
A THESIS SUBMITTED TO THE SCHOOL OF HUMANITIES AND SOCIAL SCIENCES IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE AWARD MASTER OF ARTS DEGREE IN INTERNATIONAL RELATIONS.

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BY

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SPRING 2018
DECLARATION

I, the undersigned, declare that this is my original work and has not been submitted to any other college, institution or university other than United States International University - Africa for academic credit. All material obtained herein from other sources is duly acknowledged.

Signed........................................  Date........................................

Maryann Wanjiku Muhia – 640684

This thesis has been presented for examination with my approval as the appointed supervisor

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DEDICATION

This thesis is dedicated to my parents Christopher Muhia and Esther Muhia, who taught me that the best kind of knowledge to have is that which is learnt for its own sake.
ACKNOWLEDGEMENT

I take this opportunity to thank the Almighty God for granting me health while writing this thesis. I wish to express my gratitude to Dr. Fatuma Ahmed Ali, my supervisor, for her stewardship and constructive criticism during the course of writing this thesis. I would also like to thank Prof. Mary Mwiandi for her intellectual comments, patience and encouragement. Finally, I am grateful to the different people who contributed in one way or the other to this research.
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<tr>
<th>Abbreviation</th>
<th>Full Form</th>
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<tbody>
<tr>
<td>AMIS</td>
<td>Africa Union’s Mission in Darfurr</td>
</tr>
<tr>
<td>AU</td>
<td>African Union</td>
</tr>
<tr>
<td>BCM</td>
<td>Billion Cubic Meters</td>
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<tr>
<td>COMESA</td>
<td>Common Market for Eastern and Southern Africa</td>
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<tr>
<td>CFA</td>
<td>Cooperative Framework Agreement</td>
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<tr>
<td>CPA</td>
<td>Comprehensive Peace Agreement</td>
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<td>CSS</td>
<td>Century Storage Scheme</td>
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<td>DoP</td>
<td>Declaration of Principles</td>
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<td>DRC</td>
<td>Democratic Republic of Congo</td>
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<td>EAC</td>
<td>East African Community</td>
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<td>EIA</td>
<td>Environmental Impact Assessment</td>
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<td>EALA</td>
<td>East African Legislative Assembly</td>
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<td>ESIA</td>
<td>Environmental and Social Impact Assessment</td>
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<td>DIU</td>
<td>Dams Implementation Unit</td>
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<tr>
<td>GDP</td>
<td>Gross Domestic Product</td>
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<td>GERD</td>
<td>Grand Ethiopian Renaissance Dam</td>
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<tr>
<td>IGAD</td>
<td>Intergovernmental Authority on Development</td>
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<tr>
<td>IPoE</td>
<td>International Panel of Experts</td>
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<tr>
<td>IPRID</td>
<td>Integrated Planning of Irrigation and Drainage</td>
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<tr>
<td>ITEIA</td>
<td>Initial Trans-boundary Environmental Impact Assessment</td>
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<tr>
<td>MCM</td>
<td>Million Cubic Meters</td>
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<tr>
<td>MIWR</td>
<td>Ministry of Irrigation and Water Resources</td>
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<td>Abbreviation</td>
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<tr>
<td>MW</td>
<td>Mega Watts</td>
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<td>NBC</td>
<td>Nile Basin Commission</td>
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<td>NBI</td>
<td>Nile Basin Initiative</td>
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<td>NBT</td>
<td>Nile Basin Treaty</td>
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<td>NGOs</td>
<td>Non-Governmental Organizations</td>
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<td>PJTC</td>
<td>Permanent Joint Technical Commission</td>
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<tr>
<td>SDGs</td>
<td>Sustainable Development Goals</td>
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<tr>
<td>SEA</td>
<td>Strategic Environmental Assessment</td>
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<tr>
<td>SPLA</td>
<td>Sudan People’s Liberation Army</td>
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<tr>
<td>SPLM</td>
<td>Sudan People’s Liberation Movement</td>
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<tr>
<td>TNC</td>
<td>Tripartite National Committee</td>
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<td>UN</td>
<td>United Nations</td>
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<td>UNMIS</td>
<td>United Nations Mission in Somalia</td>
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<tr>
<td>USA</td>
<td>United States of America</td>
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<tr>
<td>WBG</td>
<td>World Bank Group</td>
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<td>WLD</td>
<td>Water and Livestock Development</td>
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THE MAP OF THE RIVER NILE BASIN

ABSTRACT

The main aim of this study was to carry out an assessment of the water politics among the riparian states of the River Nile. The study was guided by specific objectives that included an assessment of various historical agreements in the Nile Basin, examination of the nature of diplomatic engagements among the riparian states and the impact of the Nile Basin initiative on the riparian states. Realism theory has been used to show how the Nile riparian states compete for power and take advantage of each other’s detriments. Foreign policy must thus be understood in terms of pursuit of national interest. Expert interviews and content analysis of case studies were used to gather and analyze the information. The collected data was used to determine the nature of diplomatic engagements among the riparian states in the immediate post-independent period and how the water politics among the riparian state of the River Nile Basin have transformed. Furthermore, the study established that the treaties signed in the colonial era can no longer reflect the priorities and the interests of these new states. Despite its challenges, the Nile riparian countries have now embarked on the spirit of cooperation. There is consensus among all the riparian states that the Nile is a treasure to be shared by all the states. However, there is disagreement with regards to equitable justice in the distribution of the water. For a sustainable political solution to exist, a new agreement has to be established that respects the sovereignty of all the states. Future research may look into the challenge that remains, which is to put an institutional development and cooperative thinking into practice through the development of projects of mutual benefit that are both sustainable and able to deliver benefits to the poorest of the riparian states.
CHAPTER 1: INTRODUCTION

1.0 INTRODUCTION

The River Nile is one of the most important rivers in the world. It is 6,853 km long and drains an area which covers about one tenth of the African continent (Kasimbazi, 2010). The Nile Basin catchment area is shared between eleven countries: Burundi, the Democratic Republic of Congo, Egypt, Eritrea, Ethiopia, Kenya, Rwanda, Republic of Sudan, South Sudan, Tanzania and Uganda. Together, these countries make up the River Nile riparian states. Riparian states are states that are associated with a body of water, in this case the River Nile, and are dependent on the existence of perennial or subsurface water drainage. The lower riparian states are Egypt and Sudan while the remaining states are referred to as the upper riparian states. These sovereign states share the Nile basin and by virtue of that fact, they can lay claim to some share of its waters. Why they would do so and how they go about it are questions shaped by relative power among the states, access to patrons external to the basin and access to alternative sources of water. No state in the basin has foresworn its claim simply because it has had little interest in the water itself. Some states in the basin are highly dependent in fundamental ways upon the water, while others also want to become dependent.

It becomes increasingly evident that the supply of Nile water is not likely to meet all future demands given the technologies with which and the patterns by which it is currently used. Not only must those states most concerned with the supply reach some sort of equilibrium of supply and demand among themselves, but they must also accommodate in some fashion those least concerned. I argue that it is no longer valid to
state that Egypt is the main beneficiary of the status quo. Egypt can be seen to have softened its stance over its dominances of the River Nile. Some riparian states have even embarked on rigorous projects with little to no consultation with Egypt. If I define equity as protecting the supply of water to poor populations that heavily rely upon it for their livelihood, then, Ethiopia and Southern Sudan have strong equity claims. Similarly, national dependency upon the basin’s resources is a major element in claims based on equity. Egypt, with no source of water other than the Nile, and Uganda, whose territory relies on the Nile watershed, likewise have strong claims based on equity. Potential for water based development is also a valid equity claim. The Sudan thus has vastly more potential than any other riparian state and for this reason a change in status quo is eminent.

1.1 BACKGROUND OF THE STUDY

The perceptible distinguishing feature with respect to international rivers and lakes is the politics surrounding their use and management. This has several implications on the nature of relations between and among riparian states. International rivers and lakes are considered a common pool resource which unlike public goods, their utilization by one country is considered as reducing benefits of other states. The use of such transnational natural resources is considered by some as a one in which cooperation is vital akin to that conceived by Jean Jacques Rousseau in the stag hunt (Earle, 2010).

There exist about 263 trans-boundary water basins which account for about 60% of global freshwater flow (Pointek, 2008). They cover an estimated one-half of the earth’s land surface and directly support close to half of the entire population of the world
(Pointek, 2008). These trans-boundary water resources support millions of people by establishing economic and hydrological interdependencies (Mason, 2004). The natural tendency for the trans-boundary resources to create friction between and among the riparian states is perceptible. This is more especially considering that the utilization of such resources by one state is often conceived as undermining the ability of the next state to derive full benefits from the same resource.

The Nile River basin having a vital significance to the riparian states has led to considerable debates and tensions between and among the riparian states (Adar, 2007b). River Nile is a fresh water river and consists of the Blue and White Nile. The Blue Nile is a river originating from Lake Tana in Ethiopia. The White Nile refers to stretches of river draining from Lake Victoria through to merger with the Blue Nile. The White Nile is considered to be the headwaters and primary stream of the Nile itself. The Blue Nile, however, is the source of most water and silt (Adar, 2007b).

A multilateralism tussle has plunged the riparian states over the control of the Nile River Basin. This has affected the relations between and among the riparian states since independence. The riparian states have oscillated between adopting multilateral diplomatic initiatives to control the contention over who should use the water resources (Adar, 2007b). This is in ensuring the end of monopoly in the use of the Nile water resource. The bone of contention is Egypt’s hydro-hegemony over the Nile water resources (Nickum, 2010). While it can be argued that Egypt’s stake in the Nile is diminishing over time, it is indisputable that the states of Ethiopia, the Sudan and Uganda are growing.
Egypt’s economy is increasingly dominated by the nonagricultural sectors. The need for power from the Aswan high dam is becoming less and less significant (Tadesse, 2010). A plausible case can be made that Egypt’s economy would not so much suffer from some diminution in its share of the Nile’s discharge. Pursuing projects like the new valley scheme creates demand for water. This then becomes profoundly discouraging to the Ethiopians and the Sudanese. Egypt’s definition of its national interests is rooted firmly in the objectives of the 1950s, while its economy moves rapidly into the twenty first century.

Ethiopia is still a peasant society whose economy depends upon the performance of the agricultural sector. With a rapidly growing population and a degraded rural environment, it is quite plausible to argue that Ethiopia must, even at great cost, introduce some predictability into the agriculture sector (Tadesse, 2012). One must acknowledge though that there are neither simple nor uniformly efficacious remedies. Harnessing Nile tributaries for irrigation and power generation can be part of the solution. This is why Ethiopia is pushing its cause.

Uganda’s agricultural sector can develop with existing surface water resources and some supplementary irrigation. The regime of water release from Lake Victoria was set up in 1949 with the agreement between Egypt and Uganda (then under the British control). This allowed the construction of the Owen Falls dam that still operates in Uganda’s favor (Tadesse, 2012). The agreement was designed to protect Egypt’s needs, before the construction of the Aswan high dam. Even though Egypt no longer needs timely water now that it has the Aswan high dam reservoir, Uganda still needs the 1949
regime (Mbaku, 2015). Should the Sudan assert its claims in the future, it would do so on the Blue Nile tributaries. Uganda would not be directly affected. However, at the same time, we find that Ethiopia and the Sudan might be drawn into alliance for the development of the Blue Nile and into integrated infrastructure spanning their common border.

Doubling of Sudan’s demand for the Nile water need not be Egypt’s worst nightmare. Egyptian policy makers should instead look forward to the role agriculture is likely to play in their economy rather than backward to a now-sacrosanct status quo defined by the 1959 agreement (Mason, 2004). The fundamental question for Egypt, the major power in the basin, is whether to do everything in its power to avoid this demand or to simply develop plans to cope with it. Egypt, has sought a basin-wide regime that would embody the acquiescence of all other riparian’s to the basic allocation laid out in 1959 agreement (Mason, 2004).

Ethiopia has also sought a basin-wide regime based on a new framework. At this point in time, where the contest is between only Egypt and Ethiopia, Egyptian policy makers would have little trouble in their sleep. The only element of concern is the donor community itself (Mbaku, 2015).

The World Bank and the United Nations Development Programme through the Nile Basin Initiative (NBI) have tried to reconcile Ethiopia’s concern for a framework that promotes equitable use of Nile water (World Bank, 2003). Furthermore, the World Bank has shown its readiness to use resources to bring about some sort of regime in the basin. This regime, as evidenced in the Nile Basin Strategic Action Program, would much
more closely lie on the principle of equitable use than to appreciable harm. This in turn would foster some form of reallocation (World Bank, 2003).

The Nile Basin Initiative does not step beyond one of the declared functions of the Tecconile Agreement of 1992, which Egypt both sponsored and signed. They purportedly did so to assist participating countries in the determination of the equitable entitlement of each riparian to the use of its waters (Carson, 2011). Therefore, it can be noted that the Nile Basin Initiative set as its goal to achieve sustainable socio economic development. This is through the equitable utilization of and benefit from the common Nile basin water resources.

The search for comprehensive agreements or regimes without several intervening steps is problematic. A new regime would be attractive only if the benefits significantly outweighed the costs. Third parties such as the World Bank could provide some of the compensatory benefits. This may assist in launching a regime, but would it sustain it? The principle of allocating water usage that provides the highest returns will not operate internationally. If it did, riparian states with low returns to water might become rentier states. Water would be sold at a profit to neighbors who can generate higher returns (Water Policy program, 2002). The status quo prevailing since the 1959 agreement is not yet under threat. The continued combination of a quasi-hegemon devoted to the status quo and the use of riparian resources for other priorities have rendered a new regime at best a dim and hazy prospect (Water policy program, 2002). Disagreements among the Nile countries over sharing the waters have been real and deep-seated.
The post-colonial era in the Nile basin has been a period marked by legal battles. This battles concern the successors of the colonial Nile agreements and the degree to which this should be legally binding, on what is described as non-contracting sovereign basin states. While the water agreements have played a lesser role in barring upstream development that some have maintained, the water-sharing issue has been and still is a major point of contention. Ugandan President Yoweri Museveni dismissed this and blamed a misinformed subordinate for mistakenly announcing Kenya’s renunciation of the water treaties (Kagwanja, 2007).

In as much as the leading politicians in upstream states have assured their intention and willingness to cooperate, the upstream states have declared that the Nile agreements concluded by Britain and Germany are no longer applicable and should be revised (Kagwanja, 2007). The position of the different countries has in relation to this issue remained basically the same. Egypt still wishes to secure the amount that it has historically regarded as acquired rights and hopefully even increase the water that they can use (Loveluck, 2015). The Sudan shares the interest in some form of status quo but with slight modifications. In this case, some degree of convergence of views which Ethiopia might develop (Loveluck, 2015). The upstream states are however, though to differing extents, in favor of new water-sharing arrangements. They have taken the position that the existing Nile treaties cannot be maintained in the long run.

Agreements signed between Sudan and Ethiopia in 1991, and Egypt and Ethiopia in 1993 have in fact weakened rather than strengthened positions that safe guarded their interests (Kagwanja, 2007). The riparian states now seem to agree that regulations for the
use of the Nile waters should be worked out in detail on the basis of the rules and principles of International Law. They however do not agree on which particular doctrines should be given priority (Chweya, 2004). Gradually the upstream countries have attempted to develop a Nile diplomacy arguing for the principle of equitable uses, while refuting the claims of historical, natural or acquired rights. Egypt’s policy regarding the uninterrupted natural flow of the Nile, a legacy of the British colonial era, has also partly been modified. They have been looking for some sort of compromise as an alternative to unilateral action from upstream states (Chweya, 2004).

To understand and reconstruct the modern history and the recent development of the countries of the Nile basin, it is therefore necessary to incorporate the region’s defining element, the River Nile, in the analysis (Gleick, 2009). Many historical, diplomatic and political studies have been produced about the region. Some countries fail to recognize the importance of the river and its waters. Those that recognize the importance of the river suffer from a superficial understanding of the link between Nile Hydrology and Nile projects. It is therefore important to bring forth more information both about the Nile as physical space and structuring force in the different Nile states. The river creates certain ranges of economic and technological possibilities as well as concrete initiatives politicians and water experts have undertaken in order to exploit and control the river.

1.2 STATEMENT OF THE PROBLEM

Over the last decade, the Nile basin region has experienced several political and economic changes. These changes promote shifts in the current balance of power in the
basin and bear on hydro-political relations amongst the riparian states (Waterbury, 2002). Historically, upstream countries have been mainly characterized by colonial rule, economic underdevelopment, internal conflict and political instability. Lack of external financial support and an absence of concrete water policies or strong water institutions also characterize the upstream countries. This is combined with weak bargaining strategies. These structural weaknesses have undermined their position in the basin’s hydro politics and affected their utilization of the Nile water.

Therefore, there is an over emphasis on the fact that the Nile water is an object of tension and conflict, yet the same water can lead to cooperation amongst the riparian states. Diplomacy seems to have won. Though cooperation has not yet been highlighted, more stakeholders are coming into the discussion. The East African Community (EAC) for example, has seen threats being reduced by Egypt.

For a sustainable political solution to exist, a new agreement has to be established that respects the sovereignty of all states, including the newly formed South Sudan. This agreement has to reconcile the historical agreements that were signed by the British Empire in the colonial times; reconcile tradition versus modernity in political decision making and African International Relations. The agreement should also reconcile racial, religious and cultural differences, stereotypes and perceptions that have existed for centuries.

In light of the inefficiency of International Law to specifically address the Nile issue, the political solution has to focus on needs-based values rather than rights-based criteria with an emphasis on mutual economic benefits. Hence, there is a need to
scholarly investigate whether water politics among the riparian states of the River Nile will lead to diplomacy or war.

