

The University of Hull

**Advocacy NGOs, Advocacy Strategies and New
Participatory Spaces: The Case on Thai Advocacy NGOs
and the Xayaburi Dam Project**

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by

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Abstract

Since 2006, plans for eleven hydropower dams on the Lower Mekong River's mainstream have been revived. The expansion of mainstream dams on the Lower Mekong Basin (LMB) has posed new challenges on Thai advocacy NGOs. Thai advocacy NGOs have long experiences in anti-dam movement since 1980s. Their focus is on the opposition of the hydropower dam constructed in Thailand; rather than on mainstream dams built in the LMB countries which are outside Thailand border. Currently, the Xayaburi dam project, the first dam of eleven mainstream dams proposed for the LMB, has been built in Laos. The Xayaburi dam project becomes the new test for Thai advocacy NGOs who have increasingly played active roles in the dam opposition within the new context of expansion of mainstream dams on the LMB. Therefore, this thesis aims to examine advocacy strategies used by Thai advocacy NGOs to create new opportunities for Thai dam-affected villagers to participate in the decision-making process of the Xayaburi dam project. The study also intends to understand the effects of advocacy strategies used by Thai advocacy NGOs to create new opportunities for the participation of Thai dam-affected villagers in the decision-making process of the Xayaburi dam project.

The research findings indicate that Thai advocacy NGOs use both insider and outsider strategies, albeit in different degrees, to create new opportunities for the participation of Thai dam-affected villagers in the decision-making process of the Xayaburi dam project. By using both insider and outsider strategies, the new opportunities for participation are opened up in which they lead to the creation of new participatory spaces. The spaces can be divided as new invited spaces and new popular spaces. Thai advocacy NGOs can use advocacy strategies to overcome the unequal power relations and create new participatory spaces for participation. Therefore, this thesis argues that Thai advocacy NGOs have potentials to be advocates for public participation even though they have to operate their work within the constraining context of unequal power relations. This study aims to advance the study of advocacy NGOs and public participation. The research findings can improve the potentials of Thai advocacy NGOs as advocates for public participation within the new context of the rapid expansion of hydropower dam development in the LMB.

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List of abbreviations

ADB	Asia Development Bank
ASEAN	Association of Southeast Asian Nations
BOO	Build-Own-Operate
BOT	Build-Own-Transfer
BOOT	Build-Own-Operate-Transfer
CEO	Chief Executive Officer
CNR	Compagnie Nationale du Rhône
CSOs	Civil Society Organizations
CSR	Corporate Social Responsibility
EGAT	Electricity Generating Authority of Thailand
EIA	Environmental Impact Assessment
EPs	Equator Principles
FDI	Foreign Direct Investment
GDP	Gross Domestic Product
GMS	Greater Mekong Sub-region
HIA	Health Impact Assessment
HSAP	Hydropower Sustainability Assessment Protocol
IFC	International Finance Corporation
IFIs	International Financial Institutions
IHA	International Hydropower Association
IMC	Interim Mekong Commission
IPP	Independent power producers
JC	Joint Committee
JCWG	Joint Committee Working Group
LMB	Lower Mekong Basin
LNMC	Lao National Mekong Committee
LRSA	Living River Siam Association
MC	Mekong Commission
MEE Net	Mekong Energy and Ecology Network
MoU	Memorandum of Understanding
MRC	Mekong River Commission

MRCs	Mekong River Commission Secretariat
MW	Megawatt
NEB	National Environment Board
NEPC	National Energy Policy Council
NEQA	National Environmental Quality Act
NGOs	Non-Governmental Organizations
NHRCT	National Human Rights Commission of Thailand
NMC	National Mekong Committees
NTMP	Network of Thai People in Eight Mekong Provinces
PDP	Power Development Plan
PNPCA	Procedures for Notification, Prior Consultation and Agreement
PPA	Power Purchase Agreement
PPP	Public Private Partnership
SAC	Thai Supreme Administrative Court
SAPs	Structural Adjustment Programmes
SCB	Siam Commercial Bank
SEA	Strategic Environment Assessment
SIA	Social Impact Assessment
SOEs	State-Owned-Enterprises
StM	Save the Mekong Coalition
TERRA	Towards Ecological Recovery and Regional Alliance
TNMC	Thai National Mekong Committee
TNMCS	Thai National Mekong Committee Secretariat
ToR	Term of Reference
UMB	Upper Mekong Basin
US	United States
WCD	World Commission on Dam
WWF	World Wildlife Funds
XPCL	Xayaburi Power Company Limited

List of interviewees

Date	Interviewees
	Thai advocacy NGOs
3 June, 2014	T1
3 June, 2014	T2
6 June, 2014	T3
30 June, 2014	T4
2 July, 2014	T5
9 July, 2014	T6
Date	International NGOs
4 July, 2014	I1
5 July, 2014	I2
Date	Thai Local Community Network
3 July, 2014	LC1
Date	Human Rights Officials
25 June, 2014	HR1
17 October, 2014	HR2
Date	State Officials
17 June, 2014	S1
25 October, 2014	S2
Date	Thai Senators
6 June, 2014	TS1
12 June, 2014	TS2
Date	Lecturer
4 November, 2014	L1
Date	Technical Advisor
23 June, 2014	TA1

Chapter 1

Introduction

1.1 Introduction

The aim of this thesis is to study advocacy strategies used by Thai advocacy NGOs to create new opportunities for Thai dam-affected villagers to participate in the decision-making process of the Xayaburi dam project. This study begins with the Introduction, which provides the research background and indicates the importance of studying advocacy NGOs and the use of their advocacy strategies to enhance public participation. The chapter then relates the importance of the study of advocacy NGOs and advocacy strategies to the study of Thai advocacy NGOs and the Xayaburi dam project. This leads to the development of research objectives and questions of this study. Then, the research methodology is addressed to show that this research is based on qualitative research. The last section of this chapter presents the structure of the thesis, including a short summary of the content and purpose of each chapter.

1.2 Research Background

1.2.1 Advocacy strategies and public participation

NGOs have been recognised as key actors in the landscape of development. The roles of NGOs tend to focus mainly on one or the other of the following two roles: service providers, who provide service and welfare to people in need, and advocacy NGOs, who organise policy advocacy and campaigns for public interests (Lewis and Kanji, 2009). As service providers, NGOs not only offer service and welfare to people who need them, but also provide assistance in response to emergency situations that demand immediate humanitarian action. Although the roles of NGOs as service providers is important for delivering service, welfare and emergency relief to people who demand those services and assistance, the role of the service provider has been increasingly criticised, as it does not sufficiently tackle the root cause of poverty and unsustainable

development (Bebbington et al., 2008). As argued by Rahman (2006: 452), when NGOs focus their roles on service delivery, they become providers of goods to poor people rather than facilitators of collective actions and empowerment. By taking the roles as service providers, NGOs tend to concentrate on project-based activity, aiming to deliver services or provide welfare to the poor people and have little intention of making fundamental changes that challenge the structural issues of power and inequality (Banks and Hulme, 2012). Given the weakness of the roles of service providers, many NGOs have shifted their activities towards advocacy work to empower locals and poor people.

The term advocacy can be defined with either a narrow or broader meaning. According to Casey (2011), advocacy in a narrow sense refers to individual advocacy, which focuses on seeking a remedy for an individual or a situation involving a small group of people. Individual advocacy tends to focus on individual concerns or grievances rather than on systemic or structural change. Individual advocacy can be defined as attempts to influence specific policies, programmes or projects rather than seeking change at the institutional or policy level (Edwards, 1993). On the other hand, advocacy defined in a broader meaning can be referred to as systemic, which is not just about influencing specific policies, programmes or projects for set groups of people, but also attempts to bring change at the structural or policy level for public interest (Kinlen, 2013). In this thesis, advocacy is defined in a broader sense to refer to the attempts of NGOs to transform the policy or decision-making structure and process in ways that the poor or the excluded groups of people can participate meaningfully in the policy or decision-making process that will affect their lives. From the above definitions, advocacy NGOs referred to in this thesis play important roles as advocates for public participation.

Advocacy NGOs not only adopt roles to influence the decisions of public and private policy makers to promote public interests, but also aim to tackle the power structure which constrains the participation of the poor and disadvantaged groups in the process. Advocacy NGOs aim to redress

the unequal power relations so that the poor and disadvantaged can participate meaningfully in the decision-making process. As Jordan and Tuijl (1998) discussed, when NGOs take advocacy roles, they aim to democratise unequal power relations so that those at the grass-roots level can have the opportunity to participate in public or private policy decisions that affect their lives. However, advocacy NGOs do not operate their activities in a vacuum; rather, many external structural factors (i.e. power relations) can facilitate or constrain NGO advocacy work and its effectiveness (Meyer, 2004). By using advocacy activities to promote public participation, advocacy NGOs may induce conflict with the interests or values of other groups, especially well-organised powerful groups such as the government, business, elite professionals and other mainstream state and non-state actors (Greenspan, 2014). Conflict and struggle is inherent to the definition of advocacy NGOs. As defined by Andrews and Edwards (2004), advocacy NGOs are organisations which make public interest claims, either promoting or resisting social change that, if implemented, would conflict with the social, cultural, political or economic interests or values of other constituencies and groups (481). Institutionalised elites and those holding policy or decision-making power may resist making changes regarding their decisions or ignore the demands raised by advocacy NGOs because they fear that they would lose their power, dominance and control.

Given the importance of structural factors on advocacy NGOs, many scholars focus their analyses on the influence of the power relations structure on advocacy NGOs and its effectiveness (Orbach, 2011; Cohen-Blankshtain et al., 2013; Williams, 2004; Giles, 2001; Pettit, 2012; Hickey and Mohan, 2004). There are many cases in which advocacy NGOs promote public participation without political support from government authorities or those who hold decision-making power (Cohen-Blankshtain et al., 2013). Although advocacy NGOs and local poor people are invited to participate in the decision-making process, the powerful decision-makers or governments still control resources and have an influence over the decision-making process (Akbulut and Soylu, 2012). This means that

powerful government actors and decision-makers may feel reluctant with regard to sharing power and resources with local poor people or the less powerful non-state actors. As Cobbinah (2015) argued, government authorities and decision-makers can feel threatened when sharing power so will try to resist power transfer; it is argued that this will slow down the process of participatory activities and development practices (144). Therefore, the issues of power relations can become constraining factors, hindering the potential of advocacy NGOs as advocates for public participation and should be addressed in the study and analysis of these NGOs and their roles in promoting public participation. If the issues of power relations are neglected in the development processes and practices, the attempts of advocacy NGOs in promoting public participation can become co-opted, which could result in reproducing power inequities that hinder effective and meaningful participation.

Despite being constrained by power relations, this study argues that advocacy NGOs have the potential to be advocates for public participation. Clark (1995) and Brinkerhoff et al. (2007), for example, pointed out that NGOs possess many attributes or comparative advantages, including their ability to reach poor people and represent the interests of local poor people and their capacity for innovation and experimentation, which is difficult for official agencies. The comparative advantages of NGOs make them distinct from other non-state actors and give them the potential to be advocates for public participation. This study will concentrate on advocacy strategies as important tools used by advocacy NGOs to enhance their potential as advocates for public participation. Advocacy strategies are not an unintentional act; rather, they are activities which are planned and used carefully by advocacy NGOs to help them accomplish their goals. Advocacy strategies are regarded as strategic activities used by NGOs to overcome power structures and open up new opportunities for influence (Corell and Betsill, 2008).

Within the unequal power structure, in which the decision-making power is placed in the hand of a few decision-makers, advocacy NGOs need to

think and act strategically by adopting advocacy strategies to strengthen their potential and enhance the agency of the less powerful groups participating in the decision-making process. Advocacy NGOs pursue different strategies which range from conventional style lobbying activities to confrontational approaches of public protest and demonstration to raise public pressure on the government and decision-makers (Rietig, 2016). In this thesis, a wide range of advocacy strategies will be grouped broadly into insider and outsider strategies. Insider strategies refer to lobbying strategies and other activities aiming to present the requests of the local poor people, as well as disadvantaged groups, directly to the government and decision-makers (Mosley, 2011). On the other hand, outsider strategies emphasise unconventional styles of activities aiming to mobilise public support and awareness, thereby raising public pressure on the government and decision-makers to change their policies or decisions in favour of the wider public (Ibid). Outsider strategies also include information and knowledge-based strategies aiming to enhance the agency of people so that they can participate as active citizens in the decision-making process (Beyers, 2004; Kriesi et al., 2007). By adopting advocacy strategies, advocacy NGOs can help local poor people to articulate their concerns directly to decision-makers and create new opportunities whereby local poor people can incorporate their voices and concerns in the decision-making process.

However, most of the literature on advocacy NGOs and participation tend to focus on the issue of power structure, its influence on NGO advocacy and its effectiveness in promoting public participation and empowerment. The literature is often sceptical about the effectiveness of advocacy NGOs as advocates for the poor and public participation and raises questions regarding the acclaimed comparative advantages of advocacy NGOs. For example, Banks and Hulme (2012) assessed the comparative advantages of advocacy NGOs and raised questions pertaining to the accountability and autonomy of NGOs as advocates for the poor. Edwards and Hulme (1996) also expressed concerns about the autonomy, accountability and legitimacy of NGOs when these NGOs work too closely with the

government and receive financial aid from bilateral and multilateral donor agencies. Although the literature has enhanced our understanding on the effectiveness of advocacy NGOs and participation, the study focuses less on advocacy strategies implemented by advocacy NGOs to overcome the structural constraints of power relations and create new opportunities for public participation (Batley, 2011). This thesis aims to fill this gap by examining advocacy strategies used by advocacy NGOs in creating new opportunities for the participation of the local poor people and the disadvantaged groups of people in the decision-making process. By examining advocacy strategies used by advocacy NGOs, this thesis also aims to understand the effects of these strategies with regard to creating new opportunities for public participation.

1.2.2 Thai advocacy NGOs and the Xayaburi dam project

Since the 1980s, Thailand has moved towards a modern and outwardly-oriented economy, concentrating on growth-centred development policies and projects. Although this growth-centred economy has expanded Gross Domestic Product (GDP) and led to manufacturing exports and a great influx of Foreign Direct Investment (FDI), growth-centred development has also resulted in the deprivation of natural resources, which are crucial to the livelihoods of poor people in rural areas (Dechalert, 1999). Having realised the negative impacts of growth-centred development, the environmental movement was formed in Thailand to address the problems of a growth-led economy and advocate for the interests of local poor people who are often excluded from the policy and decision-making system. Thai advocacy NGOs have become one of the most active actors in the environmental movement in Thailand. Although Thai advocacy NGOs are involved in many advocacy activities to oppose state-led development infrastructure projects, the opposition against dam construction in Thailand has become one of the longest struggles against top-down development in the history of the Thai environmental movement (Hirsch, 2007).

Previously, many scholars tended to focus on the case of the Pak Mun dam development project and the struggle of Thai advocacy NGOs and Thai dam-

affected villagers in mobilising their campaign against the dam's construction (Foran & Manorom, 2009; Sangkhamanee, 2015; Sneddon and Fox, 2008; Glassman, 2001). The Pak Mun dam project was proposed to be built on the Mun River, the Mekong's largest tributary in Thailand. The project was carried out and completed in 1994 and turned out to be one of the most controversial issues between Thai pro-dam decision-makers and Thai dam opponents (Cronin & Hamlin, 2010). Although the anti-dam campaign, led by Thai advocacy NGOs and dam-affected Thai villagers, could not stop the dam's construction, the campaign resulted in important changes in the decisions made by the Thai pro-dam decision-makers. In particular, the dam decision-makers agreed to compensate Thai villagers who were affected by the dam and the Thai government ordered its resolution to open the dam gates for four months to review the dam's impacts (Foran & Manorom, 2009). Moreover, dam-affected Thai villagers collaborated with Thai NGOs and Thai university researchers to conduct a locally-based research study to collect data and evidence to challenge the claims of pro-dam stakeholders and propose alternative developments, moving away from growth-centred development (Hirsch, 2010).

In the case of the Pak Mun dam project, the anti-dam campaign reflects the successful experiences of Thai advocacy NGOs in challenging powerful pro-dam decision-makers to change policies and decisions in a way that benefits dam-affected Thai villagers. However, the successful anti-dam campaign of the Thai advocacy NGOs has forced Thai dam developers to relocate the dam construction to neighbouring countries to avoid the robust protest and criticism in Thailand (Middleton, 2012a). In recent years, the Thai hydropower dam industry has turned its interest towards building dams in neighbouring countries, especially in Myanmar and Laos, where NGO advocacy and civil society are very weak (Simpson, 2007). Therefore, although Thai advocacy NGOs are successful in preventing Thai dam developers from building new hydropower dams inside Thailand, they are unable to stop Thai pro-dam stakeholders from continuing with hydropower dam building in neighbouring countries.

Over recent years, Thai pro-dam actors from both public and private sectors have been involved in planning, developing and financing hydropower projects in the Lower Mekong Basin (LMB). As shown in Table 1, Thai private construction and energy companies, including Ch. Karnchang Public Company Ltd, Italian-Thai Development Plc and EGCO, Thailand, have become the project sponsors of the LMB mainstream dam projects, especially the dam being built in Laos. In addition, the Export-Import Bank of Thailand and Thai private banks have committed to provide finance for the construction of the hydropower dams on the LMB, including the Xayaburi dam project (King, 2014: 106). Thailand also plays a significant role as the main power purchaser of the mainstream dam projects, especially the power generated from the hydropower dams in Laos. Since the 1970s, Thai and Lao governments have signed several Memorandums of Understanding (MOUs) to import electricity from Laos to Thailand (Lamphayphan et al., 2015). All the hydropower from Laos is sold to the Electricity Generating Authority of Thailand (EGAT), the Thai state-owned energy utility (Mirumachi, 2015: 127). The EGAT, Thai private energy and construction companies and Thai private financiers have played significant roles in driving the current expansion of hydropower development in the LMB.

Table 1.1: Thailand’s involvement in Mekong mainstream dams in Laos

Project Name	Location	Installed capacity (MW)	Project sponsors	Planned Market
Ban Khoum	Thai-Lao border	1,872	- Italian Thai Development PLC and Asia Crop, Holdings Limited.	Laos/Thailand
Don Sahong	Champasak, Laos	260	- Sinohydro (China) EPC Contractor - Mega First Corporation Berhad (Malaysia)	Laos, Cambodia or Thailand
Pak Beng	Oudomxay, Laos	912	- Government of Laos - China Datang Overseas Investment Co. Ltd	Laos/Thailand
Pak Chom	Thai-Lao border	1,079	- Department of Alternative Energy	Laos/Thailand

			Development and Efficiency, MoE, Thailand (Thailand)	
Pak Lay	Xayaburi & Vientiane, Laos	1,320	- CIEC (China) - Sinohydro (China)	Laos/Thailand
Phou Ngoy	Champasak, Laos	651	- Charoen Energy and Water Asia Co.Ltd., Thailand	Laos/Thailand
Luang Prabang	Luang Prabang, Laos	1,410	- Petro Vietnam Power Cooperation, Vietnam	Laos/Vietnam
Sanakham	Xayaburi & Vientiane, Laos	660	- China Datang Overseas Investment Co. Ltd 81% - Government of Laos 19%	Laos/Thailand
Xayaburi	Xayaburi, Laos	1,285	- EDL (Laos) 20% - Ch.Kanchang (Thailand) 30% - EGCO (Thailand) 12.5% - Natee Synergy (Thailand) 25% - Bang Kik Expressway (Thailand) 7.5% - PT (Thailand) 5%	Thailand/Laos

Source: Compiled from Ministry of Energy and Mines Department of Energy Business (2014) and International Rivers (2017)

According to ADB (2009), the Mekong countries have experienced economic growth which has fuelled the rising demand for energy. In Thailand, the 2015 Power Development Plan also estimates that the power demand of the country is rising because of economic and population growth, urbanisation and the growth rate of electricity customers in the economic sector (Power Development Plan, 2015). Thailand's rising demand for energy makes the EGAT seek an electricity supply generated from neighbouring countries to ensure national energy security. In 2016, the Thai government signed a new MOU to import 9000 MW from hydropower projects in Laos to ensure energy supply and meet rising power demand (Laotian Times, 2016). The hydropower imported from Laos supplied the high demand for power in the metropolitan areas, businesses and industrial zones in Thailand (Power Development Plan, 2015). In addition to meeting the rising energy demand, Thai dam

proponents claim that hydropower is clean and green energy (Eyler & Weatherby, 2017). It generates electricity with low carbon emissions and thus supports the low-carbon development path (Meijer, Scheumann, Däschle & Dombrowsky, 2014). Many hydropower dam projects have been pushed forward by the idea that hydropower not only brings an energy supply to the region, but also offers an opportunity to reduce carbon emissions and combat climate change.

In addition to Thai pro-dam actors, Laos also plays an important role as the dam proponent pushing forward dam construction in the Lower Mekong basin. Laos promotes itself as a major hub of power exports to supply sufficient electricity to Thailand and other countries in the Mekong region. Laos is a landlocked country, but its geography makes it suitable for hydropower production (Goh, 2007). The country is endowed with a hydroelectric potential of about 26,500 MW (Kyophilavong & Lamphayphan, 2014: 144). Of this potential, about 18,000 MW is considered technically exploitable, which is the largest technically exploitable hydropower potential of the four Mekong countries (Ibid). The Lao government has an ambitious goal to become the Battery of Southeast Asia and to export electricity to Thailand, Vietnam and China where demand for electric power has been steadily increasing (Phomsoupha, 2009; Osborne, 2016). Hydropower is viewed as a vital resource to serve two national priorities: meeting domestic power demand and earning foreign revenues from electricity exports (Hensengerth, 2015: 916). By building hydropower dams, the Lao government aims to attract foreign investment and use the revenues generated from hydropower exports to improve the welfare of its people, especially the dam-affected people. Hydropower development is promoted by the Lao government and its energy agencies as one of the ways in which to bring the country out of the least developed country status (Boer et al., 2016: 13).

Not only the public and private energy sectors in Thailand and Laos, but development banks, regional institutions, international agencies and bilateral donors are dam proponents, encouraging the construction of

hydropower projects on the lower Mekong mainstream. For example, the Asia Development Bank (ADB) and the World Bank, over the past decades, have invested considerable time and resources into hydropower development in the Mekong region. As commented by Middleton et al. (2009: 25),

“They have done this through hosting meetings between key decision-makers; supporting technical studies that promote hydropower development and the regional integration of power systems; offering financial, legal and other forms of expert advice; providing concessional loans, grants, and risk guarantees; and brokering public–private financing deals”.

Since 1992, the ADB has promoted hydropower development in the Mekong region through a development programme called the Greater Mekong Sub-region (GMS). One of the ADB’s GMS programmes is to establish a network of transmission line linking the Mekong countries, especially Laos, Myanmar and China, to hydropower projects (ADB, 2008). The GMS’s transmission line will help facilitate power exports from hydropower projects being constructed in Laos, Myanmar, and Cambodia to the power-hungry countries of Thailand, Vietnam and China (Ibid). In addition, the ADB, the World Bank and the Mekong River Commission (MRC) have initiated social and environmental policies and public participation programmes to mitigate the risks and any negative impacts of hydropower projects and ensure that the livelihoods of the affected communities will be restored and the riverine people will gain benefits from the proposed hydropower dams, leading to a win-win development goal for all Mekong countries (Geheb et al., 2015). Hydropower dam development has become the cornerstone for the banks to alleviate poverty in the Mekong region.

Although the dam proponents claim that hydropower development provides an energy supply with low-carbon emissions and brings many economic advantages, including foreign investment and revenue generated from the power trade, the opponents and critics of dams point out that hydropower development also comes with a high price on the river’s

ecosystem and biodiversity and negative impacts on local livelihoods (Ho, 2014; Kuenzer et al., 2013). Dam opponents, including environmentalists, NGOs, civil society, academics and locally-affected people and communities, have expressed their concerns that the construction of dam projects could interrupt the river's natural flow, which is necessary for critical ecosystem processes, and alter the sediment deposits, where fish swim, live and spawn, and even the temperature of the water (Soksreinith, 2016; Kareiva, 2012). The Mekong is home to more than 60 million people and 80% rely directly on the river system for their food and livelihoods (Orr et al., 2012: 925). Any alteration of the river flow, sediment regime and fish migration could severely affect these local households (Ibid). Dam opponents have warned that the potential for the negative impacts of hydropower dams, such as long-term environment consequences and fish loss, could outweigh the economic benefits often claimed by dam proponents.

Because the Mekong river is the transboundary river flowing through the six riparian countries (China, Myanmar, Laos, Thailand, Cambodia and Vietnam), the hydropower dam projects constructed in the upper Mekong could lead to possible cross-border impacts on downstream countries (Mehtonen, 2008). As noted by Cronin and Hamlin (2010: 2), the mainstream lower Mekong dams in upper Laos have posed significant threats to the food security and livelihoods of millions, most of them in Cambodia and Vietnam, the furthest downstream countries. The upstream dam development in China and Laos will change the river's natural hydrology and seasonal inflows, leading to severe impacts on rice production in the Mekong Delta, the rice bowl of Vietnam, and on migratory fisheries in Tonle Sap, Cambodia's great lake (Cronin, 2010). The mainstream hydropower projects have posed immediate threats to food security, especially that of local people who rely on fisheries in the Mekong basin as a daily source of protein and diet (Barrington et al., 2012). Given the negative consequences associated with the mainstream dam, policy-makers should take into account the participation of all stakeholders, particularly the riverine people whose lives depend on the

river for food and income, before proceeding with dam development (Intralawan et al., 2018).

While the hydropower development in the LMB has been proceeding with alacrity, people dependent on Mekong water resources for their livelihoods have become the vulnerable groups affected by the negative impacts associated with dam development (Matthews, 2012). Despite being negatively impacted by dam construction, the dam-affected people have limited information about the adverse impacts of the dam projects and little ability to demand genuine participation in the decision-making process of hydropower development (International Rivers, 2008). According to Mirumachi (2015), Hensengerth (2015), Matthews (2012), hydropower and energy policy in the LMB is controlled by the powerful pro-dam actors from both the public and private sectors concerned with water and energy, including the Ministry of Energy and its line agencies, power companies, private construction companies, regional governments, development banks and financial institutions. These powerful pro-dam actors have framed the Mekong as an economic river in which the Mekong water resources can be exploited for profit, power and energy (Sneddon and Fox, 2012). To justify their framing, the Mekong governments, regional institutions and bilateral donors have promoted the Mekong as the untapped potential for hydropower which is now ready for the new plans for hydropower projects (Ibid). Within this economic framing, however, the locally-affected people are excluded from the hydropower development agenda and its related decision-making processes.

Another concern raised by the expansion of hydropower development is the compensation and mitigation measures for the dam-affected villagers and communities. Multilateral development banks and regional governments have initiated various social and environmental safeguard policies to mitigate social and environmental impacts and ensure all stakeholders' participation and the protection of people's and communities' rights. The World Bank and the ADB have asked the Mekong governments and private sector to comply with the banks' criteria

and adhere to the banks' environmental and social safeguard policies before receiving the banks' financial and technical support (Lawrence, 2009). Despite the efforts initiated by the banks, the dam opponents complained that the banks 'policies and supports failed to provide sufficient compensation and restore the lives of dam-affected villagers who were forced to leave their land and resettle in new remote places (Guttal and Shoemaker, 2004).

The dam critics have cast doubt on the political will and capacity of the Mekong governments to comply with social and environmental policies and international standards for planning and implementing the hydropower development process. For example, Lao PDR, the host country of at least seven mainstream dams, has a poor record on public participation and the protection of the rights of people affected by the development projects (Middleton, 2016). Academics, observers and environmentalists have also commented that public consultation conducted by the Lao government has many flaws and the Environmental Impact Assessment (EIA) has often failed to meet even minimum standards for consultation and participation (Hogan, 2011; Lanza, 2011; Blake, 2015). Due to the poor performance on public participation and consultation, the negative impacts of the dam projects are felt severely by the dam-affected people who are forced to scarify their lands, fresh water, income, source of food and fisheries to generate profits and electricity to public energy agencies, private dam developers, private financiers and urban people who live far away from the Mekong.

Because of the risks posed by hydropower dams to local livelihoods and communities, various international, regional, local and grassroots NGOs have been working with locally affected villagers to challenge destructive projects and advocate for better participation and consultation in the decision-making process of the hydropower and energy policy. NGOs (or Non-Governmental Organisations) in general refers to groups or organisations which are independent from the direct control of government, do not make profits or income and are not associated with

criminal and violent groups (Willetts, 2006). As identified by Martens (2002), NGOs are formal societal organisations which are distinct from spontaneous forces or movements and are of a non-profit making and non-violent character. NGOs have taken a variety of roles in international affairs, ranging from close cooperation in the delivery of public services to an oppositional stance towards advocacy work emphasising the transformation of unequal power relation structures and the promotion of empowered participation (Cohen-Blankshtain et al., 2013: 62). NGOs often contain many advantages, making them become active advocacy NGOs, including the ability to have close links with poor people and communities, especially in inaccessible areas, and the capacity for innovation and experimentation, which are difficult for official state agencies (Clark, 1995: 594-595). With regards to NGOs' advantages, NGOs have the potential to represent the preferences of people, especially the marginalised groups, such as the poor and socially excluded, and to provide the necessary resources and networks for people and community members to challenge the power structure and learn how to be active in the political process (Brinkerhoff et al., 2007).

In the Lower Mekong Basin, many international, regional, local and community-based NGOs have played prominent roles in advocating for the rights of the people affected and better participation of the people in the decision-making process of mainstream dam development. As the large-scale dam projects have been pushed forward with no pace, the adverse impacts associated with the dams have become a real threat to the people living near the dam sites and beyond. These various NGOs exchange information and resources and formulate an informal, transnational advocacy network or coalition to send their message to the dam proponents involved in the hydropower decision-making process to cancel the dam construction or postpone the proposed projects until additional research on the potential impacts has been carried out (Retka, 2017). Despite ongoing opposition from NGO opponents, the pro-dam decision-makers have never cancelled or suspended the plans to dam the lower Mekong mainstream (Nhina Le, 2013). NGO opponents, however,

did not consider their anti-dam advocacy a failure; rather, they adopted a variety of advocacy strategies to target key public and private decision-makers and initiate a transnational advocacy campaign to raise public awareness about the risks of dam development, hold the pro-dam decision-makers to account for the negative impacts of the dam and empower local people to access information about dam development and participate in the decision-making process (Cronin and Weatherby, 2015; Yeophantong, 2014).

NGO opponents do not rely on one strategy but adopt a repertoire of strategies to challenge the destructive dam projects on the LMB. Lobbying strategies, demonstrations and legal activism were used by NGOs and their anti-dam networks to voice their opposition and pressure the pro-dam decision-makers to cancel dam construction. For example, Save the Mekong Coalition (StM), Bangkok-based transnational activists in the Mekong basin, submitted letters and petitions to call upon the Mekong leaders to cancel or postpone the mainstream dams planned on the LMB (Save the Mekong, 2014). Thai anti-dam NGOs and locally-affected Thai communities held demonstrations and threatened lawsuits to pressure EGAT, the Thai Ministry of Energy and the parts of the private sector involved in the dam construction to withdraw from their commitments (Hensengerth, 2015: 920).

In addition, NGO opponents, working with researchers and local communities, have engaged in information-based advocacy to raise public awareness of the problems of lower Mekong dams and offer alternative solutions that are fostered from the bottom-up (Magrath, 2015). The ability to use information for political influence is necessary for advocacy NGOs, as seen in the case of Thai NGOs gathering information and evidence to reveal that the electricity produced by the lower Mekong dams is not needed to meet Thailand's future energy needs (Trandem, 2012b). Thai NGOs use alternative information to challenge the top-down energy policy in Thailand and propose that Thailand should invest in energy efficiency measures and alternative energy to secure national energy security

(Greacen & Palettu, 2007). Information advocacy is also used to empower the people affected by dams to protect their rights and be able to access the decision-making process of hydropower development. International NGOs, including International Rivers, the US-based international NGO, have conducted research and generated many publications to reveal the poor quality of EIA and social and environmental safeguard policies implemented in the lower Mekong dam construction and highlight the need for the improvement of public participation and consultation in the hydropower development in the LMB (International Rivers, 2008).

Among the NGOs advocating for the cancellation of the Mekong dam projects, Thai NGOs are the ones which have had long experience in advocacy campaigns against dam construction (Hirsch, 2007). Since the 1980s, Thai NGOs have built an alliance with international and regional NGOs, academics, people affected by the dam, local participants and the media to launch campaigns against the construction of state-led dam development in Thailand (Dechalert, 1999). Thai NGOs and their anti-dam alliances not only revealed the lack of people's participation in decision-making and the impacts on their livelihoods, but also raised public debates over the need for domestic hydropower in Thailand (Sangkhamanee, 2015). Thai NGOs and their anti-dam alliances employed a variety of protest strategies, including street protests, seizing the dam construction sites and organising a long march to Bangkok, to influence the government to agree to better compensation for the affected people who lost their livelihoods (Myint, 2005). Thai NGOs not only called for the cancellation of dam construction in Thailand; they also supported the mobilisation of the dam-affected protesters and empowered public participation in the process of hydropower development. The anti-dam campaigns led by Thai NGOs and their alliances resulted in many changes, including the cancellation of Nam Choan Dam (located on the upper Kwa Noi River, Thailand) in 1988, the agreement to compensate affected Thai villagers and the improvement in environmental regulations and the decision-making process of hydropower development in Thailand (Foran and Manorom, 2009).

Because of the strong anti-dam protest in Thailand, Thai pro-dam actors found it more difficult to build new hydropower projects in the country (Middleton, 2012a). As a result, Thai pro-dam actors have shifted the construction of hydropower projects to neighbouring countries, especially Laos, where hydropower can be constructed with few constraints (Matthews, 2012). As exemplified in the case of the Xayaburi dam project, the Xayaburi project is the first dam of eleven dams to be built on the lower Mekong mainstream. The dam project is located in Northern Laos and expected to generate 1,260 megawatts of electricity, around 95% of which will be exported to Thailand (BankTrack, 2016). Although the dam is constructed in Laos, the dam developer, financiers and power purchaser are all from Thailand. The involvement of Thai public and private actors in the Xayaburi construction implies that the Xayaburi dam project is actually a Thai-led hydropower development (Boer et al., 2016: 22). Thai NGOs have been concerned that Thai pro-dam actors are exporting the social and environmental problems associated with the Xayaburi dam to its neighbouring countries (Simpson, 2007). Because the Mekong River is the transboundary river, Thai NGOs are worried that the negative impacts of the Xayaburi dam will affect not only the livelihoods of Thai and Lao people, but also riverine people living across the Mekong basin.

Thai NGOs have recognised the negative impacts of Thai hydropower construction in neighbouring countries and tried to hold Thai pro-dam decision-makers to account for the transboundary impacts of the Xayaburi dam on those affected across the Mekong basin. However, the Xayaburi dam has become a new test case for Thai advocacy NGOs, having long experience in anti-dam campaigns against the domestic dam projects, but never having had to challenge destructive hydropower projects constructed on the Lower Mekong mainstream. Hirsch (2001) argued that the political spaces in which Thai NGOs can mobilise their anti-dam advocacy in Laos, Cambodia and Vietnam are very restricted, especially in Laos, which is an authoritarian country where NGO advocacy against state-led development projects is not allowed (Soutar, 2007).

Thai NGOs have tried to scale up their advocacy strategies beyond the Thai border to target the regional governments and institutions (Hirsch, 2007). However, the political space for advocacy in neighbouring countries are not as open as in Thailand. The Xayaburi dam project has become a new challenge for Thai NGOs to advocate for the people affected by a mainstream dam development built outside Thailand.

The previous literature on Thai advocacy NGOs in the Mekong hydropower context tends to focus on Thai NGOs and their anti-dam advocacy in Thailand, particularly the anti-Pak Mun dam (Som-In & Gadavani, 2017; Foran & Manorom, 2009; Sneddon & Fox, 2008; Glassman, 2001). However, the studies in this field have focused less on Thai NGO advocacy against hydropower dam projects being constructed beyond Thailand's borders. Therefore, this paper aims to fill this gap by examining the advocacy strategies used by Thai NGOs to advocate for public participation in a new context where Thailand's hydropower development has shifted towards neighbouring countries.

Therefore, this thesis aims to study the advocacy strategies used by Thai NGOs and the effects of using those strategies to oppose construction of the Xayaburi dam and to create new opportunities for the dam-affected Thai people to participate in Xayaburi's hydropower decision-making process. By studying these issues, this thesis aims to enhance the understanding of the potential of Thai advocacy NGOs to challenge destructive dam projects and empower public participation within this new context where Thailand's hydropower dam construction has moved to its neighbouring countries.

1.3 Research Objectives and questions

This thesis focuses on Thai advocacy NGOs engaging in advocacy work to oppose the construction of the Xayaburi dam project. The Xayaburi dam project is the first of the eleven hydropower dams proposed to be built on the lower section of the Mekong mainstream. Many commentators have worried that if the construction of the Xayaburi dam project proceeds

without sufficient consideration for the risks, the dam will be a catalyst for others to proceed likewise (Wyrwoll, 2011). The Xayaburi dam project has therefore become a test case for Thai advocacy NGOs who have long experience in anti-dam campaigns against the construction of dam development at home but not the dam built in neighbouring countries. Engaging in advocacy activities to oppose the construction of dams which were developed and built outside Thailand has posed new challenges for Thai advocacy NGOs acting as advocates for promoting public participation. As Sangkhamanee (2015) argued, the Xayaburi dam project creates new challenges for Thai advocacy NGOs engaging in anti-dam movements to oppose the Thai state-led dam project built outside Thailand.

The Xayaburi dam project involves multi-sector actors as well as trans-boundary impacts that could affect the livelihoods of Thai local villagers. Therefore, Thai advocacy NGOs need to find the spaces in which they can influence the Xayaburi dam decision-makers to be held accountable and responsible for their decision to build the dam. However, as Hirsch (2007) argued, the participatory spaces in which Thai advocacy NGOs can participate do not enable space for participation. For example, the participatory space in Laos is closed for public participation. NGOs and local civil society are not allowed to criticise or protest against the state-led development projects in Laos. According to Matthews (2012), the political system in Laos, including the weak enforcement of laws, a lack of capacity to regulate development, the existence of corruption and a tightly controlled state, became the drivers and enabling factors that created opportunities for powerful state and private actors from within Thailand and Lao PDR to mobilise power to control the benefits from hydropower, while the local communities have to bear social and environmental costs associated with the dam development.

Given the constrained space for participation in Laos, Thai advocacy NGOs have shifted their advocacy work towards the Mekong River Commission (MRC), the inter-governmental institution charged with

regional cooperation to manage shared water resources in the Lower Mekong Basin (LMB) (Ratner, 2003). The four basin countries, Laos, Thailand, Cambodia and Vietnam, signed the Agreement on the Cooperation for Sustainable Development of the Mekong River Basin or the Mekong Agreement on April 5, 1995, and established the MRC. The MRC was initiated to provide the regional platform in which the four basin countries can negotiate how to utilise the shared Mekong water in cooperative and sustainable ways (Mirumachi, 2015: 124-126). However, the MRC, over the past years, have been subject to public scrutiny and criticism. In particular, the MRC has been criticised by NGOs and civil society groups as the state-led institution established to serve the interests of member states, rather than the interests of local riverine people whose lives depend on the Mekong water resources (Dore, 2003). As argued by Davidsen (2006), public involvement of the MRC has been constrained by the internal structure and institutional capacity in which the member governments have the ultimate authority to decide which programs are developed, who has access to the information and what voices are heard in decision making. Therefore, local communities have very limited spaces for influencing the MRC.

With regards to the constrained spaces for public participation, in the case of hydropower dam development in the Mekong basin, many commentators have shared their pessimistic views regarding the future of the Mekong river basin. In particular, the rapid pace of hydropower dam projects being proposed, developed, built and operated within the LMB is setting off alarm bells for the biodiversity of the Mekong River (Richardson, 2009). The decision by Laos to move forward with Xayaburi first fuels the pessimistic views that the Xayaburi project is the first of eleven dominos to fall, inevitably destroying the river as it is built (Cronin and Weatherby, 2015: 5). Although there are pessimistic views regarding the future of the Mekong River, this study argues that Thai advocacy NGOs can use advocacy strategies to challenge the dominant power structure and enable Thai local villagers to participate meaningfully in the decision-making process regarding hydropower dam development in the

LMB. As discussed by Corell and Betsill (2008), by using strategies, advocacy NGOs can overcome structural factors and create new opportunities for influence. Although the construction of the Xayaburi dam has not yet been cancelled, this does not mean that the advocacy work of Thai NGOs is worthless. Rather, the advocacy strategies of Thai advocacy NGOs have eventually created new opportunities for Thai dam-affected villagers to participate in the decision-making process of the Xayaburi dam project.

Therefore, Thai advocacy NGOs, through the use of advocacy strategies, have potential to be advocates for public participation. To enhance our understanding of the potential of Thai advocacy NGOs in the new context where Thai hydropower dam projects are built in neighbouring countries, the Xayaburi dam project becomes the test case in this study to examine the strategies used by Thai advocacy NGOs when creating new opportunities for Thai dam-affected villagers to participate in the decision-making process of the Xayaburi dam project. The effects of strategies used by Thai advocacy NGOs in creating new opportunities for participation can also be examined. With the focus of Thai advocacy NGOs and the Xayaburi dam project, this thesis sets out two research objectives.

Research Objectives

- To examine advocacy strategies used by Thai advocacy NGOs to create new opportunities for Thai dam-affected villagers to participate in the decision-making process regarding the Xayaburi dam project.
- To understand the effects of advocacy strategies used by Thai advocacy NGOs to create new opportunities for Thai dam-affected villagers to participate in the decision-making process of the Xayaburi dam project.

To address these research objectives, three research questions are posed:

Research Questions

- What advocacy strategies are used by Thai advocacy NGOs to create new opportunities for Thai dam-affected villagers to participate in the decision-making process of the Xayaburi dam project?
- Why do Thai advocacy NGOs use advocacy strategies to create new opportunities for Thai dam-affected villagers to participate in the decision-making process of the Xayaburi dam project?
- What are the effects of the advocacy strategies used by Thai advocacy NGOs to create new opportunities for Thai dam-affected villagers to participate in the decision-making process of the Xayaburi dam project?

By addressing the research objectives and questions stated above, this study enhances our understanding of the potential of Thai advocacy NGOs as advocates for public participation in the new context where Thai hydropower dam development have moved to neighbouring countries within the LMB. Understanding the potential of Thai advocacy NGOs in the new context of hydropower dam development will result in an improvement of the effectiveness of Thai advocacy NGOs in enhancing the participation of Thai dam-affected villagers in the decision-making process of the Xayaburi dam project and the hydropower dam development in the LMB.

1.4 Research Methodology

1.4.1 Data Collection

To achieve the research objectives and answer research questions, the collection and analysis of data will include primary and secondary sources. Primary sources are based on qualitative interview and documents obtained from interviewees. Secondary sources encompass the relevant existing literature and documents including articles, conference papers, petitions, statements and news articles. In detail, the primary and secondary sources include the following:

1.4.1.1 Qualitative Interview

The aims of this thesis are to examine the advocacy strategies used by Thai advocacy NGOs to create new opportunities for Thai dam-affected villagers to participate in the decision-making process of the Xayaburi dam project and to understand the effects of the advocacy strategies used by Thai advocacy NGOs to create new opportunities for the participation of Thai dam-affected villagers in the Xayaburi dam decision-making process. Qualitative interviews were undertaken to collect information to address the research objectives and questions. A qualitative interview was used to gain insightful perspectives of the issues discussed above. A qualitative interview is a conversation that has a structure and a purpose (Kvale, 1996: 6). It enables a researcher to gain a deeper understanding of social phenomenon than would not be obtained from purely quantitative methods such as questionnaires (Gill et al., 2008: 292). The researcher uses qualitative interviews to access the perspective of the person being interviewed. It helps the interviewer to uncover and explore the meanings that underpin people's lives routines, behaviours, feelings, etc. (Arksey and Knight, 1999: 3). A qualitative interview is chosen as a research method when a researcher needs to explore the meaning in depth, rather than just checking the accuracy of the interviewers' account, which is the case with survey interviews and questionnaires (Ibid). Qualitative interviews are used to collect empirical data from the relevant informants to gain in-depth and profound understanding of the strategies used by Thai advocacy NGOs to create new opportunities regarding the participation of Thai dam-affected villagers in the Xayaburi dam decision-making process.

This research used semi-structured questionnaires as a guide to conduct the interviews. The semi-structured interview has many advantages. It allows a researcher to have prepared questions to guide the interview process. Semi-structured questionnaires are not too rigid; rather, they contain open-ended questions which are flexible enough to allow an interviewer to follow topical trajectories in the conversation that may stray from the guide when he or she feels it to be appropriate (Cohen and

Crabtree, 2006). Hence, the advantages of the semi-structured interview over the structured question format are flexibility and openness, enabling an interviewer to adjust the interview questions to each interviewee and to the specific interview situation (Hensengerth, 2006: 21). Semi-structured interviews are conducted in a more conversational style, encouraging the interviewees to be more comfortable and making it easier to answer questions. The interviewer has more room to deal with unprepared situations and can incorporate new aspects prompted during the interview process. Semi-structured questions can be used to guide the conversation between the interviewer and interviewees, keeping the interview relevant to the research interests and allowing an interviewer to adjust the questions to suit the situation at hand.

A wide range of interviewees included in the interview can range from Thai advocacy NGOs, International NGOs and Thai local community networks, to state officials, lecturers and technical advisors. These interviewees were selected because 1) they are active actors involved in promoting the participation of Thai dam-affected villagers in the decision-making process of the Xayaburi dam project, and 2) the reputational approach involves asking the interviewee to identify other core state and non-state actors working with them. This selection technique is also called the "snowball sampling technique" referring to the technique used to select respondents gradually by asking the first respondent to suggest who to interview next, and then asking the second respondent to pick the third and so forth (Fink, 2000). Seventeen interviewees participated in the study. The interviews were conducted in Bangkok, Thailand from June to November 2014. The duration of each interview was between 1 and 2 hours. All interviews were conducted by face to face interview except for two, which were undertaken by phone interview due to the busy schedule of the interviewees meaning that they could not meet in person with an interviewer on the day arranged for the interview.

All interviews were recorded by a digital recorder with the consent of the interviewees. At the beginning of each interview, the interviewer

introduced herself and the purpose of the research. The interviewer also prepared to answer any questions raised by the interviewees who may ask about the purpose of the interview and the research. Interviews are cited anonymously in this thesis. The interviewees were separated into eight categories. Each category of the interviewees is indicated with a letter, such as the letter T for Thai advocacy NGOs, the letter I for International NGOs, the letters LC for Thai Local Community Network, the letters HR for Human Rights Officials, the letter S for State Officials, the letters TS for Thai Senators, the letter L for Lecturers, and the letters TA for Technical Advisor. These letters are followed by an interviewee number.

1.4.1.2 Documentary Evidence

The documentary data examined and analysed for this research included both primary and secondary sources containing information on the background and updated information of the Xayaburi dam project and strategies used by Thai advocacy NGOs to promote the participation of Thai dam-affected villagers in the Xayaburi dam decision-making process. The primary sources were mainly the information received from the interviewees, including:

- Emails sent by the interviewees which contained information about the Xayaburi dam project and the campaign conducted by Thai advocacy NGOs to oppose the dam.
- Petitions and statements endorsed by Thai advocacy NGOs and their anti-dam alliances.
- The summary report prepared by Thai advocacy NGOs to file a lawsuit in Thai Administrative Court against Thai state agencies involved in purchasing the electricity from the Xayaburi dam project.

Moreover, this research used information from secondary sources such as journal articles, conference papers, review reports, NGO websites and online newspaper articles. The secondary sources provide information about the decision-making process of the Xayaburi dam project and

activities concerning stakeholders involved in the controversies of the Xayaburi dam project.

1.4.2 Data Analysis

The data collected by the qualitative interview as mentioned above is analysed to answer research questions. All interviews, including the two phone interviews, were recorded by a digital recorder. The interviewer received the consent agreed by the interviewees before using the digital recorder to record the interviews. All interviewees agreed that the interview could be digital recorded. The interview transcriptions were analysed by using thematic analysis. Thematic analysis is one of the qualitative analytic methods used to identify, analyse, report patterns (themes) within data (Braun and Clarke, 2006: 6). However, it also often goes beyond just reporting and describing pattern or themes. By using thematic analysis, it allows the researchers to link the various concepts and opinions of the learners and compare these with the data that has been gathered in different situation at different times during the project. As Namey et al. (Cited in Mohammed Ibrahim, 2012: 40) stated,

‘Thematic Moves beyond counting explicit words or phrases and focuses on identifying and describing both implicit and explicit ideas. Codes developed for ideas or themes are then applied or linked to raw data as summary markers for later analysis, which may include comparing the relative frequencies of themes or topics within a data set, looking for code co-occurrence, or graphically displaying code relationships’

To apply thematic analysis as an analysis method for this thesis, all transcripts of the interviews were read and re-read to understand the data. The analysis focused on how all interviewees responded to each interview question. Then, all interview text was highlighted and coded using the predetermined codes wherever possible. Then, the different coded data is sorted into potential themes and gather all the relevant coded data extracts within the identified themes. In this stage, any coded data extracts that

could not be sorted into the identified themes would be refined or given a new code and themes. It should be noted that all the process of thematic analysis is not a linear process where it moves from one step to next step; rather it is more recursive process where the researcher moves back and forth as needed throughout the process (Braun and Clarke, 2006: 16). The findings from the thematic analysis are analyzed with the hypotheses developed in the thesis.

1.5 Structure of the thesis

Chapter Two gives an overview of the rapid expansion of hydropower dam development in the Lower Mekong Basin (LMB). In particular, the chapter focuses on the Xayaburi dam project, the first dam being built on the LMB. The revival plan to build the mainstream dams on the LMB, including the Xayaburi dam project, have stirred controversy, particularly regarding the issue of the distribution of costs and benefits associated with the dam development. The controversies on the lower Mekong dam development underline the importance of the roles of Mekong governance and institution in managing the costs and benefits associated with the dam development on the LMB. Given the importance of the Mekong governance and institution, the chapter reviews the roles and performance of the Mekong River Commission (MRC), the one important institution charged with water development and management in the LMB. The criticisms of the roles and performance of the MRC are also presented in this chapter.

After giving an overview of the lower Mekong hydropower dam development, the chapter focuses on one of the most active advocacy NGOs in the LMB, Thai advocacy NGOs. Thai advocacy NGOs have long experience in anti-dam campaigns against hydropower dams built in Thailand for decades. The robust anti-dam protests from Thai advocacy NGOs and local civil society in Thailand have forced Thai hydropower decision-makers to develop and build the new dam projects in neighbouring countries where public protest and local civil society is very weak. As exemplified in the case of the Xayaburi dam project, the Thai

public and private sectors have been involved in the development, building and funding of the dam project; however, the dam is to be built in Laos as to avoid strong public protests in Thailand. The shift in Thailand's hydropower dam construction to its neighbouring countries has posed new challenges for Thai advocacy NGOs and their anti-dam activism. The chapter highlights the new challenges in the shift in Thailand's hydropower dam construction to its neighbouring countries and the potential of Thai advocacy NGOs as advocates for public participation in the case of the Xayaburi dam project.

Chapter Three reviews the key concepts of this research which are advocacy NGOs, advocacy strategies and new participatory spaces. The definitions of these three concepts are identified and then the relationship of these three concepts will be linked to portray the conceptual framework used in this research. Based on the literature review and conceptual framework presented in Chapter Three, Chapter Four further discusses the potential of advocacy NGOs through the use of advocacy strategies. Advocacy NGOs can use advocacy strategies to enhance their potential as advocates for public participation and create new opportunities in which Thai dam-affected villagers can participate in the Xayaburi dam decision-making process. The potentials of advocacy NGOs as advocates for public participation are discussed in relation to Thai advocacy NGOs and the Xayaburi dam project. Then, the chapter provides the development of three hypotheses which are used to analyse the findings of this research to address the research objectives.

Chapters Five, Six and Seven present the findings of the research and relate them to the three hypotheses developed in Chapter Four. In Chapter Five, the first hypothesis is assessed, indicating that the invited spaces in the Xayaburi dam project are constrained spaces for the participation of Thai dam-affected villagers. Chapter Six addresses the second hypothesis which reveals that although the invited spaces in the Xayaburi dam project are constrained spaces for public participation, Thai advocacy NGOs can use advocacy strategies to create new opportunities in which Thai dam-

affected villagers can participate in the decision-making process of the Xayaburi dam project. In chapter Seven, the effects of advocacy strategies used by Thai advocacy NGOs to create new opportunities for the participation of Thai dam-affected villagers are analysed in relation to the third hypothesis. The chapter illustrates that the struggle of Thai advocacy NGOs through the use of advocacy strategies has resulted in the creation of new participatory spaces in which Thai dam-affected villagers can participate in the Xayaburi dam decision-making process.

Finally, the concluding chapter (Chapter Eight) revisits the research questions and reassesses the validity of the three hypotheses considered. Then, the chapter illustrates both the contributions of the research and the limitations with regard to the study. The chapter sums up with suggestions for future research which will benefit other researchers who aim to conduct their own research in the field of advocacy NGOs and participation, both in general and in the context of hydropower dam development in the Mekong region in particular.

Chapter 2

Hydropower dam development in the Lower Mekong Basin (LMB) and Thai advocacy NGOs

2.1 Introduction

This chapter provides an overview of hydropower dam development in the Mekong basin. In particular, it focuses on the hydropower dam development in the Lower Mekong Basin (LMB). The chapter also examines the important driving forces of the rapid expansion of hydropower dam development in the LMB in the 21st century. These driving forces have led to the revival of a series of eleven hydropower dams proposed for the LMB. Then, the chapter introduces the Xayaburi dam project, the first dam out of the eleven dams which is built on the lower Mekong mainstream. The Xayaburi dam project is based on a new mode of Public-Private Partnership (PPP) in which both public and private sector actors from Thailand and Laos are involved in financing and building the dam project. While Laos is the host country in which the Xayaburi dam project is constructed, Thailand plays significant roles in the dam investment and development and power purchasing. The Xayaburi dam project is considered a Thai-led hydropower dam project. Being the first dam built for the lower Mekong mainstream, the Xayaburi dam project has become the focal point for the controversies between the dam proponents and dam opponents. Anti-dam NGOs and civil society fear that the Xayaburi dam project could disrupt the seasonal flow of the Mekong River and have an irreversible impact on fish migration, which could jeopardise the food security of local residents.

After discussing the Xayaburi dam project and its controversies, the chapter moves on to the section on the Mekong River Commission (MRC), the main inter-governmental institution responsible for managing the Lower Mekong Basin and the sustainable development of its resources. Over the past years, the MRC has increasingly gained attention from a wide range of actors concerning the future of the Mekong River. Advocacy NGOs and civil society groups have an expectation that the MRC should

have regulatory authority to force its own members to comply with the rules and procedures to promote sustainable development. However, as discussed later in this chapter, many NGOs and civil society groups felt disappointed with the MRC and criticised the MRC as too weak an institution to govern the rapid expansion of hydropower dam development in the LMB. Because of the weaknesses of the MRC, the Lower Mekong Basin has witnessed the emergence of advocacy NGOs and their anti-dam activities.

The last section of this chapter focuses on advocacy NGOs in the LMB, particularly on Thai advocacy NGOs, the most advanced advocacy NGOs in the Lower Mekong region. Thai advocacy NGOs have successful experiences lasting decades in the anti-dam movement in Thailand. However, the long and successful experiences of Thai advocacy NGOs have been increasingly challenged by the shift in Thailand's hydropower dam construction to its neighbouring countries, as exemplified in the Xayaburi dam project. It is a new experience for Thai advocacy NGOs to use advocacy strategies to oppose a hydropower dam project which is built outside Thailand. This section highlights the importance of studying the roles of Thai advocacy NGOs and their advocacy strategies in opposing hydropower dam construction and promoting public participation in a new context where the hydropower dam is being built in neighbouring countries.

2.2 Hydropower dam development in the Mekong Basin

The Mekong Basin is named after the Mekong River, the most important river in Southeast Asia running from the Tibetan Plateau and passing through the following six riparian states: China's Yunnan province, Myanmar, Laos, Thailand, Cambodia and Vietnam, before entering into the South China Sea (Osborne, 2000: 430). The Mekong Basin is divided into two sub-basins: the Upper Mekong Basin (UMB) and the Lower Mekong Basin (LMB) (See Figure 2.1). The Upper Mekong lies within the national territories of China and Myanmar which cover about 30% of the area of the basin as a whole. About 15 million people live in the Upper

Mekong basin, mainly in the Yunnan province of China (Pearce-Smith, 2012a: 74). After the Mekong River flows out of the Chinese territory, it forms the section of the Lower Mekong Basin running through four riparian countries, namely Laos, Thailand, Cambodia and Vietnam. The LMB accounts for the remaining 70% of the area of the Mekong Basin which is approximately 2,500 km long (Pearce-Smith, 2012a: 74). The lower section of the Mekong basin is home to about 60 million people who rely on the river for traditional farming and fishing for their food (Hortle, 2007: 1).

Figure 2.1: The Mekong Basin



Source: Hortle, K.G. (2007) Consumption and the yield of fish and other aquatic animals from the Lower Mekong Basin. *MRC Technical Paper No. 16, Mekong River Commission*, Vientiane. pp. 1-87

The steep topography of the region makes the Mekong River an attractive place for hydropower development (Qiu, 2012). The potential for hydropower in the Mekong River basin is about 53,000 MW, consisting of 23,000 MW in the UMB (China) and 30,000 MW in LMB (Lao PDR, Thailand, Cambodia and Vietnam) (Mekong Flows, 2012). Despite its alluring hydroelectric potential, the Mekong River, in the eyes of water engineers and power planners, has remained largely undeveloped (Middleton et al., 2009). This is because the Cold War and political conflicts in the region suspended development from the 1960s to the 1980s. However, since the early 1990s peace has been restored in the region, which has brought hydropower development back onto the political agenda. Over the past decades, hundreds of dams have either been built or planned along the Mekong's mainstream and its tributaries. China has built seven hydropower dams on the Upper Mekong mainstream in China's Yunnan province (International Rivers, 2014). In the LMB, at least eleven hydropower dams have been proposed on the lower section of the Mekong mainstream, while over 100 tributary dams are already in operation or are at various stages of planning and construction (Hirsch, 2010; ICEM, 2010). The multitude of hydropower dam projects is transforming the Mekong Basin into a new hub for economic development and large-scale hydro-development schemes.

The next section discusses further both hydropower dam development in the UMB and its impact on downstream countries in the Mekong Basin. The sections which follow are devoted to a discussion of hydropower dam development in the LMB which this research aims to study.

2.2.1 Hydropower dam development in the Upper Mekong Basin (UMB)

The Upper Mekong Basin (UMB) mainly covers an area of the upper section of the Mekong mainstream in China's Yunnan Province. The upper section of the Mekong is referred to as the Lanchang Jiang or the Turbulent River in China (ICEM, 2010: 26). According to Osborne (2004), the steep flow of the Upper Mekong through the high mountain gorges of Yunnan

Province in China provides sites deemed highly suitable for the construction of dams but inhospitable to settlement (1-2). To harness the potential for hydropower development, China plans to build a series of dams known as the Mekong cascade along the Lanchang Jiang River in the UMB to generate electricity for domestic consumption and economic development. Originally, China planned to build a cascade of eight hydropower dams on the Lanchang Jiang River. However, at the April 2010 Mekong River Commission Summit in Hua Hin, Thailand, China's Vice Foreign Minister Song Tao stated that the eighth dam, Mingsong, had been cancelled due to concerns it would negatively impact fish migration through that stretch of the river (Magee, 2012). Currently, seven dams have already been built on the Lanchang Jiang River in the UMB.

The Lanchang hydropower development is the key to the 50-year 'Go West' policy launched in 2000 by the Chinese government to develop the Western region, which is considered a poor region of the country (Cronin and Hamlin, 2012: 149; Osborne, 2004: 12). According to consulting companies and developers, the investment and development of the Lanchang hydropower projects would bring benefits to local economic development which would lead to an improvement in living standards and poverty reduction (Lyu, 2014). In addition, the electricity produced by the Lanchang hydropower development will be transferred to the Eastern part of China, an area of growing economic development which requires a high demand for electricity (Goh, 2007). Although the Chinese government and the pro-hydropower actors claim that the hydropower dam development in the UMB will provide benefits in terms of economic development, an increase in power supply and poverty reduction, the extensive development of hydropower in the Upper Mekong will also have negative impacts on the river's ecosystem and local livelihood within the downstream countries in the LMB.

Because of its location on the Mekong upstream, the Lanchang cascade of hydropower dams could have severe impacts on the livelihoods of local people living in the downstream countries. Cambodia and Vietnam, the

furthest downstream countries, will also have the least to gain as well as the most to lose from any proposed development projects on the Upper Mekong (Roberts, 2001). Although China has claimed that the cascade of seven dams on the Upper Mekong will not affect the Mekong flow regime, downstream countries fear that hydro projects constructed upstream will choke off the water needed for irrigating farms and have adverse impacts on the region's fish populations (Doucette, 2012). It is hard to predict the cumulative effects of the Upper dams on the Mekong River's sensitive biodiversity. Large dams in China are massive storage reservoirs which enable China to regulate the water flow of the Mekong by withholding or releasing the water from the dams. In the past, China has been accused of using its control of upstream water for the benefit of its own shipping by releasing water when Chinese ships are scheduled to travel downstream and closing their water-gates when Thai boats are due to sail to upstream ports (Goh, 2007: 45).

The example, mentioned above, epitomises China's advantage as an upstream country which has the ability to regulate the water level of the Mekong River flowing through the lower riparian countries of Myanmar, Laos, Thailand, Cambodia and Vietnam. As the upstream country, there is no guarantee that China will regulate water levels according to the interests of the downstream countries. Instead, it may do what is in its own interests. As Ho (2014) argued, China's strategy in managing trans-boundary water resources is aimed at preserving its national sovereignty and maximising its room for manoeuvre with respect to developing water resources for economic growth (3). This means that, when it comes to hydropower development within the Upper Mekong, China prefers to take a unilateral approach in making decisions on dam building. The downstream countries criticise China for being secretive about its dam building activities. The Chinese government has provided limited data on the operation of its dams and refused to share information with the downstream countries during the dry season (Anh, 2016). Due to the lack of information, the downstream countries in the LMB only became aware of the building of the Lanchang hydropower dam when the first dam was close to completion (Osborne,

2004). China's unilateral approach on dam building could become a source of conflict between upstream China and the downstream countries in the LMB.

The impoundment of water in the cascade of dams along the Upper Mekong River in China has major implications for downstream hydrology, with the potential to exacerbate or ease both floods and droughts and an impact on fisheries and other sources of income (Hirsch, 2011). NGO activists, villagers and civil society groups have blamed China's Upper Mekong dams as the real reason for the severe regional drought in 2010 (McCartan, 2010). China rejected this accusation and insisted that the situation was instead the result of unusually low rainfall and high temperatures, causing severe drought conditions (Ibid). However, public pressure over the 2010 drought led China to engage with wider stakeholder concerns by releasing more data on dry-season flows on the Lanchang River to the downstream countries in the MRC Summit in Hua Hin (Thailand) in April 2010 (Hirsch, 2010).

The unprecedented release of data from China at the 2010 MRC summit on water levels was viewed by some as an encouraging step towards more transparency in Mekong governance and cooperation. However, many critics have argued that Mekong governance and cooperation is still under threat because China has remained outside the formal political framework of the Mekong River Commission (MRC), the intergovernmental body governing Mekong water development (Liebman, 2005; Richardson, 2009). The MRC was established by the four riparian member states (Laos, Thailand, Cambodia and Vietnam) to manage Mekong water development in sustainable and equitable ways. However, China has refused to become a full member of the MRC and has been a dialogue partner of the MRC since 1996. The refusal of China to become a full member of the MRC implies that China does not want to be subjected to the MRC's provisions on aquatic environmental issues and restrictions on dam building (Ho, 2014). Because of China's position as a non-member of the MRC, the MRC lacks leverage over China's decisions to build hydropower dams on

the Upper Mekong. This situation has left the downstream countries in the dark about China's secretive water management and development in the UMB (McCartan, 2010).

