

# **The Role of Power and Institutions in Hydrodiplomacy:**

*Does Realism or Neo-Liberal Institutionalism offer a stronger theoretical basis for analysing inter-state cooperation over water security?*

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## ABSTRACT

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This paper explores the influence of power and institutions in determining the process and outcomes of inter-state interactions over transboundary water, with the purpose of concluding whether a neo-realist or neo-liberal institutionalist framework is a more useful tool for analysing future inter-state interactions. Two case studies are presented - the Nile and Mekong River regimes - and the hydro-political bargaining process in the development of each is examined, exploring whether the outcome of the process varies according to the degree of power asymmetry and institutional capacity present in each.

The study finds that while more powerful riparians seek relative gains over weaker parties through the cooperative process, more stable and equitable agreements are possible in areas where institutional capacity is strong and, in such cases, neo-liberal institutionalism can be a useful tool for analysis. Conversely, in areas where such capacity is weak or non-existent power plays a more prominent role and realism can be a more useful theoretical framework for analysis. However, it is also argued that a more pluralistic approach to analysis of future inter-state interaction over water security would prove beneficial as such a method would allow the observer to account fully for the range of factors and nuances affecting the cooperative process which are otherwise excluded by using just one theoretical lens.

**Key words:** Neo-Realism, Neo-Liberal Institutionalism, Hydro-Politics, Power, Regimes, Multilateralism, Cooperation, Nile River, Mekong River.

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# 1. INTRODUCTION

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*'I'm a hydrologist who's discovered that hydrology and economics don't matter. The only thing that matters is politics.'* JA Allen<sup>1</sup>

Water is a highly strategic resource at every level of society. There is no substitute for water and reliable access to it is fundamental to human and environmental health as well as economic development. But the world's supply of 'easy' water is already scarce and becoming scarcer due to a changing climate and population rise placing considerable pressure on its availability and quality across the world<sup>2</sup>. Existing freshwater sources are naturally unconstrained by man-made perceptions of political, economic and cultural boundaries. There are hundreds of international river basins and aquifers in the world, many of which are shared amongst several different states and across cultural divides, affecting about 40% of the world's population<sup>3</sup>. This high degree of interdependency necessitates a level of collaborative management among states and any unilateral over cooperative action can lead to conflict among co-riparians<sup>4</sup>. However, despite repeated warnings of potential 'water wars' by statesmen and academics, history has shown that states have always resorted to cooperative interactions rather than conflicts<sup>5</sup>.

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<sup>1</sup>Allan, personal interview with author.

<sup>2</sup> It is estimated that only 0.007% of total world water is available for human consumption, with a further 1.75% captured in icebergs (Wolf & Priscoli, 2009: xxi). UNESCO estimates that climate change will account for 20% of the increase in global water scarcity by 2050 (UN/WWAP, 2003: 10).

<sup>3</sup> Wolf, 1998: 1

<sup>4</sup> For the purpose of this study 'riparian' will indicate a State in whose territory part of an international river is situated.

<sup>5</sup> Wolf, 1998: 5-6; UN/WWAP, 2003: 25

But just how cooperative have these interactions been? Many leading studies note that, although avoiding the emergence of violent conflict, such inter-state cooperation over shared water sources is rarely equitable and control over or benefits received from the process vary depending on the level of power enjoyed by each riparian<sup>6</sup>. This paper explores the assertion that power is the overriding determinant in the process and outcomes of inter-state cooperation over shared water sources with the purpose of determining whether such a realist perspective is the most useful theoretical framework for analysing future interaction, or whether there is a case for applying the framework of neo-liberal institutionalism to inter-state cooperative processes.

These two schools of thought are particularly applicable to this debate because their influence is evident in much of the literature surrounding water security, conflict and cooperative management that has developed since the early 1990s. Specifically, realist and liberal scholars have debated whether threats to water quality and quantity, and the environment in general, constitute a security concern for states. The question is significant as it brings to the fore a key assumption within realism which contends that a state's primary concern is national security, traditionally defined as a military threat, and that politically lower matters can be let to its technocrats. Liberal institutionalists on the other hand contend that the focus solely on military security does not sufficiently encompass the many threats faced by nations, and the understanding of security needs to be re-conceptualised to integrate non-military threats, or 'low political issues, such as environmental security. Homer-Dixon argues that the strict realist paradigm forces its proponents to

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<sup>6</sup> Gleick, 1993; Homer-Dixon, 1995; Stucki, 2005; Kramer, 2008; Zeitoun & Warner, 2006

‘squeeze’ environmental issues into the school’s narrowly defined structure of concepts which results in theorists giving insufficient emphasis to environmental problems<sup>7</sup>.

However Gellers notes that the compatibility of the realist school with addressing environmental issues has been enhanced through an increasing literature securitizing the environment<sup>8</sup>. Securitization is the process which removes a political issue from the regulatory norms of political or academic deliberation by portraying it as ‘either a special kind of politics or as above politics’<sup>9</sup>. This process allows a normally low political issue, say water quality, to be taken out of the hands of technical personnel and transported into the security agenda of a state. Although the security literature draws from the Copenhagen rather than the realist school, Barnett, Dinar, Yohanes and Brown all argue that the successful securitization of environmental issues has placed environmental security firmly in the arena of ‘high politics’<sup>10</sup> and allowed water resources to take on ‘geopolitical dimensions’<sup>11</sup>.

Many works anticipate that such securitization will lead to militarization of water sources and eventually to violent conflict over shared basins<sup>12</sup>. Gleick is one of several authors to write extensively about the likelihood of water sources as ‘both objectives of military action and

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<sup>7</sup> Homer-Dixon, 1991: 84-85

<sup>8</sup> Gellers, 2010: 2

<sup>9</sup> Buzan et al., 1998: 26

<sup>10</sup> Barnett, 2003: 2; Brown et al, 2007: 1-2; Dinar, 2002:229-253

<sup>11</sup> Yohannes, 2009: 78

<sup>12</sup> More recent studies include: Paskal, 2007: 7; Hensel & Brochmann, 2007; Abbott, 2008: 6; Brown & Crawford, 2009: 28

instruments of war' in the near future<sup>13</sup>, whilst Naff places water scarcity squarely within a realist context:

'In sum, the strategic reality of water is that under circumstances of scarcity, it becomes a highly symbolic, contagious, aggregated, intense, salient, complicated, zero-sum, power and prestige-packed issue, highly prone to conflict and difficult to resolve.'<sup>14</sup>

Agreeing on the saliency of water scarcity to create or exacerbate international tensions, Levi argues that the 'water wars' hypothesis lacks any empirical examples of water as a driver of violent conflict<sup>15</sup>. Wolf goes further to cite examples of over one thousand cooperative events over water sources throughout history, compared to 507 water disputes, none of which were violated. These include agreements signed by southern African nations in war time; secret negotiations between Israel and Jordan and all of the Nile Basin riparian states<sup>16</sup>. In a purely neo-liberalist viewpoint Conca asserts that such cooperation yields tangible environmental, economic, and political gains for all involved<sup>17</sup>.

Zeitoun, Warner and Mirumachi accept the weak causal link between water competition and conflict, but warn that a focus on the quantity of inter-state cooperation alone fails to adequately analyse the quality of the cooperative process, and therefore risks over emphasising its benefits<sup>18</sup>.

Zeitoun's theory of Hydro-Hegemony suggests that 'power relations between

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<sup>13</sup> Gleick, 1993: 79

<sup>14</sup> Naff, 1992: 25. Quoted in Stucki, 2005: 16

<sup>15</sup> Levi, 1995: 56-57

<sup>16</sup> Wolf, Kramer et al., 2009

<sup>17</sup> Conca, 2005 : 154

<sup>18</sup> Zeitoun & Warner, 2006; Zeitoun & Mirumachi, 2008

riparians are the prime determinants of the degree of control over water sources that each riparian attains'<sup>19</sup> and that the compliance of the weaker riparian(s) to the preferences of the basin's hegemon is a significant factor in the absence of violent conflict over shared water sources.

