Disputes over Shared Waters: Can River Basin Organizations make a Difference?

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The risk of conflict between riparian states is increasing in shared river and lake basins because global climate change, population growth and economic development put increasing pressure on water resources. Although an increasing number of joint institutions such as River Basin Organizations (RBOs) have been established in international river basins over the last decades, disputes around these resources persist. The paper focuses on how and on the basis of which mechanisms RBOs engage in the solution or mitigation of disputes that arise over water resources in transboundary basins. It investigates which types of dispute resolution mechanisms are available to RBOs and whether and how these mechanisms have helped to solve or at least mitigate conflicts.

The paper consists of three main sections: The first part provides a short introduction to main water-specific dispute-resolution mechanisms codified in international water law. The following section looks at how these international principles and mechanisms have influenced dispute-resolution at the regional and river basin level. It offers an overview of the global distribution of different RBO conflict-resolution mechanisms. Three broader groups of formal mechanisms, including bilateral negotiations, RBO-internal mechanisms and external actor involvement, are identified and outlined in more detail with regard to their global distribution.

The third and main part of the paper provides a detailed analysis of two specific river basins and their respective RBOs – the Mekong River Basin and the Mekong River Commission (MRC) as well as the Nile River Basins and the Nile Basin Initiative (NBI). In both river basins riparians have recently experienced significant disputes over hydropower schemes constructed by upstream countries – the Xayaburi Hydropower Project (XHP) in Laos and the Grand Ethiopian Renaissance Dam (GERD) realized in Ethiopia – which downstream riparians in both basins fear to negatively affect their utilization of river resource.

While the MRC provides a vague conflict-resolution mechanism in form of negotiations between the parties without making further specifications for cases where these negotiations fail to solve a dispute, the NBI makes no provisions for the event of disputes arising between its members at all. Despite the existence of a conflict-resolution mechanism, the Lower Mekong states have to date failed to solve their conflict around the Xayaburi dam but have – as it currently seems – at least prevented further escalation of the dispute. In the case of the Nile and the conflict around the GERD project, the two downstream riparians Egypt and Ethiopia recently settled the conflict through trilateral negotiations outside existing NBI structures which were facilitated by Sudan. Whether the resolution of the conflict will stand the test of time, however, remains to be seen.
The paper concludes by outlining some general findings. It is first of all found that conflict-resolution mechanisms provided by RBOs are not a necessary precondition for the resolution of disputes arising between riparians in transboundary river basins and that conflicts can instead also be solved without such instruments being in place. However, saying this the case of the MRC nonetheless indicates that in some instances more precisely defined and binding dispute-resolution mechanism need to be formulated in order to facilitate the resolution of basin disputes. Furthermore, the Nile basin case shows that in the absence of RBO conflict-resolution mechanisms, states might rely on conflict-resolution mechanisms provided by broader international water law. These findings are contrasted by a cursory comparison with other recent disputes that have occurred over shared water resources in other parts of the world, allowing for some more generalizable conclusions on whether and how RBOs can make a difference in solving or mitigating water-related disputes and hence ensuring the long-term sustainable development of basins and their populations.