Transboundary Water Governance: Relevant global experiences adapted for the Lower Jordan

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SIWI engagement in Lower Jordan River

Recent engagements Lower Jordan 2012-2016:

- Consortium member of EU funded programme to develop the NGO Master Plan for the Lower Jordan – stakeholder inputs and global platform
- Adapted financing model for transboundary waters to NGO Master Plan’s identified interventions- interlocking risks and benefits while fostering stakeholder interdependence and incentivizing regional governance – **focus in next session**
- Developed regional governance options based on relevant global practices and lessons learnt in cooperation with **UNESCO-IHE** Institute for Water Education – **focus of this session**

**MENA Beyound the Jordan**: capacity building programmes, water integrity, riparian support, donor dialogues, infrastructure financing development, Eurphrates-Tigris programme, etc.
SIWI Governance Approach Overview

- Provide a framework for broad discussions among regional stakeholders
- Present **options** based on relevant practice and lessons learnt that can contribute to understanding in the Jordan - yourself, understanding the other side, and then together.
- SIWI approach governance development as **social-political** process that relies not only on the preparation of the legal instrument, but also on building trusting relationships between actors.
- Embraces multi-track diplomacy and multi level governance approach whereby all tracks make a contribution to achieving objectives

1. **Is the process transformative?** Does it address asymmetrical power structures? Agreements made by relatively equal partners are more sustainable than those where they are not.

2. **Who should be involved?** At what level/s: the river basin, national or local level? And **who should initiate and host** the participatory process: an international commission, a third party, national institution, a regional multi-stakeholder platform (MSP)?

3. **Who is at the table? And who is missing?** TWM efforts often take place in the context of post conflict, peacebuilding, and/or state building processes where new opportunities arise that can be utilized to advance women's rights, as well as other disadvantaged communities. Inclusive processes build longer lasting, more robust, sustainable outcomes and contribute to preventing re-lapse.

*Nicole Kranz and Eric Mostert, 2010; Inclusive Security; Earle and Bazilli 2013; Fisher and Ury 1999*
Regional Governance Structures

Global International Institutions

Intergovernmental and Regional Institutions

National Institutions

Sub-national Institutions

Transboundary water cooperation connects local, national, international governance
Regional governance structures can bridge sub-national, national and bilateral institutions:

**Orange Senqu Example**

The bilateral institutions still exist – but now fall under the overall guidance of ORASECOM.

ORASECOM does not have direct control of the bilateral institutions – only serves as an advisory body and forum for sharing information, resolving disputes.
Types of basin governance structures

- **Committees** lack legal personality
- **Commissions** have been granted legal personality
- **Authorities** are assigned a wide mandate
- **Multi-level organisational structures** within a basin organization might include a minister level council, supported by a basin commission, and a third level of a secretariat with coordination function and associated human and financial resources.

Schmeier (2013); Yaari et al. (2016)
Types of basin instruments

• Provide parties with an institutional and normative **framework** through which they can regulate their relationships.

• Established rules provide **transparency** and predictability for State actions in relation to shared water resources.

• Allowing time for trust in the institution to be established **may create political will** to enter into a stronger or wider agreement.

• Ideally mutual benefits of cooperation will provide built in incentives for cooperation and make agreement self-enforcing.
Instrument Definitions

Instrument type adopted reflects process undertaken to reach an agreement, or linked to legal instruments that the basin agreement will be legally associated (i.e. amendments of previously established agreements).