Noting that political power is asymmetrically distributed in many international basins, Zeitoun and Warner posit that the politically stronger riparian in a given international water setting deploys various 'compliance producing mechanisms' to attain and maintain control, at times unilaterally, over the shared water resources<sup>20</sup>. This power can be exerted either negatively, through domination with a zero-sum goal, or positively by taking a leadership role which produces an outcome that benefits all actors<sup>21</sup>. Such control over the cooperative process creates positive externalities which are viewed as beneficial (absence of conflict; better management of resources etc) and legitimise the actions of the hegemon. But Hydro-Hegemony theory argues that what is viewed as a more favourable outcome by the more powerful state may be less favourable from the weaker party's perspective. In this light, 'what may seem like genuine co-operation is rather a "coercive" function'<sup>22</sup> and an uncritical acceptance of traditional forms of cooperative arrangements may in fact sustain a conflict it was intended to transform<sup>23</sup>.

The conclusion that relative power determines the degree of control over water sources each party to an agreement is able to attain is strong and well founded, and its influence is evident in policy prescriptions for best

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<sup>19</sup> Zeitoun & Warner, 2006: 436

<sup>20</sup> *ibid*: 444-445

<sup>21</sup> *Ibid*: 436

<sup>22</sup> Jägerskog, 2008: 2

<sup>23</sup> Zeitoun & Mirumachi, 2008: 297

practice water cooperation, particularly concerning bilateral agreements<sup>24</sup>.

Nevertheless, it is important to question whether the strong realist assumptions underpinning this analysis are the most useful framework for analysing inter-state interactions, or whether this limits the perception of the benefits that co-riparians can gain from cooperation.

This paper examines the political bargaining process within two different multilateral settings, exploring whether the outcome varies according to the degree of power asymmetry and institutional capacity present in each.

The following chapter offers a brief overview of the key concepts analysed, namely power, regimes and institutions, as well as an outline of the main assumptions of realism and neo-liberal institutionalism and the predictions for multilateral cooperative processes posited by each. The third chapter describes the methodology used to explore the question and details the criteria used to establish whether more powerful states have gained disproportionately from the cooperative process. The fourth and fifth chapters apply these criteria to the development of multilateral cooperative interactions in the Nile and Mekong Rivers. In each case varying degrees of power and institutional capacity are presented and analysed.

Lessons learned from the studies are presented in the final chapter, concluding that stable and more equitable agreements are possible in areas where institutional capacity is strong and in such cases neo-liberal institutionalist theory can be a useful framework for analysing or predicting outcomes of collaborative inter-state processes over shared water sources.

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<sup>24</sup> Dore et al., 2010; Phillips & Jägerskog, 2006; Stucki, 2005; Wolf & Priscoli, 2009

Conversely, in areas where such capacity is weak or non-existent power plays a more prominent role and realism can be a more useful theoretical framework for analysis. However it is also noted that relying on one or the other of these theoretical frameworks limits the analyst's conception of reality and risks excluding important factors and nuances within the cooperative process. A more useful approach would be to apply a form of theoretical pluralism in any future analysis.

## 2. OUTLINE OF KEY CONCEPTS AND THEORETICAL FOUNDATIONS

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This chapter outlines the key concepts and theoretical foundations which will be referred to throughout the paper. The chapter starts by defining how power, regimes and institutions are understood within the context of this study, followed by an outline of the main assumptions inherent in realism and neo-liberal institutionalism. Subsequently a description of how water and water security are framed within each tradition is provided before defining the key difference between the two theories applied to the question of this study.

### KEY CONCEPTS: POWER, REGIMES AND INSTITUTIONS

#### *Power*

Defining the concept of ‘power’ in international relations is a complex and ongoing theoretical debate and one which cannot be given justice within the constraints of this paper. However it is important to outline how power is defined throughout the study in order to examine the effect of its differing levels on the cooperative process. A commonly accepted understanding of power as presented by Dahl is the ability to get another actor to do what it would not otherwise have done<sup>25</sup>. In addition Keohane and Nye posit that power can ‘also be conceived in terms of control over outcomes’<sup>26</sup>. For Waltz, the father of neo-realism, the most obvious and visible indication of power can be found in a state’s material capabilities, such as its territorial and population size and military and economic strength. Less tangible and immaterial indicators of power are a state’s stability of governance, level of

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<sup>25</sup> Goldstein, 1996: 53-54

<sup>26</sup> Keohane & Nye, 2000: 11

political alliance and access to knowledge<sup>27</sup>. For Nye, a chief architect of neo-liberalism, power can also be indicated by a state's ability to persuade, rather than coerce, another actor to alter its behaviour through 'communications, organizational and institutional skills, and manipulation of interdependence'<sup>28</sup>. These two forms of power can be defined as 'material' power and 'soft' power respectively, and collectively, these material and immaterial capabilities translate into influence.

In the case of hydro-political relations, Dinar notes that riparian position plays a role in defining a state's relative power in its relations with co-riparians, also noting that 'the weakest party, militarily and economically, may be in control of the origins of the source or encompass the majority of the waterway in its territory'<sup>29</sup>. The power stems from the distinct advantage that geography provides an upstream state to manipulate the flow of water through damming or diversion<sup>30</sup>. Dinar's assertion of geographical power is illustrated by Turkey which maintains a hegemonic stance in relation to the Tigris and Euphrates Rivers, and similarly by China in the Mekong River system. However this paper argues that although geographical location can be an advantage in the level of power held by a state, capabilities rather than riparian position enable states to gain the relative power position within a basin. This is evident in the cases of Egypt and Israel, both of which hold a dominant position in relation to their co-riparians from a lowest and mid-stream vantage point respectively. Therefore, determining a state's relative power position for the purpose of this study will be indicated primarily by its material and

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<sup>27</sup> Goldstein, 1996: 53-54

<sup>28</sup> Nye, 1990: 158

<sup>29</sup> Dinar, 2000: 379

<sup>30</sup> Zeitoun & Cascão, 2010a: 31

immaterial capabilities vis-à-vis its co-riparians. The employment and effects of ‘material’, ‘soft’ and ‘collective bargaining’ power by all states involved in the cooperative process will be analysed with the purpose of determining whether a state’s relative power position affects its control of the process.

### *Regimes and Institutions*

The standard understanding of an international regime, as identified by Krasner, is ‘implicit principles, norms, rules, and decision-making procedures around which actors’ expectations converge in a given area of international relations’<sup>31</sup>. This shared agreement over the principles and rules of order - the ‘rules of the game’ - permit patterns of cooperation which are practiced through the structures and mechanisms of institutions, created by states to govern the behaviour of states within the values of the regime. The constitutional order within which institutions exist limits the exercise of power by allocating rights to member states, regulating competition and facilitating coordination instead. The power and utility of institutions ‘emerges from the benefits members derive from participation in them. Institutions do things for members that they cannot do without them’<sup>32</sup>.

In the context of governing water use, regimes can be identified in two ways: those governing international water use generally, such as the *1997 UN Convention on the Law of the Non-Navigational Uses of International Watercourses* which establishes general principles for the use of transboundary water, and those which are negotiated to govern a specific area

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<sup>31</sup> Baylis & Smith, 2005: 373

<sup>32</sup> Gourevitch, 1999: 138

where multiple interests over water use exist<sup>33</sup>. This study examines the influence of commonly agreed rights, values, norms and principles on the cooperative process of the latter.

## THEORETICAL FOUNDATIONS: REALISM, LIBERALISM AND HYDRO-DIPLOMACY

Two of the key theories in the academic analysis of international relations are realism and neo-liberal institutionalism and it is through these opposing concepts that the debate over the influence of power and institutions on the collaborative process in water agreements will be explored. These two schools of thought are of particular relevance to the focus of this study because, as demonstrated in the previous chapter, the influence of both is prominent in much of the literature and policy promotion surrounding environmental security, conflict and cooperative management. Therefore an exploration of the constructiveness of using either theory in analysing inter-state interactions over transboundary water is essential for analysis of future interactions.

