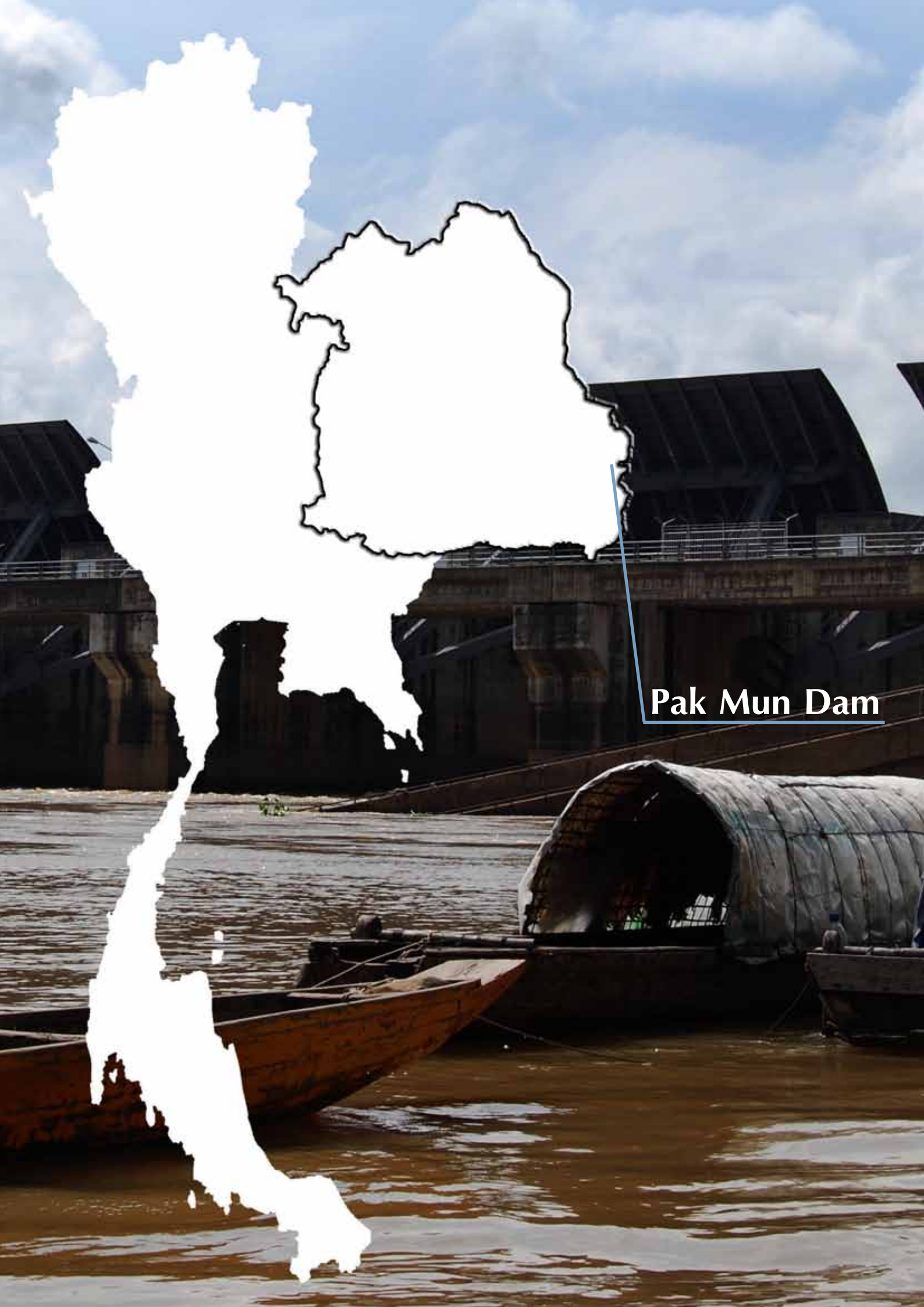




# Voices from the Margin

Economic, Social and Cultural Rights in Northeast Thailand  
Pak Mun Dam

ESCR Mobilization Project



**Pak Mun Dam**

# Overview

**By:** Katie Jenkins, Lyndia McGauhey, Wesley Mills

The protests against the Pak Mun Dam are amongst the longest running in the world. The dam is also one of the most studied, in part because it had all the features of a failed development policy: no participation of local people in the decision making process, a flawed Environmental Impact Assessment, government misinformation, construction carried out in the shadow of martial law, careless World Bank oversight, ill-conceived mitigation plans, and the destruction of an entire river ecosystem upon which river communities depended. The dam was one of the main subjects of the report from the World Commission on Dams, a body set up to study the benefits and impacts of dams. This remarkable effort represents one of the first times that human society stopped and seriously reconsidered a core part of modern development policy. Its conclusion: the Pak Mun dam should not have been built.

As of November 2008 there are a total of 39 hydropower dams planned or under construction as a part of the Greater Mekong Sub-region (GMS) Project, an international partnership for water management. In addition to the 17 dams currently in operation on the Mekong and its tributaries, including the Mun River, there will be a total of 55 dams similar to Pak Mun. Considering the dramatic ecological, economic, and social repercussions of large damming projects, leading to the decommissioning of dams around the world, the GMS Project seems inconsistent with lessons from the past. How are the costs and benefits of such a far-reaching, large-scale development project calculated? Who does development serve and whose voices matter?

In the case of Pak Mun there was no space within the process for the villagers' voices to be heard. As a result the villagers banded together in protest, not only with others affected by the dam, but with marginalized people throughout Thailand, touching off a massive people's movement. The movement was no longer only about protesting a dam, but about challenging an approach to development. They fought for a space in which the voices of marginalized people could be heard. Even after 19 years of anger, strife, and grief, the Pak Mun Dam remains. It stands as a monument to reckless development. The people also remain. They stand as a movement to share understanding, and through that understanding find a common voice.

## **ESC Rights Examined:**

Articles 1, 11: Right to Food

Article 6: Right to Work

Article 15: Right to Culture

## **Potential Number of People Affected:**

The Mun River, including its tributaries, flows through 11 provinces of northeastern Thailand, supporting the livelihoods of 10 million people. The Pak Mun Dam has caused severe ecological damage affecting an estimated 20,000 people.

## **Findings:**

The Thai government's policy of closing the dam gates for eight months out of the year prevents fish from migrating, decimating fisheries upon which most villagers rely. Their way of life depends on natural resources provided by the Mun River. Due to the destruction of these resources by the Pak Mun Dam, villagers have been forced to locate new sources of food and income, many migrating to cities for work, breaking up traditionally close family structures. The severe ecological damage caused by the Pak Mun Dam has thus destroyed villagers' way of life and violated their rights to food, work, and culture.



# A COMMON LANGUAGE

Humanity speaks many languages, but there is one that unites us all – the language of human dignity.

*Voices from the Margin* is an examination of issues concerning the compromise of human dignity through the exploration of an Economic, Social, and Cultural Rights (ESCR) framework. As an international covenant whose language illustrates each human's inherent needs, the framework bridges perceived divides between nations, ethnic groups, classes, genders, ages, and cultures. The rights included in the International Covenant on Economic, Social, and Cultural Rights (ICESCR) are unique in their universality and capacity to embrace all diversity, allowing for the shared language of human dignity.

Regardless of signatory status, no State has fully realized the rights detailed in the ICESCR. In every existing political, economic, and social structure, there are people who, despite being equally deserving of human dignity, have their rights exploited and overlooked by the State.

Thailand is no exception. Against the backdrop of rapid development and industrialization that has improved the lives of some, lies a myriad of individuals whose ability to live with dignity has been severely compromised. As a signatory to the ICESCR since 1999, Thailand pledges to actively fulfill the Economic,

Social, and Cultural Rights guaranteed for its citizens. These rights, however, are merely words on paper, often remaining unrecognized by the State in practice.

