Mekong: Managing a Transboundary River

Tashi Tsering

INTRODUCTION:

Nature knows no political boundaries. Grizzly bears do not know whether they are a protected animal in the US and while across the border in Canada, they are "game."[1] Similarly the hydrological cycle continues irrespective of increasing demarcation of borders by human beings.[2] It is not only nature's gifts, but also the impacts of human actions on the environment that cross political boundaries freely. Atmospheric pollutants have transboundary impacts and so do adverse changes in the quality of other transboundary resources such as international rivers.[3] Environmental policies that are national in scope cannot completely address the problems that are associated with transboundary resources. At the same time it is extremely difficult to get states to adopt policies of cooperation over the appropriation and use of these "shared" resources. International rivers are perhaps the most important and perfect example of this issue.

Taking the Mekong (*Zachu* in Tibetan) river as a case study, this essay will look at the complex issue of joint management of transbounday rivers by the riparian states (countries that share the Mekong river). The paper argues that the management of the Mekong river from an environmental protection perspective has been a failure so far. First, it looks at the

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[1] Grizzly bears (*Ursus arctos horribilis*) are protected in the US under the Endangered Species Act of 1973. See, US Fish & Wildlife Service, *Species Information: Threatened and Endangered Animals and Plants,* (http://endangered.fws.gov/wildlife.html).

[2] "Since late 1991, 49 new international boundaries have been created." See Helen Ingram & Lenard Milich, "Managing Transboundary Resources," *Environment,* Vol. 36, Issue 4, (May 1994).

[3] By "transboundary impacts," I mean any significant adverse effects on the environment in region(s) of one or more countries caused by human activities in another country or countries. And by "transboundary resources," I mean those resources that are shared by more than one country. E.g., Ocean waters, international rivers, air, etc.

international context and evaluates the different regional Mekong frameworks from an environmental policy perspective. With a brief discussion on the importance of the inclusion of the upper riparians, particularly China, the paper concludes after doing a critical analysis of the policy outcomes of the Mekong River Commission (MRC).

THE MEKONG:

The Mekong flows through almost all the countries in mainland Southeast Asia. From its source in the snow-covered mountains of the eastern Tibetan Plateau, it runs over 2,610 miles south, flowing across Yunnan Province of China, forming the border between Burma and Laos, and much of the border between Laos and Thailand, then flowing across Cambodia and finally into southern Vietnam, where it forms a delta to enter the South China Sea.[4]

It is the longest river in that region, and the twelfth longest in the world, yet one of the least exploited of the world's major rivers.[5] Economically and technologically, Mekong's riparian states are not well-equipped to undertake large-scale exploitation of its waters. However, recent developments in the five riparian countries' economic and political conditions and the region's increasing demand for energy is bound to change this picture. In the last ten years, more than 100 large dams have been proposed on the river.[6] Western

[4] This essay does not use the name "Myanmar" given to Burma by the military junta government in 1988. "Burma" is used in accordance with the Burmese National League for Democracy, the United States Government and many other countries, and leading publications including *The Far Eastern Economic Review, The Bangkok Post, The Washington Post, The Financial Times.*

[5] Morris Miller, "Transformation of a River Basin Authority: The Case of Mekong Committee", Asit K. Biswas, Tsuyoshi Hashimoto (Eds), *Asian International Rivers,* (Oxford University Press, 1996), p. 227.

[6] "Mekong Currents", International Rivers Network, (http://irn.org/programs/mekong/).

companies and donor countries are vying for contracts to build dams on the Mekong through international lending institutions with high hopes for substantial profit.[7]

COOPERATION FOR A DEVELOPMENTAL FRAMEWORK

The common interest of the riparian states for further economic integration, with the Mekong as their "common spring board" for more economic development, makes the achievement of regional cooperation important to all the riparian states. The need for cooperation for "proper and equitable" use of this common resource is accentuated by the transboundary impacts of its utilization by the upper riparians. China is building a series of large dams on the upper reaches of the Mekong, with potential impacts as far down as Phnom Penh, Cambodia.[8] Thailand is planning to start a massive water diversion project,[9] which reduces the quantity of precious irrigation water available for the agricultural economies downstream. Even a transboundary impact sensitive state like Cambodia, which has 85% of its population dependent on subsistence farming and the river as a source of protein and transportation, sees an urgent need to develop its hydropower potential. The case for such a mechanism for a cooperative management of Mekong is accentuated by the fact that the Mekong causes heavy loss of life and property every year due to floods, and the lower riparians are too weak - economically and technologically - to solve these problems by