### *Realism*

Realism is arguably the most dominant school of thought in international relations. The main assumption of the theory is that states are rational actors which seek, above all else, to maximise their relative power vis-à-vis all other states in an endless struggle for survival<sup>34</sup>. The classical realist school painted state behaviour as merely a reflection of human nature which it assumed to be inherently selfish. Structural or neo-realism went on to contend that it is the

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<sup>33</sup> Jägerskog, 2001: 3

<sup>34</sup> Baylis & Smith, 2004: 174-174; Goldstein, 1996: 54

structure of the international system, rather than human nature, which is the major determinant of state behaviour. As global politics takes place in an anarchic system with no overarching authority to regulate the actions of states, neo-realists argue that states have only themselves to rely on for their survival, a situation which fosters ‘fear, jealousy, suspicion, and insecurity’ amongst the system’s actors<sup>35</sup>. This anarchic structure compels the state to favour self-help behaviour over cooperative behaviour in order to survive, an act which in itself fosters further suspicion and insecurity amongst other states, creating a security dilemma and a system in which states continually compete to maximise their security<sup>36</sup>. Realists contend that states seek security by maximising their relative power vis-à-vis all other states - their only concern is whether they are falling behind or overtaking the capabilities of other states<sup>37</sup>. This understanding of neo-realism provides the realist framework referred to in this paper.

### *Neo-Liberal Institutionalism*

Neo-liberal institutionalism (referred to hereafter as ‘institutionalism’) is one of the most influential theories of the Liberal school and is regarded as a ‘sophisticated challenge’ to neo-realist thinking<sup>38</sup>. Institutionalists agree with realists on the anarchic structure of the international system but insist that the system is not without rules. Institutionalists such as Keohane posit that cooperation, and ultimately peace, can emerge through the development of norms, regimes and institutions which act as an ‘intermediating factor between the power structures of the international system and the political bargaining,

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<sup>35</sup> Baylis & Smith, 2004: 166

<sup>36</sup> Holsti, 1994: 5

<sup>37</sup> Goldstein, 1996: 55

<sup>38</sup> Baylis & Smith, 2004: 195

which takes place within it<sup>39</sup>. Like realism, institutionalism regards the state as a key actor in international relations but criticises realism for its exclusively state-centric perception, pointing to an increased interdependence between the state and non-state actors brought about by globalisation. Institutionalists argue that such interdependence compels the state to cooperate over low political issues where they share a common interest (such as trade and development) and that states with common interests will try to maximise absolute gains for all parties involved. Keohane and Nye also contend that, since the end of the Cold War, inter-state cooperation has extended beyond low-politics due to the increased globalisation of security concerns. This has necessitated the creation of international regimes that promote inter-state cooperation and policy coordination<sup>40</sup>. Institutionalists contend that through cooperation states seek to maximise their absolute gains and are less concerned with the relative gains of other states.

#### HYDRO-POLITICS: WATER IN THE REALIST AND INSTITUTIONALIST PERSPECTIVE

Given the sole focus on maximising national security, realists have traditionally perceived water as a low political issue. However as water is both scarce and vital to human survival, water security is rapidly becoming a core national security concern in many arid and semiarid regions<sup>41</sup>. When water is viewed as a strategic and finite resource which perpetuates wealth and relative political leverage, continued access to water resources becomes a zero-sum game in which shared water becomes the object of competition.

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<sup>39</sup> Jägerskog, 2001: 2

<sup>40</sup> Keohane & Nye, 1973: 164

<sup>41</sup> Sullivan *et al.*, 15-30; Brown & Crawford, 2009

Given that the struggle for survival in an anarchic system compels states to maximise their relative security, competition for strategic water resources becomes a rational choice for states as it ensures ‘not only their continuing existence but also the reproduction and expansion of the conditions necessary for adaptation’<sup>42</sup>. Therefore, for the realist, unilateral action or conflict over water sources can be seen as a rational choice for states.

Institutionalists, on the other hand, have always considered environmental issues as a matter of concern, and argue that any shared water source weaves states into ‘a tightly-knit and highly complex web of environmental, economic, political, and security interdependencies’<sup>43</sup>. Given the interdependent nature of water, hydro-political cooperation becomes the most profitable action for states because it enhances the economic, political, social, and environmental gains for all actors that unilateral action would prohibit<sup>44</sup>. Therefore, for the institutionalist, better management of water is a shared benefit which encourages cooperation over conflict by any rational actor.

#### HYDRO-DIPLOMACY: AN ARENA FOR ABSOLUTE OR RELATIVE GAINS?

As is evident, even from this brief outline, there are many similarities between these two schools of thought, most notably the consensus that states act in an anarchic environment and seek to maximise their security and power.

However the key difference between realism and institutionalism is whether

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<sup>42</sup> Sterling-Folker, 2002. Quoted in Yohannes, 2009: 79

<sup>43</sup> Elhance, 2000: 203

<sup>44</sup> *ibid*: 213

states are chiefly concerned with maximising their relative or absolute gains through the cooperative process.

Realism contends that although the long-term benefits offered by cooperation are a goal worthy of pursuit, the anarchical system will always compel its actors to settle for short-term relative gains, as demonstrated through the metaphor of the 'prisoner's dilemma'<sup>45</sup>. Institutionalists counter that the logic of pursuing short-term gains becomes counterproductive when states work through an institutional setting because, unlike the situation posed in game theory, situations persist over time and add the element of reciprocity to the calculations of each actor. This setting, institutionalists argue, means that rational states will recognise that pursuing absolute gains for all actors through cooperation is more attractive than the consequences of unilateral action.

But to the neo-realist the crux of the question is not whether all parties gain from cooperation, but who will gain more if there is cooperation<sup>46</sup>. With such a strong focus on mistrust and self-help behaviour, the realist school paints international cooperation amongst states as a rare occurrence. However realists recognise that states do operate cooperatively through institutions, but contend that this only occurs when states are able to maintain or maximise their relative power<sup>47</sup>. Realist tradition views international institutions as nothing more than a reflection of power relations in the international system -

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<sup>45</sup> In which two prisoners in separate cells can choose to cooperate by staying silent or betraying one another. If both remain silent, both gain equally. If both betray, both lose equally. If one betrays and the other stays silent, the betrayer gains substantially more than the silent one. Both prisoners are rational and will therefore choose to betray in the hope that the other stays silent. Consequently both end up worse off than if they had cooperated.

<sup>46</sup> Baylis & Smith, 2004: 210

<sup>47</sup> Mearsheimer, 1994-95: 13

a veil under which the real ulterior motives of major powers are hidden and a ‘forum in which the acquiescence of the less powerful can be attained’<sup>48</sup>.

This prominence of power politics within a cooperative setting is the key difference between the two schools of thought which underpin the assumptions of the Hydro Hegemony theory and similar studies: that asymmetrical power relations allow more powerful states to use the cooperative process to secure relative gains under the veil of absolute gains for all parties. The following chapters will explore this assertion by examining the development of inter-state cooperation over the Nile and the Mekong Rivers, and question whether the outcome of the cooperative process has allowed all riparians to benefit or whether the most powerful riparian has achieved relative gains at the expense of its co-riparians.

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<sup>48</sup> Knight, 1999: 279

### 3. METHODOLOGY

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Leading studies of international hydro-political interactions note that asymmetrical power relationships are sustained in bilateral water sharing agreements, typically resulting in outcomes weighted in favour of the more powerful party<sup>49</sup>. This study examines whether the same outcome emerges when applied in a multilateral setting. In the following chapters the political setting within two cases of multilateral regimes<sup>50</sup>, one in Africa and one in Asia, are analysed with the intent of determining whether the existence of power asymmetry works in favour of the most powerful state.

The use of case studies as subjects of analysis is an appropriate way of exploring the question at hand because it provides a detailed examination of the operation of casual mechanisms in individual settings, and allows observation of the conditions in which outcomes differ across cases<sup>51</sup>. Given the obvious attraction of bilateral agreements (low complexity and a higher level of control for both parties), examples of multilateral institutionalised interactions between states over water sources are relatively few, limiting the data samples available for such study. However, the two cases presented for analysis - the Nile and the Mekong River regimes - have been chosen due to the parallels which can be drawn between them: both cases are examples of water regimes created to govern major river sources on which several states are dependent, both involve multiple actors at varying levels of development

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<sup>49</sup> Wolf & Priscoli, 2009; Kramer, 2008; Zeitoun & Warner, 2006; Dinar, 2000b

<sup>50</sup> The term 'regime' rather than 'institution' is used selectively here because the analysis of the cases presented, while including interactions within formal structures, also incorporate interactions outside of organised structures, such as external actors which influence the regime or practices and norms which developed prior to an institution's inception.

