



# Protecting the Right to Water in the Mekong River Basin: Addressing Vulnerable Groups amidst Climate Change and Anthropogenic Challenges

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**Abstract:** Climate change is a pressing global issue with profound consequences for life, health, and livelihoods. Its impacts — ranging from floods and droughts to saltwater intrusion — have displaced countless individuals, intensified geopolitical conflicts, and underscored the urgent need for nations to ensure equitable and efficient management of shared resources. At the same time, efforts must focus on mitigating climate change adverse effects and safeguarding human rights, particularly for vulnerable populations.

This study focuses on the Mekong River Basin (MRB), a region significantly impacted by climate change and human-induced pressures. It critically evaluates gaps in international legal frameworks designed to protect human rights within the basin and identifies key shortcomings in addressing the needs of vulnerable groups, including marginalized communities and displaced populations.

ASEAN, which includes five MRB countries — Cambodia, Laos, Myanmar, Thailand, and Vietnam — is argued to play a pivotal role in facilitating dialogue on cross-border water management in the MRB. Through its regional partnership framework, ASEAN provides a platform for these countries and China, a major stakeholder in the basin, to engage in discussions aimed at achieving sustainable water resource governance. By fostering collaboration and mutual understanding, ASEAN helps to align national policies with regional objectives, promoting shared responsibility for equitable and efficient resource use.

This research offers strategies and actionable solutions to strengthen regional cooperation and foster inclusive policymaking. It advocates for an integrated approach to climate adaptation that prioritizes the rights and well-being of vulnerable groups. Ultimately, the findings highlight the urgency of addressing legal and institutional gaps to ensure a sustainable and equitable future for the MRB and its inhabitants.

**Keywords:** vulnerable groups; climate change; rights to water; Mekong River Basin (MRB); Mekong River Commission (MRC); sustainable development; Association of Southeast Asian Nations (ASEAN)

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## I. Introduction

In recent decades the international community has become increasingly interested in developing methods and strategies to promote wealth and prosperity for people and the planet. It is recognized that

ending poverty must go hand-in-hand with strategies that build economic growth and address a range of social needs including education, health, social protection, and job opportunities, while tackling climate change and environmental protection. In 2015, the United Nations (UN) adopted the global Sustainable Development Goals (SDGs) with 17 interconnected goals and 169 targets focused on economic growth, social inclusion, and environmental protection. These goals serve as the “*world’s to-do list*”, aiming to eradicate poverty, reduce inequalities, and combat climate change. While the SGDs have been approved by all the UN members, global implementation of the goals faces challenges due to diverse cultural, religious, and social values across different nations and regions (Adhamiya and Rothman, 2021, p. 2).

In the Mekong River Basin (MRB), the challenge of cooperation in transboundary water resource management, especially ensuring the right to water for vulnerable groups, is becoming more urgent than ever due to the impacts of climate change combined with the overexploitation of water resources (Campbell, 2011, p. 728). Despite significant economic progress in recent decades, extreme poverty persists in some MRB economies, particularly in rural areas where poverty rates remain higher than in urban regions. Nearly 85 % of the Mekong population live in rural areas, almost entirely dependent on resources provided by the river.<sup>1</sup> The free-flowing Mekong, with its sediment-rich nutrients, is a crucial lifeline for impoverished communities in the lower Mekong region, providing essential water resources for agriculture and fisheries. Climate change and unsustainable exploitation of river resources are drastically affecting the river, leading to record-low water levels and severe ecological threats. In 2019, the Mekong River dropped to their lowest flow in the last century.<sup>2</sup> In summer 2023, Vietnam is experiencing a tremendous electricity shortage when many hydropower

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<sup>1</sup> FAO. (2011) Transboundary River Basin Overview — Mekong. FAO. Available at: <https://openknowledge.fao.org/server/api/core/bitstreams/a95eaf4e-eb6a-437d-b488-01ad8993bc7c/content> [Accessed 16.12.2024].

<sup>2</sup> National Geographic. (2019). Mekong River at its lowest in 100 years, threatening food supply. *National Geographic*. Available at: <https://www.nationalgeographic.com/environment/article/mekong-river-lowest-levels-100-years-food-shortages> [Accessed 16.12.2024].

plants are reaching dangerously low water levels because of extreme weather conditions.<sup>3</sup> According to global statistics, vital areas in MRB, including Vietnamese Mekong delta and the Cambodian Tonle Sap Lake, have become increasingly vulnerable to the adverse effects of climate change (Jaap and Pathirana, 2018, p. 2). Conditions are worsening for marginalized populations, who are grappling with increasingly challenging circumstances. Preserving the health of this ecology system is of utmost importance for the livelihoods and future security of the women, men, and children reliant on the Mekong River, as well as for the economic progress of the countries in the region.

The Mekong River, spanning multiple countries, presents complex and interconnected challenges that demand active regional cooperation to achieve sustainable development and address the needs of vulnerable farming communities. However, a significant barrier lies in the absence of a clear definition of “vulnerable people” in international law. This legal ambiguity leaves Mekong riverine farmers, who face severe hardships due to the degradation of the river’s ecosystem, without formal recognition as vulnerable populations. As a result, their needs and interests are often excluded from policy frameworks and decision-making processes.

Compounding the issue is the approach taken by some governments in the region, where environmental protection and regional cooperation in water resource management are given limited attention. Instead, the emphasis often shifts towards maximizing economic gains from the river’s resources, such as hydropower, irrigation canal and industrial development. This short-term economic focus frequently comes at the expense of long-term ecological sustainability and the livelihoods of communities dependent on the river. Resolving these challenges requires not only enhanced cooperation among Mekong countries but also the establishment of clear legal and policy mechanisms that recognize and protect the rights of vulnerable groups. By integrating environmental sustainability, equitable resource management, and the

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<sup>3</sup> Vietnam Investment Review. (2024). Limited supply poses a risk of electricity shortages. *Vietnam Investment Review*. Available at: <https://vir.com.vn/limited-supply-poses-a-risk-of-electricity-shortages-108419-108419.html> [Accessed 16.12.2024].

voices of affected communities, the region can work toward a more inclusive and sustainable future.

