

# **Transboundary Water Interaction II: Soft Power Underlying Conflict and Cooperation**

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## **ABSTRACT**

This paper examines the role and effects of ‘soft’ or covert forms of power in non-violent water conflicts in hegemonic settings. It counters much of the work reflecting a growing interest in inter-state transboundary environmental analysis focused on links between natural resources and violent conflict. The first paper in this series (Zeitoun and Mirumachi, 2008) emphasised the existence of ‘negative’ forms of inter-state transboundary water interaction, and its role in worsening inter-state relations. The findings are built upon here to examine how the less observable forms of power, and power asymmetry, serve to perpetuate inequitable and ultimately unsustainable arrangements. In hegemonic situations where the ‘first amongst equals’ has a greater ability to define and shape the interaction, states with less capacity of covert power may find compliance the only pragmatic alternative. The paper also discusses how ‘soft’ power can be used to frame inequitable forms of cooperation in a positive light. The findings stress the importance of analysts questioning first or claimed appearances of ‘positive’ cooperation, and of examining the soft power underlying transboundary arrangements. An implication for policy is that power asymmetry be acknowledged and confronted, through attempts to level the playing field, or through the facilitation of steps for basin hegemons to take on leadership positions. Exemplification is given through consideration of transboundary water resources around the globe, primarily in the Middle East, North Africa and Asia.

## INTRODUCTION

*When the King says it is midnight at noon, the wise man says 'behold the moon!'*

Omar Khayam (1050 – 1122)

In entertaining the King's conviction, Khayam's wise man asserts his loyalty and assures his personal security. But like a prisoner encouraged by a whip-wielding interrogator to 'volunteer' information while bound in chains, the interaction he lives with the royalty is fundamentally asymmetric. The subjects that 'choose' obedience here are acutely aware that whatever 'cooperation' occurs does so only because of a vast imbalance in power. The King and the torturer would do well to recognize the limits of the utility and sustainability of the consent granted them by their subjects under such circumstances, though history suggests they may not.

While the role that power plays in inter-state transboundary environmental interaction is not quite as dramatic, it may be just as determining. Analysis devoted to the subject from the field of environmental security focuses on observable forms of power, accompanied primarily with violent forms of conflict. The environmentally deterministic 'resource scarcity leads to violence' perspective – once so effectively discredited (by e.g. Levy 2001, Hartmann 2002) – appears once again to be gaining currency in policy and media circles (see Beckett 2007, Ki-Moon 2007). 'Water wars', a dominant fear of the 1990s, are on the agenda again, this time supposedly induced by changes in climate. Warnings that "radical environmental movements may spawn eco-terrorist groups" if inaction on climate change continues (Mabey 2008: 7) are becoming more common. From decades living the politics of climate change, Hulme (2008) is obliged to counter those who present the weather as a weapon that may necessitate military intervention. While academic work on environmental conflict is more nuanced and keeps away from the deterministic vein (e.g. de Soysa 2000, Hartmann 2002, Qutub, et al. 2003, Dalby 2006, Le Billon 2007, Briggs 2008), it remains focussed on observable forms of power and on armed conflicts. Similarly, the well-known Basins at Risk project, has emphasised the predominance of water cooperation and the absence of the use of hard power (Wolf, et al. 2005, TFDD 2008). Furlong (2006) attributes the interest in violence in the context of environmental conflict to the limitations of International Relations theory (citing Barnett's (2000) work).

But what of environmental conflicts that fall short of violence, and of less overt expressions of power? In his argument for an enhanced understanding of the practice of environmental governance, Newell (2008: 523) argues for analysis to take "seriously the less observable forms of power at work that determines which issues get addressed (and are subject to governance regimes) which are not and why." Narrowing in on international water conflicts in particular (where violence is particularly sparse<sup>1</sup>) Sneddon and Fox (2006) similarly call for a more 'critical hydropolitics' in which the role of the discursive nature of power is given a central focus. In that spirit, this paper's analysis of inter-state arrangements over transboundary water resources excludes cases of violent conflict, and downplays the effects

of 'hard' forms of power. The focus here is instead on the role that 'softer' forms of power play throughout the primarily discursive processes and generally non-violent tensions that make up transboundary water interaction.

This paper is the second in an effort to develop a more robust and nuanced understanding of key political factors in inter-state transboundary water interaction. In the first paper in the series, Zeitoun and Mirumachi (2008) called into question the accepted methods of interpretation of transboundary water conflict and cooperation. Building on Kistin (2007), the paper found that the use of continua that plotted conflict and cooperation at opposing ends of a spectrum reinforced deeply held beliefs that all conflict over water was 'bad', and that all water cooperation was 'good' (e.g. USACE 1996, UNESCO 2004, Sadoff and Grey 2005). The call was made for recognition of the co-existence of conflict and cooperation, and to begin thinking instead in terms of transboundary water *interaction*. The first paper furthermore suggested that transboundary water interaction took on subjectively-defined positive, neutral and negative forms (and placed emphasis on the latter). These included 'coercive cooperation', where the terms of the interaction are not negotiable (like Khayam's king and the wise man, above), or 'dominative cooperation', where the benefits of cooperative efforts pale in comparison with the pain they inflict (as in the case of a transboundary treaty with heavily skewed terms, or the prisoner, above). It was shown that such lack of consideration of the qualities of the cooperation may have contributed to policy and programmes encouraging unqualified 'cooperation of any sort' (UNDP 2006). In extreme cases examined on the Ganges, Nile and Jordan rivers, this may have led to the perpetuation, and not resolution, of conflict. In keeping with the bulk of hydropolitical literature, however, the first paper made only glancing references to the role that power plays in transboundary water processes and outcomes.

Covert forms of power are examined here with the hypothesis that they offer greater explanatory capacity to interpret why certain choices are made or avoided by riparian states in their interaction, how negotiations and treaties over water can fail to end conflict, and why non violent conflicts endure.