<sup>51</sup> George & Bennett, 2005: 21

and interdependence, and importantly for this study, the process of the development of each regime can be traced over decades.

Additionally, both case studies can be classified within the same taxonomy of hydro-political regime. Zeitoun notes that three regime categories exist within hydro-politics: egalitarian, dominative and hegemonic<sup>52</sup>. Egalitarian regimes, such as the EU Water Framework Directive, exist within a wider political setting based on equality. Dominative regimes, such as those created to govern the Ganges by colonial Britain, exist within a converse political setting in which there is a dominant power governing with no pretence of equality. Finally, hegemonic regimes exist within a wider political setting somewhere between the former and the latter - where power asymmetry between states is so large that there is the pretence but not the practice of equality<sup>53</sup>. It is argued here that both the Nile and Mekong Rivers have the presence of a hegemon, and the existence of considerable power asymmetries make both cases particularly suited to analysing the role of power and institutions in the outcome of inter-state water cooperation.

As authors of similar studies have noted, achieving access to primary empirical evidence of hydro-political negotiations is difficult due to the often confidential nature of the process<sup>54</sup>. Therefore this study is conducted using research drawn from several formal, semi-structured and open-ended interviews with relevant academics and experts, as well as analysis of legal documents where possible and secondary resources.

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<sup>52</sup> Zeitoun, personal interview with author.

<sup>53</sup> Warner, 2010: 12

<sup>54</sup> Allan, 2007: 3, Phillips & Jägerskog, 2006: 9

## CORE CRITERIA USED FOR ANALYSIS

In the two cases studied varying degrees of relative power and institutional capacity are presented in order to examine under what conditions, if at all, the most powerful riparian is able to use the cooperative process to achieve relative gains at the expense of its co-riparians. For the purpose of this study a set of three criteria have been developed, based on the ‘negative effects of power asymmetry’ listed by Zeitoun in his Hydro-Hegemony theory<sup>55</sup>, which will be used to identify a relative or an absolute gain throughout the study:

1. *Structural quality*: This refers to the institutional structure of the cooperative process. Is the structure one in which all parties have an equal grounding, or one which is defined with its own set of inequalities in favour of most the powerful state?
2. *Control of decisions*: Ascertaining the level of control over the process which is held by each party. Does the most powerful state take larger or absolute control of the process?
3. *Allocation of resources and benefits*: Referring to the outcome of the cooperative process. Evidence of whether all parties gain absolutely or whether the most powerful state gains at the expense of its co-riparians.

The following two chapters will begin by applying the above criteria to an analysis of each regime, before exploring the influence of power and institutional setting in determining the process leading to the regime’s formation.

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<sup>55</sup> Zeitoun & Warner, 2006: 439

## 4. THE ROLE OF POWER AND INSTITUTIONS IN HYDRODIPLOMACY I: THE CASE OF THE NILE RIVER

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### OVERVIEW

Transboundary water: *Nile River*

Cooperation timeline: *1959-present*.

States involved: *Egypt, Sudan, Rwanda, Uganda, Tanzania, Zaire, Ethiopia, Kenya, Eritrea, and Burundi*.

### BACKGROUND

The Nile River is the longest international waterway in the world and flows between ten states in north and east Africa, namely Egypt, Sudan, Rwanda, Uganda, Tanzania, Zaire, Ethiopia, Kenya, Eritrea, and Burundi. The river's source is from basins in Ethiopia and Uganda, whilst Egypt is the lowest riparian. More than 300 million people of the Nile Basin countries depend on its water, and this figure is expected to reach 500 million by 2025<sup>56</sup>. Most of the legal framework for use of the river was created by Britain, France and Italy during the colonial period and entirely favoured Egypt. Only one post-colonial agreement was created, bilaterally between Egypt and neighbouring Sudan in 1959, in which Egypt maintained a right to the vast majority of the Nile's water and the right to veto river development projects upstream.

Following decolonisation many upstream riparians contested the legality of the inherited water regime but all proposals to create new agreement based on 'fair and equitable use' were blocked by Egypt. In the mid 1990s an international mediation process began which culminated in the Nile Basin

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<sup>56</sup> Xinhua, 2010.

Initiative (NBI), a World Bank funded partnership of all ten riparians launched in 1999. The NBI is a temporary structure whose aim is to provide ‘a framework through which its member states can cooperatively develop the resources of the Nile Basin to fight poverty and promote socio-economic development in the region’<sup>57</sup>. The goal of the member states was to use the NBI as a vehicle to negotiate a new legal and institutional ‘Cooperative Framework Agreement’ (CFA) that would form the basis for a permanent institution. In 2006 the NBI took on permanent institutional status as the Nile River Basin Commission (NRBC)<sup>58</sup> despite the CFA not being ratified. The negotiations were deadlocked over article 14(b) of the CFA which obliges all riparian states ‘not to cause significant harm to the water security of any other Nile basin countries’<sup>59</sup>. Egypt’s insistence that the article read ‘not to adversely affect the water security of current users and rights of any other Nile basin countries’<sup>60</sup>, was seen as a refusal by Egypt to negotiate its historic ‘acquired rights’<sup>61</sup> to the majority of the river’s water. The situation changed in May 2010 when four of the upper-riparian states (Rwanda, Ethiopia, Uganda and Tanzania) adopted the CFA with article 14(b) worded according to their preference which, if ratified by all states, will replace the 1959 agreement, including Egypt’s right to veto upstream development projects<sup>62</sup>. It is widely expected that the Kenya, Burundi and the Democratic Republic of

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<sup>57</sup> World Bank: NBI Overview

<sup>58</sup> Kagwanja, 2007: 321

<sup>59</sup> Agreement, 2010: Annex on Art 14(b)

<sup>60</sup> *ibid*

<sup>61</sup> United Arab Republic and Sudan Agreement, 1959: First (1)

<sup>62</sup> Simon, 2010

Congo will also sign the agreement in the next twelve months, whilst Egypt and Sudan have so far refused to sign<sup>63</sup>.

#### REGIME ANALYSIS: MEETING RELATIVE OR ABSOLUTE GAIN CRITERIA?

Up until the inception of the NBI, Egypt clearly held the largest political leverage of the ten riparian states. Its geo-strategic position enabled it to enjoy strong economic and political relations with the United States, Europe and Middle Eastern states and, through a history of British-backed development and international funding, it possessed the most diversified economy and strongest military might of the ten riparians<sup>64</sup>. Despite its lowest-riparian position, Egypt's influence over the Nile water regime during this time was unparalleled and met all three of the proposed 'relative gain' criteria:

*1. Structural quality:* The inherent structural inequality of the regime in favour of Egypt was created by colonial empires between the 1890s and 1960s, when Britain, through agreements with France and Italy, blocked development of the Nile by any of the upstream colonies in order to ensure maximum flow into British-controlled Egypt<sup>65</sup>. The last of the colonial era treaties, the *Exchange of Notes Regarding the Use of the Waters of the Nile for Irrigation of 1929*, gave Egypt nearly exclusive rights to controlling the Nile's flow and institutionalised the belief that Egypt had a 'natural and historic right' to the Nile's water<sup>66</sup>. Structural inequality was further maintained after independence when Egypt and Sudan bilaterally distributed the Nile's waters

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<sup>63</sup> Mayton, 2010

<sup>64</sup> Cascão, 2009: 248

<sup>65</sup> McKinney, 2003

<sup>66</sup> Cascão, 2009: 245

in their entirety to the exclusion of all upper-riparian states through the *1959 Agreement for the Full Utilisation of the Nile Waters*<sup>67</sup>.

2. *Control of decisions*: This agreement also gave Egypt absolute control over decisions affecting the river flow by explicitly allowing it to build dams for its own development whilst holding the sole right to veto development projects upstream<sup>68</sup>.

3. *Allocation of resources and benefits*: The bilateral agreement also allocated the lion's share of the Nile to Egypt (55.5 billion cubic meters a year or 87% of the total flow) whilst allowing Sudan a right to the remaining 13%<sup>69</sup>.