Non-compliance by the State with ICESCR is evident in the Northeastern region of Thailand, more commonly known as Isaan. Predominantly rural, with the lowest regional per-capita GDP in Thailand and an ethnic makeup that is generally Lao rather than Central Thai, Isaan is geographically, economically, and culturally marginalized. Due to both the region's potential for industrial growth and its untapped natural resources, the people of Isaan have experienced the impacts of numerous development schemes and initiatives formulated by the central government.

*Voices from the Margin* is a pilot project intended to grow and replicate. The project is meant to illustrate that the ESCR framework can be used as a powerful tool for social and political mobilization. Currently, the project consists of six reports focusing on the rights of Isaan communities to self-determination, specifically regarding struggles surrounding chemical agriculture, HIV/AIDS, the damming and dredging of rivers, and urban slums.

The human voice behind these issues brings them to life: A mother and her child suffer from severe health problems after herbicides are sprayed on a nearby field

The Right to Water

The Right to Security of Tenure

The Right to Food

The Right to Health

The Right to Self Determination

The Right to Work

The Right to Culture



and drift into her small convenience store. A woman loses her husband and father after being displaced by a dam and still finds the strength to fight for her lost livelihood. A mother goes to Bangkok to work, because she can no longer support her family through farming due to the dredging of a river. A man finds out he is HIV positive, and after overcoming depression and discrimination, works with other HIV positive people inspiring them to live again. A grandmother comes to the city for a better life and ends up in a slum, with the continual threat of eviction. A father can no longer catch enough fish to provide for his family because of a dam and so must watch his children leave the community to find work.

Although these voices tell the stories of individuals' struggles, they speak for thousands of others whose voices are not heard. Despite different backgrounds and obstacles, these individuals share the common experience of marginalization inflicted by State policies. These marginalized people find solidarity in the common language of human dignity, a language harnessed by the ICESCR in order to foster an understanding and respect of universal human rights.

An ESCR framework not only fosters understanding of human rights amongst individuals, but also works to hold State actors accountable for their actions and inactions. Individuals, groups, and movements across the

world have taken matters into their own hands and presented ESCR cases against their governments. As global trends indicate, people from all over the world are connecting and building solidarity in a struggle to defend their ESC rights. Therefore, the ESCR framework has tremendous potential as a mechanism to ensure the effective provision of human rights. Due to the universality of ESCR, a diversity of people affected by distinct issues can take ownership of the framework in a common pursuit for self-determination . The framework is a means to facilitate communication between the State and the people by amplifying the people's voices.

The ICESCR is powerful because it gives form to dignity and provides a language by which marginalized people can build understanding and solidarity. ESCR does not create dignity, but rather affirms that dignity is inherent to all people. Differences in nationality, ethnicity, class, gender, age, and culture are perceived barriers that can be overcome through this common language. The versatility of the ICESCR encompasses all such differences, allowing us the opportunity to work together in solidarity for the economic, social, and cultural rights all human beings deserve – thus we mobilize for a social movement that is unhindered by borders.

The Right to Food

The Right to Affordable Amenities

The Right to Adequate Standard of Living

The Right to Water The Right to Sustainability

The Right to Housing

The Right to Health

# VOICES

## Boon Mee Wangpon

Boon Mee Wangpon pauses for a moment before she recalls the day she first stood up against the government. Seeing no other option, she had joined 30 other youth and women and lay her small, 15 year old body over rocks laden with dynamite. “We had to do something to protect the rapids, or they would be lost forever,” she says. Workers had come to destroy the Hua Heo Rapids of the Mun River, a place where her family had fished for generations.

“I never felt scared...the rapids were part of our home,” says Boon Mee, now 31 years old. When she was a child, Boon Mee would wake up early and help her father place nets in the river before going to school. After being dismissed from class in the afternoon, she would hurry home to help her father draw in the nets and gather the daily catch. “We caught many fish,” she recalls, “and we always had food to eat.”

Then, in 1992, the government replaced the Hua Heo Rapids, where Boon Mee and her father once fished, with the Pak Mun Dam. 16 years later, Boon Mee still dreams of the day the Pak Mun Dam will be decommissioned.

After the dam was built, fish were prevented from migrating upstream. An ill-planned fish ladder was eventually constructed, but most fish species, unable to utilize the ladder, have disappeared entirely. Villagers still tell myth-like stories recalling the times they caught giant catfish the size of cows. These fish don't make it to Boon Mee's village anymore.

The dam prevented Boon Mee's father from catching enough fish to support the family. Without fish, the family began laboring in neighbors' rice fields. Boon Mee pauses for a moment and reflects on how life has changed for villagers. “In the past our lives were free, but things have changed and our freedom has disappeared,” she says.

The destruction of the Hua Heo Rapids damaged more than just a prime fishing spot. The rapids were a place to socialize with friends and celebrate the natural abundance of

the river. “We are trying to revive our culture, like the famous ceremonies we used to have, so we can raise our kids the way we were raised,” says Boon Mee.

After a long day of working in the rice fields, Boon Mee's husband passed away in his sleep several years ago. With a one-year-old daughter to care for, Boon Mee's life suddenly became more complicated. “I tried to wean my daughter from breast-feeding so she could stay with my mother. Without my husband, I had to work hard to make up for the family's lost income,” she says.

A year later, while she was still coping with the loss of her husband, Boon Mee's father died. Staring at the floor, Boon Mee's voice drops to just above a whisper. “We could survive, but not in a healthy balance. The loss was too great,” she says.

Left with two children and a mother to care for, Boon Mee had no choice but to shoulder odd jobs that often required her to travel long distances. She tried road construction until the burden was too great and then began harvesting rice in neighboring districts. “I had to be strong to help the rest of my struggling family,” she says.

Before the deaths, Boon Mee had been a key figure involved with protests against the Pak Mun Dam. After years of mental and physical strain, it has become difficult for Boon Mee to sustain the fight, but she still perseveres. “I want the government to come to respect our way of life, and our culture,” she says.

A village leader, a widow, and a mother, Boon Mee has the aura of a patriot who will never give up. Despite balancing several manual-labor jobs, volunteering for a local radio station, organizing for a local village learning center, and attending informal schooling in hopes of one day obtaining a vocational degree, Boon Mee sees herself in a modest light.

“I'm just a single mother working to get our old way of life back,” she says.<sup>42</sup>

# PAK MUN DAM

## Economic, Social and Cultural Rights Report



### Synopsis

Located in Ubon Ratchathani province in northeastern Thailand, the Pak Mun Dam is part the Third Power System Development Project, which is one of Thailand's development schemes. The Pak Mun hydropower project is a run-of-the-river dam constructed for the purpose of generating power, creating reservoir fisheries, and developing irrigation infrastructure. The dam is located approximately 5.5 kilometers upstream from the confluence of the Mun and the Mekong Rivers. Standing 17 meters in height and stretching 300 meters in length, the dam cost Bt6.507 billion and was funded primarily by the Thai State and the World Bank (see Appendix for conversion).

In 1987, the government assessed that communities in the Northeast, known as Isaan, lacked adequate fresh water between November and May and were in need of a reliable source of electric power for future regional growth. The Pak Mun Hydroelectric Project was proposed to the Cabinet of Ministers in Khon Kaen province as a solution to these growing needs. It was approved in April 1991 based on figures projected in a 1982 environmental impact study commissioned by the Electricity Generating Authority of Thailand (EGAT); however, villagers report that EGAT began blasting rapids with dynamite starting in 1989, long before the agreement. The dam was completed in 1992 and officially began operation in 1994. Pak Mun was anticipated to have a production capacity of 136 megawatts. Irrigation benefits were not a priority, and since the completion of the dam, no real efforts have been made to develop any significant irrigation infrastructure.