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[7] See e.g., Towards Ecological Recovery & Regional Alliances (TERRA), "Mekong Gold Rush: Development Alliances 1996," *Watershed,* (July-October 1996), Vol. 2, No. 1; Probe International, "Asian Development Bank Bulldozes Ahead with Mekong Dams", *Probe Alert*, (http://www.nextcity.com/ProbeInternational/pa97june.htm).

[8] See E.C. Chapman and He Daming, *Downstream Implications of China's Dams on the Lancang Jiang and their Potential Significance for the Greater Regional Cooperation, Basin-Wide,* (www.asia.anu.edu.au/mekong/dams.html).

[9] The Royal Irrigation Department of the government of Thailand is planning on building an ambitious 40-billion bath Kok-Ing-Nan Water Diversion Project, that will divert 2.2 billion cubic meters (bcm) of water per year from the Kok and Ing rivers in the Mekong Basin. See, Louis Philip Lebel, "Kok-Ing-Nan Water Diversion Project," *Watershed,* Vol. 4, No. 2, (November 1998 – February 1999).

themselves. The need for an overarching regulatory framework that is accepted by all the riparian states thus is essential for proper utilization and conservation of the river and for the benefit of all people who depend on it.

From an environmental policy perspective, large-scale development projects and other activities that have transboundary impacts should be regulated to minimize their effects on the quality and quantity of water in the river, so that the basin ecology and the people who rely on it for various purposes are not seriously affected. The challenge is promotion of development based on sustainable and equitable practices among six riparian states. Cooperation among states for environmental protection purposes is always difficult, considering the nature of international systems and the different priorities of the states that are driven more by political agendas than cooperative spirit.

INTERNATIONAL LAW

The issue of managing international rivers would be more convenient had there been an international government or an overarching authority that could oversee such a task. However, the international system remain anarchical without a clear set of laws for states to follow. The principles of international law applicable to the use of transboundary resources like rivers are many and often contradictory.[10] The principle of absolute sovereignty, for

[10] By "transboundary resources," I mean those resources that are shared by more than one country. E.g., Ocean waters, international rivers, air, etc. For discussions on application of international legal principles to transbounday resources, see e.g., Helen Ingram & Lenard Milich, "Managing Transbounday Resources," *Environment,* (May 1994), Vol. 36, No. 4, pp. 6-21; Norman J. G. Pounds, *International Rivers,* (Indiana University Press, 1965); Miriam R. Lowi, "Political and Institutional Responses to Transbounday Water Disputes in the Middle East," *Environmental Change and Security Project Report, Global freshwater resources II,* (Woodrow Wilson International Center for Scholars, 1996); Dellapena, "Custom-built Solutions for International Disputes," *UNESCO Courier,* (February 1999), Vol. 52, No. 2, pp. 33-36; Eyal Benvenisti, "Collective Action in the Utilization of Shared Freshwater: The Challenges of International Water Resources Law," *American Journal of International Law,* (July 1996), Vol. 90, No. 3, pp. 384-415.

example, cannot coexist with the principle of Common law.[11] A state is bound to cross the threshold of the Common law principle if it exploits the river seeking only short-term benefits and clinging to the principle of absolute territorial sovereignty. Principles of *res communis* and equitable apportionment are more pragmatic and sensible as they provide for a balance of these contradicting forces.

We can thus maintain that in order to manage the river, from an environmental policy perspective, a regulatory institution that would provide all the riparian states with a common framework, a clear set of rules and provisions for the utilization and conservation of its waters and related resources is a sine qua non.