This article employs an in-depth legal doctrinal methodology to critically assess the legal and practical foundations of cooperation available in the Mekong sub-region. By meticulously analyzing existing rules, treaties, declarations, and geopolitical developments in Southeast Asia, the study seeks to identify and strengthen cooperation mechanisms while proposing actionable measures to safeguard the human rights and living environments of vulnerable populations therein. This approach not only highlights the theoretical underpinnings but also bridges the gap between legal doctrine and practical implementation, offering a basis for future collaboration in the Mekong sub-region. The article begins by defining the concept of vulnerable groups and elucidating the scope of vulnerable groups in context of the MRB in the light of international law. This exploration will serve to underscore the urgency of relevant measures in accordance with the SDGs of the UN as well as the ASEAN Declaration of Human Rights of 2012. Subsequently, it proceeds to address the hurdles and complexities encountered in implementing the Mekong River Commission's collaboration programs, placing particular emphasis on the limited involvement of Mekong River's upstream countries, notably China. The article then underscores the pivotal groundwork essential for reshaping the collaboration framework to effectively advance the SDGs in the future.

## **II. Defining Vulnerable Groups in the New International Context: Rights, Protections, and Implications**

### **II.1. "Vulnerability Concept" in Modern International Law**

Vulnerability has become a prominent (Timmer et al., 2021, p. 195), but contestable (Limante, 2022, p. 3) concept in human rights law. The core global human rights documents (the Universal Declaration of Human Rights of 1948, the International Covenant on Civil and Political Rights of 1966 and the International Covenant on Economic, Social and Cultural Rights of 1966) contain no direct mention of vulnerability or vulnerable groups. These documents set out general

principles prohibiting any kind of discrimination on any ground to effectively guarantee people equal and establish foundations for human rights protection. Apart from universal documents, many conventions, declarations, and other legal instruments regarding human rights protection in general and vulnerable groups in particular were adopted at the global, regional and domestic levels.

The concept of vulnerability is acknowledged in several key human rights conventions, such as in the Preamble of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990, the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography of 2000, and in Art. 7 of the International Convention for the Protection of All Persons from Enforced Disappearance of 2006. However, these conventions fail to provide a clear and comprehensive definition for the concept of “vulnerability”, as well as an exhaustive list of “vulnerable groups of the population” at both global and regional levels. They focus on regulating protection mechanisms for certain groups, which can result in some groups being categorized as “weak”. It creates uncertainty as to whether certain groups of the population can meet the standards of vulnerability to become subject of human rights protection of vulnerable groups.

In a broad sense, a “vulnerable person” is someone who may be discriminated on various grounds within their society and, therefore, requires special measures to protect their rights. These factors may include race, skin color, religion, gender, sex orientation, economic and political statute, and other personal characteristics as well as other circumstances that may lead to mental, physical, financial, or other injury (McDonald and Forte, 2022, p. 337). In general, the formulation “vulnerable people” is often used to refer to women, children, refugees, immigrants, indigenous populations, elderly people, people with disabilities, HIV-positive people, homeless peoples (Eswarappa and Atrayee, 2019). Professor Fineman (2019, p. 345) proposed a theory of vulnerability in the context of modern social development, emphasizing that inequality is an inherent aspect of any society, regardless of its political structure. Certain groups are consistently more vulnerable

and susceptible to various factors, including physical, psychological, socio-political, and environmental harm (Engström, 2020, p. 233). Thus, significant changes in the environment on which such groups of population depend for survival and livelihood can swiftly push all of them into extremely challenging living conditions. For instance, the rapid pace of industrialization in certain areas can lead to the emergence of new groups facing challenging circumstances, demanding enhanced protection. Beside the economic losses and the conventional impacts on human rights such as access to food and water, numerous studies have demonstrated that climate change exerts a severe and adverse influence on non-traditional dimensions of human rights, such as mental health (Wewerinke-Singh and Doebbler, 2022), gender equality (Ngcamu, 2023), equitable and legal access to justice (Chapman and Ahmed, 2021), etc.

The overarching objective of strategies and policies aimed at mitigating the consequences of climate change remains the safeguarding of the rights of all individuals, with special attention to vulnerable groups. While the topic of vulnerable populations garners some discussion, the definition remains primarily confined to “experts’ opinions” or outlined in “soft law” documents. Aspects for determining vulnerability have yet to be expressly documented in any international legal instruments or judicial rulings. Broadening the concept of “vulnerability” is urgent to avoid legal pitfalls and ensure the effective protection of vulnerable groups. The modern international environmental law proposes international community recognize and consider farmers as a vulnerable group, especially so-called small farmers (Donatti et al., 2019, p. 268).

In the context of climate change’s impact on the natural environment, outdoor workers — such as farmers, sewer workers, herders, fishermen, and foragers — emerge as some of the most vulnerable groups. Their livelihoods are directly tied to nature, making them particularly susceptible to environmental damage, with few opportunities to adapt or improve their living conditions. Environmental changes result in significant economic losses directly affecting the human life (e.g., life, food, water, sanitation, housing) of residents living in the Mekong River basin, consequently affecting a range of other rights such as the right to

healthcare, education, gender equality, access to social-cultural services, and more. This resembles a domino effect, where climate change does not create inequality, but exacerbates vulnerabilities. As a result, it is essential to recognize outdoor workers as a vulnerable group, both due to the adverse effects of environmental changes and the occupational hazards they encounter daily as a result of climate change.

In the Mekong River sub-region, riverine traditional communities, which rely mainly on rice cultivation, fruit growing and fishing, have been significantly impacted by the effects of global warming. The climate change directly threatens agricultural productivity and increases the risks of flooding, droughts, fires, and other natural and anthropogenic disasters. It is essential to note that when community livelihoods are negatively affected, it directly impacts the rights of children, such as their ability to access education, healthcare, and other essential services.<sup>4</sup> Additionally, children are particularly vulnerable in the context of climate-related migration and displacement,<sup>5</sup> leading to a range of other consequences, including increased poverty, physical and mental health issues, a heightened risk of child labor exploitation, early marriage, and abuse. However, children often belong to a dependent group with limited agency and the least voice in climate change policy-making and action.<sup>6</sup> Recognizing the outdoor workers, farmers and fishermen as vulnerable groups is crucial in the context of climate change, as it enables policymakers and organizations to collaborate and make efforts to protect the rights of vulnerable groups in the MRB, aligning their actions with the SDGs.

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<sup>4</sup> UNICEF. (2023). Child Rights on the Mekong. How the is the Convention of the Rights of the Child linked to the health of the Mekong River? *UNICEF*. Available at: <https://www.unicef.org/laos/stories/child-rights-mekong> [Accessed 16.12.2024].

<sup>5</sup> UNICEF UK. (2017). No Place to Call Home: Protecting Children's Rights when the Changing Climate forces Children to Flee. *UNICEF UK*. Available at: <https://www.unicef.org.uk/wp-content/uploads/2017/04/No-Place-To-Call-Home.pdf> [Accessed 16.12.2024].