1.3 OBJECTIVES OF THE STUDY

The main objective of this study was to carry out an assessment of the water politics among the riparian states of the River Nile. The study also determines whether the Nile water politics has led to diplomacy or war.

1.3.1 SPECIFIC OBJECTIVES

The following are the specific objectives of this research.

i. To examine the various historical agreements in the Nile Basin.

ii. To examine the nature of diplomatic engagements among the riparian states between 1929 and 1999 and diplomatic engagements and power since the Nile Basin Initiative.

iii. To assess the Political, Social and Economic impact of the Nile Water politics on the riparian states.

1.4 HYPOTHESIS OF THE STUDY

The hypothesis of this thesis is that treaties do not always lead to cooperation amongst states. However, diplomatic engagements have led to positive relationships amongst the River Nile riparian states.
1.5 RESEARCH QUESTIONS

i. What are the various historical regimes agreements in the Nile Basin and the need for diplomatic engagements among the riparian states of the Nile Basin?

ii. In determining the nature of diplomatic engagements among the Nile riparian states between 1929 -1999, what were the applicable basic principles in the use of International water resources?

iii. How has the water politics among the riparian states promoted diplomacy or hindered a water war?

1.6 JUSTIFICATION OF THE STUDY

In hydro-politics, conflict and cooperation, are two major issues pertinent to the utilization of trans-boundary rivers. The Nile riparian states have spent significant time resolving the existing issues through establishment of institutions to foster cooperation amongst them. Trans-boundary water conflict and cooperation has been the subject of ongoing debates and a growing field of literature among scholars. The study informs on possibility of a water war or if diplomacy is the solution to the unfolding events of the River Nile water politics.

There is a shift of focus to cooperation amongst the riparian states. The study sheds more light in understanding the various underlying factors of water related conflict in the framework of historical quarrel, political instability and proposed water development projects. The study informs on the gap between rationally desirable and politically feasible approaches that are domestically acceptable to cooperative river development and management, in the Nile Basin. Furthermore, the study contributes to
giving substantial awareness of cooperation which in some cases it is seen as narrowly perceived to the sustainable one. It demonstrates that the willingness of the Nile riparian states to engage in projects of cooperative river development is limited not only by mistrust and by national utility maximizing rationales, but also by pressures and constraints rooted in the domestic political and institutional settings.

1.7 LITERATURE REVIEW

When undertaking the topic, the study noted the importance of what has been written about the Nile which helps the study to identify the strengths and weaknesses of previous work. Majority of the scholars focus on the politics of the River Nile and the impact the politics has had on the riparian states. Other fundamental issues that may hinder cooperation or development of River Nile projects are not looked into. These include political stability of the states and their economic power. There is also a need to focus on different avenues of water resources and not just the River Nile. By undertaking this literature review, the study identifies data sources and summarizes the historical and contemporary knowledge of the Nile River water politics. The study also identifies concepts and their relationships with each other subsequently offering more insight on the Nile water politics of the riparian states.

Rahman (2011) argues that there has been the continuous reluctance of the downstream states, especially Egypt, to engage in an open negotiation process on the equitable distribution of the waters. He states that Egypt was particularly reluctant to involve major upstream states (such as Ethiopia) in its water management regimes despite Ethiopia's substantial contribution to the in-flow of the waters. He further adds that there
has been a divergence of views among the riparians on how to use the water taking into account their contributions and demands. However, he fails to point out that what would have been a water war over the River Nile, has actually led to cooperation amongst the Riparian States. Egypt has reacted to the new challenges to its monopoly over the Nile waters. Moreover, Egypt’s foreign policy has itself undergone a notable shift from confrontation to cooperation and from fostering instability to promoting peace in the Nile Basin (Taye, 2016). Cooperation has been highlighted where more stakeholders come to the discussion table. The political instability of Egypt has actually shifted the situation in that they have more to win with cooperation than confrontations. An earnest effort at breaking the current impasse over the Nile should begin by removing the current psycho-political obstructions to dialogue and by taking the commonalities into consideration (Taye, 2016).

In the context of disputes over water in the River Nile Basin, Adar (2007) argues that the situation in the River Nile Basin is as a result of the treaties that were signed during colonization. These treaties subordinate the interests of the rest of the riparian states. He argues that the bone of contention or competition between downstream and upstream riparian states for the same water resource poses a huge potential threat for conflict over water amongst the riparian states which may even trickle down to the rest of the African states.

Adar (2007) fails to point out that in as much as the treaties have created conflict amongst the riparian states; they are in fact only part of the blame. An absence of concrete water policies or strong water institutions and lack of external financial support
combined with weak bargaining strategies can be viewed as larger factors that have contributed to the politics of the river Nile.

We cannot fail to point out that civil war and political instability in most of the countries have often changed the political climate of each state, and made it extremely difficult to achieve long-term basin cooperation. In the 1970s and 1980s Ethiopia was, for example, in a continuous civil war. The war rendered development and cooperation of the Nile almost impossible. Likewise, due to the North-South war between Sudan and South Sudan, neither of the Sudanese governments was in a position to participate in any major cooperative schemes of the Nile. In addition, poverty and lack of political stability are also contributing factors as to why the riparian states are not in a position to manage the River Nile resource. This is especially considering that the Nile holds great potentials to foster economic development (Tadesse, 2012).

However, Nickum (2010) points out, control of the Nile’s shared water resources is characterized by a high degree of asymmetry between Egypt and other riparian countries. The hydro-politics of the Nile has for a while been dominated by Egyptian hegemony. Due to Egypt’s monopoly over the Nile and also the fact that the river comes mostly from the area of Ethiopia, water politics has mostly been played out between these two states and to some extent with Sudan.

Nickum (2010) doesn’t point out that the water politics previously dictated by historical rights is now dictated by new water developments that can lead us to conclude that conflict and cooperation can exist together. New dynamics and understandings dictate the utilization of the Nile waters. The colonialists didn’t involve the riparian states
in decision making and only dictated the rules to them. Should the riparian states have been involved, would there be more cooperation amongst the states? Are there more factors that contribute to the challenges faced by the riparian states? Can we ignore how other factors such as poverty and political instability actually hinder cooperation amongst the riparian states? Can political stability foster development of water catchment areas in these countries bringing the River Nile to be just one of the sources of their water and not the main source?

Despite the fact that some conflicts in the region remain unsolved, since the mid-1990s, the upstream Nile countries have achieved a greater degree of political stability which has paved the way for peace negotiations and agreements (Sudan Tribune, 2011). An increase in political stability has been followed by an improvement in national economic indicators, such as Gross Domestic Product (GDP), direct foreign investment and development assistance. Structural weaknesses have historically constrained upstream riparians but they now appear as strong parties in competition for the Nile water (Sudan Tribune, 2011). In as much as Egypt’s hegemony has been the narrative, this research seeks to find out what other issues may be affecting cooperation. In case of diplomatic engagements amongst the riparian states, would there be a reduction in the dependence of the river Nile by the riparian states if the states first look into the individual issues in their own countries?

There is obvious widespread poverty and high dependence on agriculture. The riparian states are unable to feed themselves, from domestic produce or afford to import food (Tvedt, 2006). Majority of riparian states don’t have financial capacity to start large-
scale engineering works, including water projects (Lewis, 2013). This has geared the Nile Basin states towards setting in motion various forms of cooperation. Alleviating poverty is essential for meaningful and effective basin-wide cooperation. The common challenge which all riparians face is making their neighbors and co-basin partners to reach a satisfactory solution. The recent attempts to establish mechanisms for basin-wide or sub-basin cooperation may have brought this stalemate to an end (Gleditsh, 2001). The Nile Basin countries face colossal challenges concerning their future water resources development. The Riparian states must tackle these challenges so as to contribute to the development of the basin which will benefit them all.

Waterbury (2002) addressed the question as to whether the Nile Basin Initiative (NBI) could be better enhanced by focusing on a sub-basin approach, or on basin-wide cooperation. His argument is that a sub-basin model of cooperation would be more appropriate and effective because it would diffuse existing tensions without jeopardizing basin-wide cooperation prematurely. Any initiative aimed at achieving basin-wide cooperation, he asserts, will not be successful without first addressing and finding a formula for active cooperation among the core sub-basin countries. The majority of the Great Lakes riparian states, for instance, depend mainly on Lake Victoria as a source of freshwater while their dependence on the Nile River itself is negligible.

Waterbury (2002) however fails to point out that many of the upstream countries have not yet formulated their master plans. They may not want to be in a position of locking themselves into agreements that will not serve them well in the future. These countries thus do not seem to be interested in arriving at agreements on the full utilization
of the Nile waters. In as much he stresses that a risk of consolidation of a sub-basin regime at the expense of basin-wide cooperation is real, building a regime at the sub-basin level could also be a stepping-stone towards basin-wide cooperation.

Although the idea of sub-regional agreements suggested by Waterbury (2002) is attractive, I argue that attainment of basin-wide cooperation would be more likely if sub-basin arrangements can be envisaged within wider basin framework as in the case of subsidiary action programs of the Nile Basin Initiative. What has actually made NBI process and its achievements possible so far is the fact that the Nile basin riparian states, in the first place, have managed to reach an agreement on basin-wide shared set of principles (NBI, 2010). Such agreements and frameworks legitimized particular projects. It was not possible to promote action on the ground or sub-basin activities before a basin-wide shared framework of principles were agreed upon. A sub-basin level would thus be more likely to generate concrete results than basin-wide projects, or that sub-basin projects were in some cases more realistic.

According to Pham (2014), the Sudan has abundant surface water resources and good lands that could relatively easily be brought under irrigation. It has tremendous potential to become a major agricultural producer and exporter in the Nile basin. Its ability to realize such potential was however limited by the political instability and economic crisis. Another important factor is the 1959 agreement with Egypt which restricts how much of Nile water the Sudan could use. The Sudan however, places itself in a difficult position being the only country that has signed the 1959 treaty on utilization of the Nile water with Egypt (Pham, 2014). It is generally a champion of this agreement.
when it comes to sharing the Nile waters with other riparian countries. Yet, in my view, the Sudan is in profound structural contradiction with Egypt. Egypt has a long-standing interest in developing projects in the White Nile basin and counts on Sudan’s cooperation for the realization of these objectives.

The Sudan, with its tremendous potential for irrigated agriculture, is interested in exploiting this potential on a much greater scale and its priority is to pursue water development projects on the Blue Nile, which would mean cooperating with Ethiopia (Mulat, 2014). The Sudan prefers to have a cooperative agreement with Ethiopia, because the water that could be stored on the Blue Nile can easily be delivered to the Sudan’s agricultural lands by gravity flow, reducing silt problems in the already existing dams in their territory (Cascao, 2012). This proves to be expensive. Past negotiations of peace in the Sudan have resulted in signing of memoranda of understanding. The country’s stability births a possibility of an additional regional competitor for the precious waters of the Nile (Mulat, 2014). How the new state will reshape relations between the basin countries, which in turn will play into Nile politics, is difficult to predict at this point.

For many basin countries (especially Egypt and the Sudan), it would mean reconsideration of their Nile policies to accommodate new realities. How then would such a scenario affect the 1959 Nile water agreement between Egypt and the Sudan? What about the controversial Jonglei project? In what way would the Jonglei project affect current efforts to achieve basin-wide cooperation on the Nile waters?

Although, there has been no major conflict over water, there is a correlation between water and political instability (Zeitoun, 2006). This has led to the lack of
cooperation amongst the riparian states. Zeitoun (2006) points that the power asymmetry of the parties involved is a limiting factor which could be a cause of the dissatisfaction with the Nile Basin Initiative Agreement. This would push upstream states to initiate a new cooperative agreement. International water conflicts particularly occur when the cost and benefit of water used for hydroelectric power or irrigation is asymmetrically distributed. When upstream pollution dramatically affects the downstream regions and when an adequate water supply becomes an issue of national security or even survival (Zeitoun, 2006). Conflict over the River Nile is not one of the war, but of unsustainable development impeded by bad governance leading to economic and political instability.

Therefore, Egypt has implied that the reason the riparian states are now seeking more access to the Nile’s resources is because they have mismanaged the resources that they have due to bad governance in the form of corruption. The ineptitude of top heavy civil service bureaucracies has also contributed to the riparian countries not developing to their full potential (Cascao, 2012). The impression being that increasing their access to the Nile will not drastically improve their condition (Cascao, 2012).

The belief that economic development in contemporary Africa is impeded by bad governance is challenged. It posits that there is a misconception that Africans require foreign direction in the socio-economic management of their own societies and resources. There is an oversimplification which undermines the prospect for genuine prosperity, economic integrity and fiscal self-governance which exists abroad and within the continent as well. However, the colonized mind is still a factor with degrading and outdated stereotypes still dominating the policy discussions to which African leaders,
political commentators, economists, community activists and civil servants contribute and subscribe to (Cascao, 2012). This could be a major factor in Egypt perpetuating colonial agreements which are perceived as distributive injustice masked in national security policy and International Law. Egypt by its own admission, has expressed such degrading and outdated stereotype on how sub-Saharan states govern and manage their resources (Collins, 2010). Egypt even aligns with inter-governmental organizations like the World Bank in blocking Nile projects upstream (Collins, 2010).

With the Nile, developing an agreement and colonial prejudices will have to be addressed while having an open conversation about regional development with respect to what it should look like and whom it should benefit. This suggests that a less centralized governing body with monitoring and enforcement capabilities (Adar, 2007). This would be fundamental in sustaining cooperation in the Nile River basin, rather than the status quo. There should also be an assessment of current resource management practices by the states and a reconciliation of the dualism between traditionalism and modernity. Centralized and decentralized government agents should be incorporated in the discussion (Conca, 2015).

For a sustainable political solution to exist, a new agreement has to be established that respects the sovereignty of all states, including the newly formed South Sudan. This agreement has to reconcile the historical agreements that were signed with the British Empire in the colonial times. The agreement should reconcile tradition versus modernity in political decision making and African International Relations reconcile racial, religious and cultural differences, stereotypes and perceptions that have existed for centuries.
(Kasimbazi, 2010). In light of the inefficiency of International Law to specifically address the Nile issue, the political solution has to focus on needs-based values rather than rights-based criteria with an emphasis on mutual economic benefits. To do this, there should be a foundation of Pan Africanism and regionalism to resolve the asymmetrical power distribution in the region (Kasimbazi, 2010).

The study also suggests that though African political culture dictates that all final decisions come from the central government, for a solution to be sustainable, attention should be paid to the opinions, perceptions and practices of the indigenous people particularly those who live in close proximity to the river. Decentralized institutions governing them should also not be ignored. This means that an innovative form of diplomacy will have to be implemented incorporating both state and non-state actors. Sustainability will exist if the people feel like they have a stake in the river’s resources as well as the outcomes of any agreement. With respect to involvement of the international community, the less involvement the better. Due to possible conflicts with Western interests, lack of trust and the history of Egypt using the river to harness international financial resources, a resolution will have to be African in conception and execution.

1.8 THEORETICAL FRAMEWORK

This study uses Realism Theory to further explain the politics of the River Nile.

1.8.1 REALISM THEORY

Realism is a broad theory which developed from the works of such thinkers as Machiavelli (1513), Hobbes (1651), Hans Morgenthau (1948), and Reinhold Niebuhr (1951). Classical realists consider the behavior of states to mimic human behavior in their
innate desire to dominate others, a desire which leads them to go to war (Kasimbazi, 2010). In a Realist system, where sovereign states compete for power and advantage to one another's detriment, war is an inescapable fact. Foreign policy must then be understood in terms of the pursuit of the national interest of power.

Up until the inception of the Nile Basin Initiative in 1999, Egypt clearly held the largest political leverage of the eleven riparian states. Its geo-strategic position enabled it to enjoy strong economic and political relations. As the international system is anarchic, each state needs to secure its own interests, which leads weaker states to balance against, rather than bandwagon with, more powerful rivals (Gleick, 2009). Realists argue that power is the essence of security. Military might is, therefore, the highest priority for achieving national interests and security.

As access to water is essential for the survival of the state, it follows, if one subscribes to a realist approach, that water may be the cause of conflict (Goldstein, 2005). The inherent structural inequality of the regime in favor of Egypt was created by colonial empires and it blocked development of the Nile by any of the upstream colonies in order to ensure maximum flow into British controlled Egypt. 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 (Zeitoun, 2006). 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 (Conca, 2015).
The choice to act upon or ignore requests for cooperation that might alter a standing trans-boundary arrangement is available to the hydro-hegemon alone. The hydro-hegemon, in this case, is Egypt. 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 (World Bank, 2003). This structural inequality is further underpinned by the Operational Directives of the World Bank which require the consent of all downstream neighbors for a project to be financed (World Bank, 2003).

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 (Goldstein, 2005). Among the Nile riparian countries, Egypt is unique in possessing power with a military ranking of 13th in the world and first in Africa as of 2017 (Teklesadik, 2017). Egypt is the undisputed military power in the riparian area. It is also in a stronger economic position, and ideationally well placed. The Nile basin cooperative and conflictive negotiations, including the Nile Basin Initiative (NBI), have all been controlled by Egypt.

Realism theory explains the hegemonic position that Egypt has held among the Nile riparian states. This theory can be used to further explain why other riparian states are now cooperating to ensure the interest of their own country is safe guarded against structural inequality that mainly favors Egypt. States are motivated by a drive for power, security and pursuit of their national interest. 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.

1.9 SCOPE AND LIMITATION OF THE STUDY

Due to the unfolding events of the River Nile politics, this study focuses on events from 1959 to 1999. This marks the period in which the controversial 1959 agreement was signed between Egypt and the Sudan. 1999 marks the year in which the Nile Basin Initiative was launched. Unless a matter of necessity, some remote events are mentioned in passing.