The inequity within the regime allowed Egypt to develop faster than the other riparians and therefore secure its relative power and leverage in the region. Further, the 'need' for water created by the development process in turn legitimised Egypt's continued overuse of the river<sup>70</sup>. The ability of Egypt to use its leverage to secure its interests at the expense of its co-riparians became most evident during the Ethiopian famine of the 1980s when Ethiopia proposed to develop dams which would have allowed it to use Nile water to address its food scarcity. Framing this as an affront to its national security, Egypt was able to use its regional leverage to block the African Development Bank from assisting Ethiopia financially with the proposed projects<sup>71</sup>.

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<sup>67</sup> United Arab Republic and Sudan Agreement, 1959: preamble

<sup>68</sup> *ibid*: Second (1), Fifth (1)

<sup>69</sup> *ibid*: Second (2)

<sup>70</sup> Brown, personal interview with author.

<sup>71</sup> Swain, 2002: 298

## THE INFLUENCE OF INSTITUTIONS ON THE COOPERATIVE PROCESS

The NBI was set up at the behest of the upper riparians due to frustration with the inequality of the inherited regime governing the Nile, and following failed attempts by the upstream states to create development projects bilaterally with Egypt in order to meet their increasing water needs. As Dinar notes, ‘the initiative by the regional Nile governments in 1997 to request the aid of the World Bank demonstrates the riparian's dissatisfaction with the negative trend in their consultations’<sup>72</sup>. Comprised of a Minister of Water Affairs representing each state, and tasked with the explicit goal of reaching ‘equitable utilization of, and benefit from, the common Nile Basin water resources’ for all riparians<sup>73</sup>, the institution’s inception was heralded as representing ‘a deep commitment by the Nile riparian countries to foster cooperation and pursue jointly the sustainable development and management of Nile water resources for the benefit of all’<sup>74</sup>. The new institutional setting allowed the weaker riparians to challenge the legality of the 1959 regime created without their consent by calling for a new multilateral agreement based on the internationally recognised principle of ‘equitable utilisation’<sup>75</sup> to be negotiated. Ethiopia in particular, which contributes 85% of the Nile’s flow and whose geographical position holds tremendous potential for water storage, hydropower generation and irrigation from the river, stood to gain considerably from any reallocation<sup>76</sup>.

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<sup>72</sup> Dinar, 2000a: 198

<sup>73</sup> Nile Basin Initiative: NBI Background

<sup>74</sup> Metawie, 2004: 1-2

<sup>75</sup> Convention, 1997: Art 5

<sup>76</sup> Elhance, 2000: 205

Given realism's assertion that maximising relative power is the core priority of states, what incentive would Egypt have to agree to join a cooperative institution which would put it on an equal footing with its politically weaker co-riparians, and even provide space for them to challenge its share of water? Institutionalists would argue that the benefits of participating in the cooperative process far outweighed any negative consequences. Remembering Gourevitch's argument that cooperative institutions allow states to do what they otherwise would not be able to do, it could be argued that Egypt saw the potential of the World Bank funded institution as a vehicle to develop alternative water technology projects that would create 'new water' upstream and maximise the river's flow downstream<sup>77</sup>. This cooperation has been seen as a foreign policy shift by Egypt towards a 'positive sum approach' to management of the Nile, and promoted by Egypt as creating the opportunity for 'substantial Win-Win solutions to exist across the basin'<sup>78</sup>. But what is considered a good deal by the most powerful may not be viewed as beneficial to weaker parties. It has also been argued that Egypt's focus on better management through developing alternative sources 'diverts [attention from] the river water re-allocation – which remains the main interest of most upstream states'<sup>79</sup>.

The argument that the 'win-win' approach promoted by Egypt is evidence of absolute over relative gains is also undermined when the structure of the institutional setting of the NBI is taken into account. Due to the overwhelming divergence in the economic capabilities between Egypt and the

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<sup>77</sup> Nile Basin Initiative: NBI Background; Dinar, 2000b: 382; Warner, 2010: 15

<sup>78</sup> Metawie, 2004: 15

<sup>79</sup> Zeitoun & Warner *et al.*, 2010: 15

upstream states, the negotiation setting is weighted in Egypt's favour. As Warner points out, 'the choice to act upon or ignore requests for cooperation that might alter a standing transboundary arrangement is available to the hydro-hegemon alone'<sup>80</sup>. The weak economic standing of the upstream states effectively strips them of any real choice in the cooperative process, because not participating would mean cutting off a major source of funding for development. This structural inequality is further underpinned by the Operational Directives of the World Bank which require the consent of all downstream neighbours for a project to be financed<sup>81</sup>. The outcome for weaker states is becoming locked into projects that suit Egypt's interests, because Egypt is empowered to refuse cooperation on issues in which it stands to lose.

This is evident in the ongoing negotiations over reallocation of the river's water. During the ten years that the Nile states negotiated regime formation through the framework of the NBI, each attempt to renegotiate the rivers distribution in favour of equitable use was blocked by Egypt's refusal to sign up, claiming that any volumetric alteration violated its 'historic and acquired rights' as ratified in the 1929 and 1959 agreements<sup>82</sup>. As Allan notes, 'Egypt was able, through the statuses and circumstances of its international power relations, to keep that arrangement in place' for forty years, despite the obvious disadvantage to the upper riparians<sup>83</sup>.

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<sup>80</sup> *ibid*: 13

<sup>81</sup> World Bank, 1994: Art 8(b)

<sup>82</sup> Pham, 2010

<sup>83</sup> Allan, personal interview with author.

## THE INFLUENCE OF POWER ON THE COOPERATIVE PROCESS

In spite of the institutional setting in which cooperation took place, Egypt's economic and political capabilities allowed it to maintain considerable leverage over the regime. This could be an indication that the realist perspective of institutions as mirrors for power politics is an applicable lens through which to analyse the process. However, Cascão notes that Egypt's safeguarding of its prior rights within the multilateral negotiations is 'becoming increasingly tenuous in face of demands expressed through collective bargaining power of the weaker states organised in an 'upstream block''<sup>84</sup>. This equally gives weight to the institutionalist argument that the strength of institutions lies in the collective power created by shared values and norms - allowing each state to do what it otherwise would not be able to do.

But is this new found 'bargaining power' a product of the institutional framework of the NBI, or a reflection of a shift in the balance of power between the riparians outside of the cooperative framework? It is argued here that economic and political changes within the region have influenced hydro-political relations in favour of the upper-riparians. Material indicators of relative power amongst the riparians imply that the level of power asymmetry in the region began to decline from the mid-1990s onwards. Egypt's economy, which was bolstered throughout the 1990s by IMF loans and debt relief from the Gulf States, has been in steady decline from 1998 to the present day<sup>85</sup>. A major contributing factor to this offset, alongside internal violence

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<sup>84</sup> Cascão, quoted in Zeitoun & Warner *et al*, 2010: 15

<sup>85</sup> Swain, 2002: 302

and the ripple effect of the Asian financial crisis, was the World Bank's decision to reduce its lending to the country 'from \$550 million in 1990 to approximately \$50 million in 2000'<sup>86</sup>. Although still relatively stronger than its upstream partners, Egypt's material power was severely weakened by the late 1990s, a factor which Broth argues 'practically forced Egypt into expressing its willingness to cooperate' with its neighbours through the NBI<sup>87</sup>.

Conversely, the upstream states grew increasingly stable politically and economically during this same period. Ethiopia, which had previously been characterised by a long period of civil war and famine, emerged in the early 1990s into a phase of accelerated growth and economic development<sup>88</sup>, bolstered in part by its ability to find alternative financing through Chinese investment. Similarly, Sudan's economic standing was given a significant boost in the same period through 'no strings attached' Chinese investment in its oil industry<sup>89</sup>.

Wider political shifts also affected the power dynamics between the riparians by increasing their strategic worth to global powers. Ethiopia became a geo-strategically important ally to the United States' 'war on terror' programme, which led to increased political and financial support for the country<sup>90</sup>, whilst China's substantially vested interests in Sudanese oil has resulted in its implicit political support for Khartoum<sup>91</sup>. This shifting of political alliances gave leverage to the upstream states as Egypt is likely to

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<sup>86</sup> *ibid*: 302

<sup>87</sup> *ibid*

<sup>88</sup> *ibid*: 299

<sup>89</sup> Taylor, 2006: 950

<sup>90</sup> Dagne, 2002, Hanson, 2007

<sup>91</sup> de Oliveira, 2008: 163

take the interests of both these powers into account when calculating its interactions with either Ethiopia or Sudan<sup>92</sup>.