RIPARIAN COOPERATION AND FRAMEWORKS:[12]

So far there are six (five, if the Mekong Committee, which has "evolved" into the Mekong Commission, is not counted) multilateral frameworks through which various projects are planned and carried out.[13] These are the Mekong Committee, the Mekong River Commission, Golden Quadrangle, Forum for Comprehensive Development in Indo-China, Mekong Basin Development Program, and ASEAN-Mekong Basin Development Cooperation. These international frameworks for the Mekong region are unfortunately uncoordinated, overlapping and driven mostly by economic and political interests rather than

[11] The principle of absolute sovereignty means that states have the right to use the river in any way it likes within its boundaries. Under the principle of common law, "[a] state may demand the continuance of a river's flow from the territory of an upstream riparian, but at the same time may make no change in the river that would affect its flow to a down stream riparian. This principle will presumably exclude all destructive water uses except in the territory of the last and lowermost riparian." Pounds, op. cit., p. 2

[12] There are three basic "design options" for a river basin agency – committee, authority, and commission. A committee generally coordinates high level policy and strategy but has no role in daily operation. An authority is the strongest intervention absorbing all or most of water and related functions in the basin. And a commission generally deals with the following tasks – policy, strategy, planning, data collection and management, monitoring, specification of standards, and related matters. See, The World Bank, *China: Air, Land, and Water,* August 2001, pp. 65-66

environmental ones. Let us briefly discuss these to see if any of these could be regarded a framework for managing the river as a transboundary resource from an environmental policy perspective.

The *Golden Quadrangle* of Thailand, Laos, Burma and China is mainly a Thai-Chinese initiative made public in March 1993. "Its goal is to facilitate common use and development of the Mekong River. Politically, it was the Thai response to the failure to include China and Burma in the deliberations leading up to the creation of the Mekong River Commission (discussed later)."[14] Its priority projects include building a "ring road" and railroads that would connect Thailand, Laos and Yunnan province of China. Hence it is a transportation and trade initiative, not focused on the preservation of the environment but one which is likely to have indirect adverse impacts on the river's ecology.

The *ASEAN-Mekong Basin Development Cooperation* came into existence in December 1995.[15] Its list of sectoral headings for development cooperation include agriculture, minerals and forestry, industry and transport, telecommunications and energy, tourism, training, trade and investment.[16] Although the framework provides for "sustainable development principles" in its objectives, the presence of non-riparian states like Brunei, Malaysia and Philippines questions the motive of the agreement and its efficacy. Furthermore, the fact that the agreement is open to "all interested countries as well as regional and international development, financial aid agencies and institutions,"[17] it leaves much room for manipulation by stronger states (who could very easily be non-riparian states) for economic

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[13] Donald E. Weatherbee, "Cooperation and Conflict in the Mekong River Basin," *Studies in Conflict and Terrorism,* (April-June 1997), Vol. 20, No. 2.
[14] Ibid.
[15] For a complete text of *Basic Framework of ASEAN-Mekong Basin Development Cooperation,* see, (http://www.aseansec.org/clm/mekongf.htm).
[16] Weatherbee, loc. cit.
[17] See Clause *B: Principles of Cooperation,* supra note 12.

and political purposes. It is therefore necessary to have the six riparian states as key members with equal decision-making authority in the framework for a truly regional approach for sustainable development and use of the Mekong.

The Asian Development Bank (ADB) backed the Greater Mekong Subregion (GMS) Economic Cooperation Program in 1992, is perhaps one of the most comprehensive plans for the region.[18] The program mainly seeks to enhance trade and investment among GMS countries by promoting sectoral planning in transportation, telecommunications, and energy infrastructure development.[19] Although all six riparian states adopted the initiative , its focus on boosting economic development makes it fall short of our need, i.e., one focused on the preservation of the Basin's environment with the Mekong River as the key element.

Another framework to boost economic growth in the region backed by ADB (mainly Japan) is the Forum for Comprehensive Development in Indochina, established in 1993.[20] It focusses on official development assistance, to coordinate corporate investment in Vietnam, Laos and Cambodia.

And finally there is the Mekong River Commission, formally known as the Mekong Committee. The latter was established in 1957 after the adoption of the Statute of the Committee for Coordination of Investigation of the Lower Mekong Basin by Thailand, Cambodia, and South Vietnam. The Committee was also an economically driven mechanism espousing the belief that "the key to solving major problems of the riparian nations stemming

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[18] The Greater Mekong Sub-region includes Burma, Thailand, Cambodia, Vietnam, Laos and Yunnan province of China.