<sup>6</sup> OHCHR. (2019). The Global Climate Crisis: A Child Rights Crisis. *OHCHR*. Available at: <https://www.ohchr.org/sites/default/files/WorldVisionInputs2.pdf> [Accessed 16.12.2024].

## II.2. Right to Water of Vulnerable Groups in MRB under Climate Change

Fresh water is indispensable to sustain life and health and fundamental to the dignity of all. Most of the world's fresh water is not easily accessible to humans. River water is the most used source of fresh water for humanity, but it only accounts for a volume of 1,250 km<sup>3</sup>, which is 1/1,000,000 of the total water volume.<sup>7</sup> Over 84 million people do not have access to improved sources of drinking water, while 2.5 billion lack access to improved sanitation facilities.<sup>8</sup> While these numbers shed light on a worrying situation, the reality is much worse, as millions of poor people living in informal settlements are simply missing from national statistics. The roots of the current water and sanitation crisis can be traced to poverty, inequality and unequal power relationships, and it is exacerbated by social and environmental challenges: accelerating urbanization, climate change, and increasing pollution and depletion of water resources.<sup>9</sup>

While the right to water has not been explicitly recognized as a self-standing human right in international treaties, international law entails specific obligations for States relating to protection of the rights to access to fresh water for everyone. These obligations require States to ensure everyone's access to a sufficient amount of safe drinking water for personal and domestic uses, defined as water for drinking, personal sanitation, washing of clothes, food preparation, and personal and household use.<sup>10</sup> These obligations are embedded in the right to an adequate standard of living and the right to health, both of which

<sup>7</sup> OHCHR. (2019). The Global Climate Crisis: A Child Rights Crisis.

<sup>8</sup> UNICEF. (2018). Progress on Drinking Water and Sanitation: Special Focus on Sanitation. *UNICEF*. Available at: <https://iris.who.int/bitstream/handle/10665/258617/9789241512893-eng.pdf> [Accessed 16.12.2024].

<sup>9</sup> UNDP. (2006). Human Development Report 2006: Beyond Scarcity — Power, poverty and the Global Water Crisis. *UNDP*. Available at: <https://www.undp.org/libya/publications/human-development-report-2006-beyond-scarcity-power-poverty-and-global-water-crisis> [Accessed 16.12.2024].

<sup>10</sup> WHO, UNICEF. (2023). WHO/UNICEF Joint Monitoring Program for Water Supply, Sanitation and Hygiene — Progress on household drinking water, sanitation and hygiene 2000–2022: Special focus on gender. *WHO, UNICEF*. Available at: <https://washdata.org/reports/jmp-2023-wash-household> [Accessed 16.12.2024].

are recognized in several international human rights instruments, such as the Convention on the Elimination of All Forms of Discrimination Against Women (1979, Art. 14.2 on adequate living standards of women in rural areas) and the Convention on the Rights of the Child (1989, Art. 24.2 on the right to health).

The latest report from the United Nations International Children's Emergency Fund (UNICEF) and the Intergovernmental Panel on Climate Change (IPCC) suggests that about 3.3 billion people will be affected by the negative impacts of climate change,<sup>11</sup> including about 1 billion children — nearly half of all children worldwide — who are at “extremely high risk” of the impacts of climate change, almost 3.5 billion people will undergo extreme heat as the Sahara by 2070 without emissions cuts. Climate change leads to a decrease in precipitation and an increase in temperature and timely rises concerns about the lack of clean drinking water. According to UNESCO data, in 2020, about 26 % of the world's population (2 billion) did not have access to clean drinking water supply, and 46 % (3.6 billion) lacked access to safely managed sanitation.<sup>12</sup> In this context, protecting the right to water, especially for vulnerable groups, has become one of the urgent tasks not only for each country, but also globally.

For the Mekong River Basin, with 85 % of the population living along the river basin and economically dependent on river water, the right to water — including the distribution, supply, and use of water, as well as the environmental use<sup>13</sup> serves as the foundation for all other rights. These include the right to live along the river, the right to exploit water-related resources for economic development, and the right to land connected to the basin. The greenhouse effect has directly impacted the water flow of the Mekong River, leading to unusual floods and droughts that significantly affect the livelihoods of people living in the MRB.

<sup>11</sup> IPCC. (2022), *Climate Change 2022: Impacts, Adaptation and Vulnerability*. IPCC. Available at: <https://www.ipcc.ch/report/ar6/wg2/> [Accessed 16.12.2024].

<sup>12</sup> UNESCO. (2023). *Partnerships and cooperation for water*. The United Nations World Water Development Report 2023. Executive Summary. UNESCO. Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000384657> [Accessed 16.12.2024].

<sup>13</sup> ADB. (2009). *Water rights and Water allocation: Issues and challenges for Asia*. ADB. Available at: <https://www.adb.org/sites/default/files/publication/28482/water-rights.pdf> [Accessed 16.12.2024].

The living conditions of these population groups are severely worsened by the increasing exploitation of water resources for industrialization. Activities such as constructing hydroelectric dams, digging irrigation canals, and altering river flows directly reduce natural food sources and accelerate the degradation of the ecological systems upon which these communities have traditionally depended for survival. Ensuring the right of equitable access to water is essential for maintaining the socio-economic stability and environmental sustainability of the region. Without secure access to water, these interconnected rights become vulnerable, making the protection of water resources central to the well-being and livelihoods of the region's inhabitants. As such, addressing water management and conservation issues is vital for safeguarding the comprehensive rights and prospects of the MRB communities.

The disastrous effects of climate change on vulnerable groups are indubitable and are being perpetuated by numerous pretexts, such as socio-economic underdevelopment, unequal power relations, poor governance, etc. A comprehensive understanding of the ill-starred hazard to vulnerable groups and thoroughly defining its legal status are indispensable for developing effective climate change adaptation and mitigation strategies. Recognizing the problems relating to the right to water faced by vulnerable groups in the MRB is crucial, as it would compel governments and other stakeholders to allocate sufficient resources toward establishing stronger legal mechanisms to protect their essential human rights. It would also help to create a basis for regional collaboration to focus on ensuring the right to water for vulnerable groups in the MRB.

