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ARTICLE

BEYOND THE NATION STATE: NATURAL RESOURCE CONFLICT AND “NATIONAL INTEREST” IN MEKONG HYDROPOWER DEVELOPMENT

BY PHILIP HIRSCH*

I. INTRODUCTION

The 1995 Agreement on Cooperation for the Sustainable Development of the Mekong River Basin provided the framework for establishing the Mekong River Commission, and reflected a renewed interest in development of the riverine and other natural resources of mainland Southeast Asia.¹ In part this interest and dialogue reflected an easing of geopolitical tensions, which had hitherto restricted both cooperation between, and economic development within, the riparian states of the Mekong River.² In part, however, the Agreement, and the revival of the cooperative framework between the four lower

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1. Agreement on Cooperation for the Sustainable Development of the Mekong River Basin, April 5, 1995, 34 I.L.M. 864 [hereafter MRC 1995].

2. See Philip Hirsch, *Thailand and the New Geopolitics of Southeast Asia: Resource and Environmental Issues*, in *COUNTING THE COSTS: ECONOMIC GROWTH AND ENVIRONMENTAL CHANGE IN THAILAND* 235, 235-259 (Jonathan Rigg ed., 1997).

400 GOLDEN GATE UNIVERSITY LAW REVIEW [Vol. 29:399

riparian states, heralded a new set of emerging conflicts.³ These conflicts are particularly apparent in the area of proposed hydropower development on the Mekong and its tributaries, due to the environmental and social concerns that have arisen over large dams worldwide.⁴

In this article, I examine environmental, social and legal issues associated with Mekong hydropower development in three main arenas. Each of these arenas takes discussion beyond the nation state, and in so doing I argue that the framework for the Mekong River Commission, which is designed to balance interests of riparian states, is quite limited. The first sense in which decision making in Mekong development goes beyond the nation state is the most obvious, in that the international nature of the river, which flows through six countries, raises transboundary issues of water sharing, fisheries management and other resource and environmental management questions. The second sense in which influence is exerted beyond the nation state is that the Mekong Region has become subject to multifarious international influences, mostly in the name of development (in place of Cold War geopolitical and military intervention), both by governmental and corporate interests from countries that have largely ceased large-scale hydropower development within their own territories. The third way in which this article transcends the nation state as a framework for decision making is by suggesting that the divergent interests in many aspects of Mekong development are not primarily those of one country versus another. Rather, there are divergent social, economic and ideological interests within countries, and convergent interests that transcend national borders. The nation state is thus only partly able to represent its citizens' interests and aspirations, but the term "national interest" is nevertheless still applied forcefully in promoting many of the larger and more controversial schemes.

3. See PHILIP HIRSCH & GERARD CHEONG, NATURAL RESOURCE MANAGEMENT IN THE MEKONG RIVER BASIN: PERSPECTIVES FOR AUSTRALIAN DEVELOPMENT COOPERATION: FINAL OVERVIEW REPORT TO AUSAID (March 1996).

4. See EDWARD GOLDSMITH & NICHOLAS HILDYARD, THE SOCIAL AND ENVIRONMENTAL EFFECTS OF LARGE DAMS (1984); PATRICK MCCULLY, SILENCED RIVERS: THE ECOLOGY AND POLITICS OF LARGE DAMS (1996).

II. THE HISTORICAL CONTEXT OF RENEWED INTEREST IN "DEVELOPING" THE MEKONG

The Mekong River is the world's twelfth longest river.⁵ It is the tenth largest river in terms of annual water yield and the third most biodiverse in terms of ichthyofaunal species.⁶ The Mekong is also one of the world's most seasonal large rivers, with the wettest monthly flows in the lower Mekong River some fifteen times the driest monthly flows in an average year.⁷ This latter fact has encouraged river basin planners to seek ways to regulate the river flow through construction of large dams. However, to date the Mekong and its tributaries remain relatively unregulated. Nevertheless, there is now considerable pressure for large-scale hydropower development.⁸ This pressure is in contrast to the situation in many other parts of the world, notably in North America and Australia, where the era of large dam construction is over. In the United States there is now a possibility that dams on the Snake River will be dismantled, and in Australia there has been discussion of restoring Lake Pedder in Tasmania, which was inundated by a dam on the Gordon River.⁹ Other restorations being negotiated in Australia include release of water diverted from the eastward flowing Snowy River to feed irrigation schemes west of the Great Divide in the Murray Darling Basin.¹⁰

The Mekong River Basin is home to about 60 million people, most of whom live in rural areas.¹¹ Numerous ethnic minorities

5. See CARMEN REVENGA ET AL., WORLD RESOURCES INSTITUTE AND WORLDWATCH INSTITUTE, *WATERSHEDS OF THE WORLD: ECOLOGICAL VALUE AND VULNERABILITY* (1998).