[19] See, "The GMS Program," *Asian Development Bank,* (http://www.adb.org/GMS/gmsecp.asp); "Mekong Gold Rush: Development Alliances 1996," Towards Ecological Recovery & Regional Alliances (TERRA), *Watershed,* (July-October 1996), Vol. 2, No. 1.

[20] "Japan – ASEAN Cooperation," *The Ministry of Foreign Affairs of Japan,* (http://www.mofa.go.jp/region/asia-paci/asean/relation/dimens.html).

from poverty and political instability"[21] was to harness the resources provided by the river. After existing through thick and thin for more than three and half decades, the riparian states finally consented to modify its agenda to incorporate environmental protection concerns as a key issue. There are also other reasons for the change, e.g., Thailand's dissatisfaction over the fact that the Committee did not implement even a single major regional-scale project.[22] Thailand was also dissatisfied with the asymmetrical cost-benefit of the MC's operations as they affected the various riparians.[23]

MEKONG RIVER COMMISSION

The Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin (the Agreement, or the 1995 Agreement henceforth) signed by the four lower riparian states in 1995 led to the "evolution" of Mekong Committee into the Mekong River Commission (MRC).[24] The 1995 Agreement has been hailed as a landmark achievement, adopted by the four lower riparian states in the "Spirit of Mekong Cooperation."[25] The Agreement seeks to promote "sustainable development in the utilization, management and conservation of the water and related resources of the Mekong river basin, such as navigation, flood control, fisheries, agriculture, hydropower and environmental protection."[26]

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[21] Louis A. Cohen, "International Cooperation for Development: The Mekong Project," Alice Taylor (Ed.), *Focus on Southeast Asia,* (Praeger, 1972), p. 19. As cited by Weatherbee, loc.cit.
[22] Miller, loc. cit.
[23] Ibid., op. cit., p. 241.
[24] For a complete text of the Agreement, see Mekong River Commission website, (http://www.mrcmekong.org/pdf/agree95.pdf).
[25] See, e.g., "Mekong accord set for signature in Chiang Rai", *Agence France Presse,* International news section, (April 4, 1995); "Mekong accord", *Business Times,* (April 5, 1995), p. 1; "Mekong nations unite in historic accord", *United Press International,* International section, (April 5, 1995).
[26] Mekong River Commission, *Mekong River Commission Annual Report*: 2000, p. 2. Available online, (http://www.mrcmekong.org/pdf/ar2000.pdf).

The Mekong River Commission provides a framework for all developmental work related to the Mekong River with an emphasis on the protection of the environment and ecological balance, based on principles of sovereign equality and reasonable and equitable utilization of the Mekong River.[27] Furthermore the Agreement includes provisions for resolving possible riparian disputes and is open to all the riparian states.[28] Hence this framework can be argued to have answered the environmental policy question of managing the Mekong as a transboundary river, or at least this international mechanism is the closest framework available to the riparian states that could be viewed from this perspective. Even MRC, the most promising of all mechanisms as we have seen, and its policy outcomes have been far short of what "environmentalists" would have liked it to be.

Generally speaking, the more comprehensive the scope of international agreements and more stringent their rules, the more difficult it is to secure cooperation from all the relevant states.[29] And not surprisingly, the Agreement failed to attract the participation of China and Burma, and this failure is perhaps the biggest setback that stops MRC's initiatives from becoming truly regional in scope.