While a cascade of Chinese dams on the Upper Mekong has caused widespread concerns over the impacts of dams on the lower section of the Mekong Basin, the downstream countries, especially Laos, Cambodia and Thailand, have followed China by proposing a series of dams on the mainstream of the river in the lower basin. The governments of the downstream countries have pushed to build extensive hydropower dam projects on the lower section of the Mekong River. The downstream governments claim that the dam development would bring positive outcomes in terms of domestic power supply and foreign revenues which could lift the poor lower Mekong Basin out of poverty. However, dam development downstream could make the negative impacts caused by the China's dams upstream even worse and exacerbate the devastating impacts on the river's hydrology, ecology and human security in the Lower Mekong Basin. These devastating impacts of hydropower dam development in the Lower Mekong could pose new threats and challenges to local riverine people whose lives depend on the well-being of the Mekong River and its resources. The next sections turn to hydropower dam development in the LMB. The central focus is on discussing the driving factors for hydropower dam development in the LMB and the challenges for dam development in the LMB with regard to Mekong governance and institutions and Thai advocacy NGOs acting as advocates for public participation.

2.2.2 Hydropower dam development in the Lower Mekong Basin (LMB)

After the Lanchang flows out of China's Yunna province and runs into the Lao territory, the river is called the Mekong River, which means the mother of all rivers. The Mekong River runs through four Southeast Asian countries, which are Laos, Thailand, Cambodia and Vietnam, linking the lives of local riverine people in these four countries into the Lower

Mekong Basin (LMB). The LMB is the habitat for an estimated 1,700 different species of fish, providing a vital source of protein intake for millions of people (Stewart, 2008). The Mekong River is the lifeblood of local people living in the four Lower Mekong countries. They rely directly on the river system as their main source of protein intake. In each country, 47-80% of animal protein for local residents comes from freshwater fisheries, and 90% of this is from capture fisheries (Orr et al., 2012: 926). Any change in the Mekong's water flow could pose significant threats not only to fish and the aquatic system, but also to the food security of millions of local residents living along the LMB.

The Lower Mekong Basin is also significant in terms of hydropower potential, yielding 30,000 MW of hydropower (Kuenzer et al., 2013). Despite the high potential in hydroelectricity, the hydropower potential in the LMB has not yet been fully exploited (Kamoto and Juntopas, 2011: 36). The plans for mainstream dam development on the Lower Mekong have been proposed since the 1950s, but the Cold War and regional disputes put development on hold between the 1960s and the 1980s (Hirsch, 2011). After the end of the Cold War, interest in lower mainstream dam development was briefly revived during the early 1990s. However, by the late 1990s the revived plans for lower mainstream dams were taken off the agenda in favour of tributary dam development (Ibid). Over the past half century, ideas and plans for dams in the Lower Mekong Basin have ebbed and flowed with the changing geopolitics within the Mekong development context. Over the past decades, hundreds of hydropower dams have been proposed on the tributaries of the Lower Mekong. However, the renewed plan for lower mainstream dam development returned to the political agenda in the 21st century. Since 2006, mainstream dams on the Lower Mekong have reappeared on the agenda in a big way. Currently, there are proposals for up to eleven dams on the Lower Mekong mainstream (See Figure 2.2). Of these planned dams, eleven are located in Laos, Cambodia and Thailand: seven in Laos, two between Laos and Thailand and two in Cambodia (Osborne, 2010). Several factors help explain the revival of Mekong mainstream dams. The section below

discusses the important factors driving the revised plan of the mainstream dams in the Lower Mekong Basin.

Figure 2.2: The eleven hydropower dams on the LMB



Adapted from: International Rivers (2017) *A Dangerous Trajectory for the Mekong River Update on the Status of Mekong Mainstream Dams*. [Online] Available at <https://www.internationalrivers.org/sites/default/files/attached-files/mekong_mainstream_damsupdate> 2017 english.pdf [Accessed 06/10/2017].

2.3 Factors driving the expansion of the mainstream dams in the Lower Mekong Basin

Mainstream dams have become a major point of interest to the Lower Mekong countries since the 1950s. However, the political turmoil within and outside the region and environmental concerns put the development on hold for decades. Only dam projects built on the Lower Mekong tributaries materialised during this time. However, the 21st century has witnessed significant changes in the geopolitics and political economy of the Mekong region leading to a revival of mainstream dams on the LMB.

From 2006 to 2009, there was wider public discussion on the resurgence of the mainstream dams on the LMB and information has shown that now there are a total of 11 sites under consideration for the construction of dams on the Mekong mainstream (Lee and Scurrah, 2009). The new plan for the 11 Lower Mekong dams highlights the fact that the desire for mainstream dams has never faded away and has persisted amid the changing landscape of the Mekong region for over half a century. As the region has entered the 21st century, the proposed plan for mainstream dams has returned to the agenda and been promoted at a rapid pace. The shift in the political economy of the Mekong region after the end of the Cold War helps explain the reasons behind the rapid expansion currently of hydrodams on the LMB. The changing context can be grouped into three factors as discussed below.

2.3.1 The emergence of China's dams on the Upper Mekong Basin

The appearance of China's dams on the Upper Mekong has implications for explaining the revival of the hydrodam projects in the downstream Mekong. According to Hirsch (2011), the upper dams in China make the economics of dams on the lower mainstream more favourable than before. The proposed mainstream dams in the LMB are run-of-river dams designed for a scaled-down water storage. The run-of-river dams of the LMB cannot store large volumes of water and have to rely on the seasonal flow of the Mekong River to generate power. However, the series of upper dams on the Lanchang have changed this assumption and made the prospects for year-round power generation possible. As Bird and Phonekeo (2008) pointed out, the run-of-river dam projects for the Lower Mekong mainstream were now seen as more viable due to the expected increase in dry season flows that would result from dam projects being constructed in the Lanchang-Mekong River in China, resulting in reservoir storage of more than 20 billion cubic metres.

This means that the large water storage of China's dams will have the capability of regulating the flow of the Mekong and there will be enough

water in the river to ensure sufficient volume to power the turbines located in the dams' structure throughout the year (Osborne, 2009). Because of China's dams, the downstream governments see the new possibility of the proposed mainstream dams to generate power without being interrupted by the unpredictable seasonal flow of the Mekong. With the support of the water storage of China's dams, the lower mainstream dams are not under the influence of an unregulated monsoonal flood regime and have new prospects of generating power year-round by relying on the large volume of water stored by China's dams, which help provide an evened-out flow from the Lanchang dams. China's dams on the Upper Mekong have changed the assumption of the Mekong downstream governments by showing that dam construction can help regulate the Mekong water more efficiently for the purpose of hydropower generation.

A further influence that China has on the development of lower Mekong dams is the investment by Chinese State-Owned Enterprises (SOEs) in several key projects planned within and outside China's boundaries (Cronin, 2010). For example, Sinohydro, one of the major Chinese SOEs, has a clear interest in gaining a foothold in hydropower development projects on the Mekong outside China (Magee, 2012). The Chinese SOEs have become new investors, taking part in investing and developing a number of the proposed tributary and mainstream dams in the LMB countries, especially in Laos and Cambodia. There is an estimation that Chinese SOEs are responsible for around 38% of the large dams being proposed in the LMB (Urban and Nordensvard, 2014). The distribution of large-scale dams financed and developed by the Chinese SOEs within the LMB includes Myanmar 30, Lao PDR 13, Cambodia 7, Vietnam 3 and Thailand with some Chinese dam projects, but none over 50 MW (Matthews and Motta, 2015: 6275). The new role of the Chinese SOEs as dam financiers and developers within the LMB makes the Lower Mekong mainstream dams become commercial dams. The commercial interest of the lower Mekong dams has attracted a number of new investors, developers, engineers and consultants, both within and outside the region,

to take part in the exploitation of hydropower dam development within the LMB.

The expansion of China's dams on the Lancang and the new investment of Chinese SOEs in dam-building have driven interest in mainstream dam development in the LMB. The emergence of the Lancang dam cascade in China has brought the agenda of mainstream dam development within the LMB back to the decision-making arena. The downstream governments, particularly the Lao government, see no reason why they should hold back on developing large-scale projects on the shared river when an upstream country is already doing so. The Lower Mekong countries regard mainstream dam development as a promising approach to promote economic growth, reduce poverty and secure increasing energy demand. The mainstream hydrodams have become development projects to promote a modern economy to help local and ethnic people move away from the traditional economy and lift the region out of poverty. Chinese investment in dam-building helps accomplish this goal by providing a new source of funding for dam development within the LMB. The new funding of Chinese investment makes the expansion of Lower Mekong dams possible.

2.3.2 The new vision of hydropower dam development in the Lower Mekong Basin

After the end of the Cold War, political rapprochement resumed within the Lower Mekong region. A new window of opportunity was opened for all the riparian states to cooperate for economic development and integrate their economies into the regional and the wider global markets (Dosch and Hensengerth, 2005). The Lower Mekong countries, Laos, Thailand, Cambodia and Vietnam, have a new vision to promote regional economic cooperation, linking their economies into the regional and global economy to reduce the problem of poverty (Dore, 2003). This new vision is facilitated by many international institutions playing important roles in the Mekong region, such as the Asian Development Bank (ADB) and the World

Bank. In 1992, with the assistance of the ADB, the new scheme of regional economic development, the so-called Greater Mekong Sub-region (GMS), was established to promote economic development and integration for the Mekong region (Molle et al., 2009). The GMS is the only institution to include all six riparian countries (Yunna province of China, Myanmar, Laos, Thailand, Cambodia and Vietnam). Hydropower development on the Mekong River is a key economic resource to promote the GMS's new regional economic cooperation and development. Hydropower plays several important roles in the development of the LMB. As Kamoto and Juntopas (2011) have pointed out, hydropower provides a reliable power supply which can drive domestic economic growth and the governments can gain foreign revenue from selling hydropower to neighbouring countries. The increasing power supply and revenue can be used to promote social and economic welfare in the LMB countries. Hydropower dam development is seen by the governments and decision-makers as a win-win solution for all Mekong countries (Matthews and Motta, 2013).

The LMB countries of Laos, Thailand, Cambodia and Vietnam all welcome the new regional economy promoted by the GMS. The four governments see new opportunities to promote economic cooperation and integration. Among the four countries, Laos has an ambitious goal to become the 'Battery of Asia', a hub for regional power to export electricity to countries in Southeast Asia (Greacen and Palettu, 2007). The vision of becoming a new energy hub for the region comes from the fact that Laos possesses abundant and untapped natural resources which can be transferred to economic resources. This is important for generating national revenues. One of the most significant natural resources comes from hydropower potential derived from the water inflow of the Mekong flowing through Laos. Laos is a mountainous, landlocked country with very favourable conditions for hydropower development. Its territory covers a substantial part of the Mekong River Basin. Around 35% of total inflows of the Mekong River are contributed by the main tributaries which are scattered through the territory of Laos (Phomsoupha, 2009: 15). Moreover, rainfall in Laos is high, which is favourable for hydropower

development. It has been estimated that the country has the potential to generate about 26,000 MW through the application of hydropower. The Lao government plans to exploit its high hydropower potential to serve 1) the promotion of economic and social advancement by providing a reliable and affordable domestic power supply; and 2) to earn foreign exchange from electricity exports (Ibid).

Apart from Laos, Thailand, Cambodia and Vietnam are all eager to pursue hydropower dam development as a way of promoting economic growth and energy security. In the case of Thailand, the country seeks to meet its growing domestic power demand by importing electricity generated by the power plants in neighbouring countries, particularly from Laos. According to the 2010 Thailand's Power Development Plan (PDP), it estimated that electricity demand in Thailand will rise to 65,547 MW by 2030 (Thabchumpon and Middleton, 2012: 6). Therefore, the governments of Thailand and Laos signed a Memorandum of Understanding (MoU) in 2007 to expand their power purchase agreement to cover the supply of 7000 MW of electric power to Thailand by 2020 (Ibid). Thailand's search for an electricity supply to meet its growing power demand is a major driver for hydropower development in the LMB.

Thailand has become a power importer from hydropower dam projects in the LMB. Moreover, Thailand plays an important role in investing and developing hydropower dams in Laos to export electricity to its power market. Most of the electricity generated by the hydroelectric dams in Laos is sold to the EGAT, a state-owned Thai energy enterprise. In addition, the Thai private sector, such as Thai commercial banks and Thai infrastructure companies, have taken a significant role in financing and developing many power development projects in Laos (Middleton, 2012a). The Thai private sector has become an important financial sponsor to secure sufficient funding for the dam projects in Laos. The role of Thailand as project developer, financier and power purchaser has become a key factor driving the expansion of mainstream dams in the LMB, especially in Laos.

Like Thailand, Vietnam is keen to buy electricity from Laos. Vietnam plans to import 2,000 MW of electricity from Laos and plans to build a 250 MW hydropower project in Sekong Province in Laos. Vietnam has also predicted that power demand will reach 180.3 TWh by 2020. This high figure shows that Vietnam is also interested in the development of hydropower development (Greacen and Palettu, 2007: 102-103). However, Vietnam promotes hydropower development with more caution than the Upper downstream countries like Thailand and Laos. This is because of the geography of Vietnam as the last country through which the Mekong flows before reaching the South China Sea. Any hydropower projects constructed on the Mekong River, especially the Mekong mainstream, will have an adverse impact on Vietnam, particularly on the Mekong's rice delta in Vietnam. This concern is also shared with Cambodia, the country most at risk of being affected by any hydrodam projects developed on the Upper reaches of the Mekong. Many NGOs and civil society worry that the dam development on the Upper mainstream will have a negative impact on the Tone Sap, the Great Lake in Cambodia, which is an important site for fish spawn. Despite this concern, Cambodia has 16 candidate hydroelectric sites totalling 2,074 MW (Ibid: 110). However, the flat topography of Cambodia means the country possesses less hydropower potential compared to its neighbouring countries, like Thailand, Laos and Myanmar.

Since the end of the Cold War, all four countries in the LMB have shared the new vision of economic development which is geared towards the promotion of hydropower dam development as a way of securing a reliable and sufficient domestic power supply and providing a source of revenue from which governments can earn from power exports. To achieve these ambitious goals, the lower Mekong countries have turned to private sector hydropower financiers and developers, mainly from Thailand, Vietnam, China, Malaysia and Russia, for investment in, and development of, hydropower dam projects (Middleton et al., 2009: 23-24). The private sector hydropower financiers and developers have become the new players driving the rapid expansion of hydropower dam development in the LMB.

2.3.3 The increasing role of the private sector in financing and developing hydropower dam development in the LMB

Since the end of the Cold War, the power sector of the riparian countries in the LMB has been gradually transferred from a highly centralised to an open market-based economy (Weatherby and Eyler, 2017). The new context of the post-Cold War era means new opportunities for all Mekong riparian states to promote economic growth and development by integrating their energy sector development into the regional power market. The Asian financial crisis in 1997 became an important impetus for restructuring the power sectors of the Mekong countries. The power industry sector was reshaped by Structural Adjustment Programmes (SAPs) promoted by international financial institutions. A new approach was undertaken to design a suitable industrial framework that enlarged competition, accountability, innovation and efficiency opportunities. This new approach of power sector reform aimed to integrate the national power sector into the wider regional power market and attract more private financial resources for energy development (Yu, 2003).

To draw on private financial sources, a new structure was promoted by the creation of Independent Power Producers (IPP) which compete against each other through the market. When possible, electricity distribution is divided into a number of concession zones. Then the regulatory authority compares each company based on performance criteria and fixes individual tariffs and targets. These reforms aim at attracting private financial funds for system expansion and service quality improvement (Ingco, 1996). To encourage private sector involvement in energy development projects, appropriate forms of project financing were established. The private sector participated in hydropower development in terms of research, design, investment, construction, operation, transmission and distribution through the establishment of new forms of contract, such as Build-Own-Transfer (BOT), Build-Own-Operate (BOO), Build-Own-Operate-Transfer (BOOT) and Joint Venture (Yu, 2003). These mechanisms encourage large infrastructure projects and Public-

Private Partnerships (PPP) with long-term arrangements. They allow stakeholders to recover their initial investment and operational and manage expenses.

The objectives and implications of such reforms were diverse in different countries. For instance, Laos promoted the deregulation of the power sector for the purposes of the export market. The new economic mechanisms and institutions were initiated to foster private investment in power projects and increase revenue from hydroelectricity sales. These new entities were created to supply energy to neighbouring countries, especially to Thailand. Thailand has also joined in the new regional power trade by becoming a new power importer. Thailand predicts large growth in power demand to respond to the expansion of domestic industrial growth. Thailand's new Power Development Plan (PDP) in 2015 estimated that electricity demand would almost double from 37,612 MW in 2014 to 70,355 MW in 2036 (Weatherby and Eyer, 2017: 19). Due to the estimation of highly power demand, importing power has become an important strategy to ensure Thailand's energy security (Lamphayphan et al., 2015). The governments of Thailand and Laos signed and extended the Memoranda of Understanding (MoU) several times up to December 2007. Under the MoU signed in 2007, Thailand agreed to buy 7,000 MW of energy a year from Laos, but in July 2016 it indicated that it would increase this to 9,000 MW (The Economist, 2016).

The liberalisation of the power sector in Southeast Asian countries has increased the role of the private sector in the power industry sector. In the past, state utilities managed electricity supply and distribution. Major power projects were commissioned by the state; private construction companies would compete to secure construction contracts (Ingco, 1996). However, privatisation and reform in the power sector have resulted in substantial changes in the manner by which power facilities are financed, built, owned and operated. At present, within the increasingly liberalised power sector, the role of construction companies has changed and they have become active proponents of the projects themselves as constructors

and operators (Briscoe, 1999). Moreover, the promotion of regional power trade in the LMB means that there will be more investment and development in many power projects. Many riparian countries in the LMB have turned to Foreign Direct Investment (FDI) as an alternative source of finance.

Over the past decades, the International Financial Institutions (IFIs), such as the World Bank and Asia Development Bank (ADB), have played significant roles in shaping the Mekong region's electricity sector and in promoting hydropower development. The IFIs have provided essential resources to facilitate Mekong hydropower dam development, including supporting technical studies and offering financial aid, and legal and other forms of expert advice (Greacen and Palettu, 2007). However, since the 1990s, the Lower Mekong governments have turned to private financiers and developers as new sources of funding for the proposed hydropower dam development. Today, private energy and construction companies from Thailand and Vietnam, alongside state-owned and private companies from China, Malaysia, and Russia among others, have become the new actors in financing, constructing and operating hydropower dams in the LMB (Middleton et al., 2015: 128). Due to the increasing role of private energy and construction companies in promoting Lower Mekong hydropower dam development, the IFIs have to recast themselves in the new context as purveyors of international best practice for the region and as honest brokers of regional cooperation initiatives (Middleton et al., 2009). As the Lower Mekong countries have shifted towards regional economic growth and development, power demand is forecast to rise substantially. Consequently, private funding has become an important driving force for promoting hydropower projects and economic growth in the region.

As the Mekong region's power sector has shifted towards a more market-oriented economy, private companies are looking for new opportunities to gain huge benefits from hydropower development and investment. The private energy companies are involved in hydropower projects in the LMB

to increase overseas production capacity in order to maintain market share or increase opportunities to create business related to electricity production and distribution, such as power plant maintenance or fuel supplies for the projects where they invest (Moungcharoen, 2013: 40). Investing in hydropower projects is regarded as a way of increasing a company's income and maximising the returns to its shareholders. Such benefits attract new private developers and financiers to get involved in the booming hydropower business within the LMB. Many regional energy firms have played a significant role in the development and investment of Lower Mekong hydropower dam development. For example, the prominent Thai energy companies, including EGCO, Ratchaburi, GMS Power and Ch. Karnchang and Vietnamese companies such as EVN and Petro Vietnam along with Malaysian companies MegaFirst and Gamuda and the China Southern Power grid, are all seeking to stake their claim in Mekong power development (Merme et al., 2014).

Regional power sector reform and the increasing role of the private sector have significant implications for hydropower development in the Lower Mekong region. The emergence of new financial mechanisms through IPP and PPP has helped to set up a financial structure that minimises the perception of risk for financiers. In addition, privatisation of the energy sector has provoked an increase in power production to maintain the profits of privatised firms. Consequently, dam proponents - including private energy companies, financial actors and the lower riparian governments - tend to promote large-scale investments in large hydropower dams and grid electrification. On the other hand, an alternative power development plan based on demand side management and energy efficiency is marginalised (Greacen and Greacen, 2012). For instance, in Lao PDR, little attention is given to off-grid alternatives, such as pico-hydropower plants or solar systems (Weatherby and Eyler, 2017). Furthermore, the promotion of a bilateral energy trade has also been stimulated. Hydropower development has become an attractive business to private actors. The power sector structure has shifted hydropower development projects from public to private control. The arrival of a new private sector

in hydropower development has become one of the most important driving forces for the expansion of mainstream hydropower dam development in the LMB.

The three factors discussed above have become the driving forces behind the rapid expansion of hydropower dam development in the Lower Mekong mainstream. With the changing political economy of hydropower development in the Mekong region, the Lower Mekong countries see new opportunities for promoting the hydropower dam projects on the Mekong mainstream as a way to gain domestic power supply and foreign revenues stemming from power exports. At the turn of the 21st century, all the Lower Mekong countries have a new agenda to revive the proposal of up to eleven mainstream dams on the LMB. Out of the eleven dams planned on the Lower Mekong, the Xayaburi dam project is at the most advanced stage of development. The plan to build the Xayaburi dam project was notified to the lower riparian countries when the Lao government submitted the proposal of the Xayaburi dam project to the MRC in late September 2010 (MRC Secretariat, 2011). Since then, the Xayaburi dam project has become the focal point for public concern and criticism over the costs and benefits associated with the dam's development. While the dam's proponents acclaimed the benefits of the Xayaburi dam in terms of power supply and government revenues, NGOs and civil society groups warned that the pro-dam actors often exaggerated the economic benefits of the dam project and overlooked the potentially adverse impact on poor local communities. The disparity between the dam's proponents and opponents in the Xayaburi case is harder to reconcile.

The next section introduces the Xayaburi dam project, the first dam built on the lower stretch of the Mekong. The section discusses the background of the project's development, the costs and benefits associated with the dam which led to the disagreements between the dam's supporters and the dam's opponents and the state and non-state actors involved in the Xayaburi dam project.

2.4 Controversy concerning the Xayaburi dam project

The Xayaburi dam project is located at the Kaeng Luang rapids, 30 kilometres east of the town of Xayaburi in Northern Laos (International Rivers, 2011a). It is a massive dam costing US\$ 3.8 billion to construct and is expected to generate 1,260 megawatts of electricity (BankTrack, 2012). The Xayaburi dam commenced in 2007 when the government of Laos signed a Memorandum of Understanding (MoU) with the project's lead developer, Ch. Karnchang Public Company Limited of Thailand, one of Thailand's leading general contractors and basic infrastructure developers. In 2008, the two actors signed a Project Development Agreement allowing for the study of the dam's Environmental and Social Impact Assessment (Ibid). Since then, the public and private actors from both Thailand and Laos have engaged in a Public-Private Partnership (PPP) to finance, develop, build and operate the dam project. A special purpose vehicle, the Xayaburi Power Company Limited (XPCL), was created to generate power for this project. The XPCL and the Lao government signed a concession agreement entitling the XPCL to build, own and operate the project and then transfer it back to the Lao government at the end of the 29 year concession term (Johns, 2015: 360).

On 29 October 2011, the XPCL and the state-owned Electricity Generating Authority of Thailand (EGAT) signed a Power Purchase Agreement (PPA) to import around 95% of the electricity generated by the project to Thailand (Chitnis, 2013). The financial support of the dam project is not from the IFIs. Instead, it comes from Thai banks. There are at least six Thai banks funding the project including Bangkok Bank, Kasikorn Bank, Krung Thai Bank, Siam Commercial Bank, the Export-Import Bank of Thailand (EXIM Bank) and Thai Investment and Securities Company Limited (TISCO) (King, 2014). Thai banks, Thai private dam developer and Thai state-owned power energy play significant roles in funding, building and purchasing power generated from the dam project. Given the important roles of Thai state and private actors in developing the dam project, the Xayaburi dam is regarded as a mostly Thai-led project in which Thai state

and private companies and financiers have become key decision-makers influencing decisions concerning the Xayaburi dam development.

The Xayaburi dam project is considered part of the ambitious hydropower development plans of the Laos government to become the Battery of Southeast Asia (DEB, 2014). Laos claims that the electricity generated by the Xayaburi dam project can be exported to Thailand, Cambodia and Vietnam, which are its energy-hungry neighbours, and boost the country's revenues, which can be used to alleviate poverty and improve the standard of living of the Laos people. Therefore, the Xayaburi dam project will generate win-win outcomes for all parties involved (Nhina Le, 2013). For Laos, the Xayaburi dam is an environmentally friendly hydropower project. This is because hydroelectricity is considered clean energy which could reduce the emissions of greenhouse gas. In addition, the Lao government claims that the Xayaburi dam is a run-of river project which has limited water storage capacity as compared to conventional storage dams and therefore the dam will not affect fisheries production (Geheb et al., 2015).

Although Laos has tried to convince the public that the Xayaburi dam project will do no significant damage to fisheries and the environment, global and regional NGOs and local civil society contend that the country has a tendency to overestimate the benefits of the dam project and neglect the adverse impact on local people whose lives depend on the Mekong River for sources of food and income. As Sneddon and Fox (2012) have commented, pro-dam stakeholders tend to disregard irreversible changes to key biophysical processes, thereby understating the potential for the livelihood insecurity and political tensions that arise from mainstream hydropower projects. Dam opponents have raised big concerns that the construction of the Xayaburi dam project will disrupt the flow regime of the Mekong River which could have adverse impacts on fish migration, threatening the food security of all local riverine people whose lives rely on the well-being of the Mekong (Stone, 2011). The rapid expansion of mainstream hydropower dam projects could cause unequal distribution of

costs and benefits in which the local poor people are the ones who bear the costs and negative impacts, while the powerful state and private energy sector actors reap the benefits stemming from the project's finance and development.

The construction of mainstream hydropower projects like the Xayaburi dam project can have a negative impact on the river's ecosystem, fish migration and local livelihoods. As the Mekong River runs through the four lower riparian countries, the negative impacts associated with the Xayaburi dam project could become trans-boundary impacts which have spill-over effects throughout the basin. The trans-boundary impacts induced by building the Xayaburi dam could also become a source of conflict between states within the LMB (Fadli Bin Nordin, 2012). For example, Cambodia and Vietnam, as the countries furthest downstream within the LMB, have voiced grave concerns over the potential impact of the Xayaburi dam downstream. The Vietnamese government expressed deep and serious concerns that a range of negative impacts would be felt on the Mekong delta, where Vietnam's rice fields produce 40% of the country's crop (Cronin, 2009). Similarly, Cambodia has raised concerns that the negative impact of building the Xayaburi dam could affect fisheries in the Tonle Sap, Cambodia's Great Lake, which could lead to loss of livelihood and food insecurity (Barron, 2014). Both the Vietnamese and Cambodian governments strongly recommended the Lao government, as the host country of the dam project, to defer the building of Xayaburi dam for 10 years so that a study of the trans-boundary and cumulative impacts of the mainstream dam projects planned for the LMB, including the Xayaburi dam project, could be conducted (Mirumachi, 2015: 125).

Despite the mounting concerns raised by the two governments, the Laos and Thai governments - as the key actors in building and operating the Xayaburi dam project - did not respond to demands and recommendations raised by the Cambodian and Vietnamese governments. Laos have insisted that the Xayaburi dam project has caused no significant harm to the river's ecosystem and local livelihoods and forged ahead with the dam building.

The Thai government have also not taken any action to withdraw their involvement in the investment and development of the Xayaburi dam. Therefore, different LMB countries have different opinions, interests and concerns regarding the Xayaburi dam project. To prevent the potential conflicts derived from the differences among the countries concerned, the Lower Mekong Basin needs effective regional governance mechanisms and institutions to facilitate ways in which the LMB countries can utilise the shared Mekong water in a reasonable and equitable manner (Grumbine et al., 2012). Over recent years, many of the stakeholders concerned have turned their attention towards the Mekong River Commission (MRC), the one important institution established to provide regional platforms through which all the stakeholders concerned, be they the Mekong riparian countries, global and regional NGOs, local civil society or the dam-affected villagers, can participate in negotiating and reaching informed and balanced decisions on how to proceed with the hydropower dam development in the LMB.

The next section focuses on the Mekong River Commission (MRC) to discuss the potential and the weaknesses of the MRC when it comes to managing and regulating the rapid expansion of hydropower dam development in the LMB, including the Xayaburi dam project.

2.5 Mekong Governance and Institutions

The Mekong region is now at the crossroads after the proposed plans for lower mainstream dams were revived in the early 2000s. The large-scale dams are often accompanied by the uneven distribution of costs and benefits and local people tend to be excluded from the decision-making process. The renewed plan of the lower mainstream dams has stimulated growing controversy between the dam's advocates and the dam's opponents. The controversy over the dam's expansion has posed a challenge to the Mekong's governance and institutions. Mekong governance is now facing the challenge of making choices, decisions and trade-offs. The important question is how Mekong governance and

institutions should be designed to manage trade-offs, make sustainable decisions and be able to incorporate all stakeholders, especially the people potentially most affected by the decision-making process. Over recent years, the central focus of Mekong governance and its institutions has been on the Mekong River Commission (MRC), the one important institution charged with regional cooperation to manage the Mekong River within the LMB (Ratner, 2003; Browder, 2000; Browder and Ortolano, 2000; Mai-Lan Ha, 2011).

2.5.1 Mekong River Commission (MRC)

2.5.1.1 MRC and its evolution

The evolution of the Mekong River Commission (MRC) dates from 1957 when the four riparian countries along its lower course - Cambodia, Laos, Thailand and Vietnam in the form of the Republic of Vietnam (South Vietnam) - created the Mekong Commission (MC) to deal with the challenges of water-related development during the Cold War period (Osborne, 2004). The MC was created with the assistance of the United States (US) to promote post-war economic development in the region as a strategy to contain the spread of communism within the region. The main vision of the MC is to reduce the poverty rate in the four lower Mekong countries - Laos, Thailand, Cambodia and Vietnam - through the construction of large reservoirs along the mainstream of the Mekong to produce hydroelectric power, reduce flooding and increase dry season flows for irrigation and improved navigation (Browder and Ortolano, 2000). However, the MC was ultimately disbanded in 1975 when the region became the scene of growing unrest from the intra-conflicts in Laos, Cambodia and Vietnam (Makim, 2002). Although the Cold War and regional conflicts disrupted the Mekong regime, resulting in the termination of the MC, the dream of Mekong development did not evaporate. The Interim Mekong Commission (IMC) was resurrected in 1978 to promote the development of the water resources of the Lower Mekong Basin. Cambodia was the only country to refrain from joining in this Interim Mekong Commission. The term 'Interim' was used because it

was hoped that Cambodia would one day rejoin the Mekong regime (Browder and Ortolano, 2000: 510). The resurrection of the IMC reflected the intentions of the lower riparian states to use the organisation to continue to receive the technical and financial assistance made possible by the Mekong regime.

In spite of political tensions and regional conflicts, the dream of Mekong development has survived and not vanished. When the Cold War ended and peace was restored in the region in the early 1990s, the vision of Mekong development was re-established in 1995 with a new water regime institution, the Mekong River Commission (MRC) and the return of Cambodia to rejoin the Mekong water regime. The end of the Cold War provided a new window of opportunity for the four lower Mekong countries to use water-related infrastructure projects as an engine to drive economic growth and development (Dosch and Hensengerth, 2005). The four downstream countries have changed their economic policies from the self-sufficient economy towards market-oriented and export-led growth, aiming to integrate their markets into the wider regional and global markets (Pearse-Smith, 2012b). The MRC was created to facilitate the negotiation and bargaining process of the Mekong development to prevent regional conflicts over trans-boundary water resources. The MRC acts as an inter-governmental agency to ensure that regional cooperation exists among the four lower Mekong countries. A peaceful and stable condition is the prerequisite for more investments and technical and financial assistance from international or private donors.

In 1995, the four riparian states of Cambodia, Laos, Thailand and Vietnam signed the Agreement on Cooperation for the Sustainable Development of the Mekong River (Mekong Agreement) for the Lower Mekong Basin. The 1995 Mekong Agreement sets out the roles and responsibilities of the four riparian states in governing the seasonal flows and major uses of the Lower Mekong Basin (Kinna, 2016). The Agreement is divided into six chapters and accompanied by many supporting rules and procedures initiated for governing the utilisation of the Mekong's water resources (Mekong

Agreement, 1995). The Mekong Agreement also established an intergovernmental institution, the MRC, as a governance body set up to facilitate the coordination between the riparian countries to use the Mekong water resources in the most effective and sustainable ways (Bounthavivanh, 2015). The original members of the Mekong water regime, Cambodia, Laos, Thailand and Vietnam, have become full members of the MRC, while China and Myanmar hold official observer status as MRC 'Dialogue Partners'. The MRC is composed of three structures: the Council, the Joint Committee (JC) and the Secretariat. The Council consists of representatives of each riparian state from Ministerial and Cabinet level who have decision-making power on behalf of the government. The JC includes representatives who are at least Head of Department level and take responsibility for implementing policies and decisions made by the Council. Finally, the MRC Secretariat provides technical and administrative services to the Council and the JC (Yasuda, 2015: 74). Moreover, there are also National Mekong Committees (NMC), established in each member country and responsible for matters associated with the Mekong River (Dore and Lazarus, 2009: 359). The heads of the NMC represent their countries on the Joint Committee.

Although the MRC was established as the governance body for water management and cooperation within the LMB, the MRC's governance roles in water management and cooperation remain unclear and cause controversies amongst different groups of actors. For example, the governments of the four member countries view the MRC as a functional organisation established to serve their interests without contradicting their national interest and sovereignty (Boer et al., 2016: 104). For NGOs and civil society organisations, the MRC should play a stronger role as a powerful agency with responsibility for intervening – in its own right – in trans-boundary issues, especially in instances of actual conflict and tension (Hirsch et al., 2006). Some donors, funding large amounts of money in the MRC's activities, expect the MRC to act not only for the interests of the riparian countries but also for the interests of the wider Basin (Ibid). Lastly, the MRC views its own role as being a knowledge-production

organisation, serving as a platform for regional cooperation on the management of water-related resources for sustainable development of the Lower Mekong River Basin. As the CEO of the MRC Secretariat put it, the MRC is not a regulatory body for the management of water-related resources, as generally perceived by the public. It acts as a knowledge hub of key basin development issues for better coordination and policy-making by the member countries (Pham Tuan Phan, 2016). The different understanding of the MRC's role has raised many questions regarding what role the MRC should have, whose interests the MRC should serve and to whom the MRC should belong. These questions have increasingly challenged the Mekong water regime and governance, especially when many hydro-development projects have increasingly caused environmental impacts affecting the livelihoods of millions of people.

The MRC has become a focal point for heated debate over how water governance of the Mekong development should be. Over the past decades, the Mekong regime and governance have undergone significant transformation from the MC, which was set up in 1957 as a regional basin organisation supported by the US to counter the influence of communism in the region, to the 1978 IMC and the reestablishment of the MRC in 1995 to steer Mekong development in the aftermath of the regional conflicts and Cold War crisis. The evolution of the river basin organisation has reflected the influence of the changing geopolitics in the region towards the ways development goals and agenda have been set for the region. The changing political economy both within and outside the region has brought new actors to play their roles in different and challenging ways for Mekong water governance. A multitude of actors is trying to shape Mekong governance in different ways. These actors have their own interests and agendas for how to manage and improve governance in the Mekong. The MRC has become the target of criticisms, especially as an interest in hydropower dam development in the LMB has returned to the agenda.

2.5.1.2 Criticisms of the MRC

As discussed in the last section, the MRC provides a remarkable example of institutional resilience through the turmoil of war and tectonic shifts in the region's political economy (Ratner, 2003: 65). The ebb and flow of the Mekong institutions throughout their history reveals that the original goal of the Mekong institutions to promote the Mekong River as a shared water resource for regional economic cooperation and development has never disappeared. According to a critical perspective, the Mekong River is constructed as a water river basin or watercourse in which individual states can utilise the water resources of the river and tributaries for economic purposes to promote the production of hydroelectricity for industrial development, storage of water for the expansion of irrigated agriculture, and control of annual floods (Sneddon and Fox, 2006). The Mekong river, from the critical view, is portrayed as 'the working river', the river linking all Mekong states into one single economic region in which the separate boundaries are integrated by the promotion of large or mega-sized infrastructure projects, such as hydropower dam development (Sneddon and Fox, 2012). The Mekong River has become an important symbol of making this economic vision possible. The MRC, an institutional framework, was established to uphold this vision and ensure that the member states would have a regional platform in order to negotiate how to utilise the water resources of the river and its tributaries in ways that do not inhibit the ability of other states to use the water for their own purposes.

One criticism of the MRC was that it was created to maintain the Mekong River as an economic region. The objective of the MRC emphasises the facilitation of the negotiation and bargaining processes of Mekong development to prevent regional conflicts over trans-boundary water resources. The MRC acts as an intergovernmental agency to facilitate regional cooperation between the four Lower Mekong countries to promote economic development projects. However, the MRC has no mandate to intervene in the decisions made by its member states (Gao, 2012: 48). This means that the MRC lacks the regulatory authority to

compel its own members to comply with agreed rules and principles. As mentioned before, the history of the MRC has evolved around the changing geopolitical context of the Mekong region for over half a century. The history and existence of the MRC is influenced by regional geopolitics, international development assistance and regional water development vision (Browder and Ortolano, 2000). The MRC is, therefore, an intergovernmental institution primarily dominated by governmental actors, multilateral development agencies and donors, technocrats, engineering and private financiers and the power industry sector. Therefore, the MRC is still dominated by national interests rather than regional interests (Dore, 2003).

Another weakness of the MRC lies in the 1995 Mekong Agreement, the constitutional framework of the MRC. Kirby et al. (2010) argued that the Mekong Agreement and its provisions were too weak to ensure the sharing of information and the inclusion of a large diversity of stakeholders, especially the potentially affected people, into the regional decision-making framework. The MRC's procedures, such as Procedures for Notification, Prior Consultation and Agreement, Procedures for Water Use Monitoring, and Procedures for the Maintenance of Flow on the Mainstream, are informal procedures based on very soft power. Many grassroots NGOs and civil society groups have expressed disappointment with the soft power of the MRC and the 1995 Mekong Agreement and complained that the MRC lacks the legal teeth to enforce its own members within its own governance roles (Hirsch et al., 2006). The MRC has increasingly faced challenges. The primary concern of the MRC focuses on what the existing and potential governance role the MRC should take to mediate trans-boundary, national and civil society interests.

The soft power of the MRC places it in the difficult position of trying to utilise the Mekong's waterways for economic growth without undermining the vitality of the river for use by the local residents whose lives depend on the integrity of Mekong resources. Since its foundation, the MRC has often been criticised for being a state-led institution, focusing

mainly on answering the needs and requests of its member nations' governments and select partnering agencies (Mai-Lan Ha, 2011). The MRC is viewed as a state mechanism to facilitate regional cooperation and prevent potential conflicts so that individual member states can utilise the shared Mekong water for economic development and hydropower generation. The Mekong River is transformed from a complex aquatic system to an economic river represented as a single water basin having potential in terms of hydropower generation and economic development. Over the past decades, the MRC has played a significant role in shaping the Mekong basin as the greatest opportunity for sustainable development, hydropower development, trade facilitation and navigation. However, the role of the MRC in promoting the culture, ecological system and social structures of basin residents is overlooked (Grumbine et al., 2012).

Considering the ambiguous roles played by the MRC as discussed above, the MRC has become less relevant in the eyes of critical civil society and NGO activists when it comes to upholding the vitality of the Mekong and the well-being of local residents. The MRC has increasingly received public attention and criticism, particularly from global and regional advocacy NGOs who share growing concerns about the potential threats likely to be caused by the expansion of hydropower dam development in the LMB. These global and regional advocacy NGOs have called for reform of the MRC so that it can provide a regional platform on which all concerned stakeholders can be included in the regional decision-making process. In an extreme case, anti-dam NGOs even aim to discard the MRC and seek alternative institutions for Mekong governance. Some of the most important NGOs playing an active role in monitoring and criticising the MRC and hydropower dam development in the LMB are the Thai advocacy NGOs. The following section focuses on the role of the Thai advocacy NGOs as advocates for public participation. The section argues that Thai advocacy NGOs have faced new challenges derived from the shift in Thailand's hydropower dam development to neighbouring countries. The section underlines the importance of studying the advocacy strategies used by Thai advocacy NGOs to address these challenges.

2.6 Thai advocacy NGOs

The dam proponents often claim that hydropower provides an energy supply and economic benefits that raise living standards and attract foreign investment to drive local economic growth (Johnson, 2017). However, the anti-dam critics argue that hydropower could lead to the alteration of water flow, sediments and fish migration. The alteration of the Mekong ecosystem would result in severe impacts on the local riverine people whose lives depend on the Mekong for fresh water, fisheries and income. As Matthews (2012) argues, local people who rely on the Mekong's water and its resources for their livelihoods become the vulnerable groups who stand to lose from the social and environmental impacts of hydropower development in the Mekong basin. Public participation mechanisms are needed to ensure that information is provided, the affected people are consulted, and all the costs and benefits of hydropower development are taken into consideration in the decision-making process (Schulze, 2012).

Due to the significance of public participation in the development projects, many societal actors, including NGOs, academics, environmentalists and civil society, have called for greater public participation, transparency and accountability in the hydropower policy and process. However, hydropower development in the Mekong is based on a top-down approach where the decisions on hydropower have been made by a small group of state and private entities, such as government agencies, banks and corporations (Chomchai, 2005: 144; Ho, 2014). Such a top-down approach typically fails to provide a link between the concerns of people affected by hydropower and governmental approval of projects (Bounthavivanh, 2015). Although the Mekong governments, international and regional development agencies have initiated public participation mechanisms, such as a public consultation process, to improve the quality of participation, these mechanisms are often used as a rubber stamp to proceed with the dam's construction. As argued by Guttal and Shoemaker (2004: 3), the goal of the public consultation process as implemented in the Mekong hydropower projects was not to foster genuine participation,

but rather to have sufficient political cover to proceed with the decision to construct the dam.

Because of the weakness of public participation in Mekong hydropower, NGOs have stepped in to help strengthen the participation of people impacted by hydropower development. Since the 1980s, NGOs have played prominent roles in various areas of international affairs, ranging from development, human rights, environment protection, health, poverty alleviation and education to many other areas of public interest (Schoener, 1997; Heintz, 2006). The diverse roles of NGOs make it difficult to define what NGOs are. As argued by Lewis (2009: 2), because of the vast array of NGOs, they are mainly defined as what they are not, rather than what they are. Ahmed and Potter (2006: 8), for example, adopted the UN definition of NGOs and referred to them as to any international organisation which is not established by inter-governmental agreement and not driven by profit-making and the use of violence. Martens noted that, in a sociological approach, NGOs are often referred to having a non-governmental, non-profit making and nonviolent character. Willets (2006) also used the non-feature in Non-Governmental Organisation (NGO) to distinguish NGOs from other types of bodies. According to his definition, three fundamental features (non-government, non-profit making and non-violent) were used to define NGOs as any non-profit-making, non-violent, organised group of people who are not seeking governmental office (Ibid).

Although many authors have found it difficult to reach a consensus on the definition of NGOs, they have increasingly recognised the role of NGOs in delivering public goods and services to people in need (Edwards and Hulme, 1996; Batley, 2011). NGOs possess various advantages which make them appropriate for providing a public service and improving the welfare of poor people, especially in developing countries. Banks and Hulme (2012: 8-9), for example, commented that NGOs have the ability to provide public services to poor people because of their comparative advantages, including their ability to innovate and experiment, their flexibility to adopt new programmes quickly and, most importantly, their

link with the grassroots, offering participation in programme design and implementation and thereby fostering sustainability. In addition, NGOs are considered more efficient and effective than governments in delivering public services and welfare. As claimed by Douglas (cited in Brinkerhoff & Brinkerhoff, 2002: 6), NGOs are considered more efficient and effective service deliverers because NGOs face fewer requirements for equity and accountability than governments, and therefore are less bureaucratic and more flexible. Agg (2006) and Teegen (2003) also raise a similar point, that NGOs are considered a more suitable service provider because they have the ability to reach the poorest people, understand local and indigenous needs and create social capital which can be used to reduce transaction costs in public service delivery.

NGOs not only play an active role in service delivery, but also adopt advocacy roles to influence decisions or policies made by institutional elites in ways that benefit the poor and underrepresented groups whose interests NGOs aim to promote (Hudson, 2001: 333; Greenspan, 2014). NGOs get involved in advocacy work to address the structural problems leading to unequal power relations, injustice, poverty and the exclusion of the weak and powerless from the decision-making process (Jordan & Tuijl, 1998). NGOs adopt a wide range of strategies, from lobbying to public protest, and demonstrations inducing confrontation with powerful governments and other institutional elites. By adopting the advocacy approach, NGOs seek to restructure the unequal state-society relationship and propose alternative development emphasising people-centred or participatory development (Bebbington et al., 2008). Advocacy is a core activity of NGOs, aiming to go beyond helping the poor through service delivery to creating more favourable conditions for participating more meaningfully in development (Edwards, 1993).

Many scholars have recognised the potential of NGOs to act as advocates for the poor and to empower participation (Kilby, 2006; Banks & Hulme, 2012; Cohen-Blankshtain et al., 2013). For example, Clark (1995) and Brinkerhoff et al. (2007) highlight the ability of NGOs to work closely

with local people and communities and to mobilise, articulate and represent people's interests and concerns at different levels of decision-making. Given their relatively close link to local people and communities, NGOs may be able to collect the interests and concerns of the poor, marginalised or disadvantaged groups and represent them directly to powerful decision-makers. As discussed by Reid (2000), NGOs can play advocacy roles by serving as intermediaries between people and other institutions of government and business to represent their interests, values or preferences on behalf of individuals and communities. NGOs, by representing people's interests and concerns, can deepen the ways in which people's interests and concerns are engaged and represented in the political process (LeRoux, 2007).

In addition, NGOs have the ability to build links and coordinate actors in different sectors (Banks et al., 2015:713). By participating in advocacy roles, NGOs help to bridge otherwise disparate entities drawn from both the private and public sector and create a network of like-minded people who act together to pursue some common value and/or objective (Teegen, 2003: 273; Holmén, 2002). Within the created network, NGOs play an important role in supporting the poor, marginalised and disadvantaged groups to gain the necessary resources and skills for effective action and provide them with opportunities to express their concerns in social and political arenas (Reid, 2000). The network, established by NGOs and like-minded supporters, provides a new political space in which individuals and communities can pressure or influence institutional elites to respond to their demands, propose alternative solutions for development, participate more genuinely in the decision-making process and learn how to be active citizens (Tandon, 2000).

In the Lower Mekong Basin (LMB) a growing number of NGOs, including local, national, regional and international NGOs, have participated in community development and advocacy work to protect the Mekong River, its resources and people's livelihoods. For example, three key international NGOs - International Rivers, EarthRights International and Focus on the

Global South - focus extensively on the protection of the Mekong River and the rights of local people and communities that depend on it (Boer et al., 2016). At the local and national levels, many NGOs and local community organisations in Laos, Cambodia and Vietnam have struggled to find political spaces for their advocacy activities to oppose the top-down development approach and empower local actors who may be excluded from the decision-making process of the development projects (Hirsch, 2007). Among the NGOs focusing on Mekong issues, Thai NGOs are some of the most significant NGOs challenging the mainstream development path and advocating for better participation of local people and communities affected by the Mekong development projects (Hirsch, 2001).

Thailand has seen the influence of NGOs in development since the early 1970s (Quinn, 1997). The early roles of Thai NGOs in this period focused mainly on rural development, aiming to assist the rural poor in livelihood development and village-based service provision (Yoshihide, 2002; Hirsch, 2007). However, the roles of Thai NGOs have increasingly shifted towards policy advocacy to raise public awareness about the mal-development of the country and mobilise people against destructive development projects. Since the 1980s, the Thai government has adopted growth-centred development, concentrating on foreign investment and export-oriented growth (Dechalert, 1999). Although the growth-centred development policy brings foreign capital to the country and increases GDP growth, this policy results in uneven development where political elites and urban people gain greater economic benefits at the expense of the environment and local livelihoods. Thai NGOs have stepped in to take advocacy roles to support and facilitate the mobilisation of people to protect the environment, exert pressure on the government to abandon environmentally destructive development projects and enhance public participation in the national development policy and process (Manawong & Ogunlana, 2004).

Thai NGOs have engaged in many advocacy campaigns against the infrastructure-oriented development projects that have social, economic, and environmental impacts, including anti-road construction and protests against logging concessions to private companies (Yoshihide, 2002). However, it is their advocacy against the dam construction that has resulted in the decade-long controversies between the dam proponents, particularly the Thai government and EGAT, the state agency responsible for dam construction, and anti-dam protesters, including Thai NGOs, the villagers affected by dams and other like-minded civil society actors (Sangkhamanee, 2015). Since the late 1980s, Thai NGOs have played an active role in social and environmental movements in Thailand to raise concerns about the social and environmental impacts associated with dam construction and call for the cancellation of projects. For example, Thai NGOs collaborated with environmentalists and other dam opponents to organise a campaign against the Nam Choan dam, located in western Thailand (Rigg, 1991). The campaign was considered a successful anti-dam movement in Thailand as it led to the cancellation of the dam in 1988 (Ibid). After the opposition to the Nam Choan dam, many anti-dam protests followed, including the opposition to the Kaeng Suea Ten dam and the Rasi Salai dam (Kirchherr et al., 2016). Although anti-dam advocacy was mobilised by Thai NGOs, it has not always led to the cancellation of dam construction. Their advocacy, however, can raise public concern over, and criticism of, the negative impacts of a dam project, which pressure the government to reconsider the project or indefinitely postpone dam construction.

One of the most controversial anti-dam protests in the history of Thai NGO advocacy was the opposition to the Pak Mun dam's construction. The Pak Mun dam is built on the Mun River, in Ubon Ratchathani province, Northeast Thailand (Amornsakchai, 2000). The dam was proposed by EGAT with financial assistance from the World Bank and the construction started in 1990 and was completed in 1994 (Ibid). Since the inception of the project, the Pak Mun has been heavily criticised by dam opponents who claim that the dam fails to deliver its benefits as promised by EGAT

and other dam supporters (Jenkins et al., 2008). While the EGAT officials claimed that the Pak Mun dam would bring many benefits in terms of electricity supply, fisheries and irrigation infrastructure, villagers living in the vicinity of the dam construction felt threatened by the negative impacts of the dam. As discussed by Yamsiri (2014), the Pak Mun dam brought adverse impacts on the livelihoods of local villagers dependent on the fisheries for livelihood and the compensation offered by EGAT was insufficient to compensate for the devastating impact on the ecology of the River Mun and lost livelihoods. Due to the negative outcomes associated with the dam, Thai NGOs worked with the villagers affected by the Pak Mun dam to oppose and call for the cancellation of the dam's construction. However, as EGAT insisted on proceeding with the dam's construction, Thai NGOs and affected villagers broadened their demands for better compensation, the permanent opening of the dam gates and even decommissioning of the dam (Middleton, 2012a: 297).

The Pak Mun dam has raised public concerns and criticism, especially with regard to the lack of participation by local villagers and communities in the decision-making process of the dam's development (Jenkins et al., 2008; Yamsiri, 2014). Thai NGOs have adopted various strategies to advocate for people's participation and to strengthen the voice of local villagers. For example, the affected villagers, with the help and support of Thai NGOs and their anti-dam network, gathered their power and organised street protests at the dam site and in front of Government House to demand that the Thai government resolve the compensation problems and mitigate the dam's impacts on fisheries, the Mun River and local livelihoods (Foran and Manorom, 2009). In addition, Thai NGOs, such as the Southeast Asia River Network (SEARIN), assisted the villagers in conducting their own research, known as Thai Baan Research (Myint, 2016: 33).

Thai Baan Research is seen as participatory research because it is carried out by the villagers impacted by the Pak Mun dam construction to challenge the dominant knowledge produced by experts and decision-

making authorities (Sangkhamanee, 2015). The knowledge produced by the affected villagers and their alliances has centred on the lack of public participation in the dam's decision-making process and the destructive effects of the dam on fisheries, the river's ecology, traditional culture and local livelihoods (Ibid). By conducting their own research, the affected villagers and their allies have tried to use the power of information and knowledge to increase their influence by 1) using the results of the study to justify the criticisms of the dam's impacts, and 2) to delegitimise the claims made by EGAT and the dam's supporters, arguing that the electricity produced by the dam is needed to meet the increasing demand for power in Thailand and that the project adequately compensates the villagers for land and income loss (Myint, 2016). In addition, Thai NGOs, the affected villagers and their anti-dam alliances took the greater opportunities opened up by the new arrival of the Constitutions of Thailand in 1997 and 2007. The adoption of the 1997 and 2007 Constitutions provided the enabling political space for Thai NGO anti-dam advocacy.

During the anti-Pak Mun dam protest, Thailand enacted the new Constitution in 1997 (Swain and Chee, 2004). The 1997 Constitution was heralded as the People's Constitution as it contained several provisions made for the protection of people's rights and liberties and the creation of numerous independent watchdog agencies, including the National Human Rights Commission of Thailand, established to promote human rights and protect the rights of the people (Kuhonta, 2008). However, the 1997 Constitution was abolished by the Military Coup in 2006 and the new Constitution was drafted and announced in 2007¹ (Ginsburg, 2009). The 2007 Constitution maintained many important innovations initiated in the 1997 Constitution. For example, Article 56 stipulates the right of people to access public information, Article 57 requires the state to hold public hearings on projects that could affect the quality of the environment and Article 67 focuses on the need for an environmental impact assessment and

¹ The 2007 Constitution was suspended by the Military Coup in 2014 and the new Constitution was announced in 2017. It remains to be seen to what extent the new 2017 Constitution will provide a political space for the mobilisation and advocacy of Thai people.

a health impact assessment (Middleton, 2012a: 301; Boer et al., 2016: 147). The provisions contained in the 1997 and 2007 Constitutions provided the fairly opened space for local people to discuss community rights and strengthened public involvement in development, environment and natural resource decision-making (Yamsiri, 2014).

Thai NGOs took the opportunity of Thailand's open political structure to establish the Assembly of the Poor (AOP), a loosely coordinated network of people affected by the development projects, including the Pak Mun dam project (Myint, 2005). The AOP, with the help and support of local academics, NGOs and international NGOs, was founded in 1995 (Som-in & Gadavani, 2017). After its establishment, the AOP organised many street protests and demonstrations to express the concerns of the locals and pressure EGAT and the Thai government to review and assess the compensation and resettlement policy (Ibid). The political negotiations between the AOP, EGAT and the Thai government resulted in unprecedented agreements to compensate the affected villagers for their loss of income in fisheries and open the dam gates for four months per year starting in 2003 (Kanokwan & Hall, 2009). The prolonged protest made by the AOP, Thai NGOs and the supporting network played an important role in forcing EGAT and the Thai government to take responsibility for any adverse impacts caused by the construction of a hydropower dam.

The public resistance to the Pak Mun dam proves it is difficult for dam proponents, such as EGAT, to operate new dam projects in Thailand. The Pak Mun dam project became the last large dam project completed in Thailand (Hirsch, as cited in Kirchherr et al., 2016: 8). However, the anti-dam protests in Thailand did not change the intention of the dam proponents to build more dams. Instead of abandoning new dam projects, the Thai dam industry has moved towards neighbouring countries, such as Laos, to build new projects (Foran & Manorom, 2009: 75). As exemplified in the Xayaburi hydropower dam project, the Xayaburi dam is funded and developed by Thai actors in both the public and the private sectors; but the dam is located and built in Laos, where public criticism and protest are

prohibited by the authoritarian government. There are growing concerns that the unpleasant experiences of hydropower dam development in Thailand are going to be repeated in Laos and other neighbouring countries in the LMB (Middleton, 2012b; Hirsch, 2007). As discussed by Sangkhamanee (2015: 85), the problems of hydropower dam development in Thailand, including shortcomings in the dam decision-making process, low levels of public participation and dam-related environmental and social problems, could simply be repeated in the LMB countries.

Thai NGOs have recognised the negative outcomes caused by the shift in Thailand's hydropower dam construction to its neighbouring countries and tried to scale up their advocacy to deal with the problems and new challenges of hydropower dam development in the wider context of the Lower Mekong Basin (Hirsch, 2007). For example, Toward Ecological Recovery and Regional Alliance (TERRA), a prominent Thai-based environmental NGO, does not restrict its anti-dam advocacy to Thailand, but also fosters a regional anti-dam network across the Mekong region (Yasuda, 2015: 76). Thai NGOs have tried to use their long anti-dam experience to assist their NGO counterparts in the LMB countries to oppose the Mekong hydropower and strengthen public participation in the decision-making process. However, Thai NGOs face many new challenges when they try to play advocacy roles outside Thailand. The next section discusses these new challenges.

2.7 Thai advocacy NGOs and the new challenges of hydropower dam development in the Lower Mekong Basin

Due to the weaknesses of the MRC in governing the expansion of hydropower dam development in the LMB, the roles of advocacy NGOs have become even more important in enabling the Mekong governance and institution to manage water usage in the LMB more effectively. As Yeophantong (2014: 706) has pointed out, the emergence of regional advocacy NGOs and their network in the issue of Mekong hydropower dam development has served, in part, as a response to the institutional

weaknesses of extant regional water governance arrangements - specifically the Mekong River Commission (MRC). Many NGOs within the Lower Mekong Basin have scaled up their advocacy work to target the regional governance body, the MRC and its participatory mechanisms. These advocacy NGOs have called on the MRC to fully incorporate participatory mechanisms into its policy-making and consultation processes to ensure the emergence of effective and meaningful participation within the context of the rapid expansion of hydropower dam development in the LMB (Sneddon and Fox, 2007). Moreover, many advocacy NGOs in the LMB also concentrate their advocacy activities on the issue of hydropower dam development proposed in the LMB. Their main concerns focus on the new proposal of a series of eleven mainstream dam developments in the Lower Mekong Basin. A series of mainstream dams proposed on the LMB, if without the effective water governance and institutions, could lead to the unequal distribution of costs and benefits in which the local riverine people become victims who have to bear the costs associated with dam development (Simpson, 2007). Advocacy NGOs within the LMB have targeted the key decision-makers at the national and regional levels to influence these decision-makers to incorporate the voices and concerns of the local people affected before proceeding with mainstream dam development.

Some of the most important advocacy NGOs operating their advocacy activities in monitoring and criticising hydropower dam development in the LMB are the Thai advocacy NGOs. Compared to their NGO counterparts in the LMB countries, Thai advocacy NGOs are considered the most significant NGOs in challenging mainstream infrastructure development paths (Hirsch, 2001). There are two reasons why Thai advocacy NGOs are more advanced than their counterparts in the LMB countries. The first is the participatory spaces for advocacy work and campaigns in Thailand are in general more open than the spaces in neighbouring countries. As noted by Soutar (2007: 201), Thailand has seen local and national movements for some decades, while Cambodia has only recently witnessed the emergence of a nascent local NGO sector, and in

Laos and Vietnam the freedom of local NGOs and their advocacy activities is still very restricted. Because of the greater amount of available spaces for public participation in Thailand, Thai advocacy NGOs have engaged in advocacy work since the 1980s to oppose destructive infrastructure development projects and call for the participation of rural Thai people in the decision-making process. Thai advocacy NGOs have long experience in mobilising against destructive development projects and promoting public participation. This long experience of opposing development projects in Thailand is a second reason why Thai advocacy NGOs are more advanced than the local NGOs in neighbouring countries.

While Thai advocacy NGOs have engaged in advocacy work to oppose the environmentally destructive development projects planned and operated in Thailand, it is hydropower dam construction which is becoming the focal point for the controversies between Thai advocacy NGOs and Thai pro-dam state and non-state actors. In 1988, Thai advocacy NGOs were successful in their mobilisation, leading to the cancellation of the Nam Choan Dam, the first achievement of NGOs and Thai society in protesting against domestic dam development (Cronin and Hamlin, 2010). Despite the strong protest from Thai advocacy NGOs and their anti-dam alliances, the intention of the Thai government to build more hydropower dams in Thailand did not vanish. Starting in the early 1990s, the Pak Mun Dam, partially funded by the World Bank, was built on the Mun River, the Mekong's largest tributary in Thailand. The project turned out to be one of the most controversial issues on the distribution of the costs and benefits of dam development in Thailand. Although work on the Pak Mun Dam continued and it was completed in 1994, public protest against the dam resulted in notable concessions, including the opening of the dam's gates between 2001 and 2002 and the Thai government's order to keep the gates open for four months of the year (Middleton, 2012a). The political fallout from the opposition epitomised in the Pak Mun case made the dam's proponents realise that any new plan to build more dams in Thailand would inevitably encounter social movements and protest. Thai dam proponents abandoned the intention of building more dams in Thailand and looked

towards the potential for dam development in neighbouring countries. Therefore, the Pak Mun Dam became the last major hydropower dam built in Thailand (Cronin and Hamlin, 2010).

Although Thai advocacy NGOs were successful in withholding the expansion of new hydropower dam construction within Thailand, their successful anti-dam movement resulted in an unexpected consequence. According to Sangkhamanee (2015), the robust protest from Thai advocacy NGOs and their anti-dam alliances forced the Thai dam industry to relocate its dam construction sites to neighbouring countries, especially to Laos and Cambodia where social and environmental standards to regulate the negative impacts of large-scale projects and public criticism were weak. The trans-boundary investment of the Thai dam industry has led to concerns that environmental injustice has now moved beyond the Thai border and spread into the poor and undeveloped countries of the LMB where the spaces for public criticism and scrutiny are very limited. The shift in Thailand's hydropower dam construction to its neighbouring countries can be seen clearly in the case of the Xayaburi dam project. Although the Xayaburi dam is not being built in Thailand, the adverse impacts of the dam could spill-over to other countries within the LMB, including Thailand. The changing incentives of the Thai dam industry to build new dams outside Thailand have posed new challenges for Thai advocacy NGOs and their advocacy work.

Thai advocacy NGOs have realised the unexpected consequences of their anti-dam movement in Thailand and tried to scale up their advocacy work to target the decision-makers concerned at both the national and regional levels. However, the participatory spaces beyond Thailand's national borders present very different conditions for Thai advocacy NGOs (Hirsch, 2007). As discussed before, the MRC is criticised as a state-led intergovernmental institution and too weak to govern the rapid expansion of hydropower dam development in the LMB. Therefore, the opportunities for Thai advocacy NGOs to meaningfully participate in the policy-making and consultation processes at the MRC level can become constrained.

Moreover, the participatory spaces in neighbouring countries are not enabling spaces for public participation. It is difficult for Thai advocacy NGOs to cooperate with local NGOs and civil society in neighbouring countries and influence the leaders of the LMB countries to change their decisions on dam building.

Although Thai advocacy NGOs have acknowledged the constraints of the participatory spaces outside Thailand, they have not given up their advocacy role of holding the decision-makers at the national and regional levels accountable for their decisions on dam building in the LMB. As Cronin and Weatherby (2015) have argued, although the riparian states within the LMB insisted on moving forward with the dam building, advocacy NGOs did not abandon their advocacy efforts and carried on with their advocacy work to oppose the mainstream dam construction. As exemplified in the case of the Xayaburi dam project, Thai advocacy NGOs have continued their advocacy work to oppose dam construction, even though the Lao government has adopted the unilateral decision to forge ahead with the dam building. Given the on-going advocacy work of Thai advocacy NGOs in opposing the Xayaburi dam project, the study on the roles of Thai advocacy NGOs and their advocacy strategies in opposing the Xayaburi dam project is important. Although the Xyaburi dam project is led by Thai public and private energy sector actors, the dam is built in Laos. It is very challenging for Thai advocacy NGOs to use advocacy strategies to hold Thai public and private decision-makers accountable and responsible for the adverse impacts caused by a dam project built outside Thailand. Although Thai advocacy NGOs have decades of experience in running anti-dam campaigns in Thailand, it is a new experience for Thai advocacy NGOs to use advocacy strategies to oppose dam construction initiated and developed by pro-dam Thai public and private actors outside Thailand.

By focusing on the role of Thai advocacy NGOs in the case of the Xayaburi dam project, this thesis aims to examine the advocacy strategies used by Thai advocacy NGOs to oppose dam construction and create new

opportunities for the participation of Thai dam-affected people in the decision-making process of hydropower dam projects outside Thailand. By examining the advocacy strategies used by Thai advocacy NGOs in the case of the Xayaburi dam project, this thesis aims to contribute to the improvement of the potential of Thai advocacy NGOs for creating opportunities for public participation in a new context where Thai pro-dam state and private actors have moved to neighbouring countries to construct hydropower dams.

