

## Institutional Development in the Nile Equatorial Lakes Sub-basin: Learning from the Experience of the Kagera Basin Organisation

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### Abstract

*The interaction between natural resources development and the deployment of social resources is vital to understand when designing management institutions. As we look to the future management and development of the Nile River Basin Water Resources through the Nile Basin Initiative (NBI), it is useful to analyse and draw lessons from the institutional design and performance of the now defunct Kagera Basin Organisation (KBO). Established with a wide mandate that in a progressive institution would have presented increased opportunities for trade-offs among the participants, the KBO lacked the adaptive capacity to survive the historical, political and cultural dynamics between the riparians. Its experience provides invaluable institutional development lessons regarding political stability; commitment; and financial resources mobilisation, but the key lesson learnt is that a sustainability level of social resources will be required to identify, define and deploy the appropriate development, reform and adaptation mechanisms to transform the NBI into a lasting regime of cooperation.*

**Key words:** Regime formation, Institutional development, Adaptive capacity, Social resources, Integrative potential, Sustainability, Regional cooperation, River basin organisations, Kagera Basin Organisation, Nile Basin Initiative

### Introduction

Transboundary freshwater systems, like any other shared natural resource, are complex ecosystems that transcend the boundaries of national jurisdictions creating interdependencies among the riparian actors that utilise them for a variety of purposes. The utility that the actors draw from the systems may vary within and across different types of consumption, creating asymmetries that can give rise to conflict when the efforts of individual actors to achieve their goals interfere with or thwart the efforts of others to pursue their own ends. The conflicts have been predicted to take the form of disputes between states over property rights on portions of international rivers flowing within the states' territory; reciprocal rights arising from agreements between states, and or obligations deriving from international law; and issues of equity in utilising shared water resources (Rubin *et al.*, 1994). In almost all cases, acting to coordinate their activities will enhance the benefits of the group; however, the fundamental problem is how to establish joint management regimes in which interactive decision-making will maximise the utilitarian value of the shared resource (Olson, 1965; Schelling, 1978; Hardin, 1982; Young, 1989a, 1997; Bernauer, 1997; Richardson, 1988).

The subject of what determines success or failure in efforts to form regimes has thus drawn much attention in recent studies of regime formation, resulting in a lively debate about the relative importance of such factors as:

- The role of hegemony vis-à-vis the exercise of power (Keohane, 1984; Snidal, 1985);
- The impact of ideas in the context of the significance of epistemic communities (Haas, 1992);
- The dynamics of institutional bargaining (Young, 1989b, 1994);
- Integrative potential (Underdal, 1987); and
- The impact of broader socio-political context (Young and Osherenko, 1993a).

Though this debate is in its infancy, it taps into larger debates about the roles of material conditions, cognitive factors and interactive decision making as driving social forces of human affairs. The answers to when and why such efforts fail or succeed lie in the study of the societal processes in which institutional arrangements are designed and implemented (Young and Osherenko, 1993b; Bernauer, 2002).

The debate about regime effectiveness is largely centred on the definition of effectiveness, although it is sometimes extended to the causal links between institutions and outcomes; behavioural pathways and broader consequences. At the heart of the matter is whether it is sufficient to regard an international regime as effective or successful when it serves to solve or alleviate the problem that led to its creation. While this conception of effectiveness intuitively makes sense, its weakness lies in the fact that both the problem and its apparent solution can be attributable to other causes and, as such, the danger of ending up with spurious correlations is great. This has given rise to approaches exploring such variables as goal attainment; implementation and compliance; behavioural change; social learning; the initiation of social practices; and evaluative considerations such as the extent to which the outcomes produced by institutions are efficient, equitable or sustainable (Young, 1994, 1997; Haas *et al.*, 1993).

This paper is aimed at making a contribution to this debate. Focussing on the Nile basin, which in the words of Waterbury (1984 : 165) “embodies all challenges that trans-national management of fresh water could possibly present”, it illustrates the vitality of Social Resources in the establishment of the institutions of functional and progressive regimes. Discussing the findings of qualitative enquiry using a juxtaposed theoretical framework of Collective Action, International Relations and Societal Processes, this study seeks to inform the process of developing a more nuanced approach to the Nile Basin Initiative’s (NBI) efforts to negotiate and implement a cooperative framework encompassing the general principles, rights, obligations and institutional structures for a regime of cooperation on the Nile. This will be done by analysing and drawing lessons from the design and performance of the Kagera Basin Organisation.

### **International environmental regime formation**

A popular view held in International Relations and Collective Action literature is that the eventual performance of a regime is to a significant extent determined by those who define its properties and attributes (Jacobson and Weiss, 1995; Young, 1992). As such, institutions and regimes fail or succeed largely because they were designed ‘right’ or ‘wrong’. In this paper, we argue that the effectiveness of riparian institutional arrangements is broadly determined by the capacity of the riparians to mobilise the social resources required to cope with, and compensate for environmental scarcity.

