

## Cooperation in the Water Resources Management in the Nile Basin and the Permanent Risk of Conflicts

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### ABSTRACT

The Nile Basin states are reluctant to undertake serious cooperation between them. All through the history, all the agreement over the use of the Nile waters have been partial bidding some of the riparian countries. All the attempts to set an inclusive treat like the Cooperative Framework Agreement in the Nile basin (CFA) came to fail. Egypt by invoking the 1929 and 1959 agreements has always managed to keep a status quo which allowed him with Sudan to use unilaterally the whole waters of the Nile basin regardless the needs of the upstream riparian states. However, new trends are drawing a new configuration of the social, ecological, diplomatic and political context in the region causing the upstream states to contest this status quo. The example of the construction and the exploitation of the Great Ethiopian Renaissance Dam (GERD) show how this already boiling region of Africa is subject to a permanent risk of armed conflict within or among countries due to lack of collaborative use of the water resources of the Nile Basin. Here we can say that the conflict over the GERD is just a “tip of the iceberg”. To mean that a sustainable management of the Nile Basin should include all the riparian states in this time that a “sine qua none” changes in use of its waters is at hand.

**Keywords:** Water resource management; Water conflicts; Cooperation; Nile Basin

### INTRODUCTION

Various agreements for sharing the water resources of the Nile river were signed during the colonial era (from the end of the 19<sup>th</sup> century) and bear witness to how the British authorities privileged Egypt and its water needs over the countries upstream even when it was also from its own colonies [1].

As shown in article IV sa of the Agreement of London of December 13, 1906 signed between France, Italy and Great Britain, all these agreements were concluded to safeguard the interests of Great Britain and Egypt in the Nile Basin, and more specifically regarding the regulation of the waters of the river and its tributaries.

However, we find that the most notable agreements on the Nile remain the agreements of 1929 and 1959. As things stand, no agreement on the Nile has ever been able to bring together all the states of the basin. However, the Nile states have always

considered its basin as a single whole, hence the need for cooperation in its management [2].

Hailou Wolde-Giorghis, former Ethiopian Ambassador to France, shows how the waters of the Nile are a major issue in relations between riparian states, which demonstrates the need and the difficulty of giving the basin a new legal regime. Indeed, the status quo largely inherited from the colonial period has a serious shortcoming in that it only meets the water needs of Egypt and Sudan, to the exclusion of nine other states upstream of the Basin, including Ethiopia, which nevertheless provides a large part of the river's flow. Thus the Nile, the largest river in the world, is today the only international African watercourse that is not the subject of an interstate management treaty at the scale of its basin.

Despite attempts to revise this current legal regime constantly challenged by Ethiopia, Egypt, which insists on maintaining the 1959 Agreement on the full use of the waters of the Nile, is

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blocking the entry into force of the Cooperative Framework Agreement (CFA) in the Nile river Basin of 2010.

## LITERATURE REVIEW

If on the one hand the lack of an inclusive cooperation agreement in the Nile Basin remains a thorny problem, on the other hand the situation is even more complicated by a lack of understanding of the reality surrounding the river and of the existing relationships between riparian states. Indeed, most analysts do not offer a real representation of the problem of the Nile because they quite often reduce it to the conflict between Egypt, Sudan and Ethiopia, ignoring the place of eight other states in the basin (Burundi, DR Congo, Rwanda, Uganda, Tanzania, Kenya, South Sudan, and Eritrea). In addition, ecological challenges with exponential population growth and water scarcity due to desertification in the region complicate water use approaches in the basin. Major projects on the Nile such as the Great Ethiopian Renaissance dam further darken the picture.

The modest objective of this study is to show that the gaps in cooperation on the management of water resources in the Nile Basin have a certain impact in the perpetuation of risks of conflict between different States of this region while they are experiencing, for the most part of them, serious internal conflicts. Our observation agrees with the assertion of Larbi Bouguerra who says that peace in the Nile Basin is threatened by behaviors that risk generating "water wars" [3].

### Eleven states of the Nile Basin, a fledgling cooperation

The management of the waters of the Nile, qualified as an international watercourse crossing 11 States, poses a problem. However, this problem only appeared recently and this in the wake of the accession to international sovereignty of these States. The central question to be settled remains Egypt's position in sharing the Nile water with the other riparian states.