One of the limitations I faced was not being able to go to the field. I was hence unable to obtain personal information on how the River Nile politics may have directly affected respective nationals of the riparian states. Being unable to conduct oral interviews, I explored other primary resources which include policy and research reports. Secondary resources were also explored. Another limitation I faced is unfolding events of the River Nile politics. This at times called for a review of the data already collected and starting the research process all over. There are also some classified sources for which formal permission from top authorities of the respective institutions is required. On this, I ensured to submit my letter of request to access the data in advance to ensure timely approval and in turn allow me ample time to go through the data.

1.10 METHODOLOGY

This study uses a qualitative methodological approach in order to answer the research questions and seeks to confirm the hypothesis formulated. Secondary data has
been collected from books and scholarly journals. The published data was sought from the United States International University (USIU) – Africa library and the University of Nairobi Department of History library. Further information was also sought from the Ministry of Foreign Affairs and International Trade and the Ministry of Environment, Water and Natural Resource in Kenya. The data was collected by conducting walk-in sessions in the government ministries and requesting to access the relevant data.

Primary sources were also used to collect the data. This was mainly from reports, newspaper articles and internet sources. Information was also gathered from International Donor agencies like the World Bank. Some of the reports were from the Ministry of Foreign Affairs and International Trade and the Ministry of Environment, Water and Natural Resource in Kenya. Reports from other organizations were also used to collect data. These organizations include the Nile Basin Initiative (NBI) and the East African Community (EAC).

The data was qualitatively analyzed. This method was preferred as it allowed me to evaluate the data in depth and detail. For the theoretical analysis, realism theory was used to examine the politics of the River Nile.

1.11 ORGANIZATION OF THE THESIS

Chapter I: Provides the Introduction. It contains the background of the study, statement of the problem, objectives, hypothesis, research questions and a justification of the study. The chapter also reviews literature, outlines the research methodology, theoretical framework and the scope and limitation of the study.
Chapter II: Gives a historical overview of the legal regime in the Nile Basin from 1929 to 1999. Various agreements are outlined and an overview of the Nile Basin Initiative is presented.

Chapter III: Examines Diplomatic engagements and power relations since the Nile Basin Initiative was completed. The role played by the East African Community on the River Nile politics is looked into as well as the power relations of Ethiopia and Sudan. Lastly, this chapter looks at the shift in power at the Nile Basin and cooperation among the riparian states.

Chapter IV: Looks at the decade of development in the Nile Basin. The main focus is on the Grand Ethiopian Renaissance Dam (GERD) and the impact it has had on cooperation. Egypt’s approach to the new developments in the Nile Basin is also discussed.

Chapter V: Offers the general findings of the research and the future research area.

2.0 INTRODUCTION

This chapter begins with the examination of reciprocal rights and obligations of the sub-basin’s riparians by reviewing the treaties, which form the legal regime of the Blue Nile sub-basin. The chapter also describes the evolution of the legal regime by reviewing the colonial as well as the post-colonial treaties and other significant negotiations concerning the utilization of the basin’s waters.

Colonial treaties regarding the Nile basin were largely the products of British colonial intervention in the region. Formal agreements and legal regimes provide a legal point of departure to contribute the general principles and rules that govern co-basin states’ legal relations in the utilization of International Rivers (Wu, 2002). The British were anxious to preserve their position of control over the Suez Canal. Therefore, a major part of keeping Egypt satisfied was ensuring the permanent availability of Nile waters for Egyptian use. While the British had many colonial interests in the Nile basin, they chose treaty arrangements that favored Egyptian claims to the Nile, for the above mentioned reason (Batisha, 2013). The British at this time introduced the notion that Egypt’s rights to the Nile were so long established that they should take precedence over all other schemes for use of the Nile. The early colonial period treaties regarding the Nile basin, indicates the British single mindedness on this issue.
These older agreements emphasized certain tenets and attitudes regarding rights to the Nile that have persisted through the development of the current legal and institutional system operating in the Nile basin. They have given weight to Egypt's claims to be the state with the greatest historic legal recognition of rights to the Nile waters.

Furthermore, the early colonial period was also the first in which Egypt was to admit that other states could potentially affect its claims to the Nile. Without the water that the Blue Nile brought down from the Ethiopian Highlands and that the White Nile carried away from the central African lakes, Egypt would be a desolate land. Until the explorations of Baker, Speke, and Stanley in the latter half of the nineteenth century, no one knew where the source of the Nile was located, but all believed that interference with its water was possible (Wu, 2002). Until Britain acquired interests in Egypt, however, speculation on such a diversion was left largely to scholars and travelers. As long as no European power moved into the Sudan or established a position astride the Nile, the British believed that Egypt would have water and British domination of Egypt would remain secure (Wu, 2002).

British complacency was shaken by a European power that loomed in the heights of the Ethiopian plateau. The Italians had long wished to establish a protectorate in Ethiopia, and after 1885, the British had even encouraged Italian moves into the highlands (Pham, 2014). At first the British calculated that Italian penetration would not only keep the Ethiopians out of the Sudan but would also act as a counterweight to the French, who were strengthening their position in Djibouti. In 1889, the Italians seized the first real opportunity to enlarge their prospective sphere of influence (Ashok, 2013). The
forces of the Mahdist of Sudan stopped the Ethiopian expansion into Sudan at the Battle of Al-Qallabat, killing King Yohannes IV (Ashok, 2013).

In order to consolidate his internal position among the traditionally warring feudal factions, the new Emperor, Menelik, welcomed the Italian offer of support and signed the treaty of Ucciali. The Italians translated the treaty into action and laid claim to Kassala situated below the escarpment in the Nile Basin, which commanded the Atbara tributary of the Nile (Backlander, 2013). With this town as a base, the Italians could proceed towards Khartoum at the confluence of the White and Blue Nile. The British were concerned that the Italians may attempt to tap the upper Nile and proceed to occupy Sudan. In August 1889, the British announced against letting foreign powers into the Nile Valley and authorized such measures as may be necessary for the purpose of protecting the Nile Valley against the dominion of any outside Power. Accordingly, the British warned Italy to stay away from the Nile (Zerihun, 2012).

On March 1891, Italy officially consented to remain out of the Nile Valley in return for British recognition of an Italian sphere of influence in the Ethiopian highlands. The Anglo Italian Treaty was signed in Rome, Italy on April 15, 1891 (Tadesse, 2012). The protocol protected Egyptian interests in waters of the Atbara River, a tributary of the Nile. The British concluded this treaty before the major source of the Nile was identified as the Blue Nile, which originates in the highlands of Ethiopia. Article III stipulated that the Government of Italy undertakes not to construct on the Atbara any irrigation or other works which might sensibly modify its flow into the Nile (Tadesse, 2012). This was followed by an exchange of Notes between Italy and Britain signed in Rome on
November 22, 1901 marking the frontier between the Anglo-Egyptian Sudan and Eritrea (Tadesse, 2012).

2.1 THE NILE’S NATURAL RESOURCE ATTRACTION

The Nile’s vast natural resources attracted European colonial powers after the fall of the Ottoman Empire. The river has two main tributaries: Blue Nile and the White Nile. The Blue Nile is the source majority of the water while the White Nile is the primary stream of the Nile itself. The White Nile is longer and is viewed as the headwaters flowing through Tanzania, Lake Victoria, Uganda and South Sudan. It rises in the Great Lakes region of Central Africa, though the most distant source is still not determined. The Blue Nile on the other end begins in Ethiopia and flows into Sudan from the South East. The two rivers meet at Khartoum; Sudan’s capital. From the North, the river flows entirely through the Sudanese desert to Egypt, ends in a large delta finally emptying into the Mediterranean Sea (Lewis, 2013). Since ancient times, the Egyptian civilization and Sudanese kingdoms have depended on the river. In Egypt, majority of the population and cities lie along parts of the Nile valley north of Aswan. Nearly all the historical and cultural sites of Ancient Egypt are found along the riverbanks (Lewis, 2013).

An unending source of sustenance, it played an important role in the development of Egyptian civilization. Silt deposits from the Nile made the surrounding land fertile because the river overflowed its banks annually. Ancient Egyptians cultivated and traded various crops around the Nile (Mason, 2003). This trading system secured Egypt's diplomatic relationships with other countries, and contributed to economic stability (Mason, 2003). Far-reaching trade has been carried on along the Nile since ancient times.
The Nile has long been used to transport goods along its length. The winter winds blow up the river, south, so ships could sail up river, and down river using the flow of the river. While most Egyptians still live in the Nile valley, completion of the Aswan high dam in 1970 ended summer floods and their renewal of fertile soil, fundamentally changing farming practices (Lewis, 2013).

After the European colonial powers penetrated into the continent and created their zones of influence, Britain's control over Egypt lasted until 1937 and over the Sudan from 1899 to 1956 (Backlander, 2013). Egypt still wanted to have control over the River Nile. Italy entered the Horn of Africa via Eritrea, and France and Belgium became colonial neighbors in Equatorial. Ethiopia was the only country that remained independent despite numerous attempts by the Italians to colonize it, interest being the River Nile. Most of the agreements that concluded during and after the colonial era took cognizance of Egyptian concerns regarding the waters of the Nile (Lewis, 2013). River Nile was a major interest of the European Colonizers.

2.2 THE AGREEMENTS OF THE NILE BASIN BETWEEN BRITAIN AND EGYPT IN THE COLONIAL ERA

The River Nile being the main source of irrigation, the presence of British colonizers in Egypt and the Sudan during colonialism dictated the state of affairs in Egypt and Sudan (Adar, 2007). British colonialism in north-east Africa wanted to secure its interest in the Nile to ensure the production and export of cotton for its industries in England (Adar, 2007). To this effect, the British concluded various agreements with those states of the Nile under their control to secure the unfettered flow of water to Egypt.
During colonization, as the British never had any control over Ethiopia, they tried different strategies to achieve their objective to bring Ethiopia under their sphere of influence. Italy, harboring colonial designs on Ethiopia came handy in this ploy (Conca, 2015).

According to Cabera (2002), Great Britain was the colonial administrator of the Sudan and had strong similar interests in Egypt. From 1884 onwards, the British Protectorate controlled the utilization of the Nile waters; favoring Egypt and to a lesser degree the Sudan. The implementation of the utilization of the whole of the Nile Basin was facilitated by the fact that all upper riparian states, excluding Ethiopia and the Congo, were by then under the British colonial rule (Metawie, 2008). The main purpose of this scheme was to promote the interest of Egypt. The British engineers implemented models that gave an overwhelming dominance to Egypt over the utilization of the Nile (Cabera, 2002).

It is important to note that during the colonial period, the British made a series of dramatic concessions to Egypt at the expense of other colonial possessions. It was solely motivated by the desire to protect the security of the communications of the British Empire in Egypt and by the hope of having a more friendly Egyptian government to deal with in regard to other matters of more immediate interest to Great Britain (Verhoeven, 2013). These considerations formed the basis for the controversial recognition by the British of the natural and historical rights of Egypt in the waters of the Nile (Tvedt, 2006). The regime which evolved within the context of the informal protectorate of the British over the Nile River Basin resulted in a number of treaties concluded by the British.
with the upper riparian states (Tevdt, 2006). With the end of British colonial rule in the area, Egypt pursued the same objective and claimed the whole of the Nile waters for its exclusive benefit. Through various schemes Egypt tried to implement the same policy that Great Britain applied to the Nile Basin; but unlike Egypt, Britain was in control of the upper riparian countries (Tvedt, 2006).

Egypt has skillfully maneuvered in the region to ensure virtual monopoly over the Nile waters. Most of these treaties were not essentially agreements over the waters of the Nile. They were rather predominantly border treaties, either among colonial powers or between colonial powers and Egypt or Ethiopia. Prior to her independence in 1922, Egyptian water interests were principally determined by Britain, the colonial power since 1914 (Zeitoun, 2006). Egypt lost her sovereignty and legal personality that allowed her to speak as an international legal person (Zeitoun, 2006). As in other colonies governed by Britain, Egypt remained an object of International Law with London becoming the centre of external relations on behalf of the country. Egyptian water politics during the colonial period was the domain of the British colonial power. The international conventions concluded between Britain and other contracting parties became binding on Egypt in the post-independence period (Zeitoun, 2006). This is the general practice according to the rules of International Law, particularly with respect to state succession (Tvedt, 2006).

Britain was not the only colonial power in the Nile River basin.

The other colonial powers at the time included Italy, France, Belgium and Germany. After the end of the First World War, with the beginning of a decline in European colonial power regarding the acquisition of title to territories in Africa (Tvedt,
Britain decided to guarantee Egypt rights over the Nile water by concluding international agreements akin to those concerning European international riparian navigation used for industrial and agricultural purposes.

Britain attempted to internationalise the utilisation of such waters, the Nile included. First, Britain and Italy concluded the protocol of Rome in 1891, which dealt with the issue of drawing borders between Eritrea and Sudan (Tvedt, 2006). In the protocol, Italy pledged not to construct any projects on the Nile Atbara tributary that could affect the quantity of water flowing to Egypt. Second, the 1902 Addis Ababa agreement concluded between Britain and Menelik II of Ethiopia committed the two countries not to construct or allow construction on the Blue Nile, Lake Tana and the Sobat River which would affect the flow of waters, except with express consent of the parties as well as Sudan (Tvedt, 2006).

Third, the London treaty concluded in 1906 between Britain and Belgium (on behalf of Belgian Congo, which provided for, among other things, a commitment by an independent Congo not to establish or allow the establishment of any constructions on or near the River Semlik, a tributary of the Nile River, that would diminish the volume of waters entering Lake Albert (Brunnee and Toope, 2002). Fourth, the tripartite agreement concluded in 1906 between Britain, Italy and France also bound the contracting parties to maintain the unity of Ethiopia and to safeguard the interests of Great Britain and Egypt in the Nile Basin, more specifically as regards the regulation of the waters of River Nile and its tributaries (Brunnee and Toope, 2002). These agreements, among others, were entered into between the contracting parties to prevent upstream states from diverting the flow of
the Nile River waters against the interest of colonial powers and their colonies as well as Egypt. These treaties laid the foundation for the post-independence 1929 and 1959 legal instruments between Egypt and Britain, and Egypt and Sudan respectively.

2.2.1 THE 1929 ANGLO-EGYPTIAN AGREEMENT

There was the exchange of notes between Great Britain (acting for Sudan and her East African dependencies) and Egypt in regard to the use of the waters of the Nile for irrigation purposes (Rahman, 2011). Britain, having colonized some of the River Nile Riparian states including Kenya, Uganda, Tanzania and Sudan, the 1929 Anglo-Egyptian agreement was concluded by exchange of notes between Britain and Egypt (Rahman, 2011). The agreement was signed on 7 May, 1929 and its purpose was to guarantee and facilitate an increase in the volume of water reaching Egypt. This was done by erecting reservoirs on the Equatorial Lakes as well as Lake Tana and by expanding yield from the Swamps in Southern Sudan (Mason, 2003).

Moreover, the agreement mainly aimed at securing the Nile water for Egypt by limiting the rights of the Sudan and rejecting those of the other riparian states. The Agreement recognised Sudan’s right to use the water of the Nile as long as Egypt’s natural and historic rights were protected, and conferred upon Egypt the right to monitor the flows of the water in the upper riparian states, the right to undertake any projects on the Nile without the consent of the other riparian countries, and the right to veto construction works that would affect its interest adversely (Ayebare, 2010).

The agreement also recognised, somehow, the right of the Sudan to utilise the water but its exercise is contingent on whether or not its uses preserved Egypt’s historic
and natural rights (Collins, 2010). Granting all this awareness of the fact that Sudan required considerably more water than it was utilizing then, the Egyptians dictated on special consideration based on their historical right and the requirement for the extension of irrigated agriculture. As can be concluded from the above provision, the main noteworthy of the 1929 agreement was to secure the exclusive interest of Egypt over the Nile at the expense of the other riparian states. Egypt had simultaneously been granted by the agreement the warrant to investigate and inspect any control work along the River Nile (Collins, 2010).

2.2.2 THE 1959 AGREEMENT FOR THE FULL UTILIZATION OF THE NILE WATER

The changing circumstances since the adoption of the 1929 agreement needed a new legal disposition for a more rational and fair distribution of the Nile waters. Sudan had been contesting that the 1929 agreement was no longer valid for it had been reached by Britain and Egypt without consulting with the Sudan and had discriminated against them (Elkareem, 2012). When Sudan gained its independence in 1956, it called for the revision or annulment of the 1929 Anglo-Egyptian agreement (Elkareem, 2012). This was so that it could pursue another agreement on the use of Nile water with Egypt.

The 1959 agreement was concluded between the independent Sudan and Egypt on 8 November, 1959. As the name itself implies, it allotted the entire water of the Nile to the two states only (Ayeb, 2013). Its purpose was, therefore, to gain full control of the water and this constitutes the culmination in efforts to give preference to both states. This is because it highlighted the construction of the Aswan High Dam as the major element for controlling the Nile water for the benefit of Egypt and the Sudan (Kameri, 2007).
Thus, it is the legacy of the colonial era and the affirmed British approach to the water of the Nile. The doctrine included the controversy on the quantity of average annual Nile flow which was settled and agreed to be about 84 billion cubic meters measured at Aswan High Dam, in Egypt (Kameri, 2007). It allowed the entire average annual flow of the Nile to be shared among the Sudan and Egypt at 18.5 and 55.5 billion cubic meters, respectively (Kameri, 2007).

The two states acted as if the Nile starts in the Sudan and ends in Egypt and left, contrary to common sense, no room for the other riparian states. This manifests an entrenched quest to have full control of the water (Kameri, 2007). At the beginning of the talks, both Sudan and Egypt claimed large areas of fertile land and large amounts of Nile water. Sudan claimed 44 billion cubic meters of Nile water to irrigate 2.22 million hectares, while Egypt claimed even more water than Sudan that irrigates 7.1 million hectares (Foulds, 2008). The debate over the claims delayed the agreement, but whether or not Sudan agreed, the construction of the Aswan High Dam was seen as a development priority for Egypt. One way or the other, the Sudan had to commit itself to the agreement (Foulds, 2008).