2.8 Conclusion

This chapter aims to discuss the important driving forces behind the revival of plans to build a series of eleven dams on the Lower Mekong mainstream. Out of the eleven mainstream dams, the Xayaburi dam is at the most advanced stage of development. The Xayaburi dam project not only brings new challenges to Mekong governance and the governing body of the MRC, but also to Thai advocacy NGOs. Over recent years, Thai pro-dam state agencies and Thai private dam developers have shifted hydropower dam construction to neighbouring countries, especially to Laos where public criticism and scrutiny is very weak. Thai advocacy NGOs have tried to scale up their advocacy strategies to hold Thai decision-makers accountable and responsible for their involvement in hydropower dam projects which are built outside Thailand. However, it is a very new experience for Thai advocacy NGOs to oppose dam projects which are constructed in neighbouring countries. This chapter emphasises the importance of studying the advocacy strategies used by Thai advocacy NGOs to oppose dam construction and promote public participation in a new context where Thai public state agencies and Thai private dam developers have shifted dam construction to neighbouring countries. By focusing on Thai advocacy NGOs and their advocacy strategies in the new context of Thailand's hydropower dam development, as exemplified in the Xayaburi dam project, this thesis aims to improve the potential of Thai advocacy NGOs as advocates for public participation.

Chapter 3

Advocacy NGOs, Advocacy Strategies and New Participatory Spaces

3.1 Introduction

This chapter provides an overview of the three main concepts which are advocacy NGOs, advocacy strategies and new participatory spaces. The definitions, categories and sub-categories of the three concepts are provided. The chapter then discusses how the three concepts are related so as to study the roles and potentials of advocacy NGOs as advocates for public participation. This chapter discusses the fact that advocacy NGOs need advocacy strategies to create new opportunities for the poor and the disadvantaged groups to participate in the development of the decision-making process. These new opportunities can be referred to as new participatory spaces created to enable the poor and the disadvantaged groups to participate in the decision-making process of the development policies and projects. After providing an overview and discussion of the interrelation of the three concepts, the chapter concludes with the illustration of a conceptual framework used for this study.

3.2 Advocacy NGOs

The term Non-Governmental Organisations or NGOs has no generally accepted definition. The term is used and interpreted in many different ways and circumstances. Given the lack of consensus in NGO definition, NGOs are mainly described as what it is not rather than what it is (Yasuda, 2015: 23). For example, Martens (2002) used the *non* in NGOs to define NGOs as organisations that are non-profit making entities, of non-violent character and non-unilateral organisations. Willetts (2006) also emphasised the criteria of *non* to differentiate NGOs from other non-state actors. He described NGOs as organisations which are not constituted as a political party; they will be non-profit-making and will not be a criminal group, in particular it will be non-violent (Ibid). Based on the criteria stated above, we can draw three fundamental features of the definition of an NGO. The first is non-governmental which emphasises that NGOs do not seek governmental office and are independent from government control.

The second focuses on non-profit or not-for-profit to describe NGOs as not driven by profit or material motive. The third is non-violent to illustrate that NGOs are excluded from other violent or criminal groups involved in illegal activities.

While there is no consensus on the meaning of the term NGO, the growth and importance of NGOs has been widely recognised. NGOs are not a recent phenomenon. However, the recent rate of the proliferation of NGOs in terms of their increasing numbers, roles and prominence in world affairs is notable in recent decades (Gemmill and Bamidele-Izu, 2002). The work of NGOs has expanded widely to cover many issues areas, including climate change, environment, human rights, poverty and peace and security. The expanding roles of NGOs in world affairs have prompted some to claim that NGOs are one of the three primary institutional sectors of human society alongside government and business (Brett, 1993 cited in Pempelani Mufune et al., 1996: 20). NGOs have become intermediary actors preserving a unique and essential space between the for profit-sector and government (Heintz, 2006).

Over the past decades, NGOs have become recognised as key actors in international development (Vakil, 1997; Lewis, 2009). The roles of NGOs in development concentrate around one or other of the two main forms of activity which are the delivery of services to people in need and organising advocacy for the poor and alternative development (Lewis and Kanji, 2009). Traditionally, most NGOs emerged from service delivery work before shifting towards advocacy roles. As argued by Korten (1987), the first generation of NGOs began with relief and welfare work and then evolved into the third generation with stronger interest in influencing the wider institutional and policy context through advocacy. While the relief and welfare work has remained important for NGOs, it is advocacy that is becoming more prominent in NGO roles and activities. By the turn of the 21st century, NGOs have come to realise that their traditional operational service-delivery is insufficient to produce sustained improvement in the lives of impoverished people (Hudson, 2002). Therefore, many NGOs have moved towards more flexible and dynamic advocacy work to scale

up their influence and impact upon the global power structure deteriorating the benefits of the poor and marginalised people. The shift towards advocacy is the fundamental change of NGOs from development-as-delivery to development-as-leverage (Edwards et al, 1999). NGOs seem to believe that advocacy is the faster lane of positive and strategic social change because it influences attitudes, policies and practices of the decision-makers at the critical level (Nyamugasira, 1998).

Most NGOs have increasingly recognised the importance of advocacy work as the strategic efforts to scale up their activities in order to make more of a difference in the decisions and, behaviours of the political and institutional elites. However, it has become more complicated to define the meaning of advocacy. This is because as Hudson (2002: 404) argues, advocacy has a wide range of meanings for NGOs. Advocacy can have a narrow meaning as Casey (2011) refers to, as ‘individual advocacy’ meaning the advocacy seeking a remedy for a single person or for a situation involving a small group of people. However, advocacy is often used in a broader meaning rather than as a small or narrow term. In the study of non-profit organisations, advocacy is concerned with collective issue-based or ‘systemic advocacy’ which aims to bring about changes at an institutional and policy level (Casey, 2011; Kinlen, 2013: 7). The broad definition of advocacy is not about achieving personal improvement or narrow private interests benefiting only the memberships of the organisation itself but rather pursuing for a collective good framed in public interest (Andrews and Edwards, 2004; Jenkins, 2006). This thesis also focuses primarily on advocacy NGOs seeking to pursue the collective interests of the general public and underrepresented groups opposed to the interests of well-organised powerful groups, especially business and other mainstream state and non-state actors or elites.

While advocacy NGOs can target a variety of groups and actors, they often concentrate their advocacy efforts on the institutionalised elites or those who have decision-making power, including government actors and decision-makers both in the public and private sectors. In order to target

the institutionalised elites and decision-makers, advocacy NGOs seek to get access to the arenas where the political decisions on the public interest are being made. Therefore, advocacy NGOs can be defined by focusing on the target groups that NGOs involve or the political arenas where NGOs try to get access. For example, Jenkin defines advocacy as any attempt to influence the decisions of an institutional elite on behalf of a collective interest (Cited in McCarthy and Castelli, 2002: 105-106). Similarly, Casey and Dalton (2006), Jenkins (2006), Reid (2000) and Boris & Mosher-Williams (1998) offer definitions of advocacy by focusing on attempts to change or influence policies, decisions and behaviours of institutional elites, government, state institutions and decision-makers in the way favoured by NGOs and advocacy groups. Schmid et al. (2008), on the other hand, focus on political actions or activities aiming to gain access to the arena where decisions that affect social and civil life are made and to influence or persuade institutional elites, governments and decision-makers to make changes in policies that are more favourable.

Another way to define advocacy NGOs is by focusing on the approaches in which NGOs advocate for promoting public interests. NGOs can play their advocacy roles in two ways which are advocacy as representation and advocacy as participation (Reid, 2000). Advocacy as representation refers to the original form of advocacy as acting positively on behalf of someone else. This means that NGOs advocate on behalf of the general public and underrepresented groups by representing their interests, values and preferences to government decision-makers and influence them to change public policies and social conditions in the ways that favour the majority of people. Advocacy as representation often refers to policy-orientated advocacy aiming to influence government actors or decision-makers to bring about changes in the policy or institutional level (Salamon et al., 2000). However, NGOs do not strictly focus on policy-orientated advocacy; rather they expand their advocacy to include broader civic involvement (Boris and Mosher-Williams, 1998). Reid (2000) refers civic involvement to advocacy as social and political participation to emphasise how people take action on their own behalf. Therefore, advocacy NGOs

engaging in civic involvement and participation act as facilitators who enhance the capacities of people, especially the underrepresented groups, so that they can stimulate their own action to protect their rights and express their concerns and voices to bring about policy and social changes on their own behalf. Advocacy as participation concentrates on the ways NGOs help to create opportunities for people to participate in the social and political arenas on their own behalf.

Although advocacy NGOs may use two different approaches to advocate for collective interest, both approaches share a key contribution to the improvement of public participation. As Clark (1995) argues, NGOs have potential through their advocacy activities to foster popular participation. NGOs may act as advocates to represent the concerns and preferences of the people, especially the minority and underrepresented groups to the attention of policy makers. This means that advocacy NGOs help ensure that a plurality of interests and visions of people will be represented in the political process. In addition, NGOs can provide an environment where people can learn about political issues and be politically active (Onyx et al., 2010). NGOs may target public attention and awareness and encourage them to stimulate their own actions to protect their own rights and promote participation. As Warrens has expressed, NGOs cultivate the habits of collective actions, thus producing an active, self-sufficient and vigilant citizenry (Cited in Onyx et al., 2010: 44). By engaging in advocacy, NGOs help ensure that the voices and preferences of people, especially the poor and less powerful people will be incorporated into the political process. Therefore, NGOs have become advocates for public participation as discussed further in the next section.

3.2.1 NGOs as advocates for public participation

In recent years, many countries have witnessed political reforms initiating new democratic policies, institutions and programmes to involve people more actively in shaping decisions that affect their lives (Mohanty, 2004). Some scholars see the new democratic reforms as new opportunities for

ordinary people, especially the poor, to be able to control over certain resources and participate in the decision-making process of the development policies and practices (Fung and Wright, 2001; Goetz and Gaventa 2001; Heller, 2001). Others have cast doubt on the potential of the new democratic experiments and raised questions about the extent to which these new experiments contribute to empowerment and participatory development (White, 2000; Banks and Hulme, 2012). Although most of the new democratic policies, programmes and institutions hold some prospect of greater influence and participation for the poor and socially excluded groups, they are not a panacea for solving all development problems. As argued by White (2000: 143), 'sharing through participation does not necessarily mean sharing in power'. Ordinary people, including the poor and socially excluded groups may be invited to participate in the political and decision-making process. However, there is no guarantee that their voices and concerns will be incorporated meaningfully into the final decisions of the development policies. The potential of people's participation may be co-opted because of the dominant power of the political elites, the government and corporate actors who refuse to give up their powerful positions and prefer to sustain the unequal power relationship and domination.

Just putting the new democratic innovations in place is insufficient to promote the meaningful participation of ordinary people into the decision-making process of the development policies and practices. The agency of people, especially the poor and less powerful groups need to be empowered to ensure that their participation will have real influence on government decision-makers. NGOs step up to take the role as advocates for enhancing public participation where they help people to articulate their concerns and participate in development processes (Hudson, 2002; Bryer and Magrath, 1999; Pearce, 2006). Clark (1995) explains that NGOs pose many important attributes that make them appropriate for promoting public participation. Particularly, NGOs have the ability to reach poor people and have close links with poor communities (Ibid). Berry (2003) argues that the poor and disadvantaged often lack access to political

institutions or do not have conventional interest groups to represent them in the political process. Therefore, NGOs fill this gap by serving as the public voice for the poor and disadvantaged groups and articulate their concerns to those who have decision-making power. NGOs have engaged in a wide range of political activities to influence development policies and practices on behalf of the poor and those in need.

Apart from their representational role, NGOs have another important attribute which is acting as intermediaries between the general public and other institutions of government and business (Reid, 2000). NGOs do not advocate on behalf of public interests but they also act as facilitators for encouraging civic participation. NGOs facilitate civic participation by undertaking public education and stimulating civic and political participation (Boris and Mosher-Williams, 1998). Jenkins (2006) calls civic participation as social advocacy defined in terms of ensuring a process of open, critical deliberation and a decision-making process in which all significant views are represented. Advocacy as civic participation or social advocacy is the attempt to encourage individuals to act as democratic citizens who are empowered to be capable to mobilise public support, build their own advocacy networks with other groups and initiate their own actions to protect their rights and promote their own interests. By engaging in advocacy as civic participation, NGOs play mediating roles in providing the links to the poor and the socially and politically excluded people to be incorporated into the political structure and therefore they may be well suited to promoting public participation (LeRoux, 2007).

Although NGOs have the potential to become advocates for public participation, their potential in achieving public participation can lead them to face difficulties. One of the significant challenges is conflicting with those in political and decision-making power, including government actors, decision-makers both in public and business sectors and other institutional elites. As Andrews and Edwards (2004: 485) point out, advocacy organisations making claims to advocate for public interest

would conflict with the social, cultural, and political or economic interests or values of other constituencies or groups. When NGOs engage in advocacy, they do not advocate for the poor but they also aim to provide the environment facilitating participation by the poor and disadvantaged groups and bring about social and political changes. Advocacy, if implemented, can lead to the reconfiguration of the existing relations between state and society where the power of government and institutional elites may be challenged or even transferred to other social actors including poor and disadvantaged groups. However, challenging the power of state actors and institutional elites is not a straightforward task. As Clark (1992) argues, fear of losing their dominant power and status quo may mean that the government and those in power may resist making any real change and instead co-opt the potential of NGOs as advocates for public participation.

Given the dominant power of government, decision-makers and other institutional elites prevailing within the political system, advocacy NGOs may encounter resistance both implicitly and explicitly from the power holders who refuse to abandon their dominant power and status. It is thus important to keep in mind that advocacy is not the same as actual influence (Jenkins, 2006: 309). Rather, advocacy is a struggle between competing interests, particularly between state power and political and economic elites and the poor or marginalised people (MacIndoe, 2011). Therefore, contestation is the inherent nature of advocacy and its practice. Advocacy NGOs should be aware of the issues of resistance and contestation when they take the role as advocates for public participation. NGOs cannot enhance public participation by just having good faith and intention; rather they need to think and act strategically to ensure that the poor and those in the disadvantaged status can participate meaningfully in the development process. Advocacy NGOs need to equip themselves with strategies to enhance their potential as advocates for public participation. As Gaventa (2006) put it, NGOs do not only have to understand the power relations inherent in public participation, but also they need to search for not only single strategy but rather the ensemble of strategies which work together

to make public participation and social and political transformation possible. In the next section, a concept of advocacy strategies is introduced to illustrate the definitions of advocacy strategies and the types of advocacy strategies that are available for NGOs to use to enhance their potential as advocates for public participation.

3.3 Advocacy strategies

Advocacy has its original form in the legal context where lawyers act as advocates in court to represent the interests of their clients (Kinlen, 2013: 7). Advocacy contains the function of an advocate which is defined as somebody who pleads the cause of another before a tribunal or court or somebody who defends or supports a cause or proposal (Allen, 2000: 19). From these definitions, Yasuda (2015: 14) indicated that advocacy is an act of promoting a certain position. However, the notion of advocacy has increasingly extended into many other spheres and in a non-legal context. In the literature focusing on non-profit organisations or NGOs, advocacy is often linked to political activities or attempts to change policy in favour of public interest. For example, Guo and Zhang (2014: 1157) point out that policy advocacy is widely regarded as one of the essential functions of non-profit organisations or NGOs and they define advocacy as attempts by NGOs to influence government policy and decisions through both direct and indirect means. Silpakar (2012: 4) also defines advocacy as any effort to set up a counter dialogue or to promote policy dialogue to demonstrate to policy makers where policy change is needed. Broadly speaking, advocacy is any attempt to influence policy or decision made by government or decision-makers in the way that benefits public interest.

These definitions of advocacy imply advocacy involves different strategies used by NGOs to help accomplish their goals. The term strategy is defined as long-term planning in the pursuit of objectives or the art of skill of careful planning towards an advantage or a desired end (Brown, 1993, cited in Yasuda, 2015). Advocacy strategies are not an unintentional act but rather they are activities planned and used carefully by advocacy

NGOs to influence the policy or decision made by government or decision-makers. As this thesis focuses on the role of NGOs as advocates for public participation, advocacy strategies referred here in this thesis are defined as strategies aimed to enhance the participation of the poor and the disadvantaged groups in the decision-making process of the development policies and projects that affect their lives. Advocacy NGOs can use advocacy strategies to enhance the participation of the poor and the disadvantaged groups in two approaches. The first is to use advocacy strategies to target government actors or those who have decision-making power to influence them to act or make policies and decisions in the ways that respond to the concerns raised by the poor and the disadvantaged groups. As Young and Quinn (2012: 26) defined advocacy as the process of negotiating and mediating a dialogue through which decision-makers accept the idea and subsequently act upon them.

The second approach is to use advocacy strategies to facilitate civic participation and provide a way to bring the concerns of the poor and the disadvantaged groups to broader public attention and to push for policy or broader social change. Based on the second approach, advocacy strategies embrace not only policy-orientated activities but also expand to encompass civic involvement advocacy focusing on deliberative activities such as public education, capacity-building and social mobilisation to stimulate civic and political participation (Salamon et al., 2000: 6). The two approaches of advocacy strategies as stated above suggest that advocacy strategies contain a wide range of activities that NGOs can use to achieve the roles as advocates for public participation. Broadly, advocacy NGOs are involved in two different types of strategies. On the one hand, advocacy NGOs can use political lobbying or a conventional style of strategies seeking to have a cooperative relationship with government or decision-makers. On the other hand, advocacy NGOs adopt a more confrontational style of advocacy such as public protest or mobilisation.

Considering the two styles of advocacy strategies used by advocacy NGOs, many authors often categorise a variety of advocacy strategies into

two typologies, including between direct and indirect strategies (Binderkrantz, 2005, 2008), access and voice (Beyers, 2004), engagement and confrontation or the politics of partnership and the politics of blame (Alcock, 2008, cited in Betzold, 2013: 305). However, this thesis distinguishes advocacy strategies based on Wyn Grant's typology which categorises advocacy strategies into insider and outsider advocacy (1989, 2000). Grant's insider/outsider typology is one of the most influential models often used to differentiate NGO strategies and status (Maloney et al, 1994: 17). Grant's typology distinguished between insider and outsider NGOs in terms of the type of contacts NGOs enjoyed and the tactics NGOs used in approaching government or decision-makers (Marsh et al., 2009: 621). In Grant's view, insider NGOs usually enjoyed privileged access to the decision-making process and therefore they tend to use insider strategies seeking to cooperate in the implementation of the policy (Grant, 2000). On the other hand, outsider NGOs are either unable or unwilling to enmesh in a consultative relationship with state officials or decision-makers and therefore they have to influence for policy change outside of the existing policy and decision-making process and adopt outsider strategies seeking to influence government or decision-makers through gaining attention from the media and mobilising public support (Ibid).

This thesis considers that Grant's insider/outsider typology is useful for the study of NGO advocacy. The typology can serve as the starting point for examining the variations in NGOs' use of advocacy strategies and look at the relations of NGO strategies to other aspects, including NGO status, political access and NGO influence on the decisions made by governments and decision-makers. Many scholars use the insider/outsider typology as a conceptual framework to distinguish and examine a wide range of strategies available to NGOs (Mosley, 2011). As Jenkins (2011: 97) pointed out, the benefits of the insider/outsider typology are to increase understanding and ameliorate the confusion that can exist when examining NGO strategies. In addition, the insider/outsider approach is attractive because of its flexibility, which can

apply to various groups, types and strategies of NGOs (Maloney et al., 1994).

Given its advantages, the insider/outsider typology is used by many authors, including Richards and Heard (2005) who adopted the insider/outsider paradigm to distinguish between different strategies used by environmental NGOs aiming to protect the marine environment in the European Union (EU) context. Betzold (2013) differentiated NGO strategies into insider and outsider advocacy to examine the various strategies adopted by environmental NGOs in the context of international climate change negotiation. And Gulbrandsen and Andresen (2004) also focused on insider and outsider strategy to explore the range of strategies available to NGOs to promote compliance with international agreements on climate change. While many authors used the insider/outsider typology as a conceptual framework for their studies, others modified the insider/outsider typology to make it more suitable for their case studies. For example, based on the insider/outsider typology, Mosley (2011) classified the advocacy tactics implemented by human service NGOs into two categories, which were insider and indirect tactics, to learn more about how human service NGOs carry on their advocacy work. Similarly, Beyers (2004) categorised the activities undertaken by European interest associations into two categories of access and voice to investigate how the conditions, such as resource-based explanations and institutional contexts, explain the choice of strategies among European interest associations. Although these scholars tried to modify and develop their own typologies, their new typologies still maintained core elements of the insider/outsider typology.

Apart from its conceptual importance and flexibility, the insider/outsider typology has another important strength, which is that it not only differentiates NGO strategies, but also NGO status (Maloney et al., 1994). Grant's typology divides NGOs between insider and outsider status. NGOs gaining insider status have privileged access to the political system where they can use insider strategies to directly influence

governments or decision-makers (Marsh et al., 2009). On the other hand, NGOs receiving outsider status have to use outsider strategies beyond the formal political arena to influence governments indirectly (Ibid). For Grant (2000), NGOs gaining insider status and using insider strategies are considered more influential than outsider NGOs operating outsider strategies. Grant's insider and outsider typology not only categorises NGO strategies and status; it also helps increase our understanding of the relationships between NGOs and governments, the tactics used by NGOs to influence governments, the political arenas where NGOs operate their strategies and the influence of NGOs.

With regard to the contributions of the insider/outsider typology, this research uses the insider/outsider distinction as a conceptual framework to categorise a range of advocacy strategies used by Thai NGOs into insider and outsider forms of advocacy. The insider/outsider advocacy is used to examine whether Thai NGOs adopt insider or outsider advocacy when they oppose the Xayaburi dam's construction and advocate for better public participation in the Xayaburi decision-making process. As discussed above, the insider/outsider typology not only differentiates NGO strategies, but also helps distinguish NGO status. This thesis, therefore, aims to use the insider/outsider advocacy to differentiate Thai NGO status and to explore whether Thai NGOs gain insider or outsider status. By differentiating Thai NGO strategies and status through the insider/outsider framework, this thesis also intends to increase the understanding of the relations between Thai NGOs and the Xayaburi's key decision-makers and the political spaces in which Thai NGOs operate their advocacy strategies. The insider/outsider framework is well suited to the study of Thai NGO advocacy in the Xayaburi dam context. The typology not only helps examine the use of Thai NGO strategies, but also advances the understanding of Thai NGO status, the political spaces available for Thai NGO advocacy and the potential of Thai NGO advocacy in the Xayaburi anti-dam context. Based on Grant's insider/outsider typology, the following sections divide advocacy

strategies into two types, insider and outsider strategies, and the various subcategories of these strategies.

3.3.1 Insider strategies

Transnationally, NGOs have engaged in one of two broad approaches to pursue their goals; they have used either insider or outsider strategies (Richards and J Heard, 2005: 25). Insider strategies are the strategic approaches seeking to gain political access to the formal political arenas where NGOs can have a consultative relationship with government or decision-makers. Insider strategies, thus, tend to stay away from the political activities that will induce conflicts with government or decision-makers and encompass the conventional political means such as policy lobbying and campaign. Because of their operation within the political arenas, insider strategies have more possibilities to be accepted in the eyes of government. Grant (1989) argues that NGOs aiming to gain insider status from government and decision-makers need to adopt the more conventional style of insider strategies. This means that for Grant (2000), insider strategies are the prerequisite to receive insider status from government. From the definitions as stated above, insider strategies can be divided into three sub-categories of strategies as follows;

I. Direct interaction strategies

The aspect of direct interaction with government or decision-makers becomes one of the main features being used to define insider strategies. For example, Betzold (2013: 305) refers to insider strategies as all activities that rely on the direct transmission of information to decision-makers. Mosley (2011: 439) defines insider strategies by emphasising the tactics intended to change policy or regulation by working directly with policy makers and other institutional elites. Binderkrantz (2008) also focuses on the dimension of direct interaction and defines insider strategies as direct strategies to refer to activities seeking to target or approach government actors or decision-makers directly. Insider strategies are the

political means which NGOs can use to directly influence decision-makers in a direction desired by NGOs. Based on the definitions stated above, insider strategies encompass many conventional political strategies, including political lobbying, signing on to letters and submitting them to public officials or decision-makers, providing testimony at a public hearing and meeting in person with public officials or decision-makers. These insider strategies share the central focus on the political efforts of NGOs aiming to transmit interests, values and preferences of their constituencies or broader public directly to government actors or decision-makers.

II. Seeking political access strategies

Insider strategies can be referred to as strategies seeking political access. All insider strategies as described above are the activities seeking to operate within the political or decision-making arenas where the negotiation or policy decisions take place. NGOs employing insider strategies are seeking to get access to the political system or decision-making process so that they can meet and negotiate directly with decision-makers. Due to the related connection between insider strategies and political access, Beyers (2004: 213) terms insider strategies as access strategies operating within the venues where political bargaining takes place. Insider strategies as access strategies include strategies focusing on participating in or serving on government commission, committee or task force. However, NGOs do not always gain political access; rather they need to convince decision-makers that they deploy certain political skills and pursue political goals accepted by government or decision-makers. As Grant (2000:20) put it, 'it has to show civil servants that it can and is prepared to talk their language; that it knows how to present a case, and how to bargain and accept the outcome of the bargaining process'. Insider strategies as access strategies are conducted in the compromising or cooperative manner to pursue the incremental change, not radical transformation in the policy or decision-making process.

III. Insider status strategies

Insider status is the status often interrelated to insider strategies. According to Grant's insider/outsider typology, insider strategies and insider status are conflated. Insider strategies become a precondition of winning insider status (Maloney et al., 1994). As Grant argues, success in gaining insider status is more likely to be achieved through the pursuit of a more responsible and conventional strategy of action or in other words insider strategies (1989: 17-18). Insider status is perceived as a privilege position where NGOs are granted political access to participate in the policy or decision-making arenas. NGOs gaining insider status have more chance to have direct connections with policy makers or individuals in power and make their political goals or issues be taken seriously within the policy or decision-making arenas (Mosley, 2011: 439). Given the privileged position of insider status, insider strategies are regarded as preferable strategies for gaining insider status and having a consultative relationship with decision-makers.

To receive insider status, NGOs may employ insider strategies concentrating on providing expertise, knowledge and technical information to government actors or decision-makers. NGOs have become professional actors who engage in knowledge construction and the production of research-based reports or papers to provide negotiators or governments with policy solutions, recommendations or advice (Gulbrandsen and Andresen, 2004: 56). Expertise, knowledge, and technical information produced by NGOs can be termed as intellectual-based resources which can enhance NGO influence and leverage. As public officials and decision-makers have increasingly demanded policy-related information and knowledge produced by external actors, including NGOs to help solve policy problems, NGOs can provide their intellectual resource to exchange insider status from governments. State officials and decision-makers are more likely to grant insider status to NGOs possessing intellectual base resource necessary or useful for delivering effective policy outcomes (Maloney et al., 1994).

3.3.2 Outsider strategies

While insider strategies focus on targeting government actors or decision-makers directly, outsider strategies seek to influence the decisions or behaviours of decision-makers in more indirect ways. Binderkrantz (2005; 2008) distinguishes outsider strategies as indirect strategies to refer to strategies representing a more indirect means of seeking influence by getting the attention of the media or by mobilising group members and supporters. Outsider strategies as indirect strategies try to approach the wider public to raise their public awareness on the issues that NGOs support and encourage them to act on their own to pressure decision-makers or governmental officials for policy change or transformation. Outsider or indirect strategies can be linked to the participatory aspects of NGO advocacy which describes the capacity of NGOs to create opportunities for public participation in the social and political arenas and stimulate individual citizens to take action to influence decision-makers on their own behalf (Reid, 2000). Given that outsider strategies aim to gain public attention and support, outsider strategies are often conducted within the public arenas where the strategies can approach the wider public audiences to change their political perception in the directions desired by NGOs.

Outsider strategies are regarded as unconventional means in which they do not aim to bring about step by step change within the established political or decision-making arenas. Rather, they seek to break through from the political mainstream to achieve political transformation. Due to their unconventional aim and approach, outsider strategies are often associated with outsider status, describing the position where NGOs are not enlisted into the consultative relationship with governments or decision-makers and have remained outside of the political arenas where the policy negotiation takes place (Grant, 2000). Outsider status can be divided into two broad categories which are outsider by necessity and outsiders by choice. Outsider by necessity refers to NGOs opting for outsider strategies because they are unable to gain the recognition needed for such

consultative relationship with governments; whereas outsider by choice describing NGOs choosing to abstain from the consultative political arena to maintain their independence and avoid the co-optation (Richards and Heard, 2005: 25; Maloney et al., 1994). Outsider strategies intend to reach out to public audiences in an attempt to convince them to support political goals pursued by NGOs. NGOs can use outsider strategies to convince the wider public to support their political goals using two approaches which are protest-based strategies and information-based strategies.

I. Protest-based strategies

The distinction between protest-based and information-based strategies as mentioned in this thesis is based on the division between protest politics and information politics proposed by Jan Beyers (2004). Protest politics, according to Beyers (2004: 214) involves the explicit staging of events in order to attract attention and expand conflict. The protest-based strategies include public mobilisation activities such as organising demonstrations, protests, and rallying, boycotting, direct action, legal activism, and even civil disobedience (Gulbrandsen and Andresen, 2004: 56). These protest-based strategies are not conducted behind closed doors where the negotiation process is secretive to the general public; rather the political protest and mobilisation is organized openly in the public arena. As Binderkrantz (2008) argues, protest activities are visible to the public because they seek influence by getting the attention of the media or by mobilising group members and supporters.

The protest strategies are intended to mobilise public gathering and support as much as possible in order to convince state and private decision-makers that the political objectives pursued by NGOs are actively supported by the wider public and the decision-makers should reconsider any policy or decision which goes against the public interests (Beyers, 2004). Given the publicly visible approach of political protest, protest-based strategies are likely to induce confrontational relations with decision-makers. However, the confrontation does not always bring

negative results. In many cases, NGOs find that engaging in the radical protest strategies are effective at making governments nervous about continuing any undemocratic policies or projects (Grant, 2001). The protest politics aim to influence public opinion in order to induce decision-makers to be more flexible in the negotiation process, to push governments or even corporate actors to comply with international or domestic commitments (Gulbrandsen and Andresen, 2004: 56-57). This means that although the employment of protest-based strategies may expand conflict with decision-makers and individuals in power, the conflict, in many cases, is necessary to make decision-makers respond to the political objectives demanded by NGOs.

II. Information-based strategies

Not all outsider strategies have a radical or disruptive character. Outsider strategies can concentrate on information and knowledge-created activities. Information and knowledge is used as a source of influence to convince the public to change their perception about the prevailing policy issue. Beyers (2004) calls information-based strategies information politics to refer to the public presentation of information at strategic decision points. The information-based strategies encompass intellectual activities including public education, research-based activities, press conference and public forum. Information activities are the political efforts to produce alternative information and knowledge and use them to inform and educate the public about public policy issues (Guo and Saxton, cited in Guo and Zhang, 2014: 1157-58). The information-based strategies are important strategies for any advocacy NGOs, especially those acting as intermediate actors between communities and governments. As Staple (2007) argues, the diversities of public viewpoints, particularly of those of the socially disadvantaged can be articulated through research and policy analysis conducted by NGOs. The information-based activities help to educate communities about policy issues and problems, disseminate information to encourage policy debates and stimulate alternative knowledge and information for driving social and political change.

Although information-based strategies share a central focus with insider strategies, especially the use of information and knowledge as a source of influence and power, information-based strategies as discussed here are still regarded as outsider strategies. This is because information and knowledge generated by information-based strategies are used to mobilise public support and persuade decision-makers to accept the advocacy of NGOs' ideas and positions and act upon them (Kriesi et al, 2007: 54). While information and knowledge produced by insider strategies is used as the intellectual resource for advocacy, for NGOs to gain privileged access to political process, the information and knowledge created by information-based strategies is used to challenge the dominant policies and decisions upheld by the powerful decision-makers and alter them in ways desired by advocacy NGOs. Information provided by information-based strategies often involves not just reasoning with decision-makers, but also bringing pressure, confronting and shaming (Keck and Sikkink, 1998: 16). Therefore, the use of information-based strategies can induce conflict with the powerful decision-makers who may refuse to make any change upon the requests of advocacy NGOs.

Information-based strategies aim to gather evidence and generate information to bind like-minded supporters and persuade them to take public action together (Magrath, 2015). Therefore, the process of gathering evidence and using information is not conducted behind closed doors but operated within the public arenas. As Beyers (2004) argues, information-based strategies aim to present strategic information to the public. However, it should be noted that although information-based strategies may reach out to a large public, they probably do not reach the public as broadly as protest-based strategies do. Information-based strategies may concentrate on specific groups of actors outside of the decision-making arenas. For example, writing an op-ed piece in the newspaper, preparing press releases or opinion articles and posting blog entries, tweets and comments on online forums may not reach very large public audiences but they will be read by specialists in the field or people who are interested in the relevant issues promoted by NGOs (Ibid).

NGOs use a wide range of advocacy strategies as differentiated into two types of strategies between insider and outsider strategies (See Table 3.1) to advocate for public participation. As Ollif (2007) pointed out, NGOs use a variety of activities, including campaigns, lobbying governments and other stakeholders, education and research to try to promote public awareness and participation. The employment of advocacy activities has resulted in the expansion of public participation in the development decisions that affect the lives of ordinary people. Therefore, these various approaches of advocacy assist NGOs to expand participation, or in other words, to open up or create new participatory spaces in which the poor and disadvantaged groups can have new channels or opportunities to participate in developmental and social change.

3.4 Insider and outsider strategies and cross-border conflicts

The attempt to promote public participation in development involves issues of power relations and conflicts. Simply promoting public inclusion cannot guarantee that the interests of different stakeholders can match neatly (White, 2000). Decision-making authorities holding power may find that their interests are not served by participation and be reluctant to share power with other participants, especially less powerful people (Cobbinah, 2015). The difference of interests and power relations can lead to conflicts that may hinder the progress of public participation. These conflicts can involve a wide range of national, regional and international actors who may expand the conflicts beyond state boundaries. Participation and conflicts can apply to the Xayaburi case, the case example used in this thesis. The proposal to build the Xayaburi hydropower dam on the Mekong mainstream in Laos caused transboundary impacts across the Mekong region. Participatory mechanisms and institutions were initiated at the national and regional level to address the transboundary impacts of the proposed project. However, these participatory mechanisms and institutions may pose problems in reconciling the competing interests of all stakeholders involved in the costs and benefits of the Xayaburi development (Kinna,

2016). The attempts to enhance public participation in the Xayaburi development may induce cross-border conflicts involving different actors at the national, regional and international levels.

NGOs aiming to advocate public participation need to recognise the issue of cross-border conflicts that may slow down the process of participatory programmes and practices. Advocacy NGOs have a great deal of potential to be advocates for public participation (Banks & Hulme, 2012; Clark, 1995; Jordan & Tuijl, 1998). One of the most important NGO potentials in advocating participation is the utilisation of advocacy strategies at strategic points to influence decision makers to respond to NGO demands. Advocacy NGOs have various choices of strategies that they can use to pursue their goals. As discussed earlier in this chapter, a wide range of strategies can be categorised into two forms as insider and outsider strategies (Grant, 2000). In the previous literature, the insider/outsider typology of NGO strategies tends to be used in the study of interest groups, associations or NGOs in the domestic context (Hanegraaff et al., 2014). However, this thesis argues that the contributions of insider and outsider typology are not restricted just to the study of NGO strategies in the domestic context, but can also apply to the study of NGO strategies in a broader context of participation and cross-border conflicts.

Insider and outsider strategies differ in many aspects, including the targets influenced by NGOs, the political arenas in which NGOs exercise their activities and the goals pursued by NGOs (Marsh et al., 2009). However, insider and outsider strategies bring one common benefit to NGOs, which is to help them acquire the resources, skills, capacities and alliances necessary to strengthen the potentials of NGOs as advocates for public participation. Advocacy NGOs are strategic actors who try to exploit all opportunities available to them. Therefore, they do not rely on one specific tactic to influence their targets or exercise their activities in

one particular channel. In recent years, NGOs have developed many political channels where they get access to and influence public policy making. As Richardson (2000) pointed out, public policy making is often carried out in several venues, each presenting a different package of costs and benefits to NGOs. Therefore, NGOs can seek alternative venues where policy making can be influenced (Ibid.). This means that the decision-making arenas where NGOs can exert influence are not specific to the national level but also extend to regional and international levels. NGOs can increase their influence by scaling up their advocacy to target and influence decision makers at the regional and international level.

Within decision-making arenas, NGOs can use insider strategies such as policy lobbying to directly influence regional and international decision makers or attending sessions of government commissions and committees to provide advice and policy solutions or negotiate directly with regional and international level decision makers (Gulbrandsen and Andresen, 2004). When NGOs adopt insider strategies in decision-making arenas at the regional and international level, they provide specific information that is demanded by decision makers in return for political access (Chalmers, 2013). NGOs using insider strategies tend to be accepted in the eyes of decision makers to be included in the policy-making process where the decision has been made. Being included in the policy process means that NGOs can learn and practise the political skills necessary for negotiating with decision makers, create connections with influential decision makers and gain legitimacy on the issue they are advocating for (Mosley, 2011:439). These advantages help increase the influence of NGOs in convincing powerful decision makers to change policy decisions in directions favoured by the NGOs. NGOs employing insider strategies may be able to persuade powerful decision makers to see the benefits of sharing power with less powerful people in the participatory process. The sharing of power within participatory programmes and practices can help reconcile the competing interests of all actors concerned, which could reduce cross-border conflicts.

In addition, NGOs can use outsider strategies to address the issue of cross-border conflicts that hinder the process of participation. Outsider strategies are activities seeking to influence decision makers indirectly through public mobilisation and support (Dür & Mateo, 2013). Powerful decision makers tend to maintain their dominance of power and resist sharing power with less powerful people in the decision-making process (Akbulut & Soylu, 2012). Therefore, NGOs can adopt outsider strategies to raise public awareness about power domination and mobilise people to put pressure on powerful decision makers to make policy changes towards genuine participation. Outsider strategies such as public protests help NGOs mobilise public support. The mobilisation of public support helps to create opportunities where like-minded supporters across borders come together to share information, resources, experiences and activities to challenge power domination and force powerful decision makers to include all stakeholders in the decision-making process (Townsend et al., 2004). Outsider strategies become an important instrument in incorporating the different interests of various stakeholders into the policy process. The inclusion of diverse interests articulated by different actors into the policy or decision-making process can help address the problems of cross-border conflicts.

In the Xayaburi context, the cross-border conflicts between the pro-dam decision makers and anti-dam NGOs and civil society have intensified. The conflicts between the dam's proponents and opponents across the Mekong region can be an obstacle to meaningful participation in hydropower development in the LMB context. Thai NGOs adopted both insider and outsider strategies to assist less powerful villagers to participate in the Xayaburi decision-making process at national and regional levels. By adopting insider and outsider strategies, Thai NGOs aimed to open up the window of opportunities for public involvement in the Xayaburi decision-making process. Public involvement in the Xayaburi decision-making process is important in reconciling the competing interests and reducing the conflicts between the pro-dam

decision makers and anti-dam NGOs and their alliances across the Mekong region.

Table 3.1: Summary of advocacy strategies

Types of strategies	Example of advocacy strategies
Insider strategies	Example of insider strategies
Direct interaction strategies	<ul style="list-style-type: none"> • Political lobbying • Signing letters and submission • Providing testimony at a public hearing • Meeting in person with public officials or decision-makers.
Seeking political access strategies	<ul style="list-style-type: none"> • Participating in or serving on government commission, committee or task force
Insider status strategies	<ul style="list-style-type: none"> • Providing policy solutions, recommendations or advice • Providing expertise, knowledge and information to gain insider status from government or decision-makers
Outsider strategies	Example of outsider strategies
Protest-based strategies	<ul style="list-style-type: none"> • Demonstration • Protest • Rallying • Boycott • Legal activism • Direct action and civil disobedience
	<ul style="list-style-type: none"> • Public education • Press conference

Information-based strategies	<ul style="list-style-type: none"> • Public forum • Evidence and information gathering • Fact-finding and investigation • Generating alternative information • Issue-framing
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3.5 New participatory spaces

Over the recent years, NGOs have played important roles in advocating for extending opportunities in which people, especially the poor and the disadvantaged groups, can participate in the decision-making process of the development policies and projects that affect their lives (Jordan and Tuijl, 1998). NGOs engage in two broad approaches to increase the opportunities for people’s participation. The first is to persuade or pressure governments and public and private decision-makers to initiate a range of new participatory mechanisms and experiments to incorporate public input into the development planning and decision-making process (Cohen-Blankshtain, 2013; Irvin and Stansbury, 2004). Another approach is to provide enabling environments in which the poor and disadvantaged groups can be included in the decision-making arenas of the development policies and projects (Banks and Hulme, 2012). By engaging in the two approaches, advocacy NGOs try to open up, widen, and extend opportunities in which people, especially the excluded groups of people, can be involved in the development policies and process. In other words, both approaches assist NGOs to open up spaces of participation where they were closed or limited for participation before, occupy spaces that were previously denied to them or even create new spaces where there were previously none. The advocacy efforts of NGOs have resulted in the emergence of new participatory spaces in which the opportunities for people’s participation will be enlarged.

Many scholars use various terms to identify the emergence of new participatory spaces. For example, Hicks and Buccus (2008: 94) defined new participatory spaces as new democratic spaces to inform of opportunities created for civil society stakeholders to engage in the policy-making process in ways that seek to overcome obstacles to participation by marginalised groups. Other scholars such as Taylor (2007) and Howard and Vasquez (2011) referred new participatory spaces as new governance spaces to examine the proliferation of new institutional channels, mechanisms and opportunities for citizen engagement in policy and governance processes. From the definitions described above, new participatory spaces are seen as new opportunities, moments or channels where people can act to have influence upon the policies, decisions, discourses and relationships that affect their lives and interests (Gaventa, 2006: 26). In this thesis, which focuses on NGO advocacy and public participation, new participatory spaces are defined as new opportunities, moments and channels where ordinary people, including the poor and disadvantaged groups can act together to potentially affect the decisions, policies and behaviours that have impacts on their lives and interests.

New participatory spaces usually do not have a singular form. New participatory spaces are often categorised into two forms of spaces (Pearce, 2006). The first form often views new participatory spaces as new spaces provided by government and/or other institutionalised actors who hold political and decision-making power, be they government, state-based agencies and international institutions, aiming to involve people in the development policy process (Brock et al., 2001). The second form of new participatory spaces refers to new spaces of participation created by autonomous forces of NGOs and civil society and located outside of the formal development policy arenas (Ibid). Based on the categorisation of the new participatory spaces as mentioned above, Cornwall (2002; 2004a; 2004b) divided new spaces of participation into two spaces which are invited and popular spaces. Cornwall's notion of invited and popular spaces has had considerable impacts on recent debates on global expansion

of new spaces of participation (Kesby, 2007: 2821). Many scholars often use Cornwall's notion of invited and popular spaces to differentiate new participatory spaces created for public participation (Arshad-Ayaz and Naseem, 2017). Based on Cornwall's notion of invited and popular spaces, this thesis differentiates new participatory spaces into two forms of spaces, including new invited and new popular spaces.

I. New invited spaces

In respond to popular demand, including pressure from NGOs for public participation; government, state and inter-state based institutions and donor agencies have increasingly created many innovative participatory or democratic mechanisms, programmes and institutions to widen or extend opportunities in which people take more control in resource allocation and become involved in development policies and projects (Goetz and Gaventa, 2001; Fung and Wright, 2001; Heller, 2001). The new opportunities opened up or extended by the participatory or democratic innovations provide new participatory spaces which can be termed as 'new invited spaces', referring to new spaces where people, including the poor, and the disadvantaged, are invited by various kinds of state and institutionalised actors; be they government, international institutions, development agencies and donors, to participate in the space for consultation or in a more institutionalised form (Pearce, 2006). The new invited spaces can be understood as the new spaces provided by government actors or those holding decision-making power who give rights and access to people and allow them to become involved in the institutionalised arenas of governance and development process (Mohanty, 2004).

New invited spaces can take many forms. As Cornwall (2004b) suggests, they might be either the opportunities created for the people or their representatives to come together with those who represent public authorities or the more complex multi-stakeholder platforms or institutions involving representatives from civil society, the private sector,

government, donors and lenders. Moreover, the invited space varies in terms of its duration which can range from transient forms of one-off meetings and consultation to more durable forms of regularised institutions such as joint committees, councils and advisory bodies (Gaventa, 2006). Despite varying in terms of its form and duration, invited spaces share one common focus; particularly it provides the intermediary space in which people are linked with the institutions and the processes of the state, which result in the improvement of state responsiveness and accountability (Hicks and Buccus, 2008). Involving people to participate in the new invited spaces is the effort to move from closed or constrained spaces to open ones where ordinary people, especially the socially excluded people can have new opportunities to engage in the formal political arenas where the decisions affecting their lives will be made. New invited spaces are therefore viewed as the potential spaces to bring about better citizens, better decisions and better government.

I. New popular spaces

While invited spaces are the new spaces given from above by government and/or those powerful actors holding political and decision-making power, new popular spaces, on the other hand, are the alternative spaces created from below by autonomous forces of social movement and action. Cornwall (2004a) termed these new autonomous spaces as 'popular spaces' to define a set of spaces in which people come together at their own instigation-whether to protest against government policies or the interventions of foreign powers, to produce their own services or for solidarity and mutual aid. Other scholars define new popular spaces in various terms. For example, Gaventa (2004) identified new popular spaces as claimed or created spaces meaning the spaces where the less powerful create their own autonomies in which people gather to debate, discuss and resist, outside of the institutionalised policy arenas. Barberton, Blake and Kotze (1998), cited in Brock et al., 2001: 23) referred to new popular spaces as action spaces and free spaces to emphasise the spaces in which ordinary citizens including poor people resist, challenge their conditions

and create alternatives and visions that may later be articulated in more formal policy arenas.

Despite the variation of the terms, new popular spaces can be understood as the new spaces where ordinary people can create their own opportunities and terms of engagement. The new popular spaces provide new opportunities for unheard voices to be heard, for the excluded people to be involved and for new possibilities for transformation to gain ground. As being constructed by autonomous forces of people action, the new popular spaces become new alternative spaces in which people can gather to reject hegemonic order, debate new visions and alternatives and claim and formulate their own identities (Soja, 1996). The new popular spaces can be the potential sites where Lefebvre (1991), cited in Dhaliwal, 2012, called differentiated space to emphasise the possibilities of the emergence of new social spaces where the dominant power and relations can be contested and re-articulated for the purpose of altering social relations. The new popular spaces have potential to be the sites for transformation. However, the transformative potentials of new popular spaces may have a short-time durability which comes wax and wane (Olesen, 2005). However, the new popular spaces may transcend their short-term lives and develop into the regularised and institutionalised form of associations that help increase the possibilities of alternatives and transformation.

3.6 Advocacy NGOs, Advocacy strategies and new participatory spaces

Over the recent decades, NGOs have played significant roles as advocates for public participation, particularly helping the poor and disadvantaged articulate their concerns and participate in development processes. As stated by Mitlin et al. (2007: 1699), in being non-governmental, NGOs exist as alternatives and constitute vehicles for people to participate in development and social change in ways that would not be possible through government programmes. NGOs have been increasingly recognised as important agents in promoting a participatory and people-centred form of development (Clark, 1995; Carmin, 2003; Samuel and Thanikachalam,

2003). However, as NGOs have increasingly become involved in advocacy work to promote public participation, many questions arise as to whether NGOs are appropriate actors to represent the voices of the poor and disadvantaged groups, what is political responsibility for NGO advocacy, whom NGOs should be accountable to and the extent to which NGOs can challenge the structure of power and resource allocation which is the real cause of inequality and exclusion that is suffered by the poor and the disadvantaged groups. These questions have been raised by those who are sceptical of the roles and potential of NGOs in advocating for public participation and have stimulated important debates surrounding the issues of NGO advocacy and its effectiveness.

Given the scepticism on the roles and potentials of NGO advocacy, NGOs have been subjected to criticism in many respects. One of the most important criticisms is the debate concerning the extent to which NGOs have potential to be agents of alternative development which can overcome the structural disadvantage and empower the poor and marginalised to participate in development process (Mitlin et al, 2005). As argued by Edwards (1993), most achievements of NGOs have so far emphasised the influence on specific policies, programmes, or projects rather than on attempts to make change at global-level processes, structures, or ideologies. In other words, NGOs, have made much progress at the level of detailed policy and/or on issues; whereas the change at the level of ideology and global systems has remained largely intact. Other scholars also share their concerns regarding the roles of NGOs as advocates for public participation. For example, Rahman (2006) and Kilby (2006) underlined the problems of NGO accountability, particularly in the situation where NGOs have become depoliticised by working in partnership with government, private sector and/or donor agencies to provide welfare and service to people in need. Lewis and Kanji (2009) also commented that as NGOs have increasingly received development aid from government and donor agencies, NGOs may have lost their comparative advantages (e.g. autonomy, innovative and collective action)

and become development instruments maintaining the status-quo and unequal power relations.

Although the roles and potentials of NGOs as advocates for public participation have been questioned by many critics, many advocates for NGOs contend that NGOs have potential to promote participation of the poor and disadvantaged in development process. For example, Tagarirofa (2013) argued that, despite being faced by many structural obstacles, NGOs can empower the agency of community members through community mobilisation to help facilitate poor people in communities to transform those structural barriers and participate in the development projects. One of the most important potentials of advocacy NGOs lies in their ability to use advocacy strategies to manage relationships with the powerful government and decision-makers and balance the structural factors that constrain the roles of advocacy NGOs as advocates for public participation (Batley, 2011). As argued by Townsend et al. (2004), advocacy NGOs can act as independent thinking NGOs who are able to deploy various strategies and make spaces of resistance to achieve alternative visions of change.

Advocacy NGOs have never played advocacy roles in a vacuum; rather the structural factors, particularly the unequal power relations between different actors can constrain the roles and potentials of advocacy NGOs as advocates for public participation (Meyers, 2004: 127-128). Advocacy NGOs may face important structural difficulties, especially the resistance from government actors and other influential power holders who may refuse to transfer power to the less powerful actors, including the poor and the disadvantaged groups of people (Cobbinah, 2015; Pettit, 2012; Rigon, 2014). Advocacy NGOs need to adopt advocacy strategies to enhance their potential as advocates for public participation within the constraining structural factors. Advocacy strategies are used by advocacy NGOs to overcome the structural constraints to enhance NGO influence. As discussed by Corell and Betsill (2008: 39), although NGOs are not free from the structural factors, NGOs can control their own destiny and

enhance their influence by adopting particular strategies and/or accumulating resources.

Advocacy NGOs can employ a complex mixture of advocacy strategies which in this thesis are subsumed under insider and outsider strategies. A wide range of insider and outsider strategies are used by advocacy NGOs to widen up the existing participatory spaces or even create new spaces of participation. Renedo and Marston (2015) argued that, despite being constrained by the unequal power structure, NGOs can use strategies or tactics to re-construct the existing participatory spaces and create new productive spaces for participation. Insider and outsider strategies are used to bind like-minded people to act together in an advocacy network which result in the creation of new participatory spaces in which people can pressure or persuade government and decision-makers to open up new opportunities for the participation of the poor and the disadvantaged in the political process (Lewis, 2009: 5). By participating in the political process, the poor and the disadvantaged can have new opportunities to set or re-set the new rules of engagement with government and the powerful decision-makers in ways that enable meaningful participation. New participatory spaces, can be defined as the attempts of NGO advocacy to open up or create new opportunities, moments and channels in which ordinary people, including the poor and disadvantaged groups can join together to influence the decisions and policies that have impacts on their lives. This thesis differentiates these new participatory spaces between new invited spaces and new popular spaces.

Advocacy strategies become the important strategic tools for advocacy NGOs to challenge unequal power relations and create new opportunities for the poor and the disadvantaged people to participate in the development policies and process. This thesis argues that new opportunities created for participation mean that new participatory spaces are opened up or created to enable the poor and the disadvantaged people to participate in the development of the decision-making process that affects their lives. Given the importance of advocacy strategies in creating new opportunities for public participation in the development decision-making process, the

exploration of advocacy strategies used by advocacy NGOs to create new opportunities for participation should become the focus of the study. However, the literature on NGO advocacy often concentrates on power relations and their influence on the roles and potentials of advocacy NGOs as advocates for public participation (Akbulut and Soylu, 2012; Banks and Hulme, 2012; Jordan and Tuijl, 1998; Williams, 2004; Orbach, 2011). To address the problems of power relations, the questions of representation, legitimacy and effectiveness of NGOs playing the roles as advocates for public participation have become apparent in the study of NGO advocacy. However, the examination of advocacy strategies used by advocacy NGOs to create new opportunities for participation have not been well addressed. This thesis intends to examine advocacy strategies used by advocacy NGOs to create new opportunities for people's participation in the development of the decision-making process and to understand the effects of the use of advocacy strategies to create new opportunities for people's participation. This thesis aims to advance the study of advocacy NGOs and enhance the understanding of the potentials of advocacy NGOs as advocates for public participation.

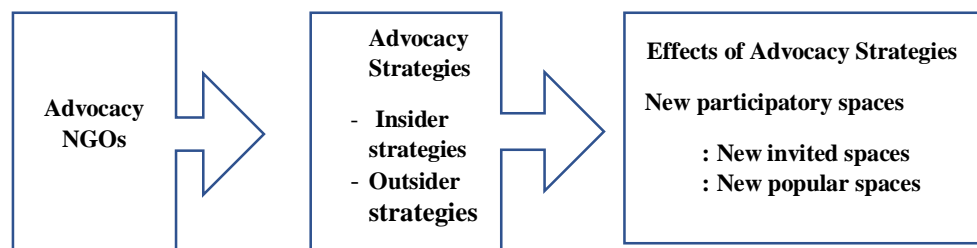
3.7 Conceptual framework

This study concentrates on three important concepts which are advocacy NGOs, advocacy strategies and new participatory spaces. Advocacy NGOs, as discussed earlier, are NGOs playing roles as advocates for public participation. NGOs play the role as advocates for public participation in two ways. The first is to represent public interests and promote public participation on behalf of the poor and disadvantaged groups. The second is to raise public awareness and encourage the poor and disadvantaged groups to promote participation on behalf of themselves. NGOs enhance their potential to accomplish these two roles by adopting advocacy strategies. Advocacy strategies can be described as strategic tools which NGOs use to enhance their roles and potentials to promote public participation for the poor and disadvantaged groups. In this study, advocacy strategies are categorised into two types of strategies: insider and outsider strategies. Advocacy NGOs use advocacy strategies to create new

opportunities for the poor and the disadvantaged groups to participate in the development of the decision-making process. By creating new opportunities for participation, this thesis argues that new participatory spaces can be opened up or created to enable public participation.

To understand the importance of advocacy strategies, this study proposes that advocacy NGOs can use advocacy strategies differentiated between insider and outsider strategies to advocate for public participation. The employment of advocacy strategies can result in the creation of new participatory spaces. These new participatory spaces can be divided into two distinct spaces: new invited and new popular spaces. Figure 3.1 illustrates the interrelated relationship of the three key concepts (advocacy NGOs, advocacy strategies and new participatory spaces) important to this study and proposes that advocacy strategies used by advocacy NGOs can create new participatory spaces, including new invited and new popular spaces.

Figure 3.1: Conceptual Framework



The conceptual framework as shown in figure 3.1 acts as a guide for structuring the hypotheses for this study. The hypotheses developed in the next chapter focus on advocacy strategies employed by advocacy NGOs and the creation of new participatory spaces as the result of NGO advocacy.

3.8 Conclusion

This chapter has reviewed and analysed the literature related to advocacy NGOs, advocacy strategies, and new participatory spaces. The objective here is to identify the definitions, key categories and sub-categories of the

three concepts. The literature review has revealed that there is an association of the three concepts. The conceptual framework developed in this chapter illustrates the related relationship of the three concepts. Advocacy NGOs have potential to play the role as advocates for public participation. This is because advocacy NGOs can employ advocacy strategies which can be divided between insider and outsider strategies to create new opportunities for public participation. By creating new opportunities for public participation, the poor and the disadvantaged groups can have new spaces for participation. These new participatory spaces can take the form of new invited and new popular spaces. Advocacy strategies are therefore important strategic tools which NGOs can use to gain new participatory spaces. By using advocacy strategies, the potentials of NGOs as advocates for public participation can be enhanced.

Despite the importance of advocacy strategies in creating new spaces for participation, the study focusing on the importance of advocacy strategies in creating new participatory spaces has been limited. Therefore, this study aims to examine strategies employed by advocacy NGOs to create new participatory spaces and to understand the effects of the employment of advocacy strategies in creating new participatory spaces. By focusing on advocacy strategies used by NGOs to create new participatory spaces, this thesis aims to fulfil the important gaps existing in the literature of NGO advocacy and participation and improve the understanding of the potential of NGOs acting as advocates for public participation.

Based on the literature review, analysis and conceptual framework illustrated in this chapter, the next chapter develops the hypotheses used for this study.

Chapter 4

Advocacy NGOs, Advocacy Strategies and the Creation of the New Participatory Spaces

4.1 Introduction

Based on the concepts of advocacy NGOs, advocacy strategies and new participatory spaces which were discussed in the previous chapter, this chapter provides a framework for the analysis of the roles and potentials of advocacy NGOs as advocates for public participation. The chapter first begins with the discussion of invited spaces. Although the invited spaces have the potential to enable public participation, the potential of the invited spaces can be constrained by the unequal power relations among different actors participating in the invited spaces. The chapter then moves to the discussion of advocacy strategies used by advocacy NGOs to create new opportunities for participation. These new opportunities for participation help to create new participatory spaces in which the poor and local people can participate in the development of the decision-making process. Lastly, the chapter discusses the invited spaces provided in the context of hydropower dam development in the Lower Mekong Basin (LMB) and advocacy strategies used by Thai advocacy NGOs in creating new participatory spaces. The chapter concludes with the development of hypotheses.

4.2 Invited spaces: constrained spaces for participation

In recent years, people around the world have witnessed innovative attempts initiated by various authorities; be they governments, intergovernmental institutions and development agencies and donors, to involve ordinary people especially the poor and disadvantaged groups, in the decision-making structure (Brett, 1996; Thompson, 1995; Heller, 2001; Manor, 2004). Many participatory mechanisms and new institutional arrangements have been created to enable ordinary people to have more control of their resources and play more active roles in the development of the decision-making process (Gaventa, 2002; Fung and Wright, 2001). These participatory mechanisms and institutions help to

open up spaces for participation in which people can have new opportunities to access the decision-making arenas and influence the decisions that affect their lives (Brock et al. 2001). According to Cornwall (2002), these participatory spaces were termed as invited spaces which refer to the officialised spaces created and managed by governments, statutory officials and other institutionalised actors. Citizens and their representatives are invited to join in these invited spaces to play more active roles in shaping and making the development decisions that affect their lives.

Many authors have recognised the potential of invited spaces as enabling spaces for participation (Mohanty, 2004; Taylor et al., 2004). People have increasingly been invited by government officials, state agencies and other authorities to become part of their governance machinery (Aiyar, 2010). New opportunities have been provided to people to participate in the government's deliberative processes, including assisting in the implementation and administration of participatory policies and programs and scrutinising and monitoring the everyday operations of the state. Participation through invited spaces provides intermediary channels that link citizens with the institutions and processes of the state (Hicks and Buccus, 2008). Therefore, invited spaces have not only provided new development techniques and participatory mechanisms and institutions but have created an enabling environment for which people, especially those excluded, can exercise their voices and strategies to make and shape the processes and outcomes of the decisions that are important to them (Rigon, 2014: 6). Invited spaces help to increase the quality and intensity of citizen-state interaction and in doing so subject the state to public scrutiny and enhance state responsiveness and accountability.

Although invited spaces have the potential to enable greater levels of participation, they should not be conflated either with democracy or participation. Simply opening up participatory spaces through invitation cannot automatically bring effective and empowered participation. Invited spaces are not created in a vacuum; rather they are often produced out of

the existing structural conditions (e.g. existing political economic structures and institutional settings) which can have effects on the outcomes of the invited spaces. One of the most important structural conditions that can hinder the enabling potential of invited spaces is power relations (Penderis, 2012). Although various kinds of state and non-state actors are invited to participate in invited spaces, the inclusion of these different actors does not mean that they share in power (White, 1996). Power relations among actors participating in invited spaces are unequal. Power tends to be concentrated on those who create invited spaces which are usually government and the powerful decision-makers; whereas the poor and local people, who are marginalised and vulnerable to the development projects, become the less powerful actors who wait for an invitation for participation (Cornwall, 2008). This means that the powerful government and decision-makers are the ones who provide opportunities to the less powerful local people to participate in the invited spaces. Without invitation from the powerful actors; the poor and local people will be excluded from the invited spaces.

The invited spaces are often dominated by the powerful government actors and decision-makers who create them. As pointed out by Cornwall (2008: 275) invited spaces are often structured and owned by those who provide them, no matter how participatory they seek to be. The powerful actors become the ones who control the agenda and participatory processes of the invited spaces, including determining those who are invited to participate in invited spaces, whose agenda can be discussed in the invited spaces and whose benefits the invited spaces serve. Under the domination of the powerful, there is no guarantee that the inclusion of the poor and local people will have an influence on the decision-making process of the development projects. The poor and local people are invited to participate in the participatory and consultation forums and platforms. However, these participatory consultations may function as information-giving sessions in which the decisions have already been made and the inclusion of the poor and local people is used to legitimise the pre-decided decisions (Jupp, 2008). The unequal power relations between the powerful government and

decision-makers and the poor and local people can disempower the potential of invited spaces as the enabling spaces to encourage public participation. The invited spaces are supposed to be the enabling spaces for the participation of the poor and local people and can turn out to be the constrained spaces in which the participation of the poor and local people is co-opted and reproduce the domination and inequitable structure of power relations.

The following section focuses on the invited spaces created in the Lower Mekong Basin context where the development of mainstream dam projects, including the Xayaburi dam project, has rapidly expanded. While the invited spaces have the potential to be the enabling spaces to encourage public participation in the decision-making process of the mainstream dam development in the LMB, including the Xayaburi dam project, the issue of unequal power relations can constrain the enabling potentials of the invited spaces and turn the invited spaces into constrained spaces for participation.

4.3 Invited spaces in the Xayaburi dam development project

Since the early 2000s, the interest building hydropower dams on the Lower Mekong Basin (LMB) has revived. Eleven dams have been proposed on the lower Mekong mainstream and the Xayaburi dam project in north-central Lao PDR is the first dam ever to be built on the lower Mekong mainstream (Hirsch, 2011). The dam proponents claimed that there are many benefits to be gained from hydropower dams, including providing power supply to meet the growing demand of electricity and increasing government revenues from selling power to the import countries (Greacen and Palettu, 2007: 111; Phomsoupha, 2009: 15). However, the dam opponents have been concerned that the costs associated with the dam development might outweigh the claimed benefits. The dam-building on the Mekong downstream may cause irreversible harm to the pattern of the Mekong's flow, biodiversity and fish migration. As the Mekong River is a transboundary river, many conservationists and environmentalists have worried that the negative impacts of lower Mekong dam-building can

travel from one country to another and cause transboundary impacts across borders.

The transboundary negative impacts have posed significant threats to local people whose lives have to rely on the Mekong and the related water resources for their livelihoods. Local riverine people are vulnerable people because they often bear the transboundary impacts associated with the lower mainstream dam development (Matthews, 2012). Participatory mechanisms and policies are required to ensure that hydropower dam development policies and practices are responsive and accountable to the needs and concerns of local people (McCormick, 2007). The Mekong River Commission (MRC), an intergovernmental institution charged with water development and management in the LMB, has developed many participatory mechanisms and policies to incorporate stakeholder participation in the work of all its core and sector programmes. For example, in 1999, the MRC Joint Committee adopted a policy document called *Public Participation in the Context of the MRC* (MRC, 1999). This document provided a set of guidelines on public participation for the MRC and defined people who are directly or indirectly affected by the development project as one of the key stakeholders incorporated in the decision-making process (Ibid). Apart from promoting stakeholder participation, the MRC adopted the *Communications Strategy and Disclosure Policy* in 2009 (MRC, 2009). This strategy reflects the MRC's effort to promote greater discussion, dissemination of information, publication of the MRC's roles and the need to establish avenues for public feedback on projects (Ha, 2011).

The development of public participation policies and mechanisms under the MRC has opened up spaces in which local people, especially those who may be affected by the MRC development programmes, including the hydropower programme, are invited by the MRC and the riparian governments to take part in public participation and consultation platforms and forums and gain access to the information related to the Mekong development (Schulze, 2012). The MRC-provided spaces can be defined as invited spaces which refer to the spaces opened up by government actors

and other institutionalised decision-makers (which in this case is the MRC and the member states) to invite concerned stakeholders, including local people, to participate in making and shaping the development decisions that affect their lives. The invited spaces, provided by the MRC, have the potential to enable public participation by raising public awareness on Mekong issues and provide a forum or platform for the public to express their opinions (Gao, 2012).

