

THE ENDLESS CONTROVERSIES OF THE NILE RIVER BASIN IN THE CONTEXT OF INTERNATIONAL TRANSBOUNDARY WATERCOURSE DOCTRINES*

Uluslararası Sınırtaşan Suların Doktrinleri Bağlamında Nil Nehri Havzasının Bitmeyen Tartışmaları

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* This Article is the outcome of a paper presented at the 6th International Student Science Congress held in Nov. 2021 in Ankara, Turkey.

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Makale Gönderim Tarihi/Received: 29.12.2021.

Makale Kabul Tarihi/Accepted: 16.08.2022.

Atıf/Citation: Mohammed, Yusuf Ali. "The Endless Controversies of The Nile River Basin in The Context of International Transboundary Watercourse Doctrines." *ASBÜ Hukuk Fakültesi Dergisi* 4, no. 2 (2022): 895-930.

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Abstract

Considering the conflicting interests of states over their shared basin-wide transboundary water resources, various basin states follow different international legal theories of transboundary watercourses. This paper focuses on the aforementioned watercourse theories in light of the practices of the Nile River Basin.

In an attempt to correlate the theories of International Transboundary Watercourse vis-à-vis the case of the Nile River basin, this paper addresses whether the Nile riparian countries follow a particular transboundary watercourse theory or not? Whether the upstream and/or downstream countries follow the same or different doctrinal theory or not? Whether the theories they follow have practical significance in showing the origin of where the Nile controversy lies or not?

In addressing the aforementioned issues, this paper finally shows the origin of where the Nile River Basin controversies emanated from – as their conflicting and uncompromising attitudes over their international theoretical standing point, lead their practical basin-wide negotiations to a never-ending Nile controversy.

Keywords: Nile Conflict, Nile River, Transboundary Watercourse, Transboundary Watercourse Doctrines, Water Conflict.

Öz

Ülkelerin havza çapında ortak olarak paylaştıkları sınıraşan su kaynakları ile ilgili çatışan çıkarları dikkate alındığında, çeşitli havza ülkeleri sınıraşan sular ile ilgili farklı uluslararası hukuk teorilerini tercih etmektedir. Bu makale, Nil Nehri Havzası uygulamalarıyla ilgili olarak sınıraşan sularının teorik doktrinine odaklanmaktadır.

Uluslararası sınıraşan suları teorilerini Nil Nehri Havzası ile ilişkilendirmek çabasıyla, bu makale Nil'e kıyıdaş ülkelerin belirli bir Sınıraşan Suları teorisini takip edip etmediklerini ele almaktadır. Nehrin kaynağına doğru ve/veya nehrin akıntı yönünde bulunan ülkeler aynı veya farklı doktriner teoriyi takip ediyor mu, etmiyor mu? Takip ettikleri teorilerin, Nil tartışmasının kökenini göstermede pratik bir önemi var mı, yok mu?

Makale yukarıda bahsedilen konuları ele alırken nihayet Nil Nehri Havzası ihtilafının kaynaklandığı yeri, asla bitmeyen bir Nil tartışmasına yol açan havza ülkelerinin pratik müzakerelerinin, uluslararası teorideki duruşları hakkındaki çatışan ve uzlaşmaz tavırları olarak göstermektedir.

Anahtar Kelimeleri: Nil Çatışması, Nil Nehri, Sınıraşan Suları, Sınıraşan Suların Doktrinleri, Su Çatışması.

INTRODUCTION

Among the international law core issues, the transboundary watercourse issue is one of the major contentious one. This is due to various conflicting states' interests over shared water resources, in which the Nile River Basin is among the one at the forefront. The Nile River is not only considered the longest river on earth but is also assumed to be one of the most contentious river basins. Though the basin is composed of 12 riparian states,¹ the key leading players in the Nile River Basin are – Ethiopia, from upstream riparians, and – Egypt, from downstream riparians. This is because the aforementioned riparian states are the lion share contributors and consumers of the Nile River, respectively.

¹ The twelve riparian states are Ethiopia, Uganda, Tanzania, Kenya, DRC, Rwanda, Burundi, and Eritrea from upstream riparians while Egypt, Sudan, and [South Sudan] are downstream riparians.

Though the Nile River Basin controversy is so complex due to its geopolitical and socio-economic nature, this paper devotes itself to simplifying the origin and essence of the aforementioned basin's dissension via legal doctrines of transboundary watercourses.² Accordingly, revisiting the Nile River dispute, in the foregoing vein, succour in unfolding the very disputed issues origin alongside its non-ending controversy, which ultimately has academic as well as practical significance.

Therefore, this study scrutinizes the case of the Nile River Basin's controversy from legal theories of a transboundary watercourse. In line with this objective, the study at hand detects the attitude of upstream and downstream riparians from its colonial and post-colonial legal regime, official report, communiqué et al, and uncovers the uncompromising theoretical discourse among the aforesaid riparian states. Moreover, as a way out, the study put forward a theoretical way-outs, which are helpful for practical solutions.

At the backdrop of the above, the upcoming section of this article is organized into six major sections. The first section briefs the colonial legal regimes of Nile River Basin, while the following section provides the post-colonial legal regimes of Nile River Basin. This paper's third and fourth sections securitize the legal doctrinal approach of the Nile downstream and upstream riparian states, respectively. The fifth section addresses the Nile deadlock where the controversy lies. The last section of this article briefs the the way-out toward solution and enlightens a way to overcome the foregoing deadlock.

² The legal theories of transboundary watercourses are absolute territorial sovereignty, absolute territorial integrity, limited territorial sovereignty, prior appropriation, and community interest.

