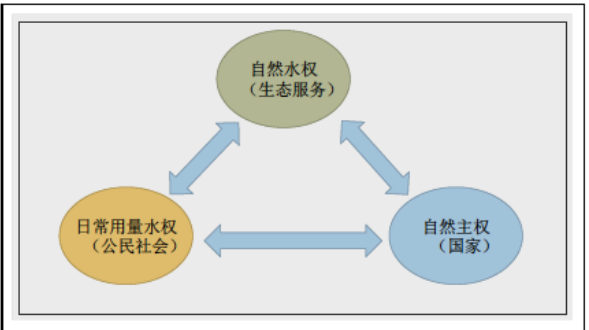
### 到底如何是人类需要？

Transboundary hydro-politics and climate change rhetoric: an emerging hydro-security complex in the lake chad basin

Chad Basin Development Authority (CBDA), Nigeria will benefit more from the Lake Chad water transfer from the Ubangui River in CAR.<sup>26</sup> The CBDA by Nigeria's government survey designed to significantly increase food and cash crop production through development of large-scale modern irrigation and drainage infrastructure using water from the Lake Chad.<sup>27</sup>

The rhetoric of victimization as justification for continuous large-scale water development has been used to foster Nigeria's strategic interests and dependency on the water resources of the basin, in an appeal to UNDP to save the Lake Chad by diverting water from the Ubangui River in CAR. President Obasanjo of Nigeria stated that: "Your vision for the people of the Lake Chad must have at its core the security and well-being of the suffering masses as well as the unity of the member nations."<sup>27</sup> In announcing

- 无疑人类需要水
- 具体需要有一点复杂
  - 生存水
  - 生存种地水用？
  - 经济作物呢？
  - 支持国企？
- 农村之间的冲突
  - 种地撒畜牧
  - 谁算是传统？
  - 美国西部的农民：“就水利政策危害，不公平”
- 城市/农村差异
  - 公平与利益的差距：Owens Valley



## 正义与权力的差异

### 水政治复合体四种权力

- 地理权力
  - 上游/下游
- 物质权力
  - 包括经济，政治，技术能力，国际政治与财政支持（所谓的现实主义因素）
- 议价权力
  - 参与控制游戏的能力
- 概念权力

### 水政治复合体四种权力原来的问题

- 地理权力
  - 上游控制水流的能力
  - 控制方法：大坝
- 物质权力
  - 使用水自然的能力
  - 所谓的现实主义因素：提高国家的能力
  - 越多自然，越多权力
- 议价权力
  - 参与控制游戏的能力
  - 没有能力，没有权力

### 让“主权”水流 出算是给对手国家 提供物质优势

- 国际权力是零和游戏
- 比较利益比绝对利益重要
- 上游国家只建设大坝才能获得控制权

### “使用否则丢了”原则

- 赫尔辛基第7条：
  - 既有活动被推定为是公平合理的
  - 任何国家不可以为自己保留未来的使用权
- 既往的发展与活动
  - 美国国内水权原则： Doctrine of Prior Appropriation
    - “those who first made beneficial use of water should be entitled to continued use in preference to those who came later” (其他州水权力部门)
    - 不平衡的国家体系，说才能
    - 弱国家的优点
- 因此，为了确定的水量，应该现在充分利用
  - 否则，下游国家会建立既有活动
- 不不是教育的问题，是秩序的问题

### 例子：埃塞俄比亚 复兴大坝

- 以前：埃及
- 提出的原因：鼓励地区的发展
- 其他的选择没考虑
  - 风险
  - 政治障碍
- 是为提高埃塞俄比亚在水流域复合体下的权利
- 钱与不够，秩序必须改变

## 新的秩序拥有如何原则？

### 1：承认自然的权力

- 水自然来自自然
- 30%总数流域水量？
- “限制自然权力”与“完全自然权”
  - 完全：30%总数流域水
  - 限制：个国家对全流域的水有关
    - 未来能使用的可能性
    - 河沿水权 “riparian rights”相似
- 个国家主权还存在
  - 人口生物需要
  - 发展需要？
- 上/下游国家有不同的负责与需要

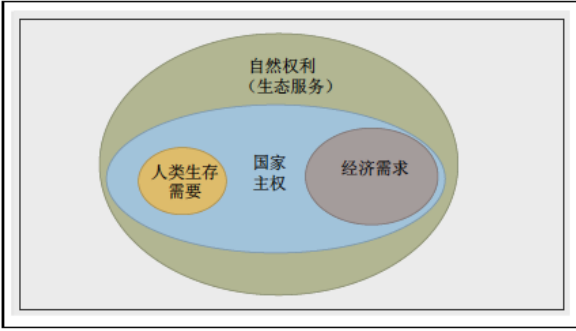
### 建立限制人类水用权力

- Pardy: 商品越便宜，越浪费
- 波兰尼：任意商品化：不能把土地与自然分割，不能把劳动与劳动者分割
  - 费里曼兰尼的思想：不可以让水在自己调控市场管理
- 必须把人类生物用水量与经济用水量分别
  - 最好：1000立方米/每人/每年，最少70立方米
  - 100立方米=26,417加仑左右
  - 在缺乏水量情况下，首先满足的国内水权
    - “superior rights”上等水权力
- Pardy: 政府最好强调消耗的权利
  - 建立国内人们生物用水权是至上等