The door is still open for China and Burma, the two upper riparian states, to join the agreement.[30] Without their participation, the agreement remains incomplete and cannot be a truly effective regional level initiative. At present, China sees itself getting lower relative gains by joining the lower riparians in this regional agreement compared to the cost in the

[27] See, article 3, "Protection of the Environment and Ecological Balance," article 4, "Sovereign Equality and Territorial Integrity" and article 5, "Reasonable and Equitable Utilization," of the agreement. Supra note 21.
[28] See, "Chapter V: Addressing Differences and Disputes," *Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin has been hailed as a landmark achievement.* See supra note 21.
[29] For an excellent discussion of factors that determine states' environmental cooperation, see Gary L. Scott, Geoffrey M. Reynolds, & Anthony D. Lotts, "Success and Failure Components of Global Environmental Cooperation: The Making of International Environmental Law," *ILSA Journal of International Law & Comparative Law,* Vol. 2, No. 23, (1995).

form of conditions and limitations that would be set on the construction of its series of hydroelectric projects in Yunnan province, compromising their "territorial sovereignty." Besides there is no apparent environmental and strategic threats of non-cooperation to China. China is the uppermost riparian and the most powerful state – economically and militarily. Burma's military junta government, "State Peace and Development Council," does not see sufficient interest in joining the agreement. Of all the riparian states, as of now, Burma could be regarded as the least important – the Mekong flows only about 150 miles (out of 2610 miles) as boundary water with Laos.[31] The government is so focused on maintaining "internal order" that management of the Mekong river is far down on their priority list. Besides, the country has rich water resources from the Bay of Bengal in the west, Andaman Sea in the southwest to major rivers like the Chindwin, Irawaddy and Salween.

CHINA'S ROLE:

China's participation is particularly important because not only is it engaging in many large-scale hydropower projects on the Mekong which have important downstream transbounday implications but also because of its dominant role in trade and development in the region.

Chapman and Daming talk about the downstream impacts of the "Mekong Cascade," a series of seven dams on the upper reaches of Mekong.[32] Of these dams, one is completed (Manwan), one under construction since 1996 (Dachaoshan), construction of Xiaowan began

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[30] Article 39 of the Agreement says "any other riparian state, accepting the rights and obligations under this Agreement, may become a party with the consent of the parties."
[31] The figure is an approximation done by studying different maps and their scales by the author.
[32] Chapman & Daming, loc. cit. However, Plinston & Daming talk about 8 major dams of the 14 proposed. See, David Plinston & He Daming, "Water Resources and Hydropower in the Lancang River Basin," *Policies and Strategies for Sustainable Development of the Lancang River Basin,* (Landcare Research New Zealand Ltd. May 2000).

in January of 2002 (discussed later), construction of Jinghong should begin soon, and the remaining three, (Nuozhadu, Mengsong and Gonguoqiao) are expected to built sometime after 2010.[33] The Mekong River Commission reports that the "overall" impacts of the Manwan, Dachaoshan and Jinghong dams will be negligible. Perhaps the "overall" impacts of these three dams are indeed negligible, but the construction of other dams is expected to have major impacts on the downstream discharge. Xiaowan will have about 20 times the active storage of Manwan and Dachaoshan combined.[34] Thus, major changes in the downstream hydrograph is bound to occur then. And "[w]hen Nuoshadu is added to the system the mean dry season discharge near the Yunan-Laos border is estimated to total 1869m3/sec, an increase of 1,180m3/sec or 171 percent."[35]

Whether the effect of changes in the level of discharge brought about by these proposed dams will be advantageous or disadvantageous to the lower riparians on the whole, is another matter. The fact that significant changes will occur in this important common resource makes China's incorporation into the regional developmental framework imperative. China's Yunnan province is far more industrialized than the neighboring countries of Vietnam, Burma, Cambodia, and the northeastern provinces of Thailand and Laos.[36] It plays a key role in the region's economic development, and hence China's participation in the MRC is sine qua non to achieve the latter's mandate of "sustainable development" at a basin-wide scale. However, it seems very unlikely that China will join such an arrangement (at least for the time being), although it has indicated "interest" at various occasions.[37]

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[33] Chapman & Daming, Ibid.
[34] Plinston & Daming, loc. cit.
[35] Chapman & Daming, loc. cit.
[36] Yuzo Akatsuka & Takashi Asaeda, "Econo-political Environments of the Mekong Basin: Development and Related Transport Infrastructures," Biswas & Hashimoto, op. cit., p. 202.
[37] Miller, op. cit., p. 229.

MEKONG RIVER COMMISSION: AN ANALYSIS

The policy outcomes of MRC can be viewed from at least three levels - people, institutional and state levels.