I. THE COLONIAL LEGAL REGIMES OF THE NILE RIVER BASIN

In order to trace the nub of critical Nile River Basin issues, it is essential to scrutinize the very essence of the colonial Nile legal regime. In connection with these colonial treaties, one obvious fact is that, though several treaties that were negotiated during the colonial era were mostly related to boundary delimitation, these treaties contain provision/s that deal with the Nile River. There were also other treaties that were brokered between/among colonial powers to protect their respective economic and political interest over the Nile River resources. However, the major controversial colonial treaties which have contributed a lot to the hitherto dissension in the Nile River and are worthy of being discussed here, are the 1902 Anglo-Ethiopia Agreement and the 1929 Anglo-Egyptian Agreement.

Though the 1902 Anglo-Ethiopia Agreement was signed with the very objectives of delaminating boundary between Ethiopia and Sudan,³ it contained one most disputed provision, i.e., Article III, which deals with the Nile River. According to this Article, Ethiopia agreed “not to construct or permit construction on the Blue Nile and its tributaries, of any works that would arrest their flow, without the prior agreement of the government of Britain.”⁴ However, what the word ‘arrest’ entailed in English and Amharic versions created so much controversy. Because, in its English version, Britain surmised that “the agreement had definitively deprived Ethiopia of the right to use the resource

³ “Agreement on the Frontiers between the Soudan, Ethiopia, and Eritrea,” signed on May 15 1902, https://www.marefa.org/images/b/bd/Treaty_of_Addis_Ababa_1902.pdf.

⁴ Mohammed Abdo, “The Nile Question: The Accords on the Water of the Nile and Their Implications on Cooperative Schemes in the Basin,” *Perceptions-journal of International Affairs* IX, no. 2 (2004), 49.

except [for] domestic uses and local irrigational rights.”⁵ While, in its Amharic version, Ethiopia supposed that, saving all other rights, “only complete arrest of the flows of the river had been prohibited.”⁶ The dispute over the 1902 agreement, Article III, in particular, was so intense “as both parties claimed that their own understanding of it [is] correct.”⁷ Though “Ethiopia back[ed] down from ratifying the agreement, consequently repudiated it,”⁸ the issue continued to be contentious one even in the post-independence era, as “Egypt and Sudan, which were colonies of UK in 1902, claim to the rights in the treaty-based on principles of state succession.”⁹

Aside from the above, the other most disputed treaty is the 1929 Agreement between Great Britain and Egypt.¹⁰ In this agreement, “...Britain acknowledged the natural and historical rights of Egypt in the waters of the Nile, [while] Egypt

⁵ Yusuf Ali Mohammed, “The Transboundary Watercourse Management under International Law: The Comparative Cases of Tigris-Euphrates and Nile River Basin,” LL.M diss., (Ankara Yıldırım Beyazıt University, 2021), 64; see also Tadesse Kassa Woldetsadik, “Anglo-Ethiopian Treaty on the Nile and the Tana Dam Concessions: A Script in Legal History of Ethiopia’s Diplomatic Confront (1900-1956),” *Mizan Law Review* 8, no. 2 (2015), 278.

⁶ Mohammed, “The Transboundary Watercourse Management under International Law,” 64; Woldetsadik, “Anglo-Ethiopian Treaty,” 278.

⁷ Abdo, “The Nile Question,” 49.

⁸ Woldetsadik, “Anglo-Ethiopian Treaty,” 278; Richard K. Paisley and Taylor W. Henshaw, “Transboundary governance of the Nile River Basin: Past, present and future,” *Environmental Development* 7 (2013), 63.

⁹ Daniel Berhane, “The 1902 Treaty between Ethiopia and Great Britain,” *Horn Affairs*, June 8 2011, <https://hornaffairs.com/2011/06/08/read-the-1902-ethiopia-uk-treaty-share-your-view/>.

¹⁰ “Exchange of Notes between Her Majesty’s Government in the United Kingdom and the Egyptian Government in regard to the use of the waters of the River Nile for irrigation purposes,” May 7 1929, <http://gis.nacse.org/tfdd/tfdddocs/92ENG.pdf>.

recognized Sudan's right to utilize an increased quantity of the Nile waters ...for agricultural extension."¹¹ From the whole bulk of annual utilizable Nile water, this 1929 Agreement "allocated 48 Billion Cubic Meters [BCM] to Egypt] and [the rest] 4 [BCM to Sudan]."¹² This treaty mainly aimed at – securing the entire flow of the Nile water for the two downstream countries, mainly Egypt, by limiting the rights of Sudan and – rejecting those of the upper riparian States. Egypt continued to claim the binding effect of the foregoing agreement on those riparian states, which were under the British colonial empire,¹³ based on the 'theory of Universal Succession.'¹⁴ However, these Nile upstream countries strongly defy to accept the 1929 Treaty based on 'Nyerere Doctrine of State Succession,'¹⁵ which later on

¹¹ Dereje Z. Mekonnen, "The Nile Basin Cooperative Framework Agreement Negotiations and the Adoption of a 'Water Security' Paradigm: Flight into Obscurity or a Logical Cul-de-sac?," *The European Journal of International Law* 21, no. 2 (2010), 432.

¹² Mekonnen, "The Nile Basin Cooperative Framework Agreement."

¹³ Those riparian states which were under British colony were Kenya, Tanzania, Sudan, and Uganda. See Jonas Fossli Gjersø, "The Scramble for East Africa: British Motives Reconsidered, 1884–95," *The Journal of Imperial and Commonwealth History* 43, no. 5 (2015), 831-860, <https://doi.org/10.1080/03086534.2015.1026131>.