### 3：把水流出与议价权力连接

- 原来情况：
  - 控制水能力造成地位权力；用水量造成物质权力
  - 流出水跟权力没有关系
    - 消费的关系
- 流出率限
  - 代表者数量跟水流出率有密切关系
    - “限制自然权利”
    - 多流出，多加强议价权力
    - 利用“限制自然权利”，减弱议价权力

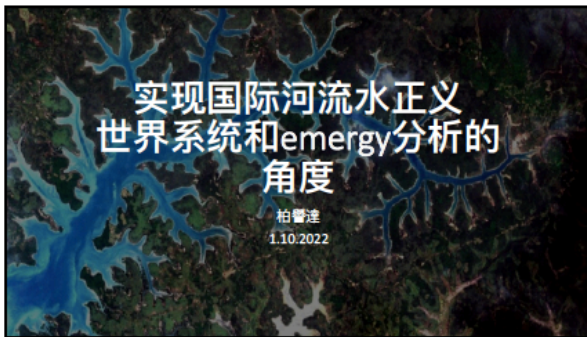




### 支持自然法律的方面

- 自然权利
  - 自然是水权的基本
- 人类需要水
  - 妥协生物与经济需求
- 公平
  - 流出率跟议价权力有关
  - 反对“先用则丢了”的概念

## Myanmar:



### 什么是水正义?

**自然法**

- 大自然的一切有它自己的灵魂，并且道德价值
- 对种族灭绝，掠夺，抢劫等残忍的事情的共同憎恶代表人类的基本道德底线。
- 正义和真理存在于人类之外

**实在法**

- 有效法律是可以执行的，不管它们设正义的或不正义的
- 要了解我们的合法权利，我们可以查看法规
- 但是，做某事的合法权利不一定存在道德权利。

### 什么是水正义?

- 水正义的定义很模糊
- 国际水道非航行使用公约 (1997年)
  - 基于习惯法规则
  - 合理公平的使用
  - 不造成伤害的义务

两者是否存在矛盾?

**生过程缓慢:**

- The Convention is a global treaty that deals with transboundary waters and interstate cooperation. These are sensitive and highly political issues.
- Insufficient attention was paid to the Convention following its adoption, which may have contributed to misunderstanding and low levels of awareness among states and international actors of the Convention's content and value. In a 2007 survey of 100 African states, found that few ministers responsible for water-related issues were familiar with the Convention.
- There was an unjustified fear among states that the Convention disregards a state's sovereignty over its territory.

### 实现水正义有三个主要问题:

**第一: 每个流域系统有自己的特殊水文条件**

- 任何实现水正义最大化的系统必须得考虑河流的自然特征。
- 每个流域都存在于自己的水文环境中
- 这不仅包括整个流域，还包括水道各个部分的特征
- 直接向每个国家分配一定量的水可能是不够的

**第二: 国家不是最理想谈判单位**

- 存在各种各样的利益冲突
  - 农业补贴
  - 电力需求
  - 发展的驱动力
  - 国家势力凹凸不平
- 跨边界的自然系统跟人类设立的政治体系打不配

**第三: 正义难以界定**

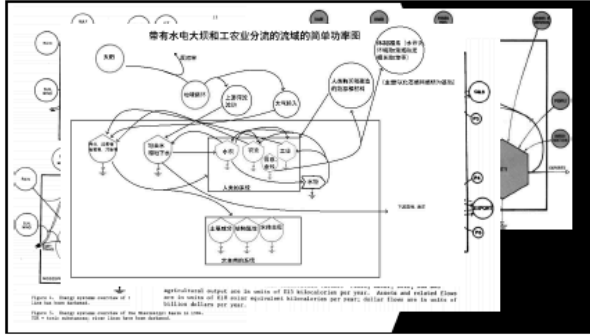
- 一个国家的公平合理利用可能会另外一个国家不可接受的侵略
- 国际法律和基本道德没有任何办法解释国际政治莫名其妙的来往

### 要治理一个系统，我们必须了解系统的真实性质

- 在此领域，Immanuel Wallerstein (1930-2019) 的世界系统理论可以发挥一定的作用。
- 在他的观念中，现代的政治世界存在一个全球的基本制度。
- 该系统的核心是核心区和外围区之间的经济交换不平衡。
- 我们能否从活动中而不影响基本分析生产区: 农业区在哪里? 制造业在哪里? 服务业在哪里? 服务业在哪里? 服务业在哪里? 服务业在哪里?
- 不幸的是，在目前存在的世界系统中，水正义几乎是不可能实现的。

### 了解系统本质后，需要一个标准的分析单元

什么是“emergy”?



