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Water as Human Right: Impact of Thai Binh 1 Thermal Plant Project on Domestic Water Supply of Riverine People in Chi Thien Village, Vietnam

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Abstract

The research studies on the typical context of Chi Thien village, an area having new-operated coal-power plant as the development project in the northern part of Vietnam. As the focus of the research, domestic water supply is studied. Conventionally, villagers harvest rainwater into big reservoirs that later on were demolished for house renovation after the agricultural compensation for the coal plant construction. Since the establishment of the Thai Binh 1 Thermal plant, locals are recommended not to drink raining water because of potential negative impacts of coal ash on human health. Findings of the research indicate that local households have been provided with tap water service since 2014 by the Chien River water plant of the local authority. However, doubts on the low tap water quality and its unstable frequency, rainwater returns to be the preferable choice for their domestic water supply. There is a regular check on water affirmed by the engineer from Chien River plant. Nevertheless, for confidentiality, it was not allowed to publish regardless of the request to have evidence on qualified tap water. This is considered as the violation of the right to information and the participation in environmental decision making of the villagers. For certain disadvantages of water situation, local people have adaptation by buying reverse osmosis (RO) water filters (wealthier family only) and need to pay for water consumption expense with the low quality received. Study on domestic water is a study on human well-being, human rights and state obligation to ensure the water sanitation, the accessibility, and affordability to people. The role of the Vietnamese government is analyzed in addressing these potential impacts caused by the coal plant project towards an adequate standard of living and the highest attainable standard of health in Chi Thien. The thesis is social research using qualitative research methodology of in-depth interviews and referral samples to approach the topic and elicit reliable information, particularly on opinions and hands-on experiences of villagers.

Introduction

The establishment of Thai Binh 1 Thermal plant project in Chi Thien village has followed the Vietnamese Master Plan on National Power Development with a vision to 2030 to increase the total capacity of power plants over the country¹. The Master

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¹ *Decision Approval of The National Master Plan For Power Development For The 2011 - 2020 Period With The Vision To 2030*, The Socialist Republic of Vietnam, 2011, No. 1208/QĐ-TTg, p4.

Energy Plan has oriented coal and coal-fired power plants as the biggest power capability and the highest percentage of the total investment for energy development in Vietnam. The entire construction area of the plant construction items is located on the agricultural land², which had displaced almost all river in people in Chi Thien village from their traditional works as farmers. Since 2009 for the plant construction, many villagers were recruited together with a huge flow of people from different provinces to be construction workers. However, the job was temporary within the limited time of construction. These villagers became unemployed after the thermal plant was completed in early 2016.

Towards the domestic water supply in the village, local people conventionally harvest rainwater for household chores. Within the construction duration of Thai Binh 1 coal plant, tap water service was provided to Chi Thien village and available in most households after 2014 as the policy of the local authority. Nevertheless, quality of tap water has remained doubtful, making people hesitate to consume and lead to adaptation with behavior changes to ensure their water daily demand. Therefore, even though supplied with tap water since 2014, people still rely on the conventional supply from rains in cooking and drinking. Underground water in Chi Thien village is only used for washing due to its naturally high salinization. There are three or four wells in the village having fresh water which can be used for domestic water supply as observed by the author.

Conceptual Framework and Research Methodology

The research studies on the impacts of the coal power plant project on domestic water supply in the typical context of Chi Thien village. Results from other studies on the impact of coal plants in water resources are not used as a framework for findings in Chi Thien to fit in. Otherwise, the factual situation of the domestic water supply in Chi Thien is the core subject. Data from the field was collected and analyzed to understand the nexus between the domestic water supply and the coal plant project in the context of Chi Thien. Also, the impacts of the coal plant project were objectively studied in conjunction with local domestic water supply.

With the small-scale of the study, qualitative methodology is employed in data collection and analysis. Firstly, secondary data was collected as a literature review. The research studies on a literature review to understand terms, concepts related to the main theme of the human right to water. A Literature review is conducted before the data collection to look through previous research on impacts of Thai Binh 1 Thermal Plant Project on the domestic water supply of riverine nearby as well as to indicate and confirm the data gaps. In the next step, the primary data is collected through in-depth interviews with six key informants and referral sampling to 15 participants. As the study views on the perspective of human rights, it considers the vulnerable and marginalized group as

² Bộ Công Thương (Vietnamese Ministry of Industry and Trade), Quyết Định Về Việc Phê Duyệt Dự Án Đầu Tư Xây Dựng Công Trình Nhà Máy Nhiệt Điện Thái Bình 1 (*Decision on Approval of Investment Project for Construction of Thai Binh Thermo- Electricity Plant 1*), No:5276/QĐ-BCT, 2008.

a core subject. Based on grassroots' narratives, the study approaches the problem from bottom-up with the research methodology of in-depth interview and referral sampling to elicit information.