<table>
<thead>
<tr>
<th>Types of basin instrument</th>
<th>Definition</th>
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<tr>
<td>Treaty, Convention, Covenant, Declaration</td>
<td>‘An international agreement concluded between states in written form governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation’ (art. 2.(1)(a) Vienna Convention)</td>
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<tr>
<td>Exchange of Notes</td>
<td>The use of this term indicates that the agreement is contained in two or more related instruments (rather than just one).</td>
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<tr>
<td>Protocol</td>
<td>This name is generally used to designate supplementary or amending agreements that relate to existing ones.</td>
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<tr>
<td>Memorandum of Understanding (MOU)</td>
<td>This is the term used when states want to record an international commitment that is not intended to be binding as a matter of international law. However, it is the actual content of the document that will establish whether or not it is binding rather than its name.</td>
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Governance Maturity (not always linear)

- **Initial stage:** formalization of previously informal technical cooperation activities, trust building, capacity building of basin organization.
- **Emerging stage:** greater organizational autonomy and responsibility; data sharing, targets, indicators.
- **Auto-adaptive stage:** a well-resourced organization (both human and financial) that assumes responsibility for the development, implementation and monitoring of activities that fall within its mandate.

With developed maturity governance structures can transform relationships from one of crisis management to partnership, elongating the time horizon of a relationship, building trust and reframing disputes as a shared challenge with mutually acceptable solutions.

(NBI, 2011; Yaari et al 2016)
Defining the Mandate

The mandate of the basin governance structure is delimited by:

• challenges to be addressed,
• geographical scope (basin or limited?)

Mandate should balance organizational functions/ issues and capacity to effectively and sustainably address issues.

Example: Lower Jordan River NGO MP - RHDHV, 2014
Functional based structure

- Structure must be designed to address specific basin challenges
- *But* must be resilient to global/regional changes, flexible and durable to respond to pressures.

Wingqvist and Nilsson, 2015; Earle, Jagerskog and Ojendal (2010)

Challenges??
- Water quantity and allocation
- Water quality and pollution
- Environmental and drought
- Hydropower and dam construction
- Climate change
- Fisheries
- Infrastructure developments
- Economic development
- Invasive species
- Flood effects on the basins
- Biodiversity protection
- Navigation and transport-related
Traditional options for regional financing in transboundary basins

- Regular and recurrent budgets for basin governance structures vary greatly with mandate and functional scope.

- **Coordination-orientated** basin governance structures requiring significantly less financial and human resources than **implementation orientated** structures.

- Ideally, member states should be responsible for the bulk of the core costs of managing transboundary institutions with support from donor financing where necessary for projects that have long-term, shared benefits across the basin.

- **Typical sources of financing include:**
  - Member financing of core-costs on an equal basis
  - Member financing of core-costs on a disparate basis
  - External donor financing
  - Combination of member and donor financing
  - User-fee based structure (example, polluter pays)
  - External donor supported trust fund or other joint investment commission

- **New models of financing will be discussed this afternoon.**

  Jägerskog et al., 2007; GIZ, 2014; SIWI, 2016
Case Studies

Review of options publication included case study assessments:

• **Cubango-Okavango River** basin’s Permanent Okavango River Basin Water Commission (OKACOM) - balancing national priorities through basin wide cooperation

• **Orange-Senqu River** Commission (ORASECOM) - working towards equitable and sustainable development despite ongoing border disputes

• **Sava River** - contributing to post-conflict cooperation and benefit sharing

• **Limpopo** Basin Permanent Technical Committee to Limpopo Watercourse Commission - correlated growth of cooperation and governance strength

• **Lancang-Mekong** Basin’s Mekong River Commission

Lessons for the Jordan?

• Regional governance structures provides a venue for communication, dispute resolution, and joint planning, building cooperation and reducing the conflict in basins
• Can host major regional investments for development projects with shared benefits – investments not accessible at the national level
• It’s good to consider the whole basin, but pragmatic to unlock mutual gains at sub-basin levels
• Solely donor financed structures are unsustainable. New approaches needed.
• Inclusive coalition of actors needed: various government departments, mayors/municipalities, civil society, women, youth, academia, media, private sector...examine who is missing
• Sequential and (coordinated) complementary interventions by different actors improves efficiency and effectiveness – all tracks make a difference.
• Multi-level (water) diplomacy recognises that inclusive processes produce more sustainable, longer lasting, more just outcomes.
Thank you

For more information please contact us at:

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