International Legal Framework of Utilization of Mekong River and Adaptation to Climate Change

Eiji HATANO,
Assist. Prof., NAGOYA UNIVERSITY,
UNIVERSITY of YANGON (Visiting)
Outline

- Introduction
- Development of International Water Law
- International Water Law & Adaptation to Climate Change
- Potential Platform for Mainstreaming of Adaptation
- Adaptation and Participation of Riparian Countries
- Conclusion
Development of International Water Law 1

- International Law Making
  - International Law Association (ILA)
    - Helsinki Rules (1966)
  - UN International Law Commission (ILC)
      (Convention on the Law of the Non-Navigational Use of International Watercourses)

Applicable development in the context of adaptation to climate change?
Development of International Water Law 2

- International Water Resources Law
  - Ecological Integrity
  - Human Rights to Water
  - Water Market
  - Development Goals
  - Integrated Water Resources Management

⇒ Paradigm has shifted to broad and flexible?

Applicable development in the context of adaptation to climate change?
International Water Law & Adaptation to Climate Change

- Climate Change... unanticipated change in drafting process of international watercourses agreement
- International agreement on watercourses
  Flexible rules and mechanisms
  equitable utilization, no harm, joint institute
  Takes note of Climate Change and it’s effect
  Require states to undertake compliance review
- Practice...
Potential Platform for Mainstreaming of Adaptation to Climate Change

- Trend of International Environmental Governance
  → Synergy among existing mechanism

MEAs (Global Level)
Regional agreements
Other forums
↓
Possibilities of Enhancing synergy for flexibilities and adaptation strategy

MEAs
- UNECC, CBD, UNCCD, Ramsar, CITES etc...
- IPCC, IPBES etc
- Regional Agreements Mekong Agreement, etc
## Potential Platform for Mainstreaming of Adaptation to Climate Change

### Existing Mechanisms

- **National Plans of MEAs**

<table>
<thead>
<tr>
<th>Conventions</th>
<th>National Plans</th>
<th>Contents</th>
</tr>
</thead>
<tbody>
<tr>
<td>UN Framework Convention on Climate Change (UNFCCC)</td>
<td>National Adaptation Programmes of Action (NAPAs)</td>
<td>instruments which rank priority adaptation activities and projects</td>
</tr>
<tr>
<td>Convention on Biological Diversity (CBD)</td>
<td>National Biodiversity Strategies and Action Plans (NBSAPs)</td>
<td>instruments to implement the Convention</td>
</tr>
<tr>
<td>UN Convention to Combat Desertification (UNCCCD)</td>
<td>National action programmes (NAPs)</td>
<td>instruments to implement the Convention</td>
</tr>
</tbody>
</table>
### Potential Platform for Mainstreaming of Adaptation to Climate Change

#### Existing Mechanisms - Information bases

<table>
<thead>
<tr>
<th>Forum</th>
<th>Contents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Intergovernmental Panel on Climate Change (IPCC)</td>
<td>- assesses the scientific, technical and socio-economic information relevant for the understanding of the risk of human-induced climate change</td>
</tr>
</tbody>
</table>
| Intergovernmental science-policy Platform on Biodiversity and Ecosystem Services (IPBES) | - provides a mechanism to synthesize, review, assess and critically evaluate relevant information and knowledge generated worldwide.  
- address the needs of MEAs and seeks in each other’s work.          |

IPBES 1st Plenary Meeting in Bonn (2013)
Potential Platform for Mainstreaming Activities by MEAs

- **CBD, decisions VIII/30, IX/16, annex II, X/30, XI/21**
  
  Encourages parties to mobilize resources... to fill biodiversity and ecosystem services and data in the context of climate change, and to undertake research studies at spatial scales from local scales to larger landscapes (Dec. XI/21, para.5)

- **Ramsar, Resolution VIII.3, X.24, XI.14**
  
  Encourages Parties and relevant organization to undertake studies of the role of the conservation and/or restoration...in relation to... adaptation to climate change, including water regulation at local and regional scale...(Res. XI.14, para.32)
Potential Platform for Mainstreaming Lacking Global-Regional Interaction

- Lacking Global-Regional Interaction on MEAs and International Watercourses Agreement in the field of Climate Change Adaptation

- Synergy between global-regional project based interaction
  - → GEF, Science and Technical Advisory Panel (GEF)
  - → Basin wide project on climate change

- Difficulties on Transboundary Issues
  Joint Institute Works?
Potential Platform for Mainstreaming MEA’s regional program

Ramsar Project in Maynmar

“Wetland management and conservation in Myanmar in the context of Climate Change” (2014-)

- Organized by Asian Institute of Technologies
- Contribution by the Government of Japan
Potential Platform for Mainstreaming of Adaptation to Climate Change

- Activity of Japanese Government (Ministry of the Environment)

“Water Environment Partnership in Asia (WEPA)”

- 13 Asian countries
- promote good governance in water environment management
- WEPA activities is shared by the WEPA Database

1st WEPA International Workshop (2010, Hanoi)
2nd International Workshop (2012, Tokyo)
Annual Meeting
Adaptation and Participation of Riparian Countries

Participation of riparian countries is critical issue to respond to climate change effects

- International Water Law and Participation
  - 1997 UN Watercourses Convention
  - Equitable and Reasonable Utilization and Participation
  - 1995 Mekong River Agreement
  - Reasonable and Equitable Utilization

- Key Notions
  - Decision on the Gabcikovo-Nagymaros (ICJ, 1997)
  - Equitable Participation
  - Basin-wide management
  - Conjunctive Management (Berlin Rules), IWRM, Adaptation
Conclusion

- Although few International watercourse agreement directly deal with climate change adaptation, there are some aspects that water Law has developed to take note of this issue.

- Mainstreaming of adaptation is key issue in MEAs, but direct interaction with international watercourses is rare. However there are hopes for strengthening synergy among existing mechanisms.

- Participation of riparian countries becomes important in the context of international water law and climate change adaptation, but we need further enhancement on “participation”
Thank you