6. See Tyson Roberts, *Mekong Mainstream Hydropower Dams: Run of the River or Ruin of the River*, 43 NAT. HIST. BULL. OF THE SIAM SOC'Y 9 (1995); Singkham Phonvisay, Policy Framework for Fisheries and Aquatic Resources Sub-Sector in Lao PDR, Remarks at the Workshop on Aquatic Research and Establishment of the National Aquatic Research Institute in Lao PDR (March 19-21, 1997).

7. See MEKONG RIVER COMM'N, LOWER MEKONG HYDROLOGIC YEARBOOK 1992 (1996).

8. See DEVELOPMENT DILEMMAS IN THE MEKONG SUBREGION (Robert Stensholt ed., 1996); DEVELOPING THE MEKONG SUBREGION (Robert Stensholt ed., 1996).

9. See ROGER GREEN, *BATTLE FOR THE FRANKLIN* (1981).

10. See Murray Hogarth, *Snowy River Rivals Fight over Flows* (June 27, 1998) <<http://www.smh.com.au/news/9806/27/text/national12.html>>.

11. See HIRSCH & CHEONG, *supra* note 3.

402 GOLDEN GATE UNIVERSITY LAW REVIEW [Vol. 29:399

inhabit upland areas of southern China, Lao PDR, northern Thailand, northeastern Cambodia and the Central Highlands of Vietnam.¹² Hydropower development directly affects these minorities due to resettlement of communities in inundation zones, but it also indirectly affects remoter highland communities by making them targets of resettlement programs by governments that are keen to protect the catchments of large reservoirs and which see indigenous minorities as a threat. There is thus a close inter-twining of human rights and environmental issues associated with proposed hydropower development.

Plans for large-scale dam construction on the Mekong and its tributaries date from the 1960s.¹³ Following the establishment of the Committee for the Coordination of Investigations of the Lower Mekong Basin in 1957, the US Board of Reclamation carried out a number of studies of potential impoundment sites on the Mekong mainstream.¹⁴ In 1970s, a grand master plan for the mainstream was produced in the form of a "Mekong Cascade," which would have left little free-flowing water between the point at which the Mekong forms the border between Laos and Burma, and the upper end of the Delta in central Cambodia.¹⁵ The lynchpin project for this scheme was the Pa Mong Dam, which in its original formulation would have flooded the provincial towns of Loei in Thailand and Vangviang in Laos and would have displaced a total of a quarter of a million people.¹⁶

At the time that the original plans for the Mekong were being drawn up, the region was in turmoil. The four Lower Mekong countries (Thailand, Laos, Cambodia and South Vietnam)

12. See *ETHNIC GROUPS ACROSS NATIONAL BOUNDARIES IN MAINLAND SOUTHEAST ASIA* (Gehan Wijeyewardene ed., 1990).

13. See JEFFERY W. JACOBS, *INTERNATIONAL RIVER BASIN DEVELOPMENT CLIMATIC CHANGE: THE LOWER MEKONG OF SOUTHEAST ASIA* (1992).

14. See *INTERIM COMM. FOR COORDINATION OF INVESTIGATIONS OF THE LOWER MEKONG BASIN, PERSPECTIVES FOR MEKONG DEVELOPMENT* (1987).

15. See *MEKONG COMM., INDICATIVE BASIN PLAN* (1970).

16. See Michael Mitchell, *Scale and Influence in Mekong Basin Development* (1994) (unpublished Ph.D. thesis, University of Sydney) (on file with author).

were all United States allies¹⁷ and the Mekong Committee was heavily influenced by U.S. geopolitical strategy in the region. Large areas of territory in each of these countries were outside the effective control of the national governments concerned and were subject to bombardment by U.S. aircraft. During this period of conflict, most of the plans remained on paper.¹⁸ Only one major hydropower project was constructed under the auspices of the Mekong Committee, the Nam Ngum Dam in Laos. Although this was a tributary project entirely contained within one riparian country, it is international both in the funding it received (from 10 countries including a loan of cement from Thailand) and in that most of the power generated has been for export to Thailand.¹⁹ The dam still makes a major contribution to Laos' foreign exchange earnings.²⁰

