



Dialogue on Environmental Governance Issues in Craft Villages in Bac Ninh Province, Viet Nam: A Summary Report



MEKONG WATER DIALOGUES





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1 INTRODUCTION

The overall goal of the Mekong Water Dialogues (MWD) is to improve livelihood security, and human and ecosystem health in the Mekong Region through improved water governance. This report on the dialogue on environmental governance in craft villages in Bac Ninh Province was carried out by the Center for Water Resources Conservation and Development (WARECOD), a Vietnamese NGO, from May to August 2010.

The dialogue is a follow-up to the study on water pollution in craft villages in the northern reaches of the Duong River in Bac Ninh that was carried out by Professor Dang Kim Chi from Hanoi Polytechnic University (HPU). Both reporting activities were carried out under the framework of the MWD coordinated by IUCN with financial support from the Ministry of Foreign Affairs of Finland.

The HPU report provided qualitative and quantitative information about water pollution in Bac Ninh. It concluded that surface and groundwater pollution was becoming increasingly serious, particularly from the food processing industry. The report found that not a single household had installed a wastewater treatment system and that although systems had been installed in some villages, they were not working properly.

The HPU report provided detailed information on environmental conditions in craft villages, but because of the political sensitivities involved it did not address environmental governance issues in any detail. With its experience at the grassroots level, WARECOD believed that organizing dialogues between stakeholders in craft villages could help fill this gap and provide practical recommendations on how to address Viet Nam's most serious water pollution problem.

2 DIALOGUE APPROACH

2.1 Methodology and process

To analyze environmental governance issues, a matrix provided by IUCN was used:

Component/Principle	Transparency	Participation	Accountability	Rule of law
Law and other norms	👍 or 👎	👍 or 👎	👍 or 👎	👍 or 👎
Institutions	👍 or 👎	👍 or 👎	👍 or 👎	👍 or 👎
Processes	👍 or 👎	👍 or 👎	👍 or 👎	👍 or 👎

The dialogue was originally designed to focus on noodle manufacturers in Khac Niem Commune but for reasons, explained later, it was moved to the provincial level. Noodle production is a major source of water pollution. At the commune level, meetings were held with stakeholders including villagers, noodle producers, and political leaders. These meetings were used to gain information about the production process, attitudes and behavior of local authorities toward water pollution, and to discuss possible solutions in terms of technologies, policies, regulations, and management practices.

A final dialogue was held in Bac Ninh City, the provincial capital, on 13 August 2010. Six presentations were given to the 50 participants. Professor Dang Kim Chi shared the findings from the HPU report and Mr. Vu Hai Nam from the Viet Nam Academy of Water Resources (VAWR), an institute under the Ministry of Agriculture and Rural Development (MARD),

presented a wastewater treatment project that is underway in Khac Niem. The head of the provincial Environmental Protection Agency (EPA) outlined changes to provincial policies related to environmental management in craft villages. Three commune leaders described environment protection activities in their craft villages and made proposals to improve the situation.

Following these presentations there was an active discussion. Participants were divided into four groups based on their background and position (commune, district, province, and technical experts) to discuss policy barriers and practical solutions to craft village pollution. The EPA head then responded to the issues that emerged from this discussion.

2.2 Stakeholders

A wide range of stakeholders were encouraged to participate in the dialogue. At the commune level noodle manufacturers, village heads, commune leaders, heads of mass organizations, local health staff, and ordinary villagers participated. At the provincial level participants included representatives from the Bac Ninh People's Committee (PC), EPA, Center for Rural Clean Water Supply and Environmental Sanitation, Center for Preventive Medicine, and civil society organizations (CSOs).

3 DIALOGUE RESULTS

The dialogue provided an assessment of environmental governance; the results organized according to the IUCN governance matrix are presented below.

3.1 Laws and other norms

The 2005 Law on Environmental Protection is the most important legal instrument governing environmental protection in Viet Nam. Article No. 38 regulates environment protection in craft villages. Other important documents include the 1998 Law on Water Resources, 2009 Law on Biodiversity, and a series of government degrees and circulars issued over the last 20 years, in particular Circular No. 67/2003/ND-CP. At the provincial level, the PC issued a regulation on environmental protection in craft villages and in small to medium industrial zones in 2008. A draft regulation on wastewater management in craft villages has also been sent to departments at commune and district levels for consultation. According to the EPA, it will be finalized and come into force by the end of 2010.

The EPA has made a considerable effort to finalize the legal framework for environmental protection in craft villages. Yet even though many legal documents have been issued, results on the ground appear negligible and environmental health conditions continue to deteriorate. According to feedback from participants, there is a lack of detailed sub-law documents to regulate environmental protection activities. The existing regulations are very general, while craft villages vary greatly in terms of production and socio-economic conditions, they do not prescribe any specific penalty for breeches of the regulations, which makes enforcement difficult.

