

# Mekong Water Governance

## Summer School 2019



### Day 1

Participant introductions; Lectures by Dr. Philip Hirsch and Dr. Carl Middleton; Thematic Group Work

### Day 2

Field visit to Mae Ta Chang Catchment

### Day 3

Presentations; Field Visit Debrief; Seminar: Revisiting Assumptions 1; Annotation Exercise; Film & Discussion

### Day 4

Presentations; Seminar: Revisiting Assumptions 2 & 3; Lecture by Dr. Chusak Wittayapak and Dr. Paul Cohen

### Day 5

Seminar: Critical Issues; Stakeholder Forum Discussion; Development of Training Outline



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The Mekong Water Governance Summer School was organized in an effort to encourage critical thinking regarding five key themes: gender, hydropower, impact assessment, safeguards, and transboundary governance. Participants were not only academics, but also practitioners and professionals working on water governance issues within the region. A primary goal of the week's activities was to understand how the conceptual approaches discussed could be adapted and applied in each individual's own

context. Through the establishment of a common understanding of the five key themes and their relation to water governance, dialogue can be facilitated in a more constructive and effective manner. The summer school provided an opportunity for participants to share their experience, perspective, and knowledge across six regional countries, and varying sectors and scales. In addition to attending the summer school, participants were asked to disseminate the information learned beyond this program to their

colleagues, students, etc. The method of dissemination was further developed into a training outline in the final session of the summer school. The summer school established both an ongoing network and an associated resource hub, available online at: [www.mekongwaterforum.org](http://www.mekongwaterforum.org)



**Dr. Philip Hirsch**

**Lecture: *Critical Issues in Water Governance in the Mekong Region***

The working definition of water governance is: *water governance refers to procedures, regulations, and practices that support involvement of various stakeholders in ensuring the equitable and sustainable use and management of water for the public good.* The critical issues in water governance, then, are those issues that are seen to be of fundamental importance for policy choices, for the ways in which we do things, and for overall wellbeing. Such issues typically create differences of opinion, perspective, understanding, and interpretation; therefore discussions such as the one facilitated through this summer school are vital to the establishment of a common, regional understanding.

Through critical thinking, participants are encouraged to view issues from perspectives other than their own in order to improve dialogue and meaningful debate. Such practices also encourage participants to reflect on their own assumptions, further separating out opinions from data-based knowledge and values from prejudice.

Five Key Themes in Water Governance:

1. Gender
2. Impact Assessment
3. Transboundary Governance
4. Hydropower
5. Safeguards



**Dr. Carl Middleton**

**Lecture: *Water Governance in the Mekong Region: Theory and Practice***

The concept of water governance varies from definition to definition, context to context. However, all variations carry an underlying theme: that water is both physical and social. As humans interact with water in countless ways, our decisions have implications on the movement of water, and further impact on ecosystems. With this in mind, work on water governance issues must also pay attention to the process, not only the outcomes. Various combinations of institutional, organizational, and financial processes are used in an effort to regulate water, and should therefore be monitored for transparency, accountability, inclusiveness, effectiveness, etc. Additionally, distribution of water is not simply a distribution of the resource itself, but also a distribution of benefits and/ or risks. For example, flood protection in one place can cause flood risk in another place. As the effects of water governance are not always localized, conceptualizing water as a 'commons' must be done at varying levels (i.e. state

level versus local level), leading to the challenge of effective transboundary governance. The UN Convention on the Law of the Non-Navigational Uses of International Waters (1997) stipulates equitable and reasonable use of water resources, however due to state sovereignty, such stipulation is not binding. Since then, water management/ governance approaches have been evolving to include integration across sectors and traditional, or communal, approaches. Yet all approaches are still subject to politics, including politics of disaster, politics of scale, and politics of knowledge. Mitigating politics in these areas must take into account equitable access to risk management, occurrences of forced displacement and/ or relocation, power relations, exclusionary practices, discourse, and varying interests at different scales.