### **III. Assessing the Existing Mechanisms for Protecting the Right to Water of Vulnerable Groups in the Mekong River Basin**

#### **III.1. Mekong Sub-Regional Cooperation Mechanism**

The concept of establishing a sub-regional cooperation mechanism for the Mekong River to address the myriad of challenges was conceived in the 1950s, when the Mekong countries took steps towards cooperation

in the exploitation and use of the river's resources through the signing of the Statute of the Committee for Coordination of Investigations of the Lower Mekong Basin (Mekong Committee). However, this initiative did not lead to entail comprehensive cooperation in the MRB, as it excluded the participation of the upstream countries of China and Myanmar (Browder and Ortolano, 2000, p. 505). The People's Republic of China was not invited to participate in the Mekong Committee due to its political isolation at the time, as it was not recognized by the international community until it gained the UN membership in 1971. Meanwhile, Myanmar declined to join, viewing the Committee as not aligned with its national interests (Jeffrey, 1995, p. 143). Political and economic instability in the region further contributed to the Mekong Committee's inactivity, limiting its effectiveness in addressing transboundary water management.

In 1995, the four downstream countries — Cambodia, Laos, Thailand, and Vietnam — executed the Agreement on Coordination for Sustainable Development in the Mekong River Basin (Mekong Agreement 1995) to revive the cooperation initiative for the Mekong region, with the participation of China and Myanmar. This initiative led to the establishment of the Mekong River Commission (MRC). However, China and Myanmar agreed only to participate in MRC activities as dialogue partner countries.

To date, MRC is the sole intergovernmental organization for multilateral regulation of transboundary watercourse sharing in the region. MRC has taken many activities in promoting socio-economic and cultural cooperation in the region. Despite the absence of a specific legal framework, the MRC has demonstrated a commitment to upholding key human rights principles under international law. It has been proactively integrating the discussion on enforcement of human rights into its activities: from agriculture, fisheries, river transport, hydropower development, flood and drought forecasting to gender equality and climate change adaptation (MRC, 2021). MRC can play a key role in aligning human rights considerations with access to the Mekong's water resources. Through the Mekong Agreement of 1995, the MRC has notably shifted its focus towards environmental factors and sustainability, departing from the predominantly developmental

focus of its predecessors. MRC has adopted the Mekong Climate Change Adaptation Strategy and Action Plan (MASAP), which sets out the strategic priorities and actions at MRB level to address climate change risks and strengthen basin-wide resilience. As a result, the core operational principle of the MRC remains centered on the sustainable development of the Mekong sub-region, with a clear emphasis on the protection and enforcement of human rights.

Under the Mekong Agreement of 1995, a system of five Procedures to ensure fair and reasonable water exploitation activities on the Mekong River has established, including: (i) the Procedures for Data and Information Exchange and Sharing (PDIES) 2001; (ii) the Procedures for Water Use Monitoring (PWUM) 2003; (iii) the Procedures for Notification, Prior Consultation, and Agreement (PNPCA) 2003; (iv) the Procedures for the Maintenance of Flows on the Mainstream (PMFM) 2006; and (v) the Procedures for Water Quality (PWQ) 2011. These instruments are expected to provide a framework for countries to coordinate their interests over the Mekong River's water resources. Unfortunately, they have not been supported by all Mekong countries. Both China and Myanmar did not join the Mekong Agreement 1995. Pursuant to basic principles of international law, a state is not bound by obligation(s) determined in an international treaty to which it is not a party (Tran, 2014). Thus, by refusing to accede to the agreement, these states are not obligated to adhere to the provisions regarding the equitable exploitation of the Mekong River as set forth in the Mekong Agreement 1995.

Despite the efforts, the MRC's influence on the development of the regional regime for protection of the right to water remains quite limited due to several factors. Firstly, difference in levels of development and social policy priorities amongst MRC member countries results in varying approaches and standards of protecting vulnerable populations. Additionally, countries in the MRC often adopt a cautious stance in fulfilling international obligations related to human rights, especially when these obligations concern individuals or groups of people inhabiting other countries. To this end, should the concept of vulnerability in the context of climate change is accepted, it stands to reason that traditional communities living in the MRB are also vulnerable across multiple

dimensions. As a result, they should receive special attention from the governments of all Mekong states, given their increased exposure to environmental, social, and economic risks.

It must be recognized that transboundary water resources management is a complex and multifaceted challenge, requiring not only effective policies and strategies, but also the commitment and cooperation of all stakeholders involved. River water exploitation is always deeply political as it directly relates to the exercise of national sovereignty. In the light of current development, States are more or less concerned with environmental issues, however, it remains a stark reality that most States continue to prioritize economic interests over other non-economic factors, such as environmental impact or human rights and sustainable development. This poses significant barriers to their coordinated efforts in effectively implementing the international action plans aimed at the equitable use of water resources. In fact, the two global conventions on the protection and use of international water resources have not been strongly supported by nations, as evidenced by the number of ratifications for the Convention on the Protection and Use of Transboundary Watercourses and International Lakes and the Convention on the Law of the Non-Navigational Uses of International Watercourses (UN Convention 1997). Within the MRB, only Vietnam has ratified the Convention in 2014. Since accessing to the WTO in 2007, Vietnam has pursued an active integration policy by negotiating and concluding several important new-generation trade agreements that promote sustainable development, including the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and the EU-Vietnam Free Trade Agreement (EVFTA) (Tran and Ngo, 2017; Tran, 2019), consequently, becoming a pioneer in the region with significant international commitments to environmental protection, including the protection of water resources.

China's non-participation in the UN Convention of 1997 and the Mekong Agreement of 1995 is also considered as a significant challenge for effective management of the Mekong River's water resources given its considerable economic influence on the region as well as the direct influence on the water resources as an upstream state. To date, the most significant highlight in the cooperation between the MRC and China is

the agreement in the form of a memorandum of understanding signed in 2002 to share hydrological data for purposes of weather forecast and prediction of natural disasters on the Mekong River, which was renewed twice – in 2008 and 2013. However, this is rather a narrow and non-binding agreement by nature, allowing either party to withdraw from information exchange activities at any time. In fact, China has a history of unilaterally terminating the provision of meteorological data exchange to its counterparts, as was the case with India in 2017.

Arguably, in the absence of an international agreement, international customary norms can also be used to regulate cross-border water management. Certain strains of non-traditional scholarship advocating for the incorporation of human rights norms as generally accepted provisions of international law refer to the decisions of the ICJ in *Barcelona Traction*<sup>14</sup> and *North Sea Continental Shelf*.<sup>15</sup> The ICJ's finding in *Barcelona Traction* was used to justify the universality of human rights norms within the international system, while its judgment in *North Sea Continental Shelf* was typically used to support a new understanding of the sources of international law (Roozbeh, 2010, p. 183). In this view, human rights norms, by virtue of their inclusion in widely ratified international conventions, effectively represent the legality of the customary international customary norms. In this regard, one may point out the principle of fair use of international aquifers recorded in the Helsinki Rules. However, it should be noted that the application of customary international law depends upon the consent of states involved. If a State does not wish to be bound by a new rule of customary international law, it can, in theory, vocally object and declare that it does not view itself as bound.<sup>16</sup> It is important to note that the likelihood of MRB parties bringing a dispute before the ICJ is relatively low. To that end, the customary norms reaffirmed in the ruling remain crucial, as they allow states to “act freely within the framework” permitted by international law.

