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# Transboundary governance of the Nile River Basin: Past, present and future



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### ABSTRACT

Transboundary waters face a multiplicity of governance challenges. Transboundary waters are water resources that are shared by two or more sovereign states, and include international freshwater, international groundwater and international Large Marine Ecosystems (LMEs).

In crafting effective institutional design to govern transboundary waters, there can be no one-size-fits-all approach. Differences in approach are necessarily dependent on various political, social, economic and ecological drivers. These drivers provide the context against which the institutional architecture can be assessed and the environment within which institutional architecture should function.

This note is a case study documenting the effectiveness of transboundary governance of the Nile River Basin. It comments on the approaches to and drivers of the Basin's institutional design, and concludes with a discussion on the challenges to effective transboundary governance in the region moving forward.

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## 1. Introduction

The world's 263-plus transboundary water basins cover nearly one half of its land surface, account for an estimated 60% of global freshwater flow and support roughly two billion people globally.<sup>1</sup> They link

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<sup>1</sup> There are approximately 145 nations that have territory within transboundary water basins, with 30 nations lying entirely within them. There are 19 international freshwater drainage basins shared by 5 or more riparians countries. The Danube travels within the territory of 18 nations. The Congo, Niger, Nile, Rhine and Zambezi drainage basins are shared by

populations both within and between countries, and create hydrological and economic interdependencies (United Nations-Water, 2008).<sup>2</sup> Naturally, the utilization of transboundary waters is a potential source of friction among basin states vying for scarce resources. Sharing water resources ‘creates intricate diplomatic challenges... [often linking] states in asymmetric upstream/downstream relationships, at a time when pressures on the world’s water supplies are increasing substantially’ (Conca et al., 2006).

The competing roles in international water basins—engines of regional economic development and critical sites of biodiversity conservation make governance particularly challenging.<sup>3</sup> When basins encompass multiple sovereign states, a paramount concern is how to design and sustain institutions to equitably share and protect water resources (Sneddon and Fox, 2006; Stinnett and Tir, 2009).<sup>4</sup>

A review of the literature confirms that international water treaties that utilize formal institutions will be more likely to prevent riparian conflicts and alleviate the deleterious consequences of water scarcity for international security.<sup>5</sup> For example, specific institutional provisions can help monitor behavior, facilitate enforcement, resolve disagreements over treaty obligations, and help boost the capacity of member countries. ‘By coordinating and collaborating together via a single entity, parties will be able to generate more data and information for the shared resource, enhance collective expertise in basin characteristics and management, and develop a cadre of managers and experts who have a unique knowledge of the particular basin’ (Eckstein, 2009). Institutions also ‘play an important role in mitigating conflict and promoting cooperation by allowing resource users to handle rapidly changing physical or political conditions’ (Berardo and Gerlak, 2012).

Since transboundary waters<sup>6</sup> exhibit a wide range of existing water resource issues, there is no one-size-fits-all approach to transboundary basin management (Schreiner et al., 2011; Eaux Partagees, 2002). Partly, these differences are dependent on various political, social, economic and ecological drivers. These drivers provide the context against which the international architecture can be assessed and the environment within which it should function. In other words, the nature and characteristics of the shared water resource will drive its institutional design (Pegram et al., 2009).

This note is a case study documenting the effectiveness of transboundary governance of the Nile River Basin. It comments on the approaches to and drivers of the Basin’s institutional design, and

*(footnote continued)*

between nine and 11 countries. And there are 13 international freshwater drainage basins that are each shared by between five and eight riparian countries.

<sup>2</sup> See also: International Bureau of the Permanent Court of Arbitration, *The Resolution of International Water Disputes: Papers emanating from Sixth PCA International Law Seminar 08 November 2002* Kluwer Law International, The Hague/London/NewYork at xix; See also Wolf (2000), *Development and Transboundary Waters: Obstacles and Opportunities*. In *River Basin Management: Its Role in Major Water Infrastructure Projects*. World Commission on Dams Thematic Review at 30.

<sup>3</sup> In this context it has been observed that, despite predictions of conflict, quite a number of international river basins have seen the establishment of international agreements and also the setting up of river basin organizations. Agreements regarding governance of international waters serve not only to protect and promote sustainable development, but also affect security throughout an entire area. These international agreements tend to stabilize and enhance security at the regional level, and the security return generated is independent of the concrete ecological and economic benefits produced by such agreements. Severe deforestation, soil erosion, salinization, toxic contamination, resource exploitation, habitat destruction, drought, flooding, air pollution and water pollution are just some of the environmental calamities that can increase international tension and lead to war over international waters. Conversely, the very process of reaching accommodation while developing bilateral resources and environmental and other mechanisms for cooperation in an international waters context creates a stabilizing and more transparent atmosphere. The mere fact of negotiation usually widens political participation, builds stability and spreads confidence between sovereign states.

<sup>4</sup> See also: Dombrowsky (2008), *Institutional Design and Regime Effectiveness in Transboundary River Management—the Elbe Quality Regime*. *Hydrol. Earth Syst. 12*: 223–238, stating, “The literature on transboundary river management suggests that institutions play an important role in bringing about cooperation”.

<sup>5</sup> See: Paisley (2004), *International Water Law, Transboundary Water Resources and Development Aid Effectiveness*. *Indian Jurid. Rev.* 1:67; See also Wolf et al. (1999), Wolf, A., Natharius, J.A., Danielson, J.J., Ward, B.S., Pender, J.K., 1999. *International River Basins of the World Int. J. Water Res. Dev.* 15, 387–427 McCaffrey (2007), *The Law of International Watercourses* (2nd Ed). Oxford University Press.

<sup>6</sup> “International waters,” and interchangeably, “transboundary waters,” are water resources that are shared by two or more sovereign states and include international freshwater, international groundwater and international Large Marine Ecosystems (LMEs). International waters also include “boundary” water resources where the boundary between two or more sovereign states is formed by an international lake or river, and they include “successive” water resources where an international river (or underground aquifer) flows from one sovereign state to another.

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