¹⁴ This theory – inspired by the Roman law conception of succession to the property of a deceased person – regards the sovereign personality of the state as 'permanent and immortal and thus transmissible to the successor', and state territory as property sanctioning, thus, the compulsory transmission of all the rights and obligations of the predecessor state to the successor. See Mekonnen, "The Nile Basin Cooperative Framework Agreement," 432-433; see also Yusuf Ali Mohammed, *The 'Water Security' Principle Under Nile Basin CFA: The "Water Security" Principle & its Ramification* (Germany: LAMBERT Academic Publishing, 2017), 19.

¹⁵ The 'doctrine of Nyerere' essentially endorsed the classical clean slate (tabula rasa) theory and rejects 'any categorization of international obligations which a successor state might have to accept or reject only

essentially endorsed as the 'clean state' principle under the Vienna Convention on the Law of Treaties (hereinafter the VCLT).¹⁶

In connection with the abovementioned treaty, Sudan challenged the fairness of the 1929 water apportionment after getting its independence, thus, "demanded the allocation be re-adjusted."¹⁷ Accordingly, Egypt and Sudan crafted the 1959 agreement,¹⁸ an extended one of the 1929 Anglo-Egypt agreement; consequently, they agreed "to realize...the full control and utilization of the Nile waters."¹⁹ This agreement allocated the whole bulk of 84 BCM Nile water flow for the two most downstream countries, "55.5 BCM [66%] to Egypt, 18.5 BCM [22%] to Sudan and left the remaining 10 BCM [12%] for

because of the nature or type of the obligation', without, however, disregarding customary international law. See Mekonnen, "The Nile Basin Cooperative Framework Agreement," 434; Mohammed, *The 'Water Security' Principle*, 19.

- ¹⁶ The 'clean state' principle is perceived from Article 16 of the 1969 VCLT which stipulate that a State 'is not bound to maintain in force, or to become a party to, any treaty by reason only of the fact that at the date of the succession of states the Treaty was in force in respect of the territory to which the succession of state relates.' See "Vienna Convention on the Law of Treaties," adopted by the UN on May 23 1969, entered into force on January 27 1980, Article 16, <https://treaties.un.org/doc/publication/unts/volume%201155/volume-1155-i-18232-english.pdf>; see also Mekonnen, "The Nile Basin Cooperative Framework Agreement," 433; see also Mohammed, *The 'Water Security' Principle*, 19.
- ¹⁷ Erin Johnston, "Factors Influencing a Basin-Wide Agreement Governing the Nile River," Master Diss., (Simon Fraser University, 2009), 35.
- ¹⁸ "Agreement for the full utilization of the Nile waters between United Arab Republic and Sudan," Signed on November 8 1959, <https://treaties.un.org/doc/Publication/UNTS/Volume%20453/volume-453-I-6519-English.pdf>.
- ¹⁹ Mekonnen, "The Nile Basin Cooperative Framework Agreement," 435.

evaporation.”²⁰ The 1959 agreement, though made between two independent riparian states, “in substance, not much different from previous colonial-era treaties, as its main thrust is to sanction a monopoly on the waters of the Nile by Egypt and Sudan.”²¹ Moreover, the aforementioned agreement entered into force without consultation and negotiation with the upstream riparian states, thus, didn’t consider their right. Despite the foregoing facts, the two downstream riparian states, following similar suit as that of the 1929 agreement, continue claiming the binding effect of the 1959 and asserting it as an established right. Upstream riparian states, on the other hand, argue that the basin-wide binding effect of the 1959 agreement is “without any legal foundation, as the agreement ...is a typical bilateral agreement, ...which, therefore, has no binding force on the”²² upstream riparian states.

II. THE POST-COLONIAL LEGAL REGIMES OF THE NILE RIVER BASIN

In the post-colonial period, the 1902 Anglo-Ethiopian agreement, 1929 Anglo-Egypt Agreement and 1959 Egypt-Sudan Agreement, alongside the downstream riparian states’ historical and natural claim over the total Nile River flow, becomes one of the most contentious issues. These contentious issues, coupled with its colonial-era mentality, extremely affected the afterward round-table negotiation on the Nile River

²⁰ Mahemud Eshtu Tekuya, “Governing the Nile under Climate Uncertainty: The Need for a Climate Proof Basin-Wide Treaty,” *Natural Resources Journal* 59, no. 2 (2019), 331.

²¹ Mekonnen, “The Nile Basin Cooperative Framework Agreement,” 429.

²² Mekonnen, “The Nile Basin Cooperative Framework Agreement,” 432; see also “Vienna Convention on the Law of Treaties,” Article 34-35.

resources. Saving others for its mere cooperative nature,²³ the 2010 Nile River Basin Cooperative Framework Agreement (hereinafter CFA) and the 2015 Declaration of Principles on Grand Ethiopian Renaissance Dam (hereinafter DoPs) are evident in these regards.

The 2010 CFA,²⁴ unlike all those colonial treaties, is the only attempted inclusive legal regime that brings all the upstream and downstream riparian countries under the same negotiation table. However, during the decade-long negotiations, “the fate of the 1902, 1929, and 1959 Agreements was the subject of controversy.”²⁵ The controversy was related to the respective intention of upper and down riparian states. The former “believed that the purpose of the Cooperative Framework project was to produce an inclusive agreement that would replace and supersede the previous agreements.”²⁶ While the latter assumed that “the new agreement [would] ...explicitly recognize the earlier [colonial] treaties, and would continue to be binding against all riparian States.”²⁷ Albeit several efforts to settle their differences, an agreement could not be reached among the negotiating parties, thus, destined for a deadlock. Despite those aforementioned pending issues, the CFA was opened for signature in 2010. Though six countries have signed

²³ Bilateral cooperative agreements are, inter alia, the 1991 Ethiopia-Sudan ‘Accord on Peace Friendship’, and the 1993 Ethiopia-Egypt ‘Framework for general Cooperation.’ See Geoffrey Michael Mtua, “Bilateral Treaties on the Nile River and their Impacts on International Relations,” Master Diss., (Tumaini University Makumira, 2017), 42 & 79.

