

Myanmar and China Dams: The Need for Strong Environmental Impact Assessment

Key words:

Salween River
Myanmar
China
Environmental impact
assessment

Author name: Bian Yongmin
Organization: Law School, University of International Business and Economics
Contact email: qimon@sina.com

September 2017

Policy Pointers

With regard to China's "One Belt, One Road" policy, as well as other overseas development projects, the proper and formal use of EIA's needs to be established and implemented.

Credible and thorough EIA's should be utilized in a formal capacity by all parties involved in development projects.

Non-state actors can serve as watchdogs to flag potential points of issue or conflict regarding EIAs and more broadly of projects.



Boats on the Salween River (Credit: Bian Yongmin)

A comparative study on China's and Myanmar's approaches to environmental impact assessments (EIA) to hydropower projects shows that the Chinese EIA is weaker than the Myanmar EIA based on Myanmar's EIA procedural rules of 2015 and other environmental laws and standards. These findings partially explain the not very successful Chinese investment in hydropower projects in Myanmar, which are argued to have important and often negative implications for both countries. It is argued in this policy brief that Chinese investors should take the Myanmar EIA very seriously and be aware that it covers a broad scope, adopts international standards and requires extensive transparency, when compared to the Chinese EIA. It was found that the conduct of the EIA in China is far from meeting provisions of the Myanmar EIA law, however, the Myanmar EIA, while strong on paper, has in the past been weak in practice. It still remains a great challenge for the current Myanmar government to integrate environment conservation into its economic development plans, taking into account the potential long-term environmental costs, especially when considering large-scale hydropower projects. NGOs, entitled by Myanmar law to the right to access information on hydropower projects and to participate in the decision-making process, should help the project developers and government to understand the impacts of dams, monitor the implementation of EIA's, and ensure that environmental management plans and mitigation measures presented in EIA reports are followed through.

Introduction

The Nu-Salween River flows from China to Myanmar and Thailand. More than 10 million people, representing at least 13 different ethnic groups, depend on the Salween River Basin for their livelihood. Running down from the Tibetan Plateau, the river drops from around 5,000 meters, much of that in steep gorges, making the Nu-Salween extremely attractive to hydropower developers.

Although China once planned hydropower projects on the mainstream of the Nu River, such plans have not been included in the newest 13th Five-Year Plan (2016-2020) of China. However, downstream Myanmar still has five dams planned on the Salween. These dams are currently in different stages of preparation; signing memorandums of agreement or conducting environmental impact assessment, among others, but full-scale construction has yet to begun on any.

A comparative assessment of China's and Myanmar's EIA

Responding to the environmental and social concerns of dam-building on the Nu-Salween River, both China and Myanmar have decided to use environmental impact assessments (EIA) in their decision-making processes of hydropower projects to avoid substantial negative impacts to the environment. However, research on the Chinese and Myanmar EIA laws and practices reveals that EIA reports in the past have often downplayed the impacts of hydropower projects to the environment and social welfare. For several decades, hydropower has been regarded as clean energy that deserves encouragement.

In China, EIA reports have predicted negative impacts may occur as a result of dam-building, such as severe damage to migratory fish, but the decision-makers may treat these impacts as necessary trade-off of hydropower development. Over time, one undisputable outcome is the sharp decline of fisheries and the extinction of some species, for example in China's Yangtze River. EIAs were also not implemented well under the military government of Myanmar and some controversial projects remain to be scrutinized today. Therefore, the role of EIAs in the decision-making processes needs to be enhanced at many levels.

Whilst it might be assumed that a developing state like Myanmar has a weak EIA scheme, the research conducted for this policy brief finds that at present Chinese EIA law is weaker than the EIA scheme recently established by Myanmar's Environmental Impact Assessment Procedure Rule of 2015.¹ Together with the Environmental Conservation Rules of 2014, the Environmental Impact Assessment Procedure of 2015 provides details of conducting EIA in Myanmar. Compared with the requirements of Chinese EIA's, the following contents of the Myanmar EIA deserve to be highlighted.



Temple on the Salween River (Credit: Bian Yongmin)

First, Myanmar's EIA refers to international standards clearly. The Chinese EIA is based on Chinese standards, which is lower than the international standards in a few fields.

Second, Myanmar's EIA is more transparent than the Chinese EIA, especially in public participation. NGOs that should be part of the public consultations are often absent in the Chinese EIA. The "public" usually consists of the residents who will be potentially affected by the proposed projects. In Myanmar, NGOs are able to take leadership in public participation in the Myanmar EIA. Questionnaires or surveys are a popular way of public participation for the Chinese EIA. However, in Myanmar, public participation is demonstrated by a face-to-face consultation between the people and the project developers.

Lastly, the scope of Myanmar's EIA is broader than that of the Chinese EIA. Myanmar's EIA covers environmental, occupational, social, cultural, socio-economical, public and community health as well as safety issues. The Chinese EIA Law (2002) does not define the coverage of EIA. In practice, the impacts on economic, social and cultural fields in China are sometimes mentioned in EIA reports, but the assessments often are very weak.