The context is set in the second section through a review of basic power theory and of the particularities of state interaction in the regional and global hegemonic international state systems. The third section reviews cases where soft power is active in the different phases of the transboundary water interaction processes from the decision or not to interact through to negotiations and treaties. The implications this has for analysis and policy are discussed at some length in the fourth section. The paper concludes with thoughts on areas requiring further research required for the establishment of effective transboundary water interaction.

## **POWER AND WATER IN HEGEMONIC CONTEXTS**

This section reviews select power theory and the hegemonic inter-state contexts within which this paper's analysis applies. It infers Keohane's oft-cited definition that cooperation

“requires the adjustment of individual behaviour to achieve mutually beneficial objectives”, and depends on ongoing hegemony (Keohane 1990b: 741). Cooperation can take on many forms, particularly when hegemony ensures that there is a ‘first amongst equals’, such that mutually beneficial does not mean equally or equitably beneficial. ‘Effective cooperation’ is understood in Brown and Ashman’s (1996: 1467) sense, obliging “some degree of mutual influence that allows all the parties to influence and be influenced” .

Since Keohane and Nye’s (1977) seminal publication on regime theory, neorealists, liberal institutionalists and cognitivists have found common ground in analysing how hegemonic power (Keohane 1990a), cost-benefit assessments (Young 2001) and social learning (Haas and McCabe 2001) can foster cooperation between states – a convergence nicely reflected in Hasenclever 1997. Regime theory has informed the analysis of international arrangements on the Jordan River (Jägerskog 2003), the Tigris and Euphrates rivers (Kibaroglu 2002), the Orange river (Furlong 2006, Raadgever, et al. 2008), and the Mekong river (Browder and Ortolano 2000), amongst others. Regime theory has more recently fallen out of fashion in favour of environmental governance (e.g. Conca, et al. 2006, Bernauer and Kalbhenn 2008) while cognitivism found its follow up in constructivist approaches – (re)framing, social learning and (de)securitisation (Checkel 1999, Wendt 1999, Buzan and Waever 2003). Consideration of the nuance of hidden power struggles remains implicit at best. The emphasis of much of the regime and environmental governance literature has relied primarily on an assumption either that a) actors are equal in practice as they are in principle, or b) power asymmetry brings the stability desired for effective transboundary management. On the whole, the literature shows that legitimacy-based and institutionalised water or environmental governance remains a distant goal for states already engaged in cooperative efforts in other sectors. To be relevant to states even further away from such a goal – such as the ones considered here, engaged in struggles over control and access of the resources – analysis would benefit from consideration of the effects of supposed equality and hegemonic stability through a lens of power.

The hydropolitical literature is in fact replete with discussion of the role of power in transboundary governance. Saravanan (2008) discusses the role of agency while examining sub-national water conflicts in India. Bandyopadhyay (2006) argues how alternative views on water management are not integrated into the hierarchical government management in South Asia, placing limits on the implementation of new knowledge and interdisciplinary solutions. Bernauer and Kahlbenn (2008) note the importance of upstream/downstream location, in what they call “positional power”. Writing from the headwaters of the Ganges, Gyawali (2002) has commented that it is the ability to *combine* the forms of power may be the most important feature of all.<sup>2</sup>

### *Power Over Deals and Ideas*

Debates in the application of political science and IR theory to transboundary water issues (e.g. Furlong (2006, 2008) and Warner and Zeitoun (2008)) have served to refine the analytical framework of ‘hydro-hegemony’, which recognises that both overt and covert

forms of power are active in transboundary water contexts. Overt power is ‘power as might’, the ‘hard, coercive power of a state measured in terms of expressed or embodied coercive capabilities (i.e. economic or military power, and the ability to wield these). At the river-basin level, overt expressions of power are demonstrable through (exploited) riparian position or in large scale water-control infrastructure. Strict consideration of overt power in the Nile River dispute would pit Ethiopia’s upstream and topographic advantages against Egypt’s Aswan High Dam and military capacity.

Steven Lukes’ (2005 [1974]) second and third dimensions of power serve as the bases to identify two main forms of covert power. Each may usefully be considered forms of ‘soft’ power, to borrow Joseph Nye’s (2004) term. The first is the power over agenda and procedures that derive primarily from the legitimacy an actor receives from being in a relationship. This ‘bargaining power’ is applied by one side when bargaining over and deliberating issues common to the actors it interacts with. Bargaining power may take the form of the contractual protection an employee has from her/his employer, or the recourse to international law that a state has within the international system. In its Realist interpretation, this type of power may be improved by positioning, alliances or in a number of ways at the negotiations table. Daoudy (forthcoming), for example, has identified the negotiating tactic of ‘issue-linkage’ employed as a form of bargaining power employed in the discursive interaction between Syria and Turkey on the Euphrates River. The coupling of the transboundary river issue with the more security-related (and equally transboundary) issue of Kurdish independence – along with the unlikely alliance the Ba’ath regime made with International Rivers Network and international celebrities – substantially supported the Syrian side’s efforts in 1999 to thwart construction of the Ilisu Dam (Warner 2008), at least temporarily. India’s signing of double bi-lateral treaties with Nepal and Bangladesh (what Barrett (1994: 6) refers to as “incomplete agreements”) is another expression of state bargaining power over international waters, which limited the negotiation options for Nepal and Bangladesh (Ahmad and Ahmed 2004).