Following the Communist victories in Laos, Cambodia and Vietnam in 1975, the Mekong became an axis of division between Cold War foes on the global and regional stages. The Mekong Committee went into abeyance for three years as the Pol Pot regime in Cambodia pulled that country out of the framework for cooperation.²¹ In 1978 an Interim Committee was established, but during the following decade little was accomplished as tensions remained after the Vietnamese occupation of Cambodia.²² However, by 1987 a Revised Indicative Plan was produced.²³ The basis for this plan was quite similar

17. Cambodia was neutral until 1970, when a U.S. inspired *coup d'etat* displaced Sihanouk in favour of General Lon Nol. See MICHAEL VICKERY, *KAMPUCHEA: POLITICS, ECONOMICS, AND SOCIETY* (1986).

18. A National Geographic feature at this time was titled, *The Mekong: River of Terror and Hope*. The terror in question was the war. The hope was the prospect of a system of large dams, most notably Pa Mong. *The Mekong: River of Terror and Hope*, 134 NAT. GEOGRAPHIC 737 (December 1968).

19. See Kaneungnit Tuhtim et al., *Decentralization, Watersheds, and Ethnicity in Laos*, in *RESOURCES, NATIONS AND INDIGENOUS PEOPLES: CASE STUDIES FROM AUSTRALIA, MELANESIA AND SOUTHEAST ASIA* 265 (1996).

20. See *id.*

21. See Bui Kim Chi, *The Mekong Region: the Historical, Political and Economic Context for the Development of the Water Resources of the Mekong River* (1997) (unpublished Ph.D. thesis, University of Melbourne) (on file with author).

22. See HIRSCH & CHEONG, *supra* note 3.

23. See MEKONG COMM., *REVISED INDICATIVE PLAN FOR THE DEVELOPMENT OF LAND, WATER AND RELATED RESOURCES OF THE LOWER MEKONG BASIN* (1987).

404 GOLDEN GATE UNIVERSITY LAW REVIEW [Vol. 29:399

to the original Mekong Cascade scheme, but with a scaled down version of Pa Mong.

From the late 1980s, there was a rapid regional rapprochement, which took a number of forms. Liberalisation of the socialist economies of Vietnam, Lao PDR and Cambodia commenced in earnest with the Party Congresses of 1986.²⁴ In 1988 Thailand's Prime Minister Chatichai Choonhavan made a clarion call to "turn battlefields into marketplaces," with specific reference to opening up trade and cross-investment links between Thailand and its regional neighbours.²⁵ A significant aspect of this Thai initiative was an interest in neighbouring countries' rich natural resource bases.²⁶ The breakup of the Soviet bloc in 1989 put this regional economic reorientation on a global and permanent footing. In this context, the plans for the Mekong started to be taken seriously.

The intervening period between the early Mekong plans and their resurrection in the Revised Indicative Plan had seen a considerable re-think on large dams and on environmental and human rights implications of large-scale development projects more generally.²⁷ In the early 1990s, the Chief Executive of the Mekong Secretariat promoted the plans for large-scale impoundments with a vigour suggesting little recognition of such a change in thinking.²⁸ As a result, the revised Mekong plans quickly attracted the attention of international environmentalists. Additionally, downstream countries' concern over the implications of large-scale upstream impoundments combined with traditional lack of trust between riparian countries to stall the reformulation of the Mekong Committee and the readmittance of Cambodia.²⁹ During this period, the Mekong Secretariat revised the Mekong Cascade into a seemingly more palatable "run-of-river" scheme, which would involve a similar

24. See D.K. FORBES ET AL., VIETNAM'S RENOVATION POLICY AND PERFORMANCE (1991).

25. See Marc Innes-Brown & Mark Valencia, *Thailand's Resource Diplomacy in Indochina and Myanmar*, 14 CONTEMPORARY SOUTH EAST ASIA 332 (1993).