²⁴ “Agreement on the Nile River Basin Cooperative Framework,” opened for signature on May 14 2010, <https://nilebasin.org/images/docs/CFA%20-%20English%20%20FrenchVersion.pdf>.

²⁵ Tekuya, “Governing the Nile under Climate Uncertainty,” 332.

²⁶ Tekuya, “Governing the Nile under Climate Uncertainty.”

²⁷ Tekuya, “Governing the Nile under Climate Uncertainty.”

the agreement, so far, only four countries – Ethiopia, Tanzania, Rwanda, and Uganda – have ratified it.²⁸ And for the CFA to enter into force, according to Article 43 of the preceding framework, at least six riparian states need to ratify it; therefore, the CFA neither binds the lower riparian States nor reallocates the shared waters of the Nile.

After signing the CFA, Ethiopia launched the construction of a huge dam, named the Grand Ethiopian Renaissance Dam (hereinafter the GERD),²⁹ on the Blue Nile in April 2011. After the stiff controversy with downstream countries, mainly with Egypt, the three riparian states [Ethiopia, Egypt, and Sudan] signed the ‘2015 DoPs’³⁰ on the GERD on March 23, 2015.³¹ DoPs, unlike the CFA, – is just a declaration brokered among the three riparian states, which is hierarchically lower and less strong than a treaty. DoPs were in place mainly to craft “rules concerning the first filling and operation of the GERD based on the recommendation of an International Panel of Experts.”³² Despite

²⁸ “Cooperative Framework Agreement,” *Nile Basin Initiative*, 2010, <https://nilebasin.org/nbi/cooperative-framework-agreement>.

²⁹ GERD Africa’s largest Electric power hub on one of the Nile River’s main tributaries – the Blue Nile in Ethiopia – designed to generate (about 6000 MW at early stage, but later downgraded to) 5,150 MW of electricity from thirteen turbines. See Mohammed, “The Transboundary Watercourse Management under International Law,” 54.

³⁰ “Agreement on Declaration of Principles between The Arab Republic of Egypt, The Federal Democratic Republic of Ethiopia And The Republic of the Sudan On The Grand Ethiopian Renaissance Dam Project,” signed on March 23 2015, https://www.internationalwaterlaw.org/documents/regionaldocs/Final_Nile_Agreement_23_March_2015.pdf.

³¹ Tekuya, “Governing the Nile under Climate Uncertainty,” 333.

³² Tekuya, “Governing the Nile under Climate Uncertainty.”

a number of round talks coupled with international pressure,³³ riparian states could “not agree on the [first] filling and operation of the GERD.”³⁴ Especially, cutting a deal on the ‘Drought Mitigation Strategy’³⁵ and ‘Dispute Resolution Mechanism,’³⁶ were unfeasible. Albeit aforementioned issues and downstream riparian states objection, Ethiopia not only engaged in GERD’s first,³⁷ second³⁸ and third phase filling,³⁹ but also started GERD’s first and second electrification phase from its first and second turbines respectively.⁴⁰ Currently, “the

³³ Burç Eruygur, “Egypt’s Search for Internationalisation of the Renaissance Dam Crisis with Ethiopia,” *ORSAM*, May 8 2021, <https://www.orsam.org.tr/en/egypts-search-for-internationalisation-of-the-renaissance-dam-crisis-with-ethiopia/>.

³⁴ Tekuya, “Governing the Nile under Climate Uncertainty.”

³⁵ Mahemud Eshtu Tekuya, “Sink or Swim: Alternatives for Unlocking the Grand Ethiopian Renaissance Dam Dispute,” *Columbia Journal of Transnational Law* 59, no. 1 (2020), 89-93, <https://www.jtl.columbia.edu/volume-59/sink-or-swim-alternatives-for-unlocking-the-grand-ethiopian-renaissance-dam-dispute>.

³⁶ Tekuya, “Sink or Swim,” 93-95.

³⁷ Ethiopia says it has reached first-year target for filling divisive mega-dam,” *France24*, July 21 2020, <https://www.france24.com/en/20200721-ethiopia-says-it-has-reached-first-year-target-for-filling-divisive-mega-dam>.

³⁸ “Ethiopia completes second phase of filling of the ‘Grand Renaissance’ dam,” *Africanews*, July 20 2020, <https://www.africanews.com/2021/07/19/ethiopia-completes-second-phase-of-refill-on-controversial-mega-dam-on-the-nile/>.

³⁹ Addis Getachew, “3rd filling of Ethiopia’s Nile dam reservoir completed,” *Anadolu Agency*, August 12 2022, <https://www.aa.com.tr/en/africa/3rd-filling-of-ethiopia-s-nile-dam-reservoir-completed/2660034>.

⁴⁰ “Ethiopia starts electricity production at Blue Nile mega-dam,” *Aljazeera*, February 20 2022, <https://www.aljazeera.com/news/2022/2/20/ethiopia-electricity-production-gerd-blue-nile-mega-dam>; Aggrey Mutambo, “Ethiopia launches power production from second GERD turbine,” *The East African*, August 11 2022, <https://www.theeastafrican.co.ke/tea/rest-of>

[African Union] (AU) is seized of [the GERD] matter”⁴¹ and is trying to settle the three riparian states’ differences through roundtable dialogues, but with no success so far. Moreover, the negotiation over the GERD has frozen due to Ethiopia’s and Sudan’s internal instability. This instability seems to impede the negotiation process for a while until the aforementioned riparian states become stable and resume their roundtable talks under the auspices of the AU. All in all, “there is currently no mechanism governing [the first] ...filling and operation [of the GERD,] especially ...during times of flood and drought.”⁴²

III. LEGAL DOCTRINAL APPROACH OF NILE DOWNSTREAM RIPARIAN STATES

Having the above colonial and post-colonial Nile legal regimes, this section securitizes the attitude of downstream riparian states pattern from relevant legal theories of a transboundary watercourse.