The social resources referred to in this context can be defined as the ability of administrative organs and managers responsible for natural resources utilisation to deploy the appropriate development, reform and adaptation mechanisms for management organisations to function. Social resources determine the openness and flexibility of an institution, thus defining its progressiveness in the face of emerging problems. They form the required foundation upon which policy options and/or strategies can subsequently be built. A sound principle is that for the development of a functional institutional framework, a level of social resources corresponding to the required level of adaptation to the increasing complexities of natural resources development must be achieved and maintained. A failure to meet and sustain this level would mean the failure of the institution (see Serageldin and Aster, 1994; Turton, 1999, 2000, 2002; Ohlsson, 1999; Homer-Dixon, 1994, 2000).

There are two aspects to social resources, namely technical ingenuity and social ingenuity.

### **Technical ingenuity**

Engaging in the process of international environmental regime formation and sustenance dictates the creation of a level of administrative, technological and financial capacity to manipulate the environment. Before the principal stakeholders can act collectively, they must decide on regime objectives and decide how collective action can be undertaken to fulfil the objectives of the regime. Technical ingenuity is a vital structural component of this process. Its impact is determined by the specificity of the procedural rules laid down during the design process; the match between the regime's objectives and the resources the members are prepared to make available; arrangements for the execution of regime functions; and the opportunities provided for the regime to interact with its social environment.

Specificity as to exactly how members of a regime should go about achieving the goals of a regime is a key determinant of effectiveness which can only be met if there is consensus among the actors on the gravity and core of the problem (Chayes and Chayes, 1993; Andresen and Wettestad, 1995). Ambiguities in institutional solutions are usually the product of an ill-defined scope of a regime's functions and objectives. As Marty (2001) observes, the matter here is one of information and intellectual capacity. The higher the number of issues to be dealt with, the broader the functional scope; the more complex the planning and design processes will be; and the more information and problem solving capacities will be needed to develop detailed solutions. The likelihood that information is not adequate and intellectual capacities are insufficient increases with the scope of issues (Haggard and Simmons, 1987). As such, parties are more likely to design specific regimes while dealing with a narrow scope of issues.

Rangley *et al.*, (1994: 17) advise that "the objectives should be well focused. A wide ambitious mandate, extending across non-water related sectors and into areas outside the river basin should be avoided." This is based on their comparative study of the performance of several African river basin organisations from which they found that those with a complex set of tasks, like the Niger Basin Authority, Lake Chad Basin Commission and the Kagera Basin Organisation, were less successful than the Lesotho Highlands Development Authority, whose mandate was restricted to hydroelectric power generation and water transfer works.

Similarly, the objectives and capacities should be in line with each other in order for the regime to perform well. A limited scale of objectives would reduce the chances that there are inconsistencies between the means and ends and thus improve the likelihood of success (Andresen and Wettestad, 1995). Again Rangley and his co-authors provide a good example in the Organisation pour la Mise en Valeur de Fleuve Senegal (OMVS), which lacked an objective program for the integrated development of irrigation with dam construction and thus failed to appreciate the crucial need for the expansion of irrigation at a rate that would adequately exploit the benefits of the dams. As a result, the dams have been ready for over 10 years now, but the irrigation and power generating components have failed to take off due to serious liquidity problems.

The other key element is the organisation structure of the regime, which dictates how regime functions are executed. A regime will be effective if there is a clear assignation of roles among the various actors in the performance of the substantive provisions. The clarity of these roles will in turn have a direct impact on the transaction costs, as considerable savings can be made if redundancy is minimised, coordination efforts kept low and reporting lines clear. For this purpose, centralised type structures are usually preferred to decentralised structures. However, where the scope and functions may constrain performance, it may be

worthwhile to distribute functions among a greater number of actors (Young and Moltke, 1994).

But for the regime to be adaptable to changes in both riparian interests and substantive problems, it is necessary to make provisions for a healthy interaction between technical and social ingenuity.

### **Social ingenuity**

Conducive structural conditions, though necessary, are not by themselves sufficient to build and sustain a regime, neither is it automatic that adverse conditions will prevent the formation of a regime. Cooperative outcomes are the product of a process in which various strategies are employed to utilise and/or overcome various structural conditions. Regimes and their institutions do not appear overnight. It requires a long time to negotiate and conclude treaties governing international watercourses and even longer periods for the riparians to experiment with various implementation options before establishing a functional regime (Bingham *et al.*, 1994). To allow for such experiments and learning processes, negotiating bodies and decision-making procedures have to be flexible and open to new ideas, otherwise a regime's performance will be impaired. Also, because river management often involves a host of difficult resource problems and possible solutions, it is often useful to pursue multiple options that actively involve the principal stakeholders (Marty, 2001). As such, regime effectiveness will benefit from mechanisms that provide for coping with relevant changes.