The controversy on the quantity of average annual Nile flow was settled and agreed to be about 84 billion cubic meters measured at Aswan High Dam, in Egypt (Amare, 2009). The agreement allowed the entire average annual flow of the Nile to be shared among the Sudan and Egypt at 18.5 and 55.5 billion cubic meters, respectively (Amare, 2009). Annual water loss due to evaporation and other factors were agreed to be about 10 billion cubic meters (Amare, 2009). This quantity would be deducted from the
Nile yield before share was assigned to Egypt and Sudan (Amare, 2009). Sudan, in agreement with Egypt, would construct projects that would enhance the Nile flow by preventing evaporation losses in the Sudd swamps of the White Nile located in the southern Sudan (Mekonnen, 2000). The cost and benefit of the same was to be divided equally between them. If claim would come from the remaining riparian countries over the Nile water resource, both the Sudan and Egypt shall together handle the claims (Enein, 2012).

The Agreement for the full utilization of the Nile Waters was signed between Sudan and Egypt without inviting other riparian states to join the agreement or otherwise obtaining a consensus from them. This was regardless of neither of the states being contributors to the Nile waters (Mekonnen, 2000). The 1959 agreement especially addresses the issue of complete dominance and full deployment of the Nile waters. The Nile water has to be shared with another riparian state that allocated amount would be deducted from the Sudan’s and Egypt’s and allocations in equal parts of Nile volume measured at Aswan (Enein, 2012).

Furthermore, the agreement granted Egypt the right to construct the Aswan High Dam that can store the entire annual Nile River flow of a year and Sudan to construct the Rosaries Dam on the Blue Nile. The agreement also allowed Sudan to develop other irrigation and hydroelectric power generation until it fully utilizes its Nile share (Mekonen, 2000). Therefore, the 1959 agreement was made between Egypt and Sudan eliminating other Nile riparian states. Subsequently, it creates obligations between the two states and does not bind other riparian states without their approval.
Moreover, the 1959 Agreement managed to institutionalise collaboration between the Sudan and Egypt, with the setting up of the Egypt-Sudan Permanent Joint Technical Commission on the Nile (Chweya, 2004). This cooperative scheme has been, and is, effective only between the two countries. It does not symbolise an all-inclusive scheme embracing all riparian states. Another attribute that distinguishes these bilateral treaties, is that they could be said to have established different categories among the Nile states, which applies to those states that had concluded agreements, and those that remained excluded. As a result, the treaties have permitted the adoption of legal rhetoric that is entirely self-serving, fostering competition rather than cooperation (Chweya, 2004). It is bilateral in nature and devoid of legal application to the other riparian states. The fact that the treaty is bilateral means that it cannot legitimately be perceived to regulate all of the Nile waters and all the basin states (Enein, 2012). The two states approached the problems in the basin in a splintered manner and have thus become an obstacle for cooperation. Owing to their bilateral nature, they undermine the emergence of basin-wide shared understanding and the evolution of a communal identity between the riparian states (Earle, 2010).

The treaty doesn't provide opportunities for basin-wide interaction and trust-building (Amare, 2009). Both the early colonial-authored agreements and the 1959 agreements favoured Egypt in particular, and, hence, Egypt wants them to remain unchallenged. Ethiopia is however not willing to recognise Egypt’s claims over the water, and has consistently been airing its grievances and objection against it (Ashok, 2013). The other watercourse states, namely, Uganda, Tanzania, and Kenya, consider the 1959 agreement to be a matter between the two lower riparian states only (Ashok, 2013).
Owing to its bilateral nature, the upstream states are of the opinion that it has no place in the integrated development of the Nile basin and that it has posed an obstacle for its coordinated development (Ashok, 2011).

2.3 RIPARIAN STATES POST-COLONIAL ERA AGREEMENTS

The post-colonial era in the Nile Basin has been a period marked by legal battles concerning the successors of the colonial Nile agreements and the degree to which these should be legally binding on what is described as non-contracting, sovereign basin states (IPRID, 2016). While these water agreements have played a lesser role in barring upstream development that some have maintained, the water sharing issue has been and still is a major point of contention and will continue to be so.

The 1960s were characterized by the emergence of newly independent states and the beginning of a new era in the continent. Among riparian countries of the Nile (all being former British colonies), Tanzania became independent in 1960, Uganda in 1962, Kenya in 1963 and the Congo (DRC) in 1960. The other two former Belgian colonies: Burundi and Rwanda also got their independence in 1962. These countries inherited unfair and unbalanced agreements and treaties which were concluded on their behalf by colonial powers and other third parties (Naluyaga, 2013). According to Naluyaga (2013), this no recognition of the colonially inspired treaties was also shared by other upstream riparian states, particularly Tanzania. Former President Julius Nyerere repeatedly dismissed the treaties as null and void and non-binding and in turn formulated the Nyerere doctrine (Naluyaga, 2013).
2.3.1 NYERERE DOCTRINE OF STATE SUCESSION

Julius Nyerere, the first President of Tanzania, considered that international agreements dating from colonial times should be renegotiated when a state becomes independent. This was because the nation should not be bound by something that it was not in a sovereign position to agree to at that time (Goldstein, 2005). This doctrine came to existence after Nyerere made a unilateral declaration to the Acting Secretary General of the UN in 1961 in Spain (Goldstein, 2005). According to this doctrine, a newly independent state can, upon independence, review the international treaties that it stands to inherit and decide which of the agreements it will accept and which it will repudiate (Goldstein, 2005).

Although such an optional approach to events of State succession was not new and was already recognized by customary International Law, Nyerere is recognized for the modern formulation of the optional doctrine of the law of State succession (Collins, 2010). The Nyerere doctrine was first adopted by the East African States after their independence. The colonial powers advocated that the new East African States enter into inheritance agreements before their independence, and remain bound to the pre-independence treaties concluded by the colonial powers acting on behalf of the colonial or trust entries (Collins, 2010).

The Nyerere doctrine on the other hand, in the case of bilateral treaties, called for provisional application on a reciprocal basis, for a two year period (Kagwanja, 2007). This would be from the date of independence of those treaties that were compatible with the sovereign rights of the new states (Kagwanja, 2007). This period served as a time
when the new state decided to be bound, whether to renegotiate the treaties with the parties concerned or abandon them altogether.

In the case of multilateral treaties, there is no fixed period for the provisional application of their terms based on reciprocity (Kagwanja, 2007). Inevitably, the various Eastern African States developed their own versions of the optional doctrine. These were the opting in; the opting out; then general declaration and non-committal or selective specific treaty formulae (Kagwanja, 2007).

2.3.2 THE JONGLEI CANAL PROJECT OF 1974

In the Sudd, the great swamp which gathers the waters of the upper white Nile, in the state of Jonglei (which borders on the south with the equatorial states of Sudan), there stands a half-finished, 180 kilometer long, manmade channel, the northern portion of the Jonglei Canal (Collins, 2010). The canal was started in 1978 by Sudanese government as a means for channeling additional water from the Nile River for use in north Sudan and Egypt (Collins, 2010).

The leadership of the Sudan People's Liberation Movement (SPLM), however, saw that as another way of robbing the South of its resources. This was notwithstanding both the environmental and humanitarian consequences that were posed to the local population (Fadwa, 2010). The Canal was thus stopped on its tracks by the SPLA, at the earliest months of the war. The completed canal was intended to divert a portion of the water from entering the Sudd, and send it directly for a total of 360 km, from the south to
north, from Bor to Malakal to provide great ecological and economic benefits to both the immediate region and downriver lands (Fadwa, 2010).

The Jonglei canal scheme was first studied by the government of Egypt in 1946 and plans were developed in 1954-59 (Fadwa, 2010). The construction work on the canal began in 1978 but the outbreak of political instability in Sudan held up work for many years. By 1984 when the Sudan People's Liberation Army (SPLA) brought the works to a halt, 240 km of the canal of a total of 360 km had been excavated (Fadwa, 2010). The Sudanese civil war, fought mainly in the South, prevented the implementation of the Jonglei project.

In 1969, the Permanent Joint Technical Commission for Nile waters (PJTC) Egypt and Sudan formed a sub-committee to prepare a memorandum embodying the broad lines of the project for the reduction of losses in the swamps of the Bahr El Jebel and Bahr El Zeraf (Collins, 2010). The sub-committee submitted its reports in September 1969. The PJTC thereupon submitted its own draft report containing the proposed first phase of the Jonglei project for increasing the Nile yield in the swampy regions of the Bahr El Jebel and Bahr El Zeraf (Collins, 2010). No practical steps were taken; however, as the civil war continued in the South and the relations between Egypt and the Sudan were tense in the early 1970s (Collins, 2010).

On 12 February 1974, a day after the signing of the Charter of Political and Economic Integration between Egypt and the Sudan, the presidents of the two countries issued a statement indicating that studies of the total cost of the Jonglei and upper Nile projects would be finalized so that work would begin (Fadwa, 2010). The Jonglei Canal
would thus be the first major development scheme jointly operated by Egypt and the Sudan. But work didn’t start until 1978, owing to delay in the installation of the engraver machine. The project would be divided into two phases: the canal itself and storage projects in the Equatorial Lakes, for which consent of the concerned riparian states would be crucial (Fadwa, 2010).

After two-thirds of the Jonglei Canal had been dug, a series of attacks by the Sudan’s Peoples Liberation Army forced suspension of the work in 1984 (Fadwa, 2010). The major advantages the Sudan stands to gain from a completed canal project include: a share of the saved water for irrigation use in the central Sudan, potential for irrigating millions of feddans in the canal area and improved transport and communication (Fadwa, 2010). The relevance of the Jonglei to the local Dinka, Nuer, Shilluk, Anyuak and Murle peoples is not that it interferes with their traditional way of life, but rather that it opens up hitherto dormant opportunities for socio-economic development and real opportunities for regional and national integration of the area (Fadwa, 2010).

Moreover, the possible emergence of the South as an independent state dramatically alters all previous speculation and calculation about the Jonglei Canal (Fadwa, 2010). If the South voted for secession and complete independence was declared, the south would have several options. One of these options would include completion of work in cooperation with Egypt and in return Sudan would receive assistance in development projects for which the Southern Sudan is in need (Fadwa, 2010). Independence would also increase regional competition for the precious waters of the Nile.
Furthermore, Egypt was particularly worried about the possibility of southern Sudanese secession, for obvious reasons, and has maintained contacts with the current regional government in the south. On 9 August 2006, Egypt and southern Sudan signed a memorandum of understanding regarding technical support, assessment of water resources, forecasting of flood and drought, and reviews of studies of the Jonglei canal (Fadwa, 2010). The Egyptian Government formulated a century storage scheme in 1940 for the development of the Nile, which was calculated based on the future needs of Egypt and the Sudan (Fadwa, 2010). This project was realized within the framework of the Permanent Joint Technical Committee established under the Nile Water Agreement of 1959 (Fadwa, 2010). This century storage scheme (CSS) was a plan to build an over year flow regulation structures throughout the Nile River Valley (Fadwa, 2010).

Lake Victoria was to be used as a major over-year storage reservoir, with Lake George and Lake Tana supplementing it (Gleick, 2009). Lakes Kyoga and Lake Albert would operate in tandem with Lakes Victoria and George to regulate the discharge into the Victoria Nile and the Bahr Jebel. The main purpose of the century storage scheme was to transport the regulated flow of the upper White Nile River through the great swamps of the Sudd. Waterbury (2002) explained that half the total discharge of the Bahr El Jebel, or some 14 BCM, is herein lost through evaporation each year (Sudan Tribune, 2011). Total losses due to evaporation in the swamps, and comprising the spill-over of all the main White Nile tributaries Bahr El Ghazal and The Sobat is on the average 40 BCM per year. The problem therefore was to cut a channel through or a diversionary canal around the swamp excavating a canal, known as the Jonglei, to take off north of Juba at Ber and to skin the swamp to the east for some 280 km, delivering its discharge to the
Nile at Malakal (Tadesse, 2012). The Egyptian sought approval for this scheme as early as 1938 (Tadesse, 2012). This was how the Jonglei Canal came into operation. The proposed canal would have a capacity of 55 million (MCM) per day and would make an additional 7 BCM of water available in downstream countries during the low flow months (Fadwa, 2010).

The canal plan was circulated and revised throughout the 1940s and 50s, without any practical steps being taken (Fadwa, 2010). One of the tasks of the Permanent Joint Technical Commission (formed by the 1959 agreement), was to proceed with the planning of the construction of the Jonglei Canal (Fadwa, 2010). It was not until 1974 that Egypt and Sudan agreed to share the cost of building the canal. The contract was awarded to a French consortium. The canal’s channel would be 52m wide and 4m deep. When completed, it would be 362 km long, twice the length of the Suez Canal (Tadesse, 2010). In 1978, construction work began despite opposition from various quarters for example environmental, political, local and international groups. In 1982, construction ceased due to the civil war in Southern Sudan, and the fate of the Jonglei Canal remains uncertain (Fadwa, 2010).

2.3.3 THE ETHIO-SUDANESE AGREEMENT OF 1991

Throughout history Ethio-Sudanese relations have never been cordial or stable. There were many years of mutual distrust and cold diplomatic relations. On December 23rd, 1991, Ethiopia and Sudan issued a joint peace and friendship declaration in Khartoum (Zerihun, 2012). In this agreement, Ethiopia and Sudan agreed to cooperation and equitable entitlement to the usage of the Nile waters without causing appreciable
harm to one another. In the agreement, both sides agreed to work together for
development, regional integration and sustainability (Dereje, 2010).

2.3.4 ETHIO-EGYPTIAN FRAMEWORK AGREEMENT OF 1993

Signed in 1993 in Cairo between Egypt and Ethiopia, it was the first bilateral
framework for cooperation regarding the Nile issues after the colonial period (Khairy,
2003). It was signed by the late Ethiopian Prime Minister Meles Zenawi, and former
Egyptian President Hosni Mubarak (Khairy, 2003). The framework stipulated that future
negotiations between the two countries concerning the utilization of the waters of the
river Nile would be based on the rules and principles of International Law (Khairy,
2003).

The agreement was neither a building nor settling disputes between the two
countries. The significance of signing the document is that it represented the first attempt
by the two sides that they should tackle the very serious challenge of the river Nile
(Mulat, 2014). The two parties agreed that the issue of the use of the Nile waters shall be
worked out in detail through discussions by experts from both sides, on the basis of the
rules and principles of International Law. Each party would refrain from engaging in any
activity related to the Nile Waters that may cause appreciable harm to the interests of the
other party (Conway, 2011). These two parties agreed on the necessity of the
conservation and protection of the Nile waters. In this regard, they undertake to consult
and cooperate in projects that are mutually advantageous, such as projects that would
enhance the volume of flow and reduce the loss of Nile waters through comprehensive
and integrated development schemes (Conway, 2011). These two parties agreed to create
an appropriate mechanism for periodic consultations on matters of mutual concern, including the Nile waters, in a manner that would enable them to work together for peace and stability in the region. The two parties shall endeavor towards a framework of effective cooperation among countries of the Nile Basin for the promotion of common interest in the development of the basin (Conway, 2011).

Egypt tried to use the word appreciable harm as a blocking mechanism to prevent Ethiopia from implementing various projects on the Blue Nile or on other tributaries (Mulat, 2014). Ethiopia and Egypt also agreed on not doing anything to the Nile that would do appreciable harm to the other side. Egypt, however, continued with new projects at the river Nile, the Tochka Canal, for example (Mbaku, 2015). The canal was designed to irrigate 500,000 acres without consultation with other riparian states (Mbaku, 2015). In general, the 1993 agreement opened a new chapter in Ethio-Egyptian relations and created a better understanding vis-á-vis the Nile. This was the beginning of an era of reduced tension in the Nile Basin (Kagwanja, 2007). So far Egypt has pursued the motto of "acquired rights" on the utilization of Nile waters. The 1993 agreement could be considered as a sign of positive trend which opened the way for dialogue and partnership. In other words, it gives rise to cautious optimism amongst Egypt, Ethiopia and others (Kagwanja, 2007).

2.4 THE NILE BASIN INITIATIVE (NBI)

The Nile Basin Initiative (NBI) is an intergovernmental partnership that was launched in February, 1999 by the water ministers of the countries that share the river—Egypt, Sudan, Ethiopia, Uganda, Kenya, Tanzania, Burundi, Rwanda, the Democratic
Republic of Congo and Eritrea (NBI, 2005). The partnership was to form a workable framework among the Nile riparian states as they seek to develop the river in an amicable manner, sharing the socioeconomic benefits and regional security and peace.

It was necessary to have it as it serves as a forum for consultation and coordination among the Basin States for the sustainable management and development of the shared Nile Basin water and related resources for win-win benefits (NBI, 2005). The Nile Basin Initiative (NBI) creates a flicker of hope in the basin. It represents a new approach. Its programmes, namely, the Strategic Action Programme and the Shared Vision Programme, are based on equitable utilisation of the water of the Nile and its sustainable development (NBI, 2005). The programs are also based on efficient water management, ensuring cooperation and joint action (NBI, 2005). Attempts to cooperate to create institutional schemes were doomed to failure, mainly because they addressed the problem on a small scale and did not also attract the confidence of all the riparian states (NBI, 2005).