It was during this growth period of upper riparians' material and immaterial power that the level of collective pressure to contest the regime and push for a more equitable agreement also increased. This pressure initially led to the formation of the Nile Basin Initiative and has since enabled the stronger of the upstream states to begin developing hydraulic infrastructure unilaterally, in spite of the ongoing cooperative process<sup>93</sup>. Ultimately, it is the collective pressure which has brought the core issue of redistribution back to the agenda in 2009 and 2010 and for four upstream states, in a show of collective power, to challenge to status quo of the Nile regime by ratifying the CFA in favour of more equitable use without the consent of Egypt. As Zeitoun notes, the level of power has shifted in such a manner that, through the NBI, the upstream states have been able to challenge Egypt's domination<sup>94</sup>. This is exemplified by Burundi's Environment Minister Degratias N'Duimana who, commenting on the signing the new agreement, stated:

'Egypt is continuing to act as if they can do whatever they want, but the time is soon coming where they will not be able to dictate our water consumption'<sup>95</sup>.

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<sup>92</sup> Zala, personal interview with author.

<sup>93</sup> Cascão, 2009: 251

<sup>94</sup> Zeitoun, personal interview with author.

<sup>95</sup> Mayton, 2010

## CONCLUSION

In the decade since the NBI's inception there has been a clear shift from a regime dominated by the most powerful state and used to secure relative gains, towards a new regime based on equitable use of the Nile's water for all parties concerned. Key to answering the question of this study is whether the ability of the upstream nations to forge a more equitable agreement is a result of the shift in relative power in the region or the product of collective power brought about through a convergence of shared values. As can be seen from the above analysis, there are convincing arguments for using both realist and institutionalist lenses for understanding the cooperative process.

Examining the events through a realist lens the analyst would accentuate the converging material and political capabilities in the region as the determinant of change. As the state with the most material and bargaining power, Egypt was able to dominate the regime until its capabilities began to wane. It was only when the relative power of the upstream states began to grow that Egypt joined the cooperative process. Following this, the balance of power shifted in favour of the upstream states, particularly Ethiopia, allowing it to address its own interests on the Nile without consent of Egypt. Once Ethiopia had gained economic and political strength it began to balance against Egypt's dominant position. The new balance of power between the two riparians caused the weaker states to bandwagon with Ethiopia and vote as a block in favour of the 2010 agreement, despite Egypt's protests. The institutional setting of the NBI in this case is merely the space where the change in power is noticed.

Conversely, when viewing the case through from an institutionalist perspective, it is clear that NBI facilitated a redistribution of power in the region by giving Egypt and its weaker riparian neighbours an equal place at the negotiating table. Prior to the creation of the NBI Egypt, as the most powerful state, had no incentive to engage with the weaker parties over the current regime, whereas the NBI realigned the relationship between the states and discourse was portrayed through the lens of legality, values and benefits. Once ‘engaged in an integrative discursive process’<sup>96</sup> the bargaining power of the weaker states was collectively strengthened and created the possibility of shaping the outcome of the cooperative process in their collective interests. Despite shifts in the material power of the member states, contemplation even of erosion of the 1959 treaty would not have been feasible outside of the institutional setting.

In the analysis presented, it is clear that Egypt readily used its dominant power position to maximise its relative gains at the expense of its co-riparians whilst it was able, indicating that realism would be a useful framework for analysis of this period of the regime. However, there are strong arguments in favour of using both realist and institutionalist perspectives in analysing the determining factor of the regime’s shift towards promoting absolute gains for all members in the lifespan of the NBI. A strong indication of the applicability of either theory will be whether the absolute gains proposed by the new agreement materialise in the coming years. For the time being, this will have to be a case of wait and see.

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<sup>96</sup> Zeitoun & Warner *et al*, 2010: 16

## 5. THE ROLE OF POWER AND INSTITUTIONS IN HYDRODIPLOMACY II: THE CASE OF THE MEKONG RIVER

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### OVERVIEW

Transboundary water: *Mekong River*.

Cooperation timeline: *1957-1995*

States involved: *Vietnam, Thailand, Laos, Cambodia (directly). China, Myanmar (indirectly).*

### BACKGROUND

The Mekong is the twelfth longest river in the world and sustains more than 70 million people. Beginning in the Tibetan plateau in China, the river flows southeast between Myanmar (Burma) and Laos, then along the border between Laos and Thailand, into Cambodia and ends in southern Vietnam.

Since 1957 the four lower Mekong states (Vietnam, Thailand, Laos and Cambodia) have attempted to cooperatively manage the water sources of the Mekong, with institutional governance developing in three phases. The first phase was instigated by the United Nations Economic Commission for Asia and the Far East (ECAFE) in a regional development drive following the end of the First Indochina War in 1954. In collaboration with the lower Mekong states, ECAFE conducted a study of the rivers hydroelectric and irrigation potential which emphasised the need for cooperative development and recommended the establishment of a joint body for exchanging information and development plans between the riparians. The recommendations were accepted by the lower Mekong states and formalised in

a 1957 agreement establishing the Committee for the Coordination of Investigations of the Lower Mekong Basin (Mekong Committee). The Mekong Committee was composed of all four lower riparians and an observing representative of the United Nations Development Programme (UNDP). In 1975 the Mekong Committee ratified the *Joint Declaration of Principles* which further defined the principles, norms, rules and decision-making procedures of the regime. The institution entered its second phase as the Interim Mekong Committee between 1978 and 1991, due to obstacles caused by the Third Indochina War that prevented Cambodian representation. During this time the institution halted its sub-regional development focus and dealt only with projects within the territories of the remaining three members. The third and most recent phase followed Cambodia's rejoining of the cooperative endeavour in 1991, after which a four year process to determine the future of the arrangement culminated in the creation of the Mekong River Commission (MRC) in 1995. The MRC's mandate is 'to cooperate in all fields of sustainable development, utilisation, management and conservation of the water and related resources of the Mekong River Basin', and 'to ensure "reasonable and equitable use" of the Mekong River System'<sup>97</sup>.

The two upper Mekong riparians, China and Myanmar, did not engage with the cooperative process in the early years of the regime. However, as development projects in China began to have an impact on the flow of the river the lower riparians instigated an effort to include both upstream states in the agreement. Although neither became a signatory to the treaty, China and Myanmar became non-binding 'dialogue partners' to the MRC in 1996, and

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<sup>97</sup> Mekong River Commission: About the MRC

have both gradually escalated their participation in the regime through data sharing.

#### REGIME ANALYSIS: MEETING RELATIVE OR ABSOLUTE GAIN CRITERIA?

The degree of material power and regional leverage held by the four lower riparians diverges greatly, and are all overshadowed by the influence of China as regional hegemon. Of the four lower riparians, Thailand has traditionally enjoyed the greatest political leverage, possessing the strongest and most diverse economy and a history of good relations with the United States and Europe<sup>98</sup>. Vietnam's relative power began to rise following the end of the Cold War and it currently has one of the fastest growing economies in the region and has enjoyed strong US support since 1995<sup>99</sup>. Laos and Cambodia on the other hand have experienced less economic growth and are ranked as among the poorest states in the world<sup>100</sup>. Given the divergence in economic development there is a high degree of conflicting interests and needs for the use for the rivers water among the riparians. However, despite the conflictive setting in which it emerged and the power asymmetry in the region, the Mekong regime is noted for its emphasis on equality, cooperation and consensus in each of its three phases:

*1. Structural quality:* The initial regime was created at the behest of all four lower-riparians as a way to manage the development of the river's resources cooperatively. The structure of the 1957 Mekong Committee (Committee), which carried through to the current MRC, included a 'Ministerial and Cabinet

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<sup>98</sup> Backer, 2006: 40

<sup>99</sup> Matthews, personal interview with author.

<sup>100</sup> Posey, 2005: 9; Hirsch *et al.*, 2006: 14-15

level representative' of each riparian <sup>101</sup> along with an 'Executive Agent' from the UNDP. Each representative has the authority to speak for his respective state and chairmanship rotates annually in alphabetical order<sup>102</sup>. This structure has remained in place with the exception of the Interim Mekong Committee (1978-1991), in which Cambodia was not represented, and between 1992 and 1995, when the Executive Agent was removed at the request of Thailand.