These sub-law documents often use general and non-specific wording with frequent references to "competent authorities", "responsible agency", and "subject to punishment in accordance with current law". This makes implementation difficult for those responsible for enforcing the law, as well as the general public who do not know which department to approach, what regulation to

apply, or what the punishment should be for non-compliance. The clear lack of direction leads to confusion, which in turn leads to the effective abdication of responsibility by local authorities. For example, in the decree determining wastewater fees an article exists that specifies exemptions for wastewater plants that have never had a water treatment system. Therefore, the wastewater fee regulation is inapplicable in craft villages that have never installed a water treatment system. In fact, the decree serves as a disincentive to install such a system.

Craft village producers find it unfair when some have to pay fees while others do not. In addition, inconsistencies and conflicts exist between regulations, particularly related to fees and taxes. According to tax law, tax exemptions are applied to low income households, while the Law on Environmental Protection regulates that those who pollute are responsible for paying.

What was noticeable from the discussion was that the existing laws and regulations are not well communicated. For example, local people, noodle makers, and officers in Khac Niem are not aware of regulations related to craft village environment protection and this situation is common across the province. Despite concern about environmental pollution, local people remain indifferent to the regulations. Local people have not been encouraged to contribute to the drafting of legal documents because there is a perception that this is solely the responsibility of government. The existing laws and regulations were issued before the new regulation on community input to policy formulation came into effect in January 2009. In effect the drafting process for the provincial regulation on wastewater management, which has not yet come into effect, should follow this new regulation. So far, however, comments have only been taken from commune and district officers with no direct consultation with local people.

Limitations in the communication and distribution of legal information are also obstacles to community compliance. According to the Khac Niem PC, legal information is usually disseminated to senior officers in the commune through presentations by officers from the district. But there have been no attempts to communicate this information to individuals and households at the community level. In Dao Xa Commune, information on policies, laws, and regulations is sometimes broadcast through the radio system and discussed in village meetings. However participants responded in the dialogue that they did not think that these methods work because they are repetitive and do not allow for feedback.

At the commune level, there is a general village regulation on environmental protection but wastewater fees are not levied consistently and regulations do not define penalties for non-compliance. A noodle maker in Khac Niem was asked why he did not follow the rules, he replied with the question: "Why do I have to when others do not?"

One reason for inconsistent enforcement is that personal relationships, especially at the commune level, prevent enforcement. As a result, the implementation of laws is ineffective and leads to a gap between expectations and reality.

To conclude, from the information collected through the dialogue process it is clear that the legal framework for environmental protection in craft villages is still under development. There is also a need for greater effort from government to strengthen the participation of local people in the formulation of laws and to ensure that these laws are implemented transparently.

3.2 Institutions

The Department of Natural Resources and Environment (DONRE) is the key agency for managing the environmental impacts of craft villages in the province. Its responsibilities include formulating environmental plans and monitoring pollution sources. DONRE cooperates with other provincial departments such as the Department of Police, Department of Planning and Investment, Department of Industry and Trade, Department of Science and Technology, and Department of Construction. The responsibilities of these departments are clearly defined in the provincial regulation on environmental protection in craft villages and in small to medium industrial zone.

At lower administrative levels, this responsibility belongs to the district and commune People's Committees (PCs), but at these levels there is no department responsible for environmental protection in craft villages. The PCs are responsible but they have limited authority when pollution issues exist at a community level. At the commune level, there is a land construction officer who plays the role of environmental officer and helps the commune PC with environmental management. According to the PC, this officer spends most of his time on land disputes and cannot fulfill his environmental protection duties. The PC also recommended that wastewater fee collection be done by communes instead of the DONRE.

The roles and responsibilities of civil society organizations (CSOs) and mass organizations are unclear and are not referenced in legal documents. Elsewhere, CSOs have successfully engaged local people in environmental protection but in these craft villages CSOs are passive.

Cooperation between the departments responsible for inspecting pollution sources is inconsistent. Communication between different levels of government is often poor and the commune government sometimes does not know about decisions made at higher levels. For example, by law, EVN, the national power utility, must cut off electricity to households and businesses that pollute and not turn power back on until they have installed pollution treatment systems that are certified by government. However in reality, many polluters still receive electricity. Similarly, banks do not ban polluters from borrowing or withdrawing money after violating environmental regulations as they are required to. In addition since businesses are registered with the district, the commune may not even be aware of the scale of local industrial activity. This lack of coordination highlights the need to improve communication and the participation of relevant stakeholders in the formulation of laws and regulations.

3.3 Process

The environmental management process in craft villages consists of taking steps before, during, and after activities that may have an environmental impact. In accordance with Circular 20/2006/ND-CP and Circular 21/2008/ND-CP, all entities producing or providing services must conduct an EIA (for new enterprises) or prepare an environmental protection plan (for existing ones). Most of the craft village noodle manufacturers do not comply with these regulations and no sanctions are enforced. There is much talk of inspections but in reality there is no enforcement and/or the punishment is not publicly declared.