Social ingenuity as an aspect of management institutional development is often mentioned in passing, but has not been explored in depth as a critical success factor in regime formation. It constitutes the social element of regime formation that determines the level of success that can be achieved when creating an enabling environment for:

- Inspiring commitment to the institutional arrangements among stakeholders;
- The regime to generate strategies or policy options that are perceived as being both reasonable and legitimate by the stakeholders; and
- The institutional organs to develop adaptive mechanisms with which to ensure that the regime is not held hostage by 'high-politics', especially if the latter is characterised by tense relations between riparians.

It is often the case that the various actors harbour divergent interests. Under these conditions, the challenge for any group is to devise the means by which these interests are translated into some measure of group preferences. A necessary but insufficient condition for cooperation to emerge through agreement between rational actors is the mutual perception of some integrative potential, i.e. the possibility of achieving some cooperative solution(s) preferred to the best available non-cooperative outcome by at least one actor and perceived as worse by none of the prospective partners (Underdal, 1987). Perceptions are therefore very important, especially among sovereign states whose interests are dynamic. It is for the purpose of understanding these perceptions and, where appropriate, changing them or instituting reforms to adapt to them that social ingenuity is an indispensable element of regime formation.

This assertion is founded on the argument that regime formation is also influenced by social behaviour through informal institutions. While it may seem that formal rules are created with the intention of guiding and/or changing behaviour and attitudes among actors, public opinion is started and consolidated at the informal level before there is an alteration in the rules. In any case, formal rules are easier to enforce if they have the support of customs and their society. Thus informal institutions affect changes in formal rules because the formal

institutions are the consensus of beliefs and behaviour shared in society, and a change in one causes a change in the other.

Incorporating these emerging compulsive new factors of intersubjectivist and process variables of routines, intentions and motives introduces a staggering degree of complexity into regime formation that underlines the significance of the role of social resources. In its ideal form, this concept provides both a guiding principle and a framework for designing progressive institutional arrangements by which the behaviour of actors participating in complex social practices is influenced through de-facto engagement and discourse rather than conscious decisions about compliance with prescriptive rules (Asmal, 1998; Arts, 2000; Alheritiere, 1985; Caldwell, 1988; Litfin, 1994; Wendt, 1994; North, 1990).

### **The case of the Nile Equatorial Lakes Sub-basin**

The launch in 1999 of the Nile Basin Initiative (NBI) was a major achievement in international efforts to unite all riparian countries in the pursuit of sustainable development and management of the Nile waters. The NBI's goal is set out as "to achieve sustainable socio-economic development through the equitable utilisation of, and benefit from the common Nile Basin water resources." (NBI and World Bank, 2001: 2). This is to be achieved through a two tier Strategic Action Programme comprising the Shared Vision Programme (SVP), of technical assistance and capacity building projects to be implemented basin-wide as a means of creating an enabling environment for cooperative development, and the Subsidiary Action Programme (SAP), comprising joint investment projects. Two groupings for the SAP have formed, one within the Eastern Nile (ENSAP) including Egypt, Sudan and Ethiopia, while the other covers the Nile Equatorial Lakes Region (NELSAP) with the six countries in the southern portion of the basin, namely Burundi, the Democratic Republic of Congo (DRC), Kenya, Rwanda, Tanzania and Uganda, as well as Sudan and Egypt. A Coordination Unit (NEL-CU) has been established for NELSAP with a mandate to build national institutional capacity for sub-basin cooperation in the implementation of the activities of NELSAP. Key among these activities is the creation of an enabling environment for the development of a joint strategy for the water allocation negotiations, and a framework for a permanent institution to manage the water resources in the Kagera River Basin (NEL-COM, 2001).

This transition mechanism of cooperation marks a bold step towards overcoming the complex mosaic of river management challenges that date back to the colonial period when Great Britain established a regime favouring Egyptian uses of the Nile. These arrangements were then reinforced by the politics of the Cold War and culminated in the 1959 Agreement for the Full Utilisation of the Nile Waters, in which the river's entire discharge was appropriated between only two of the now ten riparian states. Since then, inter-riparian relations regarding property rights on the portions of the river flowing within the territory of the excluded states have been tense at best, and have degenerated to threats of war on at least one occasion. Within the Nile Equatorial Lakes Sub-basin, the Cold War left a legacy of civil wars that were localised manifestations of former superpower rivalries. It is the tensions emanating from these non-water related disputes that pose the greatest challenge to the NBI objectives of using economic integration and joint action between the riparian countries to achieve sustainable socio-economic development and eradicate poverty.