26. See *id.*

27. See Mitchell, *supra* note 16.

28. See *id.*

29. See *id.*

number of dams to the previous plans but at reduced crest height and therefore with greatly reduced impoundments.³⁰

III. TRANSBOUNDARY ISSUES AND AGREEMENTS

The Mekong River Basin includes parts of the territories of six countries: China, Burma, Lao PDR, Thailand, Cambodia and Vietnam.³¹ Impoundments that impact on the river's hydrology and ecology have the potential to affect both water availability and environmental quality elsewhere in the basin, most notably in areas downstream. As a result, international political, social, economic, environmental and legal questions are raised by proposed hydropower projects. In recognition of this fact, there is a history of cooperative arrangements for management of the Mekong River and its tributaries.³²

While most accounts of cooperative Mekong arrangements start with the establishment of the Mekong Committee, there is in fact a much longer history of treaties and agreements. Earlier agreements dealt mainly with questions of boundary demarcation. Siam's relationship with French colonial Indochina was governed in part by various commissions established to develop and oversee such agreements.³³

The Mekong Committee was established in 1957.³⁴ The *raison d'être* for the Committee has broadly been seen as twofold. First, it has served as a focus for the mobilisation of international resources to invest in the large structures involved in hydropower development.³⁵ Second, it has provided an institutional basis for resolution of issues of water sharing and other international aspects of natural resource management in this international river basin.³⁶ Upstream and downstream interests can, in principle, be reconciled and negotiated more equi-

30. See MARK HILL & SUSAN HILL, *FISHERIES ECOLOGY AND HYDROPOWER IN THE MEKONG RIVER: AN EVALUATION OF RUN OF THE RIVER PROJECTS* (1994).

31. See HIRSCH & CHEONG, *supra* note 3.

32. See Kim Chi, *supra* note 21.

33. See *id.*

34. See MRC 1995, *supra* note 1. See also Mitchell, *supra* note 16.

35. See HIRSCH & CHEONG, *supra* note 3.

36. See *id.*

406 GOLDEN GATE UNIVERSITY LAW REVIEW [Vol. 29:399

tably within this framework than without it. So long as hydro-power development was viewed unequivocally in a positive light, these two roles and objectives were quite compatible. However, as large dams have been questioned and become increasingly controversial, this dual role has raised important questions.³⁷ Few have been properly addressed in the formation of the Mekong River Commission.

In 1995, after several years of negotiation and bargaining among riparian countries, the Mekong River Commission (MRC) was established.³⁸ The key event that marked the new institutional arrangement was the signing of the Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin in Chiengrai on 5 April 1975. As was the case with the original Mekong Committee, the MRC does not include China and Burma. Unlike the earlier Committee, however, the MRC is open to membership by the upstream countries, and is a product of regional politics rather than global cold war interests.

The Agreement is a fourteen-page document that defines riparian states' roles and responsibilities in quite loose terms. It is mainly concerned with questions of altered hydrological flows that would arise as a result of inter- and intra-basin diversions and of large storage dams. While the language of the document is couched in terms of sustainability, there are only quite vague guidelines and objectives within the document. The key substantive (as opposed to procedural) provisions are contained in Articles 5, 6 and 26. Article 5 sets criteria for responsibilities of riparian members for notification, prior consultation or agreement among the Joint Committee of the MRC in case of inter- and intra-basin diversions from tributaries and the mainstream during the wet and dry seasons. Agreement is only required in the most extreme of cases, that of inter-basin diversion from the mainstream during the dry season. Even here there is scope for relying on prior consultation, in the event that there is a "surplus" of water available for all parties

37. *See id.*

38. *See Kim Chi, supra note 21.*

to the satisfaction of the Joint Committee. All tributary development is only subject to notification.³⁹ Article 6 deals with maintenance of minimum and maximum flows on the mainstream,⁴⁰ while Article 26 addresses questions of determining and measuring adequate flows.⁴¹

A major limitation of the MRC is the absence of China and Burma. Both countries have had invitations to join, but to date the Commission remains limited to the four downstream countries. In the case of Burma, this may be largely due to the marginal role of that country in the Basin and the low basin-wide significance of the small area of the country's Northeast that lies within the Basin.⁴² The case of China is more complex. As an upstream country, particularly one that has already built one dam on the mainstream with no consultation with other riparian states and that has several more dams under construction and in the pipeline, China has more to lose than gain from participation in a regime that restricts member states' power to act unilaterally. China's lack of interest is also due to that country's size and preference to deal bilaterally with its Southeast Asian neighbours.⁴³ China's main interest in the Mekong international regime is in the area of navigation.⁴⁴ There are environmentally controversial plans to dynamite rapids in northwestern Laos to allow larger boats safer passage between Yunnan Province and the Thai/Lao section of the Mekong.