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<sup>14</sup> *Barcelona Traction, Light and Power company, Limited* [1962] ICJ 344.

<sup>15</sup> *North Sea Continental Shelf* [1968] ICJ 1.

<sup>16</sup> *Ibid.*

It is undeniable that uncoordinated development within MRB has compelled Mekong countries to take proactive steps in bolstering existing cooperation mechanisms and exploring alternative platforms to protect the river and together with it are the rights of vulnerable groups inhabiting in MRB.

### **III.2. ASEAN's Mechanism for Protection of Human Rights**

The human rights protection mechanism in the Mekong River Basin also finds support in the pertinent ASEAN regulations. In fact, ASEAN's legal framework for human rights protection can be directly applied to address human rights and environmental protection concerns within the Mekong River basin, given that five out of the six Mekong States are also members of ASEAN. It means that except for China the remaining five Mekong riparian countries are bound by the obligation to adhere to regulations established by ASEAN. This facilitates the alignment of regional and sub-regional efforts to uphold human rights and environmental safeguards.

Historically, countries in Southeast Asia have consistently exhibited distinct approaches to human rights concerns, shaped by variations in culture, politics, economics, and religion (Langlois, 2021, p. 152). Within this context, they often regard human rights as an aspect of national sovereignty, asserting that their national human rights policies should remain impervious to external influence or intervention. However, the development of ASEAN, grounded in the "ASEAN way" principle, has played a pivotal role in fostering a more receptive attitude among member countries towards acknowledging shared values related to development, encompassing various facets of human rights. While national sovereignty remains a cornerstone principle, ASEAN integration has promoted cooperation and dialogue, offering a platform for addressing common challenges, including those pertaining to human rights. The issues related to human rights protection were included in the ASEAN agenda annual meetings and implemented into various joint statements and other domestic documents since 1993.<sup>17</sup>

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<sup>17</sup> Communist. (2023). ASEAN and human rights of the woman [ASEAN và nhân quyền của phụ nữ]. *Communist Review*. Available at: <https://www.tapchiconsan.org.vn/hoat-ong-cua-lanh-ao-ang-nha-nuoc/-/2018/10385/asean-va-quyen-cong-quo-i-cua-phu-nu.aspx> [Accessed 16.12.2024].

A significant milestone occurred with the 2007 ASEAN Charter, which, for the first time, formally acknowledged that democracy and human rights are indispensable components of the region's development. It recognized them as binding obligations for Member States, with a strong emphasis on the goal of building a "people-oriented ASEAN in which all sectors of society" are involved. Respect for fundamental freedoms and the promotion and protection of human rights are not just incidental considerations but central objectives that underline ASEAN's existence. These core principles are explicitly outlined in the preamble of the ASEAN Charter, and their importance is reaffirmed throughout the document, emphasizing their centrality to ASEAN's mission.

Article 1.7 of the Charter regulates that the [purpose of ASEAN] are amongst others include "to strengthen the democracy, enhance good governance and the rule of law, and to promote and protect human rights and fundamental freedoms with due regard to the rights and responsibilities of the member states of ASEAN". Article 2.2(i) further underscores the commitment of ASEAN and its Member States to "respect for fundamental freedoms, the promotion and protection of human rights, and the promotion of social justice".

With the above-mentioned acknowledgment, human rights have become an integral part of the ASEAN discourse, institutional framework, and regional diplomacy. This marks a noteworthy development in the ongoing discourse regarding Asian values versus European-style human rights. ASEAN member countries still aim to manage and restrict this influence on a degree that aligns with regional cultural norms. This intention is clearly reflected in the emphasis on the "ASEAN way" doctrine, which seeks to minimize external interference in ASEAN's internal affairs and those of its Member States.

While the ASEAN Charter provides a broad overview of these principles, the 2012 ASEAN Human Rights Declaration (the "AHRD") is hailed as the ASEAN community's strongest commitment to human rights, further solidifying its role in the region (Davies, 2013, p. 54). The AHRD offers guiding principles for ASEAN countries to respect, promote, protect, and fulfill substantive and procedural environmental human

rights.<sup>18</sup> The AHRD has incorporated the provisions of the Universal Declaration of Human Rights. It even extends beyond the Universal Declaration by explicitly acknowledging rights such as “the right to safe drinking water and sanitation” (Para. 28(e)), “the right to a safe, clean, and sustainable environment” (Para. 28(f)), the “right to development... aimed at poverty alleviation, the creation of conditions including the protection and sustainability of the environment” (Para. 36,) and “the right to peace” (Para. 30).

Regarding the protection of vulnerable groups’ rights, Para. 4 of the AHRD clearly states that “the rights of women, children, elderly people, persons with disabilities, migrant workers as well as vulnerable and marginalized groups are an integral and indivisible part of human rights and fundamental freedoms”. The declaration, like other legal documents on this subject matter, establishes an exhaustive classification of vulnerable groups whose rights are inseparable from human rights in general with no further interruption. It is essential to emphasize that international law places the responsibility on States to offer special protection for these groups to ensure their equal rights compared to others.

The Section of economic, social, and cultural rights of the AHRD recognizes specific environmental rights of individuals residing in ASEAN, including the right to safe drinking water and sanitation and the right to a safe, clean, and sustainable environment. These rights are integral components of the broader right to water. This recognition highlights the interconnection between safeguarding human rights, environmental preservation, and sustainable development. It indicates that ASEAN countries are aware of their role in the global effort to address environmental challenges and the growing understanding of the intersection between human rights and environmental protection. More importantly, they acknowledge the fact that environmental rights are a fundamental part of human rights.

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<sup>18</sup> Stockholm Environment Institute. (2024). The ASEAN Declaration on Environmental Rights: whose rights and what rights? *Stockholm Environment Institute*. Available at: <https://www.sei.org/perspectives/asean-declaration-environmental-rights/> [Accessed 16.12.2024].

The AHRD is considered a crucial regional instrument, especially for vulnerable groups within the ASEAN Member States. It provides a legal framework for recognizing, protecting, and upholding the rights of these groups, promoting social inclusion, and holding governments accountable for their welfare and well-being.