As provided in the above sections, the colonial treaties were made to protect and use the Nile River resource for the politico-economic ambition of the British colonial Empire. Among those under the British colony of East and North African states, the preceding colonial power was practically used to favour Egypt because of its geopolitical position to, inter alia, Suez Canal,

africa/ethiopia-launches-power-production-from-second-gerd-turbine-3911158.

⁴¹ “Communiqué of the Extraordinary African Union Bureau of the Assembly of Heads of State and Government video-teleconference Meeting on the GERD,” *African Union*, June 26 2020, <https://au.int/en/pressreleases/20200626/hosg-communiqué-meeting-grand-ethiopian-renaissance-dam-gerd>.

⁴² Tekuya, “Governing the Nile under Climate Uncertainty,” 342.

major agricultural-economic advantage, and other politico-economic ambitions.

With this approach, the colonial Nile treaty regimes boost Herodotus's famous narration – 'Egypt is a gift of the Nile.' Unsurprisingly, but unlike other basin states, Egypt exclusively endorsed this latter narration into the first opening preamble of its constitution. Moreover, the Arab Republic of Egypt's Constitution under Article 44 states:

"[Egypt] shall protect the River Nile, preserve [its] rational use of natural's historical rights thereto..."⁴³

One can vividly see from this fact that Egypt considers itself the first State to use the Nile River course and claims to have 'historical or natural' right over the aforesaid water resources with the aim of owning the entire flow of the Nile by default.

The abovementioned idea of assuming the first riparian state to use the bulk of the Nile River directly springs up the notion of the 'prior appropriation' theory of transboundary watercourse.⁴⁴ According to this legal theory, any riparian state "that puts the water to use first..."⁴⁵ are entitled to defaulted

⁴³ "Constitution of the Arab Republic of Egypt," adopted in 2014, Article 44, https://www.constituteproject.org/constitution/Egypt_2014.pdf.

⁴⁴ This theory "developed in the United States[California] during the [gold] mining boom that swept the western part of the country in the mid-1800s,[in which] the miners resorted to a rule that they had applied in earlier disputes regarding access to minerals found on public lands– the 'first in time, first in right' doctrine, [accordingly,]the earliest or first miner to put the water to productive use automatically and implicitly had a right to continue using the water and to exclude use by others." See M. Kimenyi and J. Mbaku, *International Water Law and the Nile River Basin, Governing the Nile River Basin: The Search for a New Legal Regime*, (Washington D.C.: Brookings Institution Press, 2015), 70.

⁴⁵ David J. Lazerwitz, "The Flow of International Water Law: The International Law Commission's Law of the Non-Navigational Uses of

water resources ownership. Hence, as this perspective spares neither upstream nor downstream basin states, thus, any riparian can "...establish prior rights to use a certain amount of water depending on the date upon which that water use began."⁴⁶

In many African countries, the presence of Europeans during the colonial period had significantly impacted the regulat[ion of] water use in these countries.⁴⁷ In this vein, a record can be drawn from the role of the British colonial empire in crafting a colonial discourse known as acquired/historical right via the 1929 agreement, which Egypt also inherited in the post-colonial era. According to this colonial discourse, downstream riparian states, mainly Egypt, are claiming an absolute right over the whole bulk of Nile River flow for the mere reason of using the aforesaid international watercourse first. Thus, downstream riparian states, mainly Egypt, seem to adhere to the – ‘prior appropriation’ doctrine of a transboundary watercourse.

The above legal doctrinal perspective is not without defect, as it is exposed to “inequitable where one state lags behind another in the economic or technical ability to develop its river

International Watercourses,” *Indiana Journal of Global Legal Studies* 1, no. 1, Article 12 (1993), 250.

⁴⁶ Lazerwitz, “The Flow of International Water Law.”

⁴⁷ This impact can be inferred from the case of South Africa, in which, though the foregoing state’s “water use in the pre-colonial period was governed by customary law, [later on,] its water law during colonialism was influenced first by Dutch law and then by English law as the country was colonized by the Dutch and then by the English; [thus,] the Anglo-American doctrine of riparian rights came to have a significant impact on water and water-use rights in South Africa and other countries colonized by Great Britain.” See Kimenyi and Mbaku, *International Water Law and the Nile River Basin*, 71.

use;⁴⁸ thus, less significant under the international law arena. The aforementioned lacuna is plainly observed in the Nile River Basin, as Egypt's relatively advanced economy, coupled with its experienced water experts, played a significant role in using the Nile River first before the other riparian states. On the other hand, though upstream riparian states strive to engage in a water-related project on the river course, "Egypt has always been sensitive to [such] development,"⁴⁹ fearing it would undermine its established right and change the status quo of the Nile River Basin.

The Nile downstream riparian states scenario is not only limited to one international legal doctrinal approach, but there is also another theoretical dimension to consider. To properly grasp this other legal theoretical perspective, it is crucial to see the essence behind the 1902, 1929, and 1959 agreements. As vividly briefed in the previous colonial legal regime section, according to the aforementioned treaties, the whole bulk of Nile water resources are only divided between the two most extreme downstream countries – Egypt and Sudan. Moreover, these agreements do not only ignore the rightful share of the upper riparian countries but also strive to force the preceding riparian states to keep the full natural flow of the Nile water toward the downstream riparian states without any interruption. In these regards, the stance of Egypt is firmly stated in its 1981 'Country Report,' which read as:

"each riparian country's ...full right to maintain the status quo of the rivers flowing on its territory, [as such,] ...no country has the right to undertake any positive or negative measure that

⁴⁸ Lazerwitz, "The Flow of International Water Law," 250.