## Field Visit: Mae Ta Chang Catchment

Sites included:

1. Khong Khaao Village
2. Nong Kwai Municipality Office
3. Fai Pao Weir
4. Baan Klaang Doi Resort
5. Saensaran Housing Estate
6. Nam Jam Village

The field visit to Mae Ta Chang Catchment started with a discussion regarding water governance with the former irrigation head in Khong Khaao Village. He explained that due to its proximity to the Mae Taeng irrigation canal, this area was subject to both local and governmental forms of water management. Historically, water from Mae Ta Chang was managed through an equity-based community system. The main weir divided the Mae Ta Chang into two channels, which were further subdivided lower down. This form of management met two main challenges: highland Hmong farmers and mid-level resort developers. The three groups of stakeholders met to negotiate management strategies and agreed upon a solution regarding the size of irrigation pipes permitted at each level. At the time, lowland farmers were the majority stakeholder in terms of population and therefore maintained authority in negotiation against the resort owners. This dynamic has since changed.

The next site was the Nong Kwai Municipality Office to discuss the administrative challenges of managing water for multiple uses and users. While the Municipality does not hold a formal legal role in the management of Mae Ta Chang, it has other responsibilities such as flood prevention and managing encroachment. The Municipal Clerk explained zone-classification of land in the area: green zones are permitted only for agricultural and single-home development while yellow zones are permitted for housing estates (not to exceed 10% of total area).

Participants then had the opportunity to see the Fai Pao Weir firsthand (pictured above). Historically, community farmers would use natural resources such as bamboo to build the weir, but more recently it was reconstructed using concrete.

Following lunch, the owner of one of the first resorts in the Mae Ta Chang/ Baan Pong area met with participants to further

provide context to the field visit. When the resort was originally established, the area was full of terraced rice fields with sufficient water supplies. However, due to increased demand from various stakeholders, water supply is often insufficient. While plans have been proposed to create a metered payment system, there has been no leader of this initiative and is therefore continuously rejected. One participant observed that simply identifying problems and solutions is not enough – action is necessary to make the solutions a reality.

Observation at Saensaran Housing Estate and Nam Jam Village encouraged participants to think about how stakeholders transition over time and how their role in water governance may change. A short debrief involved discussion of how water governance is about more than just water – it also includes community lifestyles, social interactions, spiritual beliefs, and the changes that occur due to water policies.

## Group Presentations: Key Themes in Water Governance

Participants were split into five groups based on the five key themes of water governance and asked to briefly review articles related to their topic. Each group then compared their findings to the resource hub webpage in order to facilitate participation in ensuring that the overview pages included the most important information.

Groups then presented their findings and suggestions, briefly summarized as follows:

*Gender:* while often focusing awareness on gender implicitly means focusing on women, it is important to acknowledge men as well in gender awareness activities; pay attention to the gender divide in water-related activities and/or responsibilities, and to how men and women relate to certain policies.

*Hydropower:* need to acknowledge how smaller-scale dams, basins, etc. affect the larger-scale Mekong and

surrounding region; determine plans of action to ensure that regulations are observed on the ground, not just at the policy level.

*Impact Assessments:* necessary to start implementing trans-basin impact assessments; mention the Gender Impact Assessment (GIA); follow-up assessments should be conducted in addition to initial assessments.

*Safeguards:* development of safeguards should be determined by a rights-based approach; international safeguard standards should be reviewed to include regional and/or local provisions.

*Transboundary Water Governance:* need to acknowledge tributaries, not only main channels; various boundaries should also be acknowledged (i.e. municipalities, provincial, natural, waterways, etc); should also include non-human issues and minor actors.

## Group Presentations: Annotation Exercise

Group work continued in the afternoon with each individual focusing in depth on the full text of one of the article or paper abstracts they cited in the morning's Key Themes exercise.

Participants refined exactly what they were looking for in their reading using critical thinking skills they practiced in the morning session's discussions. They specified how the article related to their selected theme focus. And other key themes addressed by the piece were identified and tagged.

The annotation exercise required creation of a summary paragraph of their article and its relevance to water governance. For each tagged key theme they produced a paragraph explaining the article's relationship with it. And they addressed the evidence basis for the piece they reviewed by providing a short clarification and evaluation of source material (data, research and papers cited) and methodology.