A survey of the most recent and credible statistics suggests that although the Pak Mun Dam is able to operate at full capacity during the rainy season, it can barely generate 20 megawatts during high-demand months.<sup>1</sup> There are still no real irrigation benefits from the dam, and the fish catch upstream of the river has declined severely since the completion of the project. Unmet expectations and negative side effects related to the project have resulted in ecological damage impacting river-dependent communities' sources of food, work, and culture. Furthermore, the dam has spurred division and fractionalization among villager groups, with noticeable tension between pro- and anti-dam villages, between state actors, and nongovernmental organizations (NGOs). The controversy surrounding the project led to the formation of one of the most significant grassroots movements in Thai history.

In 1995, in the upsurge of social movements, the anti-dam villagers played a key role in the formation of the Assembly of the Poor (AOP), which among other things, has demanded that the Thai state open the dam gates permanently. After the government ordered the gates open in 2001, Pak Mun villagers, organized through the Thai Baan Center, collaborated with Ubon University to research the effects of the dam on the ecosystem, economy, and society. Research results indicated fish had started returning and that the livelihood of villagers was reviving with the opening of the dam gates. Overall, the villagers' quality of life improved during this time period.

The government made a decision in 2002 to close the gates of the dam for eight months of the year, while the gates were to be opened for the remaining four months. This arrangement remains to this day, but although the opening and closing of the gates is legally stipulated, the gates are rarely opened and closed on the date prescribed. Many villages continue to protest against the dam, hoping to one day bring back a semblance of their former lives.

## Community Profile

The land around the Mun and Mekong Rivers is very dry for most of the year, except during the rainy season. In many areas the bedrock is thick and often breaks the surface of the soil. The land is generally flat with some rolling hills along the river. Croplands are infertile compared to those in other parts of the country. Consequently, villagers living near the Mun River cannot solely rely on farming for income.

Communities surrounding the Mun River have much in common. Nearly all males consider themselves fishermen, even those who also own farmland or shops. Before the construction of the dam, fishing was primarily a means of getting food for family consumption. The wife of a fisherman was typically in charge of deciding what to do with that day's catch. Typically some fish were set aside for consumption, while others were fermented, sold, or traded for goods.

After the construction of the dam, some villagers were relocated to communities away from the banks of the Mun River. These people had depended on the river to ensure their health, food, and economic security. Since the dam caused extensive ecological damage, villagers could no longer rely on these natural resources.

While river communities used to be unified and comprised of tightly knit families, nowadays, families in the villages generally consist of older couples who take care of their grandchildren as many parents must find employment as laborers in metropolitan areas. The disappearance of villagers' livelihood over the past 17 years due to the construction and closing of the dam gates tore an entire generation out of a rich fabric of community and family relationships.

## Regional and National Context

Thailand is a rapidly developing country. The demand for food, water, minerals, and electricity has skyrocketed in the past 30 years. Urbanization and an increasing desire for a strong presence in the global market has paralleled this push for development. As demand for electricity increases, EGAT has sought ways to meet demand by generating power from natural gas, lignite, and hydropower, the last of which accounts for less than 20 percent of Thailand's energy production.<sup>2</sup> Thailand also purchases a significant portion of its electricity from Laos.

Pak Mun Dam is one of Isaan's many large development projects. For example, the Kong Chi Mun Project is a large-scale irrigation project intended to bring water from the Mekong to farms all over Isaan. This project is supposed to help Thailand's impoverished populations and disadvantaged farmers, especially during the dry season months when water is scarce.

Conversely, people's movements have blossomed in response to these large-scale development projects. The Pak Mun people's movement sparked the convergence of grassroots movements all over the country in the formation of the Assembly of the Poor (AOP). Through the creation of strong networks addressing a wide range of issues, poor and marginalized populations that have been disadvantaged by government development policies are able to speak out to defend their rights.

On the national level, the promotion of large-scale development projects will continue in the coming years. According to the National Economic and Social Development Board's (NESDB) Mega-Project implementation mechanism, many of the most expensive development schemes involve infrastructure and water management. These projects support tourism, industry, trade, and ultimately, Thailand's economic development—all largely at the expense of the rights of marginalized communities.

## Legal Reference

The most recent cabinet decision allows the gates of the Pak Mun Dam to be open from May to August. According to EGAT and the Thai government, this arrangement is a compromise between Thailand's electricity demands and the villagers' dependence on the river's resources.

The responsibility of deciding when to open and close the gates of the Pak Mun Dam ultimately belongs to the Cabinet of Ministers in Bangkok, usually under the advice of a local committee. These decisions are important because the length of time and time of year that the gates are open determines the extent of impact on fish migration and riverside vegetation. Most fish on the Mun River migrate upstream between February and September, four months of which the gates are closed.<sup>3</sup>



EGAT implements the opening and closing of the dam gates. When there is major flooding upstream of the dam, EGAT assumes the responsibility of releasing reservoir water. The sudden release of water can seriously affect villagers downstream. Notification rarely reaches downstream villagers, so the turbulent flow of released water is unexpected and often leads to the destruction of fishing tools and other property.<sup>4</sup>

Such outcomes may have been avoided if villagers who depended on the river were consulted during the decision-making and mitigation processes regarding the dam's construction.<sup>5</sup> The project, however, was proposed, approved, and executed under the approval of EGAT, the World Bank, and the Thai government. Villagers were denied participation in the planning process and barred from receiving information about the dam and its potential impacts.

Under the 2007 Thai Constitution, villagers are guaranteed "access to public information [that is] in possession of a... State enterprise," and the State is obligated to "encourag[e] and support public participation to make decision[s] on... public services."<sup>6</sup> In accordance to rights guaranteed in the Constitution, Pak Mun villagers may make complaints directly to the Cabinet of Ministers, or they may submit proposals to the Pak Mun Dam Water Management Committee of Ubonratchathani Province (PMDWC). Villager, however, have found little space within the political and administrative system for their voices to be heard. As a result, many directly petition the government through protests and demonstrations.

## Environmental Impact

Rivers are ecologically complex systems that support a vast biological diversity. Aquatic vegetation, insects, and fish all depend on the river's stable and diverse habitat in order to survive. The flow of the river functions as a cleansing mechanism that helps support life forms as the nutrient-rich sediments and powerful surges of water tumble over rapids. River systems have slowly evolved over hundreds of thousands of years, sustaining a healthy, thriving ecosystem.

The natural flow of rivers also supports wetlands and riverbanks. Periodically, the river floods, depositing sediment and creating fertile conditions that allow riparian vegetation to grow. The existence of riverbank vegetation, including the herbs and vegetables used by villagers, depends on these natural flooding cycles.

The Mun River is also characterized by rapids, islands, channels, underwater caves, eddies, rises, pools, seasonally flooded forest, wetland forest, and tributaries. All life in the Mun River depends on these distinct habitats. Before the dam construction, the river served as a habitat for 265 different species of fish and 342 different plant species.<sup>7</sup>

## Chronology

**1982:** Thai firm Team Consultants' Engineers completes EIA commissioned by EGAT; projected site is at Kaeng Tana falls.

**1983:** Kaeng Tana made into national park, anticipated dam site moved a few kilometers upstream but no new EIA performed.

**1989:** Thai Cabinet approves the Pak Mun Dam project, allocates Bt3.88 billion for project.

**1991:** EGAT begins construction on the Pak Mun Dam by blasting rapids with dynamite; World Bank approves a Bt1.4 billion loan for the Third Power System Project that includes the Pak Mun Dam.

**1994:** Protestors seize equipment at construction site; youth and women cover rapids to prevent blasting; Pak Mun Dam completed and commissioned.

**1995:** The Assembly of the Poor (AOP) formed.

**1997:** Pak Mun villagers, along with 20,000 members of the AOP (6,000 of which represent villagers affected by dams) stage a 99-day protest in front of Government House in Bangkok; villagers are the first ever to receive compensation for lost livelihood.