Like most intergovernmental organizations, the MRC's policies and decisions are also dominated by its most powerful member -- Thailand. For example, the lower riparian states' (the weaker states) concerns for flood control, management and mitigation are given only secondary importance compared to Thailand's concerns for hydro-power development under MRC's Water Resources and Hydrology Program. And the Commission's relationship to its non-party members, particularly China, reflects Thailand's relation to those states. The construction of Xiaowan dam, for example, recently began.[38] Wiaowan will be a concrete hyperbolic arch dam of 292 meters in height, second in size only to the mammoth Three Gorges Power Project. The dam will have major downstream implications as its reservoir will store up to 15 billion cubic meters of water and significantly affecting the natural flow of the river. Besides the energy generated from this 4.2 million kilowatts capacity dam will be mainly used by China's eastern provinces. Despite the well documentation of these facts, it is highly doubtful that MRC will oppose such actions by China in any real sense as Thailand has good bi-lateral economic and diplomatic relations with China and is one of the potential customers of the energy generated by this dam.[39] MRC's shortcomings at the state level could be elaborated more and listed at great lengths if space permitted.

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[38] See e.g., Wu Jiachun, "Yunnan Builds Power Project," *China Daily,* (January 21, 2002); "China Launches Hydroelectric Project," *United Press International,* (January 21, 2002); "China begins construction on controversial Mekong power plant," Agence France Presse, (January 20, 2002); John Gittings, "Chinese Dams to Affect Millions," *The Guardian,* (Tuesday, May 15, 2001); etc.

[39] From January to November 1999, the total volume of their bilateral trade was US$ 3.72 billion (a 18.6% increase as compared with the same period last year), and China's imports amounted to US$ 2.475 billion (17.3% increase) and its exports US$ 1.257 billion (21.2% increase). In Thailand there are approx. 270 Chinese

At the institutional level, apart from being labeled as state-oriented and a closed institution (discussed later), it is criticized for being weaker than its predecessor, the Mekong Committee. Whereas the previous agreement gave any one member country the right to veto another's project if concerned about adverse impacts, the new agreement only gives member countries the right to prior notification and consultation. To add to it, the Commission is found to be extremely donor-driven. Lenders like Asian Development Bank are circumventing the MRC altogether, preferring to deal directly with the governments. For example, the controversial Nam Theun-Hinboun and Nam Leuk dams are being built through the direct approval of the Laotian government.[40]

At the level of people, the MRC does not have specific programs to benefit them directly, although MRC has been involved in "human resource development" by providing both project-based specific trainings and other broader technical training to the local people. Despite the "considerable achievements" of the Commission and the other multilateral mechanisms, the living conditions within the Basin continue to be generally poorer than in areas outside the Basin -- "[I]nfant and maternal mortality rates are higher, and disease is common due to lack of access to basic services such as sanitation and safe drinking water."[41]

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companies, and Chinese govt. has approved 2,631 projects invested by Thailand with the contract value worth US$ 4.5 billion. Source: Ministry of Foreign Affairs, *China-Thailand Relations,* (http://www.fmprc.gov.cn/english/dhtml/read.asp?forefather=003&pkey=19991223093605). "According to a memorandum signed between China and Thailand, power stations on the Lancang-Mekong river will start providing electricity to Thailand from 2013[!]" See, "China to build huge power station on Lancang-Mekong River," *Business Daily Update,* (January 21, 2002).

[40] For a discussion on the controversy surrounding Theun-Hinboun project, see Bruce Shoemaker, "A Review of the Theun-Hinboun Power Company's Mitigation and Compensation Program," *International Rivers Network,* (http://irn.org/programs/mekong/001219.ntupdate.html). "Problems have plagued the [Nam Leuk] project from the outset, including two sub-standard environmental impact assessments, badly-regulated logging operations, and initially poor standards for road and dam construction, which forced the ADB to halt the project for several months in 1997. The project is now facing a $20 million cost overrun due to the substandard construction work." See *International Rivers Network,* (http://irn.org/programs/mekong/namleuk.shtml).

[41] See, Mekong River Commission, "Life and Health," *Mekong Basin,* (http://www.mrcmekong.org/mekong_basin/mbasin004.htm).