The purpose of this study is not to highlight the practical difficulties of negotiating equitable use formulae or the dim and hazy prospect of a functional cooperative regime. Instead, the aim is to explore possibilities for redefining the parameters of the stakeholders in ways that, given the basin's rich history of non-cooperation, should make the NBI not just another exercise in futility. Narrowing the scope to the catchment area of the Lake Victoria and the Kagera River, we evaluate the performance of the now defunct Kagera Basin Organisation (KBO) that was set up to serve a similar purpose to that of the Nile Equatorial Lakes

Subsidiary Action Programme. In search of lessons on what can be done differently to build a lasting regime, we postulate the extent to which this performance can be attributed to social resources or their lack.

### **The Kagera Basin Organisation**

The Kagera Basin Organisation (KBO) was established in 1977 as a result of diplomatic initiatives to operationalise the concept of regional and basin-wide planning in the Kagera Basin. The first step was taken in 1969, when a United Nations Development Programme (UNDP) fact finding mission, in consultation with the governments of Burundi, Rwanda, Tanzania and Uganda, recommended that a technical committee be established to coordinate orderly regional planning. The committee was established between Burundi, Rwanda and Tanzania, Uganda preferring to participate in an observer role. In 1970, the committee submitted a successful funding proposal to the UNDP for the Kagera Basin Development studies, which were launched in 1971. The first phase, which lasted up to 1973, consisted largely of data collection and analysis, with emphasis on tourism; hydropower potential; fisheries; and institutional arrangements. This data, together with the national priorities of the three states, then formed the basis for the preparation of the Indicative Basin Plan that was submitted in 1976 at the end of Phase II. The committee also commissioned a separate study on harnessing hydroelectric power at Rusomo Falls on the Kagera, and the environmental and commercial implications of such a development. From the initial findings of these studies, it was clear that all the riparian states shared common problems in most fields of economic and social development; and that a medium was required through which the basin's development potential could be realised by jointly coordinating the planning and exploitation of the sub-region's resources. So it was that on August 24, 1977 the Agreement establishing the Organisation for the Development and Management of the Kagera River Basin, commonly known as the KBO, was signed between Burundi, Rwanda and Tanzania at Rusomo. Uganda acceded to it in 1981.

At its inception it was envisaged that the KBO would deal, and I quote Article IV of the Treaty, with "all questions relevant to the activities to be carried out in the Kagera Basin" (FAO, 1997: 37). After two donor support mobilisation conferences, in Paris in 1979 and Geneva in 1982, the organisation's governing organs finally articulated this objective into the conduct of studies for the implementation of fourteen priority projects in four key sectors, namely Transport and Communications, Energy, Agriculture, and Information and Training. By 1992, project documents and feasibility study reports had been prepared for most of the projects. However, there was limited success in raising funds for their implementation. At the time of its dissolution, this list of projects had further been prioritised into four: the Rusomo Falls Hydroelectric Power Project; Phase II of the Tsetsefly and Trypanosomiasis Control Project; the Rehabilitation of the Miramira Hill-Ntungamo-Ishaka road; and the Rehabilitation of the Mutukula-Bukoba-Biharamulo-Lusahanga road. The presentation to the donors of funding proposals for these projects was scheduled for June 1995, but had to be called off following the April to July 1994 war in Rwanda.

### **The KBO's Performance**

Though institutions are much broader than mere organisations, a review of the factors that influence institutions is necessary for a fair assessment of the KBO's performance. Institutional literature lists some of these factors as historical precedents, constitutional provisions, political arrangements, demographic conditions, resources endowment and economic development. Thus, the process of institutional design and the resulting frameworks, policy and administrative arrangements are invariably a reflection of the particular blend of these factors, which in turn defines the goals and objectives of any institution (Commons, 1968; Bromley, 1989b, a).

For the KBO, the overriding need was to disenclave its landlocked hinterland and, in the process, provide opportunities to exploit the sub-region's hitherto untapped natural resources. Its original mandate extended way beyond the Kagera river catchment and reflected a development agenda expected more of a regional development agency than a River Basin Organisation (RBO). None of its wide array of projects was in line with such core functions of a RBO as hydrological studies, pollution control, environmental protection, or ecological conservation. In this context, the overall performance of the KBO is relatively more difficult to assess, for neither the criteria for evaluating a development agency nor those for an RBO seem appropriate. And since the KBO's Indicative Basin Plan read more like a specific project development list than a development strategy, its performance can be evaluated in terms of the extent to which the Priority Action Programme<sup>1</sup> (PAP) was implemented. Its achievements on this front included the following:-