**1999:** The International Covenant on Economic, Social, and Cultural Rights comes into force in Thailand.

**2000:** The United Nations Development Program picks the AOP as a model of grassroots people's movements for sustainable development; the World Commission on Dams releases a preliminary report concluding dam would not have been built if adequately researched beforehand.

**2001:** Prime Minister Thaksin approves opening of the Pak Mun Dam gates for one year; Ubon University collaborates with the Thai Baan Research Center to conduct research on the effects of the dam on the ecosystem, economy, and society.

**2002:** Thai Baan research shows opening of gates saw return of over 152 species of fish to the Mun River; The National Human Rights Commission criticizes the government for not involving affected communities in the decision to close the gates, as required by the constitution.

**2003:** Prime Minister Thaksin orders dam gates closed for eight months of the year, from July to September; later, under advice of Ubon University, gates opening moved to May to August to allow more fish migration.

**2006:** Under the military government, 20,000 signatures are submitted to the Thai Cabinet to have the gates closed permanently. Many signatures subsequently shown to have been falsified.<sup>41</sup>

The construction of the dam from 1989 to 1994 destroyed a famous series of rapids, immediately impacting the river ecosystem. The effects of the construction devastated local areas, and the closing of the dam gates produced dramatic and widespread consequences. The dam has affected the entire river basin, damaging the natural ecosystem, and deeply impacting the villagers who depend on the river's natural resources.

EGAT's original description of Pak Mun Dam, however, suggested misleading predictions of the dam's potential outcomes. EGAT labelled Pak Mun Dam as a run-of-river dam, one that "utilizes the flow of water within the natural range of the river, requiring little or no impoundment," suggesting that there would be little or no impact on the river ecosystem. In reality, the dam stops up the river, allowing various substances to collect behind the dam such as sediment, run off of pesticides and chemical fertilizers, and industrial waste, creating a stagnant and toxic pool. In these altered conditions of the reservoir, only the *Pla Maeo*, *Pla Cha Do*, *Pla Ga Doed*, *Pla Keng* species of fish are able to survive, due to their high tolerance for pollution. The closing of the gates also raises water levels, permanently submerging riverbank vegetation and eliminating plant species. The loss of indigenous plants facilitated the invasion of the giant mimosa; this spiky plant currently dominates the riverbanks, making the water difficult to access.

Additionally, in riverine ecology, rapids play a major role in cleansing and oxidizing water, creating a rich aquatic habitat where fish congregate. The Pak Mun Dam submerged

35 of some 60 rapids along this stretch of the Mun River. Consequently, fish populations have been decimated since most are unable to swim upstream and reach their spawning ground.<sup>8</sup> The downstream portion of the river becomes an equally detrimental environment when the gates are opened; toxins and sediments that have built-up are unleashed in a sudden surge of turbulent water that stirs up sediment, contaminating the water, and disturbing the river's biological productivity. There is far less biodiversity in the Mun River as a result of these factors.

An environmental assessment of the dam's effects was conducted when the gates were opened from June 2001 to June 2002.<sup>9</sup> During this year, the river's biological life flourished. Sixteen types of native fresh water vegetation recovered. Many rapids reappeared and fish resumed their migration; according to scientific researches, up to 129 species of fish returned to the Mun River that year. Village communities also recovered surprisingly quickly. Just four months after the opening of the gates, 6,915 households along the Mun River were able to return to fishing.<sup>10</sup> The river was closer to its natural state than it had been in over a decade, allowing vegetation, fish, and families to flourish.

Opening the gates for only four months, however, does not allow adequate time for the river to restore itself as a sustainable resource villagers can depend on. The dam has and will continue to impact the environmental health of the Mun River while compromising the food security and livelihoods of villagers.

## ICESCR Analysis

The State's control over the opening and closing of the Pak Mun Dam violates the human rights of villagers who are dependent upon the Mun River for their livelihoods. More specifically, the State's decision to keep the gates closed for eight months of the year takes away villagers' rights under the ICESCR as ratified by Thailand in 1999. When the gates are closed, the dam alters the natural ecology of the river and destroys the natural resources essential for villagers to realize the rights to food, work, and culture.

### Right to Food

*Article 1.2: In no case may a people be deprived of its own means of subsistence.*

*Article 11: The State's Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food.<sup>11</sup>*

The closing of the Pak Mun Dam gates limits river-dependent communities' access to adequate and sustainable food sources. The resources in and around the river provide

a means of sustenance that satisfies villagers' dietary needs. The dam affects villagers' access to fish, a resource that can be consumed, sold, or used to barter for rice. Fish and rice

are the staples of the northeastern Thai diet. In addition, when the gates of the dam are closed, flooding destroys vegetable gardens along riverbanks, thus depriving households of another source of food. The right to food of villagers relying on the Mun River is violated by actions of the State.

Fish is an essential source of protein, calcium, iron, and oil for the Isaan people's diet.<sup>12</sup> Fish is eaten fresh or is fermented and saved for later use. Virtually all meals made by Mun River villagers consist of some combination of fish and rice. The Mun River is the primary source of food, providing villagers access to adequate food.<sup>13</sup> In the past, abundant fish catches allowed fishermen to sell surplus fish and use the income to buy other foods, thus permitting a more varied diet. The closing of the dam gates, however, has decimated fish populations so severely that villagers can no longer catch enough for consumption and supplemental income.

Since the Pak Mun Dam was completed and commissioned in 1994, the number of fish in the river has dramatically decreased. When the gates are closed, the dam prevents fish from migrating from the Mekong to the Mun River. Initial upstream flooding which submerged rapids put the 54 fish species that depended on rapids at high risk.<sup>14</sup> Only 45 of the 265 indigenous fish species in the Mun River were found in the Pak Mun area after the dam's construction.<sup>15</sup> Not surprisingly, fishermen's catches have declined 60 to 80 percent.<sup>16</sup>

Evidently, the State has failed to respect the villagers' right "to maintain, adapt or strengthen dietary diversity." The State is not ensuring "access to food supply," and the closing of the gates "negatively affect[s] dietary composition and intake."<sup>17</sup> In dire cases, the few fish caught do not even meet adequate daily protein needs. Accordingly, the State should guarantee "an adequate standard of living... including adequate food."<sup>18</sup> The Mun River villagers' right to food depends on access to natural resources which the State has compromised by closing the dam gates each year.

When the gates opened for one year between 2001 and 2002, 129 fish species returned to the Mun River, clearly demonstrating the dam gates' role in determining the health and abundance of fish populations. When closed, the dam limits access to food for fishermen and other river-dependent villagers, infringing upon villagers' right to their "own means of subsistence." The State has also fulfilled its "obligation to respect existing access to adequate food [which] requires State parties not to take any measures that result in preventing such access."<sup>19</sup> Therefore, each and every time the State closes the gates, the State repeats the violation of river-dependent villagers' right to food.

The State must "respect existing access to adequate food," which requires that State parties cannot "take any measures that result in preventing such access."<sup>20</sup> The destruction of

# VOICES

## Thong-on Family

In 1989, Nao Thong-on and her husband, Samniang Thong-on, sold their land on the banks of the Mekong River to purchase a plot of land near the Mun River. Nao and Samniang are fisherfolk, and because the Mun River's fisheries were more productive, they decided to uproot their family and move.

They were not aware of the proposed dam construction and were very confident that they were moving toward a better life with greater access to food. Upon hearing about the dam, Nao immediately sold some of her land to join the protests. At the time, she thought she could survive on the river's rich resources.

Contrary to her initial beliefs and plans, Nao and her family struggled to find food as the dam construction hurt the fish population, and were unable to earn surplus income to purchase food. The family's condition worsened as their eldest daughter developed epilepsy. The girl's husband left her and their child when he found out she was epileptic. Now the daughter cannot get a job because of her condition, but works as much as she can to make charcoal in order to help feed her mother, father, and son. She has trouble getting her medicine because she has no transportation to the hospital.