2. *Control of decisions*: Taken together, two articles from the 1957 and 1975 statutes of the Committee effectively vested it with the power to control the planning of all development on the river. Article 5.3 of the 1957 agreement stated that 'Decisions of the Committee shall be unanimous'<sup>103</sup>, whilst Article 5 of the 1975 agreement stipulated that all 'mainstream, tributary and inter-basin diversion projects be approved by the Committee prior to implementation'<sup>104</sup>. In combination these articles accounted to a right for each riparian to veto development projects on the river. The right to veto was renegotiated when developing the 1995 agreement and it was replaced by a principle of 'prior consultation' requiring 'Timely notification plus additional data and information' for any planned projects<sup>105</sup>. However, it is stressed in the statute's *definition of terms* that the removal of the veto does not amount to a 'unilateral right to use water by any riparian without taking into account other riparians' rights'<sup>106</sup>.

3. *Allocation of resources and benefits*: The 1975 statute is noted for being the first and only international agreement to include a precise definition of the

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<sup>101</sup> Agreement, 1995: Art 15

<sup>102</sup> Wolf & Priscolli, 2009: 219

<sup>103</sup> Makim, 2002: 10

<sup>104</sup> Browder, 2000: 245

<sup>105</sup> Agreement, 1995: Chapter II

<sup>106</sup> *ibid*

terms ‘reasonable and equitable use’ of transboundary water, as described in the Helsinki Agreement<sup>107</sup>, and for stipulating that ‘each Basin state shall be entitled...to a reasonable and equitable share’<sup>108</sup> of the water resources.

Taken together the principles enshrined in the agreements hold strong requirements for inter-state cooperation in the use of the Mekong’s water resources and the sharing of benefits which may arise from it, indicating that absolute gains have been sought throughout by each participating state.

#### THE INFLUENCE OF INSTITUTIONS ON THE COOPERATIVE PROCESS

The equity enshrined throughout the structure of the statutes over the years can be seen as a result of the ‘remarkable...institutional resilience’<sup>109</sup> of the Mekong regime. Makim notes that the early cooperative process was substantially shaped by political changes in the region, from the violent emergence of Cambodia, Laos and Vietnam following independence, to the intensification of US, Soviet and Chinese influence during the Cold War<sup>110</sup>. However the Committee ‘nevertheless supported an unbroken dialogue among the coriparian states throughout this difficult period’<sup>111</sup>. The capacity of the regime to manage the interests of each riparian played a central role in enabling the pursuit of long-term gains over short term wins during this period. In particular, the ability of the Committee to become ‘interim’ during the reign of the Khmer Rouge, with the understanding that Cambodia would rejoin at a later date, is exemplary of the regime’s capacity to adapt to change

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<sup>107</sup>Wolf & Priscolli, 2009: 223

<sup>108</sup> Makim, 2002: 10

<sup>109</sup> Ratner, 2003 : 65

<sup>110</sup> Makim, 2002: 7

<sup>111</sup> *ibid*

and accommodate members' interests. While a realist analysis would presume the regime's members would perceive Cambodia's breaking away from the rules binding them as a threat of losing relative power, and therefore expect them to defect also, the continuation of the regime can be viewed as an example of states working toward shared long term goals despite a particularly anarchic and hostile environment.

Similarly, with economic development as the primary focus of each state's domestic and foreign policy following the end of the Cold War, the regime was perceived as a useful vehicle to 'move towards real progress together as a region and away from its conflicted history'<sup>112</sup>. Dinar comments that it was through the acceptance of the benefits of interdependence in the area of water security that bridges towards peace were built in the region, as it fostered each 'party's realization that cooperation over water may lead to cooperation in other domains'<sup>113</sup>. Hirsch notes that 'this unique cooperative relationship has been characterised as the "Mekong Spirit" – defined by mutual respect between riparian states and a willingness to engage in dialogue towards cooperative river basin management.'<sup>114</sup>

However, despite the praise of the regime's adaptive capacity and its 'spirit' of cooperation, the agreement created in 1995, which brought the modern day Mekong River Commission into being, has been criticised for being weak and allowing the riparians to interpret it as they please. In particular, 'the lack of any binding clause in the statute lends itself to giving

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<sup>112</sup> Matthews, personal interview with author.

<sup>113</sup> Dinar, 2000b: 378

<sup>114</sup> Hirsch *et al.*, 2006: 17

more power to the more powerful states and leaves the commission itself as fairly toothless'<sup>115</sup>. This assertion is discussed in the following section.

#### THE INFLUENCE OF POWER ON THE COOPERATIVE PROCESS

The lengthy process leading up to the formation of the 1995 agreement can be seen as a manifestation of the changing political order in the region following the end of the Cold War, in which Thailand sought to use the setting of the cooperative regime to better position its economic and political standing at the expense of its co-riparians. Thailand's economy saw rapid growth and industrialisation in the early 1990s, leading to pressure to develop its hydro-electric and irrigation resources to meet the growing demand, central to which was the development of the Khong Chi Mun scheme, a water diversion project in its northeast region<sup>116</sup>. Vietnam however saw this project as harmful to its own development, contending that any diversion of the rivers water would negatively affect Vietnamese rice yields which played a crucial role in the Vietnamese rural economy<sup>117</sup>. Whereas 'the mandate of the Mekong Committee to control water resources no longer served Thai interests'<sup>118</sup> by encroaching on Thai sovereignty, it was precisely the right to control upstream development that offered Vietnam its security. This conflict of interests caused a four-year deadlock in the pre-negotiations leading to the 1995 agreement, in which Thailand insisted on renegotiating all the principles, norms and procedures of the preceding agreements, which it feared would restrict its development plans. The lower-riparian Vietnam was strongly in

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<sup>115</sup> Matthews, personal interview with author.

<sup>116</sup> Backer, 2006: 40; Makim, 2002: 11

<sup>117</sup> Makim, 2002: 11

<sup>118</sup> Browder, 2000: 244

favour of preserving the original intention of the regime and its arrangements in any new agreement.

Throughout the negotiation process, Thailand used the power asymmetry within the regime's membership to weight the process in its favour. Its first move was to link renegotiation of the regime to Cambodia's readmission, therefore threatening to dissolve the entire regime unless its restrictive arrangements could be renegotiated. This threat held a lot of weight because, unlike Vietnam which had 'the most pressing need for basin-wide water resources management to protect its agricultural interests'<sup>119</sup>, Thailand's economic power and upper-riparian position gave it little benefit or incentive for cooperation<sup>120</sup>. Secondly, Thailand unilaterally removed the UNDP Executive Agent, a move which is widely understood to have neutralised the traditional leadership of the Committee<sup>121</sup>. Having similarly vested interests in controlling upstream development, Cambodia and Laos joined with Vietnam in an 'Indochinese coalition formally opposing the Thai position'<sup>122</sup>. However, the collective bargaining power created by the weaker parties was eventually undermined by Thai bilateral diplomacy with Cambodia and Laos, offering improved trade relations in return for support for its position. Having lost its base of support in 1994, Vietnam finally acceded to the Thai position and agreed to remove the regime's veto principle in favour of giving 'prior notification' of development. Makim argues that this change 'was particularly and relatively disadvantageous to the downstream Indochinese states' as it 'weakened the regime's capacities in promoting interdependence over

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<sup>119</sup> *ibid*: 241

<sup>120</sup> Posey, 2005: 15; Backer, 2007: 39

<sup>121</sup> Makim, 2002: 12

<sup>122</sup> *ibid*: 14

sovereignty’<sup>123</sup>. Similarly, Matthews contends that ‘despite the fact that on paper it was meant to be cooperative and egalitarian [the new regime] just reinforced the existing power structure with Thailand a hegemon in the upper Mekong.’<sup>124</sup>

## CONCLUSION

The capacity of the Mekong regime to foster inter-state cooperation over valued resources throughout decades of conflict in the Mekong River basin has been praised, but as the analysis above demonstrates, the level of ‘Mekong Spirit’ in the cooperative process has arguably undergone distinct shifts in the regime’s lifetime. Beginning as a joint venture to develop a region of newly emerged states the 1957 and 1975 agreements are notably egalitarian in principle, with an emphasis on equitable use and shared control of the river’s resources. Further, the development of a veto principle was evidence of a significant level of interdependence and shared values between the riparians. However, the conflictive period leading up to the formation of the MRC saw a weakening of the regime. Although the wording of the statute is still egalitarian in principle, the requirements for inter-state cooperation were removed in favour of increased sovereignty over development issues.