**(a) The KBO regional telecommunications project:** This was the organisation's main achievement. With funds from the African Development Bank, interconnection between the four member states' capitals and a number of key towns was made possible using high quality terrestrial microwave links and modern switching equipment. This eliminated the need to route calls through Europe, and not only reduced the cost of making calls within East Africa but also improved the quality of connection. Rwanda and Burundi gained direct access to the East African Telecommunications network, with the possibility of tapping into the main PANAFTEL network for Eastern and Central Africa, while Uganda had the opportunity of being connected to Southern Africa. This was a major step towards improving trade and commerce with the outside world. However, as one of four projects that were intended to meet the primary goal of opening up the landlocked interior, this was a modest achievement. The railways project, in which two branch lines would connect Rwanda and Burundi to the East African Community (EAC) grid through the port of Bukoba; the roads rehabilitation programme and the navigability of the Kagera never got beyond the feasibility study stage.

**(b) The KBO regional centre for economic documentation:** The centre was set up in Kigali as part of the Human Resources Development project portfolio. Funded by the UNDP, it boasted<sup>2</sup> a collection of over 8,000 items that included reference books, periodicals and project study reports and documents, and a modern Statistical Data Bank and Information Service. It was to serve the purpose of acquiring, storing and disseminating information to the KBO Secretariat, specialists and consultants participating in the organisation's activities and other relevant bodies in the member States. The Kagera Polytechnic Institute, which was the other project in this portfolio, was shelved in part due to its intended beneficiaries preferring to study abroad.

**(c) The tsetsefly and trypanosomiasis control project:** This was one of six projects under the Agriculture Sector. Under this project, the Economic Commission for Africa's International Centre of Insect Physiology and Ecology ECA/ICIPE conducted vector distribution surveys and trials on various control methodologies in the heavily infested (former) Akagera Park region. It was on this basis that the full-scale control programme was to be launched. This, however, was not implemented due to funding constraints.

The Rusomo Hydroelectric project, which at the organisation's inception was conceived as the key to industrial activity in the basin areas of Burundi, Rwanda and Tanzania ended up as the subject of several inconclusive studies. Thus, in terms of implementing the Priority Action Programme, the KBO clearly under-performed. Indeed, viewed in financial terms, only

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<sup>1</sup> A list of 14 projects in the four key sectors of Transport and Communications, Energy, Agriculture, and Information and Training, which was arrived at after the donor community advised that the Indicative Basin Plan was too incomplete for funding consideration.

<sup>2</sup> Almost all of its collection of equipment and materials were looted in the 1994 civil war in Rwanda.

US \$18.75 million<sup>3</sup> of the budgeted US \$3 billion capital cost of the PAP was mobilised. This represents a huge investment gap, and a failure to capture the interest of potential funding agencies. Also, considering that member contributions averaged about 30% of funding requirements, it could be that its architects overestimated the members' financial capacity to meet regime costs or that the riparian states lacked faith in the organisation.

### **Why the KBO underperformed**

The fact that efforts to establish the KBO followed immediately in the wake of the decline of the East African Community (EAC), and were championed by Tanzania was not a coincidence. In the lead-up to the collapse of the EAC, Uganda and Tanzania had long complained of inequalities in the benefits derived from the Union, notably:-

- Due to disparate levels of development, trade within the de facto common market was heavily in favour of Kenya, and because most industries in the Union had their headquarters in Nairobi, Kenya also received a lion's share of the customs and other revenues;
- Nairobi was the seat of most of the Commission's establishments, which did not augur well with Uganda and Tanzania; and
- Tanzania justifiably complained of not being served well by the transport system under the Union, specifically the railway lines which were too short, and only the light aircraft of the East African Airlines flew to Dar es salaam.

Kenya's refusal to ratify the 1964 Kampala Agreement<sup>4</sup>, the central tenet of which was the relocation of certain industries away from Kenya, marked the beginning of the collapse of the EAC. On realising this, Tanzania sought another avenue for the achievement of its long-term goal of attaining socio-economic development through regional integration.

Also recall that this was around the time when the government of Tanzania had just issued what has come to be known as the Nyerere Doctrine on State Succession to Treaties, outlining the policy of Tanzania on the use of the waters of Lake Victoria and its catchment area, which had been adopted by the governments of Uganda, Kenya, Rwanda and Burundi. Building on these sentiments, and presenting the EAC's replacement as an entity that would deal with Burundi, Rwanda and Uganda's handicap of being landlocked by facilitating their trade and transport with the outside world, Tanzania had no difficulties enlisting the support of the other Kagera riparians in the formation of the KBO. The overriding goal was to fill the void left by the collapse of the EAC. The KBO was modelled on the functions of the EAC, a regional trading block, which explains why the KBO's mandate was more in line with that of a development agency than of a river basin organisation.

