Transboundary Water Disputes in Africa

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Overview

- The issues
- Sample case studies
- The role of international law:
  - Hard law
  - Soft law
The Issue: Geography

- Africa has a large number of transboundary rivers and lakes
- More than 80 rivers and lakes are shared by two or more countries
- All of the countries in Sub Saharan Africa share at least one river basin or lake
- Guinea is the upstream riparian on 14 shared rivers
• Mozambique is the downstream riparian on 8 shared rivers

• The Nile is shared by 10 countries, the Congo by 9, the Niger by 9, the Zambezi by 8 and the Volta by 6

• The Orange, Okavango, Senegal and Limpopo are each shared by 4 countries
The Issue: Impacts

- Increasingly unpredictable climatic conditions (temporal and spatial rainfall and unpredictable periodic drought and flood cycles)

- Significant growth in population (approximately 700 million and expected to exceed 1 billion by 2025)

- Rapid urbanisation
The Issue: Impacts

- Poor land use
- Unregulated waste disposal
- Approximately 65% of rural populations and 25% of urban populations are without adequate water
- Nearly 300 million people live in water scarce environments
The Issues: Disputes

- Only a few transboundary rivers and lakes are governed by agreements regulating their use and protection, and only a few of the agreements encompass all riparian states of the basin.

- Riparians excluded from treaties do not recognise the agreements = downstream/upstream tensions within a number of basins.
The Issues: Disputes

- Upstream projects having quantity and quality impacts on downstream users (e.g., a decrease in flow of water or flooding conditions)
- Disputes regarding the location of political boundaries where rivers are used
- Disputes regarding which countries cause adverse impacts on water quality where multiple countries utilise the same river basin
- 8 basins in Africa have been identified as being “at risk of political stresses over water resources” (Lake Chad, Incomati, Kunene, Limpopo, Okovango, Senegal and Zambezi basins)
Case Study 1: The Nile Basin
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- Nile is the longest river in the world (6,695km)
- The Nile and its tributaries flow through 10 countries
- Nile basin faces challenges of poverty (4 of its riparian countries are among the 10 poorest in the world), instability (ongoing conflicts in the Great Lakes, Sudan and Horn of Africa), rapid population growth and severe environmental degradation (especially in the East African Highlands)
Case Study 1: The Nile Basin

- There is no agreement on water allocation between the countries that is accepted by all.
- In an effort to manage these issues the Nile Basin Initiative (2003) is implementing a shared vision programme, including the Nile Transboundary Environmental Action Project to promote cooperation among the Nile Basin countries to protect water quality and ecosystems.
- International law does not at present provide a clear framework for the resolution of water conflicts in the basin as upper and lower riparians adopt self-serving interpretations of existing international agreements.
Case Study 2: Okovango River Basin
Case Study 2: Okovango River Basin

- Extends across 3 countries: Angola, Namibia and Botswana covering an area of 700,000km²
- Basin unusual as it does not drain into sea, but into large inland desert oasis at the end of the Okavango Delta in Botswana (a Ramsar site)
- Upstream water use is having an adverse impact on the sensitive Okavango Delta and its continued sustainability, (due to both quantity and quality issues)
- Resulted in the establishment of the permanent Okovango River Basin Water Commission (OKACOM) in 1994, which *inter alia* gives advice on pollution prevention
• UN Convention on the Law of Non-Navigable Uses of International Watercourses (1997) – a number of African states have signed
• Article 21 (pollution) and article 33 (settlement of disputes) will be important once implemented
• A number of African states have signed the Ramsar Convention (1971) - (33 states)
• Several multilateral environmental agreements have been signed at an African Union level
Revised African Convention on Nature and Natural Resources (2003) – (29 signatories) places an obligation on signatories to take action to *inter alia* protect water and wetland areas.

- It also regulates the settlement of disputes between parties (by agreement between the parties, alternatively through an arbitrator, alternatively through the Court of Justice of the African Union).
- Signatories must take measures to prevent impacts on other states through the discharge of pollutants to water.
Role of the Law: Hard Law

• Various national, bilateral, multilateral and regional instruments –
  – Nile Water Treaty of 1959
  – Lesotho Highlands Water Project between South Africa and Lesotho, 1986
  – Revised Protocol on Shared Watercourses in the Southern African Development Community, 2000
While shared water resources are associated with a higher risk of some form of international conflict, few water “wars” have been recorded in Africa to date.

It is however likely that Africa is at a higher risk of international conflict over water than other areas.

Shared water resources however may also offer important opportunities for international cooperation.

It is rather at a local level that violent conflicts over water or water related issues occur.
Thank you