**The Nile River Agreements: Ten years of talks - and still no resolution to Nile controversy**

ENTEBBE, 19 May 2010 (IRIN) - Contrary to the controversy it has engendered, the Nile river agreement should allow for more equitable water use and minimize potential conflicts between the riparian states, says an analyst.

"The problem with the River Nile is lack of cooperation in water management," Debay Tadesse, senior researcher at the Institute for Security Studies (ISS) in Addis Ababa, said. "There is enough [water] for all the riparian states and this agreement opens the way for more equitable management."

The 14 May Nile River Basin Cooperative Framework was signed by Ethiopia, Rwanda, Tanzania and Uganda, but was left open for a year. It followed a meeting of water ministers in Sharm El-Sheikh, Egypt, where Burundi, Democratic Republic of Congo, Ethiopia, Kenya, Rwanda, Tanzania and Uganda agreed to it.

Egypt and Sudan have rejected it, saying the accord only reflects the views of seven, not nine, states that share the resource. They suggest more talks.

"For Egypt and Sudan, as well as the other eight riparian countries, the question of how much water they can use to irrigate their agricultural land and sustain their growing populations [has] become [an] existential [matter] that dwarf[s] the other political conflicts plaguing the region," Nadia Anne Zahran wrote in The Middle East Channel on 19 May. [<http://africancleanwater.com/africanonprofit/egypt%E2%80%99s-existential-worry-by-nadia-anne-zahran-the-middle-east-channel/>]

On 6 May, the International Crisis Group warned the dispute could polarize the region. It could also harden Egypt's resolve to maintain the status quo by rallying behind Sudan and against the other countries.

The new agreement, signed in Entebbe, Uganda, after 10 years of talks, also transformed the Nile Basin Initiative into a permanent Nile River Basin Commission and will facilitate its legal recognition in the member countries.

Kenya signed on 19 May. "Nothing now stops us from using the waters as we wish," Kenya's Water Minister Charity Ngilu said. "It is now up to Egypt and Sudan to come on board in the spirit of cooperation on the basis of One Nile, One Basin and One Vision. Two states out of nine cannot stop us from implementing this framework."

For ratification, the agreement now needs to be signed by DRC and Burundi.

Binding law

"What will underpin the usage of the Nile River resources is equitable and sustainable use in the best interests of all members," a source at the Entebbe talks told IRIN. "The new agreement binds only those members that have signed, which means that unless Egypt and Sudan sign, it does not bind them... [but] the main thrust is to give equal opportunity to all members without anyone claiming 90 percent leverage over the river."

Egypt's current monopoly, he added, was untenable. "This was not acceptable to many members; that is why the new agreement was negotiated," he added. "There is going to be a formula followed while exploiting the river resources. The agreement has not invented anything new, but it codified already existing international law governing waterways."

Egypt has so far stuck to its guns. "Any project that takes away from the river's flow has to be approved by Egypt and Sudan in accordance with international treaties," Reuters quoted Water Resources and Irrigation Minister Mohamed Nasreddin Allam as saying on 18 May. "Egypt is closely watching energy generation projects in the [Nile] basin."

Tadesse said Egypt and Sudan had no option but to negotiate with the other riparian states. "They have one year to decide, but they will have to," he told IRIN on 19 May. "They will only be able to monitor what is happening in the Upper Nile riparian states if they sign. Not knowing what is happening in those states would be a threat to Egypt and Sudan. For example, if Ethiopia or Kenya build more dams, Egypt will want to know what is happening."

The Entebbe source said: "Nobody is going to cut off water to countries downstream, but we shall have equal opportunities in its utilization. Disputes will arise and will be resolved through the Nile Basin Commission ... but even when they cannot be resolved at that level, third parties like the International Court of Justice could be resorted to, but I think this will not be necessary."

According to Kithure Kindiki of the School of Law at the University of Nairobi, Kenya, neither the unilateral claims of Egypt on maintaining the status quo on the Nile, nor the threat by upstream states such as Tanzania, Uganda and Kenya to obstruct the Nile-Victoria system are supportable in law.

"The legality of the Nile treaties should be understood from the viewpoint of the principles of international law on state succession as and how that affects treaty obligations," he noted in a December 2009 paper. "All these treaties, except the 1959 Agreement, were adopted when all co-riparians of the Nile (except Ethiopia) were ruled by foreign colonial powers."

The paper recommends three approaches to resolving the Nile impasse: the conclusion of the negotiations and adoption of a new treaty binding all riparian states; the promotion of ratification of the 1997 UN Convention on the Law of the Non-Navigational Uses of International Watercourses; and the referral of the issue of the legality of the Nile treaties to a judicial or arbitration forum.

Still time

Uganda's Water Minister Mary Mutagambwa said negotiations were not over. "The agreement will be ratified after members sign it, and it is open for signature for a year," she told IRIN at Entebbe. "[It] offers all of us the opportunity to unite and develop. [Egypt and Sudan] do not want interruption of the current usage. It is a matter of convincing them and I hope that within this year we can bring them on board."

The agreement attempts to review two deals signed in 1929 between Egypt and its former colonial power, Britain, and in 1959 with Sudan. The accords give Egypt and Sudan the biggest share of the water, totalling up to 87 percent of Nile flow. Egypt also has the power to veto dams and other water projects in upstream countries. To monitor the water levels, it maintains teams of engineers along the river including at its source in Jinja, and in Malakal in Southern Sudan.

Critics say the agreements are pre-colonial because they were signed before the other riparian states became independent, but Egypt insists they were done to safeguard its interests. "Egypt's historic rights to Nile waters are a matter of life and death. We will not compromise them," Reuters quoted Moufid Shehab, Egyptian Minister of Legal and Assembly Affairs, as telling parliament recently.

In Khartoum, Sudan's legal counsel to Nile Basin Initiative Ahmed Al-Mufti told a news conference on 11 May that his government's position was not to sign the agreement until all the nine states reached a solution to the issues in dispute. This position, observers say, could change if Southern Sudan voted for independence in a 2011 referendum.

The view from Cairo and Khartoum was echoed by Eritrea, which had observer status at the negotiations. In a statement issued by the Eritrean information ministry, President Isaias Afwerki said the upstream states had made "wrong agreements and regulations" on the use of the Nile river. He told Egyptian television that this "not only aggravates the situation but also creates tension".

Increasing demand

Flowing 6,825km from Lake Victoria to the Mediterranean, the Nile is the longest river in the world. It discharges about 300 million cubic metres of water daily and provides Egypt, which receives almost zero rainfall, with about 90 percent of its water needs. Four hundred million people live in the countries that share the river.

Experts say Egypt's population could reach 130 million in 40 years, thereby increasing its demands. On the other hand, Ethiopia wants to build more dams on the Blue Nile, while Sudan has promised foreign farmers vast pieces of land. In Kenya, farmers want to expand irrigation while Uganda is planning dams and Tanzania intends to build a 170km pipeline from Lake Victoria to supply dry areas.

According to the ISS, almost one in two people in Africa will, within 25 years, live in a country facing water scarcity or "water stress" because of rapid population growth and economic development. By 2025, some 12 African countries will have joined the 13 that already suffer from water stress or water scarcity.

"There is a lot at stake for all the players in the region and perhaps for Arab-African relations as a whole, already strained by years of neglect and outright conflict in Sudan," Zahran noted. "As climate change continues to affect an already parched region, reliance on the Nile, which flows through 10 percent of Africa and is shared by 10 countries, is only increasing."

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