Nao has developed peptic ulcers, which doctors attribute to stress and malnourishment. Nao stresses about providing adequate food for her family and an education for her grandson.

Samniang, who provides the main source of food and income for the family, is now becoming too old to work and barely brings home enough food for the family. Almost all the fish caught by Samniang has to be sold in order to get rice. As a result, the family only eats protein two to three times a month, which is not adequate for a healthy diet.

Today, the family struggles to find enough sustenance, even with the help of friends who purchase the handicrafts Nao makes for extra income.<sup>43</sup>

natural resources caused by the dam forces the previously self-sufficient river communities to purchase a significant portion of their food. The decline in fish has reduced the income of families, since there is no longer a surplus of fish to sell. These villagers no longer have direct access to food and are unable to afford adequate food.

Fish, however, is not the only food source villagers rely on. Before the dam's construction, wetlands and fertile riverbanks provided a place to gather edible vegetation and to grow riverside gardens. Naturally, 342 kinds of vegetation grow in the Pak Mun region, including 40 plants, 10 bamboo species, and 45 mushroom varieties, all of which are gathered for food.<sup>21</sup> During the dry season, villagers would plant vegetable gardens on the riverbanks. The wetlands are an important natural resource directly affected by the closing of the dam gates.

When the gates are closed, gardens and wetland vegetation are no longer sustainable along the Mun River, illustrating another way in which the dam limits villagers' access to food. Wetlands and riverside gardens are continually destroyed by unsteady water levels caused by the opening and closing of dam gates. During the gates' opening in 2001 and 2002, 700 households were able to return to planting dry season gardens along the riverbanks, and the wetlands began to temporarily recover.<sup>22</sup>

## Right to Work

*Article 6.1: The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.*

*Article 6.2: The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.*

Communities living on or near the river not only depend on the river's ecosystem to supply household dietary consumption, but also to earn income. The annual closing of the dam gates destroys fish populations, and therefore does not respect the right of each river-dependent villager to have access to work that he or she "freely chooses or accepts." The damaged river ecology directly limits villagers' ability to sustain their primary occupation and forces many to migrate to urban centers in search of alternative employment. These individuals are thus "unfairly deprived of employment," through actions of the State.<sup>25</sup>

Many villagers in dam-affected communities have grown up learning trades dependent on river ecology, such as fishing. Before the dam's construction, almost every family was able to rely on fishing as a means of sustenance. Villagers

The State is not ensuring the most "sustainable management and use of natural and other resources for food."<sup>23</sup> The dam gates interrupt the natural river system that allowed villagers to live sustainably for generations. Consequently, the villagers are deprived of the right to manage the natural resources upon which their livelihoods are based.

In an effort to mitigate the impact on fish populations, the Department of Fisheries stocks the river upstream of the dam with fish and prawn. These fish are not suited to the Mun River environment and do not thrive. Moreover, the scope of this effort is insufficient to compensate for the loss of native fish species and reduced biodiversity. In another effort to lessen the impact of the dam, EGAT built a fish ladder designed to enable fish migration. The design, however, was copied from ladders in the northwest United States tailored specifically for salmon, and has proven ineffective for most fish native to the Mun River.<sup>24</sup>

Closing the gates of the Pak Mun Dam hinders both the survival of native fish species and vegetation, both of which are crucial food sources for villagers. For subsistent village communities, food and work are closely related to the availability of natural resources. Consequently, the damming of the Mun River has not only violated villagers' right to food but also their right to work.

caught fish to consume, sell at the market, and trade for rice. When the gates of the dam are closed, there are fewer fish for fishermen to catch. Therefore, the small amount of fish they do catch is for consumption, rather than sale. Fishermen struggle to catch the amount of fish necessary to trade for rice and earn the income needed to cover necessary living expenses.

In the past, farming communities lacking direct access to a river traveled to the Mun River to fish, especially in the dry season. After the dam was built, fish became scarce, forcing some communities to travel as far as 40 kilometers to the Mekong River. Such extensive travel, however, became too expensive to maintain. Without a supplementary source of income, these communities continue to face hardships as well.

## VOICES Sorn Somchai

Sorn Somchai, age 73, was born and raised along the Mun River, where he raised his eight children and settled with his wife. Sorn used to provide for his family by fishing in the Mun River. He saved some of the fish for his family, and sold the rest at a local market. Even after the onset of old age and health problems, Sorn made it to the river to fish for his family. After the commissioning of the Pak Mun Dam in 1994, and as Sorn approached the age of 59, it was more difficult for him to find enough fish in the river to sell at the market. The fish that he did find were barely enough to feed his large family. Seven of his eight children were forced to leave the village to earn income for the family by selling their labor in Bangkok and other large cities. They send money home so Sorn and his wife can buy fish from the mobile supermarket they have grown dependent on. It is not the same for Somchai as it once was to work as a fisherman in the Mun River.<sup>44</sup>

## VOICES Khan Wangpol

Khan Wangpol, age 74, started practicing herbal medicine at the age of nine. Since that time, he has relied on the different herbs available in the wetlands along the Mun River to treat the ailments of patients. When the Pak Mun Dam was commissioned in 1994, the wetlands flooded, destroying vegetation. Khan was no longer able to find the herbs he once used to treat people with cholera, diarrhea, upset stomach, blood clots, and even certain health conditions mothers suffer after child labor. The flooding caused by the Pak Mun Dam also wiped out a species of tree once found along the riverbanks that Khan used to ease the pain and strengthen the immune system of his HIV/AIDS patients. Although the closing of the dam gates has destroyed certain herbs along the Mun River, Khan is committed to practicing herbal medicine and treating members of the local community. Nevertheless he is unable to treat as many ailments as he could before the dam.<sup>45</sup>

The State is obligated to respect individuals' right to choose his or her work freely. Fishermen, farmers who graze their buffalo and cattle alongside the river, and other villagers dependent on the river for growing vegetables are unable to generate sufficient income from such occupations. 31.2 percent of all fishermen upstream from the dam found it necessary to change their profession after the dam was built; 15.4 percent at the dam site and 16.7 percent of fishermen changed careers.<sup>26</sup>

Fishing and river-related work is all villagers have known, making it difficult to find alternative employment opportunities. With limited jobs available in villages, many families are forced to separate, disrupting families as parents leave their children with relatives in order to labor in Bangkok and other large cities. The State established the Committee on Assistance and Occupational Development for Fish Farmers (CAODFF) in 1995 to alleviate financial and occupational burdens caused by the dam. CAODFF gave Bt90,000 to affected villagers in the form of both cash and loans that are managed by a local fishery co-operative. Although the government has taken measures to help support villagers negatively impacted by the Pak Mun Dam, the government only compensated villagers for losses incurred during the years of dam construction, and not for permanent loss of income and food. In addition, as of October 1999, 2,210 fishery compensation cases were still pending. There remain about Bt200 million in unsettled claims.<sup>27</sup>

The Department of Fishery has attempted to address the change in river ecology by restocking the reservoirs when the gates of the dam are closed, mandating boat licenses for fishermen, and prohibiting the use of certain traditional fishing tools. These measures are designed to prevent over-exploitation of remaining fish resources by regulating and restricting fishing volume. Fishery laws and regulations prohibit villagers from fishing without a license and from using fishing gear other than hooks, scoop nets, and lift nets from May 16 to September 15. This period overlaps with the time the Cabinet established for opening the gates each year.<sup>28</sup> Depletion of fish resources, however, is due to the impacts of the dam, not to over-fishing. The fish species restocked by the government are not suited to the ecology of the Mun River and are too few to be effective.<sup>29</sup> These attempts by the State do not address the root cause of the ecological damage and overall make it more difficult for villagers to subsist as fishermen.