Individual review work culminated in small groups. Members shared their draft annotations. And each group selected one annotation to jointly refine and polish. Each small group produced a presentation and report that they shared in the full session.

Annotated articles: Gender and Hydropower in Myanmar; Branding Dams: Nam Theun 2 And 'Sustainable Hydropower'; Countering Hegemony And Institutional Integration: Two Approaches To Using Thai Baan Research; text chapter topic on Safeguards; The Greening Of Isaan: Politics, Ideology and Irrigation Development in NE of Thailand.



# Tom Fawthrop

## *Film and Discussion*

Tom Fawthrop is a UK author, journalist and film-maker based in Southeast Asia for 30 years. He has been a freelance correspondent for the Economist and Guardian newspaper. His film work and documentaries have been screened by Al Jazeera TV, UK Channel 4, SBS Australia and DVB TV in Myanmar. He has produced several films about Mekong issues and hydropower in East Asia.

Mr. Fawthrop began his presentation with a discussion about the definition of development. His stated opinion was that this should be discussed prior to policy discussions or project planning. And he asserted that when discussing sustainable energy production dams are not qualified to be included.

The presenter screened a short film about hydropower on the main stem Mekong. The film included overviews of the importance of Mekong fisheries for food and income, impact to Irrawaddy dolphin, Xayabury dam, and the history of decision making.



The second half of the film focused on the proposed Pak Beng dam. Upstream opposition for ecological and economic concerns, and reticence by the Thai electric authority to sign a purchase agreement have delayed the project.

Solar was suggested as one possible alternative to hydropower. Summer school participants asked questions about the viability of solar as a power source, its palatability to investors, and the (non)existence of specific studies about fishery impact.

Others suggested efficiency and conservation measures, and asked whether decreasing the impact amounted to killing the river system but just at a slower pace.

Course instructors asked Tom and the group to discuss the role of media, including media with a perspective or advocacy aspect, in educating, influencing opinion, and in instigating or discouraging dialogue.

Other topics engaged included current proposals to study or implement solar arrays on existing hydropower reservoirs, pumped hydropower storage of 'surplus' solar, and other complementary tactics.

In conclusion Tom advocated that solar is one component of an array of possible energy solutions that may cause less impact than large hydropower projects. He challenged participants to also question the framing and conceptual basis of the term 'sustainable hydropower'.



## Seminar 1: Revisiting Assumptions in Water Governance: Impact Assessment

The seminar engaged participants in dialogue and analysis of impact and benefit. It asked them to consider and discuss several topics. What are the assumptions we have? What are the assumptions others have? How and why might we challenge those? What is our obligation to, and how do we examine our own assumptions.

These questions were applied to perceptions and assumptions about local people's livelihoods, use of water and rivers, customs and preferences, and diversity and adaptability. They were also applied to the perceived benefits and inevitabilities of hydropower, transition to a cash economy, and the need for more electricity.

The group discussed case studies and examples from their own work and national context. Topics included resettlement and cash payments as either compensation or benefit, and as a potential impact or liability to communities.

Questions raised by participants:

“We debate whether we have enough knowledge about impact, and then who will say what. Does this change the result?”

“Is the technology right or wrong, or is it the conditions and context of how it is implemented. “

“Under the principle of free prior informed consent - who is providing the information about the project and impacts, and is it accessible to the recipients.”



## Seminar 2: Revisiting Assumptions in Water Governance: Hydropower and Safeguards

Safeguard policies guarantee basic rights for affected groups and environment. The seminar reviewed water governance in the context of contemporary and developing safeguards, and current issues and concerns. Topics included:

- what safeguards are – why they exist, their purpose, scope and topic
- what safeguards currently exist
- case studies and outcomes
- ‘user guide’ to implementation and monitoring

Participants discussed several key governance issues. It is of course necessary to identify stakeholders and their power in decisions. Effective safeguards would also address who decides who the stakeholders are.