Policy Implications

Chinese investors are learning to follow the high standards of EIA when investing in Myanmar. Some of them have presented a clearer policy on corporate social responsibilities, or would like to improve their projects in order to meet new environmental standards or expectations. Others have become more cautious when making a decision for investment. For most of them, it takes time to learn how to consult with the public and engage various community leaders.

The Chinese government should re-think its policy on the EIA when it initiates the 'One Belt, One Road' strategy. One concern of Chinese investment is its environmental impacts. The Chinese way to support the "Green Belt and Green Road" so far is to advise its investors to obey the environmental laws of host states. It will be more helpful if China could also lead a green economy in the project's states by encouraging its investors to follow high environmental standards, as in the past 40 years China has not established an image of green development. Now, if China wants to take leadership in green investments, it needs a clear policy on projects that might cause substantial, negative environmental impacts. For example, the Yunnan government is looking to build a biodiversity conservation park in the Nu River Valley to attract more tourists into the area. Hydropower projects on the Nu River might conflict with this ambitious and promising plan.

The high-quality EIA scheme that the Myanmar government has established is a powerful instrument, but also quite a heavy one. Now, foreign investors are watching how the government is implementing its new EIA procedure which shall retrospectively apply to many old projects approved by the previous military government. It is commonly agreed that mega-dams would change the river and the environment including various aquatic organism, terrestrial flora and fauna. It will also impact the lives and livelihoods of the communities there.

An EIA helps tell what kind of changes are going to happen and to what degree, but it is always up to the government to make a final decision on what risks or costs it would like to take. Essentially, it is up to each government to determine and weigh all environmental impacts of its development projects.

Balance between environmental conservation and economic interest is always very challenging to an emerging state like Myanmar, which is now entering a rapid stage of development.



The Salween River at the Thai-Myanmar border
(Credit: Carl Middleton)

NGOs pursuing sustainable governance of the Nu-Salween River should understand the strengths and weaknesses of China's and Myanmar's EIAs. Under Myanmar's EIA Procedure, NGOs have been provided a relatively large space to raise awareness on the various potential impacts of hydropower projects and to-an-extent have been able to consult with project developers. NGOs often serve as watchdogs that can inform the government about environmental and social impacts that are not "officially" covered by the EIA. For example, assessment of gender impacts can be easily neglected if nobody raises this concern. All stakeholders should work together to make sure no dams are going to be built on weak EIA results.



First leaders' meeting on Lancang-Mekong River
(Credit: China's Foreign Affairs Ministry)

NGOs pursuing sustainable governance of the Nu-Salween River should understand the strengths and weaknesses of China's and Myanmar's EIAs. Under Myanmar's EIA Procedure, NGOs have been provided a relatively large space to raise awareness on the various potential impacts of hydropower projects and to an extent have been able to consult with project developers. NGOs often serve as watchdogs that can inform the government about environmental and social impacts that are not "officially" covered by the EIA. For example, assessment of gender impacts can be easily neglected if nobody raises this concern. All stakeholders should work together to make sure no dams are going to be built on weak EIA results.¹



In Chiang Khong, community members gather a local river weed called "kai" which is sold as a local delicacy (Credit: Carl Middleton)

¹ For more information on the subjects discussed in this brief, please visit the *Mekong, Salween and Red Rivers: Sharing Knowledge and Perspectives Across Borders* [international conference proceedings](#).

Knowledge Products

The Center for Social Development Studies (CSDS) is within the Faculty of Political Science, Chulalongkorn University. We produce interdisciplinary critical research on social development in Southeast Asia, engages in policy-making through building partnerships, and provides a public forum for debating critical issues.

Contact

Center for Social Development Studies (CSDS), Faculty of Political Science, 2nd Floor, Building 2 (Voraphakphibul Building), Henri-Dunant Road, Pathumwan Bangkok 10330, Thailand

Tel: + 66 2 218 7313

Email: clds.chulalongkorn@gmail.com



References

Aalto University, Study shows China hydropower operations considerably increase dry season flows and decrease wet season flows, 6 January 2017, <https://phys.org/news/2017-01-chinese-hydropower-considerably-season-decreased.html#jCp>.

Final Award in the Matter of Indus Waters Kinshanganga Arbitration, December 2013, p.112, http://archive.pca-cpa.org/showpageb106.html?pag_id=1392 (last visited April 20, 2016).

Lake Lanoux Arbitration (France v. Spain), International Law Reports, Vol. 24, 1957, p.101.113

Nadia Sanchez and Yongmin Bian, China's Obligation to Conduct Transboundary Environmental Impact Assessment (TEIA) in Utilizing Its Shared Water Resources, Natural Resource Journal, vol.55, 2014, pp.105-125.