

# Is the Mekong-Lancang Cooperation a “New Hope” for Water Resources Management in the Mekong?

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**T**ransboundary rivers have produced cooperation as well as conflict among the nations sharing them. The use of transboundary rivers and basins by one country has direct effects on other countries along the same watercourse. This sometimes results in tensions between upstream and downstream users, who consider river matters among their national interests and security risks. Shared rivers thus need shared solutions, which are only possible through a regional multilateral institution. Such an institution would bring all riparian countries together and coordinate their various interests and concerns to define common rules of water governance acceptable to all parties. Here, I use “institution” as an umbrella term to include commonly used terms, such as arrangement, framework, initiative, and mechanism.

Unlike in Europe and North America, where governing institutions have firmly and effectively governed shared watercourses, similar efforts to govern shared river basins and water resources elsewhere are likely to fail. This seems particularly true for mainland Southeast Asia, which is now usually referred to as the Mekong. In this essay, I will set out in brief the story of the decades-long unsuccessful effort towards creating an institution governing the joint use of the Mekong’s river basin. I will also share my opinion on the newly established Mekong-Lancang Cooperation (MLC), answering the key question: can it bring a “new” hope to water governance; and integrated, inclusive water resources management (hereafter, WRM) in the Mekong?

The Mekong River, as a transboundary water body, has possessed the potential to bring

about either cooperation or contention in the region. A few interstate hostilities concerning the river occurred between 1948 and 2008 (a total of 16 hostile incidents, out of which 13 have occurred since 2002), though they mostly involved only verbal exchanges among officials.<sup>1</sup> This suggests that the Mekong has been increasingly prone to tensions among co-riparian neighbors. Apparently, this propensity has been precipitated primarily by extensive development and infrastructure projects in the upper Mekong basin.

Notwithstanding the region’s proclivity for conflict, the Mekong River has witnessed various attempts by riparian countries, at different periods of time, to build a regional house to govern the shared usage of the river basin and water resources. Nonetheless, they have not been successful in developing robust governing institutions that are endorsed by all the riparian users. With a length of 4,880 km and rich resources, the river is the most important watercourse in the Mekong, with the seeds of conflict within itself. Moreover, the river’s riparian countries—from upstream to downstream: China, Myanmar, Laos, Thailand, Cambodia, and Vietnam—vary in terms of size, population, economic development, and most importantly, political voice. This is especially true when comparing China with its downstream neighbors. This disparity generates a variety of interests, concerns, and conditions, which are unlikely to be compromised, or even coordinated. Hence, effective Mekong River governance, endorsed by all the six riparian countries, has thus far appeared unlikely if not impossible.

For decades, one of the overriding issues of Mekong governance has been WRM and it is

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still an ongoing challenge. The issue is of prime importance since the Mekong river basin is pivotal to the livelihoods of communities living along the river's course, especially those residing in the lower parts of the Mekong river and its delta. In this regard, the river's governing institution administering the river basin and water resources has been indispensable.

The history of Mekong's governance can be traced back to the late 1940s, when a Mekong Consultative Committee, whose members were Laos, Cambodia, and Vietnam, came under French colonial influence. Nevertheless, it was not until the year 1954 when a short-lived arrangement called the Provisional Mekong Committee—one of the earliest river management frameworks in developing regions around the globe—was eventually formed by the Paris Convention of December 29, 1954. Through this committee, the three newly independent countries agreed to promote freedom of navigation on the lower Mekong River, and to have discussions about issues related to fluvial and maritime navigation. Even though the provisional body led to the creation of the Second Mekong Committee, whose aim was to be responsible for all aspects of international river navigation, it failed to yield policy outcomes. Despite several other circumstances, the exclusion of Thailand, another lower Mekong country, from membership of the governing framework is the compelling factor that doomed the river's governing processes to failure.

The colonial-designed Mekong governance framework was succeeded by the Mekong Committee (MC), incepted in 1957 with the support of the United Nations Economic Commission for Asia and the Far East (ECAFE). In contrast to its predecessor, this newly established governing institution included Thailand as a member. The height of the cold war in mainland Southeast Asia availed the formation of the MC, as

America's ECAFE pressured Mekong countries to choose sides, which in turn made joining the MC more favorable for small countries. Given that the MC operated amid a setting full of turmoil and militarized conflicts, along with political differences and diplomatic deficits among its members, it is remarkable that this governing institution has been able to deliver tangible policy outcomes, concrete plans for coordination, and the Mekong projects. Despite the drawbacks of its unanimity principle, which restrained the institution's capacity, the key decisions it made survived for nearly two decades.

The most notable legacy of the MC on Mekong governance is the *Joint Declaration of Principles for Utilization of the Waters of the Lower Mekong Basin*, adopted by members in January 1975. This is because it was the first time the four riparian countries tabled the principle of reasonable and equitable share to govern WRM in the Mekong River. The joint declaration also set down an Indicative Basin Plan to evaluate water resources development in the river basin and the needs of the riparian users, and to find the optimum solutions that would equitably satisfy those needs. But, the principle of reasonable and equitable share was never implemented because shortly after the four Mekong nations inked the joint declaration, the MC ceased to exist due to regime changes in Indochina. The unprecedented results yielded by the MC proved it to be a successful preliminary experiment in Mekong governance and provided a guide for subsequent efforts to drive WRM cooperation in the region.