However, simply opening up the invited spaces for participation is not equated with effective and meaningful participation. The potential of the invited spaces can be constrained by the unequal power relations among actors participating in the invited spaces. In the Lower Mekong Basin context, the national interests of the riparian states dominate the direction of Mekong's cooperation and development (Sneddon and Fox, 2007). The riparian states join in the Mekong's regional cooperation to promote their national interests and they are reluctant to do anything which could be seen as the threat to their national interests. This means that the national interests of riparian states are considered far more important than regional interests (Dore, 2003: 25). The domination of national interests is also found in the MRC. The MRC is not a supranational body but rather it is an inter-governmental institution which does not have regulatory power to enforce its own member states to comply with the MRC-based rules and procedures (Hirsch and Jensen, 2006). Given the lack of regulatory power, the MRC is often criticised by the public and civil society organisation as a state-dominated institution which focuses mainly on answering the needs and requests of its member nations' governments and ignoring the demands and concerns of the less powerful people (Ha, 2011).

Therefore, although the MRC has initiated the participatory policies and mechanisms to promote public participation, the implementation of these participatory policies and mechanisms can be problematic because of the unequal power relations between the powerful state actors and the less powerful local people. These participatory mechanisms and policies help to open up opportunities in which locally affected people are invited to participate in the consultation platforms and forums. However, there is no

guarantee that their voices and concerns will be heard and incorporated in the final stage where the real decision has been made. The participation through invitation may be used as a rubberstamp to legitimize the state-dominated consultation and advisory platforms and forums (Gao, 2012). Although the invited spaces are created by the MRC, the potential of the invited spaces can be co-opted by the structure of unequal power relations in which the powerful riparian states dominate the agenda and direction of the participation and the less powerful local people end up sustaining both status-quo and state domination.

The unequal power relations among actors in the MRC have raised concerns over the role of the MRC in addressing the transboundary costs and benefits associated with the hydropower dam development in the LMB. The concern has become even more pressing since the Lao government announced to the public that the Xayaburi dam project would be the first dam to be built in the lower stretch of the Mekong mainstream. Due to its location on the lower Mekong mainstream, the Xayaburi dam project has become the focal point for attention and controversies, especially between the pro-dam advocates and the dam opponents. Public and civil society organisations have called for the MRC to provide the invited spaces in which all concerned stakeholders, especially the dam-affected people can play active roles in making and shaping the decisions relating to the development of the Xayaburi dam project. However, the unequal power relations among actors in the MRC context can constrain the participatory potentials of the invited spaces in the Xayaburi dam project. Therefore, the first hypothesis of this thesis states that

Hypothesis I: The invited spaces in the Xayaburi dam project are the constrained spaces for public participation.

4.4 Advocacy NGOs and advocacy strategies

Given the unequal power relations, the invited spaces can be constrained spaces disempowering public participation, including the participation of the poor and local people who are marginalised and less powerful. Advocacy NGOs step up to take important roles as advocates for public

participation to help the poor and local people to participate more meaningfully in the constrained invited spaces (Jordan and Tuijl, 1998). Advocacy NGOs have much potential to act as advocates for public participation. This potential includes the ability to reach poor people, providing the link to incorporate the poor and local people in the political structure, creating an enabling environment for public participation and enhancing the agency of the poor and local people to be democratic citizens (Clark, 1995; LeRouz, 2007; Jenkins, 2006). Although advocacy NGOs have the potential to be advocates for public participation, their potential can be constrained by the unequal power relations existing in the invited spaces. Advocacy NGOs need to act and think strategically by equipping themselves with advocacy strategies to exercise their agency to challenge power imbalances constraining the participatory potential of the invited spaces (Renedo and Marston, 2015). Advocacy strategies are used to enhance the potential of NGOs as advocates for the participation of the poor and local people.

Although the participation in the invited spaces are constrained by the unequal power relations; advocacy NGOs use advocacy strategies to create new opportunities in which the poor and local people can participate meaningfully in the development of the decision-making process. Advocacy NGOs can create new opportunities for the participation of the poor and local people in two different approaches. The first is to use lobbying and other conventional strategies to directly approach key decision-makers to represent the interests of the poor and local people (Reid, 2000: 4). The second approach aims to target decision-makers indirectly by enhancing the capacity of the poor and local people so that they can act on their own behalf to pressure or persuade decision-makers (Ibid). The two distinct approaches of advocacy strategies can be classified into the insider/outsider typology. The insider/outsider typology is the influential theory developed by Wyn Grant to classify NGOs as either insider or outsider NGOs according to their strategic and tactical approaches and status (Maloney et al., 1994). Grant defines insider strategies as strategies seeking to gain political access to consultative

relationships with government or decision-makers; whereas outsider strategies concentrate on strategies representing a more indirect means of seeking influence by gaining the attention of the media or by mobilising public support and awareness (Grant, 2000; Binderkrantz, 2005; 2008).

The insider/outsider typology suggests that NGOs have employed one of two broad approaches, either insider or outsider strategies, to increase their influence and pursue their goals (Betzold, 2013: 305). Grant's typology is attractive in its simplicity because it helps to simplify a wide range of NGO strategies into the two-box form of insider and outsider strategies (Jenkins, 2011). The two distinct forms of insider/outsider tactics are flexible to use as a starting model to classify a wide range of strategies used by NGOs to enhance their influence (Maloney et al., 1994). However, the insider/outsider distinction has come under increasing criticism as the distinction has become blurred (Marsh et al., 2009: 623). As Bruycker (2014: 3-4) put it, the use and effect of NGO strategies are better studied by looking at combinations of tactics within an overall strategy, instead of looking at the use and effect of one specific tactic. This means that the use of NGO strategies is not based on one individual tactic, but they combine different tactics because they mutually reinforce each other.

The use of both insider and outsider strategies is used by advocacy NGOs to challenge the unequal power relations and create new opportunities in which the participation of the poor and the local people is incorporated in the decision-making process of the development projects. Advocacy NGOs do not operate their advocacy strategies in a context-free; rather many structural conditions can inhibit the potentials of advocacy NGOs as advocates for the poor and local people. As stated before, the invited spaces in which NGOs operate their advocacy activities can be constrained by the power imbalance and the domination of the powerful. To challenge the constrained invited spaces and create new opportunities for participation, advocacy NGOs do not rely solely on one strategic approach; rather NGOs often employ a wide range of strategies, including both cooperative insider and confrontational outsider approaches (Townsend et al., 2004). Therefore, the use of insider and outsider strategies are not

mutually exclusive. As Richards and Heard (2005: 27) give as an example, NGOs can engage in outsider tactics such as mass demonstrations and legal actions while maintaining their insider status through involving themselves in insider strategies such as sound scientific research and other educative and persuasive tactics. Therefore, it has become rare for advocacy NGOs to be employed solely on one particular type of strategy; rather they often use both insider and outsider strategies to reinforce the implementation of different strategies.

In the Xayaburi context, Thai advocacy NGOs have been at the forefront of the advocacy against the construction of the Xayaburi hydropower project. Thai NGOs called for not only the cancellation of the Xayaburi dam project, but also for new opportunities in which Thai dam-affected villagers can participate in the Xayaburi's decisions-making process. However, The Xayaburi dam is not built in Thailand; but rather in Laos. Thai NGOs found that the spaces for participation beyond Thailand were not the enabling spaces for Thai NGO advocacy. The participatory spaces in the three countries (Laos, Cambodia and Vietnam) in the Lower Mekong Basin (LMB) were very narrow or even closed spaces for participation. At the MRC level, the participatory spaces for Thai NGO advocacy were dominated by the MRC member countries controlling the actors and agenda included in the MRC regional decision-making process.

Despite being faced by the constrained spaces for participation in the Xayaburi context, Thai NGOs can adopt advocacy strategies to challenge the obstacles of the constrained spaces and create new opportunities for public participation in the Xayaburi decision-making process. As discussed earlier, the increasing literature on NGO strategies have argued that NGOs do not rely on a single strategic tactic; rather they maximize their influence by using both insider and outsider strategies to create new opportunities for public participation. Therefore, the second hypothesis is stated as follows:

Hypothesis II: Thai advocacy NGOs use both insider and outsider strategies to create new opportunities for Thai dam-affected villagers to participate in the decision-making process of the Xayaburi dam project.

4.5 Advocacy strategies and new participatory spaces

Advocacy strategies are strategic tactics used to enhance the potentials of advocacy NGOs in challenging the domination of the powerful elites and decision-makers and enabling the participation of the poor and local people. As argued by Tagarirofa (2013), despite being faced by structures acting as obstacles to the empowerment of communities, NGOs can help to enhance the agency of community members and mobilise them to transform those very structures to achieve empowerment (12). Although advocacy strategies are not equated with influence, advocacy strategies can be used to tackle the problems of power imbalance existing in the invited spaces and create new opportunities for the poor and the local people to participate in the development of the decision-making process. This thesis argues that new opportunities opened up for the participation of the poor and local people can create new spaces of participation in which they help to enable the participation of the poor and local people in the development of the decision-making process. The spaces of participation are not static or fixed; rather they can shape or be reshaped by the practices of various state and non-state actors participating in the spaces (Penderis, 2012).

4.5.1 The use of insider and outsider strategies and new participatory spaces

The invited spaces, although offering potential for meaningful participation, are often constrained by the power imbalance in which the powerful state actors and institutionalised decision-makers control the agenda and rules of engagement (Renedo and Marston, 2015). Within the constrained invited spaces, the participation of the less powerful local and poor people may end up sustaining the existing rules of the game and domination of the powerful. Therefore, advocacy NGOs try to use both insider and outsider strategies to promote the effective and deliberate

participation of the local poor people in the invited spaces. For example, NGOs use insider strategies such as lobbying and other activities to directly approach decision-makers to aggregate the diverse interests and concerns of the local poor people and represent them to decision-makers.

Advocacy NGOs have many advantages which make them well-suited to represent the interests and concerns of the local poor people. As Brinkerhoff et al. (2007: 62) pointed out, NGOs work more closely with local communities and thus may be able to aggregate more systematically the diversity of voices, concerns, and preferences of the local poor people and submit them to the decision-makers. Moreover, the local poor people may lack access to political institutions or do not have the requisite knowledge or skills to participate in the invited spaces on their own (Barry and Arons, 2003 cited in LeRoux, 2007: 411). Advocacy NGOs can employ insider strategies such as lobbying, writing letters, sending emails and informal meeting with decision-makers to get access to the political arenas where the decision-making processes take place and represent the voices and interests on behalf of the local poor people to decision-makers.

According to Rietig (2016), the key prerequisite for using insider strategies is the access to the political and decision-making arenas. To gain access to the political and decision-making arenas, NGOs need to present the fact that they possess necessary resources (particularly knowledge and information), demanded by decision-makers (Chalmers, 2013). Decision-makers need information and knowledge provided by NGOs to make sound decisions and public support to legitimise their decisions (Bruycker, 2014: 7). The relationship between NGOs and decision-makers in this case is based on the exchange relations in which decision-makers grant political access to NGOs and expect that NGOs will provide them with the most valued information, knowledge and expertise. Based on the exchange relationship, NGOs can be invited by governments and decision-makers to participate in various forms of decision-making platforms and forums including stakeholder consultation meetings, advisory committees and government commissions (Mosley, 2011). By participating in these

decision-making platforms and forums, NGOs can work more closely with government actors and decision-makers and have more opportunities to provide information regarding the concerns and interests of the local poor people directly to decision-makers. The concerns and interests of the local poor people have more potential to be included and to respond more effectively in the decision-making process.

By lobbying decision-makers and participating in the decision-making platforms and forums, advocacy NGOs can establish new alliances with a wide range of actors, including not only government or decision-makers but also donors, business associations and other NGOs and civil society groups. Creating new alliances with other actors can help increase NGOs' influence and resources. As argued by Taylor (2007), participating in the government decision-making process creates new opportunities in which NGOs can exploit, including making alliances with like-minded actors, bringing new groups to power and gaining more resources from other groups. Insider strategies help to create new alliances with a wide range of actors, especially the influential government officials and decision-makers. The connections to various actors, including decision-makers, may confer legitimacy on NGOs and the issue that they are advocating for as it may imply that NGOs are well-connected or powerful and that the issue is that NGOs' support is taken seriously (Mosley, 2011). Building alliances with other groups of actors reflects the capacity of NGOs to link with other actors located in different arenas both in public and private arenas and gain support from the diverse groups of actors. Key decision-makers may find it difficult to ignore the demands articulated by well-connected NGOs. Therefore, the alliances of NGOs can increase their influence when they try to lobby decision-makers on the concerns and interests of the local poor people.

Considering the advantages of insider strategies in providing direct access to decision-makers and creating new alliances with well-established decision-makers, insider strategies are often seen as effective strategies to approach and influence the government decision-makers (Binderkrantz,

2005). However, participating in insider strategies to gain political access and develop the relationship with various actors, including the powerful decision-makers can take up a considerable amount of time. The powerful decision-makers may see no reason to adapt their position upon the request of NGOs and instead adopt many strategies to reduce the influence and participation of NGOs (Rigon, 2014). Despite facing the obstacles, advocacy NGOs can use insider strategies to make gradual change through formal channels in the long term. Taylor (2007), for example, argued that the direct participation of NGOs in the decision-making process will bring new popular culture and power will be shared and created. Therefore, in the long term, advocacy NGOs can use insider strategies to pressure or persuade decision-makers to extend the spaces of public participation or even create new invited participatory spaces in which the local poor people are invited to participate more effectively and deliberatively.

Not only using insider strategies, but advocacy NGOs also use unconventional tactics or outsider strategies to create new opportunities for the participation of the poor and local people in the decision-making process. Outsider strategies can be divided into two strategic approaches which are protest-based strategies and information-based strategies. Protest-based strategies refer to strategies which tend to cause confrontational relationships with decision-makers such as campaigning, public protest and demonstration, direct action, boycotts and even civil disobedience (Gulbrandsen and Andresen, 2004). On the other hand, information-based strategies have less radical or disruptive characters than protest-based strategies and emphasise more on the public presentation of information to raise public awareness and attention of the issue that NGOs are advocating for (Beyers, 2004). Although both strategies of protest and information-based strategies are different in their approaches to target decision-makers, they share one common feature which is to seek influence by getting the attention of media or by mobilising public supporters (Binderkrantz, 2008). Therefore, the arenas in which advocacy NGOs operate protest and information-based strategies are in the public arenas or outside of the established political arenas.

Advocacy NGOs use protest-based strategies to attract public attention and extend a broad base of support for their claims. Due to their lack of political access, advocacy NGOs need public attention and support to pressure the decision-makers to respond to NGOs' demands and positions. As pointed out by Wang and Piazza (2016:1680), protest strategies are used by NGO activists to mobilise a broad base of support for their claims and the capacity to reach out to the broad supporters that can help increase the pressure on their targets. Protest-based strategies become visible strategies to a broader audience because their communication between NGOs and decision-makers is not conducted behind closed doors; but opened to the wider public. Protest-based strategies are likely to induce political conflicts because the strategies are often used to challenge powerful decision-makers and institutionalised elites and call for political reform (Gerritje Engelen de Vries, 2007). However, political conflicts with the powerful decision-makers and institutionalised actors do not mean that protest-based strategies are negative strategies. The political conflicts can stimulate public debate and shift public attention towards the positions or issues that NGOs are advocating (Kriesi et al., 2007).

Although protest-based strategies help to attract public attention and support, advocacy NGOs need information to bind like-minded supporters to act together to achieve their political goals. Information-based strategies become important because the strategies help NGOs to generate information that they can share and communicate with their like-minded supporters. Advocacy NGOs engage in many information-based strategies including a fact-finding and evidence gathering process, research, public education and issue-framing. These information-based strategies enhance the NGO's capacity to gather information and use it for political advocacy. Information-based strategies can be termed as information politics, the term coined by Keck and Sikkink (1998) to refer to the ability of NGOs to generate politically usable information and use it to persuade others to act and to influence government actors and decision-makers to respond to NGOs' demands and positions. While protest-based strategies tend to provoke confrontational relationships with decision-makers, information-

based strategies are based more on persuasion and socialization skills to appeal to public conscience and alter the perceptions of decision-makers (Eilstrup-Sangiovanni and Bondaroff, 2014). However, both protest and information-based strategies are not used separately. Advocacy NGOs tend to combine the two sub-categories of outsider strategies to reinforce each other. Information and evidence generated by information-based strategies are used by advocacy NGOs to persuade public opinion that NGOs are not just protesters who only make noise without any solid evidence; rather that their claims and protest activities are based on reliable information and evidence (Slim, 2002).

Information-based strategies are employed in many ways to increase NGOs' influence, legitimacy and public support. For example, advocacy NGOs record and gather the claims and stories told by the local poor people and present them to an outside audience of political actors, allies, mass public or media (Pruce & Budabin, 2016). The local poor people are often the less powerful actors whose voices are rarely able to make their voices heard at the decision-making level. Advocacy NGOs help to carry the stories and testimonies of the local poor people to the attention of public audiences, media, stakeholders and policy or decision-makers. Advocacy NGOs do not only make the stories and experiences of the local poor people accessible to the public and decision-makers, but they also link the stories and testimonial information of the local poor people with technical and statistical information to make the claims and information of the local poor people more legitimate and credible in the eyes of the public, media and decision-makers (Bronwen, 2015).

Furthermore, advocacy NGOs use information strategically to frame issues as the way to call public attention and motivate like-minded supporters to act, a process that Snow and Bedford (1998) referred to as issue-framing. NGOs can be involved in issue-framing strategies to create constructive meanings and incorporate them in their political claims and activities to communicate why their cause is worthwhile, pressing and deserving of public support and decision-maker action (Risley, 2011). Issue-framing

also involves the process in which NGOs rename the problems in a way that can attract the attention of the public, media and decision-makers and propose feasible solutions to important problems (Benford and Snow, 2000). By renaming the problems and proposing practical solutions, the demands of advocacy NGOs become more reasonable and realistic which helps to enhance public support and increase the opportunities in which NGO demands will be included in the decision-making processes.

Through a combination of protest and information-based strategies, advocacy NGOs attract public attention, mobilise public support and bind like-minded supporters to generate collective action. Both protest and information-based strategies become the driving force to bind like-minded people and create networks (Keck and Sikkink, 1999). The networks of like-minded supporters can be understood as new alternative spaces, the spaces in which advocacy NGOs can mobilise public opinion while challenging political decisions of the powerful decision-makers (Norman, 2017). These new alternative spaces can be referred to as new popular spaces, the spaces termed by Cornwall (2004b; 2002) to mean the spaces emerging out of sets of common concerns or identifications and may come into being as a result of popular mobilisation, such as around identity or issue-based concerns, or may consist of spaces in which like-minded people join together in common pursuits. The new popular spaces are different from the new invited spaces in that they are located out of the traditional political arenas and created or claimed by ordinary people or those who are excluded from the established political process (Adeela Arshad-Ayaz and Naseem, 2017). The new popular spaces are more organic spaces in which people come together at their own instigation to produce their own spaces for their own advantage and mutual aid.

Although the popular spaces are distinct from the invited spaces, the boundaries of the two spaces do not separate exclusively. Popular spaces can reinforce the effectiveness of invited spaces. For example, popular spaces can provide new autonomous spaces in which ordinary people can articulate their claims, learn political skills, link with outside organisations

and other like-minded groups and increase their confidence before entering the invited participatory spaces (Kesby, 2007). In addition, people mobilisation taking place in popular spaces can put additional pressure and improve the bargaining power of advocacy NGOs and civil society groups advocating for public interests in the invited spaces (Rigon, 2014). Therefore, the popular spaces can help to enhance the capacities of local poor people participating in the invited spaces.

4.5.2 Thai advocacy NGOs and new participatory spaces in the Xayaburi dam project

Since the 1980s, many environmental organisations, environmental laws and regulations have been introduced into Thai society to promote the rights of citizens and communities to participate in environmental management and policy (Chaisomphob et al., 2004). These government-sponsored environmental mechanisms provide the invited spaces, referring to the spaces in which Thai ordinary people, including local communities, are invited to participate in the institutionalised decision-making platforms such as government public hearings and stakeholder consultations.

However, over the recent years, Thai dam industry has moved the construction of the new hydropower dam projects into neighbouring countries (especially Laos and Myanmar). Questions and concerns have been raised by concerning NGOs and civil society, especially the question about the effectiveness of Thai domestic environmental law and policy in regulating the roles of Thai public and private sectors in developing and financing the hydropower dams being built in neighbouring countries, as exemplified in the Xayaburi case. There have been concerns that the Thai domestic environmental law and regulation probably cannot be fully applied in the case where the hydropower dam projects being built outside Thailand. Thai pro-dam public and private sectors can avoid the burden of Thailand's social and environmental safeguard policy when they have moved the construction of dam project beyond Thai border (Middleton et al., 2009).

In addition, Thai NGOs have concerned that the spaces for participation outside Thailand may set very constraining for Thai NGO advocacy. Therefore, Thai NGOs have to adopt advocacy strategies to challenge the constrained spaces for participation both with and outside Thailand. The existing studies on NGO advocacy have provided the analysis on how advocacy NGOs can use both insider and outsider strategies to create new opportunities for public involvement in the decision-making process. As discussed in the last section, insider strategies offer opportunities for NGOs to be included in the political process where the decision have been made and therefore, NGOs can directly influence the influential decision-makers to provide new spaces where the less powerful people are invited to participate in the policy process. Moreover, NGOs can resort to outsider strategies to gather like-minded people to create their own popular spaces in which ordinary people can resist and transform status quo and power domination. Given the potentials of insider and outsider strategies as discussed in the existing literature, this thesis proposes the third hypothesis as follows:

Hypothesis III: By using both insider and outsider strategies, Thai advocacy NGOs create new participatory spaces which are new invited and new popular spaces in the Xayaburi dam project.

4.6 Conclusion

This chapter discusses that advocacy NGOs have the potential to be advocates for public participation. Through the use of insider and outsider strategies, advocacy NGOs do not only increase the effectiveness of the participation of the local poor people in the invited spaces; but also they help create new invited and new popular spaces, the new participatory spaces in which the local poor people have new opportunities to negotiate with decision-makers and participate into the political arenas where the decisions are being made. The potential of advocacy NGOs as advocates for public participation can be applied with Thai advocacy NGOs employing advocacy strategies to oppose the hydropower dam development, both at the Thai domestic and Mekong regional levels. As

discussed before in this chapter, Thai advocacy NGOs are some of the most active actors of environmental movement in Thailand. Since the 1980s, Thai advocacy NGOs have engaged in campaigns opposing the dam building in Thailand, including the Pak Mun dam project, one of the longest-running struggles against dam construction in Thailand.

Although Thai advocacy NGOs and their anti-dam alliances could not cancel the Pak Mun dam building, their anti-dam advocacy led to the creation of the new participatory spaces, identified as new invited and new popular spaces. These new participatory spaces have made significant changes in Thai domestic dam development. First, the new invited spaces opened new opportunities for Thai dam-affected people to pressure the Thai government and decision-makers to pay for compensation and agree to open the dam's gates for four months a year. Second, the new popular spaces provide new spaces to gather not only Thai dam-affected people but also those who felt sympathy for the plight of the local people who were forced to leave their villages because of the dam building. The new popular spaces had forged the strong anti-dam alliances which made it difficult for Thai pro-dam decision-makers to carry on with the construction of the Pak Mun project.

The success of Thai NGO advocacy and their anti-dam alliances has forced the Thai dam industry to move to build the hydropower dam in neighbouring countries, especially in Laos where environmental regulation and law enforcement is weak. As seen in the case of the construction of the Xayaburi dam project, although the dam is being built in Laos, Thai pro-dam stakeholders have direct involvement in the dam building, financing and power purchasing. Considering the direct involvement of Thai pro-dam stakeholders, the Xayaburi dam project has become the central focus of Thai NGO advocacy. As discussed before, advocacy NGOs have the potential to be advocates for public participation and the use of their advocacy strategies, both insider and outsider strategies, can create new participatory spaces. This thesis, therefore, proposes that Thai advocacy NGOs can use both insider and outsider

strategies to enhance public participation in the invited spaces and create new participatory spaces in the Xayaburi dam project.

Three hypotheses are proposed in this chapter. The first hypothesis looks at the unequal power relations among different actors participating in the invited spaces and hypothesised that the invited spaces in the Xayaburi dam project are the constrained spaces for public participation. The second hypothesis proposes that, although the invited spaces in the Xayaburi dam project are the constrained spaces for participation, Thai advocacy NGOs can use both insider and outsider strategies to create new opportunities for Thai dam-affected villagers to participate in the decision-making process of the Xayaburi dam project. By using both insider and outsider strategies, the third hypothesis states that Thai advocacy NGOs can create new invited and new popular spaces in the Xayaburi dam project. These three hypotheses will be tested using data collected by interviews and relevant literature as presented and discussed in Chapter Five, Six, and Seven.

Chapter 5

The invited spaces in the Xayaburi dam project

5.1 Introduction

Chapter Five aims to address the first hypothesis set out in Chapter Four. By addressing the first hypothesis, this chapter analyses the invited spaces created to invite Thai dam-affected villagers to participate in the decision-making process related to the Xayaburi dam development. The invited spaces in which Thai dam-affected villagers have opportunities to participate in the Xayaburi dam's decision-making process can be divided into two levels, which are the invited spaces created at the regional level and the other at the Thai national level. At the regional level, the chapter focuses on the key participatory mechanisms: the so-called PNPCA (Procedures for Notification, Prior Consultation and Agreement). The PNPCA was implemented for the first time when the Lao government submitted the Xayaburi dam proposal to the Mekong River Commission (MRC). As part of the PNPCA, stakeholder consultation meetings were organised in the Lower Mekong Basin (LMB) countries, including Thailand. Stakeholder consultation meetings organised in Thailand provided the invited spaces in which Thai dam-affected villagers were invited to participate in the prior consultation process of the Xayaburi dam project. The invited spaces provided by stakeholder consultation meetings were expected by Thai dam-affected villagers to be enabling spaces where their voices and concerns could be incorporated in the regional level decision-making process of the Xayaburi dam project.

Although the Xayaburi dam project is built in Laos, Thailand plays important roles in driving the dam's development. Thai actors from both the public and private sectors are involved in project finance and development and the purchase of energy from the Xayaburi dam project. These public and private actors become key decision makers of the Xayaburi project. Thai public actors, particularly the Electricity Generating Authority of Thailand (EGAT), the Ministry of Energy and the Thai Cabinet, are involved in the signing of the Power Purchase

Agreement (PPA) to buy the Xayaburi dam's electricity. Given the involvement of Thai public agencies in the signing of the PPA, Thai advocacy NGOs and Civil Society Organisations (CSOs) expect that Thai domestic law will be implemented and enforced in the case of the signing of the PPA. The Thai Constitution and domestic laws become environmental and social safeguard mechanisms providing the invited spaces in which Thai dam-affected villagers can participate in the environmental impact assessment and receive key information related to the Xayaburi dam project, as required under Thai domestic law.

Thai public actors are not the only key decision makers in the Xayaburi dam project at Thai national level; Thai private actors, especially Thai banks, are also key decision makers playing important roles in funding the Xayaburi dam project. Thai banks financing the Xayaburi project commit to a corporate accountability mechanism called Corporate Social Responsibility (CSR). Although the CSR mechanism is not legally binding and is based on a voluntary approach, the mechanism provides the invited spaces in which the concerns of Thai dam-affected villagers can be integrated in the core operation and decision-making process of Thai banks financing the Xayaburi dam project.

Thai dam-affected villagers expected that the invited spaces created at the regional and Thai national level in the case of the Xayaburi dam would provide opportunities, channels and moments where they could participate in the decision-making process of the Xayaburi dam project to make and shape the decisions that may affect their lives. However, the chapter will reveal that there is a wide gap between the expectation and the reality of the participation in these invited spaces. The chapter uses research findings collected from field interviews to analyse that the invited spaces are not created in a vacuum; rather, the unequal power relations between the Xayaburi dam's decision makers and Thai dam-affected villagers have significant effects on the potential of the invited spaces to enable meaningful participation, and make the invited spaces become constrained spaces for participation.

The chapter begins with the invited spaces created at the regional level. Then, the next section follows with the invited spaces created at the Thai national level, which this thesis divides into two sub-categories: the invited spaces provided by Thai public decision makers and the invited spaces provided by Thai private decision makers. The chapter concludes with the effects of unequal power relations on the invited spaces.

5.2 The invited space at the regional level in the Xayaburi dam project

5.2.1 Procedures for Notification, Prior Consultation and Agreement (PNPCA)

Since 2006, plans to build a series of 11 dams on the lower Mekong mainstream have been revived (Osborne, 2009:18). Advocates of these mainstream dams claimed that the proposed mainstream dams would bring energy and economic benefits to the region and its people. However, many environmental groups and local communities have expressed concern that the construction of hydropower dams on the lower Mekong mainstream would carry with them major negative risks on the Mekong water's regime, fish migration and local community people whose lives depend on Mekong water resources (Stone, 2011). These negative risks associated with the mainstream dams are often disproportionately borne by local community people who receive little gains from the expansion of hydropower development (Cronin & Hamlin, 2012). The revival of the mainstream dams on the lower Mekong has become a source of potential conflicts among concerned stakeholders over the shared water resources of the Mekong.

The one important inter-governmental institution mandated to govern the mainstream dam development in the lower section of the Mekong is the Mekong River Commission (MRC). Since its inception in 1995, the MRC and its governing activities have been involved in balancing economic development and environmental sustainability. The 1995 Mekong Agreement signed by Laos, Thailand, Cambodia and Vietnam provides the constitutional foundation for the MRC to guide the member-states to cooperate in all fields of sustainable development, and in the utilisation,

management and conservation of water and related resources of the Mekong River Basin (Hirsch et al., 2006:19). To fulfil the obligation of the Mekong Agreement, many supporting rules and procedures for the review of proposed water uses in the Lower Mekong Basin (LMB) have been formulated (Browder & Ortolano, 2000). One important procedure initiated to provide a procedural framework for governing decision making on the proposed mainstream dam development with potential transboundary impacts within the LMB is the PNPCA.

The PNPCA is a procedural rule established to support the implementation of the principle of equitable and reasonable utilisation of Mekong water resources, which is outlined in Article 5 of the 1995 Mekong Agreement (Yasuda, 2015:89-90). The PNPCA was adopted by the MRC Council in November 2003 and then in 2005 the Guidelines on Implementation of the PNPCA were approved by the MRC Joint Committee (JC) in order to provide detailed guidelines for PNPCA implementation (PNPCA Guidelines, 2005). The purpose of the PNPCA is to provide the procedural mechanism for the MRC member-states to discuss the potential transboundary impacts of the proposed project and, ideally, to reach consensus on how development should proceed (Geheb et al., 2015:112). The member-states are obliged to follow the procedural provisions of the PNPCA if they intend to build a dam or other infrastructure projects that require the use of water on tributaries or the mainstream within the LMB. For the tributary dams, the PNPCA only requires the member-state in which the project is located to notify and give relevant information to the MRC for other member-states to assess any possible transboundary impacts (Boer et al., 2016:103). However, the member-state is subject to both notification and prior consultation if it plans to build a dam or any infrastructure project that requires inter-basin diversions from the mainstream of the Mekong during the wet season, intra-basin use on the mainstream during the dry season and inter-basin diversion of the surplus quantity of water during the dry season (PNPCA, 2003).

In the case of the Xayaburi dam, the dam is considered a mainstream development, given that it is an intra-basin use on the mainstream of the

Mekong during the dry and wet seasons (Rieu-Clark, 2015:149). Therefore, the Xayaburi project falls under the requirement of both notification and prior consultation of the PNPCHA. The Lao government, as host country of the Xayaburi dam project, is required to notify its intention to build the dam and submit the proposal of the Xayaburi dam project to other MRC member-states for prior consultation before proceeding with the dam development. The Lao National Mekong Committee (LNMC) informed the MRC of its intention to build the Xayaburi dam and submitted the key documents relating to the dam project to the MRC Secretariat on 20 September 2010 (MRC, 2011a). The key documents submitted by the LNMC to the MRC Secretariat included the Xayaburi Feasibility Study, the Environmental Impact Assessment (EIA) and the Social Impact Assessment (SIA). These key documents were circulated and received by all JC Members by 22 October 2010 (MRC, 2011b). After receiving the key documents from the LNMC, the prior consultation process was initiated and scheduled to be completed within the timeframe of six months, which was expected to end by 22 April 2011 (Ibid). However, if necessary, the six-month duration can be extended by the permission of the MRC JC (PNPCA, 2003).

During the six-month period of the prior consultation process, the MRC plays a role in facilitating the prior consultation in significant ways. For example, the MRC JC set up a Working Group to oversee the entire prior consultation process. An additional Task Group was also initiated by the MRC Secretariat to provide a cooperative mechanism amongst MRC programmes including Integrated Water Resources Management, Planning, Information Knowledge Management, Fisheries, Environment, Sustainable Hydropower and Navigation (Rieu-Clarke, 2015). The Task Groups were responsible for synthesizing the results of its analyses in the Prior Consultation Project Review Report. Moreover, the Secretariat set up two expert groups on fisheries and sediments and commissioned other individual experts including international engineering experts on dam layout and operation and on navigation locks. These Working and Task Groups and experts support the MRC by providing an expert assessment

of the project and raise issues that relate to potential transboundary impacts (Yasuda, 2015:112).

In addition, the Joint Committee Working Group (JCWG) convened three meetings between October 2010 and March 2011. The first meeting was held on 26 October 2010 to endorse a Road Map on plans and activities supporting the implementation of the prior consultation for the proposed Xayaburi project. The second meeting took place from 29-30 November 2010 to arrange a site visit to the Xayaburi dam's location and review the scoping assessment used for drafting the MRC Secretariat's review report of the prior consultation of the Xayaburi dam project (MRC, 2010-2011). After the second meeting, a series of public consultations was conducted from January to February 2011 by the National Mekong Committees in the three riparian countries of Thailand, Cambodia and Vietnam. Finally, the third meeting was held on 14 February 2011 to review 1) the summary of the prior consultation conducted in Thailand, Cambodia and Vietnam and 2) the draft of the Prior Consultation Project Review Report prepared by the MRC Secretariat (Ibid). After the third meeting of the Working Group, the MRC Secretariat published the Prior Consultation Project Review Report in March 2011 and submitted the Review Report to the Joint Committee for discussion about the transboundary impacts, risks and consequences of the proposed Xayaburi dam project (Rieu-Clarke, 2015). After the Review Report was submitted to the Joint Committee, a Special Session of the Joint Committee was convened on 19 April 2011 to review the whole prior consultation process at the end of the six-month period and to seek a conclusion on how to proceed with the proposed Xayaburi project (MRC News, 2011) (See Table 5.1 for the timeline of the six-month duration of the Xayaburi dam's prior consultation process).

Table 5.1: Timeline of key events during the six-month duration of the Xayaburi dam’s PNPCA

Time	Key Events
20 September 2010	LNMC submitted the documents on the proposed Xayaburi dam to the MRC Secretariat.
22 October 2010	Joint Committee members received the documents on the proposed Xayaburi dam from the MRC Secretariat. The Xayaburi PNPCA process officially started.
26 October 2010	1 st JCWG meeting: Road Map on PNPCA process was discussed and initiated.
29-30 November 2010	2 nd JCWG meeting: site visit to the Xayaburi dam’s location and scoping assessment.
January-February 2011	A series of Public Consultations convened by respective National Mekong Committees in Thailand, Cambodia and Vietnam.
14 February 2011	3 rd JCWG meeting: A summary of the public consultations and a draft of the Project Review Report were presented and considered.
March 2011	The PNPCA review report was submitted to the Joint Committee for discussion about the transboundary impacts, risks and consequences of the proposed Xayaburi dam project.
19 April 2011	Special Joint Committee Meeting was held in Vientiane, Lao PDR to reach a conclusion on how to proceed with the Xayaburi dam. However, the MRC Joint Committee was unable to reach a consensus on how to proceed with the dam and agreed to defer the decision to the next meeting at ministerial level.

Source: Compiled from 1) MRC. (2011b), Prior Consultation Project Review Report Procedures for Notification, Prior Consultation and Agreement (PNPCA)

Proposed Xayaburi Dam Project. Mekong River Commission. [Online] Available at <<http://www.mrcmekong.org/assets/Publications/Reports/PC-Project-Review-Report-Xayaburi-24-3-11.pdf>>[11 October 2017]. and 2) Interview findings by an author

The PNPCA process is thus a crucial regional decision-making process which provides a platform for the MRC member-states to discuss the potential transboundary impacts of the proposed project and make a decision on how the proposed project should proceed. As exemplified in the case of the Xayaburi dam, the PNPCA process opened up a window of opportunities for the member-states, particularly Thailand, Vietnam and Cambodia, to discuss any potential impact caused by the dam and give their comments for consideration to Laos, which was the host country of the project (Interview, S2, 2014). Therefore, the PNPCA process is considered an important forum in providing opportunities for cooperation among the member-states for discussion and consultation on the proposed project and its potential transboundary impacts. As found in comments made in the brief summary of 2012 PNPCA research commissioned by the former AusAID, some government officials and representatives of civil society groups participating in the PNPCA process pointed out that:

“the PNPCA process is fundamentally important for the MRC... for cooperation among the member-states... for the sustainable development of the River Mekong Basin. It allows... for discussion and consultation, especially on transboundary issues... If there is no PNPCA, there will be no forums for discussion and this would lead to a disaster within the basin” (Australian Government, 2014:3).

The Xayaburi dam’s PNPCA not only provides the prior consultation process that allows the member-countries to discuss and evaluate the impacts of the proposed project with the aim of reaching a consensus on how to proceed with the proposed project, but it also provides the organisation of the stakeholder consultations – a process which involves concerned stakeholders, including the potentially dam-affected people, in

the Xayaburi prior consultation process. The MRC sees the stakeholder consultations as an important integral part of the prior consultation process under the PNPCA. The stakeholder consultations are the effort of the MRC to raise public awareness and to involve concerned stakeholders, particularly the local people who are affected directly by the proposed dam project, in the process. The stakeholder consultations become an important process within prior consultation on Xayaburi because the potentially dam-affected people can use these consultations to make their voices heard by regional decision makers and participate in the regional decision-making process of the Xayaburi dam project. The stakeholder consultation process applied in the case of the Xayaburi project has been the focus of regional and global attention and has created unanticipated outcomes and contestation, as discussed below.

5.2.2 Stakeholder consultation process under the PNPCA in the Xayaburi dam project

Over recent years, the MRC has increasingly recognised the importance of stakeholder involvement in the decision-making process on Mekong development. As stated in the MRC Booklet on Public Participation in the Lower Mekong Basin,

“The MRC is aware that stakeholder involvement in decision making is fundamental to achieving feasible, equitable and lasting solutions and that the quality of decisions can be improved by the inclusion of a broad range of stakeholders who can bring important local knowledge and relevant perspectives to the process” (MRC, 2005).

Since its inception in 1995, the MRC has adopted a participatory approach in the work of all MRC activities and programmes to encourage the participation of local communities and civil society groups in the decision-making process of the Lower Mekong development (Schulze, 2012). The important participatory approach initiated by the MRC to promote public participation in the decision-making process at the regional level involves stakeholder consultations organised as part of the prior consultation process of the Xayaburi dam project. According to Prior Consultation

Project Review Report Volume 2 published by the Mekong River Commission Secretariat (MRCS) in 2011, the Xayaburi stakeholder consultations are a process which involves affected people directly as well as indirectly, the regional community, representatives of local and national government agencies, civil society and non-governmental organisations in the prior consultation process under the PNPCA (MRC, 2011b). This means that stakeholder consultations provide opportunities for non-state stakeholders, particularly local communities potentially affected by the proposed Xayaburi dam project, to participate in the Xayaburi prior consultation process.

It should be noted that the stakeholder consultations conducted as part of the Xayaburi prior consultation process are not explicitly required under the PNPCA and its guideline (Bounthavivanh, 2015: 3). Rather, the PNPCA JC Working Group considered that it was necessary to involve people in the process that may affect them. Therefore, the PNPCA JC Working group agreed to organise stakeholder consultations as part of the Xayaburi prior consultation process (Ibid). During January and February 2011, stakeholder consultation meetings were held in three riparian member-countries of the MRC, including Cambodia (two meetings), Thailand (four meetings) and Vietnam (two meetings) (Interview, S2, 2014) (See Table 5.2: Stakeholder Consultation Meetings held in three countries of the LMB). No stakeholder consultation meetings were organised in Laos, as the Lao government claimed that public consultation activities on the proposed Xayaburi dam project had already been carried out with local communities and affected groups as part of the EIA process. Given that stakeholder consultation meetings were organised in national and local community settings in the three MRC member-countries, the National Mekong Committee Secretariats as the representatives of the three countries took charge in organising and coordinating the stakeholder consultation meetings, with financial support and expert resources provided by the MRC Secretariat (MRC, 2011b).

Table 5.2: Stakeholder Consultation Meetings held in Cambodia, Thailand and Vietnam

Country	Meeting Date	Meeting Venue
Cambodia		
1st meeting	10 February 2011	Kratie Province
2nd meeting	28 February 2011	Sihanoukville
Thailand		
1st meeting	22 January 2011	Chiang Rai
2nd meeting	10 February 2011	Loei Province
3rd meeting	12 February 2011	Nakon Phanom Province
4th meeting	16 February 2011	Bangkok
Vietnam		
1st meeting	14 January 2011	Can Tho City
2nd meeting	22 February 2011	Quang Ninh Province

Source: Compiled from 1) MRC. (2011a) *Prior Consultation Project Review Report: Volume 2 Stakeholder Consultations Related to the Proposed Xayaburi Dam Project*. Mekong River Commission. [Online] Available at <<http://www.mrcmekong.org/assets/Consultations/2010-Xayaburi/2011-03-24-Report-on-Stakeholder-Consultation-on-Xayaburi.pdf>> [Accessed 11 October 2017] and 2) Interview findings by an author

The participants in the stakeholder consultation meetings involved a wider group of government and non-government stakeholders, particularly the affected community groups likely to be affected by the proposed Xayaburi dam project. These potentially affected community groups were invited to attend the meetings along with other concerned stakeholders such as relevant governmental line agencies, representatives of National Mekong Committees, local and provincial government officers, NGOs, academics and universities. During the meetings, information on the proposed Xayaburi dam project, the possible impacts and alternative mitigation measures were given to the potentially affected community groups. In addition, the potentially affected community groups were given

opportunities to express their views and voice their concerns about the possible impacts of the proposed dam project on the River and their communities. For example, an interviewee pointed out that three out of four stakeholder consultation meetings held in Thailand during January and February 2011 were organised in the local districts of the three provinces in the North and North-east region of Thailand (Chiang Rai, Loei and Nakhon Phanom) and representatives of villagers living in the districts of these three provinces were invited to participate in the meetings because these villagers live in districts near and adjacent to the Mekong Mainstream portion of Thailand and therefore their livelihoods are vulnerable to being affected by the adverse impacts of the proposed Xayaburi project (Interview, TS2, 2014).

The representatives of Thai potentially dam-affected villagers living in those three provinces of Thailand raised their concerns during the meetings on any possible transboundary impact of the proposed dam project on their livelihoods and fisheries. As the same interviewee above commented,

“many villagers attended the meetings feeling worried. The villagers raised around 200 issues of concern on the transboundary impacts of the dam project as they feared that the impacts would alter the seasonal ebb and flow of the Mekong River, leading to harmful effects on their livelihoods and fishing occupations” (Interview, TS2, 2014).

The concerns raised by the representatives of Thai villagers were submitted to the Thai National Mekong Committee Secretariat (TNMCS), acting as the facilitator of Thailand’s stakeholder consultation meetings. The TNMCS gathered the views expressed by the representatives of Thai villagers and forwarded them to the MRCS. The MRCS then presented the outcomes of the views and concerns expressed by the representatives of Thai villagers and other concerned stakeholders participating in the Thai national stakeholder consultation meetings to the MRC Joint Committee – the representatives of the four MRC member-countries – for consideration. According to an interviewee, the stakeholder consultation meetings provided spaces in which Thai dam-affected villagers had opportunities to

receive information on the status of overall dam development, express their concerns on the potential transboundary impacts and make recommendations on how to mitigate the potential impacts of the dam (Interview, LC1, 2014). Without these spaces, Thai dam-affected villagers probably needed to find alternative channels to scale up their voices and concerns on the proposed Xayaburi project to the MRC member-countries which are the regional decision makers of the Xayaburi dam project (Interview, T1, 2014).

The spaces provided by the stakeholder consultation meetings can be identified as 'invited spaces', the term coined by Andrea Cornwall (2004a; 2002) to refer to the spaces created by many forms of public consultations and participatory forums and mechanisms initiated to enable the participation of ordinary people in development decision-making processes that affect their lives. These invited spaces are not created by ordinary people but rather by governments, international institutions, institutionalised elites and powerful decision makers. Despite not being created by ordinary people, the invited spaces aim to provide opportunities, moments and channels to ordinary people so that they can have political access to participate in the political process to make and shape the decisions that affect their lives and interests (Gaventa, 2006). Invited spaces, as argued by Aiyar (2010: 204), help increase dialogue and consultation between decision makers and people, which in turn could help ensure that people's needs and demands are heard and that decision makers receive better feedback on the effectiveness of their decisions.

In the context of the Lower Mekong Basin, local Mekong communities are often the ones who bear the costs associated with hydropower dam development (Barrington et al., 2012). As exemplified in the Xayaburi dam development, although the dam is being built in Laos, the adverse impacts of the dam could spill over into the neighbouring countries of Cambodia, Thailand and Vietnam. Local communities living in the LMB are likely to be impacted by the proposed Xayaburi dam. Given the transboundary impacts of the Xayaburi dam project, affected local communities expected that the stakeholder consultations would provide

the invited spaces where their voices and concerns on the proposed Xayaburi dam would be addressed and taken into consideration by the Lao government and other regional decision makers. As pointed out by Thai advocacy NGOs, Thai affected villagers participating in the stakeholder consultation meetings hoped that they would be given spaces where they were able to review, assess and meaningfully consult with regional decision makers and the dam developers and their concerns about the Xayaburi dam's impacts would be incorporated into the final decision at the regional level of the Xayaburi project (Interview, T3, 2014; T4, 2014; T6, 2014). Therefore, Thai dam-affected villagers expected that the stakeholder consultation meetings would provide invited spaces at the regional level in which they not only participated but also had opportunities to consult meaningfully with the Lao government, dam developers and other LMB governments.

5.2.3 Invited spaces at the regional level in the Xayaburi dam project: Constrained spaces for participation

Having participated in the stakeholder consultation meetings conducted in the three countries of the LMB, many participants, including local affected communities, NGOs, Civil Society Organizations (CSOs) and even some government officials tasked to facilitate the stakeholder consultation meetings were dissatisfied with the process, quality and outcome of the stakeholder consultation meetings (Australian Government, 2014). Thus, NGOs, CSOs, affected villagers and broader concerned communities called for an extension to the initial six-month prior consultation period in order to conduct broader studies and consultations. Cambodia, Thailand and Vietnam also made the same request, asking the Lao government and the project developer to extend the original six-month prior consultation process to ensure that the required information was provided, concerned stakeholders at the national and regional levels were consulted and the transboundary impacts of the cumulative mainstream dams were addressed before the implementation of the proposed project (Kingdom of

Cambodia, 2011; Socialist Republic of Vietnam, 2011; Kingdom of Thailand, 2011).

Despite being requested to extend the six-month prior consultation process, the Lao government still insisted that there was no need to extend the six-month prior consultation period and any concerns raised by the wider public and other neighbouring countries would be accommodated later (MRC News, 2011). The Lao government and the project developer did not wait for the completion of the six-month prior consultation process; instead, the initial implementation of the dam project began in late 2010 and continued throughout the prior consultations held in 2011 and subsequent years (Kinna, 2016). The unilateral decision of the Lao government to proceed with the dam construction regardless of the outcome of the prior consultation process frustrated many concerned stakeholders, who criticised the Xayaburi prior consultation process as a failure in which the process was unable to reconcile the competing interests of the state and non-state parties concerned in the proposed dam project (Rieu-Clarke, 2015:3).

The dissatisfaction with the process, quality and outcome of the prior consultation process was evident in the case of the stakeholder consultation meetings held in Thailand from 22 January to 16 February 2011. Thailand organised four stakeholder consultation meetings. Three meetings were conducted in three provinces of Thailand: Chiang Rai, Loei and Nakhon Phanom, which border the Mekong River. The fourth meeting was organised in Bangkok and its aim was to summarise the whole process of stakeholder consultations and make decisions on Thailand's position towards the Xayaburi prior consultation process (Interview, S1, 2014). Thailand is the only country to have held four stakeholder consultation meetings, whereas Cambodia and Vietnam organised only two stakeholder consultation meetings each. Despite Thailand having more consultation meetings than the other two countries, the four meetings held in Thailand failed to satisfy Thai dam-affected villagers, NGOs and CSOs participating in the meetings. The participants of the Thai national

stakeholder consultation meetings felt disappointed with the process and quality of the Xayaburi prior consultation process.

Although Thai dam-affected villagers were invited by the TNMC to participate in the stakeholder consultation meetings, this did not necessarily mean that they would achieve meaningful participation and consultation. Simply accepting the invitation to participate in the stakeholder consultation meetings could not guarantee that Thai dam-affected villagers would consult meaningfully with the regional decision makers of the Xayaburi dam project. As one interviewee who participated in the consultation meetings complained,

“This meeting could not be called a prior consultation because we did not receive relevant information on the Xayaburi dam project in advance and some information provided to us during the meeting was not translated in the Thai language. It was impossible for Thai villagers to understand the information written in English” (Interview, LC1 2014).

Thai dam-affected villagers participating in the stakeholder consultation meeting expected that at least, the minimum information such as information on the proposed project, potential impacts and possible mitigation measures should be provided in advance of the meeting so that the concerned stakeholders could have sufficient information to evaluate the costs and benefits of the proposed dam project. However, Thai affected villagers felt disappointed with the poor quality of information provided during the meeting. In addition, an interviewee who observed the stakeholder consultation meetings commented that Thai villagers attending the meetings hoped that the project developer (Ch. Karnchang) would send representatives to participate in the meetings in order to answer questions raised by Thai villagers and other participants concerning the potential impacts of the proposed Xayaburi project (Interview, T3 2014). However, Thai affected villagers and other participants were disappointed when they found out that the representatives of the project developer did not attend the meetings to discuss with and answer questions raised by Thai villagers and other participants. Only official staff from the TNMC

attended the meetings and tried to answer the participants' questions on behalf of the project developer (Interview, S2 2014).

Another problem regarding the poor quality of information is the absence of the Xayaburi EIA report, which should have been provided during the national level stakeholder consultation meetings. Thai affected villagers complained that they were not given the EIA report for the Xayaburi dam project during the consultation meetings. Although the project developer submitted the Xayaburi EIA report to the Lao government in 2010, the report was not revealed to the public during the stakeholder consultation process convened in early 2011 (Herbertson, 2013). Local affected communities, NGOs and CSOs called on the MRC to release the full EIA report to the public during the organisation of the stakeholder consultation meetings held in the LMB countries. However, the MRC could not disclose the EIA report to concerned stakeholders attending the stakeholder consultation meetings because the MRC did not receive consent from the Lao government to disclose the EIA to the public (Trandem, 2011). The EIA report only became available to the public in mid-March 2011, which meant that by the time the full EIA report was assessible to the public, the stakeholder consultation process had ended.

The dissatisfaction of Thai dam-affected villagers with the poor quality of information illustrates that although Thai villagers were allowed to participate in the stakeholder consultation meetings, they were unable to set the rules or conditions of participation and consultation in the way that they preferred. As one interviewee pointed out,

“although we submitted our complaints to the TNMC during the meetings about the lack of the EIA report, the TNMC could do nothing because the TNMC did not have the power to force the Lao government to release the EIA. It depended on Laos to decide whether the EIA would be released to the public or not. Neither the TNMC nor Thai affected villagers had the power to enforce that this minimum requirement of information should be provided during the consultation meetings” (Interview, LC1 2014).

It is, therefore, the Lao government which has the actual power to determine what sort of information should be included or excluded during the meetings, and in what form. This reminds us that although Thai affected villagers were invited to participate in the consultation meetings, this does not mean that Thai villagers share power equally with the Lao government, which is one of the powerful regional decision makers of the Xayaburi project. According to Cornwall (2004b), the power relations among different actors participating in the participatory structures or processes are not equal. Rather, the powerful actors who initiate the participatory mechanisms are often the ones who control the structure and processes of the participation by defining which actors, agendas and procedures will be included or implemented within the participatory processes (Gaventa and Valderrama, 1999). As seen in the case of the proposed Xayaburi project, the Lao government submitted the proposal of the Xayaburi dam project to the MRC which triggered the first implementation of the PNPCCA within the Lower Mekong context. The Lao government is the notifying country that initiates the prior consultation process for the proposed Xayaburi project and becomes the powerful actor who controls the rules of engagement between the Lao government and the concerned stakeholders participating in the prior consultation process. Within this unequal power relationship, Thai dam-affected villagers who were invited to participate in the stakeholder consultation meetings held in Thailand as parts of the Xayaburi prior consultation process became the less powerful actors who were forced to comply with the pre-determined rules and procedures.

The unequal power relations between Thai dam-affected villagers and the Lao government can constrain the potentials of the stakeholder consultation meetings in providing meaningful participation and consultation. Many interviewees participating in or observing the stakeholder consultation meetings expressed their dissatisfaction with the quality of consultation by stating that the stakeholder consultation meetings held in Thailand did not provide meaningful consultations; rather, they only created a space for giving out information about the

project (Interview, T1 2014; I2 2014; TS1 2014; TA1 2014). Thai affected villagers had expected that the stakeholder consultation meetings would provide invited spaces in which they could consult meaningfully with the Xayaburi regional decision makers, and their voices and concerns would be incorporated in the regional level decision-making process of the Xayaburi project. However, the expectations of Thai affected villagers were never realised because the Lao government had already made the decision to move ahead with the dam building, regardless of the stakeholder consultation results.

There are many incidents showing that the Lao government did not take into account the voices and concerns of Thai affected villagers before making the decision to build the dam project. For example, one international NGO claimed that the project developer, Ch. Karnchang, began implementing the Xayaburi dam project in late 2010 before the MRC prior consultation process had been initiated and the implementation of the project still carried on during the six-month prior consultation process (International Rivers, 2012). In addition, although the Xayaburi dam prior consultation process has not yet been officially completed, because the MRC member-countries and concerned stakeholders cannot reach a consensus on how to proceed with the Xayaburi project, the Lao government sent a letter to the Thai Ministry of Energy stating that the MRC prior consultation process had finished. As a result, on 29 October 2011 the EGAT signed a Power Purchase Agreement (PPA) with the Xayaburi Dam's developer to purchase 95% of the electricity from the Xayaburi dam (BankTrack, 2016). The signing of the PPA gave the green light to the project developer to proceed with the dam construction. The unilateral decision of the Lao government to continue with the dam building has frustrated Cambodia and Vietnam as well as wider community groups concerned about the impacts of the dam. As one interviewee complained, the voices and concerns of Thai affected villagers expressed during the stakeholder consultation meetings were not incorporated in the final decision of the Xayaburi project; rather, they were

used as a rubber stamp to legitimise the approval of the dam construction (Interview, T6 2014).

The implementation of the stakeholder consultation process in the Xayaburi dam project ended in disappointment. While the stakeholder consultation meetings provided invited spaces for public participation, this was by no means sufficient for meaningful participation and consultation. The invited spaces are not created in a vacuum; rather, the unequal power relations among different actors existing in the invited spaces can affect the process and outcome of the participation in the invited spaces (Penderis, 2012). As exemplified in the case of the Xayaburi dam project, the Lao government triggered the prior consultation process leading to the creation of the invited spaces at the regional level. Although Thai dam-affected villagers were invited to participate in these invited spaces, they did not have power to control the rules and conditions for the participation and consultation. Rather, it is the Lao government which has power to direct the process and outcome of the participation in the invited spaces. Given the unequal power relations between the Lao government and Thai affected villagers, the invited spaces at the regional level in the Xayaburi project can become constrained spaces for participation, in which the voices and concerns of Thai affected villagers were co-opted to sustain the power of the Lao government and legitimise the pre-determined decision to build the Xayaburi project.

5.3 The invited spaces at the Thai national level

The disappointment with the process, quality and outcome of the regional prior consultation process turned the interest of Thai advocacy NGOs and concerned CSOs towards other participatory mechanisms in which they can enhance the participation of Thai dam-affected villagers in the Xayaburi dam decision-making process. Although the Xayaburi dam is located in Laos, the dam is being financed by Thai banks and built by a Thai construction company. The electricity from the dam project is sold to EGAT, the Thai state-owned electricity agency. Therefore, public and private actors from Thailand are directly involved in the Xayaburi dam

development and have become key decision makers of the project. Given the direct involvement of Thai public and private decision makers in the Xayaburi dam's development, Thai decision makers from both the public and the private sector are expected to be accountable for their roles in developing and funding the Xayaburi dam project and upholding the rights of Thai locally-affected villagers. Thai NGOs and CSOs have urged Thai public decision makers to comply with the Thai Constitution and Thai domestic environmental laws, even though the Xayaburi dam project is not being built in Thailand. Thai NGOs and CSOs regard Thai domestic environmental laws as important environmental and social safeguard mechanisms which open up the invited spaces for Thai dam-affected villagers to hold decision makers from the Thai public sector accountable for their involvement in the Xayaburi dam project and responsible for the potential transboundary impacts caused by the dam.

In addition, Thai NGOs and CSOs have targeted Thai private decision makers involved in developing, building and financing the Xayaburi project by calling on them to make commitments to Corporate Social Responsibility (CSR), a corporate governance mechanism aiming to promote the integration of social and environmental concerns in the core-operation and decision-making process of the business sector. Most of the Thai banks involved in financing the Xayaburi project claimed that they had made their commitment to CSR to promote responsible business decisions and practices. Thai NGOs and CSOs expected that the CSR adopted by Thai banks would provide the invited spaces in which Thai dam-affected villagers could get information relating to investment in the Xayaburi project and become involved in the decision-making process of financing the Xayaburi project.

The following sections focus on these invited spaces provided by Thai public and private decision makers and analyse the potentials of the invited spaces provided by Thai public and private decision makers in facilitating the participation of Thai dam-affected villagers in the decision-making process related to the Xayaburi dam project at the Thai national level.

5.3.1 The invited space provided by public decision makers at the Thai national level

Thailand has more advanced environment-related laws and policies than the other Lower Mekong Basin countries (Wells-Dang et al., 2016). The advance in Thailand's environmental laws and policies has been the result of the Thai domestic environmental movement carrying out advocacy activities since the 1980s to enhance public participation in the decision-making process of infrastructure and development projects, which often results in negative impacts on local communities in Thailand (Hirsch, 2007). Given the advocacy work of the Thai environmental movement, the Thai government over the past decades has adopted a number of environmental laws and assessments which help provide environmental and social safeguard mechanisms for Thai local communities to participate in the decision-making process and environmental impact assessment of infrastructure development projects carried out in Thailand.

During the key decisions made in the Xayaburi dam project, such as the signing of the Power Purchase Agreement (PPA) between EGAT and the Xayaburi Power Company Limited (XPCL), Thailand was ruled under the 2007 Constitution². There are many environmental and social provisions contained in the Constitution of Thailand 2007 to protect the rights of Thai people likely to be affected by the adverse impacts of infrastructure development projects. These environmental and social provisions include Articles 56, 57 and 67 of the 2007 Constitution, which provide a social and environmental safeguard framework and guidelines to mitigate the potential harm caused by development projects. For example, Article 56 ensures the right to access public information, Article 57 emphasizes the state's responsibility to hold public hearings on projects that could affect the quality of the environment and Article 67 highlights the need for

² Thailand's 2007 Constitution was abrogated by the military coup in Thailand on 22 May 2014. Since the 2014 coup, Thailand has been ruled by a military government. The new Constitution of Thailand was ratified on 6 April 2017. Although the 2007 Constitution was repealed and replaced by the 2017 Constitution, decisions related to the Xayaburi dam project, such as the approval of the PPA by the previous Thai government, are still valid up to the time of writing.

environmental impact assessment and health impact assessments (Middleton, 2012a:301).

Apart from the three Articles of Thailand's 2007 Constitution, other relevant laws were initiated to mitigate the negative impacts resulting from development projects. For example, according to the Enhancement and Conservation of the National Environmental Quality Act (NEQA), 1992, the EIA has been applied in Thailand since 1981 as a tool for environmental planning and management in the screening of economic development projects, to identify the impacts of the projects as well as to establish the appropriate mitigation measures so that natural resources will be efficiently used for the economic development of Thailand (Office of Natural Resources and Environmental Policy and Planning (ONEP), 2012:4). In addition, Sections 6 to 8 of the NEQA 1992 stipulate rights and duties related to public participation in the enhancement and conservation of national environmental quality (Yoo, 2013). This means that the public, NGOs and relevant agencies affected by the projects can participate during the stages of the EIA process and share their opinions and experiences about project development and assessment (Ibid). Moreover, Sections 46-47 of the NEQA 1992 specify that the Minister of Natural Resources and Environment with the approval of the National Environment Board (NEB) will have the power to decide the "categories and magnitude of projects or activities of government agency, state enterprise or private project" which are required to submit EIA reports to the ONEP and the Expert Review Committee for consideration and approval before further proceedings (ONEP, 2012:5). Among the four groups of types and sizes of projects or activities requiring EIA reports, a dam or reservoir with 100 million cubic metres or more of storage volume and 15 square kilometres or more of storage surface area has to submit EIA reports during applications for project permission or approval (Ibid).

The key socio-environmental laws and policies described above have become important participatory mechanisms which provide invited spaces for Thai people, especially local community villagers, to participate in the

decision-making process of the development project to make and shape decisions that may affect their lives. These invited spaces, as defined by Cornwall and Coelho (2007), are spaces provided by state actors and backed in some settings by legal or constitutional guarantees to provide formal spaces into which citizens and their representatives are invited. By adopting an environmental and social legal framework and policy, the Thai government provides the invited spaces in which Thai local community people can enjoy their rights to obtain information about proposed development projects and take part in environmental impact assessment processes to monitor and evaluate the potential impacts of development projects on natural resources and the environment. While these social and environmental safeguarding laws and policies open up spaces for public participation in the decision-making process of development projects, powerful actors from both the public and the private sector who favour the expansion of such development projects, including the development of large-scale hydropower dams, see these safeguarding laws and policies as a burdensome process that has often hindered the construction of dam projects in Thailand (Middleton et al., 2009).

To avoid such burdensome environmental and social safeguarding laws and policies in Thailand, Thai public and private pro-dam actors have relocated dam project finance and construction to other Mekong countries, particularly to Laos where law implementation and enforcement are very weak (Simpson, 2007; Sangkhamanee, 2015). As seen in the case of the Xayaburi project, the EGAT did not organise an EIA as required under Thai domestic laws before signing the PPA with the XPCL to buy the Xayaburi dam's electricity. According to interviewees, the EGAT was not required to conduct an EIA before signing the PPA because the Xayaburi dam project was not being built in Thailand, but rather in Laos (Interview, T2 2014; I1 2014; TS1 2014). Although the Thai Constitution and other environment-related laws provide safeguarding laws and policies to protect the rights of Thai communities from the adverse impacts of Thai domestic development projects, these safeguarding laws and policies have limitations as regards their legal implementation and enforcement, when a

development project is financed and led by Thai public and private actors but is being built outside Thailand. The ambiguities and limitations of Thai domestic laws in the case of the cross-border Xayaburi dam were used by the EGAT as an excuse not to conduct an EIA. As one interviewee commented, the EGAT did not consider that it had an obligation to carry out an EIA in Thailand; rather, it was the responsibility of the project developer to prepare the EIA report and submit the report to the Lao government as required under Lao domestic law (Interview, S1 2014).