Such bargaining form of power is by definition contested and debated. Social power depends on the possible resistance that others can offer to it, however great their constraints, as Mustafa (2002) has shown in interpreting disparities in access to irrigation water (and vulnerability to flood hazards) in Pakistan. As Scott (2001: 3) notes, the contestation brings a ‘dialectic of control and autonomy, a balance of power that limits the actions of the participants in their interplay with each other’. Given this potential for resistance, power is more effectively exercised when its contestability is not discussed, when it is not on the agenda. Social power blends into a second form of ‘soft’ power active in international hydro-politics. By far the most effective and common form, if difficult to measure, is power over *ideas*. Like bargaining power, power over ideas takes place mainly through discourse, but goes one crucial step further to move from the conscious world of bargaining to the subconscious world of pre-determined outcomes. It is this form of power that shapes what will be deliberated and what will not, and whether there will even be discussion in the first place.<sup>3</sup> It also allows issues to be framed by one actor in such a way that their portrayal is accepted without question, or even unconsciously, by the other actor, to the point that the

current 'order of things' is accepted as the 'natural' 'order of things'. At some point between fully conscious bargaining to change the established order and its completely absorbed acceptance, the weaker side's implicit (or explicit) *consent* to the outcome is assured.<sup>4</sup>

Zeitoun and Warner (2006) asserted how tactics such as securitisation (i.e. excluding alternatives), sanctioning of discourse, and the construction of knowledge were examples of power over ideas used in the water conflicts of Israel-Lebanon, Palestine-Israel, and Egypt-Ethiopia, respectively. The success of such framing of issues and the associated discourse is strongly influenced by the power position of those who promote it, but also by the willingness of their audience to accept and replicate the decision and the very context that allows its framing (Balzacq 2005). Thus (as will be seen), the Egyptian government can maintain there is no significant conflict on the Nile and see this image accepted by the World Bank – despite contestations of the contrary emanating from Ethiopia. Ideational and bargaining power are thus inter-twined or, as Scott (2001: 16) would say - effectively exercised through force and persuasion based on expertise and authority.

#### *Authority and Apparent Equality*

At least two features of 'soft' power asymmetry in the broader hegemonic political context may serve to benefit the more powerful actor in transboundary water interaction. The first is the presence or absence of authority. Lessons drawn from relations over water resources between actors governed by an over-arching authority bear little relevance to the lessons drawn from a much more anarchic international order (Barrett 1994). Consider the substantively different conclusions and policy recommendations drawn by Scholz and Stiffler (2005) who explore the possibility of adaptive governance and collaborative planning at the sub-state level in Florida, and those of Conca's (2006) analysis of international transboundary water regimes. If progressive and innovative transboundary management methods are (at best) a qualified success in the former case, it is largely thanks to the well-established US state and federal legal and regulatory frameworks. Conca finds no such innovation at the international level, where even basic data-sharing is problematic and established water management systems like Integrated Water Resources Management remains a pipe-dream of the international water community.<sup>5</sup> The character of inter-state tensions over water in the absence of a central authority have been documented in many cases, including for example that of the Aral Sea (Weinthal 2001, Wegerich 2008). The absence of an authority is particularly relevant when there is also an absence of an agreed-upon code or standard.<sup>6</sup>

The second power-related aspect of the hegemonic political settings that concerns us is the difference between apparent and actual equity. Making such a distinction is useful for analysis of relations of all sorts – from marriages (Goleman 1995) to labour relations (e.g. Gaventa 2005), and certainly for states within the current international order. Where there is formal *inequality* between the constituent players – as in colonial empires – it is clear that the rules of the game are set by the stronger. The effects of hierarchy on Indian water planners who had obligations to British colonial interests ahead of national Indian or Egyptian ones has been explored by Headrick (1988) and Tvedt (2004) respectively, and labelled 'hydro-

imperialism' (see also Gaffney (1997: 484)). Force may be more likely to be employed than power over deals in such contexts, though the power over ideas required to maintain the established inequity would have also been significant.<sup>7</sup> Today's modernist ideal, on the other hand, is of formal equality where the rules are set collectively. The EU's Water Framework Directive comes close to the creation of such an exemplary hydro-community of states, even if it is understood that Germany and the Netherlands, say, do not have fully equal influence in the union. Serious discursive (let alone violent) conflict on the Rhine, is not currently expected (see Lindemann (2005)), despite the fact that the riparian governments could make each other's lives exceedingly difficult if so desired – by closing off access to the sea, or polluting or damming the river.

Most inter-state relations in the current world order sit between these two extremes – where formal equality is enshrined in principle, but not in practice. The conceptual middle area is, for the purpose of this article, characterised as hegemony, where the 'first amongst equals' carries more relative influence. The principles of the United Nations assert equality, for example, but few could argue that the international influence of France and Chad, say, is equal, even in central Africa. Hegemonic situations differ from those of hydro-community, as competition is guided by this power asymmetry. They differ from hydro-imperialism in that water is not (necessarily) physically captured, but controlled through more subtle mechanisms – indirect threats and coercion, one-sided treaties, and other 'compliance-producing mechanisms' (Lustick 2002) that make up 'soft' power (Zeitoun and Warner 2006). Hegemonic contexts also differ from each of the other extremes in that they apply to the majority of transboundary basins and aquifers today.

## **SOFT POWER ACTIVE IN TRANSBOUNDARY WATER INTERACTION**

Referring to the Transboundary Water Interaction Nexus (Mirumachi and Allan 2007), transboundary water interaction passes in all directions through a number of levels of intensity of conflict *and* of cooperation. This section looks at how in hegemonic contexts these movements are under-written by exertions of covert power and are to a large extent enabled by power asymmetry and expressions of covert power. It is found that subtle expressions of soft power allow the more powerful side a greater ability to determine the form of the interaction, explaining further why subjectively positive, neutral and negative forms of interactions exist over waters.