Participants asked about international standards on project communication translation into minority languages and non-written format. How and when are stakeholders included, and how is information shared? Do people understand the projects? Do they understand their rights? What are the barriers?

Discussion of these questions determined that international safeguards are still relevant even though public financing of dams has reduced and agencies such as the World Bank are no longer the main direct financiers. However, such agencies still remain involved through financial intermediaries and in financing related infrastructure, including electricity transmission grids. Often this is promoted through discourse of ‘sustainable hydropower’.

Identifying potential social and environmental impacts and what interventions and mitigation can occur requires international standards and guidelines that can adapt and be updated to reflect context.

Course instructors invited consideration of how interventions and mitigations are implemented. How does a rights-based approach work with dam affected communities? One participant is currently working with Green Watershed in China to ensure international safeguards are incorporated in the new Chinese-led Asian Infrastructure Investment Bank, which is set to be a key regional investor of infrastructure in the future.

The group concurred that monitoring mechanisms and framework for timely action and adaptation should be developed, as well as evidence-based assessments and models for socio-economic tradeoffs. There is currently strong momentum from civil society to promote the uptake of safeguards by private companies and investors, including private banks, though currently these are still mainly voluntary (i.e. Equator Principles). National policies being developed on overseas investments by state owned companies in particular are to some extent drawing from, or at least influenced by, international standards and legal norms.



## Seminar 3: Revisiting Assumptions in Water Governance: Gender Considerations

Seminar and open discussion about context-specific gender considerations in water governance began with observations from the group that contemporary NGO, government and other institutions sometimes aim for parity in meeting attendance as proxy for parity in participation and empowerment.

The time required for workshops, trainings and other participation can place a burden on families. Providing childcare or encouraging men to take on household tasks can free up time for women's participation. However counting heads in the room is not equity.

Participants shared case studies from their own contexts. They described how gender role and culture-based behavior differences may require a range of tactics. In some cases gender-based roles and responsibilities require genders to be treated as overlapping sectors needing specialized trainings. Mixed gender trainings and meetings require awareness of the local context to support participation.

Suggested long term strategies to increase women's engagement and power in water governance included understanding and working with ethnic groups' gender norms to change the expression of them, and to address the gap between national statutory and local gender norms. Discussion covered women's access to education, how to structure gender issue focus groups, and benefits of quotas where appropriate and effective.

A question was raised about how to support women's access to education and address barriers to participation where national government, foreign NGO and local institutions that have gender equity policies do not structurally or operationally manifest those policies internally.

Facilitators encouraged critical thinking about academic and institutional tools like gender impact assessments. Questions related to whether those tools and studies capture the complexity of the situations on the ground, their value, and appropriate contexts for their use and level of emphasis.



## Seminar 3: Transboundary Challenges

In seminar and open discussion participants shared case studies for comment, analysis and comparison.

Cambodian and Vietnamese participants shared personal, organization and national government perspective on several shared issues including upstream and downstream impact of proposed and existing Mekong main stem and tributary dams from both the national and basin perspectives. People within basins often share impact and personal experience in spite of national boundaries.

Groundwater is invisible, slower moving, less well understood, overlooked in many existing agreements. Cambodia-Vietnam cases were raised. Facilitators asked participants to consider how to bring public participation to difficult to visualize issues. Related observations raised discussions about the limited geographic and time-based scope of EIAs.

The public often seems to expect a binding transboundary water governance agreement or entity, and incorrectly assumes the MRC can fill that role. MRC was cited as a vehicle for transparency, documentation, raising the visibility of the concept of a commons, and other transboundary norm-building.

It was stated that the MRC 1995 framework for cooperation is non-binding from a regulatory perspective, engages governments, and addresses the main stem. Per the agreement the public may essentially be considered external or affected stakeholders. It was asserted that within the framework of government to government consultation too much public participation can be

inefficient. Discussion addressed where and how the public can be engaged in transboundary cases.

Facilitators asked for discussion of what a contemporary Salween or other transboundary river agreement might include given 24 years of MRC lessons learned.