The absence of an EIA as required under Thai domestic law has frustrated Thai advocacy NGOs, CSOs and Thai dam-affected villagers. Although the Xayaburi EIA report was carried out as part of the requirement under Lao domestic law, the report was heavily criticised by scientists, experts and more widely concerned observers as a poor quality product that failed to meet the minimum requirements of international standards (Blake, 2015; Trandem, 2011). One of the major weaknesses of the Xayaburi EIA is that the EIA considered only affected people in Laos living in the immediate areas of the reservoir which spanned no more than 10 kilometres downstream of the dam (Hirsch, 2015). This means that affected people living upstream of the reservoir and more than 10 kilometres downstream of the dam were not included in the processes of the EIA (Ibid). Despite the EIA report being of such poor quality, the Lao government approved the report and told the dam developer to proceed with the project construction as scheduled. The Lao government, as discussed by one interviewee, is considered a pro-dam government, favouring the construction of the Xayaburi project without considering public warnings on the poor quality of the EIA (Interview, T3 2014). Given the preference of the Lao government to promote the dam's development, the Xayaburi EIA is likely to get approval more easily in Laos than in Thailand, where civil society in the country is stronger and legal enforcement is more advanced.

With regard to the poor quality of the Xayaburi EIA, Thai advocacy NGOs and CSOs called for the Thai government, the EGAT and state agencies involved in the approval of the PPA to organise environmental impact

assessments in Thailand before signing the agreement to purchase power from the Xayaburi project. During the interview, many interviewees, especially from Thai advocacy NGOs, argued that although the Xayaburi dam project was not built in Thailand, the transboundary impacts associated with the dam could cause impacts on fisheries and the Mekong River's flow which could jeopardise the livelihoods of Thai villagers living in eight Mekong provinces of Thailand. In addition, Thai actors from both the public and private sectors had direct involvement in the Xayaburi dam development. Therefore, Thai domestic law and the Thai Constitution should be implemented in the Xayaburi case to hold Thai pro-dam stakeholders responsible for the potential transboundary impacts that could affect the livelihoods of Thai communities in Mekong provinces. As one interviewee noted, "given the increasing involvement of Thai dam proponents in financing and building hydropower dam development in neighbouring countries, the Thai government needed to enact a new environmental and social law for regulating outbound investment and development to hold Thai dam proponents accountable for their development projects in other neighbouring countries" (Interview, T4 2014).

Despite major concerns raised by Thai NGOs and CSOs about the absence of the EIA before the PPA was signed, the Thai government, the EGAT and the state agencies involved claimed that they complied with all relevant domestic and international laws to meet their obligations. Conducting the EIA for the Xayaburi dam project was not the responsibility of the EGAT; rather it was the project developer, Ch. Karnchang, who should have taken responsibility for conducting the EIA with potentially affected villagers in Laos before proceeding with the project. As the EGAT claimed, "the EGAT was only the buyer, not the owner of the Xayaburi dam, based on the Power Purchase Agreement; therefore, it was not responsible for conducting the public consultation and studies related to environmental, health and social impacts according to the Constitution and other relevant law" (Thai Supreme Administrative Court, 2015). Thai state agencies involved in signing the PPA argued that

the PPA is considered an agreement, not a project or activity; therefore, there is no need to conduct an EIA as required by the Thai Constitution and Thai domestic law (Ibid). Considering the claims made by the EGAT and Thai state agencies, the PPA was signed legally and the EGAT and Thai state agencies did not fail to comply with the Thai Constitution and Thai law in the Xayaburi case.

The controversies about the Xayaburi's EIA underline the problems in interpreting the implementation of the Thai Constitution and other domestic laws in regulating Thai-led hydropower dam projects built outside Thailand as typified in the case of the Xayaburi dam. As argued by Middleton (2014), the Xayaburi project illustrated that different actors interpreted rules, norms and laws in divergent ways to pursuit their interest in the dam project and these divergent interpretations led to contested outcomes in the decision-making process relating to the Xayaburi dam development. Although different actors interpreted rules, norms and laws in different ways, not all interpretations can have real influence on the decisions relating to the Xayaburi project. Rather, it was powerful actors such as the Thai government, the EGAT and Thai state agencies who claimed authority in interpreting the Thai Constitution and Thai domestic laws and downplayed other interpretations put forward by less powerful Thai NGOs and Thai dam-affected villagers. As one interviewee admitted, it was the Thai government and its agencies which created the environmental and social laws and policies and therefore they have the power to interpret the safeguarding laws and policies in ways that suit their preference and interests in pursuit of the dam project (Interview, T1 2014). Although Thai NGOs, CSOs and Thai affected villagers tried to challenge the interpretation claimed by Thai state agencies involved in signing the PPA, they did not have sufficient power to make these state agencies conduct the EIA as required by Thai domestic law and the Constitution.

With regard to the interpretation claimed by Thai state agencies involved in signing the PPA, the EGAT did not have to conduct the EIA. Rather, the EGAT needed to receive approval from the Thai Cabinet and the National Energy Policy Council (NEPC) before signing the PPA with the

XPCL. The EGAT was required to submit a draft of the PPA to the NEPC, which was chaired by the Prime Minister and relevant Ministers having the authority to select and approve all power import projects (International Rivers, 2016). During the meeting of the NEPC convened on 30 December 2010, the NEPC required the EGAT to fulfil four main obligations before granting approval (Energy Policy and Planning Office, 2010). These four obligations included 1) the Xayaburi dam project needed to be approved by the MRC in compliance with the Agreement on Cooperation for the Sustainable Development of the Mekong River Basin 5 April 1995 (the 1995 Mekong Agreement); 2) the draft of the PPA needed to be reviewed and approved by the Office of the Attorney-General; 3) the Ministry of Energy and the EGAT were required to disclose the information on the Xayaburi dam project to the public, and; 4) the dispute for arbitration in the case of the Xayaburi dam project needed to be conducted in accordance with arbitration rules issued by the Arbitration Institute, the Alternative Dispute Resolution Office, and the dispute resolution was required to be held in Bangkok, Thailand and to use the Thai language (Ibid).

The approval process of the PPA as described above was criticised by Thai advocacy NGOs and Thai dam-affected villagers as illegal because the process failed to comply with Thai domestic and international law. One interviewee commented that the approval process of the PPA was carried out in a secretive manner and all decisions were made behind closed doors (Interview, T2 2014). Although the Ministry of Energy and the EGAT were required to disclose the information on the Xayaburi dam project to the public before the signing of the PPA, Thai NGOs and Thai affected villagers criticised that the Ministry of Energy and the EGAT failed to provide adequate information related to the Xayaburi dam to the public. As one interviewee complained, although the information on the Xayaburi dam project had been uploaded on the website of the Thailand Energy Policy and Planning Office at www.eppo.go.th, it had only been on the website for a short time and was difficult for Thai villagers to access (Interview, LC1 2014). In addition, the EGAT was unable to disclose key information related to the Xayaburi dam project as requested by Thai

NGOs and Thai affected villagers because the EGAT did not receive consent from the XPCL to disclose that information to the public. Therefore, Thai NGOs and Thai affected villagers argued that the quality of information disclosure was carried out in a poor quality.

The decision-making power in the approval process of the PPA is concentrated in the hands of a few powerful state agencies, particularly the EGAT and the Ministry of Energy; whilst the less powerful Thai dam-affected villagers have no choice but to accept the rules and conditions set by these powerful state agencies. Thai dam-affected villagers used to have invited spaces in which they were invited to participate in the EIA process as required under Thai domestic law for the review and assessment of the potential impacts of domestic hydropower dam developments built in Thailand. However, as Thai dam proponents have moved to neighbouring countries in the LMB for investing and building the new hydropower dam projects, the invited spaces previously created for public participation have become constrained spaces where Thai affected villagers have no opportunities to participate in the EIA process at Thai domestic level. Rather, Thai affected villagers were given only little information related to the Xayaburi dam project, which was insufficient for them to evaluate the potential transboundary impacts of the dam project.

5.3.2 The invited space provided by private decision makers at Thai national level

In the 21st century, the key trend in large hydropower dam development in the Mekong basin has moved from public infrastructure projects funded by Multilateral Financial Institutions and managed by local utilities to commercial projects including a mix of regional and global commercial funding alongside international and national public investments (Merme et al., 2014). The emerging trend in public-private partnerships in financing and developing the Mekong dams is exemplified in the case of the Xayaburi dam project. Around 95% of electricity generated by the dam is sold to the EGAT, a Thai state-owned energy utility. Thai private companies and commercial banks play significant roles in developing and

financing the Xayaburi dam. The project is funded by one Thai state-owned bank, Krung Thai Bank, and by commercial banks, including Siam Commercial Bank, Kasikorn Bank, Bangkok Bank, TISCO and the Export-Import Bank of Thailand (EXIM). The project dam developer is led by Ch. Karnchang Public Company Ltd, a Thai construction company. Moreover, the Xayaburi Power Company Limited (XPCL), owned primarily by Ch. Karnchang, was set up under the laws of Lao PDR to be responsible for generating power from this project (Chitnis, 2013).

The increasing involvement of private actors in the Xayaburi dam project underlines the greater importance of private actors as being one of the key decision makers in the decision-making process of hydropower dam development in the LMB. The Xayaburi hydropower dam is a large infrastructure project, requiring US\$ 3.8 billion to fund the project. Securing funding is one of the biggest challenges that a project developer will face and thus constitutes a critical stage of project development. As mentioned before, the financing of the Xayaburi project no longer comes from IFIs (i.e. the World Bank or the ADB); rather, the project is funded by combined syndicated loans from Thai banks (EarthRights International, 2011:4). Without the financial sources supported by Thai banks, the dam developer would experience difficulties in proceeding with the project. Thus, Thai banks and other financial institutions taking part in funding the Xayaburi project are in a powerful position to influence decisions made by the developers. The roles and importance of Thai banks in the case of the Xayaburi project have raised arguments on the responsibilities of Thai banks and other financial institutions for the negative impacts which may be caused by the dam. Many participating interviewees agreed that Thai banks funding the Xayaburi project should take responsibilities for their investment and bear the social and environmental costs arising from the dam development. For example, one interviewee explained that one of the campaign activities launched by concerned Thai and international NGOs was to present information about social and environmental risk-management systems practised around the world to Thai banks to persuade

them to adopt these risk-management systems and comply with international standards for project finance (Interview, I1 2014).

These risk-management systems will help improve corporate governance of bank financing on the development project and ensure that the project financiers have addressed human rights issues and impact assessment and taken the potential risks and impacts of the project into their business decisions and practices before lending money for the project. A number of social and environmental risk-management systems have been initiated to guide the good conduct and responsibility of business as regards society and the environment. One of the most important risk-management mechanisms primarily adopted by the banking industry is the Equator Principles (EPs). The EPs are regarded as international best practice for environmental risk management for banks in project finance (King, 2014:99). The EPs were set up in 2003 to guide the decisions of financial institutions for funding projects where total project capital costs exceed US\$ 10 million (Ibid: 107). As the time of writing this thesis (assessed 30 July 2017), 91 financial institutions in 37 countries have officially adopted the EPs, covering over 70% of international Project Finance debt in emerging markets (The Equator Principles Association, 2017). Despite being adopted by many leading financial institutions, Thai banks involved in funding the Xayaburi dam project have not yet adopted the EPs.

However, all Thai banks financing the Xayaburi project have made a commitment to Corporate Social Responsibility (CSR), a voluntary-based strategy adopted by a corporation aiming to demonstrate corporate conscience and determination to positively change society and protect the environment (Middleton & International Rivers, 2009:20). For example, Siam Commercial Bank (SCB), one of the main financial investors of the Xayaburi project, has made a specific commitment to CSR as follows:

“Vision... For Our Community: Adhere to good corporate governance standards and actively engage in ‘community-orientated’ development...” and *“Mission ... to be The Premier Universal Bank of Thailand, with a strong focus on key financial markets and customer segments, maximizing*

leverage from the SCB Group franchise and strongly committed to social responsibility” (From website of SCB bank, cited in Middleton & International Rivers, 2009:21).

CSR has an important mechanism for promoting corporate accountability, especially in the context where actors from the private sector have played increasing roles in financing hydropower dam projects in the LMB. The public-private partnership model used in the Xayaburi dam development is a complicated process in which various actors from both public and private sectors are involved in the cross-border activities of the dam’s development. Therefore, it is difficult to specify which domestic law, whether Thai or Lao domestic law, should be implemented and enforced in this case to regulate the business practices of Thai banks in funding the Xayaburi project. The ambiguities in law implementation and enforcement in the Xayaburi case can become loopholes exploited by Thai banks to avoid complying with the burdensome safeguarding of social and environmental law and policy (Interview, T1 2014).

Given the ambiguities in law implementation and enforcement, Thai NGOs and CSOs looked to CSR as an alternative mechanism to regulate the investment of Thai banks in the Xayaburi dam. CSR has the potential to commit business to high standards of practice, especially in the absence of legal enforcement by the state. Thai NGOs and CSOs expected that CSR would provide invited spaces in which Thai dam-affected people were allowed to participate in the decision-making process of the Xayaburi project at the Thai private level. As one interviewee pointed out,

“Thai governments preferred to initiate policies aiming to facilitate the outbound investment of Thai business, but Thailand had no state agencies set up specifically to regulate the problems caused by the outbound investment of Thai business. CSR was supposed to provide alternative mechanisms to provide a space in which Thai people can monitor and regulate the business practice of Thai business” (Interview, T3 2014).

However, the participation of Thai affected villagers in the invited spaces created by CSR cannot guarantee that Thai villagers can participate

meaningfully and have real influence on the decisions made by private decision makers. As Middleton and Pritchard (2013:61) argue, CSR strategies may appear good on paper but implementation and enforcement are often a challenge.

Although Thai banks commit themselves to CSR and often express their commitment in their annual reports, the implementation of this voluntary strategy varies from one bank to another. Some banks have very little information on their commitment to CSR on their websites, while others such as SCB and Krung Thai bank identify that they have established a CSR committee. CSR is thus a strategy adopted inconsistently by the Thai banking sector. Moreover, the quality of CSR adopted by Thai banks is another concern raised by Thai NGOs and civil society. CSR is a significant mechanism providing an opportunity for corporations to engage with society through responsible business decisions and practices. CSR helps the business sector to comply with relevant laws and regulations, act ethically and provide societal value and accountability, in addition to making a profit (Middleton & International Rivers, 2009:). However, if CSR is undertaken superficially, it will become just a public relations tool employed to promote the brand image of business corporations. As one interviewee commented, the CSR implemented by the Xayaburi dam's financiers was just a rhetorical principle used for the purpose of public relations, not for social and environmental responsibility (Interview, TS1 2014). The safeguarding policies and grievance mechanisms have not been integrated into the core operation and decision-making processes of Thai banks involved in financing many hydropower development projects in the LMB. Most CSR activities by Thai banks focus on philanthropic support for environmental and community projects, such as building new schools for children in rural provinces and planting trees in forests (Interview, T5 2014). Although these activities are good for a business's reputation, it is hard to see how they will help Thai banks to comply with laws and accountability mechanisms to prevent any environmental harm and human rights violation which may result from their project financing.

In addition, the Xayaburi project has become one of the most controversial issues among stakeholders over shared water resources in the LMB. Its controversies have become unresolved and have brought disharmony to Mekong riparian countries and other relevant stakeholders. Even though the prior consultation process was undertaken by the MRC, no agreement has been reached among the concerned parties on how to proceed with the project. Moreover, experts and scientists in both regional and international communities have warned of the transboundary impacts of the project, and the recommendations made by the MRC and a number of independent bodies suggest that the dam should be postponed for at least 10 years to allow sufficient time for studying and understanding the cumulative impacts of all dams proposed on the Lower Mekong mainstream (Mirumachi, 2015:125). Despite the concerns and controversies mentioned above, Thai banks still support funding the project and show no signs of reconsidering their decisions or withdrawing their financial support for the project. As one interviewee admitted,

“We tried everything we could to delay the construction. What local villagers wanted was not so complicated. We just wanted the banks to put their investment on hold so that we could reconsider what development plan Thailand and the Mekong region should pursue” (Interview, I2 2014).

CSR has become an inefficient mechanism failing to provide political opportunities for Thai dam-affected people to engage with the banks and get accessed to the decision-making process of the project’s financing. Information regarding the roles of Thai banks in financing the project is not disclosed to the public. The documents concerning the financial details of the project are treated as confidential sources which cannot be made available to the public. This means that local people who may be affected by the dam building have little or even no chance to get involved in the decision-making process of the Xayaburi dam’s financing. CSR is not a binding principle; rather, it is based on a voluntary approach which has no regulatory power to enforce a business to comply with corporate accountability mechanisms. As pointed out by one interviewee, there are

no independent bodies or mechanisms having a mandate to monitor or investigate the compliance of Thai banks (Interview, T1 2014).

Given the problems in implementing and enforcing CSR by Thai banks, the invited spaces created by CSR are not the enabling spaces in which Thai villagers can participate meaningfully in the Xayaburi decision-making process at the private level; rather, the CSR adopted by Thai banks has provided constrained spaces in which the participation of Thai dam-affected villagers has been used to disguise the poor practices of Thai banks behind public relations tools and campaigns.

5.4 Discussion on the invited spaces in the Xayaburi case

In recent years, many governments around the world have undertaken new initiatives – new policies, institutions and strategies to promote public participation and the inclusion of ordinary people, especially the rural poor, in the policy process that affects their lives (Manor, 2004; Orbach, 2011; Luckham et al., 2000). In the Lower Mekong context, a number of progressive participatory mechanisms, such as regional water regulation, environmental protection, and conflict resolution were included, formalized, and institutionalized to promote sustainable development (Mathur et al., 2002). In Thailand, for instance, many environmental protection policies and institutions have been created to control, prevent and resolve environmental impacts derived by the large-scale development projects (Sangkhamanee, 2015). Currently, the large-scale development of any large-scale hydropower project in Thailand requires an environmental impact assessment (EIA) prior to construction (Ibid). These environmental protection initiatives provide new opportunities for public involvement in the decision-making process of the development project. Opening the window of opportunities for public participation helps widen spaces for citizens to participate in making and shaping the development decisions that affect their lives. Cornwall (2004b; 2002) termed the spaces widened up for public involvement as invited spaces, referred to as the spaces where people, especially the local

poor, are invited by state officials or decision-makers to participate in the development policy and process. Participating in the invited spaces is considered important in making local needs and demands heard and so that decision-makers have more responsiveness and accountability for their decision (Aiyar, 2010: 204).

However, the potentials of the invited spaces in promoting public involvement may not be realized. In Thailand for example, the country has advanced environmental protection law and policy. However, these environmental initiatives have limitations in regulating the development projects being built beyond the Thai border. Thai anti-dam NGOs argued that Thai dam developers of the Xayaburi project, Ch.Karnchang, did not need to conduct the Environmental Impact Assessment (EIA), as required by Thai domestic law when they build the hydropower dam in neighbouring countries. Instead, Thai dam developers needed to conduct the EIA according to the Lao domestic law because the dam was built in Laos. However, many NGO activists and civil society had concerns about the lack of capacity of the Lao government to enforce laws and regulate development. As argued by Matthews (2012), the institutional weakness of Laos to regulate foreign investment in development projects could lead to the poor quality of the EIA and the lack of public participation and consultation in the development projects. Therefore, when Thai pro-dam actors, be they the EGAT or Thai private dam developers, build the hydropower dams in neighbouring countries, especially in Laos, they can avoid the burden of environmental safeguard policy as required by Thai domestic law (Middleton et al., 2009).

In addition, many critics have raised questions about the responsibilities of Thai private banks financing the Xayaburi hydropower dam project. As the key dam financiers, Thai banks become the important decision-makers of the Xayaburi dam project. Thai NGOs called for Thai banks to adopt the social and environmental risk management system for project finance, such as the Equator Principles (EPs), to open up opportunities for Thai dam-affected villagers to take part in the decision of Thai banks

to fund the project. Calling for the opening up of opportunities for public participation means that new spaces have been created where Thai affected villagers can get access to the decision-making process of the project finance. However, most Thai banks financing the Xayaburi project have only committed to Corporate Social Responsibility (CSR). Thai NGOs criticized that the CSR was not enough to hold Thai banks responsible and accountable for their outbound investment in the hydropower development outside of the country. The CSR adopted by Thai banks was used to promote corporate brand and reputation rather than to improve corporate accountability for their business activities (Middleton and Pritchard, 2013). Given the limitation of the CSR, the spaces in which Thai affected villagers are invited to discuss and consult with Thai banks about the project finance become very constrained.

Due to the constrained spaces for participation in Thailand, Thai NGOs and their alliances had scaled up their strategies to target the decision-making authorities at the regional level. Although the Xayaburi hydropower dam is built in Laos, the costs associated with the dam could affect local riverine communities across Mekong basin (Cronin, 2012). Therefore, the PNPCHA, the regional decision-making framework, was initiated to provide the spaces in which all concerning stakeholders can review the transboundary impacts of the dam and make an agreement on how to proceed with the dam. The spaces provided by the PNPCHA process can be referred to as the invited spaces, the spaces where the MRC member states provide the opportunities for the potentially affected communities across the LMB to participate in the prior consultation processes to discuss with the regional decision-makers on how to resolve the dam controversies. The invited spaces can be seen as the efforts being made by government officials or decision-making authorities to widen participation or to move from closed spaces to more 'open' ones (Gaventa, 2006). Participating in the invited spaces means that people are invited by state authorities or decision-makers to participate in the state's deliberative processes where people expect to have more chances to

scrutinize and monitor the everyday operations of the state to improve state responsibility and accountability (Aiyar, 2010).

However, the invited spaces provided by the PNPCA disappointed many participants, including Thai NGOs and their anti-dam alliances. The PNPCA process failed to reconcile the competing interests of stakeholders concerned. Thai NGOs and Thai affected villagers criticized that the PNPCA process was not the prior consultation; but rather a forum for giving out information, without adequate explanation and discussion of the project's impacts (International Rivers, 2014). Thai dam-affected villagers were invited to attend the prior consultation meetings held as a part of the PNPCA in Thailand in 2011. However, their voices and concerns had never been taken seriously by the regional governments, especially with the Lao government insisting on proceeding with the dam. Therefore, the participation in the invited spaces cannot guarantee that Thai villagers can influence the decision made by the Mekong governments. As argued by Penderis (2012), being invited to participate in the invited spaces should not be equated with influence. Many groups of people can be invited by decision-making authorities to participate in the policy process, but only a few groups can have real influence upon the final stage of decision-making. Although Thai affected villagers participated in many meetings of the prior consultation processes, the outcome of the consultation was not incorporated in the final decision of project approval. Thai NGOs viewed that the prior consultation processes were used as a rubber stamp to legitimize the pro-dam decision to move ahead with the dam building.

The invited spaces are not created in a power vacuum; rather the unequal power relation can exist both within and outside of the spaces (Idler et al., 2015). Gaventa and Valderrama (1999) noted that the invited spaces are created by powerful government officials or decision-making authorities and therefore they are the ones who are able to control the conditions for participation, such as defining who should participate and which agendas should be included in the spaces. On the other hand, the

local poor people who are invited to participate in the spaces are likely to be the less powerful actors who have to follow the conditions and rules set by the powerful authorities. Therefore, the unequal power relations can constrain the potentials of the invited spaces as the spaces for meaningful participation (Ibid). As seen in the PNPCA process, the Lao government initiated the PNNCA for the Xayaburi dam project and therefore the government controlled the processes and outcomes of the PNPCA. The Mekong riparian governments, including the Lao government, are in the most powerful position within the regional decision-making framework. The decision whether to build the hydropower dam or not is usually in the hands of the riparian governments, not the MRC, NGOs or civil society. Therefore, the participation of the less powerful actors such as Thai NGOs and Thai villagers in the PNPCA process have often been co-opted by pro-dam decision-makers to further their own agenda.

In the lower Mekong context, there are many participatory mechanisms initiated to provide the invited spaces for participation at the national and regional level. However, the potentials of these invited spaces as the sites for public participation have been constrained by many factors, including the unequal power relations. Therefore, the findings as found in this chapter can confirm the first hypothesis stating that the invited spaces in the Xayaburi dam project are the constrained spaces for public participation. Due to the constrained spaces for participation, Thai NGOs have stepped in to call for the new spaces in which locally affected Thai communities can have opportunities to participate more meaningfully in the Xayaburi dam's decision-making process. As discussed earlier, NGOs have many advantages to be advocates for public participation. Particularly, NGOs have the ability to reach the socially excluded groups of people and have close links with poor communities (Clark, 1995). NGOs are capable of aggregating the interests, demands and preferences of local poor people and represent them to government or decision-makers. In addition, NGOs participate in many strategic activities to enhance their roles as advocates for public participation. As discussed by

Corell and Betsill (2008), when NGOs adopt particular strategies, they may be able to change structural factors and open up new opportunities for influence. By adopting advocacy strategies, NGOs have potentials to overcome the constraining structure and create new opportunities for public participation. Given the importance of advocacy strategies, the next chapter focuses on the advocacy strategies used by Thai NGOs to create new opportunities for public participation in the decision-making process of the Xayaburi dam project.

5.5 Conclusion

In the case of the Xayaburi dam project, stakeholder consultations under the PNPCA process, Thai domestic laws and policies and CSR provided invited spaces in which Thai dam-affected villagers could participate in the Xayaburi dam's decision-making process at both the regional and Thai national levels. Thai dam-affected villagers expected that these invited spaces would not only provide them with opportunities for participation, but also had the potential to enable meaningful participation and consultation in the Xayaburi dam's decision-making process. However, the research findings reveal that the participation of Thai dam-affected villagers in the invited spaces at the regional and Thai national levels are far from meaningful participation and consultation. Rather, the participation of Thai affected villagers has been co-opted to legitimise pre-determined decisions and sustain the power of a few key decision makers. This chapter analyses that the unequal power relations between the regional and Thai national decision-makers and Thai affected villagers play important roles in constraining meaningful participation in the invited spaces in the Xayaburi project.

In addition, this chapter argues that the involvement of Thai public and private actors in promoting the construction of the Xayaburi dam project outside of Thailand has become another key factor constraining the participation of Thai affected villagers in the Thai national level decision-making process related to the Xayaburi project. Thai public actors, particularly the Electricity Generating Authority of Thailand (EGAT),

Ministry of Energy, the Thai Cabinet and other state agencies involved in the signing of the PPA can avoid conducting an EIA as required under Thai domestic law because the Xayaburi dam is not built in Thailand. Moreover, Thai domestic law cannot be fully implemented and enforced with Thai private actors, especially Thai banks financing the Xayaburi project. As the Xayaburi dam project is built in Laos, Thai private dam developers and financiers have to comply with Lao domestic law and regulation in order to receive approval from the Lao government to build the dam in that country. However, as argued earlier, the weakness of law implementation and enforcement in Laos can lead to the poor quality of environmental impact assessment and public participation convened in Laos. The weakness of law implementation and enforcement can become a loophole which Thai public and private dam proponents can exploit to serve their interests in promoting hydropower dam development in neighbouring countries with weak legal environmental laws and regulations.

Given the weakness of law implementation and enforcement, Thai dam-affected villagers shifted their interest towards a CSR mechanism adopted by Thai private dam developers and financiers, including Thai banks. As Thai banks funding the Xayaburi project had committed to CSR, Thai dam-affected villagers had expectations that Thai banks would commit their business to the principle of CSR, aiming to promote sustainable development in their business activities and decisions. However, the commitment of Thai banks to CSR has disappointed Thai affected villagers, who criticised that the CSR adopted by Thai banks has become more of a public relations tool for promoting corporate reputation than a mechanism for facilitating social and environmental accountability and responsibility.

Therefore, this thesis concludes that simply creating invited spaces is not enough to bring about meaningful participation. Many pre-existing factors both within and outside the invited spaces can reduce the potential of the invited spaces to provide meaningful participation and instead make these invited spaces become constrained spaces in which the participation of

Thai dam-affected villagers is co-opted to legitimise the decisions of the key decision makers to proceed with the Xayaburi dam project.

Chapter 6

Advocacy Strategies: Creating new opportunities for public participation in the Xayaburi dam's decision-making process

6.1 Introduction

This chapter aims to address the second hypothesis developed in Chapter Four. The chapter begins with the discussion of the important roles of Thai advocacy NGOs as advocates for public participation in the Xayaburi dam project. Then, the chapter examines advocacy strategies used by Thai advocacy NGOs to create new opportunities for Thai dam-affected villagers to participate in the Xayaburi dam's decision-making process at the regional and at the Thai national level. On the basis of the findings from the interviews, Thai advocacy NGOs tried to use both insider and outsider strategies to create new opportunities for the participation of Thai dam-affected villagers. However, the research findings found that Thai advocacy NGOs use more outsider strategies than insider strategies to create new opportunities for the participation of Thai dam-affected villagers. This is because Thai advocacy NGOs are outsider NGOs who gain limited access to or are excluded from the decision-making process of the Xayaburi dam project. Therefore, Thai advocacy NGOs have to rely more on outsider strategies to compensate for the lack of political access to the Xayaburi dam's decision-making process. The chapter focuses on the influence of the outsider status of Thai advocacy NGOs on the choices of advocacy strategies made by Thai advocacy NGOs and the effectiveness of advocacy strategies used by Thai advocacy NGOs in creating new opportunities for Thai dam-affected villagers to participate in the decision-making process of the Xayaburi dam project at the regional and Thai national level.

6.2 Thai advocacy NGOs: Advocates for public participation in the Xayaburi dam project

Thai advocacy NGOs have engaged in social and environmental movement against dam construction in Thailand since the 1980s (Hirsch, 2007). The anti-dam movement of Thai advocacy NGOs resulted in the

long controversy between the Thai government and the anti-dam local people and NGOs, which caused the country's hydropower dam development to stagnate (Sangkhamanee, 2015). Given the long controversy against the dam construction in Thailand, Thai pro-dam state and non-state actors have realised that it is impossible to build new dam projects in Thailand without strong protest from local people and anti-dam NGOs. To avoid the robust opposition to dam development in Thailand, Thai pro-dam state and non-state actors have shifted hydropower dam construction to neighbouring countries, particularly to Laos, where local civil society is not allowed to criticise or challenge the state-led development project (Stuart-Fox, 2006). As exemplified in the case of the Xayaburi dam project, the dam is actually a Thai-led project developed and built by Thai companies, and the power generated from the project is sold exclusively to Thai state-owned EGAT; however, the dam is built in Laos. Thai advocacy NGOs have raised concerns that the Xayaburi dam project will have transboundary social and environmental impacts not only on Thai local villagers living along the Mekong but also on local people in Laos, where the dam construction is located. Given the transboundary impacts of the Xayaburi dam project, Thai advocacy NGOs do not only limit their advocacy work to the national level but also scale up their advocacy to the regional level where they can target the regional decision-makers of the Xayaburi project (Hirsch, 2011; Hensengerth, 2015).

One of the most prominent Thai advocacy NGOs engaging in the anti-dam campaign against the Xayaburi dam project is the Towards Ecological Recovery and Regional Alliance (TERRA). TERRA is a Thai-based environmental NGO which was established in 1986 as a project to support local communities within Thailand in protecting rivers, forests, land and livelihoods (TERRA, 2016). Since the early 1990s, TERRA has scaled up its advocacy agenda to a higher Mekong regional level to address the challenges posed by the increasing regionalisation of the Mekong hydropower dam development (Ibid). The advocacy work of TERRA has expanded across the border to monitor the development problems derived from the expansion of the hydropower dam development in the Mekong

region. Networking and alliance building with other NGOs and civil society in the Mekong region is important for TERRA. According to an interviewee, TERRA was one important Thai NGO working to support the network of NGOs and people’s organisations in Myanmar, Cambodia, Laos, Vietnam and Thailand to encourage information exchange and alliance-building across regions (Interview T3, 2014).

TERRA works with several Thai advocacy NGOs to expand its network in the anti-dam campaign against the Xayaburi dam project. Table 6.1 presents the key Thai advocacy NGOs joining in the advocacy network with TERRA.

Table 6.1: The key Thai advocacy NGOs

The key Thai advocacy NGOs
1. Towards Ecological Recovery and Regional Alliance (TERRA)
2. Community Resource Centre
3. Green World Foundation
4. Living River Siam Association (LRSA)
5. Mekong Energy and Ecology Network (MEE Net)
6. Palang Thai

TERRA and the five Thai advocacy NGOs have formulated a loose advocacy network and launched an anti-dam campaign against the construction of the Xayaburi dam project. It should be mentioned that these six Thai advocacy NGOs are not an exclusive list of Thai NGOs opposing the Xayaburi dam. In fact, there are more Thai advocacy NGOs opposing the dam construction in the Mekong region, such as Seub Nakhasathien Foundation and Siamensis Group. However, those six Thai advocacy NGOs were included in Table 6.1 because they were referred to by many interviewees participating in the interview as the key Thai advocacy NGOs playing leading roles in initiating strategic activities to halt or delay the dam’s construction, exchanging information about the status of the dam with other NGOs and dam-affected villagers and engaging in advocacy

activities to persuade or pressure the decision-makers concerned to change their decisions in the way that Thai NGOs support (Interview TA1, 2014; LC1, 2014; I1, 2014; S2, 2014).

TERRA and the five Thai advocacy NGOs focus mainly on issues concerning the natural environment and local communities within Thailand and the Mekong region. They engage in advocacy activities to enable local communities to participate meaningfully in natural resources management and the decision-making process of the hydropower development at the Thai national and Mekong regional level. According to Dore (2003), these Thai advocacy NGOs emphasise the significance of the incorporation of local knowledge into water resources management and development to promote the rights of local communities and sustainable development. The key Thai advocacy NGOs mentioned here have low expectations of government intent or capacity in promoting sustainable development and often see state and dominant elites as pro-dam actors who are neither sufficiently legitimate, competent or inclined to adequately represent local community interests. TERRA and some Thai advocacy NGOs such as LRSA and Mee Net have decade-long experiences of anti-dam campaigning against dam construction in Thailand. These Thai advocacy NGOs often adopted grassroots resistance by organising mass demonstrations and protests to confront Thai pro-dam state agencies. Given that the confrontational strategies are based on protests and demonstration, these Thai advocacy NGOs are regarded by state officials as outsider NGOs, which are unofficial actors often excluded from the formal decision-making process of the Thailand's hydropower dam development.

TERRA and the five Thai advocacy NGOs share one common goal, which is calling on the Lao government and other decision-makers concerned to cancel or at least postpone the construction of the Xayaburi dam project to allow sufficient time for further studies on the dam's impacts (WWF, 2014). Although Thai advocacy NGOs have raised many concerns regarding the Xayaburi dam construction, they oppose the Xayaburi dam

project for two particular reasons: 1) the transboundary impacts of the dam on the hydrological pattern of the Mekong river, fish migration and local riverine people who depend on Mekong water resources for their livelihoods and 2) the poor quality of public participation in the decision-making process of the Xayaburi dam project. Despite being affected by the impacts of the dam construction, Thai riverine communities did not have meaningful participation in the prior consultation process of the Xayaburi project and have limited opportunities to participate in the approval process of the PPA (Thai People's Network in Eight Mekong Provinces, 2012).

Thai advocacy NGOs stepped in to help Thai dam-affected villagers to raise their voices and concerns about the Xayaburi dam's transboundary impacts and the poor quality of public participation in the Xayaburi dam project to Thai and Lao governments and other decision-makers concerned. One interviewee commented:

“the dam developer and Thai and Lao governments did not listen to the voices and concerns articulated by Thai villagers who were affected by the impacts of the dam and therefore we as non-governmental organisations needed to continue our work until the voices and concerns of Thai villagers could be heard by key decision-makers” (Interview T3, 2014).

Moreover, Thai advocacy NGOs tried to garner public attention and support, especially from Thai urban people living in the capital city of Bangkok, so that these urban people were more aware of the transboundary impacts of the dam and poor public participation in the dam's decision-making process, and they urged Thai government and decision-makers concerned to cancel the dam project. As discussed by an interviewee:

‘Thailand signed a contract to buy the electricity from the Xayaburi dam to meet the growing demand of electricity for urban people living in Bangkok and other metropolitan provinces’. ‘We thought it was important that urban people needed to be aware of the adverse impacts of the

Xayaburi project on local communities and we hoped that the public awareness of urban people would pressure Thai government to cancel the project' (Interview I1, 2014).

Thai advocacy NGOs adopt advocacy roles in the anti-dam campaign against the Xayaburi project. By adopting advocacy roles, Thai NGOs do not aim to achieve only personal gains or the interests of some specific groups; rather, they advocate against the Xayaburi dam not only for the benefit of Thai dam-affected villagers but also for the wider public within the Mekong region. The advocacy roles adopted by Thai advocacy NGOs emphasise the collective interests, seeking to pursue the interests of the general public, including local and poor people who often become the underrepresented groups in society. The advocacy roles of Thai NGOs are not based on individual advocacy but rather are concerned with collective issue-based or systemic advocacy (Casey, 2011). Although Thai advocacy NGOs target different state and non-state actors, they tend to put their advocacy efforts on the key decision-makers who have the real power to make the final decision on the project, such as Thai and Lao governments, EGAT and Thai dam developer and Thai commercial banks. As defined by many scholars, advocacy NGOs aim to change or influence policies, decisions and behaviours of institutionalised elites, government and powerful decision-makers in the way favoured by NGOs and advocacy groups (Casey and Dalton, 2006; Jenkins, 2006; Reid, 2000).

Thai advocacy NGOs become the advocates for Thai dam-affected villagers and aim to enhance the participation of Thai dam-affected villagers in the Xayaburi dam's decision-making process. According to Brinkerhoff et al. (2007: 63), NGOs have an ability to reach the poor and local people living in remote areas and may be able to aggregate the demands and preferences of the poor and local people and present them to political elites and decision-makers. Thai advocacy NGOs work closely with Thai villagers who are potentially affected by the Xayaburi dam project. Thai advocacy NGOs have built an alliance with the Network of Thai People in Eight Mekong Provinces (NTMP) to raise their campaign

against the dam construction. By building an alliance with the NTMP, Thai advocacy NGOs provide opportunities for Thai dam-affected villagers to get involved in the anti-dam campaign against the Xayaburi project. Both Thai NGOs and Thai dam-affected villagers have regular meetings and workshops to exchange information about the status of the dam construction and discuss the plans and strategies used to target the Xayaburi's decision-makers (Interview LC1, 2014). Thai advocacy NGOs have a close relationship with Thai dam-affected villagers, and they are able to present the demands, grievances and concerns of Thai dam-affected villagers to decision-makers concerned of the Xayaburi project.

Moreover, the long-term experiences of Thai advocacy NGOs in anti-dam campaigning against the dam construction in Thailand have helped Thai NGOs to build anti-dam alliances with other regional and international NGOs, community groups, civil society actors, academics and experts. For example, the six Thai advocacy NGOs are active members of the Save the Mekong Coalition (StM). The StM is a Bangkok-based cross-border activist, established in 2008, around the time when the proposed plans of hydropower dam development were back on the development agenda of the downstream Mekong states (Yeophantong, 2014). The StM is an attempt of Mekong NGOs and civil society groups, including Thai advocacy NGOs, to create the cross-border activism of Mekong civil society to address the emerging challenges of the transboundary hydropower dam development in the Mekong region. The main objectives of the StM focus on two things, which are to raise further public awareness about the risks associated with damming such an important international river, and to persuade policymakers to adopt more sustainable and peaceful ways of meeting people's energy and water needs (Save the Mekong, 2016a). The coalition is open to anyone, be they non-government organisations, community groups, academics, artists and ordinary citizens within the Mekong region and internationally, who shares concerns regarding the future of one of the world's greatest river systems (Ibid).

The members of the StM encompass a wide range of regional NGOs and civil society, such as Rivers Coalition in Cambodia and Vietnam Rivers Network, and international NGOs, for example, International Rivers, Earthrights International and Oxfam Australia. The StM has a loosely based structure which has no official coordinator. However, TERRA and International Rivers act as unofficial coordinators of the coalition (Yasuda, 2015: 76). By participating as members of the StM, Thai advocacy NGOs can enhance their influence in convincing and pressuring the key decision-makers of the Xayaburi dam project, especially higher regional decision-makers. As one interviewee mentioned, Thai advocacy NGOs could not work alone to oppose the Xayaburi dam building; rather, we needed to join in the StM coalition to gain and exchange necessary resources, expertise and connections from other members of the StM (Interview T6, 2014). The StM provides necessary resources which Thai NGOs can use to increase their influence and legitimacy in their anti-dam campaign against the Xayaburi project. In addition, Thai advocacy NGOs share the resources received from the StM with Thai dam-affected villagers, who are often the less powerful actor in the decision-making process of the hydropower development. With Thai dam-affected villagers being the less powerful actors, the resources gained from the StM are important resources to help build their political skills and capacity in raising the campaign against the dam construction. For example, one interviewee commented that after working with other members of the StM, Thai dam-affected villagers had gained useful information about the Xayaburi dam, which helped increase the confidence of Thai-dam affected villagers in approaching and raising their concerns directly to key decision-makers of the Xayaburi dam project (Interview T3, 2014).

The close relationship with Thai dam-affected villagers and the resources received from the StM enhance the influence and capacity of Thai advocacy NGOs to be advocates for public participation. Thai advocacy NGOs not only oppose the Xayaburi dam construction but they also attempt to expose the unequal power structure constraining the participation of Thai dam-affected villagers in the decision-making

process of the Xayaburi dam project. As analysed in Chapter Five, the invited spaces created for facilitating public participation became constrained spaces in which the participation of Thai dam-affected villagers was limited or, at worst, co-opted to legitimise the pre-determined decisions. Thai dam-affected villagers expected that the invited spaces created at the regional and Thai national level would open up opportunities for meaningful participation and consultation in the Xayaburi dam's decision-making process. However, Thai dam-affected villagers felt disappointed with these opportunities because they failed to incorporate the voices and concerns of Thai dam-affected villagers in the Xayaburi dam's decision-making process.

Thai advocacy NGOs are trying to create new opportunities, whereby Thai dam-affected villagers can participate meaningfully in the Xayaburi dam's decision-making process. However, Thai advocacy NGOs may face challenges due to the resistance of the powerful government and decision-makers who fear losing their dominant power and control in the decision-making process of the Mekong hydropower development. The unequal power relations become the important structural factor that can affect public participation in the development's decision-making process (Akbulut and Soylu, 2012; Cobbinah, 2015). Thai advocacy NGOs should recognise the importance of the unequal power relations and adopt advocacy strategies to enhance their influence and create new opportunities for the participation of Thai dam-affected villagers in the Xayaburi dam's decision-making process. As Corell and Betsill (2008) argued, by adopting particular strategies and/or accumulating resources, NGOs can enhance their influence and may be able to change structural factors and create new opportunities for influence (39). Advocacy strategies can be seen as actions to strengthen the power of the poor and marginalised people and to build influence and participation in decision-making processes (Pettit, 2012).

This thesis argues that Thai advocacy NGOs can use two types of advocacy strategies, which are insider and outsider strategies, to create new

opportunities for the participation of Thai dam-affected villagers in the Xayaburi dam's decision-making process. On the one hand, by using insider strategies, Thai advocacy NGOs aim to use lobbying strategies or conventional style strategies to create new opportunities through which Thai advocacy NGOs can articulate the demands and concerns of Thai dam-affected villagers directly to key decision-makers of the Xayaburi dam project. On the other hand, outsider strategies are used by Thai advocacy NGOs to enable Thai dam-affected villagers to create their own opportunities for influence and participation. The following sections examine the advocacy strategies used by Thai advocacy NGOs in creating new opportunities for the participation of Thai dam-affected villagers in the Xayaburi dam's decision-making process.

6.3 Advocacy strategies: Targeting the regional decision-makers of the Xayaburi dam project

As analysed in Chapter Five, the prior consultation process under the PNPCA provided invited spaces where Thai dam-affected villagers have opportunities to participate in the decision-making process at the regional level of the Xayaburi dam project. However, the invited spaces at the regional level became constrained spaces in which the participation of Thai affected villagers was used to legitimise the pre-determined decision of the Lao government to proceed with the dam construction. The opportunities that previously opened up for public participation were constrained and the participation of Thai dam-affected villagers was co-opted to maintain the domination of the Lao government in the decision-making process of the Mekong hydropower dam development. Being disappointed with the PNPCA process, Thai advocacy NGOs called on the Lao government and other regional decision-makers concerned to cancel the PNPCA or, at least, to extend the six-month duration of the PNPCA process to allow sufficient time for further study of the impacts of the dam construction and to make an informed decision about the project. To achieve these demands, Thai advocacy strategies use both insider and outsider strategies to create new opportunities through which Thai dam-affected villagers could influence

the regional decision-makers to change the decisions on the PNPCA process and the Xayaburi dam project.

6.3.1 Insider strategies

The dissatisfaction with the outcome of the Xayaburi dam's PNPCA process had prompted Thai advocacy NGOs to find another channel through which Thai dam-affected villagers gain new opportunities to approach key regional decision-makers of the Xayaburi dam project and influence them to cancel or extend the six-month duration of the PNPCA process. One of the most significant strategies adopted by Thai NGOs to approach the regional decision-makers is signing letters expressing their concerns regarding the PNPCA process and sending them to the Lao government and other regional decision-makers concerned. Signing letters and sending them to regional decision-makers is considered an insider strategy defined as activities aimed at influencing decision-making directly through the direct transmission of information to decision-makers (Betzold, 2013: 305). Insider strategies focus more on directly approaching decision-makers than using indirect means of seeking influence by getting the attention of the media or by mobilising public support. By adopting letter signing and submission, Thai advocacy NGOs aim to aggregate the demands and concerns of Thai dam-affected villagers and present them to key regional decision-makers (Interview T2, 2014; T4, 2014). This means that Thai advocacy NGOs try to approach key decision-makers directly and advocate on behalf of the interests, preferences and concerns of Thai dam-affected villagers who were disappointed with the processes and outcomes of the PNPCA.

Thai advocacy NGOs coordinated with the StM members in signing and submitting letters to key regional decision-makers. The letters were not only signed by Thai advocacy NGOs, but also endorsed by the StM members and submitted under the heading of the StM coalition. For example, the letter dated 13 October 2010 was addressed to the CEO of the MRC and forwarded to other key decision-makers at the Mekong regional level, including members of the MRC Joint Committee for the

four riparian countries and MRC donors (Save the Mekong, 2010). The key message of the letter called for a halt to the PNPCA process on the grounds that the PNPCA process had started, while the two key sources of documents (Strategic Environment Assessment (SEA) report, commissioned by the MRC, and the Xayaburi dam's project documents, submitted to the MRC Secretariat by the Lao government) had not yet been released to the public. Therefore, Thai advocacy NGOs and the StM members concluded that the PNPCA process failed to commit to transparency and accountability and therefore the PNPCA and the Xayaburi dam project should be dismissed (Ibid).

Despite the requests for halting the PNPCA process, the Lao government still insisted that the PNPCA process should proceed and end within the six-month timeframe as scheduled. The PNPCA process was organised amid the robust opposition and criticism from the wider NGOs and civil society groups. During the six-month duration of the Xayaburi's PNPCA process, Thai advocacy NGOs and the StM continued sending letters, requesting for similar reasons to halt the PNPCA process and to cancel the Xayaburi dam project. The letters aimed to target decision-makers and key actors at the Mekong regional level, including the Council members from the four-member countries, the prime ministers of Thailand and Laos and the CEO of the MRC (Save the Mekong, 2011; 263 NGOs, 2011). After the six-month period of the PNPCA process ended in April 2011, Thai NGOs and the StM submitted another letter to the CEO of the MRC and to the Council members of the National Mekong Committees of Thailand, Cambodia, and Vietnam (Save the Mekong, 2012). The letter requested a clarification from the MRC and its member governments on the status of the prior consultation of the Xayaburi dam. While there was disagreement among the stakeholders concerned regarding the six-month duration of the PNPCA process, the Lao government and Thai private dam developer still continued building the Xayaburi dam. Moreover, the representatives of the MRC agreed to conduct further study on the impacts of hydropower development on the Mekong mainstream. Thai NGOs and StM members urged the MRC and the member governments to take actions to halt the

dam construction so that further study and public consultation could be carried out (Ibid).

Thai advocacy NGOs used letter-signing and submission to create new opportunities apart from the opportunities provided by the PNPCA process. The new opportunities created by the letter-signing and submission were used by Thai advocacy NGOs to submit the criticisms and concerns regarding the PNPCA process and influence the regional decision-makers to respond to the demands made by Thai dam-affected villagers. For example, after sending the letter to the MRC CEO to request clarifications on the status of the Xayaburi's PNPCA, Thai advocacy NGOs and the StM received a reply written by the MRC. The reply stated that the MRC Secretariat took the concerns of the StM members and other stakeholders seriously and tried to address every question raised by Thai advocacy NGOs and the StM members (MRC, 2012). Although the MRC tried to respond to the demands and concerns raised by Thai advocacy NGOs and the StM, the MRC had no regulatory authority to force the member states to extend the duration of the PNPCA process or cancel the Xayaburi dam building. As pointed out in the reply, the MRC was an advisory and technical body, providing a platform for dialogue and support for studies and investigations; however, the MRC was not a regulatory body and did not have a mandate to call a halt to construction work (MRC, 2012).

The MRC is often criticised by civil society groups for lacking legal teeth to force its own member states to promote sustainability in the Mekong region (Ke and Gao, 2013). The MRC has no regulatory power to intervene in the decisions being made by its own member states. As pointed out by one interviewee, Thai advocacy NGOs tried to influence the MRC to halt the Xayaburi dam construction; however, the MRC, under the Mekong Agreement, did not have power or a mandate in its own right to intervene in the internal affairs of its own members (Interview S1, 2014). The decision on whether the PNPCA process and the dam building should be cancelled or continued depends on the interpretation of different MRC

countries and the MRC had no rights to intervene in its own member states' interpretation. In the opinions of Thai advocacy NGOs, the MRC was too weak to regulate the hydropower dam development promoted by the riparian states in the LMB (Interview T3, 2014; T6, 2014; T5, 2014; T2, 2014). Gao (2012) also made similar comments on the MRC's and the Mekong Agreement's being too soft to actually promote sustainability in the region, and most parts of the Agreement and the supporting procedures are drafted in hortatory language, thus unable to force the member states effectively. The MRC, in the eyes of Thai advocacy NGOs, was established and owned by the lower Mekong states and, therefore, the institution was intended to serve the national interest of the Mekong states, rather than the interest of the Mekong people.

Anti-dam NGOs and civil society groups criticise that the weakness of the MRC in regulating hydropower development in the LMB has enabled the Lao government to carry on with the Xayaburi dam building despite the major concerns about the dam's impacts raised by the wider public. Although Thai advocacy NGOs and the StM members submitted the letters calling for the cancellation or postponement of the PNPCA process and the Xayaburi construction, the Lao government had insisted on completing the prior consultation process within the original six-month timeframe and continuing with the dam building. As one interviewee complained, while the letters signed by Thai NGOs and anti-dam alliances were sent to the representatives of the Lao and Thai governments, the preliminary work of the construction had been on-going at the Xayaburi dam site (Interview I2, 2014). Despite receiving the complaint letters sent by Thai advocacy NGOs and StM members, the Lao government had never halted or delayed the dam construction. For example, the CEO of the Ch. Karnchang Company, the Thai private dam developer, told the media:

“We are still working on the project. We have not received a formal letter from the Lao government that we should suspend or put the project on hold” (Changplayngam and Jittapong, 2012).

Therefore, the Lao government showed its intention to move ahead with the Xayaburi dam development regardless of the concerns and criticisms raised by Thai advocacy NGOs and the StM members. The letter-signing and submission had little influence on the decision made by the Lao government regarding the Xayaburi dam building.

The small influence of the letter-signing and submission on the decision of the Lao government illustrates that relying solely on an insider strategy is not enough to make Thai advocacy NGOs fulfil their requests. This is because Thai advocacy NGOs are still regarded as outsider NGOs in the eyes of the Lao government. Simply using an insider strategy by sending the complaint letters directly to key decision-makers does not mean that Thai NGOs gain the political access to the decision-making process and have the real influence on the final decision. For example, the Lao government invited around 70 delegates from foreign governments to the city of Luang Prabang to listen to the presentation about the dam and visit the dam site on 17 July 2012 (Herbertson, 2012). Thai advocacy NGOs were not invited to participate in the dam site visit and tried to gain information about the dam site visit from those who attended the presentation meeting. After the dam site visit, the Lao government made a unilateral decision by announcing that it would hold a ground-breaking ceremony at the Xayaburi dam site on 7 November 2012 to begin with the official construction work on the Xayaburi dam (Trandem, 2012). This decision was made in a secretive manner without the involvement of NGOs and the wider public.

The outsider status of Thai advocacy NGOs has restricted political access to the decision-making process at the regional level of the Xayaburi dam project. Even though Thai advocacy NGOs used the insider strategy of letter-signing and submission to create new opportunities to get access to the regional decision-making process of the Xayaburi dam, the insider strategy is not enough to influence the Lao government to cancel or suspend the Xayaburi dam construction. Because of their outsider status, Thai advocacy NGOs need to resort to outsider strategies as a way to enhance their influence and compensate for their lack of political access.

6.3.2 Outsider strategies

Thai advocacy NGOs used the insider strategy of letter-signing and submission to target the regional decision-makers directly and call on them to cancel or suspend the PNPCA process and the Xayaburi dam building. However, the letter-signing and submission has little influence on the decision made by the regional decision-makers. Although the MRC wrote the reply to address the concerns raised by Thai advocacy NGOs and StM members, the MRC was not the regulatory body and therefore had no mandate to intervene in the internal affairs of its own members. The MRC was unable to force the Lao government to stop the Xayaburi dam building. Given the weakness of the MRC, the Lao government sees no reason that it should cancel the Xayaburi dam project instead of proceeding with the dam construction. Thai advocacy NGOs had come to know that even though they tried to use the insider strategy, they still had a limitation on getting access to the Xayaburi's decision-making process at the regional level. Thai advocacy NGOs began to shift towards the unconventional style of outsider strategies to enhance their influence through the mobilisation of public support.

Outsider strategies are different from insider strategies in that outsider strategies aim to approach or influence decision-makers indirectly through the mobilisation of public and media attention and support (Binderkrantz, 2008). Outsider strategies were used by Thai advocacy NGOs to attract public attention, raise public awareness on the transboundary impacts of the Xayaburi dam and mobilise public support for the opposition of the Xayaburi dam. According to Beyers (2004: 215), outsider strategies are used to convince public officials that there are constituencies actively supporting the positions around which mobilisation is taking place. Thai advocacy NGOs aim to use outsider strategies to inform the regional decision-makers that their protest activities against the Xayaburi dam project have gained public support, and therefore the regional decision-makers should respond to the demands requested by Thai advocacy NGOs and their supporters. In order to attract and mobilise public support, Thai advocacy NGOs need to implement outsider strategies in the public arena

outside the formal decision-making process. The communication and negotiation between Thai advocacy NGOs, StM members and the key regional decision-makers are not made behind a closed door but rather become visible to a broader audience.

Outsider strategies are often considered a fall-back option for NGOs lacking political access to the decision-making process (Binderkrantz, 2005: 697). However, this thesis argues that outsider strategies are not a mere fall-back option; rather, outsider strategies may be used to complement or reinforce other strategies or tactics (e.g. insider strategies) used by NGOs to influence policy decisions. As argued by Bruycker (2014), NGOs rely on a wide repertoire of strategies for influencing public policies and decisions and different strategies are used to complement or reinforce each other to influence policy decisions. It is rare to see NGOs rely on only one type of strategy to target decision-makers and influence policy decisions. Thai advocacy NGOs also combine advocacy strategies by using both insider and outsider strategies to target regional decision-makers and influence them to change their decisions on the Xayaburi dam building. During the interview, interviewees commented that Thai advocacy NGOs adopted every possible strategy available to them, be it protest, filing a lawsuit, public education, sending letters, writing petitions or conducting research, to open up new opportunities for pressuring or persuading regional decision-makers to cancel the dam construction (Interview LC1, 2014; T3, 2014). The next sections examine a wide range of outsider strategies used by Thai advocacy NGOs to enhance the influence of Thai advocacy NGOs in creating new opportunities for Thai dam-affected villagers to voice their concerns and demands in the Xayaburi dam's decision-making process at the regional level.

I. Protest-based strategies

The unilateral decision of the Lao government to proceed with the dam construction had urged Thai advocacy NGOs to adopt a more confrontational style of protest-based strategies. For example, Thai

advocacy NGOs and the networks of Thai people living in Mekong provinces engaged in an international petition signed by 22,589 people from 106 countries, calling for Thai and Lao governments to cancel the proposed Xayaburi dam project (International Rivers, 2011b). The international petition was submitted to the prime ministers of Thailand and Laos just one week before the four MRC governments of Thailand, Laos, Cambodia and Vietnam would meet in Siem Reap, Cambodia, for the 18th MRC council meeting, held on 8 December 2011 to decide how to proceed with the Xayaburi dam project (Ibid). Apart from the protest petition campaign, Thai advocacy NGOs helped support the representatives of Thai local villagers who may be affected by the Xayaburi dam building to organise public protests aiming to target the decision-makers concerned at the regional level. It should be noted that Thai advocacy NGOs try not to lead or organise public protests on behalf of Thai dam-affected villagers. Rather, Thai advocacy NGOs provide necessary resources to Thai dam-affected villagers to enable them to organise protests on their own behalf. As mentioned by one interviewee:

“we were not the representatives of villagers’. ‘Our work was to collaborate with villagers so that they were capable to use their own strategies to protect their own interests” (Interview T3, 2014).

At the 9th Asia–Europe Summit, held in Laos, from 5–6 November 2012, the representatives of Thai dam-affected villagers, including the NTMP and the Network of Community Organization Council in Seven Northeastern Provinces, organised the protest against the Xayaburi dam. Around 250 Thai villagers gathered in boats on the Mekong river outside Vientiane to protest the Xayaburi dam while the leaders from Asia and Europe gathered in Vientiane, Laos, for the 9th Asia–Europe Summit meeting (Herbertson, 2012b). During the protest, Thai advocacy NGOs did not act as the protesters; rather, they played a role as supporters who provided advice and resources to enhance the capacity of Thai dam-affected villagers to run their own protest campaign.

By getting involved in the boat-gathering protest at the Asia–Europe Summit, Thai advocacy NGOs and the networks of Thai local villagers aimed to expand the controversies of the Xayaburi dam project beyond the regional level of the MRC to gain attention from several Asian and European governments which were donors to the MRC. The protest strategy at the Asia–Europe Summit targeted the MRC donor governments because Thai NGOs and the networks of Thai local villagers hoped that the MRC donors may have more power and influence to convince the Lao government to halt the building of the Xayaburi dam. However, the Lao government still insisted to move on with the dam building and held the ground-breaking ceremony to begin the riverbed construction stage on 7 November 2012, just one day after the end of the 9th Asia–Europe Summit. According to one interviewee, the Lao government had come to know that there was the boat-gathering protest held during the 9th Asia–Europe Summit. However, the Lao government did not want to lose face to the dam opponents and therefore was determined to build the dam at all costs (Interview S1, 2014).

In the light of the inability of the dam opponents to exert pressure on Laos, Thai advocacy NGOs and the networks of Thai local villagers felt so frustrated that they wanted to elevate their protest strategies to more aggressive means of obstruction such as a blockade of the Lao–Thai friendship bridges (Hensengerth, 2015: 920). However, the idea to block the bridge was called off because the protestors worried that they might be arrested by Thai police (Interview TS2, 2014). Although Thai advocacy NGOs and the networks of Thai villagers used public protest to scale up the controversies of the Xayaburi dam to the regional and global level, they did not want to break the law and cause violence between Thai state authorities and the protestors. Thai state officials often criticised Thai advocacy NGOs and Thai anti-dam villagers as unhelpful actors who did nothing to help but only criticise (Cooper, 2010). Thai advocacy NGOs are often seen negatively by Thai state officials as anti-development NGOs who did not want the country to be developed and preferred to preserve the country as it was (Interview I2, 2014). Thai advocacy NGOs and Thai

anti-dam villagers needed to use protest-based strategies in caution. If the public protest lost control and caused violence, Thai advocacy NGOs might be blamed as the culprits and lose their legitimacy in the eyes of the public.

With regard to the limitation of protest-based strategies, Thai advocacy NGOs realised that they could not simply use one specific tactic for their advocacy campaign against the Xayaburi dam project. One technical advisor argued that protest-based strategies were not enough for Thai advocacy NGOs to stop the dam building; rather, they should engage themselves in information-based strategies to use the power of information and knowledge to challenge the dominant development discourse favouring hydropower dam development (Interview TA1, 2014). One interviewee from a Thai state agency told an author that if Thai NGOs believed that the construction of the Xayaburi dam would have transboundary impacts on the Mekong basin, Thai NGOs needed to prove their claims with evidence and scientific information (Interview S1, 2014). Although protest-based strategies can be used to attract public attention, Thai advocacy NGOs need to generate information and knowledge to bind like-minded people and encourage them to act together in the anti-dam campaign. The next section focuses on information-based strategies used by Thai advocacy NGOs to target and influence the regional decision-makers of the Xayaburi dam project.

II. Information-based strategies

While protest-based strategies mobilise people to confront and pressure decision-makers to change their policy decisions, information-based strategies use more persuasion and social skills to appeal to public conscience and convince decision-makers to change their decisions or behaviours in the ways preferred by NGOs. Thai advocacy NGOs used a wide range of information strategies to target the regional decision-makers, including fact-finding and investigation, public education, research-based activities and issue-framing. Thai advocacy NGOs use

these information-based strategies to gather data and evidence and generate alternative knowledge to support their claims about the transboundary impacts of the Xayaburi dam project. As one interviewee commented:

“We engaged in many activities to gather evidence about the dam impacts and to prove that we were not irrational protestors who always oppose the hydropower dam development without supporting evidence” (Interview T6, 2014).

Many interviewees asserted the importance of information-based strategies as strategic activities to enhance the capacity and influence of Thai advocacy NGOs in challenging the claims made by the Lao government. The Lao government defended their decision to proceed with the dam building by claiming that the Xayaburi dam project had no transboundary impacts and that the concerns raised by civil society groups would be addressed during the dam construction (Radio Free Asia, 2011). The Lao government even hired the private engineering company, Pöyry, to evaluate the impacts of the dam and published the report to confirm that the project should continue because there would be no transboundary impacts and new technologies such as fish passages could allow migrating fish to travel past the dam (Herbertson, 2011). The report published by Pöyry was used by the Lao government to legitimise its decision to proceed with the dam construction. However, Thai advocacy NGOs and the StM members reviewed and evaluated the Pöyry report and found that the report was a desk study failing to collect any additional data about the dam’s impacts. After the evaluation of the Pöyry report, the Lao government became the central focus of public criticism because it used the flawed report to support the decision to move ahead with the dam building.

In addition, Thai advocacy NGOs worked closely with International Rivers, a US-based international anti-dam NGOs, to find facts and investigate the costs and benefits of the Xayaburi dam and disclose

information on the Xayaburi dam project to the public. For example, after the Lao government released the Xayaburi's EIA to the public in mid-March 2011, International Rivers conducted its own review on the Xayaburi dam's EIA and published a preliminary review of the EIA report for the Xayaburi dam project on March 14, 2011. The International Rivers' review of the EIA revealed that the EIA failed to conduct meaningful public consultation with both directly and indirectly dam-affected people and contained critical flaws and significant gaps, particularly in the lack of key technical information and analysis on fisheries and aquatic resources, water hydrology, sediment transport, and dam safety in the event of an earthquake (Trandem, 2011). International Rivers also published four comments of international Mekong specialists on the Xayaburi EIA, criticising it as poor quality with flawed data and substandard (International Rivers, 2011). By drawing on independent academic review of the EIA, International Rivers sought to mobilise public support to legitimise its claims and criticisms on the EIA's quality.

Thai advocacy NGOs also criticised the EIA as being of poor quality. As one interviewee commented, the Xayaburi EIA was carried out not for the purpose of the impact assessment of the dam project on environment and local livelihoods, but rather for helping Laos fulfil the minimum requirement of the prior notification and consultation process which would allow the Lao government and the dam developer to go ahead with the dam construction (Interview T5, 2014). Thai advocacy NGOs used the review reports of the EIA conducted by International Rivers and independent academics to support and legitimise their criticisms of the poor quality of the environmental impact assessment (EIA) of the Xayaburi dam project. Thai advocacy NGOs are small and national NGOs which have resource limitations in implementing advocacy work beyond the Thai national border. Therefore, working with International Rivers to review the Xayaburi dam's EIA can make the criticism of Thai NGOs about the EIA more credible and reach broader audiences and gain more popular support.

The information and knowledge generated by information-based strategies is used by Thai advocacy NGOs to mobilise public support, raise public awareness and legitimise their claims about the adverse impacts of the Xayaburi dam. Although Thai advocacy NGOs use alternative information and knowledge to legitimise their claims and anti-dam advocacy, the powerful regional decision-makers may resist to make any change on the public policies or decisions. For example, instead of cancelling or postponing the Xayaburi dam building, the Lao government and the dam developer spent at least \$200 million to redesign the dam project to address public criticism and concerns and legitimise the decision to move forward with the dam construction (Cronin and Weatherby, 2015: 14). With regard to the unilateral decision of the Lao government to go ahead with the dam project, Thai advocacy NGOs keep trying to expand the opportunities to participate in the Xayaburi dam's decision-making process. The Lao government is not the only key decision-maker in the Xayaburi dam project; many public and private actors from Thailand are also important decision-makers in it. Therefore, Thai advocacy NGOs target public and private decision-makers at the Thai national level to create new opportunities for the participation in the Xayaburi dam's decision-making process.