Although the official publications talk about the need for soliciting public participation in its programs, MRC has been vehemently criticized by the people and NGOs in particular for its lack of transparency and public participation.[42] The Commission does not see itself as responsible for soliciting public participation nor does it see itself as answerable to the public. It has no impetus to maintain transparency: the Commission's Secretariat sees itself as answerable only to the member states.

CONCLUSION:

Transboundary resource management requires cooperative international mechanisms. In the case of international rivers, the need for such a mechanism is particularly pressing. Not only are its waters and the related resources precious, it is also susceptible to transboundary impacts – both natural and manmade. This is particularly demonstrated in the case of the Mekong, which has weaker lower riparians that are unable to cope with the challenge of regular floods.

The different multilateral mechanisms that are available for the riparian states to plan and work jointly cannot be as efficient from a regional perspective simply because they are uncoordinated and their programs overlap each other. From the international environmental policy perspective, most of these mechanisms cannot provide the necessary framework for environmental protection due to their extractive economic interests, which are further obfuscated by political motives. A framework that gives a balanced importance to both economic development and environmental protection and gives equal decision making

[42] See, e.g., "Groups Tell UNDP to End Support of Mekong River Commission," *World Rivers Review,* Vol. 11, No. 1, (April 1996).

authority to all the riparian states (primarily) could facilitate a genuine regional endeavor for sustainable development.

The Mekong River Commission comes close to such an ideal mechanism. Unfortunately, its effectiveness as a regional mechanism to promote sustainable development has been seriously hampered by the nonparticipation of the two upper riparians. Furthermore, it suffers many political setbacks and loopholes, as well as institutional rigidity that question its policy outcomes from environmental (and social justice) perspective(s).

The issue of managing rivers like the Mekong, as we have seen, is more complex than setting up a mere river basin committee. The question of participating in joint regulatory frameworks is more geo-economic and geo-strategic matters than simply an idealistic for the common-good-of-all effort to states. The role of China as the upper riparian with profound downstreams transboundary implications and its yet another unique position as the region's economic and political power makes its inclusion into such regulatory frameworks a necessity. At present China sees no sufficient interest to join MRC, a regional development frameworks that view the region as a hydrologic unit. However, the high level of interrelatedness of the region's economy and environment, and China's growing interest in the region provide reasons and hope for future cooperation. For example, China will invest 5 million US dollars and spearhead a dredging project with Laos, Burma and Thailand next month.[43] Similarly, the recent recognition of development of the Mekong River basin as one the five important areas for cooperation under the proposed Free Trade Area for South-east Asia by China is another sign of changing regional geo-economic priorities.[44]

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[43] See e.g., "Mekong Waterway Improvement Project to Begin in Spring," *British Broadcasting Corporation,* (January 20, 2002); "China to invest US $ 5 million in Mekong river co-operation with Laos, Burma, Thailand," *China Economic Information Network,* (January 24, 2002).

[44] John Burton, "Asian leaders back free trade area with China," *The Financial Times,* (November 6, 2001).

The case of Mekong illustrates the complexity of managing transboundary rivers. Like Mekong, it is highly doubtful that most other transboundary rivers of the world have effective mechanisms for their protection and sustainable management. The resolution for "Sustainable Management and Protection of Asia's Major River Systems" passed at the second World Conservation Congress (IUCN 2000) that calls IUCN to "design and conduct a study on the necessity and feasibility of establishing a new mechanism for conservation and sustainable management of [Asia's major] rivers for the common interest of all riparian States" is a major breakthrough in this regard.[45] Incremental international environmental policy measures like this accompanied by increasing regional rapprochement in integrating resource economy and infrastructure presents a different picture of Mekong basin for the future.

[45] Canada Tibet Committee, "China Agrees to International Resolution to Protect Asia's Rivers," *World Tibet News,* (October 16, 2000); International Committee of Lawyers for Tibet, "Another Success at the Second World Conservation Congress," *Tibet Brief,* (Fall 2000), p. 1. For the text of the agreement, see The World Conservation Union, (http://iucn.org/amman/content/resolutions/res43.pdf) or Tibet Justice Center, (http://www.tibetjustice.org/reports/riversystems.html).