Only the opening of the dam gates can truly replenish the stock of fish in the river. As shown when the gates were opened for a year, 94.9 percent of all households in 45 communities along the Mun River returned to fishing. Nearly 23 percent of those households were again able to depend solely on fishing as a source of income.<sup>30</sup> In addition, 23 percent of those who farmed prior to the construction of the dam returned to riverside farming.<sup>31</sup>

The Pak Mun Dam has unfairly deprived river-dependent villagers of, “work [which] is freely chosen or accepted.”<sup>32</sup> Since the dam has limited villagers’ ability to maintain their traditional livelihoods, many villagers are driven away from the community to find other work. Food and work define

the way of life in Mun River communities, and it is upon this way of life that river culture is based. The Pak Mun Dam destroys natural communal resources and consequently violates the villagers’ right to culture.

## Right to Culture

*Article 15.1: The States Parties to the present Covenant recognize the right of everyone to take part in cultural life.*

*Article 15.2: The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation... of culture.*

Through closing the dam gates, the State neither respects the villagers right to “take part in cultural life,” nor takes the necessary steps for the “conservation of culture.” For the villagers along the Mun River, their culture is defined by their interactions with the water, the land, and fellow community members. The Mun River villagers value natural resources and emphasize the importance of sharing them. The lives of villagers revolve around the river and its resources, as both food and work are deeply tied to their culture. The closing of the dam gates compromises the presence and quality of natural resources, food, and work, and therefore violates their right to culture.

For the villagers whose lives are dependent on the Mun River, culture is defined by common property within the village and the day-to-day practices and ceremonies centered on the river. In every village there is a common burial area, a spiritual forest, a central common area, a grazing area, farming areas, housing areas, and wetlands. The idea of common

property unites communities, encouraging families to take only what is necessary and promotes a sustainable relationship with the land and amongst community members. Living peacefully with the land and one another is a central and defining characteristic of Mun River villages.

The most important common property is, of course, the river itself, which provides fish for consumption, sale, and trade. Mun River villagers consider themselves fishermen, which is both an occupational and cultural distinction. Fishermen depend on the rapids as reliable and fruitful fishing locations. Since fishing is the main occupation, there are many highly specialized fishing tools that have been developed over generations. There are over 75 types of fishing tools used to catch various species of fish that occupy the Mun River. Due to specie loss and rising water levels caused by closing the dam gates, fishermen can no longer utilize the 30 different tools. Closing the dam gates thus destroys local wisdom by preventing villagers from passing it on to fu-

## VOICES Kampui Sanoawathee

Before the building of the dam, Kampui Sanoawathee lived in Baan Kanluem, a village upstream of the dam on the riverbanks of the Mun River. In her old village, she would fish for food every day. Gathering vegetation from the river and its banks, she used local plants, herbs and fruits for food and cleaning. Kampui also wove cotton garments, using ancestral practices to make natural dyes. The communal center, the riverbanks, was a place for both friendship and courtship. She would fish with her friends, and interact with the local men. She met her husband on one of the famous rapids, and like many other fisher folk, participated in all traditional ceremonies that occurred on the rapids.

After the dam construction, she resettled in *Na Choom Chohn*, eight kilometers away from the river where she struggled to find a place to live. Kampui now practices ceremonies at the local temple, but it is not the same. There is a lack of social cohesion, since none of the younger people join in the ceremony. However, in 2002, when the rapids emerged, Kampui attended the *Songkran* ceremony at her old village once again.

Currently, she lives with her husband, and owns a very modest living working at a convenience store. The social interactions are not by the banks of the river, they are over a counter. She also makes flowers that are used at cremation ceremonies. It takes all day to make 200 flowers, and she gets Bt16 when hired for this task. She no longer lives off the land; she survives off of a modest profit.<sup>46</sup>

ture generations.<sup>33</sup> In some households, the use of all fishing tools decreased when the gates closed, indicating both the decreasing numbers of fish and lost cultural technology.<sup>34</sup>

The river provided a location for social ties between villagers living along the river and villagers living in farming communities. When villagers from outside the river communities came to fish, they exchanged presents for the use of boats belonging to villagers who lived along the river. Due to diminishing fish availability caused by the dam gates' closing, however, these visits became less frequent, eroding ties between these communities.

The rapids and riverbanks have incredible cultural significance, serving as the site for traditional ceremonies. The *Songkran* ceremony, or Thai New Year celebration, takes place along the riverbanks and on the rapids every April (or every spring).<sup>35</sup> At this time, villagers gather and offer alms to the monks and pay respects to the Buddha. The *Wan Nao* ceremony follows the Thai New Year. This is one of the most culturally significant ceremonies, for it gives gratitude to Mother Nature and the Mun River for providing the bountiful resources that sustain life. The *Boon Sao Luang* ceremony occurs during the dry season before the fishing season begins. As the fishermen clear logs and obstructions from the fishing grounds, they pay respect to the river and celebrate with food and alms.<sup>36</sup>

Without rapids and riverbanks, these ceremonies must take place elsewhere, thus their losing their significance, or not occurring at all. During the dam gates' brief opening, from 2001 to 2002, restored river conditions enabled the *Songkran* and *Boon Sao Luang* ceremonies to take place, once again temporarily permitting cultural practices.

Furthermore, due to the loss of access to the fertile natural resources of fish, herbs, bamboo, and riverside gardens, day-to-day tasks and cultural activities cannot be maintained. Resettlement has produced various problematic cultural issues, especially concerning community relations. Although resettlement communities are located near the original villages, major social changes regarding relationships between villagers and family members have taken place. The riverbank once served as a site for socializing, courtship, and maintaining social networks. It offered a location for villagers to plant vegetables, go fishing, and make tools together. Thus, by closing the dam gates, the State inevitably forces villagers to compromise their cultural practices, indicating the State's failure "take the steps necessary for the conservation of culture."<sup>37</sup>

Though the many villagers still living along the river have access to communal resources, these resources have been severely damaged. When the wetlands and riverbanks flood the area upstream of the dam, the riparian banks are destroyed. This is common property used for gardens, graz-

ing land, and gathering herbs and bamboo shoots for tools. Due to environmental degradation, however, the banks are becoming less utilized as a site for social interaction.

The submergence of the 35 natural rapids also severs cultural ties by forcing fishermen unable to earn adequate income to migrate to the city as wage laborers, separating these men from local cultural centers. In addition, migration separates many families, breaking apart the family unit. Parents often move to urban areas to help provide for their families, leaving their children in the care of the older generation. Consequently, there is no continuity in passing down fishing techniques, and the relationship with the land is no longer instilled in the youth. The passing down of the cultural values from generation to generation is lost.

The opening of the gates from 2001 to 2002 allowed the restoration of natural resources and facilitated an investigation of the environmental impacts of the dam. During this time, more households returned to fishing, and villagers resumed both traditional daily practices and ceremonies enacted near the river. Although the State has acknowledged the dam's impact on natural resources, it has not acknowledged the resulting loss of villagers' culture. The decision to close the dam destroys the natural resources that shape culture, and thus the State continues to violate the villagers' right to practice and conserve culture.

It should also be noted that changes in national policy and law, as seen in the 2007 Thai Constitution, reflect the importance of maintaining traditional culture and livelihoods. In Section 66, the 2007 Thai Constitution acknowledges the value of conserving and restoring local wisdom, arts and culture.<sup>38</sup> The section also acknowledges that traditional communities should participate in the management of natural resources. In the case of Pak Mun, however, the State is not complying with its own constitution by failing to take measures to restore or conserve culture. Inevitably, such restoration can only occur through the opening of the dam gates.

The culture of fishing promotes sustainable interaction with the land and communal values, creating a close relationship with the river. Since the dam's construction, community dynamics have changed and families have broken apart, thus weakening the cultural values of unity, sharing, and sustainability. Many families that once took part in a rich community life have since been deprived access to the river and to the natural resources their livelihoods once relied on.