In a positive sense, therefore, the international legal regime for water sharing and cooperative decision making in the Mekong Basin provides for consultation and notification of plans by one or more countries that have implications in the territories of others. Going beyond interests of individual nation states in this way may help preempt the kind of conflict that is apparent elsewhere in world, for example in the Euphrates or

39. MRC 1995, *supra* note 1, art. 5.

40. *Id.* art. 6.

41. *Id.* art. 26.

42. See HIRSCH & CHEONG, *supra* note 3.

43. *See id.*

44. *See id.*

408 GOLDEN GATE UNIVERSITY LAW REVIEW [Vol. 29:399

Jordan River Basins in the Middle East. Less positively, the interests negotiated within the framework of the MRC agreement are mainly those of large-scale resource development agencies, notably energy and irrigation and to a lesser extent flood control. There has, thus, been a built-in bias within the MRC toward decisions favouring large-scale impoundments. There has been more recent attention to fisheries and environment sections at the Mekong Secretariat by European donors in particular, but the Council and Joint Committee of the MRC are still comprised of energy and water resource ministers and officials.⁴⁵

IV. INTERNATIONAL INFLUENCE

While the basis for cooperation within the MRC is nominally a regional one, comprising the four lower riparian nations, a range of wider international influences bear on the decisions and planning for large-scale hydropower development. Whereas the geopolitical strategic interests and interventions of the Cold War period have largely dissipated, a number of other agendas continue to shape regional developments. Broadly, these fall under the rubric of international development assistance, international non-governmental organization (NGO) concerns, and corporate interests.

International development agencies have taken a great interest in the Mekong Region for a number of reasons. One is the disparity between levels of development, as conventionally measured, between the countries of Indochina (Lao PDR, Cambodia and Vietnam) on the one hand, and rapidly growing economies such as Thailand on the other. There has been a shift of development assistance from Thailand to its eastern neighbours, which has been reinforced by the regional agenda of integration and cooperation that is part of the wider rapprochement discussed above. Vietnam and Lao PDR have joined the Association of South East Asian Nations (ASEAN), and there is a provisional opening for Cambodia to join as the last southeast Asian nation to do so. Multilateral interests in

45. *See id.*

the region are dominated by the Asian Development Bank (ADB) and its grand scheme for the Greater Mekong Subregion (GMS).⁴⁶ This plan to link the countries of the region through integrated energy grids, road networks, telecommunications and tourism has immense social and environmental implications.⁴⁷ There is a specific environment program component in the ADB's GMS program. Other multilateral influences include the World Bank and its support for specific dams and other infrastructure projects.⁴⁸ Through the Global Environment Facility and other means, the World Bank also has specific environment-targeted programs.⁴⁹ Other multilateral agencies include the major United Nations organisations. A question that arises is the extent to which the development agenda is being set from within or without the region.

Bilateral interests in the Mekong region are focused on a few key donor countries: Australia, Japan, France, Germany, Sweden and Denmark. Both Japan and Australia combine their development assistance roles with a sense of being regional neighbours. In the cases of both Japan and Australia, there are strong commercial links to the aid program, directly through aid procurement and indirectly in the "showcasing" role of large projects. One such project is the Friendship Bridge which connects Thailand to Laos, completed in 1994 which is also the first bridge across the Mekong mainstream.⁵⁰ The bridge was supported by the Australian Government as part of its bilateral aid programs to Thailand and Lao PDR.⁵¹

Somewhat in contraposition to the international governmental influence on Mekong development brought by bilateral and multilateral development assistance is the role of international NGOs. Several NGOs have been strong in their critique

46. See Fiologo Pante, *Asian Development Bank's Regional Technical Assistance for Promoting Economic Cooperation in the Greater Mekong Subregion*, in *DEVELOPING THE MEKONG* 204, 204-210 (Bob Stensholt ed. 1997).

47. *See id.*

48. *See id.*

49. *See* GLOBAL ENVIRONMENT FACILITY, QUARTERLY OPERATIONAL REPORT (World Bank, April 1996).

50. *See* M. Stuart-Fox, *Laos in 1997: Into ASEAN*, 38 *ASIAN SURVEY* 75-79 (1998).