Additionally, cooperation over shared water resources presupposes the existence of legal framework (Collins, 2010). There has been departure from the past trend of unilateral uses and management of the water, in the sense that it attracted the support of almost all the riparian states and specifically emphasised the issues of fair water allocation, joint management and development of the resource (Swain, 2002). In the light of the prevailing disputes, and the mistrust and suspicion among the riparian states, which typify the basin, securing the participation under the umbrella of the NBI, of all the states
involved in the issues of the Nile, is a major breakthrough in the move towards cooperation (Foulds, 2008).

Despite its success in terms of bringing all the riparian states together, there are challenges ahead for the Nile Basin Initiative. One of the challenges facing the Initiative is the lack of a legal framework involving all the stakeholders (Teshome, 2008). To tackle this problem, the Nile Cooperative Framework, which is within the understanding of the NBI’s Shared Vision Programme, aims to reach an agreement on legal principles which will lay the ground for determining a reasonable and equitable solution (Teshome, 2008). The experts in charge of devising such a governing rule, held discussions, but could not agree on the framework (Foulds, 2008).

Therefore, it cannot be sustained without a legal arrangement in place. The NBI does not as such, signify an assurance by the lower riparian states of their intention to disregard the Agreement (Teshome, 2008). This is because first, it is extremely difficult, if not impossible, for Egypt to make concessions which would have an impact on the amount of water allocated to it. Egypt views allocation of more water resources to the other riparian states as a threat. It’s future food requirements through desert reclamations would require an increased use of water (Foulds, 2008). Second, Egypt favours wide-ranging regional schemes, that downplay the importance of water sharing and want to put in place integrated development projects on such issues as environmental concerns or tourism. The Nile Basin Initiative was a marking departure from Egypt’s historic protection of the Nile for its national interests (Swain, 2002).
While some may seek to justify the Nile Basin Initiative by stating that its initial goals had no relation to the re-examination of water apportionments of Egypt and Sudan, the outcome it ultimately facilitated by its results (Swain, 2002). It is true that the Initiative was theoretically launched to develop programs intended to provide proper guidance in the use of water for agriculture, electricity networks, and the development of Lake Albert’s fisheries (Cascao, 2009). It also hoped to explore other ecological questions, such as ways to combat the water hyacinth in the Kagera River and means of developing basins in Rwanda, Burundi, Tanzania, and Uganda (Cascao, 2009).

Furthermore, the Initiative was also intended to facilitate the establishment of the Eastern Nile program, which aims to develop a statistical planning model for the Eastern Nile in order to measure the impact of development projects (Cascao, 2009). In the absence of a comprehensive agreement, one cannot envision a cooperative system among the basin states. This could give rise to a scramble over the resource and ultimately lead to conflict (Enein, 2012). This is likely because the riparian states disadvantaged by the agreements, have pointed out their unfairness and have called for a basis on which a fair and equitable agreement is put in place. Taking into consideration the demands of the upper riparian states to have a share of the water, one can safely say that the treaties do not accommodate the interests of all the riparian states.

The quest by the lower watercourse states to maintain the status quo on one hand, and the need for a new water accord, called for by the upper states, on the other hand, have jeopardised the potential to reach a mutual agreement among the Nile riparian states (Cascao, 2009). Resolving the conflicts over the Nile is possible, but only if a new
agreement, which differs significantly from those already in existence, is reached. This is ascribed to the fact that the issue differs from state to state. For instance, for Ethiopia cooperation on the water of the Nile, is contingent on a decision to renegotiate the 1959 Agreement, since it allocated the whole water to Egypt and the Sudan alone (Cascao, 2009).

The NBI has changed the tone of discourse over the Nile, and transitions have already been made from mistrust to mutual trust and cooperation (NBI, 2010). The riparian states now view cooperation as the only way forward and NBI provides the most viable platform for cooperation. Apart from confidence building, the NBI has gone a considerable distance in the implementation of projects on the ground as seen in the joint preparation and implementation of investments in power, agriculture and regional trade as well as river basin management (NBI, 2010).

2.5 CONCLUSION

The pre-colonial water agreements over the River Nile seem to have catered more for the interests of Egypt, which it claimed natural and historic rights to the waters of the Nile. Indeed, most of the agreements were negotiated by or with Britain allegedly on behalf of the colonies they ruled such as the current-day Uganda and Sudan.

The controversial 1959 Agreement for example, does not accommodate the interests of all riparian states. The agreement allotted the entire water to two states, thus, remains effective only between them. The Agreement therefore runs, counter to fundamental principles governing the usage of international water resources. The historical overview of the legal regime in the Nile Basin, shows how a shift in political
boundaries can wheel intra-national disputes into international conflicts. This aggravates tensions over existing issues. The disappearance of British colonialism turned national issues international, making agreements more difficult. Also, the conclusion of bilateral and multilateral treaties, depending on the number of the riparian states involved, is clearly instrumental in reducing disputes among the riparian states and in enhancing cooperation. From the spirit of the Nile Basin Initiative, it seems that there is recognition of the need to have a legal framework that takes into account the interests of all riparian states.

In addition, the political history of the Nile attests to the fact that state interests are directed towards hegemonic control and dominance rather than cooperation. This has led to a situation in which the relation of the parties, especially in the eyes of Egyptian politicians, is defined by a zero-sum game where any concession to one party is considered to be a loss. The legal regime governing the Nile also reflects this situation. The main aspirations of the Nile-related agreements were to prevent upstream riparian states from erecting dams and utilizing the waters of the Nile to allow Egypt to maintain undiminished flows to quench its thirst. However, we cannot deduce from this that a zero sum game will continuously be won by the lower riparian states since the existing legal regime reflects the power politics of colonial times and not that of today.

The problem with these treaties is that they apportion the waters of the Nile to the lower riparian states leaving the upper riparian states completely forgotten. Most of the watercourse states, therefore, reject the contemporary validity of these agreements and have expressed their intent not to honor them.
On the other hand, the lower riparian states contend the treaties are still valid and could not be violated by the other states unilaterally. One of the legal arguments against these agreements is that the colonial circumstances under which the agreements were made has changed so fundamentally that they are not valid anymore. It has also been argued that the treaties violate one of the most important peremptory rules or norms of International Law: namely, that the upper basin states have rights to self-determination and permanent sovereignty over natural resources. The free determination of people's political status and the ability to freely pursue their economic, social and cultural development has been a focal issue in the decolonization process.

I conclude that the treaties violate this principle because they freely give away the natural resources of a previously colonized state without its consent or without any past or future control over its own resources. From a legal point of view, the Nile is governed by an incomplete and fragmented treaty regime between the Nile riparian states, a majority of which do not even recognize the various treaties. There is also lack of clarity as to which customary rule of International Law applies to the management and governability of the Nile waters. What is clear, however, is that the position taken by the riparian states at different times is a reflection of the Nile basin's hydro-politics. The late 19th Century saw the ebb of Egyptian hegemony where Egypt attempted to annex the entire Nile basin. The late 20th Century saw a multilayered hegemonic strategy whereby Egypt used securitization, covert action and treaties to secure its hegemonic position. After decolonization, lower riparian states have begun resisting Egyptian hegemony.
CHAPTER 3: DIPLOMATIC ENGAGEMENTS AND POWER RELATIONS SINCE THE NILE BASIN INITIATIVE (NBI)

3.0 INTRODUCTION

Power relations in the Nile river basin have changed over the past decade. Not only have political relations between upstream and downstream been influenced by these dynamics, but also the management and allocation of the shared Nile water resources. There is a relationship between power shifts and the evolution of the Nile Basin Initiative (NBI) which we will examine how unilateralist and multilateralism hydro political trends have co-existed in the Nile basin, and identify possible future scenarios.

Two parallel processes make up the current hydro political cooperation in the Nile basin. The NBI is a transitional institutional mechanism, and the negotiations for a new legal and institutional Cooperative Framework Agreement (CFA). It will provide a permanent status to the cooperative institution once concluded (NBI, 2005). Initiated in 1997, the negotiation process was concluded in 2007 (NBI, 2010). The draft agreement however, for final decision making, is still in the hands of heads of state. In case the agreement is ratified by Nile riparian states, the transitional NBI is expected to be replaced by a permanent river basin organization the Nile Basin Commission (NBC) (NBI, 2010).

The negotiations having been extremely politicized once again reflected the longstanding dilemma in the basin. There is need for a new agreement to recognize past agreements by the downstream riparian states. These were the 1959 Agreement and its
water allocations. Based on “equitable utilization”, upstream riparian states were pushing for a new agreement that could eventually lead to a renegotiation of the volumetric water allocations in the basin. Asymmetric power relations between downstream and upstream riparian states have greatly influenced the evolution of hydro political relations in the Nile Basin (Tvedt, 2006).

3.1 CONTROL OVER THE NILE: EGYPT, THE HYDRO-HEGEMONIC RIPARIAN STATE

Control of the Nile basin’s shared water resources is characterized by a high degree of asymmetry brought about by factors including the riparian’s different capacities to technically control, utilize and allocate the water resources (Tvedt, 2006). In terms of their technical control, the riparian states demonstrate varying capacities to harness the resource. This is based on their particular hydraulic infrastructural and storage capacity (Tvedt, 2006).

In the 19th Century Egypt began to develop its hydraulic mission, and expanded it greatly during the 20th Century, under the British Condominium (Global Water Forum, 2017). In the late 1960s, construction of the High Aswan Dam determined Egypt’s full technical control over the Nile resources. The dam has a total storage capacity of 169 Bm3/yr which is more than enough to store a full flood of the Nile (Global Water Forum, 2017). Under the Anglo-Egyptian condominium, Sudan’s development of hydraulic infrastructure in the Nile was initiated and saw an expansion in the post-independence period 1956-1965 (Tvedt, 2006). The dams built in these two periods – Sennar, Jebel Aulia, Khashm El-Girba and Roseires – have a limited storage capacity (total of 6.9
Bm3/yr) when compared with those of Egypt (Tvedt, 2006). No more storage dams were constructed in Sudan between 1965 and 2008. In contrast, the upstream riparians have only initiated their hydraulic missions comparatively recently and their storage capacities remain extremely limited (ICE, 2017). However, new projects are under construction in the upstream Nile region.

The existence and persistence of asymmetric power relations among the Nile riparians can partially be explained by the asymmetric control of the Nile’s water resources. This afforded Egypt a position of hegemony in the basin. Zeitoun, (2006) then defines three dimensions of power. First, material power relates to the levels of economic development, military might, political stability, and access to external political and financial support. Second, bargaining power is determined by the ability to control and influence the agenda and the 'red lines' of negotiations. Third, ideational power is determined by the ability to influence knowledge and construct discourse (Zeitoun, 2006). In relative terms, historically, Egypt has been the most powerful riparian state in each of these dimensions.

Therefore, in terms of economic strength, Egypt is the clear hegemon on the Nile (Pham, 2014). Its economy is more diverse and further integrated in the global economy than those of other riparians making it quite strong. Egypt has maintained both an important international position and good relations with international donors due to its geo-strategic location. It has benefited from close political and economic relations with the United States of America (USA), European and Middle Eastern countries, and it has been a recipient of major international financial support (Kasimbazi, 2010). Furthermore,
it is a major regional military power and has the capacity to project and sustain this might.

In terms of bargaining power, Egypt has been the strongest riparian in the basin and has managed control over the agenda of politics. This includes ways in which potential issues are kept out of the political process. Egypt has developed a capacity to influence the basin’s overall hydro political agenda including bilateral and multilateral political relations, through discursive and bargaining tools (Selby, 2005). Egypt has been able to define the red lines of negotiations, and to dictate exactly what is on and off the agenda (Selby, 2005).

As such, Egypt has been able to impose the 1959 Agreement and the perspective of its historic and acquired rights as the starting point for any negotiations in the basin (Foulds, 2008). The ability of other riparians to frame agendas and negotiations has been less because of comparatively weak bargaining tools. In ideational terms, Egypt has been the strongest riparian in the basin and has demonstrated an ability to sanction particular, favored discourses in the basin (Nickum, 2010). For example, Egypt has been able to successfully highlight its historic rights to Nile water and its absolute dependency on Nile water. It has also managed to define water availability as a matter of national security (Nickum, 2010).

Any Egyptian government first consideration is to guarantee that Nile waters are not threatened. The former Egyptian Minister of Foreign Affairs, Boutros Ghali, has often highlighted that the national security of Egypt is a question of water (BBC News, 2003). Egypt has promoted a set of mainstream ideas favorable to its position through
this securitization process (Tekle, 2010). Simultaneously, it has discarded any alternative sets of ideas, such as upstream water resource development. A determining factor in the regional hydro political relations historically has been this self-reproducing Egyptian narrative (Tekle, 2010).

Egypt has developed a hydro-hegemonic status in the basin vis-à-vis the other riparians through a combination of stronger material, bargaining and ideational power. It has maintained the regime that best served its national interests. That the status quo has remained unchallenged until recently has been a product of Egyptian hydro-hegemony. Sudan and the equatorial Nile states achievement of independence only in the late 1950s or early 1960s, have given Egypt the opportunity to be the first to exploit the Nile resources (Kasimbazi, 2010).

Moreover, it is related to the inability of upstream riparians to challenge the status quo due to their collective and individual scarcity of power resource. This reveals their internal structural weaknesses (Selby, 2005). However, the most recent power dynamics in the basin’s upstream region suggest a changing balance of regional power under which upstream riparians are increasingly contesting and challenging the current hydro political regime (Selby, 2005). As enshrined in the 1959 Agreement, though Egypt’s goal is the protection of its acquired rights, its position in the basin and its national water policies have changed. In past decades, Egypt faced challenges due to increasing population growth and growing pressure over old lands in the Nile valley and delta (Rahman, 2011).

This has seen Egyptian authorities adopt a policy of moving people out of the old valley towards new reclaimed lands in the desert, wherein new agricultural projects are
being developed (Rahman, 2016). Three major horizontal expansion projects have been ongoing since the late 1990s: the North Sinai Agriculture Development Project, the West Delta Irrigation Project and the South Valley/Toshka Development Project. The aim of all of these expansion projects is to reclaim thousands of hectares of land (Rahman, 2011). The water requirements of these projects are immense thus groundwater resources and reused water might be able to provide part of the needs. As Egypt’s plans include substantially increasing the utilization of Nile water, the other part is sought from the Nile. The policy is extremely controversial at both a domestic and basin level.

Internally, in particular Toshka, the projects, are criticized for being economically and financially infeasible. They have been considered as the paranoiac monument building of President Mubarak (Tvedt, 2006). The projects are understood as an Egyptian attempt to put more facts-on-the-ground within the basin. The projects prevent other riparians from making use of this water and cement its historic rights to the Nile water. The South Valley or Toshka Project is of particular relevance in regional terms. Started in 1997, this is an Egyptian unilateral project. It aims to reclaim one and a half million acres of land and is estimated to require over 5 Bm3 of water annually (Collins, 2010). During the last decade, through a spillway and a huge pumping station, Egypt has started transferring water from Lake Nasser to the Toshka depression area (Collins, 2010).

3.2 THE EAST AFRICAN COMMUNITY (EAC) AND THE RIVER NILE

The East African Community (EAC), initially consisting of Kenya, Uganda and Tanzania (later to include Rwanda and Burundi), was established in 2000. After its ignominious collapse in 1977, it has provided a new regional framework for discussion of
water issues. The aim of the community is to increase intraregional trade and to raise the prominence of the East African region internationally (Kagwanja, 2007). Enabling the organization’s members to forge unity in water policies, the EAC is considered a key element in the mitigation of internal divisions in East Africa.

In contrast to the previous decade, the White Nile upstream riparians are now more determined and integrated (ICE, 2017). The equatorial countries have more vigorously asserted their rights to the utilization of the Nile water resources ever since its formation (Tekle, 2010). Furthermore, although the White Nile system (to where the Lake Victoria and Kagera river basins belong) only contributes 14% to the total Nile flows, a challenge presents itself in the potential of development of these projects. This is more so to the regional hydro political configuration and the current Egyptian position in the Nile basin (Tekle, 2010).

By pushing the margins of fair play in the use of shared water resources, the EAC has inevitably questioned the existing regime of water use in the Nile Basin, which has long been a source of tensions over the waters of the Nile. Kenya, Uganda and Tanzania, the countries that were previously thought to be more complacent than their Nile Basin counterparts such as Ethiopia, began to vigorously assert their right to utilize the Nile’s waters (Zeitoun, 2006).

In December 2003, Kenya reportedly renounced the 1929 Treaty (Kagwanja, 2007). In response, Egypt’s Water Resources Minister Mahmoud Abu-Zeid returned to the language of the Sadat era, declaring Kenya’s intended withdrawal from the Nile Basin Treaty (NBT) to be an act of war against his country, and further hinting at economic
sanctions by his country against Kenya (Kagwanja, 2007). In February 2004, it was reported that Tanzania, frustrated with the ongoing talks with Uganda, Kenya and Egypt, decided to go ahead with its $27.6 million project to extract water from Lake Victoria in clear violation of the 1929 and 1959 Treaties (Kagwanja, 2007).

Tanzania’s Deputy Permanent Secretary in the Ministry of Water and Livestock Development (WLD), Dr Nyamurunda, claimed that since independence Tanzania held the position that the two Nile Treaties were illegal (Kagwanja, 2007). He went ahead to state that other Nile Basin countries also believe that the treaties were illegal. Similarly, there has been discussion of the status of the treaties in Uganda where there has been a call for rejection of the colonial treaties. In April 2004, Uganda’s President, Yoweri Museveni, called into question Egypt’s monopolization of the Nile (Batisha, 2015). The EAC countries have based their claims to a fair share of the Nile waters on the discourse of rights to counter Egypt’s security discourse (Batisha, 2015). EAC being a block of discussion offers a bigger bargaining power forum rather than each country bargaining on its own. Their re-negotiation is now more powerful.