### *The 'hegemon's prerogative'*

Reasons states engage or not over transboundary environmental issues may be strategic, utilitarian or simply geographic. Waterbury (2002, 2009) captures the multiple obstacles to collective environmental action on the Nile and in general, highlighting the importance of legitimacy, of mutual dependence, and of a high number of stakeholders with competing interests. From a realist perspective, Lowi (1993) argues that an upstream hegemon can decide (and afford) not to engage, as well as the merits of hegemonic stability. There is considerable evidence supporting the claim where the hydro-hegemon retains the option of

ignoring requests for cooperation, or remaining indifferent to potential benefits that may derive from it. Turkish actions in the Euphrates-Tigris system prior to 1998, as one example, appeared to reflect then-President Özal's view that Turkey could do with the water what it wanted – such as stop the flow of the Euphrates to Syria and Iraq for over a month in 1990 to fill the Atatürk Dam reservoir (Warner 2008). Williams (2003) argues that if upstreamers and downstreamers develop their water resources, they are by space and over time bound to engage with each other in due course. In some cases, however, the broader political context disallows physical linkages to trump unofficial cooperation – as in the case of Syria and Israel over the land and water resources of the Golan Heights in the late 1990s (Daoudy forthcoming).

Opportunities over transboundary water for the non-hegemons may be offered by the hegemon, furthermore, for strategic reasons. These are often regarding issues not related to water allocation *per se*. Turkey's 1990 assurances to Syria (in the wake of its complete blockage capacity of the Euphrates) to release 500m<sup>3</sup>/sec on the Euphrates (Kolars and Mitchell 1991, MacQuarrie 2004), for example, may be viewed as an incentive to gain further Syrian cooperation on the broader political context. Similarly, Turkish agreements to release flows in 2005 (Rashid 2005) and April 2009 (Terra Daily 2009a) to assist with electricity supply and agriculture in Iraq has been publicly acknowledged as being driven by Turkey's desire to encourage cooperation with an Iraqi government significantly less driven by Arab Ba'athist interests than previous ones (Rende 2005b).

The idea of opportunities engendering peace is alluring. The work of Sadoff and Grey (2002) on 'benefit-sharing' is based on an assumption that states will act rationally, choosing to cooperate when they see that the economic and political benefits outweigh the costs of non-cooperation. The rationale has inspired other work (e.g. the Transboundary Water Opportunity analysis of Phillips et. al. (2006, 2009)) and is evolving in an interesting form which suggests that the opportunities from sharing risk (from flood or drought) may be an even greater driver than sharing benefits (Grey, et al. 2009). Benefit-sharing can be expected to hold well for more egalitarian contexts (applying for example, to the exemplary transboundary water management between relatively rational Switzerland and France over the Rhône (de Jong 2008)). The logic breaks down in hegemonic contexts, however, where it is yet to be shown that benefits can be shared equitably where river flows or aquifers are not. There must come a point where the distribution of benefits themselves will be subject to power plays, as decisions made in hegemonic contexts are generally much less rational and much more selective.

In discussing American compliance with transboundary environmental arrangements, Falkner (2005: 586) illustrates the effects of what he calls a "revival of US hegemony" resulting in an "*a la carte* approach to environmental policy instruments". The decisions are not made of course by the more powerful within a vacuum, or devoid of pressure from multiple internal and external sources (an important study area not further engaged in, here).<sup>8</sup> But cherry-picking with whom and when to engage over environmental issues is a luxury that does not

necessarily extend to the non-hegemonic side. The decision to engage and cooperate or not is essentially the hegemon's prerogative.

Indeed, there are few examples of inter-state cooperation within a hegemonic context where the status quo favours the weaker side for any length of time. The 1959 Egypt-Sudan treaty to allocate the flows of the Nile measured at the border between them (roughly 75% - 25% respectively) excludes eight of the upstream riparians, for example (see Zeitoun and Mirumachi 2008). Upstream Ethiopia may only act with any independence until or if hegemonic Egypt has no interest in the flows<sup>9</sup> (Waterbury 2002). The legitimacy of the asymmetric agreement is maintained even following altered political circumstances in the basin decades later. This legitimacy is an effective tool in determining the scope of issues to be discussed at future negotiations, such as those occurring with the World Bank-facilitated Nile Basin Initiative (NBI). In this sense, the utility of the weaker side's bargaining power is bounded by the decision by the hegemonic actor to include the former in a deliberative process.

Possibilities for peacemaking in hegemonic contexts may be rather more limited, for example, to a government's interests in national development. As Sneddon and Fox (2006: 182) state, "cooperation in and of itself is not the desired end for third-world [sic] riparian governments who create transboundary governance institutions; rather, cooperation is perceived as the basis for proceeding with the development of water resources". Typically and predictably, then, the reasons for the weaker states to comply with the hegemon's selective cooperation are pragmatic in nature. It is here that the concept of benefit-sharing may gain relevance for non-hegemons. Utilitarian or strategic purposes may motivate states to interact, as doing so may offer them an opportunity to gain relative to the alternative (Haugaard 2006). Once the Egyptian government decided to embrace the NBI, for instance, Ethiopia's options for not joining were severely curtailed, by virtue of the political and economical opportunity costs it may have incurred in not 'playing the game'. Whether or not the Egyptian government consciously mounted an apparatus obliging Ethiopia to choose between cooperation and ostracisation is beside the point. In consenting to the arrangement, Ethiopia also gains potentially substantial investment in the country, outside of NBI financing. Similarly, Cambodia is said to officially raise no complaints or objections to Chinese upstream development on the Mekong River basin, as this downstream country gains opportunities of domestic economic development through substantial Chinese financial assistance<sup>10</sup> (see Keskinen, et al. 2007, Menniken 2007). There is a certain amount of inherent stability provided by the presence of a hegemon, but the sustainability of the stability is a function of the fairness of the arrangement.