Thus established, and following donor feedback on the articulation of objectives, a healthy interaction of social and technical ingenuity was required to restructure the organisation in ways that would enhance donor interest. What follows is an account of the key historical, political and cultural factors that clearly illustrate social resources as the lacking interceding variable in this re-orientation process.

### ***The Amin – Nyerere clash of personalities***

What has been said of friendships among countries in Africa being ultimately dependent on the friendships, at a personal level, of their leaders came to pass in this incident when General Idi Amin Dada overthrew Uganda's President Apollo Milton Obote, a personal friend of Mwalimu Julius Nyerere of Tanzania. President Nyerere refused to accept Amin's

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<sup>3</sup> Excluding the cost of constructing the Headquarters and regional offices buildings.

<sup>4</sup> Based on the Jeremy Raisman Commission's recommendations for correcting trade imbalances in East Africa (East African Economic and Fiscal Commission, 1961)



leadership, and despite Uganda and Tanzania sharing grievances with regard to the direction the EAC was taking, Nyerere refused to recognise Amin's nominated delegates to the EAC. Instead, he accused Amin of withdrawing the recognised delegates (nominated by Obote) without prior consultation. He made no secret of his wish to have no dealings with President Amin and, thus, Obote's fall arguably dealt the final blow to the EAC.

But for the customary law requirement that the implementation of projects on shared watercourses be consented to by all riparians, President Nyerere would have preferred to deal with only Rwanda and Burundi. President Amin for his part opted to restrict Uganda's involvement in the KBO to that of observation thereby undermining the utility of the organisation, since studies could only be carried out in three of the four riparian countries. When Uganda acceded to the treaty, the organisation's administrative arrangements had to be restructured to accommodate the Ugandan delegation, something that did nothing to improve the coordination of activities.

### ***Ethnic tension***

The Hutu–Tutsi friction, carried over from the Belgian colonial microcosm, further compounded the organisation's lack of internal cohesion. Before implementing their colonisation policy of '*Les reformes voison*', the Belgians took time to study the Chiefly hierarchy in the kingdoms of Rwanda and Burundi, and the system of indirect administration bequeathed by the Germans. They concluded that the Tutsi Chiefs were more active, intelligent, progressive and thus best suited to work with the government (Prunier, 1995). This eventually led to a situation of almost total dominance of the administrative functions of Rwanda-Urundi by the Tutsis. The words *Tutsi*, which originally described the status of an individual rich in cattle, became a term referring to the elite group; and the word *Hutu*, meaning subordinate or follower of a more powerful person, came to refer to the mass of ordinary people (de Forges, 1999). With pressure from the United Nations (UN), which supervised the administration of Rwanda-Urundi under the trusteeship system, the Belgians initiated changes to increase Hutu participation in public life toward the end of their rule. This culminated in the Hutu Revolution in the Republic of Rwanda, but the Tutsi-dominated government ruthlessly put down similar efforts in Burundi.

The Tutsi – Hutu friction between two of the founder members of the KBO spilt over to the running of the organisation, resulting in such counterproductive measures as different delegations objecting to projects that seemed to be more beneficial to the politically dominant group in either country; and where such objections were overcome there were incidents of individual states failing to send agreed delegations to donor countries and institutions to mobilise resources to implement the projects.

### ***The Cold War and Franco – Anglo competition***

Also set in the region's colonial history are the effects of Franco-Anglo competition and Cold War politics on the performance of the KBO. Within the donor community, Tanzania's leading role in the KBO's establishment no doubt played on French and Belgian fears of an Anglo-Saxon erosion of their position on the continent – a fear that was not helped by the appointment of the first two Executive Secretaries from Tanzania (1978-1982) and Uganda (1983-1987), despite the fact that Uganda only acceded to the treaty in 1981. The rest of the donor community did not warm up to the organisation, in part due to Tanzania's leaning towards the Communist camp in Cold War politics. The result was that the organisation could not raise the funds to implement its rather ambitious project portfolio.

Among the riparian states, Franco – Anglo competition was a key factor in the lack of internal cohesion, which in turn had an impact on the organisation's overall performance. Tiharuhondi (2001) cites the highest tension as having been witnessed in the period 1978-1982, when two of the organisation's departmental directors "concentrated on highlighting the political differences between their countries to the detriment of the organisation's development."

### ***Civil wars and non water-related disputes among riparian states***

Political differences and mistrust between member states were further exacerbated by the 1990 Rwandese Patriotic Front's (RPF) invasion of Rwanda from Uganda. Since the majority of the invading forces had been members of Uganda's National Resistance Army (NRA), President Juvenal Habyarimana accused his Ugandan counterpart of having aided the invasion, and severed relations between them.