**所以我們有兩個用具：**  
 1. 世界系統分析  
 2. emergy分析

**世界系統分析**

- 可以解釋政治方面不平等的存在
- 是得我們能夠了解國際貿易的基本驅動力

**Emergy分析**

- 在系統程度上建設分析能置輸入的基礎
- 這些輸入在整個系統中都是標準化的，並反映了水的不同用途

**結論：** 如果我們了解導致流域不同區域的不同情況的系統性因素，我們可以根據當地因素合理分配使用權。  
 這將要求各國自願或在極端情況下以武力放棄對國際水域的某些控制權

**Cambodia:**

**國際水正義：基層方法與採用環境保護原則**

譚樂杰 Eloy Tanos  
 國際水政治 秋季'21

正義必須是“關係的、情境的和基於上下文的，而不是普遍主義的”  
*Justice has to be “relational, situated, and context-sensitive rather than universalistic.”*

Roth et al., 2014

那麼，國際水正義應包括全球公平標準，但也需要包括解決當地現實和挑戰的辦法。

**怎麼能發現國際水正義呢？**

- 為了實現水正義，我們必須 (1) 讓普通民眾掌握討論與水有關問題的語言， (2) 鼓勵公民參與和動員以及 (3) 給百姓參與決定如何解決與水有關問題的資源和能力

*We must equip the commoners with the language used to discuss about water-related issues, encourage civic engagement, and give them the resources to participate in deciding how to tackle water related issues.*

**內容**

**基層方法**

- 國際和國家政策對當地人口的影響
- 促進水相關問題的教育和意識
- 從用水者到水活動家

**最佳實踐的(不)效用**

Best Practice“最佳實踐”方法通常太寬泛，無法解決社會問題

**例子**

- 拉丁美洲的 Water User Associations (WUA): 加深了性別不平等，並限制了國家對弱勢社區的支持
- 在英國，公司和公眾感到不反映他們對水的信念的國家水管理脫節

**水正義教育**

**01**

水衝突歷史：  
“國內與水有關的問題是什麼？”

**02**

水倫理：  
“水問題如何直接影響你的生活”

**03**

水調查：  
鼓勵對水正義討論的公民參與

Farhana Sultana. (2018). Water Justice: Why It Matters and How to Achieve It, Water International, 43-4, 483-493, DOI: 10.1080/02508060.2018.1458272

### 水行动主义与下一步

水行动主义与下一步

**水正义倡导 (advocacy) :**  
 鼓励人们参与并成为水倡导者

**成功的水正义运动:**

- Cochabamba, Bolivia
- 城市供水设施的城市化: 由公共实体向穷人提供更实惠的水 (雅加达, 印尼);
- 基于社区的水资源管理和本土解决方案: 加强人们在当地管理水资源方面的民主参与 (拉丁美洲、亚洲和非洲)

\*Municipalization 城市化

### (水正义和行动主义)长期目标

水行动主义 的目标是向国家政府提供了解老百姓对水资源管理担忧的信息。从长远来看, 水行动主义会鼓励许多国家政府把环境保护和水资源管理条款和原则纳入他们的国家法律。

因此, 在国家法律中加入环境保护和水资源人权条款和原则将成为 **标准做法**。

如果一个不关心保护环境或人民需求的国家还参与国际关系或与其他国家贸易, 该国会别无选择尊重并采用 **标准做法**。

总之, 水教育将赋予人们使国家法律与水资源正义相一致的权力。水正义将成为国家法律的标准做法, 各国将别无选择, 只能将水正义纳入其国内法和国际法

In short, water education will give people the power to align national laws with water resources justice. Water justice will become the standard practice of national law, and countries will have no choice but to incorporate water justice into their domestic and international law

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## Vietnam:

### 如何实现水正义?

苏通博 | 2022年1月11日  
国际水及治 | 王希恩教授

### 水正义: 水问题的正义

**正义 | 零和博弈 | 双惠局面**

**水问题**

- 分配: 国家之间进行、国家向个体进行
- 使用权: 国家的、流域的、个体的、全球的
- 所有权: 国家的、个体的、流域人口的
- 度量: 国家、个体、水体、生态系统
- 数量: 国家、水体、流域、生态系统、个体
- 水权: 个体、国家、水体、流域人口、生态系统、全球