⁴⁹ Takele S. Bulto, "Between ambivalence and necessity in the Nile Basin: occlusions on the path towards a basin-wide treaty," *Mizan Law Review* 2, no. 2 (2008), 214.

could have impact on the river's flow in other countries... [and] any works at a river's upper reaches that may affect the countries at the lower reaches are banned unless negotiations have taken place."⁵⁰

The abovementioned notion of claiming the total uninterrupted natural water flow toward down riparian states brings up the idea of the 'absolute territorial integrity' doctrine of a transboundary watercourse, also known as the 'natural water flow' theory. The aforementioned theory dictates that a downstream riparian state "has the right to a full flow of water of natural quality and interference with the natural flow by the upstream state require[s] the consent of the downstream riparian."⁵¹ According to this theory, if an upstream riparian state interrupts the total natural river flow, it is considered in violation of a downstream riparian state's territorial sovereignty.⁵² Especially a primary proponent scholar of this theory, named Max Huber, argued that:

"Every state must allow rivers over which it does not exercise unrestricted territorial sovereignty ...to follow their natural course; it may not divert the water to the detriment of one or more of the other states with rights to the river, interrupt, artificially increase or diminish its flow."⁵³

⁵⁰ H. Bülent Olcay, *Hydropolitics Among the Riparians of the Euphrates & Tigris Watercourse System* (Ankara: Karmap A.Ş., 1998), 29.

⁵¹ Muhammad M. Rahaman, "Principles of international water law: creating effective transboundary water resources management," *Int. J. Sustainable Society* 1, no. 3 (2009), 209, https://www.internationalwaterlaw.org/bibliography/articles/general/Rahaman-2009_IWL.pdf.

⁵² P.K. Parhi and R.N. Sankhua, "Beyond the Transboundary River: Issues of Riparian Responsibilities," *Journal of The Institution of Engineers* 94, no. 4 (2014), 258.

⁵³ Olcay, *Hydropolitics Among the Riparians*, 29.

By disregarding the right of the upper riparian states, this legal theory lord over the right of downstream riparian states and “claim the continued and uninterrupted flow of water from the territory of the upper riparian, ‘no matter what the priority’.”⁵⁴ Though the ‘absolute territorial integrity’ theory “has limited support in state practice, jurisprudence, the writings of commentators,”⁵⁵ international courts et al, “downstream states support this theory as it guarantees them the use of an international river in an unaltered condition.”⁵⁶ For instance, “Pakistan was in favo[u]r of the theory of absolute territorial integrity in its dispute with India over the waters of the Indus.”⁵⁷

Bringing the above doctrinal thoughts into the Nile River Basin scenario, one can easily discover that the downstream riparian states, mainly Egypt, are a proponent of the ‘absolute territorial integrity’ doctrine of a transboundary watercourse. Due to downstream riparian states’ adherence to the foregoing legal doctrine, those negotiations – which took place under the Nile Basin Initiatives (hereinafter the NBI) for the CFA and – which are taking place under DoPs for the first filling and operation of the GERD have failed. Moreover, the “insistence on this [legal] theory seems to be at the roots of the ...deadlock,”⁵⁸ where the two down riparian states urge the incorporation of the

⁵⁴ Esther Schroeder-Wildberg, “The 1997 International Watercourses Convention – Background and Negotiations,” (Working Paper On Management in Environmental Planning, Technical University of Berlin, 2002), <https://www.landschaftsoekonomie.tu-berlin.de/fileadmin/a0731/uploads/publikationen/workingpapers/wp00402.pdf>.

⁵⁵ Rahaman, “Principles of international water law,” 210.

⁵⁶ Rahaman, “Principles of international water law.”

⁵⁷ Olcay, *Hydropolitics Among the Riparians*, 30.

⁵⁸ Bulto, “Between ambivalence and necessity,” 215.

‘water security’ provisions⁵⁹ in the CFA, and ‘Drought Mitigation Strategy’⁶⁰ and ‘Dispute Resolution Mechanism’⁶¹ in the first filling and operation of the GERD, which “has the import of maintaining the status quo [of] ...the Nile waters.”⁶² Due to these, down riparian states’ “adherence to the doctrine of absolute territorial integrity had remained unchanged”⁶³ hitherto.

Therefore, one can easily conclude from the colonial and post-colonial legal regimes as well as from its practical scenarios, coupled with the above analysis, that the then colonial power, the British, and the now downstream riparian states, especially Egypt, – not only adhere to the ‘prior appropriation’ legal doctrine, – but also firmly stand practicing in line with the ‘absolute territorial integrity’ theory of transboundary watercourse.

IV. LEGAL DOCTRINAL APPROACH OF NILE UPSTREAM RIPARIAN STATES

Like the previous section, having the colonial and post-colonial legal regime at hand, this section devotes itself to scrutinizing upstream riparian states’ position within the legal theories of transboundary watercourse context.

⁵⁹ Mohammed, *The ‘Water Security’ Principle*, 37-46; see also Jon Harald Sande Lie, “Supporting the Nile Basin Initiative: A Political Analysis beyond the River,” (Norwegian Institute of International Affairs, 2010), 3, https://www.academia.edu/2243972/Supporting_the_Nile_Basin_Initiative_A_Political_Analysis_Beyond_the_River.

⁶⁰ Tekuya, “Sink or Swim,” 89-93.

⁶¹ Tekuya, “Sink or Swim.”

⁶² Bulto, “Between ambivalence and necessity,” 215.