Compliance with the selective cooperation arrangements set by the hegemon does not come without cost to the weaker states. Decisions taken in a reduced bargaining space may not endure. The state of Jordan as a whole, for instance, lives the impact of its government's endorsement of the inequitable distribution of Jordan River flows it agreed to with the Israeli government under the 1994 Peace Treaty.<sup>11</sup> Jordan is obliged to look for vastly more expensive alternatives such as the Red Sea – Dead Sea Conveyance structure (World Bank

2005) or the Disi-Amman pipeline (Ferragina and Greco 2008). Similarly, Nepal is very sensitive to past inequitable water allocation treaties vis-à-vis India, and its ‘small-country syndrome’ has been credited to lead to some “hasty” decisions in negotiations with its stronger neighbour to avert being taken advantage of (Salman and Uprety (2002: 101, 120). Engaging in the form of cooperation determined by the more powerful side, it seems, can prove in some cases for the weaker side less of a tactical gain than a limitation of its policy options. The extent of the limitations is furthermore defined by soft power active during and following negotiations.

### *Negotiations, Treaties and Conflict Management*

Once engaged in negotiations, the so-called weaker side at least retains a possibility of shaping the outcome.<sup>12</sup> Classic negotiations texts (e.g. Fisher and Ury 1999, Zartman and Rubin 2002) are replete with examples of how the so-called weaker side may leverage its bargaining power to derive a suitable outcome. The non hydro-hegemon may draw on a variety of options which may unwittingly form a counter-hegemonic strategy of sorts. The options may derive from first marshalling power over ideas to contesting the hegemony in a bid to break the consent that may have been established in the minds of government officials, or on paper through treaty or other written arrangements.<sup>13</sup> The 1994 Peace Treaty between Jordan and Israel serves again to exemplify. Jordanian water officials involved in the negotiations openly state that their inferior position meant they had to compromise on the transboundary water issue in order to gain an improved bargaining position on other state-to-state issues that were deemed more important (e.g. Haddadin 2001). Though skewed in outcome, the terms of the water clauses of the treaty are publicly considered by Jordanian authorities as a national achievement (e.g. Haddadin 2001, Haddadin 2006, Shatanawi 2007). With the view echoed by several analysts (Lonergan and Brooks 1994, Shuval 2006, Sosland 2007), both the legitimacy and the soft form of power that underpins the treaty are reinforced.

But consideration of the effects of soft power employed by the hegemon in each of these cases again reveals a closing-down rather than an opening-up of options for the weaker side, leaving conflicts in a state of limbo between violence and resolution. As Chhotray and Stoker (2009) point out, hegemonic influence over key ideas and options can lead to “forced agreements”. The string of treaties signed by Egypt since the late nineteenth century has been seen as a generally successful attempt at suppressing or accommodating the demands of upstream riparians, and the Nile Basin Initiative appears to reinforce Egyptian claims at least as much as it challenges them<sup>14</sup> (Phillips 2006, Demissie 2008). With Egypt and Sudan opposed to discussion of the terms of the 1959 agreement during negotiations of the Nile Legal Framework Agreement (Article 14b), the NBI runs the risk of grinding to a crawl just as it is meant to shift gears on its way to become a Commission. The Egyptian side’s delays have been noted as a tactic of ‘active stalling’,<sup>15</sup> serving a strategy designed to contain conflict mainly through the use of ‘soft’ power (Carles 2006). Unable to overcome the inequitable water-sharing agreements, the NBI process temporarily manages the conflict, but does not resolve it.

Such attempts at apolitical conflict management in hegemonic contexts are not uncommon. A variety has also resulted in reduced options for the non-hegemon in the Palestinian-Israeli water conflict. Though the outcome of the water clauses of the 1995 Oslo II interim treaty were highly asymmetrical (90% - 10%) (Zeitoun 2008), they did set down in writing “Palestinian water rights” in limited parts of the land (the West Bank) (Oslo II 1995). This recognition was generally regarded as a historical and significant concession on behalf of basin hegemon Israel (e.g. Wolf 2000). Following the recognition, however, it was Israel’s prerogative to implement the rights it recognised, and subsequent Palestinian requests for no more than this have been deflected or ignored (Selby 2003b, World Bank 2009). Subsequent Israeli governments with very different positions on their responsibilities in occupied land have all both cooperated with and maintained their asymmetrical water allocation over their Palestinian co-riparians. Palestinian water professionals and negotiators have abandoned hope in the political process, and remain very aware of the enduring asymmetry (e.g. Kawash 2007). Given these ‘soft’ power plays, the transboundary water analyst should not be surprised to see politicians from each side emphasising either the conflictual or cooperative faces of their interaction over transboundary waters, depending on their audience (in Palestine (see Trottier 1999), or elsewhere).

## **ANALYSIS AND IMPLICATIONS**

The merits of recognising expressions of soft power and power asymmetry underpinning transboundary water interaction are elaborated upon here through their application to the analytical frame offered by the first paper in the series. Employing Zeitoun and Mirumachi’s (2008) classifications of ‘positive’, ‘neutral’ and ‘negative’ transboundary water interaction, this section takes a closer look at how soft power serves to manage or perpetuate water conflict. The implications for further transboundary water analysis and for policy are then discussed.

### *‘Positive’ and ‘Neutral’ Transboundary Water Interaction*

Zeitoun and Mirumachi (2008) conceptualised two ‘faces’ or forms of cooperation, with a neutral side between them. So-called positive transboundary water interaction was the term used to describe contexts where the interaction led to meeting the interests of all players into an improvement (or at least a sustenance) of relations at the broader political level. The ‘prettier’ faces of cooperation fall under this category, such as ‘cooperation on equal terms’. The example given was that of trans-national level in Jordan, Israel and Palestine by Friends of the Earth Middle East (2005, Mehyar, et al. 2009). The cross-border cooperative efforts between NGOs and mayors may have little demonstrable effect on the previously-discussed asymmetric broader context, though the resultant development of transnational camaraderie may be counted as minor environmental peace building efforts. The weaker Jordanian and (much weaker) Palestinian sides involved in the interaction are provided an opportunity to generate bargaining power through alliances with Israeli civil society, for example, or through appeals to the Israeli High Court. The interaction also affords them an ability to generate persuasive and authoritative ‘ideational power’ amongst the global water activist

community, in order to mount a collective challenge to Israeli hydro-hegemony – by calling, for example, for negotiation to reach equitable distribution of all transboundary flows.<sup>16</sup>