51. *See id.*

410 GOLDEN GATE UNIVERSITY LAW REVIEW [Vol. 29:399

of the renewed push for large-scale hydropower development. Internationally, the International Rivers Network and Probe International, based in the United States and Canada respectively, have paid particular attention to the Mekong.⁵² Regionally, the Bangkok based group TERRA has developed out of Thailand's concern over the impacts of development on its own environment and, more recently, concern among some environmentalists in Thailand that, partly as a result of their success, the resource development agenda was being exported beyond Thailand's borders in order to serve that country's energy, timber and other resource needs. It is significant that TERRA is the sister organisation of the Project for Ecological Recovery, a livelihood-focused environmental NGO that has played a significant part in campaigns over large dams in Thailand.⁵³ However, other NGOs have played a more ambiguous role in the hydropower debate. For example, CARE International has served as a consultant in resettlement schemes for proposed large dams in Lao PDR. Much of the public debate, acrimony and influence in the Lao dams issue, thus, takes place on the international scene and, even within Lao borders, among expatriate individuals and organisations.⁵⁴

Resource development is internationalised increasingly within an agenda of privatisation and international corporate interest in the region's resource base. Nowhere has this been more apparent and controversial than in the hydropower sector.⁵⁵ Numerous Memoranda of Understanding (MOUs) have been signed between consortia of companies from Thailand, Australia, Japan, the United States and several European countries for the construction of dams on Mekong tributaries.⁵⁶ Most of these are concentrated in Lao PDR, but there are also

52. See *Rivers in Peril* <www.irm.org/programs/mekong/mekong.html>; See also *The Mekong Program* <www.nextcity.com/ProbeInternational/Mekong/index.html>.

53. See Philip Hirsch & Larry Lohmann, *The Contemporary Politics of Environment in Thailand*, 29 *ASIAN SURVEY* 439 (1989).

54. See Philip Hirsch, *Who Controls the Mekong Development Agenda?* Presentation at Mekong Perspectives Conference, Feb. 22-23, 1999 (Australian National University 1999).

55. See Saturo Matsumoto, *Development and Environment in Press: A North South Perspective on the Representation of Mekong Hydropower Developments* (1999) (unpublished Masters thesis, University of Sydney) (on file with author).

56. See *id.*

many sites of interest to such companies in Vietnam and Cambodia. Privatisation of the resource base⁵⁷ occurs mainly through one variant or another of the Build Own Operate Transfer (BOOT) financing model.⁵⁸ This has also been termed a “rent-a-river” approach.⁵⁹ Many of the corporate interests have historical links in public agencies whose engineers previously constructed dams in Australia, Europe and North America and which no longer have opportunities to build further structures in those countries.⁶⁰ BOOT schemes raise issues of sovereignty at several levels. Sovereignty over resources and open space is transferred from public to private arenas, albeit for a limited period (typically 25 to 30 years). Sovereignty issues also transcend national boundaries, as international corporate interests achieve concessions and resource rights over public assets and over nature itself. Little studied, but increasingly urgent in the Mekong hydropower context, is the issue of privatised natural resource development for social and environmental decision making. Commercial-in-confidence criteria conflict with issues of openness and flexibility in natural resource planning that has human rights, local livelihood and ecological implications.

Increasingly, the public-corporate dichotomy is broken down as privatised hydropower schemes are promoted “in the public interest.” Where the more powerful and influential decision makers are global corporations or consortia and their associated institutional financial backers, which wield more economic clout than the countries with whom “partnerships” are being negotiated, local public interest issues and agenda-setting are

57. See PRIVATISING NATURE: POLITICAL STRUGGLES FOR THE GLOBAL COMMONS, (Michael Goldman ed., 1998).

58. For further information on BOOT in the Mekong Region, see Andrew B. Wyatt, BOOT in the Mekong Region: Environmental Management and Development Challenges, paper presented at the conference, BOOT: In the Public Interest? (March 21, 1998) (transcript available in *The Online Journalist* <<http://138.25.138.94/acij/boot/speakers.html>>).

59. See Ann Danaiya Usher, *The Race for Power in Laos: The Nordic Connections in Environmental Change*, in SOUTH-EAST ASIA: PEOPLE, POLITICS AND SUSTAINABLE DEVELOPMENT (Michael Parnwell & Raymond Bryant eds., 1996).

60. See AID/WATCH, *Australian Dam Pushers Doing Business in Laos* (1998) (briefing paper).

412 GOLDEN GATE UNIVERSITY LAW REVIEW [Vol. 29:399

distorted. This raises important questions of national interest in the natural resource base.