After decades of enmity in the region, the Mekong was transformed in the 1990s from a Cold War battlefield into a marketplace, followed by rapid industrialization in all riparian countries. Market-oriented development became one of the top priorities for Mekong governments; this however is a double-edged sword. The negative edge of the

sword is evinced through the dry season, when nearly 60 million people in villages and communities who make a living from the shared river are badly affected by unnaturally quick changes in its water level. These rapid changes have primarily been precipitated by intensive development and infrastructure projects, especially dam building projects in China, furthest upstream along the river. Unlike its riparian neighbors in the lower basin, China considers the upper Mekong River—called Lancang by the Chinese—its national river, and unilaterally started to build a dam across it in the late 1980s. As the most upstream and powerful nation, China is indispensable to crafting a new governing institution that could set the rules for sharing river and water resources. Any such efforts without China’s active involvement would be doomed to fail.

A new governing institution was founded in 1995, when the governments of Laos, Thailand, Cambodia, and Vietnam signed the *Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin* (hereafter, MRC Agreement). Unlike its predecessors, the Mekong River Commission (MRC) has a legal status as an international organization, through which its signatories are bound to implement the agreement. The MRC Agreement created new principles and rules for governing the usage of the Mekong River. It also established the MRC Secretariat, located in Vientiane. Thus, for some observers, the MRC became a new hope for the region’s WRM efforts, or even a milestone in Mekong governance.

Although the MRC is supposed to have legal-binding authority, notwithstanding its legal status, it does not. Like the MC membership, MRC member countries have the sovereign right to govern the basin within their own boundaries, limiting the institution’s enforcement capacity. They have obligations only to notify the MRC Secretariat in Vientiane for tributary development, and to

consult it in case of mainstream development. The MRC has a considerable role as a consultative dialogue and coordinating mechanism, collecting and sharing information, especially water-level data, among members. Yet it shares the same shortcomings as those of the previous institutions, namely weak institutional capacity and lack of inclusiveness.

For the MRC, the lack of inclusiveness of the most upstream country—aptly called the “China factor”—has been the weakest point of the institution. Even though the two upper Mekong countries—China and Myanmar—have been MRC dialogue partners since 1996, they have shown no interest so far in joining as members. Moreover, despite the fact that since 2002 China has agreed to provide real-time water-level data during the flood season—after a flooding in 2000 that killed hundreds of people living in the Mekong Delta—this data is often delayed. This has long caused difficulties for the lower Mekong countries to forecast water levels accurately, which is crucial to prevent flood and drought crises.

Apart from its slow and uncooperative moves, China has preferred to talk with its co-riparian neighbors in other arrangements. In 2000, for example, Beijing and all Mekong governments except Hanoi discussed issues related to the development of transport links. They then signed the *Agreement on Commercial Navigation on Lancang-Mekong River* under the Quadrangle Economic Cooperation (QEC) initiative, an economy-oriented framework created by Bangkok, rather than under the MRC. In contrast to its position on MRC cooperation, China’s posture in Mekong’s economic frameworks has been that of an active player. China’s role in the Greater Mekong Sub-region (GMS) Economic Cooperation Program, for instance, has been increasingly active up until the mid-2010s. This is even though Beijing’s central government is not a member. However,

China's provincial governments of Yunnan and the Guangxi Zhuang Autonomous Region (GZAR), and Japan, cast a shadow through the Asian Development Bank (ADB). All these factors have made the MRC a toothless institution, bringing into question its relevance for the Mekong.

An explanation of China's pattern of engagement is simple. By becoming a member of the river's governing institutions, regardless of their institutional weaknesses, China would be constrained to entering a game with pre-defined rules. This would restrain its foreign policy autonomy, and perhaps even affect its core interests. On the contrary, by joining regional economic institutions, China would gain the benefits of cooperation, serving China's needs in developing its South-West border region, Yunnan, and the Guangxi Zhuang Autonomous Region (GZAR), while also expanding Chinese influence in the region. Thus, the China factor, Beijing's cooperative posture, has proved to have been a decisive factor in making Mekong governance—especially the management of joint usage of water resources between upstream and downstream countries—achievable, or at least possible, within new geopolitical realities.

The China factor has appeared to be most at fault when considering the failure of Mekong governance, especially regarding integrated basin-wide WRM cooperation. This brings us to the MLC, a recently launched multilateral framework, that has gained momentum even before its inception in 2014, receiving considerable attention from both policymakers and scholars. Although MLC is not the river's governing institution *per se*, water-related issues—including WRM—have clearly appeared in key documents and speeches by leaders. Moreover, MLC, for many observers, has been seen as a turning point not only for the river's governance but also for wider regional politics. One scholar even divides Mekong River politics into pre-

and post-MLC.<sup>ii</sup> In this regard, simple questions arose: (1) is the MLC really an overriding framework? (2) if so, why? and (3) does it have far-reaching and wide-ranging consequences, especially concerning governance of the Mekong River and WRM?