**水正义**

- 苏通博士语: 法律有助于自然利益、分配正义
- 阿基米: 自然法, 分配正义, 正义来源于上帝
- 霍布斯: 为了获得和平, 人类必须互相转让权利 (放弃托管他人的权利)——社会契约; 实在法: 正义不是普遍的
- 哈耶克: 获得私人财产; 公共地使用为正义的前提
- 罗尔斯: 尊重性、反思性; 人不能通过合理的自然权利
- 阿利: 只要有助于公共利益, 就是正义
- 罗尔斯: 正义就是公平性; difference principle, 公平性原则
- 福格: 要公平性原则普遍化/国际化, 如全球资源税
- 巴尔多: 每个人都有权享受无污染的干净环境

### 权利的层面

Water, Individual, Ecosystem, National, Global, Watershed population

### 结论: 如何实现水正义

水正义就是转变

- 从每个主体权利中调和权利
- 水权属于水体
- 将使用权普遍化
- 将所有权去掉

FOM:

融入“弹性思维”为了实现水正义

Integrating "Resiliency Thinking" to Realize Water Justice

By Hailey McGleam 刘慧

2022/01/11

什么是水正义？

"More democratic water policies and more sustainable development practices that promote a more equitable water distribution"

- 全球水论坛

- 强调水正义: 公平、公正、参与和正义
- 现代问题: 适应气候变化
- 中心问题: 食品和能源生产; 适应性和环保主义; 和权力斗争

理解“弹性思维”的概念 1 - 3

1. 保持多样性和冗余
  1. 冗余描述了在发生故障时可以减轻系统负担的备份系统。
2. 管理连接
  1. 景观连通性, 例如物种的水廊
3. 管理缓慢的变量和反馈
  1. 确保水生态系统能够继续提供基本服务, 并防止对水系统造成不可逆转的损害
  2. 负面反馈可以包括确保对违反水流的人进行一致的惩罚
  3. 确定维持产生所需生态系统服务的社会生态制度的关键以及变量和反馈, 并确定可能导致系统重新配置的关键阈值所在。

理解“弹性思维”的概念 4 - 7

4. 培养复杂的自适应系统思维
  1. 不确定和不可预测的潜在情况
5. 鼓励学习
  1. 专注于本土方法
6. 扩大参与
  1. 强调当地人、社区组织和政府之间合作的重要性
7. 推动多中心性治理 (polycentricity)
  1. 多中心性, 一种治理系统, 其中多个治理机构相互作用以在特定政策领域或位置内制定和执行规则

为什么这个概念很重要？

1. 我们需要自下而上的水治理方法
2. 当国民觉得他们的声音很重要时, 他们更有可能做出更明智的决定并执行政府政策
3. 每个人都会收到缺水的影响, 因此每个人都应该参与管理水资源

谢谢你们！休息愉快！

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China:

如何实现水正义

HOW TO REALIZE WATER JUSTICE

HOW TO REALIZE WATER JUSTICE

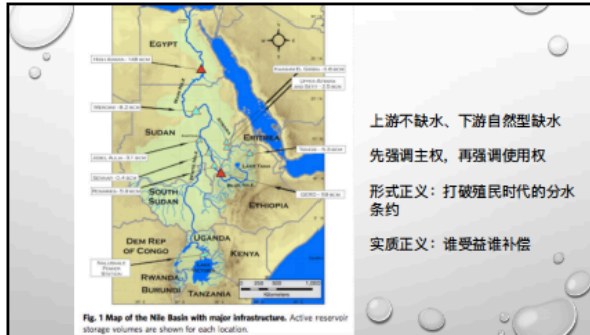
水权 = 使用权 + 主权

水正义 = 形式正义 + 实质正义

- 用水类型 (按照对人类的重要程度进行排序): 环境用水、家庭用水、工业用水、农业用水、水力用水、航运用水、休闲用水。
- 水的主权是绝对的。
- 形式正义: 法律、条约、一般原则等等。
- 实质正义: 弱者的正义, 谁是弱者 (SUSPECTED CLASS)
- 影响国际河流水资源分配的因素: 水资源体量 (是否缺水)



不缺水  
只强调使用权，不强调主权  
形式正义：美加界水条约  
实质正义：对哥伦比亚省的补偿



上游不缺水、下游自然型缺水  
先强调主权，再强调使用权  
形式正义：打破殖民时代的水条约  
实质正义：谁受益谁补偿

Fig. 1 Map of the Nile Basin with major infrastructure. Active reservoir storage volumes are shown for each location.



整体接近自然型缺水  
既要强调使用权，又要强调主权  
形式正义：《阿拉木图协议》  
实质正义：单纯分水仍会因为环境变化而变得不可持续。