⁶³ Bulto, “Between ambivalence and necessity,” 214.

Though upstream riparian states contribute almost the entire bulk of the Nile water flow, unfortunately, they are not destined to use a single drop of it, mainly for the apparent reasons provided under the previous treaty regime section. Because of down riparian states' "adherence to the [absolute territorial integrity] theory, ...the upper riparians [got] provoked [and] hold ...a counter stance, wherein they hold to the principle of absolute territorial sovereignty over the waters flowing in their territories."⁶⁴

The 'absolute territorial sovereignty' theory, also known as the 'Harmon Doctrine,' emanated from the argument of the former US Attorney General, Mr. Judson Harmon, who "declared the absolute right of the USA to divert the Rio-Grande in 1895."⁶⁵ This theory preaches that "[e]very nation can utilise the waters of an international river flowing on its territory, as it likes, regardless of the consequences."⁶⁶ As per this theory, "the upstream states would be free to divert all the water from a shared watercourse without considering the need for downstream states."⁶⁷ The Proponent of this theory argues that an international watercourse situated on the territory of a state

⁶⁴ Bulto, "Between ambivalence and necessity," 215.

⁶⁵ The US Attorney General, Mr. Harmon, argued as "the fact that the Rio Grande lacks sufficient water to permit its use by the inhabitants of both countries does not entitle Mexico to impose restrictions on the USA which would hamper the development of the latter's territory or deprive its inhabitants of an advantage with which nature had endowed it and which is situated entirely within its territory. To admit such a principle would be completely contrary to the principle that [the] USA exercises full sovereignty over its national territory." See Rahaman, "Principles of international water law," 210.

⁶⁶ Rahaman, "Principles of international water law," 209.

⁶⁷ Rahaman, "Principles of international water law."; Stephen C. McCaffrey, "The Harmon doctrine one hundred years later: buried, not praised," *Natural Resources Journal* 36, no. 4 (1996), 549.

constitutes part of the public domain of that state, and since a state has dominium over its territory, another state acquires rights thereon only with the agreement of the first state.⁶⁸ Albeit its contribution to the academic arena, the 'absolute territorial sovereignty' doctrine got dismissed by "most modern experts."⁶⁹ Moreover, the aforesaid legal doctrine not only has got "little support in state practice, [but also] ...almost unanimously abandoned."⁷⁰

Coming back to the case of upstream riparian states, Ethiopia, the lion share contributor to the bulk of Nile River flow, is said to be in favour of the 'absolute territorial sovereignty' theory. The aforesaid perception was stretched from the Ethiopian Government's reaction against the 1959 Egypt-Sudan Agreement. The reaction was reflected in its "'aide-mémoire' addressed to the diplomatic mission in Cairo [in which Ethiopia declared that it has]:

'...the right and obligation to exploit the [Nile] water resources of the Empire... for the benefit of present and future generation of its citizens... and ...must, therefore, reassert and reserve now and ...for the future, the right to take all such measures in respect of its water resources and, in particular, as regards that portion of the same which is of the greatest importance to its welfare, namely, those waters providing so nearly the entire of the volume of the Nile, whatever may be the measure of utilization of such waters sought by recipient states situated along the course of that river'."⁷¹

⁶⁸ Olcay, *Hydropolitics Among the Riparians*, 31.

⁶⁹ Rahaman, "Principles of international water law," 209.

⁷⁰ Olcay, *Hydropolitics Among the Riparians*, 33; Bonaya A. Gondana, *Africa's Shared Water Resources: Legal and Institutional Aspects of the Nile, Niger and Senegal River Systems*, (London: L. Rienner, 1985), 38.

⁷¹ Olcay, *Hydropolitics Among the Riparians*, 31-32.

Moreover, Ethiopia echoed a similar stance during the 1997 UN Water Conference held in Argentina (in 1977), pronouncing that it is:

“...the sovereign right of any riparian state, in the absence of an international agreement, to proceed unilaterally with the development of water resources within its territory.”⁷²

Bringing the above analysis into one basket, those ‘aide-mémoire’ and UN statement submitted by Ethiopia, “[a]lthough ...sounds stronger than its real content, it does not articulate absolutist utilization in disregard to lower riparians.”⁷³ Just like the USA, which “promptly retreated from the Harmon doctrine,”⁷⁴ Ethiopia also discontinues adhering to the ‘absolute territorial sovereignty’ legal doctrine of a transboundary watercourse.

Ruling out the adherence of upstream riparian states to that of the ‘absolute territorial sovereignty’ doctrine, inspecting other potential legal theoretical perspectives vis-à-vis Nile upstream riparian states’ practice is crucial. In the aforesaid vein, taking a quick look at the above colonial and post-colonial treaty regime sections uncovers the upper riparian states’ efforts to change the Nile River Basin’s win-lose scenario. These upstream riparian countries have been challenging the downstream riparian states’ colonial and extended legal regimes coupled with their hydro-hegemonic power over the Nile watercourse. Instead, the former riparian states claim for equitable utilization of the Nile River resource, as they are exposed to economic, social, and political needs in place.

⁷² Yacob Arsano, “Ethiopia and the Nile: Dilemmas of National and Regional Hydropolitics,” PhD Diss., (Swiss Federal Institute of Technology, 2004), 55.

⁷³ Bulto, “Between ambivalence and necessity,” 212.

⁷⁴ Rahaman, “Principles of international water law,” 210.