While ASEAN has legal instruments affirming the importance of protecting human rights, the existing framework is somewhat abstract and lacks binding responsibilities. Particularly regarding the precise definitions of terms and the practical scope of implementation, especially concerning the legitimate rights and interests of vulnerable groups. Additionally, the central concept of the “ASEAN Way”, rooted in the principles of non-interference and consensus decision-making, upholds the sovereignty, equality, and territorial integrity of Member States, as outlined in the ASEAN Charter. As such, the Member States have considerable flexibility in implementing their commitments within the ASEAN framework. While ASEAN leaders prize the ASEAN Way as a model fostering consensus amongst Member States on important strategies and progressive development directions for the block, in reality it can also hinder effective implementation of ASEAN regulations.

Returning to the context of cross-border water resource management cooperation in the MRB, the challenge in utilizing the ASEAN Charter and the ASEAN Human Rights Declaration (AHRD) to address sub-regional issues lies in the fact that, while human rights protection is emphasized, there is often a lack of specific protection and enforcement mechanisms. This gap is further compounded by the need to align such mechanisms with the diverse political and cultural values deeply embedded in the region’s long history. This disconnect underscores the importance of harmonizing international human rights standards with the unique cultural and historical contexts of each country in the MRB to ensure the effective protection of vulnerable groups.

It is evident that ASEAN countries tend to adopt a highly cautious approach when it comes to human rights protection policies and management of transboundary watercourses. Unfortunately, in the face of the pressing water crisis in the MRB and the essential need to protect the human rights of vulnerable groups amid the multifaceted effects of climate change and global warming, these issues are not given the

priority they deserve. They often take a back seat to other pressing political and economic concerns. In light of this context, it becomes imperative that concerned countries should work together articulating commitments and action plans for the further cooperation dealing with climate change. It is believed that collaborative efforts must be driven by the recognition of the interconnectedness of the challenges facing the MRB and the imperative to protect the rights and well-being of vulnerable communities. This calls for a collective and pragmatic approach to address the pressing issues of climate change and its impact on human rights in the region.

Recently, ASEAN Environmental Rights Working Group, comprising of government representatives and civil society representatives, has introduced a draft of the ASEAN Declaration on environmental rights, which aims to protect the ecosystem and biodiversity within the inhabited areas of indigenous communities across Southeast Asia.<sup>19</sup> This collaboration has been recognized as highly effective and could serve as a foundation for stronger engagement by civil society organizations in the forum on the protection of the right to water for vulnerable communities in the MRB. It is expected that more active involvement of civil society organizations, which are currently quite limited in the MRB,<sup>20</sup> can gradually help to raise awareness and influence the understandings and perspectives of key stakeholders, particularly farmers in riverine communities and state authorities. Once ASEAN Member States acknowledge the subject matter as a crucial element of the sustainable development requirements for the ASEAN community, they will formulate and implement necessary measures to manage the Mekong River

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<sup>19</sup> UNESCAP. (2024). Draft ASEAN declaration on environmental rights. *UNESCAP*. Available at: [https://unescap.org/sites/default/d8files/event-documents/AER%20WG\\_3M\\_3\\_Add1%20Draft%20ASEAN%20declaration%20on%20environmental%20rights.pdf](https://unescap.org/sites/default/d8files/event-documents/AER%20WG_3M_3_Add1%20Draft%20ASEAN%20declaration%20on%20environmental%20rights.pdf) [Accessed 16.12.2024].

<sup>20</sup> Within the MRB, the NGO have struggled to establish a strong presence in society and influence local policymakers. For instance, the efforts of Open Development Mekong and Earth Rights International to oppose the construction of the Xayaburi Dam during 2016–2019 had very little impact on the Lao government's decision to proceed with the hydropower project, which was completed and became operational in October 2019.

water resources for the benefit of the livelihoods of the people who depend on them.

Another bottleneck that the Mekong sub-region must address is how to engage China in active participation and cooperation in environmental rights issues. China's role as the upstream country and a major player in the exploitation of the Mekong River resources makes its involvement essential for any effective action plan aimed at protecting vulnerable groups and safeguarding the environment. Since 2021, the China-ASEAN relationship entered a new stage while the title of China was turned into a full dialogue partner,<sup>21</sup> that would deepen mutual understanding and comprehensive relationships, human rights protection is included. However, cooperation between the Mekong countries and China on these issues remains broad and lacks binding commitments, making it difficult to ensure specific responsibilities and actions to protect human rights along the Mekong River.

Overall, the interrelation and collaboration among Mekong countries have been improved in recent decades, especially regarding economic aspects. However, a genuine sense of the basin unity remains elusive unless the upstream countries become full members of the MRC. There is a particular emphasis on engaging China in MRC's activities, recognizing its significant role of China in the region. This would foster greater cooperation and hasten the agreement that ensures mutual sharing of benefits. The full participation of all riparian countries, including China, is seen as essential for achieving a unified and equitable approach to managing the Mekong River basin resources and addressing the shared challenges it faces.

#### **IV. Engaging China in the Mekong River Cooperation Mechanism for Human Rights Protection: Challenges and Prospects**

China's influence in the region spans across various dimensions, encompassing the economy, politics, culture, society, national security, and regional stability. Over the past two decades, China has experienced

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<sup>21</sup> MFA. China and ASEAN: partnership of good neighborliness and mutual trust. *MFA*. Available at: <https://www.fmprc.gov.cn/eng/ziliao> [Accessed 16.12.2024].

remarkable development, transforming the global geopolitical landscape and emerging as the world's second-largest economy, driven by extraordinary economic growth. It is crucial to highlight that China's management of transboundary water resources is marked by varying degrees of tension. Despite being one of the five countries with the largest freshwater resources in the world, China remains "thirsty" (Zhang and Li, 2018). Numerous studies show that rapid economic growth and impulsive population expansion put enormous burdens on water and other nature limited natural resources; from 30 to 70 % of rivers in China are seriously polluted, some rivers no longer flow into the sea, resulting in a significant reduction in their biodiversity. Some rivers have even ceased to flow into the sea in dry season (Nguyen, 2021, p. 993), resulting in a notable reduction in biodiversity. Clearly, the climate crisis and the impacts of excessive exploitation, often beyond anthropogenic control, present substantial challenges for China in fulfilling the considerable demands on its water resources, both transboundary and domestic. These resources play a critical role in achieving various goals, including irrigation, industrial production, agriculture, and ensuring the safety of drinking water supplies. As China continues to navigate these complex issues, the management of transboundary waters in the region becomes a pivotal concern with far-reaching implications. In the light of transboundary water cooperation with coastal countries, Chinese government has been loyal to the "*one country-one agreement*" policy and does not accept interference from third parties into the negotiation of the issues of the core interests of China. This approach reflects China's preference for managing transboundary water issues in a manner that aligns with its national interests while engaging directly with its neighboring countries on a case-by-case basis. The "soft diplomacy" is also represented in the Chinese policy in the dealing with Mekong River regional cooperation issues.