This aversion to interdependence favoured in the latter years of the regime offers a strong argument against viewing the process of the MRC with an institutionalist lens. As Ganesan notes:

‘Neoliberal institutionalism's defining characteristic is its faith in international structures to evolve, mature, and gradually replace state

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<sup>123</sup> *ibid*: 16

<sup>124</sup> Matthews, personal interview with author.

sovereignty... The collapse of bipolarity and the dissipation of ideologically inspired conflicts is viewed by liberal institutionalists as a conducive environment for the realization and indeed multiplication of such international structures.’<sup>125</sup>

Following the end of the Cold War, South East Asia became a ‘conductive environment’ and evidently began to develop inter-state structures such as the MRC and ASEAN. But it can be argued that, in the case of the MRC, the ‘spirit’ of interdependence wasn’t resilient enough for its rules to replace state sovereignty, allowing Thailand to force amendments to the MRC’s principles which ‘circumscribed power within the regime, returning it instead to the sovereign states.’<sup>126</sup>

Mathews also argues that, despite the cooperative emphasis on the Committee’s paper, interdependence and cooperation between the states was never actually realised from the start but was ‘rather a case of states simply ignoring the regime’<sup>127</sup>. A realist viewpoint would highlight the propensity of each state to act unilaterally despite the regime representing a collective-action problem, which should ultimately compel its members to defect.

But institutionalists would accentuate the resilience of the regime to adapt to the interests of its members over time. Wolf notes that institutions are driven by values, and these values differ over time according to the values of the societies they represent, which are in turn affected by differing levels of development<sup>128</sup>. The strength of a regime lies in its ability to adapt

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<sup>125</sup> Ganesan, 1994: 779

<sup>126</sup> Makim, 2002: 16

<sup>127</sup> Mathews, personal interview with author.

<sup>128</sup> Wolf, personal interview with author.

sufficiently when faced with a problem to ensure its survival. It can be argued that the case of the MRC clearly illustrates this, with members accommodating Thai concerns over sovereignty. This point is accentuated by the comments of a senior negotiator present at the development of the 1995 agreement:

‘The Mekong Agreement is a compromise agreement based upon political realities. We needed to make political compromises in order to keep the negotiations going and establish the institution. We realize there are problems, but the implementation of the Mekong Agreement will be a long-term process.... The negotiations were a process to improve the trust and confidence between the four countries.’<sup>129</sup>

The case study presented offers a clear example of a stronger riparian using its relative power position to shape a cooperative regime largely in its interests at the expense of its co-riparians which, similarly to the previous case study, could indicate that realism would be a useful framework for analysis of this period of the regime. However, the capacity of the regime to adapt to changing circumstances and to allow all riparians to work cooperatively throughout this conflictive period enabled the weaker riparians to gain from the outcome of the process, albeit less than Thailand. This highlights the use of an institutionalist analysis.

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<sup>129</sup> Quoted in Browder, 2000: 255-266

## 6. CONCLUSION

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The aim of this paper was to explore whether power is the determining factor in the level of control and benefits gained by states in inter-state cooperative water interactions, with the intent of discovering whether realism or institutionalism would be a more useful framework for analysis when considering future agreements. In the two cases analysed varying degrees of institutional capacity and power asymmetry were presented.

In both cases examined it was observed that the most powerful states were inclined to seek relative gains at the expense of their co-riparians within the cooperative process. However, the way in which relative power was enforced by the stronger state varied in each case. In the case of the Nile, Egypt initially preferred not to engage cooperatively with its co-riparians in order to retain its dominance over the river. Once working within an institutional setting, Egypt took a zero-sum approach to the resource by fiercely resisting any attempt to alter its water allocation or share the benefits from the river. This strategy was eventually undermined by the bargaining power of the upper-riparians and Egypt's domination over the regime began to wane. Conversely, in the case of the Mekong, Thailand chose to pursue its gains through the cooperative process from the beginning, and used its relative power to persuade rather than coerce its co-riparians into agreeing to its interests. This can be seen as a positive-sum approach to the water source as all states gained from the outcome of the cooperative process, although the gains were greater for Thailand than the for the lower-riparians. In both cases the influence of power as a determinant of the outcome was high, suggesting the utility of a realist outlook for future agreements.

There was also a variance in the level of institutional capacity present in each case. In the case of the Nile, the NBI was set up in response to rapidly growing water needs by the upper-riparians and to mitigate an existing regime characterised by inequality of allocation. The reactionary emergence of the institution set the cooperative process off on a rocky start because the institution faced three immediate challenges from its development: an emergent water stress pressuring all riparians, an existing regime favouring the strongest riparian and a divergence in development and values among the institution’s members. Conversely, the framework to govern the Mekong was established as a joint venture to gain greater benefits from the river, well before water quantity became an issue. By establishing the cooperative infrastructure before any ‘flash point’ emerged, the riparians already had a routine of cooperation developed which allowed cooperative interaction to proceed during the political tensions in its latter years.

The effects of the three variables presented in each study - the promotion of relative or absolute gains, the influence of power and institutional capacity - are summarised in the following table:

	<b>Nile River regime</b>	<b>Mekong River regime</b>
<b>Relative or absolute gains promoted through regime</b>	Relative	Absolute
<b>Influence of power on the cooperative process</b>	High	High
<b>Capacity of institutions to adapt to change</b>	Low	High

The results of the above table suggest that the determining factor in the cooperative processes over transboundary water in the cases presented is not the level of power possessed by a particular riparian, but rather the institutional capacity to manage change in the needs and interests of its members. As Allan notes, conflict and cooperation are not mutually exclusive concepts but co-existent, and the key to institutional survival lies in the ability to manage conflicting interests cooperatively in such a way as to benefit all parties<sup>130</sup>.

However, power's role in shaping cooperative water regimes is still salient and worthy of study, as it is power which allows a basin hegemon to choose which form of interaction it wants to establish with its co-riparians, i.e. to cooperate or to act unilaterally. However, once working in an institutionalised cooperative framework, dominance or unilateral actions on the part of stronger powers become harder to sustain in the face of collective bargaining power possessed by weaker members.

This suggests that any analysis of future inter-state interaction over transboundary water sources needs to consider first the political setting in which the interaction takes place. Where the setting is one which is conducive to high institutional capacity then using an institutionalist lens to predict behaviour would be useful. In converse settings, in which such capacity is weak or non-existent, then power plays a more prominent role and realism can be a more useful theoretical framework for analysis.

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<sup>130</sup> Allan, personal interview with author.

It is, of course, worth bearing mind the limitations of this study in offering prescriptions to analysts. Firstly, the data set is limited to two cases. This has allowed a more detailed analysis of the operation of different variables within each case to be presented, but the small sample prevents the findings of the study being applied generally. Secondly, the two cases are set within similar hydro-political contexts. As noted earlier, three regime categories exist within hydro-politics: egalitarian, dominative and hegemonic. It is important to recognise that the approach to cooperation by states in a hegemonic regime, such as the cases presented, cannot be readily compared to a more equitable communal setting, such as in the European Union, where issues of security and sovereignty are less prevalent<sup>131</sup>.

Finally, there are limitations in taking an either-or approach to theoretical analysis of any subject. Both realism and institutionalism promote a narrow state-centric perception of international affairs which limits the observer's conception of reality, and defines a narrow agenda for research and policy making<sup>132</sup>. International Relations theory offers a diverse collection of analytical tools for understanding international interactions and for analysts to limit their study to one school of thought risks excluding important factors from the many other theories. As is demonstrated in the above study, both realism and institutionalism can account for patterns in inter-state water interaction depending on a number of settings, and both can highlight different factors within the same setting. This provides a strong argument for the utility of taking a more pluralistic approach to analysis of any future inter-state interaction over water security, as such a method would allow the observer to

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<sup>131</sup> Zeitoun & Warner *et al.*, 2010: 11-12

<sup>132</sup> Bayliss & Smith, 2004: 207

account fully for the range of factors and nuances affecting the cooperative process.

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