Answering these questions is not easy. The lack of information on the MLC that is available to the public is one problem. But more problematic are the newly-opened files released by Thai government agencies. These tell a story that sometimes conflicts with the MLC narratives that have appeared elsewhere. Here, all questions will be addressed based on the Thai side of the story.

MLC has overridden all other existing frameworks in the Mekong, as its establishment immediately triggered considerable implications for the region, especially on water matters, which will be felt for years to come. The following derive from its idiosyncrasies.

First, China as a sovereign state is a full member and has been driving the regional processes since 2014. China has repeatedly voiced that its status differs from other Mekong donor countries such as Japan and the United States, in that it also shares the Mekong River with the five Mekong nations. For this reason, China is not a dialogue partner but a co-riparian country, claiming itself equal to all the other MLC members. Beijing is thus equal to the others in the MLC framework, notwithstanding its size and strength. More importantly, MLC has been essential to Beijing's Belt and Road Initiative (BRI), a grand overarching strategy. MLC's geographic coverage is indispensable for BRI's China-Indochina Peninsular Economic Corridor. Above all, one recently-opened document revealed that a month before the First MLC Foreign Ministers' Meeting (MLC FMM), a Chinese senior official in Bangkok said to Thai diplomats that "the MLC is the most important platform for China in

Southeast Asia.” Thus, the MLC has overridden the Association of Southeast Asian Nations (ASEAN) in China’s foreign policy priorities.

Another idiosyncrasy is the fact that MLC is the only Mekong framework with cooperation areas that include political and security issues. In fact, political and security cooperation are among the MLC’s three pillars. Political and security issues include security, law enforcement, transnational crimes, and joint operations. All these have long been untouched under other arrangements in the Mekong. One of the MLC’s top priorities has been the establishment of the Center for Comprehensive Law Enforcement and Security Cooperation in the Lancang-Mekong Sub-Region. Soon, this center will change the approach towards regulating the river basin and water resources.

While the China-led MLC process obviously has a substantial impact on Mekong governance and all-inclusive WRM, it is too early to determine whether its consequences are positive or negative. Nevertheless, the road ahead towards the basin’s governance and WRM might not be too gloomy. This is because water-related issues, specifically WRM, have been at the top of the Thai government’s agenda, Thailand being the original prime mover of the MLC. Though this fact is less-known, Thailand’s proposal of the International Cooperation on Sustainable Development of the Lancang-Mekong Sub-region (hereafter, ICSD) tabled in 2012 was actually the original design of the MLC. The Thai motivation behind the proposal was driven by the fact that *per se* there was no platform for Mekong countries to talk with Beijing’s central government about Mekong matters, especially on water-related issues.

Thailand’s plan to create the ICSD was, however, unsuccessful, as China rejected an invitation to take part in convening the first ICSD meeting. The reason given by China

was that the ICSD concept paper proposed by Thailand was too technical and focused overwhelmingly on water-related matters. In April 2014, China changed its mind and proclaimed its support for the Thai proposal. However, China would draft and table the concept paper of the new initiative, and political and security issues were included within its cooperative scope.

While China attempted to include political and security cooperation among MLC’s main areas of issues, Bangkok tried hard to push forward the river basin’s water agenda and for WRM to be included in the MLC’s key documents. For Thai policy-makers, the China-led MLC has provided opportunities for Bangkok to deal with Beijing on WRM, especially on its most pressing needs, real-time water data exchange, which is also what Vietnam expected to get from joining the MLC.

Thailand’s effort to push water-related issues and WRM under the MLC appears to have been moderately successful. The concrete outcomes of these efforts are best exemplified by both MLC’s five key priority areas and key documents. Other outcomes include the refining and addition of more water-related necessary issues important to all co-riparian countries, in the objectives of China’s early harvest projects, and the creation of the Lancang-Mekong Water Resources Cooperation Center.

Thailand’s interests and its diplomatic maneuverings in negotiating with China have played an important role in tabling water-related issues and WRM. Thailand’s leverage in dealing with China—because of its past political support—together with solidarity among Mekong countries, might moderate China’s “too fast, and too soon” agenda on the Mekong. Hopefully, this will make WRM more inclusive and integrated.

Is the MLC a “new” hope for WRM in the Mekong? Yes, it might help WRM cooperation for the better, but at what cost? Is the trading of the consequences of dredging waterways for real-time water data well worth it? Is that an acceptable trade-off for communities living along the river? Policy-makers in Mekong countries must think carefully about all these issues before making any decisions.

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<sup>i</sup> Heejin Han, “China, an Upstream Hegemon: A Destabilizer for the Governance of the Mekong River?,” *Pacific Focus* 32, no. 1 (2017): 34.

<sup>ii</sup> Sebastian Biba, “China’s ‘Old’ and ‘New’ Mekong River Politics: The Lancang-Mekong Cooperation from a Comparative Benefit-Sharing Perspective,” *Water International* 43, no. 5 (2018).