The cooperation structure in the Nile Basin is only at the trial and error stage, although encouraging given the history of the region. Indeed, for a long time, the case of the Nile illustrates one of the major obstacles to the desire for cooperation: the existence of "acquired property rights" or considered as such by Egypt, which refuses to see them called into question. However, since its inception in 1999, the Nile Basin Initiative (NBI) has fostered cooperation by overcoming a legacy of mistrust and challenges between states in terms of politics, water need and development status. Today, water resource management projects are considered for their basin wide implications, and the potential for shared benefits from more equitable and reasonable use of the water resources is beginning to be incorporated. At this point, JR Nyaoro, Executive Director of the NBI secretary, asserts that achieving Nile Basin wide cooperation is not a choice but a necessity.

For this, the Member States of the Nile Basin are trying to set up an inclusive agreement for cooperation in the management of the basin. The text of the Cooperation Framework Agreement (CFA) of 2010 describes the principles, rights and

obligations for the cooperative management and development of the water resources of the Nile Basin. Rather than quantifying "equitable rights" or water use allocations, the treaty aims to establish a legal framework to promote the integrated management, sustainable development, and harmonious use of the basin's water resources, as well as their conservation and protection for the benefit of present and future generations. To this end, the treaty should establish a legal basis for a permanent and joint management institution, the Nile River Basin Commission (NRBC), which would have legal personality in order to enhance cooperation among the Nile Basin States in the conservation of the ecological integrity, the management and the development of the Nile Basin and its waters, without forgetting the resolution of the conflicts related to their use.

### The NBI and the failure of an inclusive agreement on the Nile water management

To materialize the benefits of cooperation, Nile Basin states have invested in the NBI to develop river management in a cooperative manner, share substantial socio-economic benefits and promote peace and security in the Nile Basin region [4].

Hereto, a cooperation program within the Basin has been set up (Basin cooperation program). The objective of the program is to facilitate, support and foster cooperation between the Nile Basin states in order to promote rapid and effective joint actions necessary to enable continued benefit from the common water resources of the Nile Basin. The NBI actively provides and operates an unprecedented platform for interstate dialogue and negotiation by Nile Basin Ministers in charge of Water and senior officials on issues of sustainable water management. The NBI facilitates regional liaison between water related interests and makes it more effective through the provision of strategic information.

Nevertheless, despite the efforts made, the NBI is struggling to put in place an inclusive convention on the management of the Nile Basin, which would mark an important step in the strengthening of Nilotic cooperation.

Already from 1995, even before the creation of the NBI, under the effect in particular of the drought and an increased demand for water, the upstream countries began to seriously denounce the treaties of 1929 and 1959 and to demand revision of quotas. Three arguments were advanced: These countries affirm that the water of the Nile is their property, that the treaties were signed by the colonial power, and that their development requires the passage to irrigated agriculture now that the wars which tore them apart, for decades, have ended. It is in this context that on May 22, 2010, five upstream countries signed in Entebbe (Uganda) the "Cooperation Framework Agreement (CFA) in the Nile river Basin". Unfortunately, this convention came up against the mistrust of the downstream states (Egypt and Sudan) and in the same wake led to the reluctance to adhere to the agreement from some upstream States benefiting from the technical and financial assistance of Egypt [5].

## DISCUSSION

The real outstanding issue which hinders cooperation between Nile riparian states is, indeed, the status quo resulting from the existing treaty regime, essentially stemming from the colonial era. It is at this level, moreover, that the question arises as to what is the place of the CFA in the legal management system of the Nile. If for the Upstream States they intended, through the agreement, to abrogate all previous conventions relating to the Nile River; the downstream states would use it instead to clarify the existing system.

The possible outcomes of the negotiations, except those in which the downstream riparian states are forced to give up their position, result in a status quo that is not acceptable to the upstream riparian states. The question therefore is how to change this status quo by forcing Egypt and Sudan to abandon their deeply entrenched positions. In this sense, the fateful decision to introduce into the agreement the non-legal notion of "water security", the meaning of which can be proven whatever a riparian state would want, was justified as an ingenious solution to "the thorny issue of existing treaties" [6-10].

Regrettably, this provision contained in article 14 of the CFA on water security, according to which, taking due account of the provisions of articles 4 (equitable and reasonable utilization) and 5 (obligation not to cause significant harm), the Nile States recognize that "the cooperative management and development of the waters of the Nile River system will facilitate the achievement of water security along with other benefits" is the most controversial. It is not surprising in this context that the Nile States (Egypt and Sudan facing the others) are unable to define the contours of cooperation in terms of water security and, by a double reference, charge the future NRBC to find the solution (Sohnle, 2014:234). And this means nothing other than the maintenance of the status quo in the sharing of the waters of the Nile to the chagrin of the upstream states.

Despite the facts that water is a scarce resource, and therefore potentially subject to conflict, the conflicts that the Nile Basin region has already experienced complicate the establishment of an adequate framework for cooperation.