6.4 Advocacy strategies: Targeting Thai public and private decision-makers of the Xayaburi dam project

Thai public and private actors are involved in the Xayaburi dam development and become the key decision-makers of the project. Thai government approved EGAT's signing of the Power Purchase Agreement (PPA) to buy the electricity generated from the Xayaburi dam and Thai banks are the main financiers funding the Xayaburi project. Thai dam-affected villagers expected that they would be invited to participate in the approval process of the PPA and gain access to key information about the dam's financing. However, as analysed in Chapter Five, the invited spaces where Thai dam-affected villagers can participate in the decision-making process relating to the PPA approval were constrained. The signing of the

PPA had been approved behind closed doors with the limited participation of Thai dam-affected villagers. The decision of Thai banks to finance the Xayaburi project had been made in a secretive manner and without information disclosure. The CSR, a participatory mechanism adopted by Thai banks, had turned out to be a public relations tool rather than the mechanism to promote social responsibility and environmental sustainability.

Thai advocacy NGOs take the role of advocates for public participation and use advocacy strategies to create new opportunities for the participation of Thai dam-affected villagers to participate in the Xayaburi dam's decision-making process at the Thai national level. Thai advocacy NGOs use advocacy strategies to target both Thai public and private decision-makers to create the new opportunities in which the voices and concerns of Thai dam-affected villagers can influence the decisions made by Thai public and private decision-makers.

6.4.1 Advocacy strategies targeting Thai public decision-makers

6.4.1.1. Insider strategies

Thai advocacy NGOs felt disappointed with the limited opportunities in which Thai dam-affected villagers can participate in the approval process of the PPA. Thai advocacy NGOs worked closely with the NTMP to articulate their concern that the Thai government should not support the Lao government and the Thai dam developer to build the Xayaburi dam by purchasing Xayaburi power. Thai advocacy NGOs and the NTMP called on the Thai government to cancel or suspend the PPA because Thai state agencies involved in purchasing Xayaburi power did not conduct an EIA before signing the PPA. The letter-writing and submission was used by Thai advocacy NGOs and the NTMP to call on Thai public decision-makers and other actors concerned to cancel or suspend the PPA. A letter-writing activity may attract less public and media attention than protest-based strategies. However, letter-writing has the advantages of insider strategies because Thai NGOs and the NTMP gain opportunities to contact

Thai public decision-makers and convince them more directly to change their decisions on the PPA.

Although Thai advocacy NGOs wrote letters to call for the cancellation or suspension of the PPA on behalf of Thai dam-affected villagers, the letters were submitted to Thai public decision-makers under the heading of the NTMP. This was to emphasise that Thai advocacy NGOs wrote and submitted the letters to Thai public decision-makers on behalf of Thai dam-affected villagers. One interviewee explained that although the letter was drafted by Thai NGOs, the letter was endorsed and submitted under the heading of the NTMP to ensure that the content of the letter contained the concerns and requests made by Thai dam-affected villagers (Interview TS1, 2014). By involving the representatives of the NTMP in the letter-writing advocacy, Thai advocacy NGOs aimed to enhance the legitimacy of their advocacy work against the Xayaburi dam project.

Thai advocacy NGOs and NTMP used two steps in the letter-writing advocacy to target two types of Thai public actors. The first was to send the letter to target Thai public decision-makers involved directly in the approval process of the PPA. For example, in June 2012, Thai advocacy NGOs and the NTMP sent a letter to the National Energy Policy Council (NEPC), one of the Thai state agencies approving EGAT's signing of the PPA. The letter targeted the NEPC and EGAT and stated that the two state agencies failed to comply with the Thai Constitution of 2007 and other Thai national laws and state orders, as well as the 1995 Mekong Agreement and other international laws such as the Stockholm Declaration and United Nations Declaration on the Rights of Indigenous Peoples (Energy Policy and Planning Office, 2012). The letter requested that the NEPC and EGAT cancel the PPA (Ibid).

The second letter, endorsed by Thai advocacy NGOs, NTMP and the WWF-Thailand, was written just one month after Thailand's military coup in 2014 to target the new prime minister of the Thai military government, General Prayuth Chan-ocha. The 2014 Military Coup was an

unforeseeable event which negatively affected the advocacy work of Thai advocacy NGOs. According to an interviewee, the military coup led to the cancellation of Thai Constitution of 2007, and the Thai NGOs operated their advocacy work against the Xayaburi dam project in a legal vacuum in which they were unable to use the Thai Constitution to defend their claims and anti-dam activities used to oppose the Xayaburi dam project (Interview T5, 2014). Thai advocacy NGOs, NTMP and the WWF-Thailand sent a letter to the new prime minister, General Prayuth Chan-ocha, to raise their concerns about the unstable political situation after the military coup and convince the new government that the Xayaburi dam project could pose a threat to the livelihoods of 20 million citizens living in the north and northeast of Thailand and that therefore the Thai government should withdraw its support of the Xayaburi dam as the power purchaser (WWF-Thailand, 2014).

Although Thai advocacy NGOs tried to use the letter-writing advocacy to request that the Thai government cancel or suspend the PPA with the Xayaburi dam project, the Thai government did not cancel or suspend the plan to buy Xayaburi power. EGAT and other state agencies involved in the PPA approval argued that the signing of the PPA abided by both Thai national and international law. EGAT and the state agencies concerned were not required by Thai law to conduct the EIA because the Xayaburi dam project was located in Laos, and therefore it was the responsibility of the project generator, the Xayaburi Power Company Limited (XPCL), to conduct the EIA study as required under Lao law. Moreover, EGAT claimed that the six-month duration of the PNPCA process had already been completed because the Lao government sent a letter to EGAT and the Thai Ministry of Energy in June 2011, confirming that the Xayaburi dam's prior consultation had been completed within the six-month timeframe as required by the 1995 Mekong Agreement (Energy Policy and Planning Office, 2012). By referring to the confirmation letter sent by the Lao government, the Thai cabinet and the NEPC approved the draft of the PPA and allowed EGAT to sign the PPA.

Thai advocacy NGOs criticised the fact that EGAT and the state agencies concerned exploited the loophole and ambiguities of Thai national and international laws to sign the PPA and avoid the burden of the strict social and environmental safeguard policies in Thailand (Interview T2, 2014). Feeling disappointed by the decision of the Thai public decision-makers to continue their plan to buy Xayaburi power, Thai advocacy NGOs turned to outsider strategies to influence Thai public decision-makers indirectly through the mobilisation of public support. Outsider strategies adopted by Thai advocacy NGOs can be grouped into two types of strategies, which are protest- and information-based strategies. The next sections examine the protest- and information-based strategies used by Thai advocacy NGOs to create new opportunities in which Thai dam-affected villagers can participate in the decision-making process of the PPA.

6.4.1.2 Outsider strategies

The decision-making process to approve the PPA had been made behind closed doors and with limited public participation. One of the interviewees complained that by the time Thai NGOs had learnt that Thai government planned to buy Xayaburi's power, the PPA between EGAT and the XPCL was already signed (Interview T2, 2014). Thai advocacy NGOs were seen as outsider NGOs who gained very limited access to the decision-making process for the PPA approval. Although Thai advocacy NGOs tried to use the insider advocacy strategy of letter-writing to request that the Thai government cancel or suspend the PPA, the letter-writing advocacy did not have much influence on the decisions made by Thai public decision-makers regarding PPA approval. The letter-writing strategy was used after EGAT had already signed the PPA with the XPCL. Therefore, it was difficult for Thai advocacy NGOs and the NTMP to influence Thai public decision-makers to cancel or suspend the pre-determined decision (Interview T1, 2014). As admitted by one interviewee, EGAT had no reason to hold on the plan to buy Xayaburi power because the PPA had already been approved by the Thai government and signed with the project generator (Interview TS1, 2014). Because of the pre-determined decision

to buy Xayaburi power, Thai advocacy NGOs aimed to use a more confrontational style of protest-based strategies to attract public attention and mobilise public support to pressure or convince Thai public decision-makers to cancel or postpone the PPA.

I Protest-based strategies

Given that Thai advocacy NGOs were excluded from the formal decision-making process of the PPA approval, Thai advocacy NGOs had to employ most of their advocacy work in the public arenas to attract and mobilise public attention and support. Thai advocacy NGOs had engaged in a variety of protest-based strategies to raise public awareness of the involvement of Thailand in promoting Xayaburi dam building. Gaining public support for the anti-dam campaign is considered by Thai advocacy NGOs to be important for enhancing their influence and legitimising their claims and political activities. One interviewee asserted that public awareness and support, particularly from people living in Bangkok and urban areas of Thailand, was key to making Thai public decision-makers reconsider their decisions regarding the PPA (Interview I1, 2014). Thai advocacy NGOs adopted protest-based strategies to convince Thai people and Thai decision-makers that the electricity generated from the Xayaburi dam was unnecessary for Thailand and that therefore the PPA should be cancelled. The protest-based strategies were used by Thai advocacy NGOs to challenge the conventional energy development plan and policy favouring the import of power from the hydropower dam project built in neighbouring countries. Therefore, the protest-based strategies tend to provoke the conflict between Thai advocacy NGOs and Thai public decision-makers who prefer to import the power generated from the hydropower dam development in the LMB.

Thai advocacy NGOs collaborated with their close anti-dam alliance, the NTMP, to organise protest-based strategies. During 2012 and 2013, Thai advocacy NGOs and the NTMP organised two peace-walks for the Mekong River in Chiang Rai province. Moreover, Thai advocacy NGOs

and the NTMP had engaged in a higher level of confrontational activities, expanding more conflicts with Thai public decision-makers. For example, around 400 people from provinces along the Mekong river in the north and northeast of Thailand gathered on 5 April 2011 in Nong Khai's Si Chiang Mai district to oppose the Xayaburi dam project proposed by the Lao government, and the protesters also signed a protest letter requesting that the Thai prime minister cancel the plan to purchase electricity from the project (Ganjanakhundee, 2011). Subsequently, on 18–19 April 2011, the NTMP and Thai NGOs organised another protest in Bangkok and submitted protest letters against the Xayaburi dam project signed by nearly 10,000 Thai villagers from eight Mekong provinces of Thailand to the Laos Embassy in Bangkok and the Thai prime minister (Middleton, 2012b: 13). In addition, in May 2012, around 30 members of the NTMP gathered at the MRC's Mekong2Rio International Conference on Transboundary River Basin Management, convened from 1 to 3 May 2012 in Phuket province, Thailand, to confront the MRC member governments attending the conference (Wangkiat, 2012). The gathering of the NTMP members at the Mekong2Rio conference was encouraged by Thai advocacy NGOs and the StM members who fully supported the actions of the NTMP members who travelled to Phuket to hand in a petition to the MRC member governments to raise awareness about the Xayaburi dam and call for the cancellation or the suspension of the PPA (Ibid).

Despite the robust protests from Thai advocacy NGOs and the NTMP, Thai public decision-makers did not cancel or suspended the PPA. Thai villagers from eight Mekong provinces submitted complaints regarding to the Xayaburi dam and the PPA to Thai independent bodies, which are 1) two senate commissions including one on anti-corruption and good governance and the other on community natural resources and 2) the Subcommittee on Community Rights and Natural Resources, the National Human Rights Commission of Thailand (NHRCT). Thai villagers asked the two senate commissions and the NHRCT to investigate whether the approval of PPA by Thai state bodies is in compliance with Thai law

(King, 2014). The investigations conducted by the senate commissions and the NHRCT arranged a public hearing on the Xayaburi dam in February 2012 and invited key decision-makers from both public and private sectors involved in the Xayaburi dam to testify about their involvement in the project (International Rivers, 2012). As told by one human rights official, the NHRCT invited both the state agencies such as EGAT, the Ministry of Energy, the Ministry of Natural Resources and the Environment, the Energy Policy and Planning Office and the private dam developer and financiers such as CH. Karnchang and Thai Commercial Banks to participate in the public hearing meetings and submit key documents to the NHRCT (Interview HR1, 2014).

The findings of the investigations suggested that further impact assessment, public consultation and information disclosure should be carried out under Thai law before the approval of the PPA (King, 2014). A Senate Committee on Community Natural Resources commented that a transboundary impact assessment of the Xayaburi dam should be conducted before the approval of the PPA. Similarly, the NHRCT proposed that the prime minister of Thailand should review the implementation of the dam construction; comply with the MRC's resolution to study the impacts of mainstream hydropower development and suspend any action based on the PPA until the investigation was fully completed (National Human Rights Commission of Thailand, 2012). The suggestions proposed by the Senate Commissions and the NHRCT supported the requests made by Thai NGOs and the NTMP that information disclosure and public participation, including an EIA and health impact assessment (HIA) should be conducted before granting permission to EGAT to sign the PPA.

However, the findings of the investigations could not force the Thai government to cancel or suspend the PPA. This is because the senate commissions and the NHRCT do not have regulatory power to force Thai state agencies to cancel or suspend the PPA. As an interviewee commented, the NHRCT had a mandate and obligation to investigate any

action and omission that constituted human rights abuses and made policy and legal proposals to the Thai government; however, the NHRCT did not have the power to force the Thai government and its agencies to comply with the recommendations or proposals suggested by the NHRCT (Interview HR2, 2014). Thai advocacy NGOs and the NTMP had decided to use legal action to force the Thai government to cancel or suspend the PPA. On 7 August 2012, 37 Thai villagers living in eight Mekong provinces filed a lawsuit in Thailand's Administrative Court in Bangkok. The lawsuit aimed to target five Thai government bodies, including EGAT, Ministry of Energy, Ministry of Natural Resources and Environment, National Energy Policy Council (NEPC) and the Thai cabinet. These five state agencies are involved in signing the agreement to buy Xayaburi power.

Filing a lawsuit against Thai government bodies became the last resort for Thai NGOs and Thai villagers who opposed the Xayaburi project and the PPA. Thai villagers who filed a case to Thai court admitted that it was not an easy decision for villagers to use legal action to fight against EGAT and other state bodies but they had no other choice because the dam had still carried on and Thai state agencies disregarded the villagers' concerns about the ways the dam would cause them harm (Deetes, 2012). A Thai advocacy NGO who worked as a lawyer for Thai villagers commented that the adoption of legal activism against Thai decision-makers was very challenging for Thai NGOs and Thai villagers because this was the first community-led lawsuit in the region to challenge a large dam on the Mekong river and there was no guarantee on whether Thai villagers would win or lose the case (Interview T4, 2014).

Thai villagers hoped that the Thai judicial system would bring justice for the people. However, the judges did not rule in favour of Thai villagers who might be affected by the dam project. In February 2013, the Thai Administrative Court denied jurisdiction to hear the case because the plaintiffs, the villagers, could not be considered injured persons, and the court did not deem the conclusion of the PPA to be an administrative act

(Deetes, 2012). Thai villagers filed an appeal in March 2013 and on 24 June 2014. The Thai Supreme Administrative Court reversed the decision and agreed to hear the case. The decision of the Thai Supreme Administrative Court to accept the case provided new opportunities for Thai villagers who hoped that the court would give an order to suspend the PPA and, in the meantime, carry out a transboundary impact assessment and further consultations (Lefevre, 2014). However, the court did not suspend the PPA and the Xayaburi dam building had still been carried on. In October 2014, Thai communities filed an injunction with the Administrative Court calling for a halt to construction on the Xayaburi dam while the court ruled on the case. However, after the court received the final submission of evidence by Thai villagers in July 2015, the court ruled in favour of EGAT and four other state agencies and dismissed the case on 25 December 2015 (International Rivers, 2015).

Thai villagers felt disappointed with the decision of the Thai Supreme Administrative Court to dismiss the case in December 2015. However, a group of Thai villagers were not giving up and filed a final appeal to the Supreme Court on January 25, 2016 and the ruling should be decided in the next two years (Wengkiat, 2016). Despite losing a court case, Thai advocacy NGOs believed that this was not the end of the fight for the rights of and justice for Mekong communities (International Rivers, 2015). Many interviewees from Thai advocacy NGOs and Thai state officials stated that Thai villagers should not give up and abandon their anti-dam campaign; rather, they should continue their advocacy strategies and engage more in information-based strategies to enhance their capacity and collect more evidence of the negative impacts of the dam to defend their claims and influence Thai public decision-makers more effectively in the future. Thai advocacy NGOs and the NTMP have increasingly engaged in information-based strategies to oppose the PPA and the Xayaburi dam project.

II. Information-based strategies

The Xayaburi hydropower dam project has posed new challenges for Thai advocacy NGOs because the dam is being built outside Thailand. Thai advocacy NGOs and the villagers from the NTMP have found difficulties using Thai laws to hold Thai public decision-makers responsible and accountable for their promotion of the Xayaburi dam project. Thai advocacy NGOs and Thai villagers were disappointed with the court's ruling in favour of EGAT and the four state agencies involved in the PPA. According to the decision of the Thai Supreme Administrative Court on 25 December 2015, EGAT and the four Thai state agencies did not fail to comply with the cabinet's resolution and Thai domestic and international laws. The court ruled that the PPA was not regarded as a Thai state-led project or activity and therefore EGAT and the state agencies concerned did not omit to comply with the social and environmental safeguard policies such as impact assessment and public consultations before signing the PPA (Thai Supreme Administrative Court, 2015). Moreover, the court stated that Thai villagers who filed a lawsuit against the PPA were not regarded by Thai Court as injured persons because the PPA was a contract binding only EGAT and the XPCL and therefore Thai villagers were not considered the concerning stakeholders of the PPA contract (Ibid).

Thai villagers, who filed the case to the Thai court, were disappointed with the verdict. As said by one of Thai villagers:

“We are disappointed...the judicial system can't bring about justice for the people'. 'They give priority to economic growth while leaving people incapable of protecting their rights to manage natural resources sustainably” (Cited in Wengkiat, 2016).

Thai advocacy NGOs and the NTMP had come to realise that it was not enough to use only protest-based strategies to influence Thai public decision-makers to cancel the PPA and withdraw their involvement in the

Xayaburi dam project. Thai advocacy NGOs and the NTMP had shifted towards information-based strategies to collect data and evidence to investigate the negative impacts associated with the Xayaburi dam and to prove that the Xayaburi dam could cause cross-border impacts on Thai communities living along the Mekong river. Thai advocacy NGOs and the NTMP hoped that the information generated from information-based strategies would become the source of power to influence Thai public decision-makers to make policies or decisions in the way desired by Thai advocacy NGOs and the NTMP. Keck and Sikkink (1998: 16) referred to information-based strategies as information politics to define the efforts of NGO activists to use the power of information and ideas to alter the information and value contexts within which the decision-makers make policies.

The Xayaburi dam is the first dam ever to be built on the lower section of the Mekong River. The Xayaburi dam project has brought about the problem of uncertainties, especially in terms of the knowledge and information on the impacts of the dam and how to regulate the costs and benefits associated with the dam to ensure that the local communities are not the ones who bear the negative impacts of the dam (Middleton, 2014). Given the problem of uncertainties, Thai advocacy NGOs and the NTMP see the importance of the implementation of information-based strategies to enhance their understanding of the problems and new challenges of the Xayaburi dam project, to gain knowledge and credible information to defend their claims against the dam project and to generate alternative knowledge of Mekong development to convince the public and decision-makers to change their decisions and behaviours. As noted by one interviewee:

“the Xayaburi dam is the first dam to be built on the Lower Mekong and it was the first time that the PNPCA had been used to regulate the dam’. ‘It was the learning process in which every stakeholder concerned needed to learn and find out the solutions agreed by every sector of the society’ (Interview T5, 2014).

One of the most prominent information-based strategies adopted by Thai advocacy NGOs is the endorsement of the Alternative Power Development Plan. The Alternative Power Development Plan was produced in 2012 by Palang Thai, a Thai-based NGO with expertise in energy research. Thai advocacy NGOs and the representatives from more than 130 civil society organisations had endorsed and proposed the Alternative Power Development Plan 2012 to Thai policymakers to convince them that the power imported from the Xayaburi dam was not needed to meet Thailand's future energy needs and that investment in energy efficiency, renewables and co-generation should be better options to provide Thailand with cheaper, cleaner and more sustainable energy development (Trandem, 2012b). The Alternative Power Development Plan 2012 was presented in a closed-door meeting to Thai decision-makers, including Thailand's Energy Regulatory Commission, officials from the Ministry of Energy and EGAT (Ibid). Thai advocacy NGOs tried to use the alternative information found in the Alternative Power Development Plan to challenge the dominant energy policy of Thailand that prefers to import the electricity generated by the Lower Mekong hydropower dam projects to meet the high demand for electricity in Thailand.

Thai advocacy NGOs used information-based strategies to reinforce protest-based strategies to persuade and pressure Thai public decision-makers to cancel or suspend the PPA. By cancelling or suspending the PPA, Thai advocacy NGOs believed that the Xayaburi dam project would not become economically viable and therefore the Lao government and Thai dam developer had no choice but to cancel the dam construction (Bangkok Post, 2014). Although Thai advocacy NGOs targeted the Thai government and its state agencies involved in the signing of the PPA to convince or pressure them to change the decisions regarding the Xayaburi dam project, the Thai government and its state agencies are not the only key decision-makers playing significant roles in promoting the Xayaburi dam project. As mentioned before, the Xayaburi dam project is based on a new model of public-private partnership. The project is being funded mainly by Thai commercial banks and developed by the Thai construction

company CH. Karnchang. Therefore, the Thai private dam developer and financiers have become key decision-makers in determining the direction of the Xayaburi dam construction. Therefore, Thai advocacy NGOs focus their advocacy work on Thai private decision-makers involved in funding and developing the Xayaburi dam project.

6.4.2 Advocacy strategies targeting Thai private decision-makers

6.4.2.1. Insider strategies

Thai advocacy NGOs tried to use advocacy strategies to influence the decisions of the Thai commercial banks and the Thai private construction company (CH. Karnchang) playing substantial roles in financing and building the Xayaburi dam project. Thai banks and CH. Karnchang have become the key private decision-makers of the Xayaburi dam project. However, targeting Thai private decision-makers is different from targeting Thai public decision-makers. Thai private decision-makers are not state officials and therefore do not have a clear responsibility to society. As argued by Sangkhamanee (2015: 93), Thai commercial banks funding the Xayaburi project do not have clear responsible business and corporate social responsibility policies governing the provision of loans to a transnational large-dam project. Consequently, the business decision made by Thai banks and CH. Karnchang had been made behind closed doors with no public awareness and participation. One interviewee admitted that by the time Thai NGOs had been aware of the involvement of Thai banks in the Xayaburi project, Thai banks had already provided financial support for the dam construction (Interview HR1, 2014). This means that Thai advocacy NGOs are outsiders who have no opportunities to participate in the decision-making process of the project's financing.

Although Thai advocacy NGOs are outsider NGOs, they tried to use insider strategies to appear in front of Thai private decision-makers and influence them directly. Insider strategies are often understood as effective means by which NGOs have direct access to influence the policy decisions made by decision-makers (Grant, 2000). NGOs gaining direct access to

decision-makers probably adopt insider strategies to influence decision-makers. For example, one interviewee used a personal connection to arrange a meeting with a chairman of the board of directors of a Thai commercial bank. During the meeting, the interviewee had an opportunity to present alternative information to the Thai bank to reveal that the Xayaburi dam project failed to comply with national and international laws and caused controversies among stakeholders concerned throughout the region. After presenting the alternative information, the staff of Thai bank was surprised by the new information which was different from the information provided by the Thai dam developer. The interviewee hoped that after learning the negative impacts of the Xayaburi dam, the Thai bank would take greater responsibility to the environment and society and not just consider profits and money (Interview T5, 2014).

Although the insider strategy as mentioned above gave advantages to Thai advocacy NGOs to have direct influence on private decision-makers, not every Thai advocacy NGOs had personal connections to gain recognition from the private decision-makers and receive the privileged access to consult directly with the private decision-makers. Therefore, most of Thai NGOs have to operate their advocacy work in the public arenas and use outsider strategies to have indirect influence on Thai private decision-makers. The next sections examine outsider strategies used by Thai advocacy NGOs and their anti-dam alliances to convince Thai private decision-makers to withdraw their financial support for the Xayaburi dam project.

6.4.2.2. Outsider strategies

I. Protest-based strategies

The development of the Xayaburi hydropower dam project is led by CH. Karnchang Company, a leading Thai construction company, funded by one Thai state-owned bank and several Thai commercial banks. CH. Karnchang, as the dam developer, and Thai banks, as the project

financiers, have become the main target for Thai advocacy NGOs and their anti-dam alliance, the NTMP. Thai advocacy NGOs and the NTMP are considered outsiders who have limited access to the decision-making process for the project's finance and development. It was very difficult for Thai advocacy NGOs and Thai villagers from the NTMP to gain key information relating to the development of and investment in the dam project. This is because the contracts and documents signed by commercial actors are treated as confidential under the commercial law which binds only the contract parties (Merme et al, 2014). Thai advocacy NGOs and Thai villagers are considered third parties who have no right to view the contracts and documents.

With the limited access to the private-level of decision-making process, Thai advocacy NGOs and the villagers from NTMP used protest-based strategies to call on Thai dam developer and Thai banks to stop funding and building the Xayaburi dam project. In April 2012, the dam opponents from civil society groups, including Thai advocacy NGOs and community representatives from villages along the Mekong River inside Thailand rallied in front of CH. Karnchang Company's headquarter in Bangkok to urge the company to cease all construction activities occurring on the Xayaburi dam (Radio Free Asia, 2012). The dam protesters also articulated their concerns to the representative of CH. Karnchang outside the company's headquarter (Trandem, 2012c). After articulating their concerns at the CH. Karnchang Company's headquarters, they moved their protests to Siam Commercial Bank's (SCB) headquarters (SCB) in Bangkok. As SCB is one of the Thai banks funding the project, the anti-dam protesters demanded the SCB to stop funding the project.

Apart from organising rallies to protest the Thai dam developer and Thai banks in Bangkok, Thai advocacy NGOs and Thai villagers from NTMP used shareholder activism, an activity in which outsider NGOs buy small shares of private companies or commercial banks to attend the annual meeting of shareholders and confront the board of committees or directors to raise questions or concerns about the business activities of the private

companies or banks. Shareholder activism is a name and shame technique used by NGOs and civil society groups excluded from the decision-making process. For example, during 2013 and 2014, Thai advocacy NGOs tried to convince a Thai commercial bank, the SCB, to stop funding the Xayaburi dam construction project by employing shareholder activism. Thai NGOs attended the annual general meetings of shareholders in April 2013 and 2014 to raise their concerns that the bank should listen to the voices and concerns raised by the groups of Thai dam-affected people. Thai NGOs asked questions of the board of directors of the bank regarding the approval of the bank to credit the Xayaburi dam construction project even though the project was opposed heavily by stakeholders concerned, especially the governments of Cambodia and Vietnam and the villagers who might be affected by the dam construction (SCB, 2013, 2014).

Although Thai advocacy NGOs and the villagers from the NTMP organised protest-based strategies to pressure Thai private decision-makers to stop building and financing the Xayaburi project, CH. Karnchang and the Thai banks had still funded and built the project. Thai advocacy NGOs and the NTMP criticised CH. Karnchang and Thai banks for only seeing the Mekong as a project site to make profit and ignoring the fact that the Mekong was the life of over 60 million people who lived along the river and relied on it for their survival (Trandem, 2012c). Thai advocacy NGOs and the NTMP had urged the Thai government to enact an outbound investment law and oversight body to prevent harmful social and environmental impacts from the transboundary investment in Thai projects in other countries (Business and Human Rights Resource Centre, 2015). However, the possibility that the Thai government will enact Thai investment law and apply it to regulate the transboundary investment of Thai businesses is very low. As pointed out by an interviewee:

“There is currently no Thai law to prevent irresponsible outbound investment or finance’. ‘Thai government always preferred the policy promoting the investment of Thai business both within the country and abroad” (Interview T4, 2014).

Therefore, it is hard to convince the Thai government to establish legal mechanisms or bodies to control and regulate Thailand's outbound investment.

Given the lack of the legal mechanisms and bodies to regulate Thailand's outbound investment, the regulation of the transboundary investment of Thai businesses is based on the non-binding corporate mechanism of CSR. Most Thai private companies and financial institutions have adopted CSR policies as guiding principles to conduct their business activities sustainably and responsibly. Most Thai banks financing the Xayaburi dam project have adopted and committed to the CSR. However, as mentioned before in Chapter Five, the CSR adopted by Thai banks was vague and used as a public relations tool to promote the brand reputation of Thai banks, rather than to encourage meaningful corporate social responsibility. During the interview, many interviewees had negative views of CSR and they had a very low expectation of CSR to be a meaningful mechanism to regulate Thailand's investment projects in other countries (Interview T1, 2014; I2, 2014; TS1, 2014).

The CSR adopted by Thai banks failed to provide meaningful spaces in which Thai dam-affected villagers can participate in the decision-making process for the Xayaburi project's financing and development. Thai banks and the Thai dam developer have problems in engaging with local communities who may be affected by their business activities. As asserted by Boer et al. (2016: 173):

“private sector actors in the Mekong region are often perceived as less readily accessible to civil society and less receptive to being engaged, than government, the MRC or regional or multilateral development banks”.

Therefore, despite the robust protest from Thai NGOs and the NTMP, Thai banks and the Thai dam developer have still not withdrawn their involvement in the Xayaburi dam project. The protest-based strategies are

not enough to persuade or pressure Thai private decision-makers to stop funding and building the Xayaburi project. Thai advocacy NGOs and the NTMP enhance their influence by using information-based strategies to persuade Thai private decision-makers to take social and environment responsibilities more seriously when they invest in and develop the hydropower dam development in the Mekong region.

II. Information-based strategies

Targeting private actors is challenging for Thai advocacy NGOs. While Thai advocacy NGOs have long experiences of anti-dam campaigning against state actors and international institutions, it is very new to them to target private sector actors promoting the hydropower development in the LMB. The Xayaburi dam project is one of the most recent development activities in which private actors have become the key decision-makers who have important roles in determining the direction of the dam development. Because of the new experience of targeting private actors, Thai advocacy NGOs need to enhance their capacities and knowledge to understand the roles and responsibilities of private actors involved in the Mekong hydropower dam development. For example, Thai advocacy NGOs are involved in research activities to investigate the roles of private financiers and their investment activities in hydropower dam development. As an interviewee commented, Thai society lacked knowledge of how to regulate business activities, especially transboundary activities of the private financial sector investing money in development projects across borders; therefore, the research on financial movement in transboundary investment in the development projects was crucial (Interview T1, 2014).

Moreover, Thai advocacy NGOs tried to persuade Thai banks to adopt best-practice standards such as the voluntary Equator Principles (EPs). The EPs is an environmental and social risk management tool adopted by the bank industry at the global level to guide project finance lending decisions. Although the EPs has been adopted by many financial institutions worldwide, Thai banks funding the Xayaburi dam project have not yet

adopted the EPs to guide their lending decisions (King, 2014). Therefore, Thai advocacy NGOs have engaged in the research project to study the international financial standard and made a recommendation that Thai banks should adopt the EPs into their project finance before granting their approval in funding the projects (Interview, T5 2014). The efforts of Thai advocacy NGOs to persuade Thai banks to adopt the EPs means that Thai NGOs tried to go beyond the voluntary approach to CSR currently adopted by most Thai banks which has a poor performance in holding Thai banks accountable to the public, especially the local villagers who may be affected by the dam projects.

Thai advocacy NGOs used information-based strategies to convince Thai banks to adopt environmental and social risk management tools such as the EPs. According to an interviewee:

“As Thai banks had been increasingly involved in the hydropower dam development in other countries’. ‘It was time for Thai banks to start paying attention to environmental and social issues and adopt more stringent standards to manage their risks and unexpected costs and difficulties” (Interview I1, 2014).

Thai advocacy NGOs used information-based strategies to pressure or persuade Thai banks to adopt stronger environmental and social standards. The proposal of the EPs and other options for environmental and social standards is an attempt by Thai advocacy NGOs to regulate the outbound investment of Thai banks and hold them accountable for the cross-border impacts from their international investment.

6.5 Thai NGO strategies through insider and outsider lenses

The participatory spaces in which Thai NGOs and Thai dam-affected villagers can participate in the Xayaburi dam’s decision-making process are constrained. The decision to build the dam was taken unilaterally by the government of Laos despite opposition from the Mekong riparian

states and international communities (Gabriele, 2018). Because of the constrained spaces, Thai NGOs participated in many advocacy strategies to create new spaces where they could mobilise their strategies to stop construction of the Xayaburi dam.

As a Thai NGO activist who opposed the Xayaburi dam project stated,

“We used all strategies available to us to oppose the dam project, including organising public forums, protesting in front of Thai Government House, conducting research, public education and building cross-border networks. And we will keep doing what we have done.” (Interview T3, 2014)

To create new spaces for their anti-dam advocacy, Thai NGOs did not rely on one specific strategy; rather, they were involved in various strategies available to them. The adoption of different strategies is significant for advocacy NGOs to achieve their goals. As Bruycker (2014) argues, NGOs need to complement or reinforce different strategies with one another to seek influence and pursue their goals. Participation in a broad range of strategies helps to strengthen the potentials of NGOs to achieve their goals. Thai NGOs were involved in different main strategies targeting not only national level decision makers such as the Thai government or the EGAT, but also regional level decision makers including the MRC and the Lao government and decision makers from the private sector playing new roles as the dam’s developers and financiers. These main strategies can range from the direct approach to key decision makers to information politics aiming to develop alternative knowledge to challenge the mainstream knowledge of hydropower development supported by the dam’s proponents. The next sections will examine the main strategies adopted by Thai NGOs to oppose the Xayaburi dam, and then these main strategies will be analysed through insider and outsider lenses to increase the understanding of the potentials of Thai NGO strategies.

6.5.1 Letter submission strategy

The Xayaburi dam's Procedures for Notification, Prior Consultation and Agreement (PNPCA) is a decision-making framework providing an opportunity for potentially affected stakeholders to review and discuss any relevant issues to prevent damage and to cooperatively mitigate the impacts of the planned development activities (Gao, 2012:104).

However, the outcome of the Xayaburi PNPCA raised concerns among campaign NGOs and potentially affected villagers, who criticised the PNPCA process as being poorly carried out and failing to reconcile the competing interests of all stakeholders concerned (Kinna, 2016). As a representative of an international NGO commented,

“The decision to build the Xayaburi dam had been made by the Lao government even before the completion of the PNPCA process. The PNPCA was just a forum for giving out information, not a consultation process.” (Interview I2, 2014)

A similar comment was made by a local NGO from Thailand who stated:

“The PNPCA was just a rubber stamp to give the Lao government the approval for going ahead with the dam project.” (Interview T6, 2014)

The dissatisfaction with the result of the PNPCA led Thai NGOs and their anti-dam alliances to adopt a letter submission strategy to forward their concerns directly to the MRC and the regional Mekong governments, particularly the Lao government. For example, on 3 May 2011, Thai NGOs endorsed a statement drafted by and submitted in the name of the Save the Mekong Coalition (StM), a transnational anti-dam network in the Mekong region, to ASEAN leaders attending the 18th ASEAN Summit in Jakarta, Indonesia, from 7-8 May 2011 (Probe International, 2011). The statement mainly called on the Lao government to immediately halt construction of the Xayaburi dam and for the Government of Thailand to cancel its plans to purchase the dam's electricity (ibid.). Another letter, endorsed by Thai NGOs on 20 April 2012, was submitted to the Mekong River Commission CEO requesting

clarification on the prior consultation on the Xayaburi dam (Save the Mekong, 2012). The letter called on the MRC CEO to clarify the updated status of the Xayaburi dam development and the further study on the impacts of hydropower development on the Mekong mainstream (ibid.). This letter was supported not only by Thai NGOs but also by StM members, including local communities in Thailand and Cambodia, Vietnam NGOs and international NGOs.

The letter submission strategy can be classified as an insider strategy and defined as a strategy seeking to have a direct interaction with decision makers to influence policy in a direction desired by NGOs (Betzold, 2013; Mosley, 2011; Binderkrantz, 2008). Thai NGOs submitted the letters to inform Xayaburi decision makers directly that voices and concerns were being raised by NGOs, international communities and locally affected communities about the impacts of the Xayaburi dam and therefore the decision makers should halt the project and find solutions agreed by all stakeholders. Insider strategy is traditionally seen as an influential strategy because this strategy is often utilised within the main political channel where NGOs have opportunities to be consulted by government or decision makers and gain political access to the decision-making process (Chalmers, 2013). Given the advantages of an insider strategy, Thai NGOs hoped that the letter submission strategy would provide a new opportunity for Thai dam-affected villagers to raise their voices and concerns up to decision makers at the regional level such as the MRC and the Lao government. Without the letter submission strategy, the voices and concerns of Thai affected villagers would probably not have been heard by decision makers at the regional level. Therefore, using the letter submission strategy gave Thai dam-affected villagers more opportunities in which their voices, concerns, preferences and demands about the Xayaburi dam could be incorporated into the formal political process where the real decisions on the Xayaburi dam were being made.

Traditionally, insider strategy is seen as a more influential strategy than an outsider strategy because insider strategy is often operated within the formal political process where NGOs have opportunities to be consulted by government or decision makers and directly influence the decision-making process (Binderkrantz, 2005:697; Grant, 2000). Given the advantages of an insider strategy, Thai NGOs submitted the letters directly to the Xayaburi dam's decision makers to inform them that there were voices and concerns being raised by NGOs, international communities and locally affected communities about the impacts of the Xayaburi dam and therefore the decision makers should halt the project and find solutions agreed by all stakeholders. The voices and concerns of locally affected villagers were often ignored and not included into the decision-making process of the Mekong hydropower development.

As a representative of a Thai local community affected by the Xayaburi dam stated:

“By the time we found out about the Xayaburi dam project, the contract for the purchase of power was signed and the decision to build the dam was made. We received little information about the project.” (Interview LC1, 2014)

The letter submission strategy was an attempt by Thai NGOs and their alliances to provide new opportunities through which Thai dam-affected villagers could approach decision makers directly and make their voices and concerns about the Xayaburi dam heard by these decision makers, especially those at a higher regional level such as the MRC and the Lao government. Without the letter submission strategy, the voices and concerns of Thai affected villagers would probably not have been heard by the key decision makers of the Xayaburi dam project. Therefore, by using the letter submission strategy, Thai NGOs and their alliances hoped that Thai dam-affected villagers would have more opportunities in which their voices, concerns and demands about the Xayaburi dam would be

incorporated into the formal political process where the real decisions on the Xayaburi dam were being made.

After the letters were submitted, the Xayaburi decision makers responded to the requests made by Thai NGOs and their alliances in different ways. For example, the MRC CEO wrote a reply on 14 May 2012 to answer the questions raised by Thai NGOs and StM members about the Prior Consultation for the proposed Xayaburi project as stated above (MRC, 2012). The reply written by the MRC CEO demonstrated that the MRC recognised the concerns and criticisms raised by Thai NGOs and their anti-dam alliances and tried to incorporate the requests made by the various members of Thai NGOs and the StM into the decision-making process to promote sustainable development in the Lower Mekong Basin (*ibid.*). The Mekong riparian countries, including Thailand, Cambodia and Vietnam, also took into account the concerns raised by Thai NGOs and the StM by proposing that the Xayaburi dam should be postponed for 10 years to allow further studies to be carried out on any possible impacts from mainstream hydropower development, including the Xayaburi dam (Gabriele, 2018:70).

However, the letter submission strategy had little influence on Laos. The Lao government insisted on building the dam, despite no consensus being reached among the riparian member countries. On 7 November 2012, Laos held a ground-breaking ceremony to begin construction of the dam on the river (Chenaphun, 2012). The unilateral decision of the Lao government disappointed Thai NGOs and their anti-dam alliances. However, Thai NGOs and their alliances did not abandon their advocacy activities and tried to explore other options for their strategies. Given the insistence of the Lao government on proceeding with the project, Thai NGOs shifted their strategies towards outsider strategies, especially protest-based strategies, in order to seek indirect influence on the Xayaburi decision makers through public mobilisation and support.

6.5.2 Protest-based strategy

Protest-based strategy can be categorised as outsider strategies, referring to activities aiming at mobilising and/or changing public opinion (Dür & Mateo, 2013:662-663). Outsider strategies seek to indirectly influence decision makers by getting public attention and mobilising wider public support. Protest-based strategies include mobilisation strategies such as public protests, demonstrations, boycotts, rallies and civic disobedience. NGOs employ protest-based strategies to raise public awareness on the issues that NGOs support and encourage people to act together to pressure decision makers for policy change and transformation. Protest-based strategies aim at mobilising wide public support to convince decision makers that a majority of people actively support the positions pursued by NGOs (Beyers, 2004). Protest-based strategies are intended to increase the visibility of NGO struggles, which could cause conflict with powerful decision makers (Mosley, 2011). However, such conflict may bring benefits to NGOs because the conflict could disrupt the status quo and force decision makers to take action immediately (Ibid: 440).

With regard to the benefits of protest-based strategies, Thai NGOs were involved in many protest-based strategies, including organising a gathering of boats on the Mekong River to protest against the Xayaburi dam during the ninth Asia-Europe Summit held in Laos from 5-6 November, 2012, organising protests at the MRC's Mekong 2 Rio International Conference on Transboundary River Basin Management in May 2012 in Thailand and conducting street rallies to protest against the involvement of Thai private dam developers and Thai banks in building and funding the Xayaburi dam project (Wangkiat, 2016; Trandem, 2012c). These protest-based strategies were used in public arenas where the communication between Thai NGOs and public and private decision makers was visible to public audiences. Therefore, protest-based strategies were intended to attract public attention and expand conflict. However, not all protest-based strategies contain a radical or disruptive character (Beyers, 2004). For example, Thai NGOs organised public

protests and demonstrations not only to gain public attention, but also to raise public awareness about the adverse impacts of the Xayaburi dam. The protest-based strategies employed by Thai NGOs and their alliances aimed to reach a large public audience, especially urban people in Bangkok, to provide alternative information about the costs associated with the Xayaburi dam.

As a representative of one international NGO pointed out:

“We would like to provide another set of information about the negative impacts of the Xayaburi dam on urban people in Bangkok who live far away from the Mekong River. The power imported from Xayaburi also comes with negative impacts on the river and local livelihood.” (Interview I1, 2014)

Protest-based strategies needed alternative information which could be used to change public opinion and mobilise public support to pressure decision makers to stop construction of the Xayaburi dam.

The protest activities organised by Thai NGOs and their alliances attracted the attention of the MRC, Mekong riparian countries and some Thai officials from administrative bodies working in the field of human rights and environment protection. The MRC and the Mekong riparian countries responded to the requests made by Thai NGOs and their alliances by agreeing to conduct a further study on the potential cumulative impacts of mainstream dams, including the Xayaburi dam, on the Mekong. This study aimed to support all stakeholders to reach informed decisions on mainstream hydropower projects (MRC, 2011). In addition, the Thai Senate and the National Human Rights Commission of Thailand received petitions from Thai NGOs and Thai dam-affected communities asking these two administrative bodies to investigate whether the decision of the EGAT to approve the PPA violated Thai domestic law (King, 2014). After an investigation, the Thai Senate and the National Human Rights Commission of Thailand made recommendations in favour of Thai NGOs and Thai affected

communities by suggesting that a further impact assessment and consultation should have been carried out under Thai law and the PPA should be suspended until a further study on the impacts of the mainstream dam was complete (National Human Rights Commission of Thailand, 2012).

Although the MRC and the two bodies felt sympathy towards the concerns and grievances of Thai NGOs and Thai affected communities, they did not have a mandate to force the Xayaburi dam decision makers to stop the dam's construction. As a Thai state official working to investigate the approval of the PPA noted:

“We knew that villagers who came to submit the petition to us expected that we would be able to stop the dam. But this was a misunderstanding because we did not have any power to force anyone to stop the construction.” (Interview HR1, 2014)

Although the protest-based strategies employed by Thai NGOs and their alliances were able to attract attention and gain a response from the MRC, the Mekong countries and Thai administrative bodies, the protest activities did not have sufficient influence to force the Xayaburi dam's developers from both Thailand and Laos to cancel the construction of the dam. The MRC, despite its importance as the water-related resource management in the LMB, has no mandate to intervene in the internal affairs of its own member-states and force the Thai and Lao governments to stop building work on the Xayaburi dam project. As the CEO of the MRC Secretariat asserted in a letter to the editor of the *Phnom Penh Post* on 20 May, the MRC is not a regulatory body for the management of water-related resources as generally perceived by the public (Pham Tuan Phan, 2016). This means that the MRC has no enforcement powers and the institution principally acts as a knowledge hub of key basin development issues for better coordination and policy making by the member-countries (ibid.). Given the limitations of the MRC and Thai administrative bodies, Thai NGOs turned towards a legal-based strategy,

aiming to use the power of the law and regulation to force the Thai and Lao governments to cancel the Xayaburi dam construction.

6.5.3 Filing a lawsuit strategy

Thai NGOs and their anti-dam alliances decided to use a legal-based strategy to stop the construction of the Xayaburi dam. In August 2012, a group of 30 villagers filed a lawsuit in Thailand's Administrative Court against Thai government agencies, including the EGAT, the National Energy Policy Council and the Ministry of Natural Resources and Environment. The lawsuit concerned the Xayaburi dam being built on the Mekong River in Laos and the Power Purchase Agreement (PPA) between the Thai government agencies and the Xayaburi Power Company Limited. By submitting a lawsuit to the Thai court, Thai NGOs and the villagers aimed to use legal mechanisms to hold government agencies and companies accountable for their involvement in cross-border projects and uphold the rights of local communities (International Rivers, 2015). As a senior staff member of a Thai NGO stated:

“Although the Xayaburi dam was built in Laos, Thai law should apply in this case and force Thai government agencies and private companies to comply with Thai social and environmental law to protect Thai villagers who may be affected by the dam.” (Interview T2, 2014).

Taking the Xayaburi case to court in Thailand could be considered an outsider strategy emphasising that the requests for the dam cancellation made by Thai NGOs and the villagers could not be reconciled with the interest of the dam's proponents who insisted on building the dam. Thai NGOs and the villagers had become outsiders who were excluded from the decision-making process and they needed to resort to legal action to use the power of the law to force the decision makers to cancel the dam's construction. Thai affected villagers brought the case to the Thai court by arguing that the PPA was approved illegally under Thai and international

law, because the PPA was concluded without the notification, consultation and environmental and health impact assessments required under the Thai constitution, various laws and cabinet orders (Wongwuthikun, 2015). This means that the EGAT and other related governmental bodies failed to comply with Thai domestic laws and therefore the approval of the PPA was invalid. Submitting a lawsuit in the Thai court led to a confrontation between Thai NGOs and anti-dam villagers on the one hand and the EGAT and Thai government bodies involved in the approval of the PPA on the other. However, confrontation does not always bring negative results. As Grant (2000) argued, confrontation caused by outsider strategies in many cases can be effective in making governments or decision makers nervous about continuing any undemocratic policies or projects. Therefore, although filing a lawsuit in the Thai court could induce conflicts with the EGAT and other Thai government bodies, this conflict might be necessary to force Thai decision makers to respond to the political objectives demanded by Thai NGOs and their alliances. As a Thai NGO representative asserted,

“We tried every way to convince the EGAT and the Thai government to cancel or at least suspend the PPA. But they did not listen to us. So, this left us with no choice but filing the case with the Thai court.” (Interview T4, 2014)

In June 2014, Thailand’s Supreme Administrative Court accepted the lawsuit filed by Thai villagers against the signing of the PPA (Lefevre, 2014). The court’s acceptance of the case gave the hope to Thai villagers that the court would recognise the potential transboundary impacts of the Xayaburi dam and order the Thai government to cancel or suspend the PPA (International Rivers, 2015). Without Thailand purchasing power from the Xayaburi dam, the dam would not be economically viable (The Nation, 2014). However, the court did not rule in favour of the Thai villagers. In December 2015, the Thailand Supreme Administrative Court dismissed the case on the basis that the EGAT and other related

government agencies had not neglected their duty and that the PPA fulfilled the required notification and consultation procedures according to the PNPCA (Summary of the Supreme Administrative Court Decision, 2015). Thai NGOs and the villagers admitted that they were disappointed with the court's ruling (Interview T4, 2014; LC1 2014).

Despite being disappointed with the court's decision, Thai NGOs and Thai villagers did not give up and instead held a meeting to understand and discuss the court's ruling (Deetes, 2014). A Thai NGO employee assisting the Thai villagers filing the case with the court commented that Thai domestic environmental law could not be fully applied in the case of hydropower dam projects being built beyond Thai national territory (Interview T4, 2014). The EGAT and Thai government bodies involved in the signing of the PPA have no responsibility to conduct stakeholder consultation and environmental and health impact assessments required under Thai law when they invest and develop hydropower dams in neighbouring countries. As a Thai NGO representative observed critically, when Thai dam proponents move to build dam projects outside Thailand, they can avoid the burdens of social and environmental safeguarding laws and policies at home (Interview T1, 2014).

Given the weakness of Thai domestic law in regulating the cross-border Xayaburi case, Thai NGOs and their alliances realised that it was not enough to use only a confrontational style of strategy to influence Thai key decision makers; they also needed to strengthen their confrontational strategies with information-based strategies. Thai NGOs were involved in information-based strategies to find facts, accumulate supporting evidence and generate accurate information to legitimise the reasons why they opposed the Xayaburi dam project. By using information-based strategies, Thai NGOs aimed to prove that they were not merely protesters who always made a noise against any development project. Rather, they had information and supporting evidence to legitimise their claims and activities. The information generated by Thai NGOs was used as a source of influence, as discussed in the following section.

6.5.4 Generating and disseminating information

While Thai NGOs and their alliances organised anti-dam protests and filed a lawsuit against the Xayaburi dam construction in the Thai court, Thai pro-dam decision makers, including the EGAT and the Thai Ministry of Energy, presented another set of information to justify that the decision to approve the purchase of power from the Xayaburi dam project was in accordance with both Thai domestic law and international law. The EGAT and Thai state bodies involved in the PPA approval claimed that public participation and consultation were included in the approval process of the PPA (Energy Policy and Planning Office - EPPO, 2012). The Thai National Mekong Committee (TNMC) conducted public consultations on three occasions nationwide and information about the Xayaburi dam was uploaded on the EPPO website (Summary of the Supreme Administrative Court Decision, 2015). The EGAT and the related government bodies insisted that they had fulfilled all the requirements as required by the Thai Cabinet and the Thai Constitution and therefore the PPA was legally approved.

After the Court dismissed the case in 2015, Thai NGOs and Thai villagers realised that they needed to move beyond stating their concerns and grievances by way of staging protests if they were to aim for the cancellation of the dam's construction. A Thai state official interviewed for this study suggested that:

“NGOs should not rely only on protests. Protests would not help them get any further. They needed to empower themselves with information and knowledge.” (Interview TS1, 2014)

Generating and applying information became important aspects of building the anti-dam strategies of Thai NGOs and their alliances. Thai NGOs and Thai villagers participated in various information-based strategies, ranging from gathering supporting evidence to conduct their own research to generating and disseminating alternative information to stimulate people to put pressure on the decision-making authorities to stop the dam

construction. The information-based strategies adopted by Thai NGOs and their alliances can be regarded as outsider strategies. This is because the alternative information produced by Thai NGOs and their alliances was not used in exchange for legitimate access to the decision-making process where the real decisions on the Xayaburi project were being made (Chalmers, 2013). Rather, the production of alternative information remained outside the decision-making process. Thai NGOs and their alliances used the alternative information to raise public awareness of the negative impacts of the dam and gain understanding from the public, especially the urban population of Bangkok, of the rationale for protesting against the Xayaburi dam building. As a staff member of an international NGO explained,

“We would like to convince Bangkok people that the power generated by the Mekong dams, including the Xayaburi dam, was not needed at all for Thailand.” (Interview I1, 2014)

The information generated as part of outsider strategies is not used as an exchange between decision makers and NGOs whereby the latter supply relevant information to decision makers and expect to obtain some desired policy outcome in return (Hanegraaff et al. 2014). Rather, the information is used to sharpen the arguments, reconfirm the positions and gain public support. Myint (2016) described the stage of using information as a source of influence as the battle of knowledge. Sangkhamanee (2015) noted that when anti-dam NGOs adopted information strategies, they engaged in a knowledge battle where knowledge and information were used strategically by each group of actors as a means of legitimising their own position and at the same time delegitimising that of their opponents. As exemplified in the Xayaburi case, Thai NGOs and alliances were involved in many information-based strategies to generate and utilise alternative information to challenge the pro-dam arguments articulated by the key decision makers and to legitimise their reasons for opposing the Xayaburi dam development.

a) Assisting villagers to conduct locally-based research

Despite the massive protests against the Xayaburi dam building, the Lao government insisted that the Xayaburi dam had no significant transboundary effects on the Mekong and insisted on proceeding with construction (Rieu-Clarke, 2015). Thai NGOs assisted Thai villagers to gather supporting evidence to reconfirm that the building of the Xayaburi dam on the Mekong caused adverse impacts spilling over boundaries. The cross-border impacts of the dam would be felt directly by local villagers living along the Mekong River, including Thai villagers living in the provinces juxtaposed with the Mekong River. Therefore, Thai villagers living in the Mekong provinces should be the ones who collected evidence and initiated their own research. As a representative of Thai local villagers asserted,

“Our lives depended on the Mekong River. We were the ones who were immediately affected by any change on the Mekong. Therefore, we started to do our own research to collect evidence about changes in the Mekong flow as a result of the construction of the Xayaburi dam.” (Interview LC1, 2014)

Thai NGOs helped Thai villagers to observe the changes in the Mekong flow resulting from the construction of the Xayaburi dam and to collect evidence about the dam’s impacts on the river and local livelihoods, both before and after the dam construction. Thai villagers engaged in the production of information based on local evidence to reaffirm the cross-border effects of the Xayaburi dam. This locally-based information was a direct challenge to the pro-dam arguments produced by the Lao government and other pro-dam actors.

b) The analysis of energy demand

Thai NGOs also used information-based strategies to challenge the claims made by the EGAT and Thai government that importing power from the Xayaburi dam was necessary to meet Thailand’s future energy demands. Thai NGOs working with Thai energy experts were involved in the analysis of Thailand’ energy demands and found that power imports from the Xayaburi Dam were not needed to meet Thailand’s future energy demands

(International Rivers, 2011). According to the study conducted by Thai energy experts, Thailand's power development plan was based on the over-estimation of future power demand, resulting in unnecessary investment and higher bills for consumers (Greacen & Greacen, 2012). Therefore, Thai NGOs used the findings from the alternative study to put pressure on the Thai government to cancel the agreement on power purchase from the Xayaburi project and adopt a more realistic demand forecast as well as invest in alternative options such as energy efficiency, renewables and co-generation to meet Thailand's future power demand. The alternative study of Thailand's power demand was posted on the website of International Rivers, an international NGO mainly focusing on anti-dam campaigns and the protection of local livelihoods. The dissemination of the alternative study on the website of International Rivers was the tactic to use alternative information to mobilise public support at the international level on the position desired by Thai NGOs and their alliances.

c) The analysis of investment

The Xayaburi dam project has been developed on the model of a public-private partnership in which the private sector has played a primary role in funding the project. It is Thai banks which are providing financial support to the project. Without the financing that Thai banks are providing, the Xayaburi dam could not be built (King, 2014). Given the importance of Thai banks as the key financiers of the project, Thai banks became the key decision makers of the Xayaburi project. However, the information about the investment of Thai banks in the Xayaburi dam project was not accessible to the general public. Merme et al. (2014) argue that arrangements, contracts and plans involving private actors are not open to the public and all documents related to contracts are treated as confidential documents and only the parties to the contract may see these documents. Therefore, there are constraints on the public getting access to information and monitoring the investment of Thai banks in the Xayaburi dam. Thai NGOs need to engage in many information-based strategies to gather evidence, investigate facts and information and conduct research to gain the

information about the investment of Thai banks and disseminate this information to the wider public. Thai NGOs and their alliances helped provide the information that might not be heard or would not otherwise be available. By generating and disseminating the information on investment, Thai NGOs and their alliances can gain influence. The alternative source of information on the Xayaburi investment can be used to raise public awareness and mobilise public campaigns to hold Thai private sectors accountable for the negative impacts caused by the Xayaburi project.

Information-based strategies are used to frame problems and solutions in the way desired by NGOs (Magrath, 2015). For example, Thai NGOs used supporting evidence about the roles of Thai banks in financing the Xayaburi dam to call on the banks to fulfil their responsibilities. A staff member of a Thai NGO asserted that:

“Although Thai banks were private sector, they needed to take responsibility for their investments. This was because their investment could lead to social and environmental disaster for the river and local people.” (Interview T1, 2014)

Thai NGOs and their alliances began to examine which regulatory mechanisms they could use to hold Thai banks accountable and responsible for the investment in the dam project. After the examination, Thai NGOs and their alliances found that most Thai banks had committed to Corporate Social Responsibility (CSR), a voluntary mechanism aiming to promote accountability in private sector investments (King, 2014). Thai NGOs and Thai villagers organised protest events and stakeholder activism to present the information about the social and environmental impacts of the Xayaburi dam to Thai banks and urge them to comply with the CSR policy by cancelling investment in the dam. Moreover, Thai NGOs and their alliances tried to go beyond the CSR policy by conducting research to develop new corporate governance mechanisms which were more stringent than CSR and urge Thai banks to adopt more stringent mechanisms to promote better accountability of private sector investment.

6.5.5 Building transnational network strategy

Thai NGOs did not use advocacy strategies without collaboration with other like-minded supporters. When Thai NGOs adopted both insider and outsider strategies to oppose the Xayaburi dam building, they participated in a loosely informal network of NGOs, community-based groups and concerned citizens within the Mekong region, wishing to protect the Mekong from any harm resulting from the hydropower dam projects. As exemplified in the letter submission strategy, Thai NGOs endorsed the letters signed by local NGOs and civil society from Cambodia and Vietnam as well as international NGOs, calling for the regional Mekong governments and the MRC to cancel the PNPDA process and the Xayaburi dam project. These letters were sent to the key decision makers, both at national and regional level, under the heading of the Save the Mekong Coalition (StM). The submission of the letters under the heading of the StM aimed to convince the decision makers that there were many groups of people and organisations actively supporting the anti-dam positions promoted by Thai NGOs. As Beyers (2004:215) argued, the mobilisation of people to join in a network not only informs public officials about potential support or opposition; it is also meant to leave an impression on them.

In addition, Thai NGOs participated in the transboundary networks in the Mekong region to enhance their influence on the decision-making process at the Mekong regional level. For example, Thai NGOs joined in the ASEAN Civil Society Conference (ACSC)/ASEAN People's Forum (APF) held in 2011 in Indonesia to call for ASEAN leaders, including the Lao government, to immediately halt construction activity at the dam site and for the Government of Thailand to cancel its plans to purchase the dam's electricity (Probe International, 2011). Thai NGOs participated in this public forum to convince the Xayaburi decision makers at the regional level that the call for the dam cancellation received strong support from many NGOs and civil society organisations both within and across the region. Apart from attending the public forum at the ASEAN level, Thai NGOs worked closely with Cambodia and Vietnam NGOs to assess the implementation of the

MRC PNPCA process in the Xayaburi case and persuade the Lao government to abide by the MRC's regional governance mechanisms. During interviews for this research, a respondent from a Thai NGO explained that Thai NGOs supported Vietnamese NGOs and civil society to conduct a scientific study to confirm that the Xayaburi dam threatened "significant harm" to the national interests of Cambodia and Vietnam, thus allowing them to activate Article 7 of the Mekong Agreement and halt construction of mainstream dam projects (Interview T5, 2014). Thai NGOs took part in the public dialogue and forum around the MRC participatory mechanisms to generate alternative information about the impacts of the dam which would be used to pressure Laos to cease the dam building.

Although participating in the transboundary networks helped strengthen the potentials and influence of Thai NGO advocacy against the Xayaburi dam, building transboundary network strategy can be seen as an outsider strategy. This is because the activities and information generated within the network were not incorporated in the formal decision-making process where the real decisions on the Xayaburi dam were made. As a respondent from a Thai NGO commented,

"It seemed that the outcomes of the anti-dam network in the Mekong region had run in parallel with the decision-making process and not yet been incorporated in the real decision on the Xayaburi dam." (Interview T6, 2014).

Therefore, although the network created spaces where anti-dam NGOs and civil society actors across the Mekong region could engage in activities against the dam construction, these activities remained outside the decision-making process of the Xayaburi dam development.

6.6 Discussion on Thai NGO strategies in the Xayaburi case

This chapter aims to address the second hypothesis, which states that Thai advocacy NGOs used both insider and outsider strategies to create new opportunities for Thai dam-affected villagers to participate in the Xayaburi

decision-making process. The findings from the research found that Thai NGOs used both insider and outsider strategies to create new opportunities for Thai affected villagers to participate in the decision-making process (See Table 6.2 for the summary of advocacy strategies used by Thai NGOs). Many Thai NGOs interviewed for this study stated that they did not rely on one specific tactic, but rather adopted a wide range of strategies to strengthen their advocacy. Many scholars argued that NGOs tend to combine insider and outsider strategies to pursue their goals (Binderkrantz, 2005; Richards & Heard, 2005; Gulbrandsen & Andresen, 2004). Beyers (cited in Chalmers, 2013:52), for example, supports the notion that using a large repertory of tactics is always better than using just one tactic. Different strategies can be used to serve different purposes and situations. As argued by Hanegraaff et al. (2014), NGOs may combine insider and outsider strategies to seek influence in the policy process or to maintain their organisational survival. Therefore, by combining insider and outsider strategies, NGOs try to increase the opportunities through which they can maximise their political influence to achieve policy goals (Binderkrantz & Krøyer, 2012).

Although Thai NGOs used both insider and outsider strategies to create new opportunities for their anti-dam advocacy, they did not use insider and outsider strategies equally. The findings demonstrated that Thai NGOs used fewer insider strategies and relied more on outsider strategies. The interview revealed that Thai NGOs did not have many choices of insider strategies and needed to focus mainly on the letter submission strategy to send their requests for dam cancellation to national and regional level decision makers. Mostly, Thai NGOs needed to use outsider strategies, ranging from protest-based strategies to information advocacy, to oppose the Xayaburi project. Although Thai NGOs have some degree of freedom in the choice of their strategy, their use of strategies can be constrained by internal as well as external factors. As discussed by Eising (2007:339), even though associations have some latitude left in the choice of their strategy of interest representation, their activities are in part determined by their organisational domain and by their resources.

As analysed in Chapter Five, the spaces in which Thai NGOs and Thai dam-affected villagers were invited to participate in the Xayaburi decision-making process at the national and regional level were constrained. The PNPCA was initiated by the MRC to invite all affected stakeholders to review and discuss the potential impacts of the Xayaburi dam in order to reach a consensus on how to proceed with the dam. However, the PNPCA process ended in turmoil where the Lao government insisted on moving ahead with the dam construction. At the national level, the invited spaces in Laos and Thailand were also constrained for public participation. Although the affected communities in Thailand and Laos were invited to participate in the decision-making process, their participation was not meaningful because the decision to develop and finance the dam had already been made. Therefore, the requests of Thai NGOs and Thai communities calling for the dam cancellation were never incorporated in the final decision on the Xayaburi dam project. Given the constrained spaces at both national and regional level, Thai NGOs were seen by the pro-dam decision makers as outsider NGOs being excluded from the Xayaburi decision-making process. Although Thai NGOs tried to adopt the insider strategy through the use of letter submission strategy, they were regarded as outsiders in the eyes of decision makers. Because of their outsider status, Thai NGOs and their anti-dam alliances had to resort to outsider strategies to compensate for their lack of political access (Betzold, 2013).

Outsider strategies are generally considered less effective than insider strategies (Chalmers, 2013). As Grant (2000) pointed out, NGOs investing in insider strategies tend to gain political access to the policy process where they can supply information to and directly influence policy makers. NGOs that have close relations with policy makers do not opt for outsider strategies which incur a cost to their reputations and ruin their chances of access (Eising, 2007). Insider strategies are a prerequisite to gain political access and therefore are more likely to succeed than outsider strategies (Binderkrantz, 2005:697). However, this thesis argues that outsider strategies are not a fallback option for NGOs excluded from direct access to decision-making processes. NGOs are flexible in their choices of strategies

when they pursue their political goals. For example, NGOs involved in insider lobbying can and do engage in outsider tactics such as public protests, demonstrations and legal actions while maintaining their insider status through letter writing, ministerial briefings and participating in government commissions (Richards & Heard, 2005:27). Outsider strategies, such as public protest, can be one of the strategic choices utilised by NGOs to improve NGO access and influence (Chalmers, 2013). Therefore, the use of both insider and outsider strategies is not mutually exclusive. NGOs may adopt confrontational outsider tactics to capture media attention and pushing problematic issues into the public eye and then complement this with insider lobbying, applying a continual educative and persuasive pressure on policy makers (Richards & Heard, 2005:27).