The State Obligation to Implement Right to Water in Chi Thien Village

Although water has not been recognized to 'as a self-standing human right in international treaties'³, the access to safe drinking water has been interpreted in terms of adequate living standards for the state obligations. The Committee on Economics, Social and Cultural Rights provides the entails of enforcement of the right to water in the General Comment 15 for the legal bases of the right to water. States have the obligation to respect, protect and fulfill all the provisions in treaties in which they are the state party. The Covenant on Civil and Political with the "right to life" and International Covenant on Economic, Social and Cultural Rights is legally binding to its members, which Vietnam has ratified on 24 September 1982. Importantly, Vietnam is bound with the covenant by having no reservation but declaring⁴the agreement as long as it is in accordance with the principle of sovereignty equality of States.

Additionally, obligations of states a real so bonded by domestic law. To specify, the Decree on Clean Water Production, Supply and Consumption 2007 of Vietnam has incorporated the rights and obligations of stakeholders engaging in activities related to the production of clean water. It's in article 8.1 of the Decree indicates the right of water consumers to participate in the management and oversight of water supply activities. Especially, Article 50.3 on Examination of water-measuring equipment describes the procedure for complaints on the water as well as the obligation of providers for resolution. In the committed five working days, the water providers must examine the water problems related to customers' requests. The customers can also request to state management if they are not satisfied with solutions of local water supply. Their concern is supposed to solve with fifteen days of working.

Therefore, the action of keeping confidentially the tap water test by the provider (Chieu River water plant) in Chi Thien village has not only limited the right to information but restricted the right to participation of villages who are customers consuming tap water. This does not follow the willingness and commitment written on Decree on Clean Water Production, Supply, and Consumption of Vietnam. Moreover, the board committee of Chieu River water plant as well as the related authority has not fulfilled their obligation to resolve complaints from customers on the tap water supply service

³ UNGA, *Declaration on the Right to Development*, GA Res 41/128, UN Doc A/RES/41/128, 4 December 1986; UN Office of the High Commissioner for Human Rights, *The Right to Water, Fact Sheet No. 35*, United Nations, August, 2010.

⁴ The provisions of art.48, para.1, of the International Covenant on Civil and Political Rights, and art.26, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights, under which a number of States are deprived of the opportunity to become parties to the Covenants, are of a discriminatory nature. The Government of the Socialist Republic of Viet Nam considers that the Covenants, in accordance with the principle of sovereignty equality of States, should be open for participation by all States without any discrimination or limitation.

within sufficient amount of water and water cut-off happening frequently

i. The State Obligation to Respect

Thai Binh 1 Thermal plant Project is invested by a governmental group - EVN Vietnam Electricity. Report on Environmental Impact Assessment was also approved by Vietnam's Ministry of Resources and Environment as the Decision 461/2009/QĐ-BTNMT on 16 March 2009. Therefore, the government has the obligation to ensure the quality of the local living environment was established by the coal plant. Besides the obligation on domestic law, Vietnam has also ratified the ICESCR to be bound with progressive realization and immediate obligations to achieve progressively the full realization of the rights⁵. Common violations of the state obligation were disrespect and failure to let the enjoyment of the right have interfered. In terms of the right to water, the state obligation to respect can happen when "state disconnects to the water supply"⁶. This is analyzed in detail as below.

Pollution to disconnection

It is undeniable for impacts from ash fall out to the atmosphere, making the rainwater unsafe for domestic consumption. In this aspect, the establishment of a coal plant has polluted the raining water, restricting the access to the conventional water supply of local villagers. The conventional custom of consuming rainwater for domestic chores might be not disturbed without the approval of the coal plant project. Even in recent, as rainwater is encouraged to use very carefully due to potential pollution from ash fallout, it is still the preference of villagers for drinking and cooking because of worriedness on the current tap water service. Therefore, the obligation to respect with no interference to the enjoyment of the human rights to water and sanitation has been not well-implemented in the case of Chi Thien village.

Lack of access to water sanitation

Domestic water, according to Article 2.13 of the Vietnamese's Law on Water Resources in 2012, is appropriate for supplying domestic water or can be treated into domestic water. The location of Chieu is covered by paddy fields that practices of spraying pesticides. The chemical elements from pesticides are partially absorbed by plant but also get into the soil and dissolve underground water. During an in-depth interview, the plant engineer mentioned the protection of regulation to ensure the quality of water resource to be a domestic water source. Translation by the researcher is below:

‘Eight hundred meters from downstream and 200 meters from upstream in the protected area for domestic water source which means no discharge from industrials and civilians activities to the river is allowed. Every three or six months, Provincial Natural Resources and Environment Office of Thai Binh take samples to re-check the quality of water. This report is confidential to the public even the description on the

⁵ *International Covenant on Economic, Social and Cultural Rights*, 993 UNTS 3, adopted on 16 December 1966, art 2.1.

⁶ Right to water (n 3).

water treatment system of Chieu River system is not allowed to release' (spoken by an engineer from Chieu water plant.)