With three (Rwanda – Burundi and Rwanda – Uganda) of the four member states harbouring deep suspicion of each other, the impact on the organisation's activities was such that timely decisions could not be taken on many KBO activities. The invasion also marked the start of the civil war in Rwanda that paved the way for the 1994 genocide. Together with the internal conflicts in Burundi, this meant that it was impossible to continue with project studies and implementation work in about 55% of the KBO's territorial jurisdiction.

### ***Lack of commitment***

Though the treaty did not provide for the assembly of the Heads of State, who comprised the Summit – which was one of the organisation's three institutional organs, the others being the Council of Ministers and the Intergovernmental Commission of Experts – it provided for annual meetings (Okidi, 1994). But such was the lack of commitment to the organisation that prior to its dissolution in 2004, the Summit last met in 1993 while the Council of Ministers only met twice in the same period. And even when the meetings took place, they ended up being more like talking shops, for none of the resolutions taken were ever effected.

### **Lessons learnt and reflected in the Nile Basin Initiative**

The formal dissolution of the KBO on 7 July 2004 followed a decision taken at the January 2000 Extra-ordinary KBO Council of Ministers meeting that KBO activities be transferred to the EAC when it is reactivated, and Rwanda and Burundi are admitted as members. Since then the Nile Basin Initiative (NBI) has taken particular interest in two of the projects in the KBO's portfolio – the Rusomo Hydroelectric power project, and the navigability of the Kagera River – and agreement has been reached for them to be implemented under the Nile Equatorial Lakes Subsidiary Action Programme (NELSAP).

Evidently, there are parallels between the KBO and the NBI and a review of the KBO's performance would certainly inform the process of developing a sustainable framework for cooperation, whether in the Lake Victoria basin or the Nile Basin as a whole. It makes place for the following key lessons.

### **Political stability and support**

It is conventional wisdom regarding cooperation on shared watercourses that results can best be achieved within a climate of trust, the prerequisites of which are the internal political stability of each riparian state and demonstration of political commitment to shared river basin issues. An analysis of the Shared Vision Programme (SVP) reveals that the objectives of the NBI were indeed informed by this wisdom. What is of concern is the prevalence of the development discourse that seems to suggest that economic development is the necessary and sufficient solution to the riparians' problems.

True, the Nile Equatorial Lakes sub-basin is home to three of the world's poorest nations and so it would seem logical that jointly implementing investment projects utilising the sub-basin waters will open up these countries to each other's ideas, goods, services and labour, thus speeding up the process of poverty reduction. But despite publicly extolling the virtues of cooperation, not much has changed in sub-basin political dynamics from what existed at the formation of the KBO. The tensions and mistrust borne of Colonial and later, Cold War politics have now given way to a complex mosaic of tensions characterised by national

assertiveness, especially among the DRC, Rwanda and Uganda. The 'New Leadership'<sup>5</sup> that in the late 1980's and early 1990's provided optimism for the achievement of peace and the improvement of policy environments in the sub-basin seem to have been sucked into the regional political quagmire and instead harbour deep seated suspicions of each other based on political, ideological and sometimes personal differences. In fact the prevailing intra and inter state mistrust makes cross-border investment highly risky, which in turn makes economic development suspect as a key strategy for achieving the desired cooperation and regional integration. Moreover, the water resources of the Kagera catchment do not feature in any of the Poverty Reduction Strategy Programmes<sup>6</sup> of its riparians. How, then, can the potential economic benefits from the proposed projects involving these resources be used to push the development of any cooperative framework among the riparians to the top of their national priorities?

### **Financial resource mobilisation**

A clear lesson from the KBO experience is that a sound financial position is imperative for the establishment of an effective regime. The ability to meet the costs related to regime formation; sustenance and financing of investments certainly requires commitment and innovative financing arrangements by governments, donors and the benefiting community. In this regard, an International Consortium for Cooperation on the Nile (ICCON) was established to support the NBI's Strategic Action Programme. It brings together the Nile riparian states; donor agencies; credit institutions; private investors and civil society, professional and non-governmental organisations. Because the NBI is a transitional cooperative institution, this funding mechanism is operated as a World-Bank managed Trust Fund, the Nile Basin Trust Fund, that will eventually be transferred to a Nile Basin Institution with appropriate legal status and capacity (NBI and World Bank, 2001).

### **Development strategy**

One of the key criticisms levelled at the KBO by Ranglely *et al.*, (1994), is its focus on project-based planning without developing a strategy for identifying and evaluating investment opportunities. The result was a waste of time and resources studying projects that had little chance of being implemented. This has been addressed through a four-step process of establishing the NELSAP, consisting of in-country analysis and project identification; inter-country project conceptualisation; preparation of joint Project Identification Documents for submission at ICCON meetings; and the development of project proposals and implementation. Through this process, projects are streamlined and only those deemed to be sustainable, achievable and of significant shared benefits get to be presented at ICCON meetings, which are currently scheduled to take place every two to three years (NBI and World Bank, 2001).