The EAC position on the Nile Basin has been clarified further through debates in the East African Legislative Assembly (EALA). This has been centered on the fundamental issue of the treaties and agreements governing the utilization of the Nile waters and their relevance to the EAC member states. A popular position espoused by the Chairperson of the East African Council of Ministers is that even though most of the treaties are antiquated because of their colonial origins, the three East African countries can use bargaining skills (Kasimbazi, 2010). They would take advantage given the
availability of the law of internally shared water resources, to push for their rights in the utilization of the Nile waters (Kasimbazi, 2010).

While recognizing that the Nile Basin Treaty (1929) should not be allowed to continue and must be challenged, emphasis is on a peaceful, negotiated response (Kagwanja, 2007). It is generally believed that the status quo cannot continue forever. The dominant voices in this debate therefore favor a negotiated settlement. Despite this, some argue that as the re-negotiation of the new treaty proceeds, the East African countries should be compensated for the Nile waters by Egypt and, to a lesser extent; Sudan (Kagwanja, 2007). The EAC has recognized the centrality of intensive engagement with the international community on the Nile question. As noted, fear of international sanctions if the three countries rescind from existing treaties has been a major factor in influencing the peaceful approach taken to deal with the potential conflict relating to the Nile water resources (Kagwanja, 2007).

3.3 POWER RELATION BETWEEN ETHIOPIA AND OTHER NILE RIPARIAN STATES

For a long period, Ethiopia was considered the silent partner in Nile hydro politics (Waterbury, 2002). Ethiopia has only developed a meager amount of the Nile water resources available in its territory, despite being the source of 85% of the total Nile water resources. Very few water control infrastructures have been constructed (Waterbury, 2002).

Ethiopia’s absence from the race for utilization of the Nile water can be explained by several factors. These include protracted internal conflicts, lack of financial resources
and weak institutions. Also, dependence on rain-fed agriculture has reduced the need for irrigation and a lack of priority and strategy for the water sector (Ayeb, 2013). However, Ethiopian authorities have highlighted their will to develop those resources for both irrigation purposes and hydropower. This is regardless of the opposition from downstream riparians.

Ethiopia can now be seen challenging and contesting Egyptian hegemony in the Nile basin (Batisha, 2013). Political and economic changes in Ethiopia in the 1990s, namely the coming to power of Meles Zenawi in 1991, marked a move towards a market-oriented economic model. This further brought about better relations with donors resulting to stabilization of the economy. The Nile issue was brought into the Ethiopian political arena (Metawie, 2008). By this time national water master plans for all the Ethiopian river basins were conducted by international consultants (Metawie, 2008). Furthermore, in the mid-1990s projects were initiated unilaterally. The construction and expansion of several hydraulic projects began outside the Nile including in the Awash and Omo rivers (Metawie, 2008).

The Government of Ethiopia gave priority to two kinds of projects in the Nile basin. This was the construction of a large-scale hydropower dam, the Tekezze dam, on the Tekezze-Atbara River and the development of micro dams in the highlands, in the Blue Nile and Atbara basins (Arsano, 2011). Not only was this enabled through the financial engagement of the Government of Ethiopia but also through favorable construction contracts offered by China, a new external partner (Arsano, 2011).
In particular for the Blue Nile basin, the Government of Ethiopia has further plans. On one hand, Ethiopia also expects to get financial support from the World Bank and other external donors for some of the other projects under NBI auspices. It was in the mid-1990s that Ethiopia joined, for the first time, a multilateral cooperative institution in the Nile basin (Arsano, 2011). It maintains its involvement in the NBI and the cooperation process. On the other hand, Ethiopia expects Chinese investment and support for the implementation of hydropower dams and irrigation schemes in the Nile basin, including the long-lasting controversial project of the Tana-Beles Irrigation Scheme on the Blue Nile basin (Arsano, 2011).

Moreover, Ethiopia believes that a new legal agreement and the financial investment of external donors will be brought about by a negotiation. This will facilitate the development of joint multipurpose infrastructure in the Ethiopian highlands (Ayebare, 2010). World Bank’s keenness and commitment to support the development of hydraulic projects in Ethiopia has backed Ethiopia’s expectations towards cooperation (World Bank, 2006). Ethiopia’s involvement in the ongoing regional hydro political cooperation does not mean that its government has renounced unilateral development of hydraulic infrastructure. Ethiopia will actually move forward with further unilateral projects, in the absence of cooperation. In 2005, the Ethiopian Prime Minister was explicit in his declaration that the current regime cannot be sustained. It’s being sustained because of the diplomatic cloud of Egypt (Land Centre for Human Rights, 2015).

Ethiopia now seems to be in a better position than in the past to finance massive hydraulic projects. This is after it brought in alternative funding for these projects including from its current main external partner, China (Batisha, 2015). An analysis of
the potential impact of unilateral Ethiopian strategies on both Nile water flows and the country’s relations with the downstream countries reveals the political impact could be huge (World Bank, 2006). This is in as much as the hydrological impact of Ethiopia’s projects might be modest. Ethiopian hydraulic projects may not significantly affect Nile flows, or even bestow benefits on Egypt and Sudan as several scientific studies have shown (Mbaku, 2015). The strong political message it sends downstream is the most important corollary of unilateral infrastructural development in Ethiopia.

First, the enduring monopoly on Nile water by the downstream riparians and the current regime in the basin maybe put to an end by these projects. Second, Ethiopia may not wait for multilateral negotiations and agreements before it begins to develop its own hydraulic infrastructure (Mbuliro, 2012). This is demonstrated by the increasingly unilateralist trends. Over the decade, It is in precisely this legal domain that Ethiopia’s contestation of the status quo has been strongest. Ethiopia aims for a multilateral agreement to be negotiated by all riparians as it continues to claim its rights to the River Nile water resource. Indeed, Ethiopia demands that the 1959 Agreement be superseded and that any new agreement should provide a clear definition of the volumetric water allocations of all Nile riparians (Mbuliro, 2012).

Ethiopia has been determined to tackle such problematic legal issues and has been proactive in promoting multilateral legal negotiations over the last decade (Land Centre for Human Rights, 2015). Accordingly, Ethiopia has employed, and increased, its bargaining power to influence hydro political relations. Ethiopia was successful in its strategy to impose negotiations for a multilateral legal and institutional framework in
1977, which was a *sine qua non* for Ethiopia’s participation in the NBI (Vakil, 2013). At the end of negotiations and as the result of a high-level political-diplomatic tour in 2007, Ethiopia’s successful influence over the negotiations and the final document became clear (Land Centre for Human Rights, 2015).

First, Ethiopia had convinced the six equatorial Nile riparians to vote unanimously in favors of a draft document. The draft document downplays the past Nile water agreements and endorses the principle of equitable utilization (Selby, 2005). Second, the upstream riparian states in doing so isolated both Egypt and Sudan in their defense of historic rights and earlier water agreements (Pointek, 2008). This was the first time in the Nile basin hydro political history that all upstream riparians assumed a unified position against downstream riparians.

In sum, the analysis of the evolution of the Ethiopian position in basin hydro politics suggests that power relations are indeed changing and not only in material terms. Important shifts in terms of bargaining power are also occurring. Ethiopia, which has long been regarded as the silent partner, is no longer silent and is resolved to increasingly exert influence over regional hydro political relations. Ethiopia also seeks to contribute to a shift in the basin’s regime. More than ever, Ethiopia is using the bargaining power derived through its position as the upstream riparian and provider of more than 80% of flows to exert pressure on Egypt and Sudan (Mbuliro, 2012). The choices implicitly offered by Ethiopia to the downstream neighbors appear to be the achievement of a multilateral agreement which would grant Ethiopia specific volumetric allocations and
the development of unilateral infrastructures with or without downstream consent (Mbaku, 2015).

**3.4 SUDAN: INCREASING GEO-POLITICAL POSITION AFTER INDEPENDENCE**

The events that represent the greatest immediate challenges are those current in Sudan (Tekle, 2010). This is in as much as Ethiopia and its hydraulic projects were always considered the biggest challenge to the current Nile hydro political regime and status quo. Once Egypt’s hydro-political allies in the basin, Sudan, may yet easily become the biggest challenger to the current hydro political regime and pose a threat to Egypt’s hydro-hegemonic position (Tekle, 2010).

Sudan is determined to complete a comprehensive utilization of the Nile water resources, having the greatest water development potential in the basin. Other projects are being planned for the coming years and new hydropower dams and irrigation schemes are being built (Tekle, 2010). Conditions favorable to the facilitation of important economic and political changes were created by the signing of the Comprehensive Peace Agreement (CPA) with Southern Sudan in 2005. Sudan’s extensive exploitation of its oil resources mainly by Chinese companies was partially contributed by the Peace Agreement (Land Centre for Human Rights, 2015). Sudan’s economic profile and Gross Domestic Product has been raised by increased foreign investment in several Sudanese sectors, substantial oil revenues and favorable contracts for infrastructural construction. This has consequently contributed to its re-emergence as a competitor for Nile water resources (Tekle, 2010).
Three major changes in the Sudanese water sector can be identified. These include the planning of new hydraulic infrastructures and its unilateral construction; the establishment of a powerful new water institution and the recent expansion of irrigation schemes (Sudan Tribune, 2011). Egypt raised major concerns over the three changes. A protracted civil war between North and South Sudan, political instability, economic and political isolation, incoherent water and agricultural policies, and a lack of external investment represented some of the constraints that had limited Sudan’s capacity to develop coherent water policies (Loveluck, 2015). The situation has changed dramatically over the last decade and Sudan’s increasing geopolitical importance is already impacting on the Nile hydro politics.

Furthermore, the Sudanese political authorities are determined to construct numerous hydraulic infrastructural projects in the country. According to its politicians, the goal is to satisfy the country’s increasing energy demands that result from rapid national economic growth (Loveluck, 2015). The hydropower generated by existing older dams (around 300 MW) is also very limited and insufficient to meet current demands (Loveluck, 2015).

Besides, Sudan had received funding pledges not only from Arab regional institutions and the Gulf States but also from its new external partner China. So far, these investors have supported two major projects (Mbaku, 2015). The first, initiated in 2002 and inaugurated in March 2009, was the large-scale Merowe dam (Mbaku, 2015). The dam is mostly a hydropower project, located at the fourth Nile cataract. The Merowe Dam Project in future may also include irrigation projects, as planned initially, which
would lose more water from the Nile system. Started at the end of 2008, the second project is the heightening of the old Roseires dam (Mbaku, 2015). This project will increase its storage capacity and the dam’s hydropower production which will avail more water for irrigation (Loveluck, 2015). Sudanese water utilization above 18.5 Bm3/yr will note be taken away by the implementation of these projects. The projects have however generated a high level of concern in Egypt, in particular when the Sudanese projects involve irrigation schemes. Egypt has been used to receiving Sudan’s unutilized share (Loveluck, 2015).

Additionally, especially given its actual economic and financial capacity for implementation, Egyptian apprehension is derived from Sudan’s plans for more projects. Egyptian concerns are related to the functioning of the High dam and the Toshka project and the impact of Sudanese projects on water availability in Lake Nasser, (Mbaku, 2015). Ultimately, an increased utilization of water by Sudan could result in less water available for pumping to the lakes, and the potential financial failure of the project (Mbaku, 2015).

New institutional developments in Sudan can be intimately linked to the development of new infrastructure. A strong new water institution, the Dams Implementation Unit (DIU), was set up. A separate entity from the Ministry of Irrigation and Water Resources, the DIU is a parastatal supervised directly by President Bashir himself and a selective High Political Committee (ENREP, 2017). To manage the construction of the Merowe dam, it was established in 2001. However, its mandate was later extended to deal with all future hydraulic projects that would be constructed in
Sudan (Dereje, 2010). Part of the Ministry of Irrigation and Water Resources (MIWR) activities was reduced substantially.

The Unit appears to have privileged relations with Gulf donors, China, international consultants and construction companies (Ahmed, 2017). Its portfolio includes several ongoing and future hydraulic projects: heightening of the Roseires dam; the Kajbar and Dal dams (in the fifth and sixth Nile cataracts, respectively) and several projects in Southern Sudan (Ahmed, 2017). This institution may represent an additional political-institutional challenge to Egypt. It is not clear, if Egyptian authorities have the same power of leverage over the DIU as was exercised over the Sudanese Ministry of Irrigation and Water Resources (Ahmed, 2017).

Other recent developments in Sudan suggest the extension of irrigated agriculture and rapid increases in water abstractions from the Nile and not only promotion of hydropower infrastructure but also. The same cannot be said about irrigation, if the former is considered benign by Egypt (Ahmed, 2017). In Sudan, whether through governmental or private-owned schemes, several thousand hectares of land on the White Nile and Blue Nile banks are currently under irrigation (Ahmed, 2017). Whilst the scale of the recent irrigation extension in Sudan is not yet completely clear, there are indications that the irrigation schemes are utilizing increasing volumes of water (Ahmed, 2017). This dynamic will most likely continue into the future.

A recent study provides data challenging official figures. The implementation of these projects would, presumably, increase the previous estimates even further. Sudan is currently decreasing its comparative weakness vis-à-vis its northern neighbor, Egypt
(Allan, 2015). This has been demonstrated by the highly dynamic political environment. Sudan is benefiting from the massive revenues derived from its oil production, and foreign investment in the country. It has been growing and is expected to grow more over the coming decades (Allan, 2015).

From China and the Gulf region, Sudan has been able to fund for infrastructure. These countries have been interested not only in supporting the hydropower projects that have been pushed by the Government of Sudan, but also in buying land and developing the agricultural production (Allan, 2015). This involves several hundred thousand hectares of Sudanese land to meet its own food needs (Allan, 2015). Sudan’s regional geopolitical power is increasing and may also soon become a crucial center of Nile basin hydro politics.

Sudan including extensive irrigated agriculture has the basin’s largest potential for agricultural development. However, these potential projects are enormously controversial as they could have considerable knock-on effects on the Nile flow (Allan, 2015). Both Ethiopia and Sudan have retained an enduring interest in the development of this potential but several internal and external factors have blocked this in the past. Lack of external financial support and persistent Egyptian opposition to projects in upstream have been the main external factors. For example, Egypt was often successful in preventing the securing of international funding for projects in Ethiopia (Allan, 2015). However, some changes can be viewed in the current situation. Now with increased economic and political strength, Sudan and Ethiopia are starting to implement unilateral projects. This underscores the challenges that are now emerging on the basin’s hydro political regimes.
3.5 POWER SHIFT IN THE NILE BASIN

There is a correlation between the ongoing changes to the regional balance of power, the ongoing regional cooperation process and the asymmetric power relations in the basin. With the support of several international donors, the eleven riparians, became engaged in regional dialogue at the highest political levels, and the partners began to work on the design for a multilateral cooperation institution (Fadwa, 2010).

Egypt can be seen to now react to the new challenges to its monopoly over the Nile waters by modifying its policy to try to deal more amicably with disputes over the Nile waters (Conca, 2016). Its foreign policy has in fact undergone a notable shift from confrontation to cooperation, from fostering instability to promoting peace in the Nile Basin. Ethio-Egyptian icy relations have recently appeared to thaw, as Egypt acknowledges that each state has the right to equitable utilization of its waters in accordance with International Law (Conca, 2016).

Prevailing water agreements do not impede the utilization of the Nile waters by any of the riparian states (Fadwa, 2010). As we can see, the new Egyptian strategy appears to be not to bar Nile projects, but to ensure that projects initiated by other riparian countries are not as great that they will remarkably affect the volume of water reaching Egypt (Conca, 2016). Egypt is now more ready to cooperate in harnessing its huge hydro-electric power potentials, and does not object to the construction of small scale water dams.

Egypt has even allotted grants to the East African countries in support of small-scale projects designed to deal with specific water-related problems (Conca, 2016). The
policy shift is also evident in Egypt’s active involvement in the peace processes involving the riparian states. Not only has Egypt taken part in the peace process in Darfur, Western Sudan, but it has also contributed to the United Nations Mission in Sudan (UNMIS) and to the African Union’s Mission in Darfur (AMIS) (Conca, 2016). Egypt may have changed its approach, then, but its strategic interests in the Nile waters remain intact. In this regard, its involvement in the resolution of the north south civil war in Sudan should be viewed as a strategic decision to ensure that Sudan remains as one state bound by existing treaties on the Nile waters (Conca, 2016).

Egypt has also indicated its willingness to support food production around Lake Victoria. This will of course ease heavy dependence on food imports to supplement its expanding population and inadequate production. This is possible because Egypt is a member of the Common Market for Eastern and Southern Africa (COMESA) (Conca, 2016). In this sense, the development of the region, albeit partially, is potentially beneficial to Egypt (Verhoeven, 2013).

Now politically and economically stronger than they were before, Sudan, Ethiopia and the equatorial riparians have developed stronger bargaining tactics and are more vocal in their claims for renegotiation of the basin’s volumetric water allocations (Conca, 2016). China, their new external partner, seems to increase their determinations to develop their water resources. China is keen to assist them in those ventures (Nickum, 2010). Unilateral trends from upstream are becoming more visible, such as the construction of the Merowe dam (Sudan), the Tekezze dam (Ethiopia) and the Bujagali
dam (Uganda) (Conca, 2016). Moreover, it is not only the upstream riparian states who are going ahead with unilateral projects but Egypt too, as mentioned previously.

What then is the correlation between these unilateral developments and the cooperation process? First, the unilateral trends show that despite ongoing hydro political cooperation, the Nile riparian states have not abandoned what can be called a hydro-sovereignty strategy (Conca, 2016). Neither have unilateral projects that can bring economic and political benefits at the national level, regardless of the impacts they may have in other riparians. These unilateral developments indeed appear to be elements of a bigger hydro political strategy wherein all riparians aim to increase their water utilization. The strategy is to further put facts on the ground, and subsequently claim legal rights to these resources during potential renegotiations of volumetric water allocations (Conca, 2016). Second, the unilateral projects may collide with the ideal of basin-wide water-resources management, with the principles of cooperation. Efforts of the promotion of multilateral projects may even be undermined (Conca, 2016).