The river was the center of community unity. All members of the community once interact with the river through their livelihood and as a result forged strong connections between one another. When the villagers could no longer sustain their livelihood through interactions with the river, all other

aspects of community life were compromised. By allowing the dam's operation to prevent communities from "tak[ing] part in cultural life," and offering affected villagers no voice in the dam's management, the State has obstructed villagers' ability to conserve their culture. The State has also failed

to recognize the right to culture and has not "take[n] the steps necessary for the conservation of culture."<sup>39</sup> Through the destruction of the Mun River, the State has ruined the Pak Mun villagers' way of life, compromising their rights to food, work, and culture.

## General Recommendations

For the Thai State to remunerate for the human rights violations it has caused, the State must consider the demands of the villagers negatively affected by the Pak Mun Dam. Given the nature of villagers' traditional food sources, occupations, and livelihoods, most villagers want to reestablish their connection to the land or be adequately compensated for losses.<sup>40</sup> The following recommendations would serve to recompense villagers in the short term and work toward a restoration of natural resources in the long term:

### Compensation:

Compensate villagers for the destruction of fishery resources, which impacts their access to food and income. As demanded by villagers, the State should pay the Bt525,000 promised by the Cabinet of Ministers in 1997 to compensate loss of livelihood during the dam's construction.

For the period following the construction, the State shall retroactively pay each affected household Bt500 for every day that the dam gates were closed. For instance, from when the gates were closed in June 2002 to June 2008 each household would receive Bt500 per day calculated for 45 months when the dam was closed. Roughly speaking this amounts to Bt675,000 per household.

This compensation will continue to accumulate for every day the dam is closed in the same amount and shall be paid to villagers on a monthly basis. The State must also compensate for any delays in opening the dam gates. Compensation will be paid indefinitely or until the dam is decommissioned. Given the high cost of compensation, it is important for the State to carefully weigh the costs and benefits of keeping the dam in operation.

### Environmental Restoration:

Provide support for Pak Mun villagers to manage their own natural resources. Villagers shall make a restoration plan and the State will furnish funding and human resources so that villagers may carry it out. In order to provide adequate food for upstream villagers, augment efforts to stock the river with fish that can survive in reservoir conditions. Both of these measures are aimed at short-term mitigation and are not sustainable in the long-term. They also do not aim action to fix the root cause of the ecological damage.

The single cause of the ecological damage of the project comes from the closing of the dam gates. Long-term environmental recovery depends on changing the current policy that violates the ESCR rights of villagers as outlined in this report. The State is presented the following options:

1. Open the dam gates throughout the rainy season for five months from July to November. This schedule would allow for seven months of electricity generation, while enabling the majority of fish to migrate from the Mekong to the Mun River. This situation, however, would have limited returns for the upstream villagers because of the difficulty of fishing in deep water during the rainy season. Compensation under this plan amounts to Bt105,000 per household each year, given that the gates are opened and closed on time.
2. Open the gates for eight months April to November. During this length of time, the natural rapids will be exposed, and the fishery and riverbank ecology will benefit. The gates would also be open for the *Songkran* ceremony in April. Compensation for this plan would amount to Bt60,000 per household each year.



3. Open the gates year round. The villagers prefer this motion to any other mitigation efforts. Opening the gates year round would restore the river ecology to its natural state, and the villagers' quality of life will improve drastically.

The Thai State and EGAT ultimately need to open the gates so that traditional fishermen communities can regain access to food, occupations, and ways of life. Opening the gates will ensure food security and quality of life, and the decisions will reflect the needs of the people and respect the ESC rights of river-dependant villagers. Since public participation is required under the 2007 Thai Constitution, Thailand must consider the voices of villagers affected by the environmental, social, and cultural impacts of policies concerning the Pak Mun Dam. In order to achieve a truly sustainable future, the depletion of natural resources and the marginalization of traditional populations must be avoided.

## Appendix:

### Thai Measurement and Currency Conversion:

35.7 Thai baht = 1 US dollar (December 2008)

40 Thai baht = 1 US dollar (December 2005)

36 Thai baht = 1 US dollar (December 1998)

53 Thai baht = 1 US dollar (January 1998)

25 Thai baht = 1 US dollar (December 1995)

45.3 Thai baht = 1 euro (December 2008)

45 Thai baht = 1 euro (Average for December 2001 - 2005)

39 Thai baht = 1 euro (Average for December 1998 - 2001)

1 rai = 1600 square meters

1 acre = 2.147 rai

1 wah = 4 square meters or .0025 rai

1 hectare = 6.25 rai or 10,000 sq. m

### Relevant ICESCR Articles and General Comments:

#### **To access the International Covenant on Economic, Social and Cultural Rights:**

United Nations General Assembly, International Covenant on Economic, Social and Cultural Rights, Resolution 2200A (XXI), December 16, 1966, [http://www.unhchr.ch/html/menu3/b/a\\_ceschr.htm](http://www.unhchr.ch/html/menu3/b/a_ceschr.htm).

#### **To access all General Comments of the International Covenant on Economic, Social and Cultural Rights:**

Committee on Economic, Social and Cultural Rights, General Comments, 1996-2007, <http://www2.ohchr.org/english/bodies/cescr/comments.htm>.

#### **Relevant Articles and General Comments to the Right to Food:**

##### Article 1.2:

All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

##### Article 11.1:

The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

##### General Comment 12.5:

Fundamentally, the roots of the problem of hunger and malnutrition are not lack of food but lack of access to available food.

##### General Comment 12.9:

Dietary needs implies that the diet as a whole contains a mix of nutrients for physical and mental growth, development and maintenance, and physical activity that are in compliance with human physiological needs at all stages throughout the life cycle and according to gender and occupation. Measures may therefore need to be taken to maintain, adapt or strengthen dietary diversity and appropriate consumption and feeding patterns, including breast-feeding, while ensuring that changes in availability and access to food supply as a minimum do not negatively affect dietary composition and intake.

##### General Comment 12.15:

The obligation to respect existing access to adequate food requires States parties not to take any measures that result in preventing such access.

General Comment 12.23:

The formulation and implementation of national strategies for the right to food requires full compliance with the principles of accountability, transparency, people's participation, decentralization, legislative capacity and the independence of the judiciary. Good governance is essential to the realization of all human rights, including the elimination of poverty and ensuring a satisfactory livelihood for all.

General Comment 12.25:

Care should be taken to ensure the most sustainable management and use of natural and other resources for food at the national, regional, local and household levels.

**Relevant Articles and General Comments to the Right to Work:**

Article 6.1:

The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

Article 6.2:

The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

General Comment 18.1:

The right to work is essential for realizing other human rights and forms an inseparable and inherent part of human dignity. Every individual has the right to be able to work, allowing him/her to live in dignity. The right to work contributes at the same time to the survival of the individual and to that of his/her family, and insofar as work is freely chosen or accepted, to his/her development and recognition within the community.

General Comment 18.4:

The right to work, as guaranteed in the ICESCR, affirms the obligation of States parties to assure individuals their right to freely chosen or accepted work, including the right not to be deprived of work unfairly.

General Comment 18.12:

The exercise of work in all its forms and at all levels requires the existence of the following interdependent and essential elements, implementation of which will depend on the conditions present in each State party:

- (a) Availability. States parties must have specialized services to assist and support individuals in order to enable them to identify and find available employment.

**Relevant Provisions of the Thai Constitution of 2007:**

Section 56:

A person shall have the right to receive and to get access to public information in possession of a government agency, State agency, State enterprise or local government organisation, unless the disclosure of such information shall affect the security of State, public safety, interests of other persons which shall be protected, or personal data of other persons as provided by law.

Section 66:

Persons assembling as to be a community, local community or traditional local community shall have the right to conserve or restore their customs, local wisdom, arts or good culture of their community and of the nation and participate in the management, maintenance and exploitation of natural resources, the environment and biological diversity in a balanced and sustainable fashion.