As Article 2.20 of Vietnam's Law on Water Resource 2012, it also defines a hygiene protection zone for the domestic water-supplying area. In which mentions the radius of area of water source taken from must be protected under regulations preventing it from pollutions in producing domestic water. However, when being asked about the possibility and method to prevent farmers on nearby paddy fields use spraying pesticides, the engineer also confessed difficulties to ensure to have no chemical from agricultural activities absorbed into Chieu River. Domestic water, according to Vietnam's The Law on Water Resources 2012 is the "clean water" suitable for cooking, drinking, and hygiene to humans. Tap water produced by Chieu River water purification plant is supposed for domestic water supply to villagers in Chi Thien. However, the characters of collected samples in data collection indicate a low quality of this domestic water supply with characteristics of smelly odor, black particles, and yellow color sometimes. Based on the villagers' observation, the quality of tap water is not really hygienic. This also rises up a question in the quality and capability of technology in the Chieu water plant. Therefore, with the disadvantages above, the upstream of Chieu River is not suitable to be domestic water source; and the quality of water purified from Chieu River is not qualified to be used as domestic water supply. Therefore, the right to water has not been possibly well- respected in the case.

The State Obligation to Protect

OHCHR Special Rapporteur-Rights to Water and Sanitation by the UN Human Rights Council indicates the obligation to protect that states are required to enact and enforce necessary protections of the rights and protect individuals from abuses by third parties⁷. A violation occurs when the state fails to regulate non-state service providers to ensure an affordable water price for consumers. Also, responsibility towards human right protection is required from non-state actors that they should exercise due diligence to avoid any potential action to abuse human rights.

As Thai Binh 1 Thermal Plant is a governmental project, therefore, it requires the state obligation to protect individuals from third parties to influence. However, since the government approved the thermal project according to the 2030 Energy Master Plan, it has threatened the protection on living enjoyment and water sanitation in Chi Thien village where the coal plant is constructed in. It can recognize the government's effort with the compensation provisions including renovating schools, clinic, and main roads and possibly. However, impacts from coal ash have limited the sanitation and hygiene amount of raining water in local domestic water supply in Chi Thien village.

In term of the social and economic aspect, locals have to spend additional money to ensure their water sanitation as well as their enjoyment of life. Compensation seems to

⁷ Catarina de Albuquerque, *Report of the Special Rapporteur on the human right to safe drinking water and sanitation: Common violations of the human rights to water and sanitation*, A/HRC/27/55, Human Rights Council, 30 June 2014.

be ineffective to facilitate the lives of farmers after losing their cultivation land. After finishing the short-term working as construction workers for coal plant, the ex-farmers have to seek another job. Moreover, without having paddy field for cultivating, farmers have to buy rice, vegetables and other agricultural food that they never did before. The expense of tap water bills and water purifier machine is also an additional amount the villagers spend currently.

With the purpose to enhance the social-economic development for the local province, the implementation of coal plant has created changes in society's fabric, caused additional daily expenses.

The State Obligation to fulfil

In cases of Thai Binh¹ Thermal Plant Project, threats to the obligation to fulfil can be seen from:

- Problems in implementing and monitoring strategies, plans, and programs related to the domestic water supply.

No water test is published and accessible to villagers. It is claimed to conduct a regular test on water quality but because of the confidentiality, the result is not allowed to release. The information on tap water quality is important for consumers to trust in the tap water service provided. Therefore, the claim of confidentiality is not persuading. In another word, keeping confidentially the result of tap water test has limited the right to information of consumers, the right to participation of a citizen and the respect to environmental justice. Moreover, providing tap water alone is not comprehensive to protect the state obligation to fulfill the right to water. In a Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation, Mr. Léo Heller⁸, the Special Rapporteur on the human rights to safe drinking water and sanitation 2014 has discussed on the holistic understanding of access to water and sanitation that even having a tap but delivering unsafe water is not considered as the solution to water sanitation problems.

- Failure to allocate available resources

The above findings depict an understanding to know the upstream of Chieu River is not suitable for the domestic water resource. There are other available resources from Tra Ly River nearby or other rivers can ensure the hygiene and sanitation of domestic water supply. But they are not chosen in reality. The suitable water is far away from the current location, which can cost a higher expense on running the system.

⁸ His mandate was to examine these crucial issues and provide recommendations to Governments, to the United Nations and other stakeholders.

Conclusion

The human right to water recognizes the importance of water to human life in which affordability of water sanitation together with water facilities for all individuals. Water is always needed to be recognized as a human right for its importance to the survival and the foundation to realize other rights. Implementation right to water is incomprehensive to approach the aspect of water itself but necessary to perceive it in an inclusive network of factors that can limit or enhance the water sanitation, accessibility, and affordability. This requires obligations from the state and other relevant stakeholders to respect, protect and fulfill the right to water for a fair distribution that all members in society have access and affordability to the domestic water supply.

Thai Binh 1 Thermal Plant is considered as the development project, aiming to supplement the electricity amount into for solving the energy shortage in Vietnam. However, the operation of the plant has limited on sufficient and safe rainwater because of ash fallout released from the coal plant into air. The right to development is not only about the development in economics itself but to apply the human rights approach to the development considering elements such as health care, environmental protection and water sanitation with state obligation under the relevant international human rights instrument. Although the tap water service and coal plant project is not related, construction of the coal plant has led to agricultural land acquisition, putting many farmers in the situation of unstable job and unstable income. Now there is an extra expense on food and water bills spent by households in Chi Thien, restricting their adequate standard of living and the highest attainable standard of health.