China attended the negotiation of the Mekong River Agreement of 1995 sponsored by the MRC (as an observer), but did not sign it. This is a cautious approach, aimed at maximizing national interests. China has pursued unilateral procedures for implementing national and international projects involving exploiting and utilizing of the

Mekong river resources to satisfy its internal water demands despite other Mekong countries' objections, particularly downstream States.<sup>22</sup> However, after extensive efforts of negotiation between relevant parties, China and other MRB States have achieved some progressive steps to deepen cooperation for purposes of achieving mutual sharing of benefits related to the Mekong River. Some initiatives and programmes have been launched dealing with the water quality monitoring, hydrological data exchange, economic plans and strategy, social-cultural exchange, human resources, etc. However, the protection of human rights, particularly the rights of vulnerable groups to access freshwater resources, has not been adequately highlighted in these platforms.

Incontestably, climate change exacerbates the water potential crisis, as water scarcity and other water-related issues could lead to tension among basin States and alliances. As one of the regions hardest hit by climate change, MRB States have adjusted their national policies to align with climate change adaptation and mitigation efforts, while also strengthening multilateral cooperation at the basin level. This underscores the vital importance of engaging China in a collaborative effort to integrate human rights considerations, particularly for vulnerable populations, into the discourse surrounding the management and development of the Mekong River.

The shifts towards multipolarity within international relations are bolstering China's leadership role and present an opportunity to encourage Chinese leaders to reconsider their stance on the multilateral cooperation system in the Mekong sub-region. On 23 March, 2016 the cooperation between the MRB countries entered a new stage when the Lancang-Mekong Cooperation (LMC) forum was established as the only international platform with the participation of all six Mekong coastal countries in mutual managing integrated Mekong water resources. Guided by the concept of Asian security proposed by President Xi Jinping,<sup>23</sup> the LMC aims to facilitate a South-South cooperation platform

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<sup>22</sup> *Ibid.*

<sup>23</sup> The concept of Asian security was presented by President Xi Jinping at the 4th Conference of the Summit on Interaction and Confidence-Building Measures in Asia (21 May 2014, Shanghai). The essence of the concept is to build common (respecting and ensuring the security of each member state), comprehensive (covering

in the MRB. However, LMC's activities are perceived as being primarily economically driven. Despite its grand declarations in the Five-Year Action Plan (2018–2022)<sup>24</sup> the LMC is not an intergovernmental organization, lacking mechanisms to enforce and monitor member countries' policies. Recent cooperation project involving China and Cambodia relating to the Funan-Techo Canal project has been heavily criticized for ignoring the cross-border water flow issues in the MRB. The project, which shall directly connect Phnom Penh with Cambodian ports on the Gulf of Thailand, is expected to save Cambodia hundreds of millions of US dollars annually but has faced strong objections from Vietnam due to concerns that the canal would distort the flow of the lower Mekong River, potentially leading to severe future freshwater shortages in the Mekong Delta. Such changes are likely to cause a shortage of fresh water for daily life and agricultural production in the Mekong Delta, as well as exacerbate saltwater intrusion in the area.

Despite the skepticism surrounding the LMC, it is believed that China's formal participation in a dialogue forum with the downstream Mekong countries can still be seen as a positive step towards establishing the basin unity, with all coastal States making efforts to uphold multilateralism in the MRB. This suggests that cooperation among basin States may intensify in the future.

China is shifting its traditional stance and actively promoting international cooperation, which can be understood as a part of its broader strategy to shape a new world order and expand its influence on the global arena. The Chinese leadership has been actively promoting the "One Belt, One Road" or the "Belt and Road Initiative" (BRI), a cornerstone of its foreign policy (Zhang and Patrick, 2023, p. 33). It describes the BRI objective is "to construct a unified large market and make full use of both international and domestic markets, through cultural exchange and integration, to enhance mutual understanding and trust of member nations, resulting in an innovative pattern of capital

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traditional and non-traditional areas), cooperative (promoting security for each state and the whole region through dialog and cooperation) and sustainable security in Asia.

<sup>24</sup> LMC. (2020). Five-Year Plan of Action on Lancang-Mekong Cooperation (2018–2022). *LMC*. Available at: [http://www.lmcchina.org/eng/2020-09/21/content\\_41449453.html](http://www.lmcchina.org/eng/2020-09/21/content_41449453.html) [Accessed 16.12.2024].

inflows, talent pools, and technology databases” (Oosterveld, 2018). Through the BRI, China seeks to establish deep market integration on regional, inter-regional, and global levels under its leadership, a goal that necessitates proactively sharing challenges with partners and assuming greater international responsibilities (Li, 2020, p. 84).

There is no direct relation between mutual water sharing benefits in the Mekong River basin and BRI. Hence, the success of the BRI depends on fostering stable political and economic environments in participating regions. To that end, China has shifted its water policy to a more open, multilateral approach on water sharing benefits by developing and launching various initiatives in accordance with national diplomatic strategy. It seeks to position itself as a “responsible stakeholder” in addressing regional challenges.

In the context of the Mekong water management, China has signed an agreement with the MRC to share hydrological information on a real-time basis with the MRB countries (renewed in 2022). Even though the impacts of this initiative on the core issues of the MRB in the face of global warming, as analyzed above, is rather limited, it can still be seen as a positive development that offers hope for future negotiations to bring China into the Mekong Agreement.

Progress in this area could be accelerated if climate action, especially the protection of the right to water for vulnerable communities in the MRB, were elevated as key priorities within ASEAN. Given China’s expressed willingness to deepen its role as a dialogue partner under the ASEAN+ framework, ASEAN is uniquely positioned to encourage China to take a more active role in regional environmental protection. This includes fostering initiatives to establish a cross-border water management mechanism for the MRB, with a particular focus on safeguarding the right to water for vulnerable communities in the region. As a matter of fact, in 2021, during the online special summit to commemorate the 30th anniversary of the ASEAN-China dialogue relations (1991–2021), the parties adopted a joint statement confirming the strategic partnership for peace, security, prosperity and sustainable development. Beside emphasizing regional cooperation and integration, the declaration focuses on programs and strategies to respond to the rising challenges of non-traditional security. Accordingly, the parties

have expressed the intention to strengthen cooperation on climate change, biodiversity conservation, environmental protection, low-carbon solutions, clean energy, sustainable cities and rural development, and support the implementation of the Framework of ASEAN-China Environmental Cooperation Strategy and Action Plan (2021–2025) to promote green and sustainable recovery and high-quality development in the region.<sup>25</sup> It is evident that cooperation in exploiting water resources and protecting human rights against the impact of climate change falls within the framework of cooperation between ASEAN member countries and China.