While Thai NGOs needed to rely more on outsider strategies to create new opportunities for their advocacy, they did not adopt only confrontational protest strategies. The research findings revealed that Thai NGOs increasingly moved away from disruptive protest activities and concentrated more on information-based strategies. As analysed earlier, the participatory spaces in the Mekong context were not enabling spaces for Thai NGO advocacy. The controlled political system in Laos constrained the opportunities for civil society actors, including Thai NGOs, to organise public protests and demonstrations to pressure the Lao government to stop the dam building. As a result, Thai NGOs were involved in educative and persuasive styles of information-based strategies to pressure the dam decision makers. Thai NGOs engaged in a variety of information strategies, particularly conducting research and analysis on financial investment in the Xayaburi project and energy demand in Thailand, to generate alternative information to delegitimise the pro-dam arguments advanced by the decision-making authorities. It should be noted that the information generated by Thai NGOs and their anti-dam alliances has not yet been incorporated in the final decision of the Xayaburi project and still remains outside the formal decision-making process.

However, that does not mean that the information produced by Thai NGOs and their alliances is meaningless. The negative impacts of the dam projects are often obscured by the decision-making authorities. Therefore, Thai NGOs invested in information-based strategies to convince the public about the costs associated with the dam construction and pressure the decision makers to withdraw from the dam building. Thai NGOs and their alliances relied on scientific studies to provide sufficient independent confirmation that the Xayaburi dam brought significant harm to the Mekong and local communities across the LMB (Choonhavan, 2014). Although these scientific studies could not force the Lao government to cancel the dam building, the studies put pressure on the Lao government to spend at least US\$200 million to redesign fish passages and sediment flows in line with recommendations from two consulting firms: Poyry of Finland and the French Compagnie Nationale du Rhone (Phnom Penh Post, 2016). Therefore, the alternative information produced by Thai NGOs and their alliances became a source of influence. As Cronin and Weatherby (2015) argued, “the use of alternative information by international and local civil society organizations has had much more impact than these individuals and groups may realize. They have put developers and other pro-dam stakeholders on the defensive, helped neighbouring governments make their case against the projects, and generated and sustained awareness of the issues.”

In addition, information-based strategies play key roles in building a transnational anti-dam network across the Mekong region. As noted by Keck and Sikkink (1999:95), information binds network members together and is essential for network effectiveness. Hanegraaff (2015) suggested that NGOs need to network with policy makers and advocacy groups from all over the world in order to influence international level decision makers. Transnational networks can enhance the influence of Thai NGOs and their alliances to exert pressure more effectively on decision makers at the national and regional level. As Magrath (2015) illustrated, NGOs that have widespread and diverse networks at both grassroots and transnational level are more easily able to obtain hard-to-reach information and powerful

testimonial evidence. The networks help bolster NGO legitimacy as crucial actors in policy governance and as representatives of disadvantaged populations (Ibid.). Information is key in connecting different individuals and groups to join in transnational advocacy networks. These transnational networks not only increase the influence of Thai NGO advocacy, but also help provide alternative spaces where Thai NGOs and other dam opponents gather together to articulate concerns over the project and other aspects of development that threaten social and environmental sustainability.

6.7 Conclusion

This chapter aims to examine the advocacy strategies adopted by Thai NGOs to create new opportunities for Thai dam-affected villagers to participate in the Xayaburi decision-making process. The thesis hypothesises that Thai NGOs used both insider and outsider strategies to create new opportunities for the participation of Thai affected villagers in the Xayaburi decision-making process. Traditionally, NGOs can be classified as insider or outsider according to their strategic or tactical approach to campaigning. However, this distinction has become blurred because many NGOs do not rely on one specific tactic to pursue their goals. Rather, they prefer to increase their influence by adopting a variety of strategies to achieve their desired goals. As exemplified in Thai NGO strategies, Thai NGOs did not depend on one single strategy but combined insider and outsider strategies to create new opportunities for public participation. It seems that the findings correspond to the hypothesis as set out above. However, the study found that although Thai NGOs used both insider and outsider strategies, they did not adopt insider and outsider strategies equally. Thai NGOs needed to use more outsider strategies than insider strategies to create new opportunities for their advocacy and public participation.

Although Thai NGOs have some freedom in choosing their advocacy strategies, their strategic choices are constrained by the surrounding environment in which Thai NGOs carry out their activities. As discussed

earlier, the invited spaces at the regional and national level in the Mekong context were constrained for NGO advocacy. Decisions regarding the Xayaburi project were made behind closed doors and the voices of Thai NGOs and dam-affected communities were never taken seriously by the decision-making authorities. Therefore, Thai NGOs remained outsider NGOs who were excluded from the Xayaburi dam decision-making process. Owing to their outsider status, Thai NGOs had to resort to many outsider strategies to compensate for their lack of political access.

Although Thai NGOs needed to use more outsider strategies to advocate for participation, their outsider strategies were not inferior strategies. Thai NGOs did not use only protest-based strategies, but rather they invested in information-based strategies to produce supporting evidence and information to increase their influence and legitimacy for their actions and requests. By using information-based strategies for their advocacy campaign, Thai NGOs increasingly learnt how to use information strategically to increase their power and influence in mobilising public support and pressuring decision makers to respond to the requests made by Thai NGOs. In addition, information is the key to binding networks for Thai NGOs. A wide range of NGOs and civil society both within and across the Mekong region produced alternative information to challenge the rationale for building the dam upheld by the pro-dam decision makers. Thai NGOs became a part of this information network. Given that the Xayaburi dam is being built outside Thailand's borders, Thai NGOs needed a cross-border network to convince the decision makers that the Xayaburi dam had caused transboundary problems and therefore the decision makers should immediately halt the project. The cross-border network of Thai NGOs and their alliances created new participatory spaces where Thai NGOs met new allies and learnt how to act together to challenge the destructive hydropower dam development in the LMB. The next chapter will focus mainly on the new participatory spaces created as the results of the anti-dam advocacy initiated by Thai NGOs and their alliances.

Table 6.2: The summary of advocacy strategies used by Thai advocacy NGOs

Advocacy strategies targeting regional decision-makers	
Insider strategies	Outsider strategies
- Letter-signing and submission	I. Protest-based strategies <ul style="list-style-type: none"> - Organising international protest petition - Organising the boat-gathering protest
	II. Information-based strategies <ul style="list-style-type: none"> - Fact-finding and investigation into the costs and benefits associated with the Xayaburi dam project - Gathering evidence about the transboundary impacts of the Xayaburi dam project - Disclosing the information about the Xayaburi dam such as the EIA report to the public
Advocacy strategies targeting Thai public decision-makers	
Insider strategies	Outsider strategies
- Letter-writing/signing and submission	I. Protest-based strategies <ul style="list-style-type: none"> - Organising two peace-walks in Chiang Rai province, Thailand - Organising protest on 5 April 2011 in Nong Khai's Si Chiang Mai, Thailand - Organising protest on 18–19 April 2011 in Bangkok - Organising protest at the MRC's Mekong 2 Rio International Conference on

	<p>Transboundary River Basin Management in May 2012 in Phuket, Thailand.</p> <ul style="list-style-type: none"> - Submitting the complaint petitions against the PPA approval to the Senate Commissions and the NHRCT - Filing a lawsuit against five Thai government bodies involved in the PPA approval in Thailand's Administrative Court
	<p>II. Information-based strategies</p> <ul style="list-style-type: none"> - Endorsing a research study on the Alternative Power Development Plan, published in 2012 - Using the findings from the Alternative Power Development Plan to convince Thai public decision-makers to rely more on alternative power options than on power import from the hydropower dams in the LMB countries
Advocacy strategies targeting Thai private decision-makers	
Insider strategies	Outsider strategies
<ul style="list-style-type: none"> - Using personal connection to have an informal meeting with the Board of Directors of Thai Commercial Bank 	<p>I. Protest-based strategies</p> <ul style="list-style-type: none"> - Organising rallies in front of 1) Ch. Karnchang Company's headquarters and 2) Siam Commercial Bank's headquarters in Bangkok

	- Shareholder activism
	II. Information-based strategies - Studying the environmental and social standards such as the EPs and pressuring or persuading Thai banks to adopt the environmental and social standards for their project-lending decision

Chapter 7

New participatory spaces in the Xayaburi dam project

7.1 Introduction

This chapter aims to address the third hypothesis proposed in Chapter Four. The research findings concluded that Thai advocacy NGOs cannot influence the Xayaburi dam's decision makers to cancel the dam building. However, the interviewees state that Thai advocacy NGOs can use their advocacy strategies to create new participatory spaces at the regional and Thai national levels. Therefore, Thai dam-affected villagers can participate in the Xayaburi dam's decision-making process. The results show that these new participatory spaces created at the regional and Thai national levels can be divided into new invited spaces and new popular spaces. Thus, this chapter begins with the examination of the new invited spaces and new popular spaces created at the regional level. Then, the new invited spaces and new popular spaces created at the Thai national level are investigated. To understand the new participatory spaces created in the Xayaburi dam project, this chapter focuses on new invited and new popular spaces at the regional and Thai national level as the outcomes of the advocacy strategies used by Thai advocacy NGOs. It also analyses how Thai advocacy NGOs and Thai dam-affected villagers participate within the new invited and popular spaces created at the regional and Thai national levels.

7.2 New participatory spaces at the regional level

Thai advocacy NGOs tried to use advocacy strategies to pressure or persuade Laos and the MRC, the Xayaburi dam's regional decision makers, to suspend or cancel the PNPCA and the construction of the Xayaburi dam. However, the Lao government insisted on going ahead with the dam's construction, while the MRC has no regulatory authority to force its own member-states to stop building the hydropower dam on the Lower Mekong Basin (LMB). Despite being unable to suspend or cancel the PNPCA and the Xayaburi dam building, Thai advocacy NGOs did not

consider their advocacy efforts worthless. As a staff member of a Thai NGO said:

“Even though we cannot stop the Xayaburi dam construction, this does not mean that we lose 100% and Laos wins 100%... If we do not win, Laos does not win either” (Interview T1, 2014).

Although the use of both insider and outsider strategies of Thai advocacy NGOs has not yet suspended or cancelled the Xayaburi dam development, many interviewees believed that the advocacy efforts of Thai advocacy NGOs have resulted in the agreement of the MRC member-countries to conduct the Mekong Council Study (Interview S1, 2014; TS2, 2014; T6, 2014). According to the opinion of one technical adviser:

“Although the pressure from Thai anti-dam NGOs cannot stop Laos from continuing with the Xayaburi dam building, the advocacy efforts of Thai NGOs have at least pressured Laos to agree to conduct the Mekong Council Study” (Interview TA1, 2014).

The Mekong Council Study is one of the important attempts of the member-countries to respond to the mounting concerns raised by regional and global civil society, including Thai advocacy NGOs, about the Xayaburi dam’s impacts. The MRC member-countries have committed themselves to the Council Study to resolve the controversial Xayaburi dam through the use of information and knowledge on the transboundary and cumulative impacts of the proposed mainstream dams to make informed decisions on hydropower development in the LMB (MRC, 2014). During the interview, many interviewees hoped that although the Council Study may be unable to force the Lao government to cancel the dam building, the Study at least provided new opportunities in which Thai dam-affected villagers could resist the strong demand of the pro-dam stakeholders to build the Xayaburi dam and delay the rapid expansion of the hydropower dam development in the LMB (Interview I1, 2014; T4, 2014; T5, 2014). As a staff member of a Thai advocacy NGO stated:

“Our advocacy efforts at least led to the emergence of the Mekong Council Study which could help delay the rapid pace of the Mekong mainstream

dam development... Without our advocacy work, the hydropower dam development in Laos and the Lower Mekong Basin may be built more rapidly than we ever thought” (Interview T3, 2014).

The new opportunities provided by the Mekong Council Study can be referred to as a new invited space, the space in which those who are considered marginal are invited by government or the powerful decision makers to participate in formal decision-making platforms or other policy deliberation (Brock et al., 2011). Gaventa (2006) defines the new invited space as a space which was previously closed but is now opened up by various kinds of authorities, be they government, supranational agencies or decision makers to invite people into the formal political arenas where decisions are made. Based on these definitions, the Mekong Council Study provides a new invited space for Thai advocacy NGOs and Thai dam-affected villagers to participate in the assessment framework of the Council Study where they can use science-based information and knowledge to make informed and balanced decisions on hydropower dam development in the LMB.

The new invited space of the Mekong Council Study provides the potentials in which Thai advocacy NGOs and Thai dam-affected villagers can participate in the decision-making framework where they can affect the decisions regarding the Xayaburi dam project. However, these potentials are constrained by many problems, including the delay of the Council Study and the decision by Laos to build the Xayaburi dam outside the framework of the Council Study. The problems of the Mekong Council Study illustrate that simply providing the new invited space is not enough to bring about meaningful and effective participation. Therefore, Thai advocacy NGOs joined with members of StM, the transnational anti-dam network, to create the new popular space in which they can reform the existing decision-making framework of the MRC and set a new standard for regulating hydropower dam development more effectively.

The next section begins with the examination of the new invited space of the Mekong Council Study to discuss the potentials and the constraints of

the Mekong Council Study in providing a new invited space for public participation. Then, the new popular space at the regional level is examined later in the following section.

7.2.1 New invited space at regional level: The Mekong Council Study

The use of insider and outsider strategies by Thai advocacy NGOs pressured the MRC member-states to conduct the Mekong Council Study, a study on sustainable management and development of the Mekong River which includes the impacts of mainstream hydropower projects. The Mekong Council Study was prompted by strong regional and international concerns on the poor quality and limited studies on transboundary impacts of the Xayaburi dam project, presented in the project's environmental and social impact assessment report (International Rivers, 2013). The Mekong Council Study was an idea first proposed during verbal discussions among the MRC countries' prime ministers at the Third Mekong-Japan Summit in Bali, Indonesia, in November 2011, to approach the Government of Japan to support the conduct of a study. Then, one month later, the MRC Ministers gathered in the 18th Council Meeting and agreed in principle to commission the Council Study (MRC Secretariat, 2013). The decision to carry out the Council Study was an attempt by the member-countries to resolve the disagreement among concerned stakeholders involved in the controversial Xayaburi dam and the PNPCA process. As one interviewee noted:

“... the findings of the Council Study may help to increase the understanding of the transboundary impacts of the Xayaburi dam which hopefully could reduce the controversies surrounding the concerns over the transboundary effects of the Xayaburi dam project” (Interview S2, 2014).

Owing to the pressure of the rapid development in the Mekong River region, there is an urgent need to understand the potential transboundary impacts of large-scale development, including the Xayaburi dam project, on the LMB. However, the current knowledge of how different water

development projects will impact the river basin still has many gaps which cause uncertainties in assessing the impacts from major development projects and provide significant resolution to mitigate the impacts on the Mekong River Basin. Therefore, the Council Study is conceived as a strategy to close the knowledge gap (MRC, 2014). As stated in the objectives of the Council Study, the Study aims to generate knowledge on the positive and negative impacts of water resource developments in the Mekong River Basin in order to reduce the uncertainty in estimating these impacts, which helps provide member-countries with higher-confidence information towards informed decision making on the Mekong development (Ibid).

As the MRC's direct intervention role in conflict management remains unclear, the MRC's role in knowledge production is at the heart of the MRC's governance roles (Dore & Lazarus, 2009; Käkönen & Hirsch, 2009). The MRC uses the knowledge initiated through its study, review and programmes to facilitate the member-countries to make better decisions on the management of the Mekong. The conduct of the Council Study, facilitated and coordinated by the MRC Secretariat, thus represents the MRC's efforts to show that the MRC is still relevant in conflict management even though it has no regulatory authority to compel its own members to comply with rules and the Mekong Agreement. The MRC is acting as a knowledge-based institution which provides member-states and other stakeholders with knowledge-based information, statistics, data and recommendations. These intellectual resources serve as an objective point of reference for others to draw on in order to negotiate, resolve or manage conflict in equitable and sustainable ways (Hirsch, 2006). The findings and knowledge from the Council Study are expected to be an important step for resolving the conflicts surrounding the Xayaburi dam project through the use of knowledge.

Thai advocacy NGOs welcomed the decision of the MRC member-countries to conduct the Council Study. The Council Study became the new invited space created by the MRC member-governments. The new invited space of the Council Study was created after the failure

of the Xayaburi's PNPCA to reach a consensus regarding the controversial Xayaburi scheme. The new invited space has provided new opportunities for concerned stakeholders to use the knowledge to legitimise their claims and concerns over the transboundary impacts of the Xayaburi dam and other Mekong mainstream dams proposed on the Lower Mekong River. As stated in the request drafted by the StM and submitted to the MRC's CEO, the StM and Thai advocacy NGOs hoped that the Council study would help to reduce significant knowledge gaps and lead to sound decision making based on robust scientific knowledge (Save the Mekong, 2012). While the Lao government insisted that the Xayaburi dam caused no significant transboundary impacts on the river, Thai advocacy NGOs and the StM members tried to use the Council Study as scientific evidence to challenge the claim of the Lao government. Moreover, Thai advocacy NGOs and StM members called on the Lao government, the dam's developer and pro-dam stakeholders to halt the building of the dam while the Council Study was carried out, so that adequate baseline data and a transboundary impact assessment could be collected and carried out before irreversible damage occurred (Interview T4, 2014; S1, 2014; S2, 2014). Thai advocacy NGOs and the StM used the Council Study to legitimise their demand calling for the cancellation of the dam building.

The Council Study provides Thai advocacy NGOs and the StM with a new invited space in which they tried to persuade regional decision makers to halt construction of the dam and consider the findings from the Council Study before a decision was made on whether or not to go ahead with the dam building. This was the effort of Thai advocacy NGOs and the StM to use the Council Study to change the predetermined decision made by the Lao government to complete the Xayaburi dam project. As one interviewee asserted:

“... the Council Study provides an important opportunity for Mekong governments to ensure informed decisions on hydropower development in the Mekong Basin... Therefore, the Lao government should utilise the Council Study to enable more informed and balanced decision making on the development of the Xayaburi dam project” (Interview TA1, 2014).

However, the Lao government has never waited for the results of the Council Study and claimed that the Xayaburi dam project has no transboundary impacts and therefore there is no need to postpone the project (Trandem, 2013). This means that the new invited spaces provided by the Council Study cannot guarantee that the voices and concerns of the dam opponents can change the decision made by the Lao government and concerning regional decision-makers. As Cornwall (2008) argued, simply opening invited space is not sufficient to bring meaningful participation. The next section discusses that the Council Study was criticized by Thai advocacy NGOs and the dam opponents as failure because the progress of the Council Study has faced considerable delays and the decision on the Xayaburi dam building has been made without the results of the Council Study.

7.2.1.1 Problems of Mekong Council Study

I. Delay of Council Study

After the initiation of the Mekong Council Study in 2011, the leaders of Cambodia, Laos, Thailand and Vietnam reaffirmed their commitment to Mekong cooperation and the need to expedite studies and research to understand the potential transboundary impacts of dams on the Mekong (MRC, 2014). However, despite such commitments, little progress has been made on the MRC Council Study. Initially, the Council Study was due to be completed by March 2016. However, this original schedule was extended several times owing to delays during the scoping and planning phase of the Study. According to an official Thai state representative, it took too long to draft and finalise the scoping documents; for example, it took almost two years for the Mekong countries to agree the draft of the Concept Note and Term of Reference (ToR) (Interview TA1, 2014). The scoping and planning phase, previously anticipated to be completed within one year, took almost three years for completion and the Inception Report - which became the basis for the implementation phase of the Council Study - was only approved by the member-countries in October 2014. The implementation phase of the Council Study was then launched in

November 2014 after the MCs agreed to use the Inception Report dated 27 October 2014 as the basis for the implementation phase of the Council Study (MRC, 2016).

The first phase of implementation of the Council Study ended on 31 March 2016. Due to budget constraints, the implementation schedule for Phase 2 was extended, with completion set for 2017 (Ibid). The slow progress of the Council Study has worried opponents of the dam, who want to see the results of the Study being integrated into the decision-making process of building the Xayaburi dam. The MRC claimed that the Council Study was different from the previous impact assessment studies in that it tried to provide a comprehensive and holistic study of impact assessment of development in the Mekong River Basin (MRC, 2017). The Study aims to provide a cumulative impact assessment of the cascade of 11 mainstream dams, including the Xayaburi project. In addition, the Study not only assesses the impacts from the hydropower sector but also encompasses important thematic sectors including irrigation, agriculture and land use change, domestic and industrial water use, transport and flood protection (MRC, 2014). However, because little progress has been made in the Council Study, many commentators have cast doubt on how the result of the Council Study will help to inform the decision-making and planning process of the Xayaburi dam project.

The Lao government and developers never waited for the result of the Council Study. While the Council Study was delayed several times, the Lao government and developers went forward with the dam building, and construction is considered to be more than 70% complete (Bangkok Post, 2017). This means that the construction of the Xayaburi dam has gone ahead with a lack of knowledge on how the Xayaburi dam and the rest of the Lower mainstream dams would cause cumulative impacts on the Mekong River Basin. Although regional and international civil society called for the suspension of the Xayaburi dam project until the Council Study was complete, the Lao government and the dam developer never suspended the dam's construction. This means that the Lao government

made a decision to continue with the dam's construction outside the assessment framework of the Council Study.

II. Decision on Xayaburi dam building made outside Council Study Framework

Opponents of the dam, including Thai advocacy NGOs, tried to convince the Lao government and concerned regional decision makers to suspend construction of the Xayaburi dam to allow sufficient time to gather all of the necessary data required to fully understand the impacts of the Xayaburi project and lead to informed decisions on the hydropower dam's development. However, the Lao government ignored the Council Study and insisted that the hydropower dam development had caused no transboundary impacts (Viravong, 2014). Instead of suspending the dam project, the Lao government has adopted problematic approaches to justify the decision to continue with the dam building; these can be grouped into three approaches, including a) hiring Pöyry and Compagnie Nationale du Rhône (CNR) to justify the continuation of the Xayaburi dam development; b) inviting delegates from foreign governments, the MRC, development partners, academics and foreign media to visit the Xayaburi dam site and; c) the redesign of the Xayaburi dam project.

a) Hiring Pöyry and Compagnie Nationale du Rhône (CNR) to justify continuation of the Xayaburi dam development

As mentioned before, the Government of Laos hired the Finnish company Pöyry to conduct the impact study of the Xayaburi project after Cambodia, Thailand and Vietnam expressed concerns over the dam's transboundary impacts during the MRC Joint Committee meeting in April 2011. Laos hired Pöyry in May 2011 to conduct a review of whether the Xayaburi dam was in compliance with the MRC Preliminary Design Guidelines for Mainstream Dams (Herbertson, 2011). In August 2011 Pöyry published its compliance report for the Lao government in which it concluded that the project was "principally in compliance" with MRC Preliminary Design Guidelines standards and construction should move forward (Ibid). The Lao government has used Pöyry's report to justify that the impacts of the

Xayaburi dam downstream would be minimal and the concerns over fish migration could be mitigated through the design of a so-called “transparent dam,” which uses fish ladders and fish passes to help potentially affected fish pass through freely without harm (Nhina Le, 2013). However, Pöyry’s report has received widespread criticisms from Cambodia and Vietnam as well as anti-dam activists. The Lao government then hired the Compagnie Nationale du Rhône (CNR) of France in January 2012 to provide a peer review of Pöyry’s work related to sediments. Through its desk study, the CNR claimed that the dam could be redesigned as a “transparent” dam, where all sediments were transported past the dam (Ross, 2013). Despite widespread criticism, the Lao government used the Pöyry and CNR reports as major sources for supporting its position that the construction of the Xayaburi dam in the river was legitimate.

b) Inviting delegates from foreign governments, the MRC, development partners and NGOs to visit the Xayaburi dam site.

In addition to hiring Pöyry and CNR to address the concerns over the impacts of the Xayaburi dam, the Lao government invited around 70 delegates from foreign governments, the MRC, development partners and NGOs to the city of Luang Prabang on 16 and 17 July 2012 to listen to presentations about the dam and visit the dam site (Herbertson, 2012a). The invitation was in a response to the request of MRC donors who asked for the opportunity to visit the site of the project and learn more about the implementation of the mitigation options being proposed by the recent review conducted by CNR (Joint Development Partner Statement, 2012). During the two days of the site visit the delegation heard presentations from the Pöyry group, which informed the delegates that the redesign of the project was under way and assured them that the project would have no unacceptable negative effects. This confirmation is very much at odds with Pöyry’s own report published in 2011, which clearly stated that additional baseline data and the knowledge concerning the proposed passes for migrating fish needed to be improved to understand the project’s impacts (WWF, 2011). The delegation also heard a presentation from the

French company CNR providing further analysis. Despite lacking data about present solid transportation along the Mekong River, the CNR still described the possible ways to pass sediments through the dam (International Rivers, 2012b).

The Lao government announced at an Association of South-East Asian Nations (ASEAN) ministerial meeting on 13 July 2012 that the Xayaburi project was put off pending further studies (Ponnudurai, 2012). However, the delegates visiting the dam site were surprised to know that construction activities at the dam site had still moved forward. Lao Vice-Minister of Energy and Mines Viraphonh Viravong explicitly told the delegation that construction activities on the project would continue and preparatory work was already under way (Interview T1, 2014; I2, 2014). Based on the presentations of Pöyry and CNR, the Lao official concluded that the Xayaburi project had no serious effects and the project had been redesigned to address cross-border concerns of civil society groups and neighbouring countries. The Lao government and the dam builders have pushed forward to continue with the dam building at any cost, even though this means that they may have to spend a large amount of money to redesign the project.

c) The redesign of the Xayaburi dam project.

Despite the mounting concerns raised by various environmental groups, NGOs and neighbouring countries, Laos has still not abandoned the project but instead announced plans to redesign the project to address widespread criticisms and concerns. Laos first announced the project redesign in July 2012, when it pledged to spend 100 million dollars to revamp its much criticised project to mitigate its possible impact on the Mekong River (The Nation, 2012). Laos claimed that the concerns over the Xayaburi dam's impacts raised by stakeholders could be mitigated via several technological innovations, as recommended in the Pöyry and CNR review study. As stated by Vice-Minister of Energy and Mines Virapongh Viravong, if the Lao government redesigned the project in line with the recommendations from Pöyry and CNR, the impacts on the environment

would be minimal and there was no need to postpone the dam development (NGÔ THẾ VINH, 2012). Since the first announcement of the project modification, the Lao government has tried to show its efforts to modify the project design to address the cross-border concerns. For example, the Lao government and the dam developers invited foreign media, academics, researchers and MRC development partners to visit the construction site to hear a presentation on how the dam developers tried to modify the project to mitigate the problems of fish passages and sediment flushing and improve the dam's original design according to the recommendations of the MRC technical reviews.

The Xayaburi project's redesign has been heavily criticised by anti-dam activists, including Thai advocacy NGOs. Thai advocacy NGOs called on the Lao government and the developers to release details of the new Xayaburi design to the public (Save the Mekong, 2016b). However, as of 2017, the new design of the Xayaburi project has not yet been made available to the public (Harris, 2017). Thai advocacy NGOs argued that the project redesign documents should be available to the public so that the independent review could monitor and investigate whether the mitigation measures proposed by Laos and the consultant companies would work to mitigate the problems. Without the disclosure of all project redesign documents and studies that are under way, it is hard to confirm whether the mitigation technologies and innovations proposed by Laos and the developers will work to minimise and mitigate the local and transboundary impacts, as those mitigation innovations have never been tested in this region before (Interview I2, 2014; T5, 2014).

The Lao government uses these three problematic approaches to justify a decision to build the Xayaburi dam outside the framework of the Council Study. The new invited space provided by the Council Study cannot lead to informed decisions in which the transboundary and cumulative impacts of dams on the Mekong River mainstream would be incorporated into the decision-making process of the Xayaburi dam. Concerned stakeholders have participated in the new invited space created by the Council Study to assess transboundary and cumulative impacts of Mekong mainstream

dams, including the Xayaburi dam, to enable more informed and balanced decision making over the Mekong dam development. However, the Lao government has never waited for the results of the Council Study and has adopted every possible way to justify the decision to build the dam outside the framework of the Council Study. The Lao government used the review report prepared by Pöyry and CNR and the plan to redesign the project to justify its claim that the Xayaburi dam has minimal impacts and therefore Laos can move forward with the dam's construction.

Sinwell (2010) argues that the invited spaces of participation do not always bring effective and meaningful participation. The invited spaces which are originally created to enable more effective and deliberative participation may end up sustaining the interests of those in power. Although the MRC member-states agreed to conduct the Council Study which provides the new invited spaces in which concerned stakeholders can study and assess the potential impacts of the Xayaburi dam to enable informed decisions, the Council Study is used not to lead to informed decisions, but rather to placate the strong opposition from anti-dam activists, including Thai advocacy NGOs. The Lao government has never intended to utilise the findings from the Council Study to make an informed decision on the Xayaburi dam project. As one interviewee put it,

“the Lao government never waited for the results of the Council Study and the government believed that it had a right to use the Mekong water flowing within Lao territory for developing its own country” (Interview S1, 2014).

Although concerned stakeholders have put so much effort into studying and assessing the potential impacts of the Xayaburi dam to facilitate informed decisions, these efforts have barely been incorporated in the decision-making process of the Xayaburi dam development. Thai advocacy NGOs criticised the Council Study as an ineffective decision-making framework which failed to regulate the Lao government to make a decision on the Xayaburi dam project based on the results of the Council Study (Interview T6, 2014). However, the MRC argues that the Council

Study is not designed to intervene in the decision made by the member-states; rather, the Study provides a regional platform in which the member-states receive information on the positive and negative impacts of the Xayaburi dam and other Lower Mekong dams so that they can gain higher confidence towards informed decision making (MRC, 2014). Thai advocacy NGOs felt disappointed with the MRC's lack of regulatory authority. They therefore decided to join with StM members to call for the reform of the MRC and its decision-making framework to regulate the rapid expansion of the Mekong mainstream dam development in the LMB. The gathering of Thai advocacy NGOs and other like-minded supporters has established the transnational anti-dam network which led to the creation of new popular spaces.

7.2.2 New popular space at regional level

The weakness of the MRC and its decision-making framework in regulating hydropower dam development in the LMB has become a focal point of controversies and criticisms. Thai advocacy NGOs have learnt that simply opening up the invited space of the Mekong Council Study is not sufficient to incorporate the voices and concerns raised by Thai dam-affected villagers in the decisions made by the regional decision makers. Thai advocacy NGOs have continued using advocacy strategies to call for the suspension or cancellation of the Xayaburi dam project. However, as discussed before, Thai advocacy NGOs are outsider NGOs who are excluded from the political arenas where the decisions regarding the Xayaburi dam have been taken. Therefore, Thai advocacy NGOs have to rely more on outsider strategies to compensate for their lack of political access. Thai advocacy NGOs use a variety of outsider strategies including protest-based strategies to attract public attention to the issues they are advocating and information-based strategies to assemble like-minded people and mobilise collective action to oppose the construction of the Xayaburi dam project. By using both protest and information-based strategies, Thai advocacy NGOs have established the transnational anti-dam alliance with StM members and created their own space where they can resist the existing regional decision-making framework initiated by the

MRC to regulate hydropower dam development in the LMB. As a representative of Thai advocacy NGO noted,

“We try to build an alliance with regional NGOs and civil society and create our own space in which we can monitor and regulate the rapid expansion of the Mekong mainstream dams more effectively” (Interview T3, 2014).

The new space created by Thai advocacy NGOs and the StM members can be called a new popular space. This new popular space is occupied by the collective actions of anti-dam NGOs, activists and civil society groups sharing their collective concerns about the potential impacts of the Xayaburi dam on the Mekong. Miraftab (2006:195) argues that the distinction between invited and popular spaces lies in the fact that actions taken by NGOs and civil society groups within the invited spaces aim to cope within the existing structure; within the popular spaces, NGO and civil society actions are characterised by defiance that resists the status quo and aims to change the existing structure. Thai advocacy NGOs and the StM members participate in the new popular space to challenge the existing institution and decision-making framework designed to regulate the Mekong dam development in the LMB. Within the new popular space, Thai advocacy NGOs and the StM members use advocacy strategies to reform the regulatory power of the MRC and its decision-making framework to regulate mainstream dam development in the LMB more effectively.

7.2.2.1 Reforming the MRC and its decision-making framework

Thai advocacy NGOs and the StM members create their own new space where they can identify the problems in regulating hydropower dam development in the LMB and propose proper solutions to the public and decision makers. The new popular space mentioned here is defined by Cornwall (2004a; 2002) and Gaventa (2006) as a new space created by autonomous forces of people’s mobilisation and used to identify problems in different ways and propose alternative solutions for these problems. Thai advocacy NGOs participate in the new popular space to convince the

public and decision makers that the MRC and its decision-making framework, including the PNPCA and the Council Study, have failed to reach an informed and balanced decision agreed by all concerned stakeholders regarding the Xayaburi dam project. The failure of the MRC and its decision-making framework in regulating the Mekong dam development needs to be learnt so that the problems can be addressed and lead to the improvement of the regulation of dam development in the LMB. As one interviewee asserted,

“The Xayaburi project is the first test of the Prior Consultation under the PNPCA. It is an unprecedented implementation and therefore we have to make sure that the lessons of the PNPCA implementation are learnt by state and civil society sectors” (Interview I1, 2014).

After observing the implementation of the PNPCA and the Council Study, Thai advocacy NGOs have learnt that the problems of the MRC and its decision-making framework in regulating the Mekong dam development lie in the MRC’s lack of regulatory authority to force its own member-states to comply with the Mekong Agreement and its supporting rules and procedures. One Thai advocacy NGO participating in the interview indicated that

“The problem in regulating the mainstream dam development in the Lower Mekong Basin is not from the lack of a regulatory framework, but from the existing framework of the MRC failing to force the member-states to follow the principles of the 1995 Mekong Agreement” (Interview T1, 2014).

For decades, critics have pointed out that the MRC is a paper tiger because it lacks legally binding authority over its member-states and has no legal mechanism existing to punish the member-states that fail to follow through with the MRC’s principles or procedures (Neusner, 2016). As argued by Boer et al. (2016), the MRC and its decision-making framework such as the PNPCA are clearly not regulatory in a hard, enforceable sense of authorising a veto, requiring a specific decision or providing for the imposition of sanctions. The governing role of the MRC is in fact based

on the softer notion of regulation which emphasizes the use of knowledge produced by the MRC programmes, guidelines and standards to convince the member-states to reach an agreed decision, prior to implementing a hydropower project. Given the soft power of the MRC, the MRC has been increasingly sidelined by its own members who prioritise the mainstream dam development over environmental protection and sustainability (Molle et al., 2009:404). For example, the MRC conducted a Strategic Environmental Assessment (SEA) in 2008 to study the impacts of hydropower dam projects on the Lower Mainstream of the Mekong River and recommended that the mainstream hydropower dams should be deferred for 10 years until further studies on their impacts could be conducted (BankTrack, 2016). However, a staff member of a Thai advocacy NGO complained:

“The Lao government ignores the SEA report recommending a 10-year deferral for mainstream hydropower development until further impact studies can be conducted. The government and the dam developer have commenced the preliminary construction of the Xayaburi dam since early 2012” (Interview T2, 2014).

Thai advocacy NGOs, the StM members and other like-minded supporters have called for the reform of the MRC and its decision-making framework to regulate hydropower dam development in the LMB more effectively. Thai advocacy NGOs expected that the MRC should become a powerful agency with more stringent regulatory power to intervene in the decisions relating to Mekong hydropower dam development to protect the Mekong River and the riverine people who depend on the river for their living. As one interviewee recommended:

“The MRC should govern the Mekong dam development with hard powers of enforcement to uphold the principles of sustainable development of the 1995 Mekong Agreement” (Interview T3, 2014).

According to an interviewee, Thai advocacy NGOs joined with state officials, scientists and NGOs in Vietnam to activate Article 7 of the Mekong Agreement to cease the Xayaburi dam project (Interview T5,

2014). Article 7 of the Mekong Agreement is the provision that aims to avoid, minimise and mitigate harmful effects by requiring member-states to cease immediately the alleged cause of harm if there is proper and valid evidence to show that the use of Mekong water has caused harm to the environment and neighbouring countries (Herbertson, 2013). Thai advocacy NGOs and the Vietnamese alliance engaged in research activities to investigate and gather scientifically-based data and evidence to prove that the Xayaburi dam project caused harmful effects to Vietnam's eco-system, especially the Mekong Delta, thus allowing Vietnam to activate Article 7 of the Mekong Agreement to cease the Xayaburi dam project (Choonhavan, 2014). These were the efforts of Thai advocacy NGOs and the Vietnamese alliance to force the Lao government to comply with the spirit and principles of the Mekong Agreement. If Article 7 were activated to force the Lao government to stop the construction of the Xayaburi dam, this would set a new standard for all Mekong countries to regulate the use of Mekong water for transboundary development projects.

Thai advocacy NGOs and the Vietnamese alliance used the new popular space to identify the weakness of the MRC and the lack of regulatory power of the decision-making framework and propose that the MRC should adopt more stringent standards (such as Article 7 of the Mekong Agreement) to regulate the rapid expansion of hydropower dam development in the LMB more effectively. The new popular space created by Thai advocacy NGOs and their anti-dam alliances has become a new space of resistance where the socially and politically excluded groups of people can come together to challenge the powerful decision makers and their dominant decisions and demand changes in public policies or decisions that affect the lives of people (Penderis, 2012). As one interviewee put it:

“It is the first time that we try to activate Article 7 of the Mekong Agreement and we do not know what kinds of results we would get... But we hope that Article 7 will bring a new standard to force the Lao

government to change the decision to build the dam” (Interview T5, 2014).

However, the attempt to activate Article 7 and use it to regulate mainstream dam development in the LMB may turn out to be more rhetoric than reality. Howard and Vasquez (2011) argue that if the new popular space is to become a new space of resistance and transformation, a formal channel needs to be established to incorporate the practices of NGOs and civil society groups within the new popular spaces into the formal political arenas where the real decisions are being made by powerful decision makers. However, the formal channel linking the powerful decision makers and NGOs and local civil society groups appears in a very weak form in the context of the Lower Mekong Basin. This is because the riparian states in the LMB are often criticised for establishing the MRC to facilitate the national interests of the riparian member states to exploit Mekong water in ways that would not cause conflicts between the member-states, but ignoring the participation of the civil society sector within the MRC framework (Davidsen, 2006). Therefore, the voices and concerns of NGOs and local civil society groups articulated within the new popular space will probably not be included in the formal decision-making process relating to hydropower dam development in the LMB.

Thai advocacy NGOs have realised that the creation of the new invited and new popular space at the regional level is not sufficient to regulate hydropower dam development in the LMB. Therefore, Thai advocacy NGOs aim to target Thai national level decision makers involved in the Xayaburi dam project and create new participatory spaces of participation at the Thai national level.

7.3 New participatory spaces at the Thai national level

Thai public and private actors have been involved in building and funding the Xayaburi dam project. Thai public and private actors became key decision makers in the Xayaburi dam project. Thai advocacy NGOs use both insider and outsider strategies to influence 1) Thai public decision makers to suspend or cancel the Power Purchase Agreement (PPA) and 2)

Thai private decision makers to drop financial support for the Xayaburi dam project. Although Thai public and private decision makers have not withdrawn their development and financial support for the Xayaburi dam, this thesis argues that advocacy strategies, both insider and outsider strategies of Thai advocacy NGOs, help to open up a window of opportunity in which Thai advocacy NGOs and Thai dam-affected villagers can participate in the decision-making process of the Xayaburi dam at the Thai national level. These opportunities have resulted in the creation of new participatory spaces at the Thai national level, as discussed in the following sections.

7.3.1 New invited spaces at the Thai national level

Thai advocacy NGOs have used a wide range of advocacy strategies, both insider and outsider strategies, to pressure or persuade the EGAT and other concerned Thai public decision makers to suspend or cancel the PPA. Thai advocacy NGOs have criticised that the signing of the PPA was illegal because the EGAT and the Thai state agencies concerned did not conduct impact assessments and hold a public consultation as required under Thai domestic law, and therefore they have called for the cancellation of the PPA (Energy Policy and Planning Office, 2012). Despite being criticised and pressured by Thai advocacy NGOs to suspend or cancel the PPA, the EGAT and concerned Thai state bodies have never conducted the impact assessments and public consultation and have insisted that the signing of the PPA was approved by the Thai government and complied with both Thai domestic and international law. Having been disappointed by the unresponsiveness of the EGAT and the Thai government, Thai advocacy NGOs decided to submit complaint petitions to Thai administrative bodies, including 1) the Sub-Committee on Community Rights and Natural Resources of the National Human Rights Commission of Thailand (NHRCT) and 2) two Senate Commissions, one on Anti-Corruption and Good Governance and the other on Community Natural Resources. Thai advocacy NGOs hoped that submitting complaint petitions to these two administrative bodies would help to create new opportunities for Thai

advocacy NGOs and Thai dam-affected villagers to participate meaningfully and effectively in the decision-making process relating to the Xayaburi dam's PPA.

Thai advocacy NGOs built an alliance with the Network of Thai People in Eight Mekong Provinces (NTMP) and established a domestic anti-dam network to target Thai public decision makers involved in building and funding the Xayaburi dam project and organise the anti-dam campaign at the Thai national level. Thai advocacy NGOs tried to make sure that the complaint petitions were submitted under the name of the NTMP to illustrate that the representatives of the NTMP are the ones who act on their own behalf to submit complaints and call for the cancellation of the Xayaburi PPA. By encouraging members of the NTMP to act on their own behalf to submit the complaints against the Xayaburi dam building, Thai advocacy NGOs aim to enhance the legitimacy of their anti-dam campaign. As a staff member of Thai Human Rights Officials commented:

“The complaint petitions were submitted by Thai villagers who were members of the Network of Thai People in Eight Mekong Provinces. These Thai villagers submitted the petitions because they were afraid of the negative impacts potentially caused by the construction of the Xayaburi dam” (Interview HR2, 2014).

After receiving the complaint petitions from representatives of the NTMP, the two Senate Commissions and the NHRCT commenced their investigation into whether the signing of the PPA without organising impact assessments and public consultation violated Thai domestic law (King, 2014). As part of the investigation, the Thai Senate Commissions and the NHRCT called on the EGAT and the Thai state agencies concerned to submit key documents regarding the Xayaburi project and the PPA (Interview HR1, 2014). In addition, the NHRCT with the support of the two Senate Commissions held a public hearing on the Xayaburi dam on 21 February 2012, which invited several key Thai state officials involved in the signing of the PPA to testify about their involvement in the PPA approval and the Xayaburi dam project (International Rivers, 2012a).

The investigation process and the public hearing helped provide new opportunities for Thai advocacy NGOs and Thai dam-affected villagers to raise questions regarding the decision to approve the PPA and obtain key information and documents directly from Thai public decision makers. During the public hearing, Thai advocacy NGOs and the NTMP found out that without conducting environmental and social impact assessment, four Thai banks including Krung Thai Bank, Bangkok Bank, Kasikorn Bank and Siam Commercial Bank, had already provided financial support for the Xayaburi dam project (Interview T2, 2014). After the investigation was completed, Thai advocacy NGOs and the NTMP were informed by the Senate Commissions that the PPA had already been signed on 29 October 2011 (Interview LC1, 2014). Without the investigation and the public hearing conducted by Thai administrative bodies, Thai advocacy NGOs and the NTMP may have had difficulties in accessing key document and information and determining the updated status of the PPA and the Xayaburi dam project. As one interviewee explained:

“After the investigation of the Senate Commissions, we are surprised to learn that the EGAT had already signed the PPA with the Lao government. If the Senate Commissions had not investigated the EGAT, we would probably never have known when exactly the EGAT signed the PPA with the Lao government” (Interview T2, 2014).

The investigation and public hearing convened by the NHRCT and the two Senate Commissions provided a new invited space in which Thai dam-affected villagers could hold the Thai government, the EGAT and other Thai state bodies to account for the potential impacts caused by the approval by the Thai government of the PPA. The new invited space became an intermediary space providing a formal channel to incorporate the needs and demands of Thai dam-affected villagers into the decision-making process of the PPA. As Aiyar (2010:204-205) suggests,

“... participation through invited spaces thus has the potential to increase the quality and intensity of citizen-state interaction and in so doing, subject

the state to continuous and noisier forms of scrutiny. Consequently, accountability is strengthened.”

By participating in the new invited space created by Thai Senate Commissions and the NHRCT, Thai advocacy NGOs and the NTMP expected that they could submit complaints, local testimonies, grievances and other alternative information regarding the negative impacts of the PPA and the Xayaburi dam project to convince the EGAT and the Thai government to realise the negative impacts of the Xayaburi dam building and cancel the PPA. For example, Thai advocacy NGOs and the NTMP criticised that the Xayaburi dam had drawn widespread concerns and criticisms over the adverse impacts of the dam on the river ecosystem and livelihoods of the riverine people and therefore, the Thai government should not support the controversial dam project by signing the PPA (Interview I2, 2014). Thai advocacy NGOs and the NTMP participated in the new invited space to raise their concerns regarding the PPA and the Xayaburi dam project to persuade Thai public decision makers about why they worried about the decision to sign the dam’s PPA and urged the Thai government to cancel the PPA.

Although the new invited space provides new opportunities in which Thai advocacy NGOs and the NTMP can participate in the formal political arena where they can influence the decision relating to the PPA approval, their participation in the new invited space is not enough to pressure or persuade the EGAT and Thai government to cancel the PPA. This is because the new invited space was created by the NHRCT and Thai Senate Commissions which have only soft regulatory power. Although the NHRCT and Thai Senate Commissions are Thai state actors, they are not the key public decision makers who have the real power to approve the PPA. The NHRCT and Thai Senate Commissions have mandates and an obligation to investigate whether the signing of the Xayaburi PPA is an action that violates the Thai Constitution and constitutes human rights abuses. However, the two administrative institutions have no hard power to force the EGAT and the governmental bodies concerned to cancel the PPA. As one interviewee commented:

“The Senate Commissions and the NHRCT engaged in various activities to investigate the Xayaburi case and recommended Thai state bodies such as the EGAT to cancel the PPA; however, both the Thai Senate Commissions and the NHRCT do not have hard power to force the EGAT and other state bodies concerned to change their decision on the PPA” (Interview T3, 2014).

The new invited space which is provided by the soft power of the NHRCT and Thai Senate Commissions is not sufficient to include the voices and concerns of Thai dam-affected villagers in the final decision on the PPA approval. As Cornwall (2008:275) argues, while participation in the invited space is necessary, it is by no means sufficient to ensure effective participation. Simply opening up invited spaces cannot guarantee effective and meaningful participation. The newly-created invited spaces need to be equipped with strategies or supporting mechanisms such as legal mechanisms to ensure that the less powerful people can participate in the new invited spaces effectively and meaningfully (Cornwall, 2004b). Without the proper strategies and supporting mechanisms, the new invited spaces simply reproduce the domination and power of the powerful actors. Therefore, Thai advocacy NGOs and the NTMP turned to a strategy of legal activism to use the legal mechanism of the Thai Administrative Court to force the Thai government to suspend or cancel the PPA.

The attempt of Thai advocacy NGOs and the NTMP to use a legal mechanism to oppose the approval of the Xayaburi dam’s PPA took place on 7 August 2012 when 37 villagers living in eight provinces along the Mekong River filed a case with the Thai Administrative Court against the EGAT and other four government agencies, including the the National Energy Policy Council (NEPC), the Ministry of Energy, the Ministry of Environment and Natural Resources and the Thai Cabinet for their involvement in the signing of the PPA. In June 2014, the Thai Supreme Administrative Court (SAC) made a ground-breaking decision to accept the lawsuit (Wengkeit, 2016). The SAC’s decision to rule on the case provided a new invited space in which Thai advocacy NGOs and Thai dam-affected villagers had another opportunity to force Thai public

decision makers to suspend or cancel the PPA. As a representative of Thai dam-affected villagers commented:

“Thai villagers who filed the case were very satisfied with the Court decision because they felt that the Court was giving new opportunities to the dam-affected villagers to make Thai decision makers listen to their voices and concerns over the transboundary impacts of the dam” (Interview LC1, 2014).

According to interviewees from Thai NGOs, the Court’s ruling to accept the case gave hopes to Thai villagers that the Court would suspend the power purchase agreement and in the meantime carry out a transboundary impact assessment and further consultations (Interview T4, 2014; T5, 2014).

Within the new invited space provided by the SAC, Thai advocacy NGOs and Thai dam-affected villagers interpreted the signing of the PPA in different ways to convince the Court to rule in favour of Thai advocacy NGOs and Thai affected villagers. For example, Thai advocacy NGOs and Thai dam-affected villagers challenged the EGAT that the PPA was not just a contract signed between the EGAT and the Xayaburi Power Company Limited, but rather the PPA was regarded as a project or activity in which the Thai state agreed to buy the Xayaburi dam’s power. In other words, the signing of the PPA is a state-led project or activity, and not just a binding contract as often claimed by the EGAT. An interviewee from a Thai advocacy NGO explained that

“We try to interpret the PPA as not just a power purchase agreement but rather as a project approved by the Thai government to buy the Xayaburi dam’s power and therefore a study, evaluation and consultation should be conducted prior to the approval of the PPA as required under the Thai Constitution 2007” (Interview T4, 2014).

The interpretation of the PPA as a state-led project or activity was used to convince the SAC to issue an order to force the EGAT to suspend or cancel the PPA until a study, impact assessment and consultation were conducted. However, after the Court received the final submission of evidence from

the plaintiffs on 24 July 2015 and the first case hearing took place in November 2015, the Court gave its verdict on 25 December 2015 to rule in favour of the EGAT and the Thai state bodies concerned and dismiss the case (Wangkiat, 2016). The verdict to dismiss the case in December 2015 closed off the new invited space previously opened up by the SAC's decision to accept the case in June 2014. This means that invited space is neither fixed nor static, but it is a dynamic space which can be closed, constrained or opened up for people to participate (Gaventa, 2006, 2004). As Kesby (2007) argued, invited space can be created either in a more durable form of participation or in fleeting formations opened for a particular purpose then closed again. The new invited space created by the SAC disappointed Thai advocacy NGOs and the plaintiff because the new invited space was opened for people's participation for only a very short period of time and failed to force the EGAT and the Thai government to suspend or cancel the PPA.

Having been disappointed by the Court's ruling to dismiss the case, Thai advocacy NGOs and the NTMP have come to realise that they cannot rely only on the new invited spaces provided by external agencies such as Thai administrative bodies, but they also need to create their own space which can be called new popular space. The new popular space can be defined as the space created from below to challenge the rules of the game and terms of participation designed by the powerful decision makers (Miraftab, 2006). The next section focuses on the new popular spaces created at the Thai national level. There are two new popular spaces created at the Thai national level. The first is the new popular space which is created to gather public mobilisation and support to pressure or persuade Thai public decision makers to suspend or cancel the PPA. The second is the new popular space which is created to target Thai private decision makers to urge them to withdraw financial support for the Xayaburi dam project.

7.3.2 New popular spaces at the Thai national level

Thai advocacy NGOs tried to use both insider and outsider strategies to call on 1) Thai public decision makers to suspend or cancel the PPA and 2) Thai private decision makers to stop funding the Xayaburi dam

development. However, Thai public and private decision makers ignored the demands raised by Thai advocacy NGOs and continued to buy the Xayaburi dam's power and invest in the Xayaburi dam project. Despite being disappointed with the decisions of Thai public and private decision makers to promote the Xayaburi dam building, Thai advocacy NGOs have not given up and are carrying on their advocacy work to oppose the Xayaburi dam project. However, because of their outsider status, Thai advocacy NGOs have to rely more on outsider strategies to compensate for their lack of political access to the decision-making process related to the Xayaburi dam project at the Thai national level.

Thai advocacy NGOs use a wide range of outsider strategies - both protest and information-based strategies - to target Thai public and private decision makers and influence them to withdraw their involvement in the Xayaburi dam development. By using both protest and information-based strategies, Thai advocacy NGOs attract public attention and mobilise public support and collective action which leads to the formation of domestic and transnational anti-dam networks linking like-minded supporters from within and across the Mekong River basin. These domestic and transnational anti-dam networks gather people and like-minded supporters who share their concerns about the future of the Mekong River and create new popular spaces in which Thai advocacy NGOs can have new opportunities to act to affect decisions regarding the Xayaburi dam that impact on their lives and interests. The following sections focus on the two new popular spaces created at the Thai national level. The first new popular space targets Thai public decision makers and the other targets Thai private decision makers.

7.3.2.1 New popular space at the Thai national level targeting Thai public decision makers

Thai advocacy NGOs and the NTMP tried to use the regulatory power of Thai administrative bodies to pressure Thai public decision makers to suspend or cancel the PPA. However, Thai public decision makers insisted that the signing of the PPA complied with both Thai domestic and

international law and therefore they did not cancel the PPA. Despite being disappointed with the decision not to suspend or cancel the PPA, Thai advocacy NGOs and the NTMP did not give up but carried on with their advocacy work to persuade or pressure Thai public decision makers to withdraw their involvement in purchasing the Xayaburi dam's electricity. One interviewee articulated her opinion in an interview:

“We do everything as best as we can and we will carry on what we have already done so far to prevent the dam building on the Mekong” (Interview T3, 2014).

The ongoing advocacy work of Thai advocacy NGOs has resulted in the formation of a domestic anti-dam network, a network in which Thai advocacy NGOs build anti-dam alliances with those who oppose the construction of the Xayaburi dam project, including the representatives of Thai villagers living in eight Mekong provinces, state officials from Thai Senate Commissions and the NHRCT, Thai academics and experts who share their concerns about the negative impacts of the dam building. Thai advocacy NGOs share resources and use a wide range of outsider strategies with other members of the domestic network, particularly information-based strategies to create their own space in which Thai advocacy NGOs and their domestic anti-dam alliances can continue to use their advocacy strategies to pressure or persuade Thai public decision makers to suspend or cancel the PPA. According to many interviewees, Thai advocacy NGOs and their domestic anti-dam alliances have created their own space in which they can identify the problems of Thailand's involvement in purchasing the Xayaburi dam's electricity and propose alternative solutions to address the problems (Interview TS1, 2014; TS2, 2014; HR1, 2014). As a staff member of one Thai advocacy NGO pointed out:

“We work together with our network to create our own space where we can investigate the approval process of the PPA and gather evidence to prove that the EGAT's decision to buy the Xayaburi's power is a wrong decision which could cause adverse impacts on Thai villagers who live in Mekong provinces” (Interview T1, 2014)

This new space created by Thai advocacy NGOs and their domestic anti-dam allies can be referred to as a new popular space defined as the space claimed by the marginalised or excluded members of the public on the basis of common concerns and the desire to be heard and included in decisions on issues that are relevant to them (Arshad-Ayaz & Naseem, 2017:9). This new popular space is different from the new invited space in that it is a space in which NGOs can resist the status quo and create different meanings to problems and solutions to promote political and social changes. As Bebbington et al. (2008) defined it, popular space is a space in which NGOs can construct and demonstrate alternatives to the status quo and think about development and social change in ways that would not be likely through government programmes. Political actions taken by NGOs and their allies in the new popular space aim to resist the status quo and change the existing political and decision-making process and structure; while in the new invited space, actions and strategies taken by NGOs and their allies aim to bring about gradual change within the existing structure and system (Miraftab, 2006: 195).

Within the new popular space, Thai advocacy NGOs and their domestic anti-dam alliance use a wide range of information-based strategies such as fact-finding exercises, investigations, public awareness and education and research-based activities. These information-based strategies were used to investigate the approval process of the PPA, gather evidence and data and generate scientifically-based data and information about the negative impacts of the Xayaburi dam project on Thai villagers living in Mekong provinces and use this alternative information and data to legitimise their claims against the signing of the PPA and the Xayaburi dam building. Interviewees who worked closely with Thai villagers explained that by participating in the new popular space, the less powerful actors, particularly Thai dam-affected villagers, have opportunities to build partnerships with other external like-minded people and agencies, conduct their own research and collect data about the fluctuation of the Mekong water flow as a result of the mainstream dam development (Interview T1,

2014; T3, 2014; T6, 2014). As one interviewee from Thai local villagers described it:

“We began collecting data about the fluctuation of the flow of the Mekong River in 2010. After collecting data, we learnt that the reason for the Mekong fluctuation is the construction of the hydropower dam projects on the Mekong mainstream” (Interview LC1, 2014).

The participation of Thai villagers in the new popular space helps these villagers to collect the information they need and enhance their knowledge, capacity and political skills which help to build their confidence in defending their claims and negotiating with the powerful decision makers. As Webster and Engberg-Pedersen (cited in Cornwall, 2004b:87) argue, in popular space, marginalised groups can learn the skills for effective engagement, acquire the information they need, and build the political agency through which to make a difference. Thai advocacy NGOs, the representatives of Thai villagers and other members of the domestic anti-dam network participate in the new popular space to generate two sets of alternative information about the Xayaburi dam’s PPA and use this alternative information to pressure or persuade Thai public decision makers to stop buying the electricity produced by Mekong mainstream dam projects, including the Xayaburi dam. These two sets of alternative information about the Xayaburi dam’s PPA are discussed below.

I. The Xayaburi dam’s PPA and transboundary impacts on the livelihoods of Thai villagers

Within the new popular space, many interviewees from Thai advocacy NGOs and representatives of Thai dam-affected villagers were critical that the Xayaburi dam project, if built, would cause transboundary impacts on the livelihoods of local people living not only in Laos but also in Thailand (Interview LC1, 2014; T1, 2014; T3, 2014; T4, 2014). To legitimise their criticism, Thai advocacy NGOs and Thai villagers who would be affected by the Xayaburi dam building participated in a research project initiated by Thailand’s Department of Water Resources, acting as the Thai National

Mekong Committee (TNMC). The Department of Water Resources of Thailand launched the research project to study and monitor the transboundary impacts of the Xayaburi dam project in three stages including before, during and after the dam construction. As one of the Thai state officials indicated:

“The Department of Water Resources has initiated a research project and invited NGOs and Thai dam-affected villagers to collect data and evidence about the transboundary impacts of the Xayaburi dam. The data collection is conducted in three stages which are before, during and after the dam construction. The data collected from the research project can be used to prove whether the Xayaburi dam building has transboundary impacts on the livelihoods of Thai villagers. We hoped that Thai villagers can have data and information to protect their own interests” (Interview S1, 2014).

The participants in the research project hoped that they could use the research findings to legitimise the claims and criticisms about the transboundary impacts of the Xayaburi dam and convince Thai public decision makers to cancel or at least postpone the PPA until the environmental and social impact assessment and public consultation in Thailand were conducted. Although the Xayaburi dam project is built outside Thailand, the dam construction could cause transboundary impacts on the livelihoods of Thai villagers and therefore Thai public decision makers should be accountable and responsible for the transboundary impacts caused by the dam building. As an interviewee from a Thai advocacy NGO complained:

“It is unacceptable to see that the EGAT can sign the PPA with no public hearings and impact assessments in Thailand just because the dam project is being built outside Thailand” (Interview T3, 2014).

Thai advocacy NGOs and Thai dam-affected villagers have tried to use the information and data collected and generated from their own research to set a new standard to hold Thai public decision makers responsible and accountable for their involvement in any action based on the hydropower

dam development being invested, constructed and implemented outside of Thailand.

II. The Xayaburi dam's power: unnecessary power for Thailand

The Thai government has always searched for extra supplies of electricity to secure the high energy demands of Thailand (Greacen & Palettu, 2007). The power supply from the Xayaburi dam project was listed in Thailand's Power Development Plan 2010 (PDP 2010), which laid out the power system development framework for Thailand. Much of the 1,285 MW of power from the Xayaburi project will be sold to Thailand as a part of Thailand's PDP 2010 which will help the country reach its goal to meet power demands in the future. According to a Permanent Secretary of the Thai Energy Ministry,

“The Xayaburi power plant plays a crucial role in Thailand's power development. Aside from reasonable prices, hydropower also helps Thailand reduce its dependence on natural gas for power generation” (Cited in Thongrungsri, 2012).

However, Thai advocacy NGOs have sought to challenge Thailand's power development plan relying heavily on imports from the Xayaburi dam project and other Mekong mainstream hydropower dams built in neighbouring countries. For example, an interviewee from International NGO argued that the power from the Xayaburi dam was not needed to meet Thailand's future energy needs and Thailand could reduce hydropower imports if the country invested in alternative options for energy such as energy efficiency, renewables and co-generation (Interview I2, 2014). As one interviewee who is an expert in Thailand's electricity sector commented:

“If Thailand's power development plan is based on the real calculation of power demand instead of the overestimation of power demand, Thailand may not need to buy the Xayaburi's power” (Interview T1, 2014).

Thai advocacy NGOs and their domestic anti-dam alliance proposed the alternative power development plan for Thailand within the new popular space. Thai advocacy NGOs and their anti-dam alliance have used the information generated by the research and campaign to stimulate new public debate about Thailand's power development plan and policy and mobilise public support, especially support from urban people living in Bangkok, for the alternative power plan and development proposed for Thailand. According to a staff member from an international NGO,

'We aim to use the findings from our research and campaign to raise public awareness, especially among Thai urban people, to make them realise that Thailand does not need the extra power supply from the Xayaburi dam and there are alternative solutions which are more efficient and sustainable to meet the country's power demands'" (Interview I1, 2014).

Thai advocacy NGOs and the domestic anti-dam alliance hope that public awareness and support raised during the campaign could help pressure Thai public decision makers to cancel the commitment to buy power from the Xayaburi dam and other Mekong Mainstream dams and adopt a transparent and participatory process for determining Thailand's future energy needs.

7.3.2.2 New popular space at the Thai national level targeting Thai private decision makers

The Xayaburi dam could not be built without the financing that Thai banks are providing. Therefore, Thai banks are the key decision makers in the Xayaburi dam project. Thai advocacy NGOs used both insider and outsider strategies to urge them to stop funding the dam project. However, Thai banks have never withdrawn their financial support for the Xayaburi dam project, despite major concerns raised by regional and global civil society over the dam's impacts. Many interviewees criticised that Thai banks had made a decision to lend money to the dam project based on the information provided by the Lao government and the dam developer and never invited Thai villagers who were potentially affected by the dam building to

participate in the project finance lending decisions (Interview T2, 2014; T3, 2014; I1, 2014; I2, 2014). For example, one interviewee complained:

“We were astonished to learn during the public hearing held by the Thai Senate and the National Human Rights Commission of Thailand that Thai banks had already provided financial support for the Xayaburi dam. It is very disappointing to think that Thai banks have not taken the voices and concerns raised by the wider public more seriously” (Interview T1, 2014).

Despite adopting both insider and outsider strategies to call on Thai banks to stop funding the dam project, Thai banks have never provided a new invited space to Thai advocacy NGOs and Thai dam-affected villagers to participate in the approval decision to finance the dam project. Thai advocacy NGOs and Thai dam-affected villagers are excluded from the decision-making process of the project finance and have to use a wide range of outsider strategies to compensate for their lack of access to the decision-making process of Thai banks. Thai advocacy NGOs and Thai dam-affected villagers have organised protest events to attract public attention and at the same time they have used information-based strategies to assemble like-minded supporters and mobilise public support. As interviewees from Thai advocacy NGOs suggested:

“We do not work alone but we collaborate with members from the domestic and transnational anti-dam networks to create new opportunities in which we can provide another set of information about the dam’s impacts to Thai banks and urge them to withdraw financial support for the dam project” (Interview T5, 2014; T2, 2014; T6, 2014).

These new opportunities can be referred to as new popular space which is defined as the new space claimed by marginalised people or excluded members of the public to resist the status quo and bring about political and social change (Cornwall, 2004a; Gaventa, 2006).

Within the new popular space created to target Thai banks, Thai advocacy NGOs criticised the poor performance of Corporate Social Responsibility (CSR), a corporate governance mechanism adopted by Thai banks, to regulate the transboundary investment of Thai banks in the Xayaburi dam

project and called on Thai banks to adopt more stringent international standards to regulate the transboundary investment of Thai banks in lower Mekong mainstream dams more effectively.