Section 87:

The State shall act in compliance with the public participation policy as follows:

- (1) encouraging public participation in the determination of public policy and the making of economic and social development plan both in the national and local level;
- (2) encouraging and supporting public participation to make decision on politics and the making of economic and social development plan and the provision of public services;
- (3) encouraging and supporting public participation in the examination of the exercise of State power at all levels in the form of profession or occupation organisation or other forms;
- (4) strengthening the politics power of the public, and preparing the laws establishing civil politics development fund for facilitating the communities to organise public activities and for supporting networks of the groups of people to express opinion and requirements

of the communities in the localities;

(5) supporting and providing education to the public related to the development of politics and public administration under the democratic regime of government with the King as Head of State, and encouraging the public to exercise their rights to vote honestly and uprightly. In providing public participation under this section, regard shall be had to approximate proportion between women and men.

## Notes:

1. Grainne Ryder and Wayne White, "Pak Mool Cost More than its Worth," *The Nation*, June 10, 2000.
2. Sakchai, Amornsakchai, et al. *The Pak Mun Dam in Mekong River Basin, Thailand, WCD Case Study* (2000), 99.
3. The gates of the dam are not closed for the entire duration of spawning season, but are closed the majority of the time.
4. Khong Jiam, discussion with author, November 11, 2008. Many tools that fishermen use are too fragile to survive the impacts from the sudden surges of released water.
5. Sakchai, x.
6. These rights are guaranteed by the Thai Constitution 2007, Section 56 and Section 87. For sections on the Thai Constitution, see Appendix.
7. Chinarong Sretthachau and Pianporn Deets, *The Return of Fish, River Ecology and Local Livelihoods of the Mun River: A Thai Baan (Villagers') Research*, (Chiang Mai: Southeast Asia Rivers Network, 2004), 17-18.
8. Although EGAT built a fish-ladder to help mitigate this problem, it has proved to be ineffective. Sakchai, vi.
9. After a strong response from villagers, EGAT and the Cabinet of Ministers agreed to open the gates for one year in order to conduct ecological research. This included academics, villagers, and support from the Southeast Asia Rivers Network (SEARIN).
10. Chinarong and Pianporn, 23.
11. Article 11, ICESCR. For the full text see Appendix.
12. Leedom Lefferts, "Sticky Rice, Fermented Fish, and the Course of a Kingdom: The Politics of Food in Northeast Thailand," *Asian Studies Review* 29 (September 2005), 247-258.
13. For more information on fishing as the main livelihood of Mun River communities, refer to Chinarong and Pianporn, 21.
14. Chinarong and Pianporn, 18.
15. Ibid.
16. Sakchai, vi.
17. General Comment 12.9, ICESCR.
18. Article 11, ICESCR.
19. Article 1 and General Comment 12.15, ICESCR.
20. General Comment 12.15, ICESCR.
21. Sakchai, vii.
22. Chinarong and Pianporn, 26.
23. General Comment 12.5, ICESCR.
24. Sakchai, vi.
25. Article 6.1 and General Comment 18.4, ICESCR.
26. Sakchai, 55.
27. Thailand Development Research Institute, *Pak Mun Dam Case Study*, for the World Commission on Dams (March 2000), 20.
28. For more information on fishery laws, refer to Sakchai, 43.
29. Sakchai, 50.
30. Chinarong and Pianporn, 18, 23.
31. Ibid, 26.
32. General Comment 18.1, ICESCR.
33. Chinarong and Pianporn, 23.
34. Sakchai, 54.
35. Before construction of the dam, the rapids would have been completely exposed at this time of year. It was possible to walk across the river in some places.
36. Chinarong and Pianporn, 17.
37. Article 15.2, ICESCR.
38. Thai Constitution 2007, Section 66.
39. Ibid.
40. A survey conducted by the Faculty of Arts at Ubonratchathani University shows that of 12,630 people affected by the dam, 54 percent request that the dam gates be opened permanently, 31 percent want 15 rai of land to be allocated, and 11 percent want Bt500 a day per family for each day that the gates are closed. The remaining 4 percent prefer various other measures.
41. For a more comprehensive chronology, see <http://www.geocities.com/phr.center/index.htm>
42. Boon Mee Wangpon, discussion with author, November 12 and 17, 2008.
43. Somniang Thong-on and Nao Thong-on, discussion with author, November 17, 2008.
44. Somchai Sorn, discussion with author, November 14, 2008.
45. Khan Wangpol, discussion with author, November 12, 2008.
46. Kampai Sanoawathee, discussion with author, November 13, 2008.



# ESCR Mobilization Project

The ESCR Mobilization Project was originally conceived on December 10, 2006 at a gathering of grassroots organizations in the Northeast of Thailand. This group formed the basis of the Peace and Human Rights Center of Northeast Thailand (PHRC). A disparate group of community organizations and networks determined that what unified them was the International Covenant on Economic, Social, and Cultural Rights.

With help from the Surin Farmers Support and Surin Rice Fund, a week-long research project produced two pilot reports in May 2007. For the month of November 2008, students from the CIEE Khon Kaen program at Khon Kaen University revisited participating communities in the Northeast to spend time with villagers, share in their lives, conduct interviews, and compile information needed for this report. As a result of a conference following the drafting of the reports, village leaders from five of the six target areas declared themselves as the Human Rights Network of the Northeast (Thailand) on December 2, 2008. The entire project has been carried out under the auspices of the Law Center for Society at Khon Kaen University, and cooperation with of the National Human Rights Commission of Thailand.

The goal of the ESCR Mobilization Project is not merely to produce reports. The reports are intended to be but one component of a larger strategy, the core of which is to explore the possibility of using an ESCR framework to organize and mobilize grassroots organizations, to create greater awareness of ESCR, to develop a local, regional, national, and international strategy, and to pressure the Thai government to comply fully with its ESCR obligations and commitments.

For further details about the methodology employed in the project, materials for carrying out an ESCR report, news of the campaign's progress, or more information please visit the Peace and Human Rights Center at: <http://www.geocities.com/phr.center/index.htm>.

PHRC Coordinator: Suvit Gulapwong

Contact the ESCR Mobilization Project at: [escr.mp@gmail.com](mailto:escr.mp@gmail.com)

Participating Organizations and Networks include:

- Lampaniang Conservation and Restoration Group
- Khon Kaen Slum Revitalization Network and United Communities Network
- Network of People Living with HIV/AIDS (TNP+ Isaan)
- Committee of the Mun River Wetlands Conservation Network (CMRCN-Rasi)
- The Mun River Basic Community Preservation Project (Pak Mun)
- Surin Farmers Support and the Surin Rice Fund

The Acting Members of the ESCR Mobilization Project, who headed up and were responsible for the execution of this six-report series are:

Layout Editors: Lyndia McGauhey and Ilana Garcia-Grossman

Text Editors: Alvin Sangsuwagul, Allison Dulin, Eimon Htun, Katie Jenkins, Natacha Petersen

Photography Editor: Spencer Masterson

Project Coordinators: Philip Mangis, Michael Aguilar, Vanessa Moll, Krystle Lord-Keller

Project Facilitators: Adisak Kaewrakmuk, Arunee Sriruksa, Jintana Rattanakhemakorn, John Mark Belardo, and Kovit Boonjear

Project Advisors in Thailand: Sunee Chaiyaros, Commissioner of the National Human Rights Commission of Thailand, Dr. David Streckfuss, Director, CIEE Khon Kaen, and Decha Premrudeelert, Senior Advisor, NGO Coordinating Committee on Rural Development (Northeast Thailand)

Project Advisor (International): Dr. Srirak Plipat, Director, International Mobilisation Team, International Secretariat, Amnesty International

In cooperation with International Rivers

Project Transportation Director: Suree Wongsak

Translators: Bunthawat Weemooktanondha, Ardcha Premrudeelert, Bennett Haynes

“A Common Language” by Eimon Htun

Cover Photo: Thong Srisen at the mouth of the Mun River, Credit: Wesley Mills