As in many other fields, the government has decided to "socialize" environmental protection and encourages the communities, enterprises and individuals to join environmental treatment projects. To date, however, these groups have not been made aware of how to develop projects, raise funds, or manage ongoing projects.

The wastewater treatment system project for Tien Trong and Tien Ngoai hamlets in Khac Niem is a typical example. This project was funded by MARD and VAWR was responsible for the design and execution. The Commune PC raised 30% of the funds needed but the project has not yet been activated. Local people do not know why the project is not complete and have not received any information. According to the PC, the project is waiting for VAWR to provide training to operate the system, while VAWR says that it is waiting for the PC to organize the training. Implementation responsibilities were never clarified and the project has stalled as a result.

To conclude, the process of environmental management in these craft villages is neither transparent nor effective. Departmental responsibilities are not defined and the resulting confusion is contributing to poor results in terms of wastewater treatment.

4 LESSONS LEARNED FROM THE DIALOGUE

During the dialogue process, WARECOD staff faced several obstacles. Past projects had not resulted in any substantial improvement in the pollution situation and people are now skeptical that these kinds of projects will bring positive change. Also, the dialogue was conducted at a sensitive time when local government officials were preparing for the Party Congress (which is held every five years) and were anxious to avoid any issue that called into question government performance. As a result project staff received little support from local communities or government.

In this context, cooperation was hard to obtain, the quantity and quality of information was reduced, and staff had to spend a lot of time building community relationships. For the same reason, representatives of local government and mass organizations and other key individuals answered questions in a very general manner and avoided getting to the point.

It was therefore decided to move the dialogue from the commune to the provincial level. This change had advantages. Working with different levels of government highlighted the gap between policy and practice. While working with commune and district local government, valuable insights were gained into local attitudes toward environmental regulations. Local people are concerned about pollution but continue to pollute. Government staff know about pollution but do not act because they have “no clear regulation” or “direction from above”. Such gaps were very clear when lower and higher level government officials came together in the dialogue.

5 CONCLUSIONS & RECOMMENDATIONS

5.1 Conclusions

Despite widespread recognition of the environmental impacts caused by craft villages in Viet Nam, little progress has yet been made in fixing the problem. Several barriers to improving environmental conditions were proposed by the HPU report, including:

- Reluctance of villagers to change traditional production methods because of uncertainty over new production methods;
- Lack of capital to invest in wastewater treatment or new production methods;

- Fears of the inability to recover the costs of new methods or repay loans because of inability to raise prices;
- Lack of information about less-polluting production methods;
- Lack of clear regulations;
- Lack of effective law enforcement;
- Reluctance to sacrifice meeting production targets to reduce pollution;
- Reluctance of villagers to report to authorities on neighbors who are causing pollution;
- Concern that taxes will go up if investments are made in new equipments; and
- Reluctance to move to new locations to allow centralized wastewater treatment.

While all of these factors are important, it is clear from this dialogue that **the most fundamental barrier is the perceived conflict between economic development and environmental protection**. Even though local people and government authorities believe that they must choose between economic growth and poverty reduction on the one hand, and pollution control on the other, it is unlikely that much progress will be made on environmental protection. This is, however, a false and dangerous choice. Uncontrolled development will seriously damage the health and welfare of local people and discourage future generations from continuing the craft traditions.

Based on this dialogue, it can be concluded that environmental governance failings in Bac Ninh are hindering the ability to address environmental issues. In contrast to adequate participation at higher levels of government, local people have no opportunity to contribute their ideas and concerns into legislation or to participate in decision making and environmental management. This lack of communication contributes to a lack of accountability and low compliance. In addition, personal relationships can impede law enforcement and inconsistent enforcement undermines management. Finally, a lack of cooperation among different levels of government results in a gap between the theory and practice of environmental regulation.

5.2 Recommendations

Fundamental improvements require significant high-level political support to address craft village pollution. This is a long term process. In the meantime, the following steps can be taken to improve the situation.

First, provincial government should make arrangements to ensure that commune authorities and communities participate in the policy formulation process. Steps could include small meetings to discuss drafts of any regulation and secure feedback from local stakeholders. This would help capture local knowledge and ensure a sense of ownership of the resulting regulation.

Second, to clarify responsibilities, regulations should consider the human resources required to implement the regulations. Based on feedback from the dialogue, a dedicated 2-3 person community environmental management team should be set up, with appropriate remuneration, to monitor and manage wastewater treatment projects. At the village level, a team should be formed with members drawn from different organizations on a rotating basis to collect wastewater fees from households and companies.

Third, the authority to cut off electricity to polluters should be moved downward to lower levels of government that have a clearer understanding of which producers deserve penalties. One of the

main desires of commune leaders that emerged from the dialogue was to receive greater delegation of authority to address pollution.

Finally, the law must be enforced in a transparent and consistent manner. Those who avoid enforcing the law because of personal relationships should be punished. If regulations are enforced consistently then eventually the voice of the community will eliminate pollution.



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