Neutral forms of transboundary water interaction were noted to be much more diverse and possibly more common than are positive forms. Turton and Funke (2008) argue that hegemonic South Africa employs ‘soft’ forms of power to play a leadership role with Lesotho and Namibia on the Orange River. They note how the Apartheid regime employed hard power at will in its dominating relationships with neighbouring countries over issues (water or otherwise) that were considered to be of great importance to national security. Post-Apartheid South Africa’s use of soft power is evident, the authors maintain, through the numerous water treaties and agreements it has entered into and through the establishment of regional water management institutions (see also Kistin et. al. (2009)). An evaluation of whether South Africa’s transboundary water interaction with its neighbours is positive or neutral would have to take into account both whether the root causes of past tensions have been addressed, as well as how joint action is taken to shift towards effective, equitable usage meeting the interests and needs of Lesotho and Namibia also. Challenges for data and information exchange to feed decision-making between the states remain (Raadgever, et al. 2008), though the framework of the Orange-Senqu River Commission and Okavango River Commission may level the playing field through more transparent decision making. This gives room for the non-hegemonic states to challenge the South African hegemony, or at the very least to challenge the assertion that it has established a form of ‘positive’ water interaction.

#### *‘Negative’ Transboundary Water Interaction*

‘Negative’ transboundary water interaction was the term used by Zeitoun and Mirumachi (2008) to describe arrangements that do not satisfy the interests of at least one of the parties involved, thus creating resentment on the part of one actor and negatively affecting the broader political context. Unilateral development by Syria and Iraq of the resources of the Tigris and Euphrates in the 1960s and 1970s, for example, raised tensions between their respective ruling Ba’ath parties, to the point that they almost came to blows in 1975. As previously discussed, Turkey’s later development of the rivers upstream raised tensions with both downstream states, thereby negatively affecting diplomatic relations, and establishing what until recently was generally regarded as a ‘negative’ form of transboundary water interaction.

Israel’s successful capture of the lion’s share of the flows transboundary with Palestinians is a rather more enduring example of negative interaction. The approach of the multilateral Executive Action Team (EXACT) Working Group on Water Resources to cooperation between Israel, Jordan and the Palestinian Authority stands in stark contrast to the approach of Friends of the Earth Middle East. Supported mainly by USAID, EXACT derived from the Multilateral Working Group on Water Resources (MWGWR), which originated from the previously-discussed 1995 Oslo II Agreement. According to the website of the Israeli Ministry of Foreign Affairs, the MWGWR has enabled participants in the process to

“transcend the realm of competing interests and create a situation in which all parties share benefits” (IMFA 2000). The results of ten years of bargaining and ideas, however, speak more of exclusion and conflict than they do of inclusion and cooperation.

Israeli scientists participating in the project privately state that the interaction is primarily between themselves and their Jordanian counterparts (Anon. 2005, pers. comm.). Palestinians participants point to political reasons limiting their effectiveness, which includes the denial of movement clearances required by the Israeli side to attend scheduled EXACT meetings in Amman. Access to Palestinian water technicians to attend a workshop on the Lake of Tiberias was again denied in 2008, at the height of bi-lateral water negotiations held during the ‘Annapolis’ round of the Oslo diplomatic process (Awed 2008, Kramer 2008). The exclusion at the technical level led the head of the PWA to call off Palestinian participation at future EXACT meetings (Attili 2008). The formal equality granted to each side by the EXACT programme is thus seen to be inequality in practice, as the requests of the Palestinian side remain unacted upon by hegemonic parties at the table of technical discussions.<sup>17</sup> Similar criticisms of legislative, regulatory and discursive power used to maintain the status quo in favour of the Israeli side have been very well documented by Selby (2003b, 2003a) and more recently by the World Bank (2009).

#### *Implications for Analysis and Research*

The review of the effects of the use of soft power and of power asymmetry in establishing negative forms of interaction reveals some key implications for further research. First, the evidence reinforces the assertion that in hegemonic circumstances, the stronger side has a greater ability to determine (and emphasise) the form of interaction that it so chooses. Analysts may thus bear in mind that the actual form of interaction that endures until the conflict is resolved may favour the basin hegemon much more than it does the other riparian states. It also follows that any claim or first impression of an established ‘positive’ transboundary water interaction (or other subjectively positive label) be questioned for just how beneficial it is for the weaker side, followed by an explicit examination of the more covert forms of power that may be active in underpinning the arrangement.

A second analytical implication deriving from the findings is the need to rigorously interpret the legitimacy that is given to the arrangement organised by the hydro-hegemon through the consent of the non-hegemon. Such consent reframes a once-conflictual arrangement to become simply an issue simply to be ‘managed’.<sup>18</sup> An official nod to the arrangement from representatives of the government of the weaker side may serve to assure it access to the benefits on offer, but may also engender limitations that should not be overlooked; costs to comply to the agreement and missed opportunities as a result of complying can be significant in influencing the weaker states’ future bargaining power. The benefits for the stronger side are even greater – consent with little compromise – suggesting calculated strategic motivations for interaction that should also be studied and interpreted.<sup>19</sup>

### *Policy Implications - The Power to Transform?*

The study's findings are also relevant for the design and implementation of transboundary water initiatives. The paper has shown that an inequitable arrangement – even a blatantly inequitable arrangement – may be gradually accepted in the eyes of the international water community, as the harsher realities are veiled by exertions of 'soft' power. Under such conditions, appeals to third parties made by the weaker party for support to the alternatives they may propose are less likely to be 'heard', much less acted upon. 'Cooperation of any sort' (UNDP 2006) under such circumstances is not necessarily an adequate goal.