Xe-PianXe-Namnoy (Attapeu) dam failure was discussed in the context of data collection and sharing within countries, between countries, with the MRC, and data interpretation. NGO and CSO requests for MRC engagement were deferred since the 1995 agreement deals with engagement at the government level.

In the Don Sahong case NGOs engaged with multiple institutions and government within the Mekong basin and with regulatory institutions in the developer's home country. This may have given the developer some freedom to engage first with the institution it felt was advantageous and refer subsequent concerns to the prior engagement and decision.

In the Myanmar case the flow of energy, water and money are studied. A question was raised about flow of policy decision making and how to engage decision making stakeholders in conflict areas.

Instructors invited consideration of the implications of water transfer proposals between basins.

Suggestions for the future included development of mechanisms for joint environmental monitoring of projects, and including groundwater in transboundary agreements.



**Assoc. Prof. Chusak Wittayapak &  
Assoc. Prof. Paul Cohen**

***Cases, Conflicts, and Decentralization  
in Thailand***

Assoc. Prof. Chusak Wittayapak and Assoc. Prof. Paul Cohen provided a deeper dive into history and political concerns of northern Thai water management surveyed in the Mae Tha Chang site visits.

Dr. Cohen drew upon more than 50 years' experience in northern Thailand to clarify the relative importance of technological and administrative need, and other political and economic concerns, in the ongoing development and management of irrigation systems.

Traditional weirs and diversion systems used tropical hardwoods and bamboo. Some were developed by the northern Thai nobility and later reverted to local management. State control of local systems grew through the 1990s. Political and non-farm economic concerns contributed to water management in catchments in the Chiang Mai valley.

A case study described how changes in crop diversity such as the increase in longan cultivation changed the relationship between farmers, the communal water systems, and water delivery to farms. The changes increased dependence of the traditional communal system on state support. This contrasted with another case where a state-built system moved from government to local communal management.

Dr. Wittayapak addressed more contemporary decentralization in natural resource management and aspects of the new Thai water management act. One type of democratic decentralization means in part that

higher levels of government cede power directly to local communities and local people. Another includes deconcentration or delegation of certain responsibilities towards the local level while retaining power and accountability at upper levels of government.

Power, responsibility, accountability relate to local engagement and compliance. Social capital comes from reciprocity, norms, trust, networks where people solve their own problems. Thai social movements, and traditional community forests and water systems can inform models that address the question of how decentralization can increase local people's capacity and opportunity to influence public policies.

Open discussion solicited comments and questions from the group. Differences between state ownership, state management, and common and public property were discussed alongside management and empowerment issues related to each.





## Exercise: Small Group Work – Developing Training On Water Governance

Participants formed groups based on their professional work with either civil society organizations, academia, or government and international organizations. They were tasked with developing suggestions and a draft training outline in critical water governance issues based on comparative experience across the Mekong Region.

Government and international organizations returned with recommended training topics on water governance conceptual and legal frameworks, and basin planning; study of best practices, speakers and case studies on stakeholder analysis, negotiation, co-management between governments, information sharing, public participation, and safeguards. Suggested activities included site visit and creating a recommended basin water governance model.

Academic group returned a detailed curriculum outline based in a lecture and discussion model with similar components and subtopics. They also included impact assessments, and a critical issue case study presentation.

Civil society working group proposed a 3 day training to include CSO and local government as attendees. Methods based in presentations, group discussion, role play, and site visit. Included similar topics and a

requirement to create a follow up action plan in their communities.

Course instructors asked participants to consider advantages and drawbacks to a mixed sector training. Drawing on their experience in the 5 day training participants commented that a cross-sector training had been beneficial. Understanding of context, and a shared mental model of what is being discussed was accomplished. If compromise or agreement cannot be reached at a minimum there can be clear communication and understanding of viewpoint, concerns and rationales.

Final discussion addressed the online resource being developed at CMU RCSD. Articles and annotations including those reviewed by participants are available to participants.

Course participants identified barriers to use including copyrights, outdated links, and formatting, style and user interface appropriate for non-academics. And they suggested policy, law and associated frameworks; and climate change, drought and natural disasters as additional key themes.