

Evaluation of Transboundary Water Sharing Rules and Principles: The Case of The Nile River Basin

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Abstract

Transboundary waters account for a significant portion of the global freshwater resource. As such, effective water resource management should ideally have transboundary water management at its core. Despite this however, two-third of the world's transboundary rivers do not have a cooperative management framework yet. Nonetheless, numerous international treaties, laws and principles have existed throughout history to govern transboundary water allocations. Some of these principles and treaties (such as the principles of Absolute territorial sovereignty and Integrity) are limited, short sighted and archaic. On the other hand, moderating principles such as principle of limited territorial sovereignty form the basis for modern customary water laws. Forward looking principles based on a community of interest in transboundary basins seem to be the next phase in the development of transboundary water allocation and governance. The core principles of limited territorial sovereignty, i.e. the concepts of equitable and reasonable use, along with the principle of "no significant harm" form the foundation for modern water laws and are widely accepted. Regardless, since these principles are by nature vague their applicability and enforcement in existing and future water allocation frameworks is always under question. Even though developments in transboundary water management rules and principles (most notably the Helsinki rules, the UN 1997 convention and the Cooperative Framework Agreement (CFA) in the case of the Nile basin) have been achieved, the contextualization and quantifications of such rule to useable frameworks is still largely lacking. This study presents the evolution of transboundary water sharing rules and principles globally and locally for the context of the Nile. It then contextualizes and quantitatively evaluates widely accepted modern day transboundary water sharing principles on the Nile Basin to come up with a basic framework for a reasonable and equitable water allocation. Furthermore, it hypothesizes on what an equitable, reasonable, and sustainable water use framework in the Nile Basin can look like considering multiple scenarios of water allocation developed by applying the factors outlined in international transboundary water sharing rules and principles. Finally, possible recommendations for equitable and sustainable water use in the basin is forwarded by the author to collectively move forward.

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The author believes that a sustainable and reasonable water allocation framework is imperative for the peaceful and beneficial co-existence of all parties involved in transboundary water agreements. Critical evaluation of current frameworks, especially contested frameworks as is the case of the Nile basin, will not only allow for a rational discourse on an otherwise emotionally charged subject, but can also be indicative of the way forward towards a sustainable and equitable water allocation framework by highlighting what is or isn't currently in line with internationally accepted principles.

Keywords: Transboundary rivers, Nile Basin, Water sharing principles, Water allocation framework