V. ISSUES OF NATIONAL INTEREST

“National interest” is integral to the discourse of hydropower development. This is in part due to the particular characteristics of large dams, whose primary social and environmental effects are localised but dramatic and whose wider benefits normally accrue elsewhere, often at considerable distance and to more politically, economically and culturally dominant groups.⁶¹ Such issues are complicated when the impacts of projects transcend national borders, and even more so as benefits in the form of electricity generated accrue to consumers in neighbouring countries, while profits from the investment flow to third countries’ investors. Compensation is taken outside the arena of national calculation of local versus wider public goods.⁶² Similarly, avenues of redress for affected communities become more complex and tortuous. Issues arise as to whether environmental regulations in the investors’ home countries, regulations in the country in which the project is being constructed, or regulations of international institutions such as the World Bank should serve as referents.

The discourse of national interest has long been part of hydropower development. The Tennessee Valley Authority in the United States and the Snowy River scheme in Australia served as national answers to economic depression and post-war recovery. Nehru described dams as the “new temples of India.”⁶³ The symbolism of large-scale hydropower is bound up with national pride. Interestingly, international actors have bought into this rhetoric. Australian, Thai, French and other firms with MOUs to build dams in Lao PDR for export of electricity to Thailand all invoke Laos’ national interest. For the past

61. See Matsumoto, *supra* note 55.

62. See Philip Hirsch, *Dams and Compensation in Indochina*, in RESOURCES, NATIONS AND INDIGENOUS PEOPLES: CASE STUDIES FROM AUSTRALIA, MELANESIA AND SOUTHEAST ASIA (Richard Howitt et al. eds., 1993).

63. See PATRICK MCCULLY, *SILENCED RIVERS: THE ECOLOGY AND POLITICS OF LARGE DAMS* (1996).

several years, there has hardly been an issue of the *Vientiane Times* that has not extolled the rosy future to be brought by hydropower as a solution to the country's shortage of foreign exchange and low income status.

An important theme in this discourse is the idea of local sacrifice for a wider good. Those who object to large-scale dams are characterised as parochial, or in cohort with foreign interests trying to limit national development prowess, or even as a threat to national security. Thailand has both the greatest experience with large dams in the region and the most vocal oppositional environment movement, part of which is intimately connected with human rights and livelihood issues.⁶⁴ In Lao PDR and Vietnam, the rhetoric of national interest is closely bound up with those countries' revolutionary nationalist experience. To threaten national interest is to question the Party and vice versa. Limited spaces for questioning national policy in the public arena in these countries has left a large part of the discourse to international environmental and other NGOs, which has a reinforcing effect of portraying any questioning of hydropower as foreign-inspired.

Despite the nationalist rhetoric behind dams, there are clearly divergent interests within the Mekong Region's national boundaries, just as there are convergent interests that transcend borders. Differences at a national level are based on geographical, social, environmental, ideological, economic and cultural interests.⁶⁵ While it is beyond the scope of this article to detail the geography and sociology of the costs and benefits of individual hydropower projects, the environmental implications of large schemes are intimately bound up with livelihood impacts on the majority of the rural populations who continue to have a direct dependence on the natural resource base for food, shelter, and income.

64. See SEEING FORESTS FOR TREES: ENVIRONMENT AND ENVIRONMENTALISM IN THAILAND (Philip Hirsch ed., 1997); THE POLITICS OF ENVIRONMENT IN SOUTHEAST ASIA: RESOURCES AND RESISTANCE (Philip Hirsch & Carol Warren eds., 1998).

65. See HIRSCH & CHEONG, *supra* note 3.

414 GOLDEN GATE UNIVERSITY LAW REVIEW[Vol. 29:399

VI. CONCLUSION

Large dams and their impacts have become a feature of heated controversy in many countries. Many of the means to deal with such conflict are based on the idea that various interests exist and need to be worked out within the geographical, political and legal constraints of nation states. Yet, as this article has shown with reference to the Mekong Basin, there are many environmental and resource questions that cannot easily be resolved within such a framework. Impacts themselves cross national borders. Influences promoting or critiquing a development model that has hydropower at its core come from well beyond the national borders within which a particular dam is proposed to be built. Financing mechanisms and consortia responsible for dam construction are global in nature. The environmental discourses that surround large dams operate at many different scales. Any legal framework developed to govern issues of sovereignty, redress, environmental regulation, financing arrangements and a host of other questions associated with large dams needs to go well beyond the limited arena of national law.