### **Troubled political context, cause of a deficiency in the Nile cooperation?**

Egypt and Sudan have reserved the absolute right to use 100% of the river's water under agreements concluded in 1929 between Egypt and Great Britain and in 1959 between Egypt and Sudan. Unsurprisingly, over the years other basin states have challenged the validity of these treaties and demanded their revocation to make way for a more equitable management system. Nevertheless, confident of its economic and military strength in the region, Egypt continued to take advantage of the economic weakness and political instability of other Nile Basin states to consolidate his hegemony on the Nile. For instance, until 2007 according to the international institute for strategic studies, the statistics stated that "Egypt's military budget, for instance, is twice as big as the nine other riparian states combined".

The unrest that has long characterized the horn of Africa has led some analysts to say that Egypt was also encouraging instability in the region as expressed through these words of the Swiss explorer Werner Munzinger: "Ethiopia with a disciplined administration and army, and a friend of the European powers, is a danger for Egypt. Egypt must either take over Ethiopia and Islamize it, or retain it in anarchy and misery [11-14].

Notable conflicts that have affected Ethiopia's security include the Ethiopian-Somali war for Control of the Ogaden (1977-1978), the Eritrean-Ethiopian War which started in 1998 and ended in 2000, as well as the rebellions that led to the fall of Mengistu. And elsewhere, in other states of the Nile Basin, numerous conflicts have paralyzed the socio-economic development of the population, thus increasing their inability to face Egypt. Burundi has been weakened by a series of repetitive conflicts (1965, 1970-1974, 1988, 1991, 1993-2008). The DRC endured the deadly conflicts of 1996-1997 and 1998-2001, the permanent insecurity in the eastern provinces for several years, without forgetting the attempted secession in Katanga between 1960 and 1965. As for Rwanda, whose 1990-1994 conflict led to genocide in 1994, it also experienced inter-ethnic unrest in the period from 1959 to 1964. In Uganda, the end of the regime of Idi Amin Dada will be precipitated by the war between Uganda and Tanzania in 1979. Then, Uganda will experience insecurity due to the civil war of 1980-1986. In Sudan, there are two major civil wars from 1955 to 1972 and from 1983 to 2005.

Some of these states like the DRC, South Sudan and Ethiopia, with the attempted secession of Tigray since 2020, are still experiencing political unrest. It should also be noted that, like the wars in the DR Congo, these conflicts have often had disruptive effects on a regional scale.

Political instability in the basin states has benefited Egypt, which has managed to maintain its control over the use of Nile water resources. This situation can be summed up in these words which describe the conflicting relations that Egypt maintains with Ethiopia on the Nile.

"Needless to say, the ensuing turmoil and instability was beneficial for Egypt. Cairo was able to secure the flow of a disproportionate amount of water to its territory, and also to force Ethiopia to squander its scarce resources states are beginning to challenge Egypt's hegemony. The most prominent case is that of Ethiopia which, with its Great Ethiopian Renaissance Dam (GERD) and thanks to its commitment to economic development, is now trying to reverse the balance of power in the Nile Basin, especially since the great power Egypt is in the grip of an uncertain political transition which conditions its economic performance and its geopolitical influence. Thus, after decades of status quo, a change is underway in the management of the river.

Furthermore, it should be noted that in the face of potential conflicts and regional instability, the Nile Basin States continue to seek cooperative solutions. It is in this context that the NBI was born to help the riparian states of the Nile to find a consensus in the management of its water resources.

Indeed, without cooperation in the management of the Nile, conflicts will continue to cause damage in the region and the integrated management of the basin will be jeopardized to the benefit of a few.

“Collaborative management of the Nile’s water resources could act as a catalyst for peace in a region beset by conflict. If we deal effectively with shared water, we could help mitigate not only the daily struggle for life, but also the deadly battles that threaten to pit tribe against tribe, clan against clan, family against family, and neighbor against neighbor” [15].

### The conflict over the Renaissance dam, a tree that hides the forest

In the absence of an inclusive management agreement for the Nile Basin, Ethiopia has exploited this legal vacuum in terms of cooperation to turn this situation to its advantage by undertaking unilateral use of the Nile’s water resources.

If the weaknesses due to armed conflicts in the upstream states have long benefited Egypt, Ethiopia has also taken advantage of the Egyptian Arab spring to launch a large scale project on the Nile, namely the construction of the Great Renaissance dam "GERD". Since then, this project has been a source of contention for the states of the Blue Nile sub basin, namely Egypt, Sudan and Ethiopia.

The GERD situation can serve as a case study for the future development of dams in politically sensitive watersheds. The results show that the climate environmental challenges of GERD could affect the annual river flow to Sudan and Egypt and could have political repercussions.