The review of the NBI and EXACT programmes has shown how a donor initiative may lead to a temporary avoidance of violence but also resolution of the conflict. Though the merits of keeping physical destruction at bay are welcome, the risks associated with delaying resolution of the conflict – and the grievances associated with it – are likely to increase over time. It becomes self-evident that those interested in resolving conflict or improving transboundary water cooperation keep eyes open to covert expressions of power over deals and ideas. Yet many donor efforts continue to ignore power and power asymmetry outright (in its hard and soft forms). The UNESCO Potential Conflict to Cooperation Potential (PCCP) programme, for example, has focussed considerable effort on how transboundary waters can be a catalyst for peace, with no explicit or implicit acknowledgement of power asymmetry (Cosgrove 2003), thus potentially limiting its utility in the same way as was discussed in relation to benefit-sharing.

A further implication for policy is the potential for basin hegemony to transform from arrangements from 'negative' to 'positive' forms of interaction. Turkey's previously-discussed concessions to its co-riparians appears to support the idea. Further steps taken suggesting different groups in Turkey are playing a leadership role include high profile events such as the Ministry of Infrastructure's co-hosting of the fifth World Water Forum (March 2009) and lower-profile academic activist work through the Euphrates-Tigris Initiative for Cooperation. The outreach is in stark contrast to the previous era's 'go it alone' style, though remnants of that era persist. These include the placing of the previously undiscussed subject of 'hydro-sovereignty' onto the agenda at same Forum, and the contestation over the 2009 Tigris releases (Terra Daily 2009b). The conflict will persist until the discourse is followed by concrete measures that meet the interests of the non-hegemonic sides and the metamorphosis on the Tigris and Euphrates is complete.

A final policy implication that may be retained is that transboundary water cooperation efforts will have a greater chance of success if they accept at the design stage both nefarious uses of soft power by the hegemon, and if they recognize the potential for innovative use of soft power by the non-hegemon. It follows that support of steps towards 'positive' cooperation or the levelling of the playing field through a reduction in power asymmetry will facilitate effective cooperation. Encouragement of positive transboundary water interaction (not 'cooperation of any sort') and the resolution of conflict (not simply its management) remain the policy objectives.

## CONCLUSION

The paper has drawn attention to non-violent transboundary water conflict and to the role that soft power plays in maintaining them. By focussing on hegemonic contexts characterised by a clear 'first amongst equals' and the lack of any objective authority or established standards, it has been shown that soft power underlies the process of interaction, from the decision to engage, through to negotiations and treaties. The appreciation gained of how interaction may be framed by the more powerful state obliges reconsideration of assumptions of apparently 'positive' forms of interaction. Analytical implications deriving from this include an awareness that an arrangement understood as 'positive' for the hegemon – consented to by the non-hegemon – may conceal its more destructive and oppressive effects, as well as the seeds of grievances that may grow with time. The consent of the weaker side may have been given for strategic reasons or under coercive circumstances, but should not be interpreted uncritically to mean the quality of the interaction is always as it is portrayed.

The analysis has also highlighted policy implications, notably the design of transboundary water initiatives would benefit from consideration of asymmetry in 'soft' power. A failure to do so has led in the past to long-term financial support suppressing conflict (in the case of the Nile) or perpetuating conflict (in the case of Palestine and Israel over the Jordan). The possibilities for more equitable distribution through the concept of benefit-sharing will be enhanced for an appreciation of the underlying power base. Future efforts may be best focussed on focusing on leadership of basin hegemonies to change from asymmetric to equitable water-sharing.

Many of the issues that this paper has opened up require further study. One important area is to deepen the use of soft power analysis through detailed examination of its use in particular contexts. Very interesting findings are expected through greater research into how and why transboundary water interaction includes and excludes specific views, voices and options.

A second issue requiring work is to refine, focus and substantiate the meaning of 'transboundary water cooperation'. Both papers in this series of papers have highlighted the less pretty faces of cooperation, and suggested that the term be applied more selectively to reflect equitability. This view is likely to be supported by proponents of international water law and water ethics, and by many analysts. But it is likely to be opposed by those who take a more nationalistic or sovereignty-based approach. Many more analysts may waiver in between these positions, suggesting that research investigating whether equity is a necessary or even desirable component of cooperation will be fertile.

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<sup>1</sup> The Jordan River was subject to military power when fighter-jets and tank shells from Syria and Israel passed across it, in each state's bid to halt the other's infrastructure projects in 1955 and 1963 (Trottier 1999, Medzini 2001). But the analyst looking for evidence of damaged dams and flooded defences to assist with interpretation of hydropolitics will not get very far. When it comes to the control of transboundary flows, the treaty is mightier than the F-16 fighter jet, and most water conflicts occur in the rather less headline-grabbing world of closed-door meetings, 'Track-2' negotiations, websites and donor's reports and brochures. See Barnaby (2009) for one of many pieces explaining the absence of 'water wars'.

<sup>2</sup> According to Gyawali (2002), Hindu Samkhya philosophy understands this well. *Tamasik* power refers to the ability to employ brute force and is associated with the colour black, while red *rajasik* power refers to organised strength. White *sattwick* power is the ability to combine the other two, like the flame of a candle fed from and inter-weaving the rajasik wick and tamasik wax.

<sup>3</sup> Refer to the discussion on agenda-setting power in Bachrach and Baratz: Bachrach and Baratz (1962: 950) note how " 'mobilization of bias'... [can create] dominant values and the political myths, rituals, and institutions which tend to favour the vested interests of one or more groups, relative to others".