The multilateral structure of ASEAN+ provides a platform for more balanced discussions between the five ASEAN Member States and China, promoting greater cooperation and shared responsibility in addressing the pressing environmental challenges facing the Mekong region.

## **V. Unlocking the Potential of the Mekong Regional Cooperation to Safeguard the Human Right to Water**

During development, achieving a balance and harmony of interests among the Mekong countries regarding transboundary watercourses is crucial, albeit a complex and challenging endeavor. Negotiations on sharing benefits between basin States on the transboundary watercourse have been difficult due to great political sensibility of national sovereignty over natural resources. According to international law, the State has exclusive competence to develop natural resources located within national territory, including transboundary watercourse. Otherwise, international water law legally guarantees mutual sharing benefits between co-basin States by establishing several recognized principles including equitable and reasonable utilization, the obligation not to cause significant harm, the principles of cooperation and

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<sup>25</sup> ASEAN. (2021). ASEAN Secretariat, Joint Statement of the ASEAN-China Special Summit to Commemorate The 30th Anniversary Of ASEAN-China Dialogue Relations: Comprehensive Strategic Partnership for Peace, Security, Prosperity and Sustainable Development. *ASEAN*. Available at: <https://asean.org/wp-content/uploads/2021/11/Joint-Statement-30th-Anniversary-of-ASEAN-China-Dialogue-Relations-Final.pdf> [Accessed 16.12.2024].

information exchange, the peaceful settlement of disputes (Muhammad, 2012, p. 477).

Under the severe effects of climate change, the water crisis presents more frequently than ever when co-basin States have adopted tougher and more aggressive measures in cross-water sharing policies maximizing national interests. Global climate change will likely intensify disagreements among co-basin States over water resources, necessitating a reshaping of the legal framework governing mutual water sharing. Collaboration is paramount, as no single country can effectively address these challenges in isolation.

The Lower Mekong Basin management system is entering a critical juncture, where development decisions will have lasting economic repercussions. Climate change, along with extreme weather events and extensive exploitation of the Mekong River, significantly affects the rights of residents living along the Mekong basin, especially vulnerable population groups. Notably, there is no intergovernmental human rights court in the Southeast Asia, limiting the right of individuals to appeal to an international court in case of transboundary violations of their rights. Therefore, it is imperative to include the issue of human rights protection in general and vulnerable groups in particular in the regional-level negotiations and agendas. To that end, the authors of the present study propose some suggestions as follows.

In the context of water security becoming one of the top priorities, countries have been adopting more aggressive measures to ensure national interests. While the upstream Mekong countries are cautious and less inclined to engage in multilateral agreements for equitable water resources sharing amongst all relevant countries, the downstream Mekong countries may lack the economic and political potential to secure such agreements. It is believed that ASEAN can play a pivotal role as the primary regulator and mediator in the relations between the Mekong coastal States with other countries. Despite the limitations on the practical implementation and the non-interference policy, the role of ASEAN in coordinating the relations between the countries' members and China is undeniable.

However, the practice has shown that the integration management of the Mekong within such mechanisms is somewhat ineffective and

limited, as this issue is not defined as the primary mandate of ASEAN (Suzuki, 2019, p. 162). Moreover, due to the high sensitivity and politicization of the issue of transboundary water resources management, the involved States have not reached a more specific agreement on joint regulation of the use of the Mekong River. While Europe has the Aarhus Convention of 1998 and Latin America has the Escazú Agreement of 2018, there are currently no such international mechanisms in the Southeast Asia. Establishing a convention for the protection of environmental human rights within ASEAN is an essential step. This international legal mechanism would not only help to strengthen trust among coastal States but also to safeguard human rights, particularly those of different vulnerable groups, by granting them the procedural right to participate in projects that directly impact their lives.

Based on the analysis on the ongoing problems in MRB, the following recommendations are proposed.

First, ASEAN and the MRC should strengthen cooperation between the ASEAN Working Group on Water Resources Management and the MRC Integrated Water Resources Management to prevent potential conflicts and achieve effective and sustainable development of water resources.

Second, the issue of water management and environmental conservation in the MRB should be included in the agenda of the annual meeting of ASEAN and ASEAN+3. As a result, the Member States will be able to unanimously adopt a joint recommendation decision that will define the priority areas of activity.

Third, there is a need to establish regular data and information exchange between ASEAN and the MRC, and this should not only cover the economic aspect but also the social and environmental sphere.

Fourth, it is also proposed that the BRI policy should be viewed as the principal policy, extending beyond the field of economic development to encompass China's leadership role in shaping the region's geopolitical landscape, including its relations with the Mekong basin States. The BRI aims to promote the connection of Asian, European, and African continents and adjacent seas, regardless of balanced and sustainable development in these countries. Despite lacking specific prescribing in official documents, China reaffirmed its commitments concerning

climate-related and human rights issues as a part of global restoration. The MRB States should leverage this change to encourage China's active involvement in addressing crucial non-economic issues but vital for sustainable development, such as establishing a cross-border water resource management regime in the GMR that considers the interests of the riverine farming communities.

## **VI. Conclusion and Suggestions**

The Mekong River basin faces significant challenges related to the protection of human rights to water, particularly for vulnerable groups, in the context of evolving regional cooperation mechanisms. While the MRC and the MLC have made strides in various areas of cooperation, the protection of human right to water remains an underexplored dimension. However, there is room for optimism. The region's engagement in ASEAN offers a promising avenue for addressing human rights concerns. The role of ASEAN in coordinating relations among the Mekong River basin countries can help facilitate discussions on human rights issues and foster cooperation.

Moreover, the changing foreign diplomacy of China, notably through the BRI policy, presents an opportunity to promote enhanced cooperation among all the Mekong countries. China's increasing focus on multilateral engagement and its willingness to create dialogue with the Mekong downstream counties as well as under the ASEAN+ framework, demonstrate a shift towards responsible international participation. This shift bodes well for the prospects of future agreements, including those related to human rights and the protection of vulnerable groups.

Looking ahead, it is imperative that the Mekong countries, with the support of ASEAN, can work collectively to integrate human right to water considerations into their cooperative frameworks. This includes agreements related to vulnerable groups and equitable access to the Mekong River water resources. As climate change exacerbates water-related challenges, a unified commitment to protecting human rights will be essential for the sustainable development of the Mekong River basin.

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