

Connecting the dots between law and transboundary water management: can international law accommodate the dynamics between investment, environmental protection and human rights in hydropower projects in the Lower Mekong River Basin?

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(b) Key issue(s) or problem(s) addressed

A key challenge faced when implementing international law within the context of hydropower projects on transboundary rivers is the lack of an integrated approach to the multitude of laws and actors (government, civil society and private sector) that operate across different scales (local, national, regional and global). In the Lower Mekong River Basin (LMRB), the lack of a joined up approach to hydropower project regulation has led to unbalanced decision-making, the outcome of which is a preference towards national plans over basin-wide ones, and singular economic benefits (electricity generation/income) over environmental and social ones (sustainable livelihoods for all). Such decision-making results in the displacement of populations, environmental damages, economic losses and dam collapse. With more and more dams being built, the controversies and losses surrounding projects are becoming more significant, including the threat to the food and water security of basins as a whole, in addition to creating tensions between the riparian countries.

(a) Purpose of study or research hypothesis

It is essential that international law accounts for the diversity of interests and actors involved in the investment, environmental or human rights related aspects of hydropower, as well as of their inter-relationship, in order to accurately and efficiently regulate hydropower on transboundary rivers.

(d) Results or conclusions derived from the project

The aim of this paper is to explore a different approach to the legal environment for transboundary hydropower projects through the experience of the LMRB. In doing so the paper presents a more integrated vision of how the plurality of actors, scales and regimes can be accommodated within the international legal system.

(c) Methodology or approach used

This approach draws heavily upon the concept of transnational law (TNL) in order to explore law beyond and across set categories and boundaries. In applying this TNL approach, the paper demonstrates how a more diverse set of actors and legal instruments, e.g. 'soft law' regulations, operating at multiple scales, can better be integrated into traditional legal systems. The consideration of the LMRB as a transnational legal space highlights these critical intersections between the various actors, regimes and scales on the one hand and the role of international law on the other.

(e) Implications of the project relevant to congress themes

Ultimately, the paper maintains that if international law can better account for the relationships between the different actors and legal arrangements within hydropower at multiple scales, it could make a stronger contribution to improving the sustainable and equitable management of transboundary rivers for all.

Keywords : Transboundary rivers; Lower Mekong River Basin; Hydropower; Transnational Law