From the beginning of the construction of the dam, direct negotiations brought together Egypt, Sudan and Ethiopia and mediation was sought with the United States, China, the African Union and the European Union. (EU) in an attempt to defuse the tension created by the start of construction. Recently, Cairo and Khartoum even managed to put the GERD issue on the agenda of the UN Security Council, in protest at Ethiopia’s operationalization of the dam without a legally binding agreement with downstream countries governing the filling and operating process [16].

The conflict between the riparian states around the GERD attracts the attention of the international community fearing an armed conflict between Egypt and Sudan *vis-à-vis* Ethiopia. Tension continues to mount following Ethiopia’s decision to proceed with the second filling before a binding agreement is reached and in defiance of the 2015 Declaration of Principles.

Egypt, Sudan and Ethiopia have been negotiating since 2011 to reach an agreement on filling and operating the dam, but long rounds of negotiations have so far failed to lead to a settlement. A few reasons can be cited:

- First, there is Egypt's desire to preserve the status quo in the sharing and use of the Nile's water resources.
- Secondly, one can note the fact that in their negotiations, all the parties declare that their needs for the use of the Nile are a matter of national security with opposing interests. It seems

difficult for Egypt to accept Ethiopia's right to use the water resources of the Nile. In this case, Egypt, which depends almost 90% on the waters of the Nile, fears that the GERD will affect its water security in a context of rapidly growing water needs due to population growth and climate change.

- And thirdly, it is Egypt's fear that the example of the GERD could serve as a precedent for the other riparian state of the Nile to establish a new basis for cooperation and use of water resources in the basin.

Meanwhile, all efforts seem to be geared towards resolving the Grand Ethiopian Renaissance Dam (GERD) conflict to the point of forgetting the whole dimension of Nile water use challenges due to the water scarcity crisis. The fact is that the Blue Nile, the White Nile and the Main Nile all together form a river basin system, hence the need to address the root causes of the water crisis across the basin. Thus, a partial agreement on how to fill the reservoir of the dam would never be a lasting solution for the resolution of water conflicts in the Nile Basin.

However, the GERD negotiations have the merit of demonstrating that an inclusive management framework for the Nile Basin was necessary to coordinate and solve the problems of cooperation. Unfortunately, in 2010, Egypt and Sudan froze their NBI membership due to disagreements over the CFA text, but Sudan returned to full membership 2 years later.

Although the immediate issue at stake-getting a technical agreement on filling the GERD reservoir is between Egypt, Ethiopia and Sudan, the broader and longer term objective should be for the eleven states including Tanzania, Uganda, the Democratic Republic of Congo, Rwanda, Burundi, Kenya, Eritrea and South Sudan to agree on a legal regime for the management of this important river. Such a meaningful resource sharing agreement should not only resolve the conflict over water use rights between riparian states, but it should help define concepts such as equitable and reasonable use and significant harm, which have been used by downstream states in their criticisms of GERD. As long as efforts focus solely on resolving the conflict over the GERD, it will still be a waste of time to find a lasting basin wide solution for successful cooperation in the region.

## CONCLUSION

Certainly, in a dynamic of continuous negotiation, the revision of the sharing of water resources between the riparian states of the Nile Basin is essential and new challenges must be taken into account, for example the sustainable management of the environment which Nikiel and Eltahir assert by saying that “optimizing ecological suitability and irrigation systems is crucial for being able to adapt to future changes more easily”.

Furthermore, to foster cooperation among all riparian states of an international watercourse, the theory of Integrated Water Resources Management (IWRM) proposes a holistic approach to water problems at the basin scale. Above all, cooperation must be based on the idea of “equality” between the riparian states of the watercourse.

In an unprecedented context (demographic pressure, balance of power, climatic uncertainties), Egypt, which has long controlled the Nile, is the country that could have the most to lose with the questioning of the status quo. But beyond its desire to maintain the status quo on the sharing of Nile water, Egypt has every interest, like the countries of the basin, in remaining on the path of political dialogue, which seems to be the only promising path for all. The common and more balanced management of the waters of the Nile, the terms of which remain to be concretely defined, could make it possible to get out of a zero sum game: the food and energy security of some does not imply that the others must give it up.

The words below sum up even better the imperative and urgency of cooperation in the management and the use of the Nile Basin water.

“The Nile riparians must understand that the river is a common resource whose effective management must be approached from a basin wide perspective. Thus, it is only through cooperation that all the eleven riparian countries can peacefully resolve conflicts over the Nile and achieve the type of water use that will contribute significantly to regional economic and human development.

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