I. New international standards for regulating transboundary investment in hydropower dam development in Lower Mekong Basin

Thai advocacy NGOs and their domestic and transnational anti-dam networks created the new popular space to provide them with new opportunities where they could search for new international standards designed to guide the decisions of private actors in project development and finance and urge Thai private decision makers to adopt these new international practices and standards. As discussed before, Corporate Social Responsibility (CSR) is an important regulatory mechanism to hold Thai private decision makers accountable to and responsible for the society and the environment. All Thai banks financing the Xayaburi dam project have expressed a commitment to a form of CSR and report on their CSR activities in their annual reports (Middleton and International Rivers, 2009). However, the commitment of Thai banks to CSR is very vague and often forms part of corporate governance policy and codes of conduct (Middleton & Pritchard, 2013). Another weakness of CSR is that it is based on a voluntary approach. Therefore, the value and effectiveness of CSR depends on the extent to which Thai banks commit themselves to CSR and their willingness to implement it. The CSR adopted by Thai banks is often criticised as being nothing more than charity-based activities which have nothing to do with the incorporation of public participation and engagement into the core business practice of the Thai banking sector (Interview T3, 2014; TS1, 2014; TS2, 2014).

Thai advocacy NGOs and their domestic and transnational anti-dam networks have proposed new international standards, used specifically for the hydropower dam industry, to replace the ineffective CSR policies adopted by Thai banks. Thai advocacy NGOs and their anti-dam networks have urged Thai banks to adopt many international standards, including 1)

the Hydropower Sustainability Assessment Protocol (HSAP) adopted by the International Hydropower Association (IHA) as a tool to assess project development and operation against global criteria, and 2) the Equator Principles (EPs) for financial institutions, which is a voluntary framework based on the International Finance Corporation (IFC) Performance Standards on Social and Environment Sustainability and on the World Bank Group Environmental, Health and Safety Guidelines (King, 2014). Thai advocacy NGOs and their anti-dam networks have tried to promote the HSAP and the EPs within the new popular space to persuade or pressure Thai banks to incorporate international best practice standards into their core business practice. According to one interviewee, Thai banks are now transboundary actors who know no boundaries when they operate their business activities; therefore, international best practice standards are significant tools to hold Thai banks to account for the transboundary impacts that arise from their business decisions and behaviours (Interview T1, 2014).

The HSAP and EPs were initiated by many key actors involved in both the financial and hydropower industry sectors, such as the International Finance Corporation (IFC), the International Hydropower Association (IHA) and other leading international environmental NGOs such as the World Wildlife Fund (WWF), The Nature Conservancy, Transparency International and Oxfam (Boer et al., 2016). Therefore, Thai advocacy NGOs and their anti-dam networks hoped that if Thai banks adopt these international best practice standards, they can use the influence and resources of global actors and their regulatory mechanisms to hold Thai banks to be responsible for the adverse impacts caused by their business activities on the Xayaburi project. For example, Thai advocacy NGOs and the representatives of Thai dam-affected villagers launched an anti-dam campaign with the WWF, an international NGO, to encourage the incorporation of international standards into the business policies and practices of Thai banks involved in the Xayaburi dam development (Interview LC1, 2014). The WWF built the network with Thai advocacy NGOs and launched a campaign to persuade Thai banks to realise the

significance of the adoption of international standards as the guidelines for their project finances (Interview I1, 2014). The new popular space offers Thai advocacy NGOs new opportunities through which they can persuade or pressure Thai banks to adopt more stringent international standards than CSR.

7.4 The creation of the new invited and new popular spaces in the Xayaburi dam project

This chapter aims to address the third hypothesis, which states that Thai advocacy NGOs, by using both insider and outsider strategies, can create new participatory spaces which are new invited and new popular spaces in the Xayaburi dam project. From the findings presented and discussed in the earlier sections of this chapter, it indicated that Thai advocacy NGOs tried to use both insider and outsider strategies to create new opportunities in which they could act together to pressure or persuade the Xayaburi dam's decision makers to postpone or cancel the building of the dam. Although the opening-up of these new opportunities has not yet led to the suspension or cancellation of the Xayaburi dam project, these new opportunities have resulted in the creation of new participatory spaces where Thai advocacy NGOs and their domestic and transnational anti-dam networks can continue their advocacy work to hold the pro-dam decision makers accountable and responsible for their development and investment in hydropower dam development in the LMB.

At first sight, it seems that the research findings correspond to the third hypothesis. However, when looking carefully at the examination of the findings discussed in this chapter, the picture is more complicated than it appears. Although Thai advocacy NGOs tried to use both insider and outsider strategies to create new participatory spaces in the Xayaburi dam project, they did not use insider and outsider strategies equally in creating the new participatory spaces. As discussed before in the previous chapter, Thai advocacy NGOs are outsider NGOs who are excluded from the formal decision-making arenas of the Xayaburi dam project, and therefore they have to use more outsider strategies than insider strategies to

compensate for their lack of political access. Outsider strategies, especially information-based strategies, have become the primary strategies used by Thai advocacy NGOs to create new participatory spaces at the regional and Thai national level. These new participatory spaces created at the regional and Thai national level can be divided into new invited and new popular spaces, as discussed below.

At the regional level, Thai advocacy NGOs targeted regional decision makers, particularly the Lao government and the MRC, to pressure or convince the two regional decision makers to suspend or cancel the PNPCA and the Xayaburi dam project. Thai advocacy NGOs used both insider and outsider strategies to create new opportunities in which they could pressure or persuade the regional decision makers to delay or cancel the PNPCA and the Xayaburi dam building. For example, they submitted letters endorsed by the StM members to the regional decision makers, organised protest events and conducted information-based strategies to mobilise public support and stimulate collective action. The findings indicate that both insider and outsider strategies used by Thai advocacy NGOs pressured and convinced the MRC member-states to agree to conduct the Mekong Council Study. The Mekong Council Study provides a new invited space where Thai advocacy NGOs have new opportunities to study and assess the cumulative and transboundary impacts of the mainstream dams proposed to be built on the LMB, including the Xayaburi dam, and use the results of the assessment to make an informed and balanced decision on the controversial Xayaburi dam project.

The new invited space provided by the Mekong Council Study corresponds to the third hypothesis because the new invited space is created as a result of the use of both insider and outsider strategies of Thai advocacy NGOs. Thai advocacy NGOs hope that the new invited space of the Mekong Council Study has the potential to enable Thai dam-affected villagers to participate in the formal decision-making arenas where the real decisions on the Xayaburi dam project have been made. However, these potentials are constrained because of many problems, including the delay of the Council Study and the unilateral decision of the Lao government to

go ahead with the dam construction regardless of the results of the Council Study. Thai advocacy NGOs have learnt that the new invited space provided by the Council Study cannot guarantee that the voices and concerns of Thai dam-affected villagers will be incorporated in the decision-making process of the Xayaburi dam project at the regional level. As Sinwell (2010) argues, although the new opportunities for public participation are opened up through the invited space, the invited space cannot guarantee meaningful participation. The invited space may be repressive, closed off to particular kinds of voices and end up serving the interests of those in power (Ibid: 26). Therefore, simply opening up a new invited space is not sufficient to bring about meaningful participation. The new popular space should be created to enhance the potentials of the less powerful groups of actors participating in the new invited space (Miraftab, 2006).

Thai advocacy NGOs work closely with the StM, the transnational anti-dam network, to create a new popular space at the regional level. However, as discussed before, Thai advocacy NGOs are outsider NGOs who are excluded from the formal political arenas where the regional decision-making process of the Xayaburi dam project occurs. Thai advocacy NGOs and the StM have to use more outsider than insider strategies to create a new popular space. A wide range of protest and information-based strategies is used to create the new popular space where like-minded people come together at their own instigation to criticise the failure of the MRC in regulating the Mekong mainstream dams and propose new standards to regulate the Mekong mainstream dams more effectively. The new popular space created at the regional level has potentials to transform the existing power structure of the MRC in regulating Mekong mainstream dams. However, if the potentials of the new popular space are realised, the channels need to be established to ensure that the voices and concerns articulated within the new popular space will be incorporated into the political arenas where the final decision on the Xayaburi dam is taking place (Howard & Vasquez, 2010). Without the establishment of the

channels, the potentials of the new popular space may become more rhetoric than reality.

Thai advocacy NGOs not only target regional decision makers but also approach public and private decision makers at the Thai national level to influence them to withdraw their involvement in the Xayaburi dam development. Thai advocacy NGOs use both insider and outsider strategies to influence Thai public decision makers to cancel the PPA. However, Thai public decision makers insisted that the signing of the PPA complied with Thai domestic and international law and did not cancel the PPA. Thai advocacy NGOs and Thai dam-affected villagers used an outsider strategy, which was the filing of protest petitions to three administrative bodies of Thailand, including 1) Thai Senate Commissions, 2) the National Human Rights Commissions of Thailand (NHRCT) and 3) the Thai Administrative Court. Thai advocacy NGOs and Thai dam-affected villagers asked these three administrative bodies to investigate whether the approval of the PPA by Thai public decision makers was legal. The investigation conducted by these three administrative bodies provided new invited spaces in which Thai advocacy NGOs and Thai dam-affected villagers were invited to participate in the investigation process. Thai advocacy NGOs and Thai dam-affected villagers had new opportunities in which they could meet Thai public decision makers and convince them to organise the impact study and public consultations before signing the PPA.

After the investigation, the two administrative bodies, the Thai Senate Commissions and the NHRCT, made recommendations that Thai public decision makers should conduct environmental and health impact assessments and public consultations as required under the Thai Constitution 2007 before the approval of the PPA. However, Thai public decision makers ignored the recommendations made by the Thai Senate Commissions and the NHRCT and insisted they would not cancel the PPA. Although the Thai Senate Commissions and the NHRCT have mandates and obligations to investigate the approval process of the PPA, they do not have regulatory authority to force Thai public decision makers to cancel the PPA. The new invited spaces provided by the investigations of the

three bodies are not enough to influence Thai public decision makers to consider the concerns raised by Thai dam-affected villagers and cancel the PPA. As Ballard (2008) argued, opening up new invited spaces cannot guarantee that the voices of the people will be incorporated meaningfully in government decisions or policies. The powerful decision makers may resist sharing power with NGOs and civil society and prefer to use the new invited space as a space for managing and controlling people participation (Ibid). Therefore, supporting mechanisms such as legal mechanisms need to be put in place to ensure that the potentials of the new invited space will be enhanced for public participation.

Thai advocacy NGOs called for new legal mechanisms and new international standards to force Thai public and private pro-dam decision makers to be accountable and responsible for their involvement in the hydropower dam projects built outside Thailand. Being outsider NGOs, Thai advocacy NGOs have to rely more on outsider strategies, particularly information-based strategies, to gather like-minded supporters and establish domestic and transnational anti-dam networks, to create new popular spaces at the Thai national level. There are two new popular spaces created at the Thai national level. The first is the new popular space created to target Thai public decision makers and the other is the new popular space created to target Thai private decision makers. These two new popular spaces were created to call on Thai public and private decision makers to adopt more stringent standards to regulate their involvement in hydropower dam development built outside Thailand more effectively.

7.5 Discussion: The creation of new invited and new popular spaces in the Xayaburi dam project

This chapter aims to address the third hypothesis, which states that Thai NGOs, by using both insider and outsider strategies, can create new invited and new popular spaces in the Xayaburi dam project. The findings indicated that Thai NGOs used both insider and outsider strategies to create new participatory spaces where the affected Thai villagers could have more opportunities to participate in the Xayaburi

decision-making process. These new participatory spaces can be divided into new invited spaces - spaces provided by decision-making authorities to respond to popular demand for public participation - and new popular spaces, which are created by powerless or excluded groups for themselves (Miraftab, 2006). The new invited and new popular spaces differ in various ways, especially in the actors who create and participate in these spaces. However, these two spaces similarly offered new opportunities for less powerful people to hold powerful decision-makers to account for their decision to develop and finance the hydropower dam in the Lower Mekong Basin (LMB).

Although Thai NGOs used both insider and outsider strategies to create new participatory spaces, they did not use insider and outsider strategies equally. As analysed in the previous chapter, Thai NGOs were viewed by the decision-makers as outsiders who were excluded from the Xayaburi decision-making process. Because of their outsider status, Thai NGOs have to rely more on outsider strategies to compensate for their lack of political access. However, this thesis argues that the outsider strategies adopted by Thai NGOs are not solely the disadvantaged strategies used by those associations on the periphery of the political system (Chalmers, 2013: 54). Wang and Piazza (2016) pointed out that outsider strategies, such as protest tactics, can help NGO activists to influence political and social change. Strategic NGOs tend to increase their influence by getting involved in multiple tactics. As discussed by Kriesi (2007), the most promising strategy is a combination of insider and outsider strategies at different levels. As seen in the Xayaburi case, Thai NGOs did not rely on outsider strategies focusing exclusively on protest strategies. Rather, Thai NGOs tried to extend their choice of strategies by adopting less disruptive ones, such as information-based strategies, to increase their influence over the decision-making process. By getting involved in a variety of strategies, new participatory spaces were created at the regional and national levels.

At the regional level, the findings found that Thai NGOs adopted various strategies, ranging from the letter-submission strategy to protest and information-based strategies to pressure the regional decision-makers to cancel the construction of the Xayaburi hydropower project. By engaging in insider and outsider strategies, Thai NGOs could make alliances with other NGOs and civil society actors across the Mekong region. For example, Thai NGOs participated in many anti-dam strategies facilitated by the Save the Mekong (StM) Coalition. The StM is a coalition of NGOs, community-based groups and people who are concerned about the negative impacts of hydropower dam development within the Mekong region (Save the Mekong, 2008). The StM helped create a cross-border network in which Thai NGOs would gain more supporters and the necessary resources for their anti-dam campaign at the regional level. Thai NGOs were involved in many strategies endorsed under the heading of the StM to persuade the regional decision-makers that the requests of Thai NGOs had gained regional and international support and that regional decision-makers should therefore respond to the demands made by Thai NGOs and their alliances.

Under pressure from Thai NGOs and their cross-border alliances, the four MRC member states (Thailand, Laos, Cambodia and Vietnam) agreed to conduct the Mekong Council Study, a study on the transboundary and cumulative impacts of the proposed mainstream dams, including the Xayaburi dam, to make informed decisions on hydropower development in the LMB (MRC, 2016). The Mekong Council Study provided a fresh opportunity for all the stakeholders concerned to study and assess the cumulative and transboundary impacts of the Xayaburi dam project and use the results of the assessment to make an informed and balanced decision on the controversial Xayaburi hydropower project. The new opportunities opened up by the Mekong Council Study can be called a new invited space, the kind of space provided by the MRC member states to invite concerned stakeholders to use scientific information and knowledge to make an informed decision on hydropower development in the LMB, including the Xayaburi dam project.

Thai NGOs and their alliances seized this opportunity by gathering supporting evidence and generating information to support their claims that the Xayaburi dam project would have transboundary impacts on the Mekong River's flow and local livelihoods across the Mekong basin (Lipes, 2014). Information-based strategies, such as generating and disseminating information, became important methods used by Thai NGOs and their alliances to produce the alternative knowledge to justify their claims that the Xayaburi dam had caused cross-border impacts and therefore the project should be cancelled. The utilising of information-based strategies was an attempt by Thai NGOs to use information as a source of influence (Keck and Sikkink, 1999). Information-based strategies, as pointed out by Beyers (2004: 214), are used by NGOs to generate and present information at strategic decision points to achieve their goals. Thai NGOs and their alliances hoped that their alternative information and evidence would be incorporated into the decisions being made at the MRC regional level.

However, the alternative information generated by Thai NGOs and their alliances had never been taken seriously by the MRC member states, especially the Lao government. While the Mekong Council Study had not been finalised, the Lao government adopted many approaches, including conducting their own impact assessment and spending millions of dollars to redesign the project. The approaches implemented by Laos were used to justify the claim that the Xayaburi dam project had caused no transboundary impacts and therefore the project should carry on. The Lao government did not postpone dam construction while the Mekong Council Study was being carried out. This means that Laos did not wait for the results of the Mekong Council Study. Just participating in the invited spaces is not enough to guarantee that the voices and concerns of Thai NGOs and their alliances will be heard by the decision-makers. Sinwell (2010) argued that simply opening up a new invited space is not sufficient to bring about meaningful participation. The spaces provided by decision-making authorities may be closed off to particular kinds of voices and end up serving the interests of those in power (Ibid).

Therefore, NGOs participating in the invited spaces should make alliances with their supporters, utilising their advocacy strategies in informal arenas outside the invited spaces. The alliances of supporters help increase the influence of the less powerful groups of actors participating in the new invited spaces (Miraftab, 2006). Building a transnational anti-dam network became another important strategy for Thai NGOs in increasing their influence over the decision-making process at a regional level. The transnational anti-dam network can help create new spaces for people to participate. These newly created spaces can be called new popular spaces, spaces where like-minded people come together at their own instigation to create their own opportunities for participation to pursue their goals (Gaventa, 2006). New popular spaces are created by ordinary people who come together to challenge the status-quo and the dominant power structure. Thai NGOs participated in many activities coordinated by the StM, the transnational anti-dam network within the Mekong region, to create new popular spaces at a regional level. Within these new popular spaces, Thai NGOs and their alliances called for the reform of the MRC and proposed alternative institutions, such as an environment institution at the ASEAN level to regulate hydropower development effectively in the LMB context (Probe International, 2011). The new popular spaces created by Thai NGOs and their alliances at the regional level provided new opportunities for people who were affected by the negative impacts of the hydropower dams to transform the existing power structure of Mekong development.

Not only targeting the decision-makers at the MRC regional level, Thai NGOs directed their strategies towards public and private Thai decision-makers at the national level. Thai NGOs used both insider and outsider strategies to gain new participatory spaces for their participation. However, as analysed earlier, Thai NGOs were outsiders in the eyes of decision-makers. Therefore, Thai NGOs needed to focus extensively on outsider strategies to open up new spaces for participation in the Xayaburi dam's decision-making process at the national level. For example, Thai NGOs and dam-affected Thai villagers submitted protest petitions to two

administrative bodies in Thailand, 1) the Thai Senate Commissions and 2) the National Human Rights Commissions of Thailand (NHRCT). Thai NGOs and dam-affected Thai villagers asked these two administrative bodies to investigate whether the approval of the PPA by Thai public decision makers was legal. The investigation conducted by these two administrative bodies provided new invited spaces in which Thai advocacy NGOs and dam-affected Thai villagers were invited to participate in the investigation process. Thai NGOs and dam-affected Thai villagers had new opportunities to directly influence Thai public and private decision makers and persuade them to cancel or postpone the PPA.

After the investigation, the Thai Senate Commissions and the NHRCT made recommendations that Thai public decision makers should conduct environmental and health impact assessments and public consultations, as required under the Thai Constitution 2007, before the approval of the PPA. However, the Thai public decision makers ignored the recommendations made by the Thai Senate Commissions and the NHRCT and insisted they would not cancel the PPA. Although the Thai Senate Commissions and the NHRCT have mandates and obligations to investigate the approval process of the PPA, they do not have regulatory authority to force Thai public decision makers to cancel the PPA. The new invited spaces provided by the investigations of the two bodies were not enough to influence Thai public decision makers to consider the concerns raised by dam-affected Thai villagers and cancel the PPA. As Ballard (2008) argues, opening up new invited spaces cannot guarantee that the voices of the people will be incorporated meaningfully into government decisions or policies. The powerful decision makers may resist sharing power with NGOs and civil society and prefer to use the new invited space for managing and controlling people's participation (Ibid).

Therefore, supporting mechanisms - such as legal mechanisms - need to be put in place to ensure that the potential of the new invited space for public participation will be enhanced. Without the proper supporting mechanisms, the potential of the invited spaces may remain largely

unrealised. Williams (2004) noted that the participants participating in the invited spaces may have little or no political commitment to the rules and participatory process within the invited spaces. As seen in the Xayaburi case, although public and private Thai decision-makers participated in the invited spaces provided by the investigation process, they showed no interest in making changes according to the recommendations suggested by the Thai Senate Commissions and the NHRCT. The recommendations made by the two administrative bodies have no power to force public and private Thai decision-makers to cancel the PPA.

Given the limitations of the new invited spaces at the national level, Thai NGOs and their alliances called for new legal mechanisms and institutions that would entail enforcing the power to hold public and private pro-dam decision makers in Thailand to account and make them responsible for their involvement in the hydropower dam projects built outside Thailand. Thai NGOs were involved in many information-based strategies to find out facts and information about the involvement of public and private Thai actors playing key roles as the dam's developers and financiers in the Xayaburi dam project. Information generated by Thai NGOs and their alliances helped bind the StM members together. The StM members gathered together and built a cross-border network which helps provide new popular spaces where Thai NGOs and their alliances can articulate their concerns about the increasing roles of the Thai public and private sectors in building the new hydropower dam projects in neighbouring countries. Within the new popular spaces, Thai NGOs and their anti-dam network called for new legislative mechanisms and institutions to regulate the public and private Thai actors involved in developing and financing the hydropower dam development being built in neighbouring countries in the LMB.

The lower Mekong context has witnessed the creation of new participatory spaces (new invited spaces and new popular spaces) as a result of the utilisation of Thai NGO strategies. The emergence of new participatory spaces is a global phenomenon, where new spaces for

participation have been opened up in response to popular demand, donor pressure or a shift in policy (Cornwall, 2004a). Many participatory innovations have been adopted by many governments around the world to widen the opportunities for ordinary people to participate in decision-making and to 'deepen' democratic practice (Cornwall, 2004b). The widened opportunities convey new spaces for people to participate in the decision-making that affects their lives. The provision of new participatory spaces offers new opportunities, new channels and new moments when people, especially those excluded from the political system, can get involved in the policy process and/or challenge the status quo and resist it. In the LMB context, the new spaces created for public participation become the spaces where local people have learned how to be active citizens in the Mekong hydropower policy and process.

However, the potential of the new participatory spaces as the sites for meaningful participation may not be easily realised. Increasingly, there has been a growth in literature focusing on participatory spaces in the context of northern and southern countries (Taylor, 2007; Cornwall and Gaventa, 2000; Pettit, 2012; Penderis, 2012). This wide range of literature differs in terms of the advantages and disadvantages of new participatory spaces created in different contexts of study. However, these studies of participatory spaces have similarly focused on the issue of power relations as one of the important factors in determining the potential of participatory spaces to be sites of transformation. Cornwall (2004b: 81), for example, argued that spaces in which citizens are invited to participate, as well as those they create for themselves, are never neutral. The unequal power relations existing within and outside of the spaces can become important obstacles to achieving public involvement. The issue of power relations is regarded as an important factor in the study of the participatory spaces which have emerged in various northern and southern contexts. Power relations need to be taken into account when the new participatory spaces are designed for public participation.

In the LMB context, the unequal power relations between the lower Mekong governments and the local communities have become a significant factor in the failed potential of new participatory spaces as sites for public involvement and transformation. As shown in the findings, the PNPCA process provided new spaces where locally affected villagers were invited to participate in the regional decision-making process. However, the unequal power structure, by which the lower Mekong states were the powerful actors in the regional decision-making process, has reproduced rather than transformed the domination of knowledge and practices in hydropower development in the LMB. Therefore, although dam-affected Thai villagers were invited to attend in the spaces provided by the prior consultation meetings being held as parts of the PNPCA, this was not the genuine participation. The issue of power relations has also challenged the potential of the new participatory spaces at the national level. Although Thai NGOs and Thai villagers participated in the invited spaces provided by the investigation of the signing of the PPA, the findings of the investigation were unable to force the Thai government and EGAT, the powerful decision-makers at the national level, to withdraw their involvement in the Xayaburi dam development.

Because of the limitations of the new invited spaces, Thai NGOs and their alliances have adopted both insider and outsider strategies to create new popular spaces, spaces which Thai NGOs and their alliances have created for themselves. The new popular spaces have the potential to be the space for alternatives and transformation because the spaces are created by citizens (Renedo and Marston, 2015). Therefore, citizens can control the agenda and decide which actors to include in the spaces. In the Xayaburi context, Thai NGOs and their cross-border alliances created their own popular spaces where they could make alliances with like-minded supporters and invested in many information-based strategies to generate alternative information about the transboundary impacts of the Xayaburi dam and propose new regulatory mechanisms to address new challenges caused by the shift of Thailand's dam industry to the construction of hydropower dams in neighbouring countries. These new

popular spaces offered new platforms where less powerful villagers came to learn new skills and enhance their agency to protect their own interests.

Despite offering a lot of potential for public participation, the new popular spaces can face many challenges as the sites for participation and transformation. Howard and Vasquez (2011) discussed how, if the potential of the new popular space is realised, the channels need to be established to ensure that the voices and concerns articulated within the new popular space will be incorporated into the political arenas where the final decision is taking place. Without the establishment of these channels, the potential of the new popular spaces may become more a question of rhetoric than reality. In the global north, capacity-building and supporting participatory mechanisms are available to help channel the demands and interests articulated in the new popular spaces to be included in the decision-making process. On the other hand, many countries in the south tend to lack any such capacity and the political willingness to incorporate the voices and concerns expressed in the new popular spaces into the policy process. As seen in the Xayaburi context, many countries in the LMB, including Laos, did not have sufficient capacity to regulate private investment in energy and hydropower development (Matthews, 2012). Moreover, the Lao government has shown little interest in the participation of the less powerful communities in the Xayaburi decision-making process. Therefore, the demands expressed in the new popular spaces have not been addressed in the formal decision-making process of Xayaburi dam development.

Therefore, for the new invited spaces and new popular spaces to become spaces for genuine participation, the issue of power relations needs to be taken into consideration when the new spaces are designed for promoting public participation. Moreover, the supporting mechanisms and institutions, such as legal tools and mechanisms, need to be put in place to ensure that the voices, concerns and practices articulated by the less powerful people within the new popular spaces are acknowledged by

decision-makers and channelled into the political process, where the real decisions are being made.

7.6 Conclusion

Although Thai advocacy NGOs have been unable to cancel the Xayaburi dam construction, their advocacy work has created new participatory spaces in which Thai dam-affected villagers can act together to influence decisions relating to the Xayaburi dam building. These new participatory spaces can be divided into new invited and new popular spaces and located at the regional and Thai national level. At the regional level, the Mekong Council Study provided a new invited space in which Thai advocacy NGOs and Thai dam-affected villagers could use scientifically-based information and evidence to make informed decisions on Mekong mainstream dam development in the LMB. In addition, Thai advocacy NGOs created a new popular space to assemble like-minded supporters and act together to reform the existing MRC structure and its decision-making framework in ways that will regulate hydropower dam development in the LMB more effectively.

Thai advocacy NGOs not only created new participatory spaces at the regional level, but also created new participatory spaces at the Thai national level. New invited and new popular spaces were created at the Thai national level. The investigations conducted by Thai Senate Commissions, the NHRCT and the Thai Administrative Court provided new invited spaces in which Thai advocacy NGOs and Thai dam-affected villagers were invited by Thai administrative bodies to participate in the investigation process and had new opportunities to influence decisions relating to the approval process of the PPA. However, the new invited spaces provided by the investigations of the Thai administrative bodies existed only for a very short period of time. Thai advocacy NGOs created new popular spaces at the Thai national level to continue using their advocacy strategies to target Thai public and private decision makers. Two new popular spaces were created at the Thai national level. The first targets Thai public decision makers who approved the signing of the PPA and the

second focuses on Thai private decision makers, especially Thai banks which are involved in funding the Xayaburi dam project. Within these two new popular spaces, Thai advocacy NGOs have worked with their domestic and transnational anti-dam networks to urge Thai public and private decision makers to adopt more stringent social and environmental standards which can regulate the hydropower dam projects built outside Thailand more effectively.

The advocacy strategies used by Thai advocacy NGOs have resulted in the creation of new invited and new popular spaces in which Thai dam-affected villagers have new opportunities to participate in the Xayaburi dam's decision-making process at the regional and Thai national levels. However, the new invited and new popular spaces should not be treated equally as meaningful and effective participation. Although the new invited spaces provide political access where Thai dam-affected villagers can participate in the formal decision-making process relating to the Xayaburi dam project, participation in the new invited spaces cannot guarantee that Thai dam-affected villagers will have meaningful and effective participation. Therefore, Thai advocacy NGOs need to create new popular spaces in which they can act as active citizens who continue using advocacy strategies to monitor the rapid expansion of the Mekong mainstream dam development and hold pro-dam decision makers responsible and accountable for their involvement in the mainstream dam projects in the LMB.

Chapter 8

Conclusion

8.1 Introduction

This thesis aims to study advocacy strategies used by Thai advocacy NGOs to create new opportunities for the Thai villagers affected by the Xayaburi dam to participate in the decision-making process. In order to address the research objectives and questions, qualitative interview was conducted to collect data and information. This data was then analysed using thematic analysis. To understand the potentials for Thai advocacy NGOs to create new opportunities for participation in the Xayaburi dam's decision-making process, the three hypotheses in Chapter Four were developed.

This chapter discusses the key findings from Chapter Five through to Chapter Seven and analyses them with the hypotheses set out for this study. The thesis contributes to the body of knowledge on advocacy NGOs and participation. The study also aims to improve the understanding of the potential of Thai advocacy NGOs within the new context of hydropower dam development in the Lower Mekong Basin (LMB). This chapter concludes with the limitations and further studies on advocacy NGOs and hydropower dam development in the LMB.

8.2 Thai advocacy NGOs, advocacy strategies and the new opportunities for public participation in the Xayaburi dam project

To address the research objectives, three main research questions were developed in Chapter One to examine the advocacy strategies used. These focused on what advocacy strategies were used, why Thai advocacy NGOs adopted these strategies and what were the effects of using them.

The findings showed that participation was divided into national and regional levels and was constrained by unequal power relations, with decision-making power concentrated in the hands of a few state agencies and private dam developers and financiers. The Thai villagers affected by

the dam were excluded from or gained limited access to the decision-making process. Thai advocacy NGOs adopted strategies to create new opportunities for villagers to participate meaningfully in the decision-making process, both at the national and regional levels. Advocacy strategies are used as strategic tools or ways in which NGOs can mobilise or accumulate the necessary resources to overcome the constraining structure and create new opportunities for influence (Joachim and Locher, 2009; Corell and Betsill, 2008). Thai advocacy NGOs do not rely on one single approach but have adopted a wide range of advocacy strategies to create new opportunities for public participation. In this study, the repertoire of advocacy strategies was categorised broadly into insider and outsider strategies (Grant, 2000).

The findings from the interviews indicated that Thai advocacy NGOs used both insider and outsider strategies. This is consistent with the conceptual framework and the proposition on advocacy strategies put forward in Chapters Three and Four. Many scholars have asserted that advocacy NGOs do not rely on a single approach to advocacy strategies; rather, they tend to use a combination of insider and outsider strategies to enhance their potential as advocates for public participation (Binderkrantz, 2005; 2008; Rietig, 2016; Mosley, 2011). As Bruycker (2014) argued, NGOs tended to combine one tactic with another tactic to complement or reinforce each other, thus enhancing their influence on the public policy process. It is very rare to see advocacy NGOs rely on one type of tactic. As shown in the case of Thai advocacy NGOs, they use both insider and outsider strategies to gain the necessary resources and enhance their potentials as advocates of public participation.

Although Thai advocacy NGOs use both insider and outsider strategies to create new opportunities for the meaningful participation of dam-affected villagers, they use more outsider strategies than insider strategies. As discussed before, the decision-making process of the Xayaburi dam project is constrained by unequal power relations whereby the decision-making power is controlled by a few powerful groups of pro-dam state agencies and private dam developers and financiers. Thai advocacy NGOs and the

affected villagers are less powerful actors who have limited access to the Xayaburi dam's decision-making process. They have limited opportunities to use insider strategies, such as policy lobbying, or have a consultative relationship with key decision-makers, both at the national and the regional levels. They were excluded from the Xayaburi dam's decision-making process and had to rely on outsider strategies to influence the decision-makers indirectly through the mobilisation of public support.

Outsider strategies are often regarded as a fall-back option used to compensate for the lack of political access to the decision-making process (Marsh et al., 2009; Binderkrantz, 2005). However, this study suggests that outsider strategies are not an inferior way of attempting to gain influence. The outsider strategies referred to in this study were divided into protest-based and information-based strategies. Protest-based strategies can be defined as unconventional strategies which are likely to produce a confrontational relationship between advocacy NGOs and their targets, be they government actors, decision-makers or other institutionalised actors. Information-based strategies, on the other hand, have a less radical or disruptive character, because they use knowledge as a source of influence to pressurise or persuade decision-makers and the public to change their perceptions of the prevailing policy issue. Thai advocacy NGOs not only used protest-based strategies, but they also employed information-based strategies to help enable Thai villagers to participate in the Xayaburi dam's decision-making process. Thai advocacy NGOs employed a wide range of information-based strategies, including fact-finding and investigation, public education, research-based activities, issue-framing and networking with likeminded NGOs and civil society groups. The use of both protest-based and information-based strategies is not an inferior option. These strategies are used to enhance the potential of Thai advocacy NGOs to create new opportunities for the meaningful participation of villagers.

Thai advocacy NGOs did not rely solely on insider strategies. They also adopted outsider strategies which were divided into protest-based and information-based strategies to enhance their potential as advocates for public participation. By using both insider and outsider strategies, new

opportunities for participation were created, both at the national and regional levels. These new opportunities provided people with new participatory spaces in which they could act together to participate in the decision-making which affected their lives and interests. In this thesis, these new participatory spaces can be divided into: 1) new invited spaces, which refers to the new spaces provided by powerful institutionalised actors such as government and decision-makers to invite marginalised or politically-excluded groups of people into the formal decision-making process, and 2) new popular spaces, which can be defined as the new spaces created by the collective actions of people coming together to act for transformation.

The following sections revisit the three hypotheses developed in Chapter Four. The sections focus on the advocacy strategies used by Thai advocacy NGOs to create new opportunities for participation. These provide new participatory spaces in which Thai villagers can participate in the Xayaburi dam's decision-making process which was previously excluded from public participation.

8.3 The hypotheses revisited

8.3.1 Hypothesis I: The invited spaces in the Xayaburi dam project are the constrained spaces for public participation.

The first hypothesis, as analysed in Chapter Five, focuses on the existing invited spaces created to invite affected Thai villagers to participate in the Xayaburi dam's decision-making process. In the case of the Xayaburi dam project, many participatory mechanisms were initiated to help enable these villagers to participate in the decision-making process. These participatory mechanisms provided the invited spaces in which villagers were invited to join in the participatory process and consultative meetings which were held for the Xayaburi dam project. These invited spaces, as referred to in this chapter, were differentiated into two levels, regional and national. At the national level, this chapter also divided the invited spaces into two sub-categories: the invited spaces provided by Thai public decision makers and the invited spaces provided by Thai private decision makers.

The chapter first began with the invited space provided at the regional level. The significant participatory mechanism providing opportunities for dam-affected villagers to consult with the key decision-makers at the regional level and participate in the regional level decision-making of the Xayaburi dam is the Procedures for Notification, Prior Consultation and Agreement (PNPCA). The Lao National Mekong Committee (LNMC) submitted the proposal of the Xayaburi dam project to the Mekong Secretariat on 20 September 2010, triggering the first trial of the PNPCA process. The PNPCA provided the regional platform for not only the four MRC member governments, but also for the people potentially affected, including Thai villagers, to participate in the prior consultation process for taking a decision on how to proceed with the Xayaburi dam project. The regional platform provided the invited space in which Thai villagers were invited to attend the stakeholder consultation meetings held in three provinces in the North and North-east region of Thailand between January and February 2011.

Thai villagers affected by the dam expected that the invited space provided by the PNPCA process would become the link between the stakeholder consultation results and the final approval for the project. For the Thai villagers, the stakeholder consultation meetings were not just a forum for giving out information about the dam, but the meetings should be conducted in a consultative manner in which the local participants received information about the dam in advance and the key decision-makers should attend the meetings to discuss and answer the questions raised by local participants. However, the Thai villagers were disappointed by the results of the PNPCA process. According to the findings from the interviews, Thai villagers affected by the dam and Thai advocacy NGOs criticised the PNPCA process in terms of the poor quality of information and consultation. Many commentators complained that the Lao government and Thai dam developer had already decided to build the Xayaburi dam regardless of the results of the PNPCA process.

This chapter argued that simply opening up a space through the invitation is not enough to bring effective and meaningful participation (Cornwall,

2008). The invited space provided by the PNPCA process was not created in a vacuum; rather, the power imbalance among different actors participating in the invited space could constrain the potential for public participation. As exemplified in the Xayaburi dam project, the Lao government was the powerful decision-maker which triggered the PNPCA process, providing a regional level invited space. The Lao government and other powerful regional decision-makers are the ones who controlled the terms of participation and engagement, such as the agenda and who should be included in the invited space. The less powerful Thai villagers did not have equal power to set conditions or terms of engagement.

Disappointed by the Lao government's decision, Thai advocacy NGOs called on the MRC to cancel the PNPCA process and the Xayaburi dam's construction. However, the MRC has no power to decide whether the development project should be cancelled, delayed or moved forward (Boer et al., 2016: 108). If the Lao government and Thai private dam developer insist on proceeding with the dam's construction, the MRC can do nothing to prevent this. The MRC's lack of regulatory power has meant that the controversies over the Xayaburi dam remain unresolved. Thai advocacy NGOs have complained that the MRC was too weak to hold its own member states accountable and responsible for the decision to build the mainstream dams in the LMB. With regard to the unequal power structure, the invited space created at the regional level could turn out to be a constrained space in which the participation of Thai villagers is co-opted to serve the interests of the powerful riparian government and the pro-dam actors. The participation of Thai villagers can be used as a way to legitimise the decisions already made by the Lao government and other pro-dam decision-makers.

Not only did Thai advocacy NGOs target the decision-makers at the regional level, but they also approached Thai decision-makers at the national level. The Thai government and its state power utilities and Thai private dam developers and financiers are involved in the Xayaburi's planning, development, building and power purchasing. Public and private Thai actors are the key decision-makers in the Xayaburi dam project.

Because of this, Thai advocacy NGOs expected that participatory mechanisms at the national level should be implemented in the Xayaburi dam project. Thai advocacy NGOs claimed that the Environmental Impact Assessment (EIA) should be conducted under the requirements of Thai domestic law before the Thai government allowed the Electricity Generating Authority of Thailand (EGAT) to sign the Xayaburi dam's Power Purchase Agreement (PPA) with the Xayaburi Power Company Limited (XPCL). Moreover, the NGOs complained that the signing of the PPA was an illegal act because Thailand's public agencies involved in the signing of the PPA had not conducted public consultations before the approval of the PPA.

The Environmental Impact Assessment (EIA) and public consultation, as required under Thai domestic law, are social and environmental safeguard mechanisms providing the invited spaces for public participation in Thailand. These invited spaces were initiated and implemented by Thailand's public decision-makers to invite the Thai villagers affected to participate in the decision-making process of the development projects developed and built in Thailand. However, these social and environmental safeguard mechanisms were not applied by the Thai public decision-makers involved in the signing of the PPA. This is because the Xayaburi dam project is built in Laos; therefore, the EIA is conducted in Laos under Lao domestic law and the public consultation process is held in Thailand as part of the PNPCA process. By importing the power generated from the Xayaburi dam project, Thai public decision-makers can avoid the burdensome social and environmental safeguard policies required under Thailand's domestic law. The approval process of the PPA was conducted in a secretive manner by which Thai villagers were excluded from the approval process. Only scant information about the Xayaburi dam project was disclosed and uploaded onto the website of the Thai state power agency. Therefore, the decision-making power to approve the PPA was concentrated in the hands of a few powerful Thai public decision-makers in favour of hydropower dam development. The invited spaces which were previously provided by Thailand's social and environmental safeguard

policies and laws became constrained spaces in which the EIA and public consultations were not held in Thailand, as required under Thai domestic law.

Thai advocacy NGOs complained that the invited spaces provided by Thai public decision-makers at the national level were not sufficient to enable effective and meaningful participation. Thai advocacy NGOs called on Thai private actors, especially Thai banks, to include Thai villagers affected by the dam in the project finance lending decisions. Thai banks funding the Xayaburi dam project have committed to Corporate Social Responsibility (CSR), a voluntary strategy adopted by a corporation aiming to demonstrate corporate conscience and a determination to promote sustainable development (Middleton & International Rivers, 2009). The CSR provides the invited space in which Thai villagers have an opportunity to engage in the project's finance lending decisions. However, the CSR adopted by the Thai banks was often used as a public relations tool to promote the banks' brand image. The decision-making process for funding the Xayaburi dam project was made behind closed doors without public participation. The invited space provided by the CSR became a constrained space for public participation.

The invited spaces are created to provide opportunities, channels or moments for the less powerful actors to be included in the decision-making process affecting their lives. However, the potential of the invited spaces as enabling spaces for participation should consider the issue of unequal power relations between different actors participating in the invited spaces. If the issue of unequal power relations is not taken into consideration, the participation in the invited spaces could be used as a way to serve the interests of the powerful actors. As seen in the Xayaburi dam project, unequal power relations between the powerful decision-makers and Thai villagers turned the invited spaces in the Xayaburi dam project into constrained spaces for public participation. The invited spaces analysed in this chapter are consistent with the first hypothesis, which proposes that the invited spaces in the Xayaburi dam project are constrained spaces for public participation.

8.3.2 Hypothesis II: Thai advocacy NGOs use both insider and outsider strategies to create new opportunities for Thai dam-affected villagers to participate in the decision-making process of the Xayaburi dam project.

The second hypothesis was addressed in Chapter Six, which focused on the advocacy strategies used by Thai advocacy NGOs to create new opportunities for Thai villagers affected by the dam to participate in the decision-making process of the Xayaburi dam project. Chapter Six began with a discussion of Thai advocacy NGOs playing active roles in the anti-dam movement and enhancing public participation. Thai advocacy NGOs have extensive experience in the anti-dam movement in Thailand going back to the 1980s. The robust anti-dam protest from Thai advocacy NGOs made it difficult for pro-dam state and private actors to initiate and build new dams in the country. As a result, Thai hydropower actors have shifted hydropower dam construction to neighbouring countries as a way of avoiding public scrutiny and criticism from Thai NGOs and civil society. Thai advocacy NGOs have realised the unexpected outcome of their anti-dam movement and tried to scale up their advocacy activities to a higher level to target the decision-makers at the regional level. As illustrated by the Xayaburi dam project, Thai advocacy NGOs have targeted decision-makers at both the national and regional levels to call upon them to cancel or postpone the construction of the Xayaburi dam project.

Although Thai advocacy NGOs have long experience in the anti-dam movement in Thailand, it is new for them to oppose the hydropower dam projects developed and built outside Thailand. The participatory spaces outside Thailand's borders set very different contexts for Thai advocacy NGOs (Hirsch, 2007). As analysed in Chapter Five, the invited spaces in the Xayaburi dam project are constrained spaces for public participation. The opportunities for Thai villagers to meaningfully participate in the Xayaburi dam's decision-making process at the national and regional levels are limited. Thai advocacy NGOs have adopted advocacy strategies to create new opportunities for Thai villagers to participate effectively and meaningfully in the decision-making process of the Xayaburi dam project. As mentioned before, advocacy strategies, as referred to in this thesis, were

defined as the ways in which advocacy NGOs could achieve their goals or mobilise and accumulate their resources to overcome the constraining factors and open up new opportunities for influence (Joachim and Locher, 2009; Corell and Betsill, 2008). Thai advocacy NGOs do not operate their anti-dam campaign in a vacuum; rather, the unequal power relations can constrain the potential for Thai advocacy NGOs to become advocates for public participation. Therefore, Thai advocacy NGOs need to strengthen their potential by adopting advocacy strategies so that they can think and act strategically to overcome the existing unequal power relations and create new opportunities for public participation.

In this thesis, advocacy strategies were categorised into two types, which are insider and outsider strategies. Insider strategies refer to a conventional style of activity, such as lobbying, attending meetings with the government or decision-makers, or sitting on a panel or committee. Insider strategies are often seen as a pre-requisite condition for gaining insider status, defined as a privileged status in which NGOs can have a consultative relationship with the government or decision-makers. On the other hand, outsider strategies are considered unconventional strategies aiming to influence the government or decision-makers indirectly, through the mobilisation of public support and public awareness. Outsider strategies include protest-based or confrontational strategies, such as public protest, demonstrations, legal activism, shareholder activism, rallying, sit-ins and civil disobedience. Outsider strategies are often viewed as a fall-back option because they tend to link with outsider status, the position in which NGOs are not recognised by the government or decision-makers or gain little access to the formal political arenas.

Although this thesis divides advocacy strategies into insider and outsider strategies, this does not mean that the use of insider and outsider strategies is mutually exclusive. As argued later, Thai advocacy NGOs used both insider and outsider strategies to create new opportunities for enhancing the participation of Thai villagers in the Xayaburi dam's decision-making process. Moreover, Thai advocacy NGOs did not use insider and outsider strategies alone without the support from or collaboration with other

NGOs, civil society actors and other like-minded people. As seen in the findings discussed in Chapter Six, Thai advocacy NGOs worked closely with the transnational anti-dam network, the so-called Save the Mekong Coalition (StM), when they targeted the decision-makers at the higher regional level. The StM was a form of Mekong cross-border activism established to address the emerging challenges of trans-boundary hydropower dam development in the LMB. On the other hand, Thai advocacy NGOs tried to collaborate with the Network of Thai People in Eight Mekong Provinces (NTMP) to build a domestic anti-dam network. Thai advocacy NGOs collaborated closely with the NTMP when they targeted public and private pro-dam decision-makers in Thailand. The StM and the NTMP are not completely separate from each other. In fact, the NTMP is one of the active members and supporters of the StM and its activities. Both the StM and the NTMP are the source of resources and influence for Thai advocacy NGOs and their advocacy strategies. These NGOs have built networks with the StM and the NTMP to increase the legitimacy of their anti-dam activities against the Xayaburi dam building.

The findings from the interviews indicated that Thai advocacy NGOs used both insider and outsider strategies to target decision-makers at the national and regional levels. At the regional level, Thai advocacy NGOs endorsed the letters drafted and signed by the StM members and submitted the letters under the heading of the StM to the regional decision-makers, including the Lao government, the MRC and the MRC member riparian states. The letter-signing and submission was an insider strategy which aimed to influence the decision-makers directly. Thai advocacy NGOs used the letter-signing and submission to open up new opportunities in which they could approach the regional decision-makers directly and pressurise or persuade them to cancel or postpone the PNPCA and the Xayaburi dam project. However, the regional decision-makers did not cancel or suspend the PNPCA and the Xayaburi dam construction. Thai advocacy NGOs strengthened their insider strategy by adopting outsider strategies. Thai advocacy NGOs began to mobilise public attention and support by organising public protest. However, Thai advocacy NGOs did

not rely solely on protest-based strategies; they also used information-based strategies to complement or reinforce the use of protest-based strategies.

At the national level, Thai advocacy NGOs also used letter-signing and submission to influence Thailand's public decision-makers to cancel or suspend the Power Purchase Agreement (PPA). The letters were endorsed by Thai advocacy NGOs and the members of the NTMP and submitted under the heading of the NTMP. Thai advocacy NGOs tried to ensure that the members of the NTMP were involved in the letter-signing and submission to articulate their voices and concerns regarding the PPA on behalf of themselves. However, Thai public decision-makers did not respond to the requests and concerns raised by Thai advocacy NGOs and the NTMP. Thai advocacy NGOs and the members of the NTMP filed complaint petitions to three Thai Administrative Bodies: 1) two Senate Commissions, including one on Anti-Corruption and Good Governance and the other on Community Natural Resources; 2) the Subcommittee on Community Rights and Natural Resources, the National Human Rights Commission of Thailand (NHRCT) and 3) the Thai Administrative Court. Thai advocacy NGOs and the NTMP aimed to use the mandates of these three administrative bodies to investigate whether the signing of the PPA by Thai public decision-makers was in compliance with Thai domestic law. Thai advocacy NGOs and the NTMP hoped that the findings of the investigations would lead to the cancellation or suspension of the PPA.

In addition, Thai advocacy NGOs and the NTMP adopted information-based strategies, including fact-finding, evidence gathering, investigation and research-based activities. These information-based strategies were used to raise public awareness and generate alternative information and knowledge to convince Thai people and Thai public decision-makers that the electricity generated by the Xayaburi dam was not necessary for Thailand and the Xayaburi dam project would cause more harm than good, especially the trans-boundary impacts of the dam on Thai villagers and their communities. The information and knowledge produced by information-based strategies was used by Thai NGOs and the NTMP to

legitimise their claims and anti-dam activities, mobilising public support and negotiating with Thai public decision-makers to cancel or suspend the PPA. The information strategies became a source of resources and influence for Thai advocacy NGOs and their domestic anti-dam network.

Thai advocacy NGOs also employed both insider and outsider strategies to target the Thai private decision-makers involved in funding the Xayaburi dam project. One Thai advocacy NGO used a personal contact to have a meeting with a Chairman of the Board of Directors of Siam Commercial Bank (SCB), a Thai commercial bank investing in the Xyaburi dam project. The meeting with the staff of the Thai bank was an insider strategy used to open up new opportunities in which a representative of Thai NGOs could present alternative information about the trans-boundary impacts of the dam and convince the Thai bank that investment in the Xayaburi dam project was a risky business because of the trans-boundary impacts of the dam and the bank should withdraw their investment. However, the rest of the Thai advocacy NGOs did not have personal connections to arrange meetings with the staff of Thai banks. Therefore, most Thai advocacy NGOs have to rely mainly on outsider strategies, ranging from protest-based strategies, such as protest rallies against Thai commercial banks and Thai dam developers Ch. Karnchang and shareholder activism, to information-based strategies, including research-based activities, public education and providing information on social and environmental risk management tools, such as the EPs, to convince Thai banks to adopt social and environmental standards which are more stringent than CSR.

The findings from the interviews showed that Thai advocacy NGOs used both insider and outsider strategies to create new opportunities for Thai villagers to influence the decision-makers at the national and regional levels and act together to pressurise or persuade the Xayaburi dam's decision-makers to change their decisions regarding the Xayaburi dam development. Thai advocacy NGOs did not rely on one type of strategy alone; rather, they used both insider and outsider strategies to complement and reinforce their overall strategic activities. As Bruycker (2014) argued,

NGOs tend to combine one tactic with another tactic to complement or reinforce each other in influencing public policy. Therefore, the research findings discussed and analysed in Chapter Six correspond to the second hypothesis.

However, it should be noted that, although Thai advocacy NGOs used both insider and outsider strategies to create new opportunities for Thai villagers to participate in the Xayaburi dam's decision-making process, Thai advocacy NGOs did not use insider and outsider strategies equally. The findings illustrate that Thai advocacy NGOs had limited choices for insider strategies (such as the letter-signing and submission and a meeting with a Thai bank) and relied more on outsider strategies, especially information-based strategies, to create new opportunities for participation. This is because Thai advocacy NGOs are outsider NGOs who have limited access to formal political or decision-making arenas and therefore have to rely on outsider strategies to influence the government or decision-makers indirectly through raising public awareness and mobilising public support. Unequal power relations are the important constraining factor which makes Thai advocacy NGOs become outsider NGOs who have to operate their advocacy strategies outside of the formal political and decision-making arenas.

Although Thai advocacy NGOs have to rely more on outsider strategies because they lack political access to the decision-making process, the outsider strategies used by Thai advocacy NGOs are not a fall-back option. Thai advocacy NGOs did not use protest-based strategies alone; they also used information-based strategies to maximise their strategies and influence. Although information-based strategies may attract less public attention than protest-based strategies, they help enhance the legitimacy and capacity of Thai advocacy NGOs in the longer run. By using information-based strategies, Thai advocacy NGOs intend to use information and knowledge as a source of power and influence to delegitimise the claims made by powerful pro-dam decision-makers and persuade the general public to support the issues the Thai NGOs are advocating. Therefore, when Thai advocacy NGOs use information-based

strategies together with insider strategies and protest-based strategies, new opportunities for participation can be created for Thai villagers. These new opportunities provided new participatory spaces in which Thai advocacy NGOs and Thai villagers can hold the pro-dam decision-makers accountable and responsible for their development and investment in the Xayaburi dam project. The next section focuses on the new participatory spaces, which are divided into new invited and new popular spaces.

8.3.3 Hypothesis III: By using both insider and outsider strategies, Thai advocacy NGOs create new participatory spaces, which are new invited and new popular spaces in the Xayaburi dam project.

The third hypothesis was put forward in Chapter Seven, which focused in particular on the creation of new participatory spaces, which were divided into invited and popular spaces in the Xayaburi dam project. The research findings indicated that only a new invited space created at the regional level was consistent with the third hypothesis. The use of insider strategy, such as the letter-signing and submission, and outsider strategies, including protest-based strategies and information-based strategies, influenced the four MRC member states to conduct the Mekong Council Study, which was a study on sustainable management and development of the Mekong river, including the impact of mainstream hydropower projects. The Mekong Council Study provides a new invited space where Thai advocacy NGOs and Thai villagers have new opportunities to study and assess the cumulative and trans-boundary impacts of the mainstream dams proposed for the LMB, including the Xayaburi dam, and to use the results of the assessment to take an informed and balanced decision on the controversial Xayaburi dam project.

However, as discussed in the previous section, Thai advocacy NGOs have relied more on outsider strategies to create new opportunities for participation. Therefore, outsider strategies have become the primary strategies used to create new participatory spaces in the Xayaburi dam project. For example, the Thai advocacy NGOs and StM members have used outsider strategies - both protest-based and information-based

strategies - to create a new popular space at the regional level. Within this new popular space, Thai advocacy NGOs, StM members and like-minded supporters have gathered together to call for the reform of the MRC and its decision-making framework so that the Mekong governance and institutions were able to regulate the rapid expansion of the mainstream dam development in the LMB more effectively.

At the national level in Thailand, it was outsider strategies which created new invited spaces and new popular spaces for participation. Thai advocacy NGOs and the members of the NTMP filed complaint petitions to three administrative bodies in Thailand. The complaint petitions were submitted to 1) two Senate Commissions, including one on Anti-Corruption and Good Governance and the other on Community Natural Resources, and 2) the Subcommittee on Community Rights and Natural Resources, the National Human Rights Commission of Thailand (NHRCT), initiated investigations into whether the signing of the PPA was a legal action according to Thai law. Moreover, the members of the NTMP filed a lawsuit in the Thai Administrative Court against EGAT and the Thai state bodies involved in the signing of the PPA. The investigations initiated by these three administrative bodies provided new invited spaces in which Thai advocacy NGOs and Thai villagers affected by the dam gained a new opportunity to participate in the formal political arena where they met Thai public decision-makers and influenced them to cancel or suspend the PPA. However, the invited spaces provided by these three administrative bodies were not enough to pressurise or persuade Thai public decision-makers to cancel or suspend the PPA. This is because the new invited spaces were created by the NHRCT, the Thai Senate Commissions and the Thai Administrative Court, which were not involved directly in the Xayaburi dam project. Therefore, the invited spaces provided by the three administrative bodies were limited in their ability to force Thailand's public decision-makers to cancel or suspend the PPA.

Given the limitations of the new invited spaces provided by the three administrative bodies, Thai advocacy NGOs used outsider strategies, both

protest-based and information-based, to raise public awareness, mobilise public support and build a domestic anti-dam network. Thai advocacy NGOs and their domestic anti-dam network created a new popular space at the national level, where villagers affected by the dam had an opportunity to gather evidence, conduct research and share information with other likeminded people to prove that the Xayaburi's power was not necessary for Thailand and the Xayaburi dam project and the signing of the PPA could have trans-boundary impacts on the livelihoods of Thai villagers.

In addition, Thai advocacy NGOs tried to use both insider and outsider strategies to urge Thai banks, the key private decision-makers of the Xayaburi dam, to provide new invited spaces in which Thai villagers gained a new opportunity to participate in the decision-making process of the Xayaburi project's finance. However, the project lending decisions of Thai banks were made behind closed doors by which Thai villagers were excluded from the decision-making process. Therefore, the new invited spaces have never been provided by private decision-makers. Thai advocacy NGOs have to use a wide range of outsider strategies, both protest and information-based strategies, to create the new popular space where Thai advocacy NGOs and Thai villagers can act together and initiate their own strategies to criticise the poor performance of the CSR adopted by Thai banks and call on Thai banks to adopt more stringent international standards to regulate trans-boundary investment in lower Mekong mainstream dams more effectively.

Thai advocacy NGOs have the potential to become advocates for public participation. The findings demonstrated that Thai advocacy NGOs used both insider and outsider strategies to create new opportunities for Thai villagers to participate meaningfully in the decision-making process of the Xayaburi dam project, both at the national and regional levels. Advocacy strategies enhance the potential of Thai NGOs as advocates for public participation. However, the unequal power relations can become a constraining factor which excludes Thai advocacy NGOs and Thai villagers from participating in the Xayaburi dam's decision-making

process. Thai advocacy NGOs have gained outsider status, a position whereby they have to work outside the formal political or decision-making arenas. Because of outsider status, Thai advocacy NGOs have used more outsider strategies than insider strategies. Outsider strategies are also those primarily used by Thai advocacy NGOs to create new invited spaces and new popular spaces in the case of the Xayaburi dam project.

8.4 The research contribution

This thesis aims to advance the existing body of knowledge on advocacy NGOs as advocates for public participation. As discussed in chapter three, since the early 1990s, NGOs have played important roles as advocates for public participation. They have become active agents in incorporating people, especially the local poor people, into the development process (Potter et al., 2008: 15). As NGOs have played an increasing role as advocates for public participation, they have come under closer and more critical scrutiny from both supporters and sceptics alike (Bebbington et al., 2008). The bulk of the literature on advocacy NGOs tends to analyse the influence of structural factors, particularly power structure, on NGO performance and effectiveness in enhancing public participation (Orbach, 2011; Cohen-Blankshtain et al., 2013; Williams, 2004; Giles, 2001; Pettit, 2012; Hickey and Mohan, 2004). The literature often takes a sceptical view of the potentials of NGOs as advocates for the poor and public participation and raises questions regarding the representation, accountability, legitimacy and political responsibility of advocacy NGOs as advocates for public participation (Riddell and Robinson, 1995; Vivian, 1994; Fowler, 2000; Lewis and Wallace, 2000; Edwards and Hulme, 1996).

Although the existing studies of advocacy NGOs enhance our understanding on the roles and effectiveness of advocacy NGOs in promoting public participation, these studies focus less on the issues of advocacy strategies and their potentials in promoting public participation. This thesis tries to fill the research gap by addressing the issue of advocacy

strategies and their potentials to enhance public participation. The insider and outsider category was used in this thesis as the conceptual framework to examine the use of advocacy strategies and analyse the effects of using strategies on public participation. The findings found that Thai advocacy NGOs used both insider and outsider strategies to create new opportunities for public participation in the Xayaburi's decision-making process. The findings are consistent with the existing studies on NGO strategies asserting that NGOs have increasingly combined insider and outsider strategies to pursue their goals (Beyers, 2004; Kriesi and Tresch, 2007; Richards and Heard, 2005). They do not rely on one specific tactic; rather they adopt multiple choices of strategies. While the existing studies on NGO strategies examine the choice of advocacy strategies adopted by advocacy NGOs, these studies do not go further to analyse the effects of using strategies on participation. This thesis aims to provide the analysis of the effects of using strategies on the promotion of participation.

The analysis revealed that the use of both insider and outsider strategies led to the creation of new spaces for participation, which can be divided as new invited and new popular spaces. Although the new participatory spaces created in this thesis have potentials to be the site for participation and transformation, these potentials could be hindered by the constraining structure of unequal power relations. The issue of power structure has been found in the existing literature on participatory spaces as the structural factors, challenging the potentials of participatory spaces. Moreover, this thesis found that the specific context in which the new spaces are located is also important to determine the success or failure of the new participatory spaces. This thesis provides insights into how enabling context helps enhance the potentials of new participatory spaces. The existing literature on participatory spaces discusses that supporting mechanisms and institutions need to be put in the context where the new participatory spaces are established. Therefore, advocacy NGOs, aiming to promote new participatory spaces as the site for participation and transformation, need to take into consideration the power structure and the context in which the new spaces are located.

Another contribution of this thesis is to advance current studies of advocacy NGOs in the Lower Mekong Basin (LMB) context. Many studies of NGOs and civil society in the LMB have focused on Thailand. The studies often concentrate on the roles of Thai NGOs and their anti-dam advocacy against the construction of hydropower dam in Thailand (Myint 2016; Som-In and Gadavani, 2017; Foran and Manorom, 2009). Over recent years, there has been the shift in Thai dam industry to move the construction of hydropower dam to neighbouring countries. However, there are few studies focusing on the role of Thai advocacy NGOs in opposing dam construction in the new context where Thai pro-dam public and private actors have shifted hydropower dam construction to neighbouring countries, especially to Laos. The shift in Thailand's hydropower dam construction to its neighbouring countries has posed new challenges for Thai NGOs who have long experience in the anti-dam movement in Thailand but less experience in organising anti-dam advocacy for the hydropower dam projects constructed outside Thailand. This thesis aims to fulfil this gap by providing additional study on the examination of advocacy strategies utilized by Thai NGOs to create new opportunities for public participation in the decision-making process of the Xayaburi dam project, the hydropower dam being built in Laos.

The findings found that the strategies used by Thai NGOs resulted in the creation of new participatory spaces in the Xayaburi case. However, the analysis of this study underlines the importance of the influence of context on NGO choice of strategies and the effects of using NGO strategies. The shift in Thailand's hydropower dam construction to its neighbouring countries has become the new challenges constraining the choice of strategies adopted by Thai NGOs and the effects of using those strategies. Therefore, Thai NGOs need to recognize the challenges posed by the changing context of hydropower dam development in the LMB as well as in Thailand. By taking the challenges of the context into consideration more seriously, this thesis argues that Thai NGOs can utilize their advocacy strategies more effectively and enhance their potentials as advocates for public participation within the context where the

hydropower dam projects in the LMB has rapidly developed across the region. The knowledge gained from this study on Thai NGO advocacy in the changing context of hydropower dam development in the LMB can contribute to the study on the counterpart NGOs in other countries in the LMB context, especially NGOs from Cambodia and Vietnam facing the similar challenges imposed by the rapid expansion of hydropower dam development in the LMB. This thesis hopes that the knowledge provided by this study will improve the potentials of advocacy NGOs, both Thai NGOs and other NGOs in the LMB in enhancing public participation in Mekong hydropower dam development.

8.5 Limitations and future research

This study aims to focus on the advocacy strategies used by Thai advocacy NGOs to create new opportunities for participation in the Xayaburi dam's decision-making process. Thai advocacy NGOs are the most significant NGOs playing an active role in challenging the mainstream development path within the LMB (Hirsch, 2001). They have had long experience of the anti-dam movement within Thailand and they are currently trying to transfer their anti-dam experience to their counterparts in the other LMB countries. Therefore, the study of Thai advocacy NGOs and their anti-dam strategies in the context of the LMB will contribute to the existing literature on advocacy NGOs in the context of hydropower dam development in the LMB. However, this development has now expanded rapidly, carrying with it the potential for trans-boundary impacts. It is not only Thai advocacy NGOs, but also Cambodian and Vietnamese NGOs, who are concerned by the rapid pace of hydrodam development and the trans-boundary impacts. Therefore, one potential area for future studies could place the emphasis on other NGOs in the LMB countries, such as Cambodian or Vietnamese NGOs, and comparative studies of the NGOs within the LMB. The study and analysis of other advocacy NGOs and their strategies in other LMB countries could help strengthen our understanding of the roles and potential of Thai advocacy NGOs operating their strategies against dam construction in the LMB.

As the first dam to be built on the Lower Mekong mainstream, the Xayaburi dam project is a good example for the study of advocacy NGOs and hydropower dam development in the LMB. However, the progress of the construction of the lower Mekong mainstream dams has advanced rapidly. Recently, the Lao government announced the building of a second dam, the Don Sahong dam, and a third dam, the Pak Beng dam, on the lower Mekong mainstream. Therefore, research on the next mainstream dams after the Xayaburi dam project should gain more attention and prompt further studies. These studies will help expand our knowledge of the rapidly changing context of hydropower dam development in the LMB, the trans-boundary impacts of dam projects and the conflicts and cooperation emerging within the LMB.

Lastly, although Thai advocacy NGOs have not yet stopped the construction of the Xayaburi dam project, their advocacy strategies have created new participatory spaces (new invited and new popular spaces) for Thai villagers affected by the dam. These new participatory spaces are important as they provide opportunities for Thai villagers to participate in the Xayaburi dam's decision-making process. Therefore, future studies should focus on the potentials and constraints of these new participatory spaces for enhancing effective and meaningful participation in the decision-making process of the hydropower dam development in the LMB. In particular, the studies should concentrate on how the participation of people potentially affected by the dam within these new spaces can be incorporated into the final decisions made by the powerful decision-makers of hydropower dam development within the LMB.

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