### **Ownership and commitment**

No strategy would be useful in the absence of ownership by those who would later put it to use. External consultants may be of assistance, but local decision-makers and communities must have a sense of ownership or see a role for themselves. The SVP anticipates broad-based participation that also includes representatives of the general public, private sector associations and NGOs. It is envisaged that this will promote effective dissemination of information to a wide audience, which will in turn provide a means of enhancing stakeholder confidence in the NBI. Within this broad objective, a public information campaign will encourage greater basin-wide political engagement for cooperation, promote a healthy

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<sup>5</sup> Referring to the governments that replaced the dictatorships in the region.

<sup>6</sup> These are national development plans, covering such areas of development as poverty reduction, health and education, industry, agriculture and macroeconomics, which governments in low-income countries are required to draw up in consultation with civil society in order to receive debt reduction under the Heavily Indebted Poor Countries Initiative, and cheap loans from the IMF and World Bank

discourse on regional development, and raise public awareness and understanding of the NBI process (NBI, 2001).

In pursuing the principle of subsidiarity, the riparians will also be able to take full advantage of the opportunities in the different geographical areas to address the unique nature of the needs in each sub-basin. This may well be the key to sustained riparian commitment.

### **A shift from water sharing to benefit sharing**

Realising the practical difficulties of negotiating equitable water sharing formulae against a rich history of conflict and controversy over the utilisation of the Nile waters, the riparians took a historic step towards a functional regime of cooperation by diffusing focus from the symbolic but inconclusive issues of water redistribution to a redefinition of the problem as one of basin-wide development, with emphasis on the benefits of regional cooperation. The cooperative dialogue is aimed at facilitating a move from a primarily country focus towards wider needs and interests, based upon which opportunities for collaboration can be better identified. In due course, an enabling environment for the development of a joint strategy for water allocation negotiations will be created, and the process will be made easier by a wider pool of trade-offs resulting from the confidence-building process.

### **Conclusion**

Social resources mobilisation and natural resources development, as represented by social and technical ingenuity, are two completely separate but deeply interrelated spheres of management institutional development that cannot be developed in isolation from one another, and the interaction between them is vital to understand when designing management institutions. Yet in the case of the KBO, all the activities leading up to the Rusomo Treaty focussed entirely on the technical aspects of the regime, with no attempt whatsoever to explore the social resources that would legitimise the regime for its intended actions and thus garner member commitment and, more importantly, eliminate the donor scepticism that undermined its existence. In developing countries, exogenous support from such actors as aid donors, specialised agencies and financial institutions plays a central role in institutional development. Similarly for the KBO, the UNDP and the Kingdom of Belgium played such a central role in the activities to justify the KBO's formation and its design that even the Rusomo treaty was based on a draft prepared by two UNDP consultants<sup>7</sup>. Under such circumstances, the social component was required to develop a mechanism to adapt these arrangements to the historical, cultural and political conditions that existed among the riparians. It goes without saying that the negotiating dynamics leading to successful establishment of water management accords vary from basin to basin, and as such there is no global applicability (Mitchell, 1990; Cano, 1986; Marty, 2001), which is why there was a need for feedback between the technical and social components of the KBO's establishment.

This oversight was the KBO's undoing. In failing to deploy the appropriate social resources to engender a culture that would enable the riparian states to sacrifice some constituency interests and focus on the goal of alleviating poverty, they failed to achieve internal cohesion and commitment. In so doing, they failed to assure aid donors and credit institutions, on whose technical and financial support the organisation was to rely, of the successful implementation of the joint development projects.

The need for a lasting regime of cooperation, whether in the Lake Victoria basin or the Nile as a whole, cannot be overemphasised. Yet the region's problematic history of non-cooperation and the prevailing political dynamics present a tremendous challenge to this

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<sup>7</sup> *The treaty was based on a draft put together by Guillermo Canas of Argentina and Roger Hayton of the USA.*

goal. The NBI's Shared Vision Programme represents a major attempt at overcoming this challenge and, if genuinely implemented, may act as the catalyst for basin-wide cooperation; building trust; and ensuring a comprehensive approach to the achievement of sustainable basin-wide economic development. But while this programme lists sufficient conditions for overcoming the current problems, a sustainability level of social resources in the legal and institutional dialogue will be required to identify, define and deploy the appropriate development, reform and adaptation mechanisms to transform the NBI into a lasting regime of cooperation.

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