3.6 COOPERATION AMONG THE RIPARIAN STATES

Efforts towards regional economic integration have been undertaken which progresses the riparian states towards a more cooperative setting. The issues pertaining to the development of water resources have also been addressed.

Simultaneously, some of the most vocal countries favoring the ratification of the new Nile Cooperative Framework Agreement have been water authorities from the equatorial Nile (Teshome, 2008). There has been major critique of the positions of Egypt and Sudan, accusing the downstream riparians of blocking not only the conclusion of the
multilateral agreement but also of deliberately preventing future water developments in the upstream (Vakil, 2013). This was since the conclusion of the 2011 legal negotiations. In terms of material power through their increasingly stable and integrated economies, more foreign investment and better relations with international donors, the equatorial countries are currently stronger (Vakil, 2013). These factors, taken together, facilitate the development of the planned water projects. These countries are also stronger collectively in terms of bargaining power. They are influentially involved in multilateral negotiations and they have some ability to influence the regional agenda and even to pressurize the downstream riparians over the legal issues.

Compared with the ongoing major changes that are occurring in the eastern Nile basin, though only of limited magnitude, the political and economic changes in the equatorial Nile basin represent significant challenges to the basin’s current hydro political regime and power relations (Tvedt, 2006). By its hydrological and political nature, it is the most important sub-basin in geopolitical terms. The eastern Nile basin is of critical geopolitical importance to the Nile’s overall hydro political configuration. The eastern Nile Rivers (Blue Nile, Sobat and Atbara) contribute around 85% to the total Nile flows arriving at Lake Nasser (Tvedt, 2006). Compared to any other place across the basin, the potential for irrigation and hydropower development is higher. Ethiopia has the basin’s most suitable locations for hydropower production due to its geographical characteristics.

Historically, upstream countries have been mainly characterized by colonial rule, economic underdevelopment, internal conflict and political instability, lack of external financial support, and an absence of concrete water policies or strong water institutions,
combined with weak bargaining strategies (Zerihun, 2012). Their position in the basin’s hydro-politics has thus been undermined by these structural weaknesses and affected their utilization of the Nile water. As result, until recently, the Nile’s water upstream has remained mostly unutilized (Zerihun, 2012).

Furthermore, we cannot fail to point out the challenge that the Nile riparian states are facing over cooperation. A highly dynamic political environment characterizes the Nile Basin which has the potential to impact regional hydro political relations (Ahmed, 2017). Unlike a decade ago, the upstream Nile region is currently more politically and economically stable. To meet national development needs, riparians are increasingly willing to develop their water resources to meet national development needs. In addition, upstream riparians currently have access to alternative financial support – including their own resources, if the development of oil in Sudan is included.

A key external player in the basin, the most new financing comes mainly from China. Such support was not available a decade ago. The upstream Nile countries have decided to move forward with unilateral hydraulic infrastructural development despite the ongoing multilateral cooperation processes (Ahmed, 2017). This is as a result of these two contextual changes. Such dynamics may significantly affect the relations between the Nile riparians and challenge of Egypt’s enduring hydro-hegemonic position in the basin.
3.7 CONCLUSION

On one hand, until recently, Egypt, the strongest riparian in the basin (through force of its material, bargaining and ideational power) had been able to systematically develop the Nile water resources. This was to the point where it could control the hydro political regime to favor its interests and maintain its hegemonic position in the basin.

On the other hand, the capacity of upstream riparians to develop water resources has been hindered by several internal and external constraints. Consequentially, these riparians have been unable to challenge Egypt’s quasi-monopoly of the Nile water. A highly dynamic political process may be observed as it is quite clear that the situation is changing rapidly. Over the last decade, as analyzed, power changes have occurred in two ways. First, it is in the regional balance of power. The equatorial states and Ethiopia have become economically stronger and politically more stable than in the past. Sudan gaining geopolitical importance and hydro political relevance in the region was of importance. Second, the configuration of power centers has changed. This is especially with the emergence of new regional actors (for example the NBI, EAC and external donors like China) and national actors in the basin’s hydro politics.

Significant impacts on the basin’s hydro political relations have been caused by these dynamics. Upstream riparians have witnessed increased access to international funding for hydraulic projects which has made them more economically stable. They are more determined to develop their water resources and have become more vocal in their claims to rights for the Nile water. Unilateral projects have even been developed as in the case of the Sudan and Ethiopia. China’s involvement in the regional dam industry
appears to represent a large incentive to unilateral development of hydraulic infrastructure in the basin.

There are several consequences of these changes because there is a significant challenge to the old hydro political regime. Egypt’s previously comfortable position as the main user of the shared water resources and the basin’s current volumetric allocations and has been a major challenge. With the NBI playing the role as of fig leaf, this may be the beginning of a new phase of competition over the utilization of the basin’s trans-boundary water resources. The Nile River Basin has witnessed a shift from antagonism to cooperation among riparian states in the utilization of resources. However, the lingering question is whether the radical shift in the Egyptian approach reflects a genuine change of heart or simply a strategic retreat as it ponders alternative ways of retaining its firm grip on the Nile. What is certain, though, is that regional structures now have the capacity to resolve disputes and work to avert any potential water wars.

While, there is a great deal of concern over the ability of the Nile to sustain the growing number of those dependent on its waters and resources, this issue can only be addressed through effective and equitable utilization of these resources. Exploiting the resources requires new and imaginative approaches by the eleven riparian states.

Furthermore, an integrated approach is required to bring about studies of the environment as well as of appropriate institutional, political and legislative arrangements. This would aid in the implementation of water management policies agreed upon by the states. The need to establish new and to strengthen existing trans-boundary basin
agencies speaks for itself; but unchecked proliferation of agencies might itself become a source of regional disputes.
CHAPTER 4: THE DECADE OF DEVELOPMENT IN THE NILE BASIN

4.0 INTRODUCTION

The 21st century has witnessed some very significant shifts in the level and intensity of international discourse on the management of Nile waters (Teklesadik, 2017). Holding an extraordinary opportunity, the Nile, is a gift of nature for over 100 million people along its basin. Development projects along it have a significant contribution to the socio-economic and political integration of the people.

The decade of the 1990s, in the post-Cold War era, has witnessed considerable positive progress towards a cooperative international relations regime over Nile waters. A number of forces external to the Nile Basin have shaped the history of water resource development in the Basin in the past century. However, the problem is that the search for cooperation and the search for economic efficiency do not always complement each other. Negating the pessimist analysis of a water war, the new phase of relationship between Ethiopia and Egypt has opened up a new era of cooperation. The new development of bilateral relations witnessed the thriving of peace, development and prosperity for the people of Ethiopia and Egypt.

4.1 ETHIOPIA’S DEVELOPMENT ON THE NILE

It is estimated that about 95% of the Nile waters has not been utilized (Global Water Forum, 2017). The people and government of Ethiopia pursue programs to develop
hydropower to alleviate poverty and the Grand Renaissance Dam is one of the ice-breaking projects.

4.1.1 THE GRAND ETHIOPIAN RENAISSANCE DAM (GERD)

On April 2, 2011, Ethiopia embarked upon the construction of what is expected to be the biggest hydroelectric power plant in Africa (International Rivers, 2016). Named the Grand Ethiopian Renaissance Dam (GERD) and located on the Blue Nile, 40 kilometers (25 miles) from the border with the Republic of Sudan, it will have the capacity to produce 6,000 megawatts of electricity (International Rivers, 2016).

Approximately 30% of the funding for the dam was secured from China and the remainder is funded by the Government of Ethiopia. This is funded through the selling of bonds and donations, both within Ethiopia and internationally (Taye, 2016). Once completed and made operational, the GERD is expected to ameliorate chronic domestic energy shortages and help the country’s households (especially those located in the rural areas) switch to cleaner forms of energy. It is also projected to allow the government to earn foreign exchange through the exportation of electricity to other countries in the region (Teklesadik, 2017).

Ethiopian authorities believe that it will significantly contribute to economic growth and development not just in Ethiopia, but also in neighboring countries, such as Sudan. Undoubtedly, the GERD will be vital for energy production and a key factor for food production, economic development and poverty reduction in Ethiopia and the Nile Basin (Global Water Forum, 2017). It is a political statement that in one stroke has re-
written the hydro political map of the Nile Basin. The GERD has become a symbol of Ethiopian nationalism or renaissance (Global Water Forum, 2017).

This concept has been put forward to better stress equitable use of water in international water management challenges that would lead to sustainable socioeconomic development. In spite of its potentially huge impact on downstream conditions, studies on environmental and ecological effects of the dam have been scant. Egypt, Ethiopia, and Sudan agreed to set up a Tripartite National Committee (TNC) of four members from each country to follow up and conduct the studies recommended by the International Panel of Experts (Teklesadik, 2017).

4.1.2 THE IMPACT OF THE GRAND ETHIOPIAN RENAISSANCE DAM (GERD) ON SUDAN AND EGYPT

The Grand Ethiopian Renaissance Dam (GERD) which is Africa’s biggest hydropower dam is being built on the Blue Nile in Ethiopia, near the Sudan border. This dam has lasting effects on both Sudan and Egypt, the two riparian countries downstream.

Both Sudan and Egypt have concerns about the construction of GERD, as they say it will affect their share of water use from the Nile River according to the colonial era agreement, which gave them 90% of water share from the Nile River (Mulat, 2014). The Dam has already created some geopolitical impacts among the three countries affected by the Dam, which are Ethiopia, Sudan, and Egypt (Mulat, 2014).
The Egyptians in particular, are not satisfied with the Dam project. This is because the Dam means to them considerable reduction of the amount of water flows to Egypt through the Nile River (Nigatu, 2015). The Dam will cut down alluvium in Sudan by 100 MCM (Million Cubic Meters) and also facilitate irrigation of about 500,000 ha of new agricultural lands (Taye, 2016). It will also reduce about 40 km of flooding in Sudan upon its completion (Taye, 2016). GERD will retain sediments which will increase the life of dams located in Sudan, such as the Roseires Dam, the Sennar Dam, and the Merowe Dam, as well as the Aswan High Dam in Egypt. The reservoir is around 200m deep and is located in the high lands of Ethiopia which will cause a reduction in evaporation of water as compared to Aswan High Dam located on the Lake Nasser that loses 12% of its water due to evaporation (International Panel of Experts, 2017).

For one thing, Egypt and Sudan fear a temporary reduction in water flow as the GERD’s catchment basin is being filled. They also fear a permanent reduction in the supply of water due to evaporation from the reservoir once it is completed. In addition, the construction of the GERD is tied up with a long history of water resource competition in the region. Most notably, access to the Nile is a vital component of the national security of all the Nile states (Liersch, 2016). The construction of the GERD has indeed changed the security dynamics of the water regime in this part of Africa (Liersch, 2016). For most of the states around the River, the Nile is embedded as a strategic component of their foreign and defense policies (Taye, 2016). Majority of the Nile states depend on continuous access, to its waters. Any interference with the Nile waters could provoke political, economic and military retaliation from the countries in the region (Liersch, 2016).
The GERD declaration, signed on March 23, 2015, seems to have eased some of the tensions surrounding the GERD (Global Water Forum, 2017). It includes provisions on cooperation in regard to the water needs of Egypt and Sudan on one side, and Ethiopia on the other (Teklesadik, 2017). It states an obligation not to cause any harm or damage to any of the signatories and also states that the aim of the GERD is just and fair use of Nile water as well as sustainable development and regional economic integration (Teklesadik, 2017). By giving Egypt and Sudan priority access to the electricity generated by the dam, the project can be trust-building. Thereby, the three signatories need to openly exchange knowledge and information required by experts to evaluate the building of the dam as well as a commitment from Ethiopia to adhere to international safety measures while building the dam (Taye, 2016).

Furthermore, a reiteration of equal state sovereignty for the three countries is made and a pledge to peaceful conflict resolution, should future issues arise during the construction process (CGE, 2013). The declaration does not however include any specific technical guarantees of Egypt’s rights to Nile water. Nor does it stipulate any commitment on the part of Ethiopia not to jeopardize Egypt’s and Sudan’s shares of Nile water following the completion of the dam (Taye, 2016). The declaration may therefore carry political messages more than anything else. Egypt, like Sudan, would be heavily affected by any mismanagement of the Nile’s waters (Taye, 2016). As a consequence, it has for many decades assumed a hegemonic role in controlling the Nile’s water management.
No comprehensive assessment of the environmental and socio-economic impact of the construction of the GERD has however been conducted leveraging Impact Assessments and Technologies when Assessing the Impact of the GERD (International Panel of Experts, 2017). In order to find out as much information as possible regarding the current situation on the ground as well as predicting likely developments in the medium to long term, several tools exist that can support security assessments. Some of these include vulnerability and food security assessments are regularly conducted (ENREP, 2017). In addition, as with any infrastructure projects, an environmental impact assessment (EIA) should be performed to identify, predict, evaluate and mitigate the biophysical, social, and other relevant effects (ENREP, 2017).

According to the International Panel of Experts (IPoE) on the GERD project, an Environmental and Social Impact Assessment (ESIA) of the GERD and an Initial Trans-boundary Environmental Impact Assessment (ITEIA) were submitted to the IPoE in 2011 and 2012 respectively (Mulat, 2014). The ESIA was considered adequate with respect to structure and content whereas the ITEIA, as the name implies, was judged equivalent to a scoping study in an SEA (Strategic Environmental Assessment) (Mulat, 2014). Some of the concerns regarding the construction of the dam raised by the IPoE’s review of the ESIA included downstream dissolved organic matter and sedimentation, loss of dissolved oxygen due to flooded vegetation and soil, and evaporation losses during the filling periods (Mulat, 2014). The stability of the dam was also raised as a concern (Mulat, 2014). The ITEIA on the other hand was criticized for not including socio-economic impacts on the local communities downstream, not considering the water quality
downstream from the GERD, and a lack of economic assessments from a regional perspective (Mulat, 2014).

4.1.3 THE IMPACT OF THE GRAND ETHIOPIAN RENAISSANCE DAM (GERD) ON COOPERATION

The negotiating process and the deal struck between the three principal countries, Ethiopia, Sudan and Egypt, is fundamentally different from the regime that existed before.

This may, however, be challenged from two angles. One is that the new deal has neither expressly rejected nor endorsed the rules of the old Nile regime. Hence, Egypt remains concerned that the dam development does not guarantee the historic share of downstream countries. Against this however, is that the new system of cooperation acts as a fresh beginning which arguably rejects perceived entitlements based upon old treaties (Taye, 2016). The other angle is that GERD dynamics are not only an outcome of post-2011 negotiations but they can also be traced back to the multilateral basin-wide initiatives that resulted in the Nile Basin Initiative and the Cooperative Framework Agreement (Taye, 2016). However, the deadlock of cooperation between downstream and upstream countries may well have been broken by GERD, which arguably does make post-GERD developments a major breakthrough in the hydro-political relations of the Nile.

The Grand Ethiopian Renaissance Dam global and regional implications should not be understated. Globally, the signing of the Declaration of Principles (DoP), which
relates to a complex sub-basin and coincidentally followed the entry into force of the United Nations Watercourses Convention, evidences the interrelationship between global and regional developments (Global Water Forum, 2017). Regionally, as the principles adopted in the DoP are consistent with the CFA, as well as the UN Watercourses Convention, the three countries may well be encouraged, depending on many national and regional factors, to elevate or restart their cooperation at the basin level (Nigatu, 2015). This was seen as a particularly appropriate remedy to the practice of unilateralism in the Nile Basin (Nigatu, 2015). Other Nile countries have also been, and would likely be, encouraged to sign and ratify the CFA, or consider joining the UN Watercourses Convention. The opening of the UN economic commission for Europe’s convention on the Protection and use of trans-boundary watercourses and International Lakes and a commitment under the Sustainable Development Goals (SDGS) related to integrated water resources management at the trans-boundary level (Global Water Forum, 2017).

Further opportunities are available to capitalize on the synergies between, and momentum behind, these global and basin-level processes (Nigatu, 2015). Moreover, this issue demonstrates that states also promote their interests across regional cooperative platforms based upon established norms and processes. Egypt, Ethiopia and Sudan are participating in GERD, Intergovernmental Authority on Development (IGAD) and NBI cooperation processes. As with the synergies between global and basin-level processes, these regional efforts offer opportunities to foster the ‘cross-fertilization’ of established norms across a range of different cooperative frameworks, and also offer different venues by which to develop a shared understanding of the key legal rules and principles (Taye, 2016).
The Grand Ethiopian Renaissance Dam is also a beneficial undertaking for energy production and trade, sustainable utilization of the water resources, potential socio-economic benefits and so forth is worth stressing (Taye, 2016). The easing of tension and promotion of coordination, and the emerging trade is important in the sub-basin and beyond. It is a positive step towards wider benefit sharing amongst neighboring riparians and expansion of the regional integration process. However, concerns over environmental and other downstream impacts of the dam do remain. The endeavors of the parties to address their concerns through national, regional and international expert studies, is a positive step. Yet, due to GERD’s unilateral nature, including being financed and run by one riparian, GERD’s benefit-sharing outcome is certainly not guaranteed (Taye, 2016). The opportunity for such a benefit-sharing scheme was missed when the two downstream countries ignored the early Ethiopian proposal of such joint ownership (Teklesadik, 2017).