<sup>4</sup> Hegemony in the water sector is not at all limited to state behaviour. Warner *et al.* (2008) argue further that 'naturalisation' of concepts and issues also occurs in paradigms of the international water community such as basin closure, river basin management and multi-stakeholder participation. All of these presuppose that other (non-basin, non-participatory) forms of management are somehow unfit for debate. The use of new or redefined 'plastic' words like 'governance', 'spatial quality' and 'sustainable development' sustains the depoliticization of contestable and at times oxymoronic concepts, spread throughout the scientific and policy community. Bakker (1999), for instance, demonstrates how "discursive framing" of hydropower development of the Mekong under the paradigm of the river as primarily an economic resource has successfully excluded alternative views of river management. Similarly, Molle (Molle 2008: 147) explains how water paradigms such as IWRM and the myth of privatization-driven efficiencies are developed, and maintained by policy-makers with deeply held economic and political ideologies.

<sup>5</sup> IWRM is promoted particularly strongly by the Global Water Partnership (Biswas 2001), the International Network of River Basin Organisations and the World Bank (Molle 2008). IWRM is just one example of what Molle (2008) has called nirvana concept – a motivating, depoliticised panacea to water resource management challenges.

<sup>6</sup> Research on water rights and international water law (e.g. McCaffrey 2005b, e.g. Hodgson 2006, Stephan 2008) are attempts to establish an objective standard.

<sup>7</sup> The influence of the prisoner's mentality and enslavement of minds in the European colonizing process is well documented, particularly by post-colonial scholars (e.g. Fanon (1986 [1952]), Said (1994)). The approach has also been applied to aspects of water resource management in the Andes in Boelens (1998).

<sup>8</sup> The authors acknowledge that the sub-national level is under-played in this paper. The sub-national level should be considered for helping interpret links between local, national, trans-national and international policy, as well as for a very different and rich water conflict sub-text. (see e.g. Mason (2003) and Furlong (2006)).

<sup>9</sup> Weinthal (2001) and Wegerich (2008) make similar points on the Amu Darya river, where the choices available to upstream and weaker Tajikistan are compromised in a post-Soviet era by Uzbekistan.

<sup>10</sup> China, on the other hand, chooses to remain outside of the confines of the Mekong River Commission, and by way of its dams is setting the stage the others are obliged to either align to or challenge (see Hensengerth 2008).

<sup>11</sup> In discussing the use of ambiguity in treaty-making in the 1994 bi-lateral Israel-Jordan Peace Treaty, Fishhendler (2008) notes that – according to "Israeli accounting" – the Israeli side conceded between 35 and 105 million cubic metres per year of the Jordan River System (including the Yarmouk River), while securing agreement on its established use. A variety of sources estimate the established Israeli use of waters from the Jordan Rivers System to be between 420 – 570 million cubic metres per year (Jridi 2002: 24, UNEP 2003: 11, HSI 2004: 288, Markel 2004a)). According to "Jordanian accounting", the Israeli side conceded between 225 and 295 million cubic metres per year (Fishhendler 2008). Actual flows from the system used by Jordan around year 2000 were roughly 135 million cubic metres per year, of which only 25 to 45 are additional releases by Israel (Courcier, et al. 2005). Jordan also lives inequitable use (without formal arrangement) of its only other two significant transboundary water sources: the Disi Aquifer (transboundary with Saudi Arabia) and the Yarmouk river (which is part of the Jordan River System, and transboundary with Syria).

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<sup>12</sup> Consideration of power asymmetry measured in terms of negotiations capacity is under-emphasised, nonetheless, even in studies dedicated to negotiations dissection, as in Kibaroglu (2002) for the case of the Tigris and Euphrates, Metawie (2004) in the case of the Nile, and Sosland (2007) in the case of the Jordan.

<sup>13</sup> Cascao (2008) has shown that Ethiopia has partly attempted such contestation with Egypt, as Daoudy (2005) has done for Syria.

<sup>14</sup> Indeed, a key individual behind the establishment of the NBI testifies to the appeal he made to the potential strategic benefits of Egypt joining the initiative. He convinced the Egyptian minister of Water Resources from 1992 onwards of the merits of the old adage that it was “better to bring [all the other Nile riparian states] to p\*ss inside your tent, rather than leaving them to p\*ss outside it” (Shady 2005, pers. comm.).

<sup>15</sup> The application of the term ‘active stalling’ to transboundary waters is credited to Anton Earle, who used it in relation to Egyptian state behaviour on the Nile at a roundtable discussion hosted by the University of Tokyo’s Hydropolitics Research Group, February 2006.

<sup>16</sup> To be sure, cross-border ‘peace’ and dialogure initiatives between Palestinians and Israelis are themselves laden with the effects of power asymmetry, and have been largely discredited (Goldberg 2006). Positive transboundary water interaction also includes conflictual events that are dealt with through open communications channels that allow for peaceful dispute resolution mechanisms, as is the case between the US and Canada. Deliberations of the re-negotiation of the Columbia River treaty (set for 2012), for example, are unlikely to influence in any significant way upon the broader relations between the friendly states, even if the water negotiations were to turn bitter. As Winham and DeBoer-Ashworth (2002) show, the imbalance in bargaining and ideational power between these two sides does not reflect the massive imbalance in structural power. The northern North American context, however, is arguably not hegemonic.

<sup>17</sup> The frustration expressed by the Palestinian side is joined by long-term employees of the UK Department for International Development (DFID) active in years of meetings. This latter group has been urging the convivial forum to broaden its scope beyond data collection to address the political roots of the conflict (Anon. 2008a, pers. comm.).

<sup>18</sup> For more on the management (and transformation) of water conflicts, refer to Delli-Priscoli and Wolf (2008).

<sup>19</sup> Considered from within the Transboundary Water Interaction Nexus (‘TWINS’) matrix (c.f. Zeitoun and Mirumachi 2008), such arrangements reduce the conflict intensity, but the challenge of understanding (in order to increase) the co-existing levels of cooperation remains.