If the parties tackle several challenges to address the incentives and concerns of all the countries involved, depending on managing the issues surrounding the filling and operation of the dam and building upon already existing joint initiatives such as the NBI, GERD should lead to further cooperation and integration in the Nile basin (Nigatu, 2015). In the short and medium terms, one of the most important issues pertains to the filling of the GERD reservoir. Decisions taken in that regard are extremely important to an understanding of how GERD might actually influence a new and fair legal order or constitute a game-changer. There is an emphasis that a negotiated compromise needs to be established to minimize harm to Sudan and Egypt during filling without compromising on a reasonable and timely filling for best utilization of GERD (Teklesadik, 2017). A
coordinated and mutually beneficial dam operational management scheme is definitely of importance in effective cooperation and integration in the basin (Teklesadik, 2017).

4.2 EGYPT’S APPROACH TO THE NEW DEVELOPMENTS IN THE NILE BASIN

The politics of the Nile is full of tension, mistrust, anxiety, mystery and diplomatic confrontation among the downstream and upstream riparian countries since time in memorial. There has been a diplomatic struggle and direct military confrontations between the upstream and downstream countries (Sileet, 2013).

Egypt has been attempting to ensure the continuation of the zero-sum game policies on the Nile waters by undermining the rights of the lower riparian states. The relations between Ethiopia on one hand, and Sudan and Egypt on the other hand have been characterized by love and hate depending on the continuity and the change of the colonial status quo on utilization of the Nile waters (Nigatu, 2015). Besides, their foreign policy orientations have been drastically shaped and reshaped by the political dynamism in the Horn region generally and in the Nile politics particularly. This dynamism which challenged Egyptian apartheid policy on the utilization of the Nile waters has led to new political and diplomatic development (Sileet, 2013). Especially issues surrounding Nile has become the agenda of Egyptian public after the official announcement of the diversion of the normal flow of the Nile water by the Ethiopian government. Following the redirection of the water, discussions among Egyptian politicians and policy makers in Egypt indicated possible foreign policy strategies and approaches to the Nile to quickly respond to the new dynamism (Vakil, 2013). This possible foreign policy and security
strategies that Egypt will put in place have direct or indirect implications to Ethiopian (Vakil, 2013).

Egypt may resort to either water diplomacy or water war or the combination of the two strategies simultaneously to tackle the new development in Ethiopia (Taye, 2016). Egypt, in spite of its geographical location in the Sahara desert and its absolute dependence on the Nile waters for its very existence, has been following a foreign policy and security strategies that ensures the uninterrupted flow of the Nile waters. The Nile water has been a key national interest concern of Egyptians and thus has been taken to be the central element in the circle of Egyptian foreign policy towards the Horn of Africa and Ethiopia as well (Pham, 2014).

Water diplomacy has been described as the weapon of weak and poor states. In fact, is important to transform the emotions and positions of opponent parties by imposing all possible diplomatic pressures. This includes sanctions at political, economic and diplomatic levels. In this regard, hard diplomacy has been frequently used by Egypt to ensure the perpetuation of the zero-sum game politics in the Nile basin (Mulat, 2014). However, Ethiopia has been insisting on a win-win approach in dealing with the matters of the Nile. Egypt may use hard diplomacy to react to the current diplomatic and security developments in Ethiopia as part of their propaganda (Mulat, 2014). For instance, it may attempt to divert the diplomatic negotiations on its side by presenting a distorted image about the dam and by magnifying its negative socio-economic and environmental impacts (Liersch, 2016).
Egypt can also take the matter to the Arab League using its influential position being the seat of the League so as to impose diplomatic sanctions on Ethiopia (Taye, 2016). This would see to a reduction flow of foreign currency income by disconnecting its trade ties. It may also convince the Arab countries not to export oil which gradually aggravate inflation and living expenses and could be translated into political crises (Taye, 2016). Egypt can also explore the option of submitting the case to the African Union (AU) or United Nations (UN), arguing that the construction of the dam severely reduces its historical share of the water for the sake of bringing hard diplomatic pressure on Ethiopia (Taye, 2016).

A proxy war is yet another approach that Egypt may take. Destabilizing and weakening Ethiopia through proxy war has been one of the Egyptian security strategies in the past in order to ensure the sustainable flow of the Nile waters from its source (Sileet, 2013). To this end, instead of directly confronting Ethiopia militarily as it did during the reign of Emperor Yohannes IV in 1875 and 1876 at Gundet and Gura respectively, it has opted to support anti-Ethiopian government dissident forces operating in Somalia and Eritrea (Sileet, 2013). Needless to say, Egypt has been extending its diplomatic and financial assistance to Islamic extremist groups and opposition political movements in Somalia and Eritrea (Sileet, 2013).

Above all, Egypt never wanted to see the formation of pro-Ethiopian government in Somalia which is committed to amicable relations with Ethiopia. This is because peace in Somalia will have its own trickle-down positive effect on Ethiopia (Sileet, 2013). Egypt feared that any peaceful relationship between Ethiopia and the government of
Somalia would negatively affect its regional interest. Thus, it has actively been involved in the Somali politics directly or indirectly to turn the outcomes of the peace negotiations on its side. Moreover, it has been working to change the political equation of the Somali politics to counterbalance Ethiopia’s influence in the region (Nigatu, 2015).

The argument remains that Egypt will continue backing, training and equipping heavy military weapons to dissident political movements operating in Somalia and Eritrea to put Ethiopia in the bottle of challenges and to divert its development energies to war (Sileet, 2013). Even the current public debates in Egypt reinforced that Egyptians politicians have the interest to attack Ethiopia by supporting rebel movements. Associated Press and BBC reported that radical pro-Morsi Islamic Wasat Party leader, Abu al-Illa Madi, suggested a rumor that Egypt planned to destroy the dam could scare the Ethiopians into cooperating with Egypt on the project (BBC News, 2016). It is highly unlikely that Egypt will keep its hand away from Ethiopia as long as there are political forces that are willing to attack Ethiopia. Hence, Somalia and Eritrea could be used as a spring board (Mulat, 2014). Therefore, the government of Ethiopia has to continue its positive contribution in the construction of peace and political stability in Somalia in order to counter balance Egyptian influence. In addition, it has to strengthen its trade and commercial ties than ever before in a way that integrate the two countries economically (Global Water Forum, 2017).

Supplying cheap electric power and connecting the people of the two countries by establishing infrastructures can also be one way of keeping its diplomatic and political relations fresh. This eventually minimizes the possibility of threats coming from the side
of Somalia. But the position of Eritrea has to be seen very thoroughly since the
government officially recognizes the historical rights of Egypt to use the Nile waters even
after the signing of CFA (Pham, 2014). As a result, the government in Asmara may give
a green light to Egypt to use its territory to attack Ethiopia (Sileet, 2013). Eritrea may
consume this opportunity as an advantage to revenge on Ethiopia and to externalize
internal tension and instability.

Lastly, Egypt could also consider a military attack. Though a political suicide,
declaring war and launching military attack on Ethiopia could be one of the possible
Egyptians strategies in approaching the new developments in Ethiopia (Nigatu, 2015). In
fact, it seems obsolete to think of war among the Nile basin countries in the 21st century.
In the era of globalization Egypt may not be successful to secure its water interest
permanently by directly launching military attack unless it colonizes and controls the
basin countries as the colonial powers did (Batisha, 2013). But it would destabilize the
political networks of Ethiopia and be able to divert its attention by keeping it fighting
with dissident groups (Batisha, 2013). Nevertheless, war has never achieved its objective
other than human misery and chaos. Yet, historical relations with Egypt demonstrate
elements of war and military confrontation in their attempt to control the source of the
Nile (Nigatu, 2015).

Egypt may consider the diversion of the water and the construction of the Dam as
a declaration of war and thus may take military actions to destroy the dam and to attack
Ethiopia (Mulat, 2014). If Egypt does so, the consequences will result in political suicide.
Egypt could justify its pre-emptive military actions by arguing that the construction of the Renaissance Dam not only affects its socio-economic development but also its survival.

States under International Law have the right to defend themselves from any external threat which damage their territorial integrity and political sovereignty. One of the legal instruments that the government in Cairo may use as weapon for its pre-emptive military action could be Article 51 of the United Nations Charter (Global Water Forum, 2017). The article indicates that nothing in the present Charter shall impair the inherent individual or collective self-defense, if an armed attack occurs against a member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security (Global Water Foundation, 2017). In fact, the Charter gives utmost priority to mechanisms of peaceful settlement of disputes such as negotiations, mediation, conciliation, arbitration and the like. Nevertheless, states opt to use war as a last resort to self-defense and acts of aggression. Egypt may attack Ethiopia on the basis of this justification. But the consequences of military action will be very severe for Egypt at least for one reason (Mulat, 2014). Its action will provoke public anger in Ethiopia and may compel the government and the people of Ethiopia to take more radical actions even to the extent of stopping the flow of the river (Mulat, 2014).

The Ethiopian government thus has to be aware of the changing foreign policy and security strategies of Egypt and should adjust its foreign policy orientation vis-a-vis the new geo-political and security development in the Horn region generally and to Egypt particularly. In addition, it has to give considerable attention to the possibility of military confrontation with lower riparian countries (Sudan and Egypt) either directly or indirectly.
through proxy and has to strengthen their military apparatus so as to avert potential dangers. These will enable the government of Ethiopia to take pro-active measures.

4.3 CONCLUSION

The construction of Grand Ethiopian Renaissance Dam (GERD) is advancing. The controversies and cooperation over matters related to GERD are still up in the air amongst Ethiopia, Egypt and Sudan. When Ethiopia initiated the GERD project in 2011, the reactions from Egypt and Sudan varied in a way that Sudan vowed and reaffirmed its support whilst Egypt vociferously opposed the project by alleging that the dam would infringe her historical water share rights. As a result, political tensions and war threats interactions were rampant between Egypt and Ethiopia. This scenario mounted at the peak following Ethiopia’s tapping of the Nile water for the dam’s purpose. Hence, hydro-political relations amongst these states fluctuate from cooperation scenario at a time to conflictive situation at another time.

The major interaction events between Egypt and Ethiopia were initially based on cooperation when Ethiopia started to construct the GERD in 2011. However, this positive cooperation scenario did not persist for that long. It was substituted by words of war on the Egyptian side and more political frictions and tensions were rampant. It is evident that the construction of the GERD is progressively germinal to open dialogue, trust building and cooperation on water share matters among these nations. This serves as a mechanism for the durability of peace and security, and regional integration in the Eastern Nile rather than inducing disputes and frictions.
Ethiopia is transforming her international image from a silent partner to active role player in the Nile water politics. The country’s silent involvement on Nile matter was amenable to protracted internal conflicts and political instability. Lack of financial sources and a lack of priority and strategy for the water sector have also played a major role in the country’s silence. However, recent political, social and economic stability in the country complemented by improved relations with donors is prioritizing the Nile issue in Ethiopia and has seen the country voice its stand on the river Nile water politics. Recognizing this, Ethiopia has been financing the cost of the GERD from the domestic sources.

In as much as the dam has a benefit, there is still need to undertake a further analysis on the environmental impacts of the GERD on Sudan and Egypt. The three countries experts need to come together to address the issues with their available data on the historical data of Nile water consumption, rainfall and evaporation rate. To undertake these, the three countries can establish a separate professional team from the three countries to undertake further investigation and recommend the mitigation mechanisms.
CHAPTER 5: GENERAL CONCLUSION

5.0 CONCLUSION

This study began by providing the historical overview of the legal regime in the Nile Basin. Whilst the treaties signed during the colonial era were in favor of their colonial masters, the study acknowledges that these treaties can no longer dictate the River Nile water allocation amongst the riparian states. Access to the Nile waters is now regarded by these states as a sovereign right and a prerequisite for development.

The conclusion of international treaties or conventions has been the most important method of International Law making, hence the primary means for the establishment of international rights and obligations over shared water resources. Indeed, many of the upper riparian states invoke the Harmon doctrine, which holds that a state has the right to do whatever it chooses with the waters that flow through its boundaries, regardless of its efforts on any other riparian state. Independence of the new states was a fundamental change in circumstances that made the continued validity of colonial-era treaties untenable.

Power relations in the Nile river basin have changed. These dynamics have influenced not only the political relations between upstream and downstream riparians, but also the management and allocation of the shared Nile water resources. There is a relationship between power shifts and the evolution of the Nile Basin Initiative (NBI).
States that previously did not claim their rights to the River Nile are now quite vocal in their demands. This can be seen as a result of cooperation amongst the riparian states and the fact that majority of the countries are now more developed, when compared to the colonial days. However, one cannot rule out deviance. The Nile Basin Initiative was a mark of departure from Egypt’s protection of the Nile for its national interests. Egypt, which has long been the strongest riparian in terms of bargaining power, now seems to modify its policies to deal more amicably with disputes of the Nile water. Its foreign policy has in fact undergone a notable shift from confrontation to cooperation.

As the Nile Basin Initiative became a collective negotiation, the international interest in supporting Ethiopian development placed Egypt at a further disadvantage. International financial institutions like the World Bank tirelessly promoted both the Nile Basin Initiative and the eventual Renaissance Dam, apparently in order to promote the commercialization of the Nile. To convert the waters of an international river into a commodity to be sold by the country at the river’s headwaters, to both Sudan and Egypt, will provide Ethiopia with much needed revenue. This however represents a life threatening danger to Egypt.

While some may seek to justify the Nile Basin Initiative by stating its initial goals had no relation to the reexamination of water apportionments of Egypt and Sudan, the outcome, it ultimately facilitated cooperation amongst the River Nile riparian states. What has been a looming water war has been settled by diplomacy. It is true that the Initiative was theoretically launched to develop programs intended to provide proper guidance in the use of water for agriculture, electricity networks, and the development of Lake
Albert’s fisheries. It also hoped to explore other ecological questions, such as ways to combat the water hyacinth in the Kiera River and means of developing basins in Rwanda, Burundi, Tanzania, and Uganda.

The Initiative was also intended to facilitate the establishment of the Eastern Nile program, which aims to develop a statistical planning model for the Eastern Nile in order to measure the impact of development projects. These were the goals initially announced for the Nile Basin Initiative. But the principal objective that all parties involved have been aware of tacitly since day one, has been, the renegotiation of Nile waters and facilitation of the Renaissance Dam. Promoting the initiative, the Egyptian regime has been aware from the start that it has made Egypt lose the upper hand in these negotiations. To claim ignorance as an excuse falls under the heading of grave incompetence, perhaps reaching the level of treachery. The fact that no one has been held accountable for the Egyptian allowance for the dam to move forward is another black mark for Egypt.

With the emergence of new regional actors, the East African Community for example, there are now new dynamics in the hydro political relations. Upstream riparians are now more economically stable and have become more vocal in their rights of the Nile water. It is indisputable that stakes of Ethiopia, Sudan and Uganda are growing. A framework for cooperation in the Nile Basin has sought to satisfy the basic interests of the involved countries. The different interests of the upstream and downstream countries can lead to potential trade-offs. By coming together to jointly manage their shared water resources, countries build trust and prevent conflict. One can however not overlook the
fact that a search of comprehensive agreements or regimes, without several intervening steps, can be problematic. There are too many players and interest in the Nile River and the benefits they are likely to draw from the basin wide cooperation, are highly asymmetrical.

The premise is that cooperation in the use of trans-boundary resources is desirable and will tend to enhance the welfare of the greatest number of those who have access to or live from the resource. I conclude that the change in Egyptian hydro-hegemony is the result of a cumulative effect of the formation of the NBI and the subsequent creation of other alliances. Diplomacy has won over a water war that may have erupted. This has also changed the patterns of water use from hydro-hegemonic configuration to a more multilateral approach.

Without a doubt the Nile River plays a crucial role in the economics, politics, and social life of its eleven riparian countries and more than 370 million inhabitants. Developing cooperation on the Nile is a major achievement of international diplomacy within the region. It has created an environment of joint cooperation, and political will to move development processes forwards. However, regional developments have added to the complexity of the River Nile water politics.

Using the Grand Ethiopian Renaissance Dam (GERD) as a case study, the GERD highlights a number of questions that have relevance beyond the dam itself such as water sharing of trans-boundary Rivers, collective claim making process and economic development. National interests and hydro-solidarity have an important meeting point.
Hence, construction of the GERD has rewritten the hydro-political map of the Nile Basin. That is why GERD’s global and regional implications cannot be understated.

Globally, the signing of the Declaration of Principles, which relates to a complex sub-basin, coincidentally followed the entry into force of the UN Watercourses Convention. This brings out the evident interrelationship between global and regional developments. With better understanding of the importance of the Nile as a major resource in all riparian countries, the highly skewed benefit arrangements of the colonial era could be replaced by an all rounded cooperation based on shared resource management. The contribution of the GERD, in that direction, is commendable and the recent cooperation it is drawing from other riparian countries is bound to grow as more people in governmental decision making positions base their opinions on scientific facts rather than mere suspicions.

My analysis found that significant regional political and economic advancements, combined with technical and financial assistance from external actors, have strengthened the relative power positions of upstream riparians. This is especially in light of South Sudanese independence. The implication of this development was reflected in my review of the revisionist and more significantly the unilateral construction of riparian dams and irrigation infrastructure outside of the 1959 Nile Waters Treaty. There is also a need for a regional policy that would ensure equitable and sustainable use of the Nile water including the provision of sufficient watering points for socio-economic development and ecosystems across the Nile basin.
5.1 FUTURE RESEARCH AREA

This study has attempted to review water politics amongst the riparian states of the River Nile. Due to the unfolding events of the River Nile, the study recommends further research of the study. Due to over reliance of the River Nile, future research may look into possibility of riparian states shifting focus to alternative water resources.

Lakes and rivers can be explored and water harnessed to produce more energy. This would assist in reducing the overdependence of the River Nile and consequently ease the political tension among the riparian states. Future research may also look into the co-existence of conflict and cooperation amongst the River Nile riparian states.
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