The conception of arguing to use the Nile River equitably brings the so-called 'limited territorial sovereignty/integrity' doctrine into the picture. This legal theory dictates that "...every state is free to use shared rivers flowing on its territory as long as such utilization does not prejudice the rights and interests of the co-riparian"⁷⁵ states. Accordingly, with the very notion of maintaining and maximizing "the economic and social needs of the different riparian states,"⁷⁶ all upstream and downstream riparian states "...have reciprocal rights and duties in the utilization of the waters of their international watercourse, and each [are] entitled to an equitable share of its benefits." This particular legal theory "gave birth to two basic principles that have got [the] status of Customary International Law, i.e., 'Equitable & Reasonable Utilization' and 'No-Harm rule' Principle."⁷⁷ These customary principles are endorsed by, inter alia, the '1966 Helsinki Rules'⁷⁸ '1997 UN Watercourses Convention,'⁷⁹ and '2004 Berlin Rules.'⁸⁰ For these reasons, the 'limited territorial sovereignty' doctrine "has received consistent support in the case law of international tribunals, with... 'no

⁷⁵ Rahaman, "Principles of international water law."

⁷⁶ Parhi and Sankhua, "Beyond the Transboundary River," 258.

⁷⁷ Mohammed, "The Transboundary Watercourse Management under International Law," 14.

⁷⁸ "The Helsinki Rules on the Uses of the Waters of International Rivers," *International Law Association*, August 1966, Articles IV, V, VII, X, XI, XXIX [2,4], https://www.internationalwaterlaw.org/documents/intldocs/ILA/ILA-HelsinkiRules1966-as_amended.pdf.

⁷⁹ "Convention on the International Watercourses," Articles 5, 6, 7, 10, 12, 15, 16,17, 19,20, 21.2, 22, 26.2, 27, 28.1, 28.3.

⁸⁰ "The Berlin Rules on Water Resources," *International Law Association*, August 2004, Articles 8, 10.1, 10.2, 12, 13, 14,16, http://www.cawater-info.net/library/eng/l/berlin_rules.pdf.

known international decision supports a contrary rule.”⁸¹ Moreover, this legal theory is “supported by the overwhelming majority of commentators [and]... widely [used as an] allocation [strategy] of the waters of international watercourses.”⁸² Though this doctrine is considered to have “received some limited support among the state practice of several Middle Eastern States,”⁸³ the vast majority of basin riparian states’ practices are in line with the aforesaid legal theory.

Coming to the Nile River Basin, the upstream riparian states’ tie with the ‘limited territorial sovereignty/integrity’ doctrine can vividly be perceived from the previous section’s discussion in which most upstream riparians commit themselves toward actualizing the CFA. In connection with these, the upper riparian countries defy against – the colonial and post-colonial hydro-hegemonic treaty regime and – the ‘status quo’ claim of down riparian states. Moreover, the former riparian states employed counter hydro-hegemonic strategy and challenged the latter riparian countries’ assertion by invoking the famous ‘Nyerere Doctrine of State Succession’ or ‘clean state’ principle. These defiance and challenge exemplify the upstream riparian states’ ultimate desire to share and use the Nile water resource equitably and reasonably. Therefore, a conclusion can be drawn from the aforementioned analysis that the upper riparian states undoubtedly adhere to – the ‘limited territorial sovereignty/integrity’ doctrine of a transboundary watercourse.

⁸¹ Owen McIntyre, “International Water Law: Concepts, Evolution and Development,” In *Transboundary Water Management Principles and Practice*, ed. Anton Earle, Anders Jägerskog and Joakim Öjendal, (London: New York, Earthscan, 2010), 65.

⁸² McIntyre, “International Water Law,” 66.

⁸³ McIntyre, “International Water Law,” 65.

V. THE DEADLOCK – WHERE THE CONTROVERSY LIES

To solve their difference, the Nile upstream and downstream riparian countries negotiated through several roundtable negotiation platforms but ended up without success. This is because the latter riparian states are not interested in compromising and shifting from their 'prior appropriation' and 'absolute territorial integrity' legal theoretical standing. On the other hand, the former riparian states' unwillingness to accept and adhere to the aforementioned legal theories of a transboundary watercourse; instead, they opt for the 'limited territorial sovereignty/integrity' doctrine and claim for the equitable utilization of the Nile waters resource among all riparian states.

As the two [or three legal] doctrines are in frontal clash with each other, any direct, indirect, total, or partial adherence thereto in negotiations on the optimal utilization of the Nile can only set the countries apart rather than bring them to a point of agreement.⁸⁴ This can be clearly inferred from not only riparian states' reports, 'aide-mémoire' et al but also from upstream and downstream riparian deadlocked negotiations over the Nile River Basin's colonial and post-colonial legal regime.

Surprisingly, the upper and lower riparian states' doctrinal clash is also reflected in the '1997 UN Watercourse Convention',⁸⁵ a single legal instrument governing the international transboundary watercourses. So far, though about

⁸⁴ Bulto, "Between ambivalence and necessity," 215.

⁸⁵ "Convention on the Law of the Non-navigational Uses of International Watercourses," adopted on May 21 1997, entered into force on August 17 2014,
https://legal.un.org/ilc/texts/instruments/english/conventions/8_3_1997.pdf
f.

40 countries have ratified the UN Watercourses Convention,⁸⁶ surprisingly, none of the Nile riparian countries has signed or ratified it.⁸⁷ This is because upper riparian states – object to one of the convention’s principle, which is stated as “obligations for the notification of other riparian of planned measures and projects in their territories,”⁸⁸ fearing that this affects their interest in using the Nile River. On the other hand, down riparian states – object to the convention in general, stating that the Convention does not protect their “historical rights and uses.”⁸⁹ These are also clear reflections of the resulting complication that arose from the effect of colonial and post-colonial treaty discourse, which originated itself from the

⁸⁶ “12. Convention on the Law of the Non-Navigational uses of International Watercourses,” *UN Treaty Collection*, 2022, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXVII-12&chapter=27&clang=_en.

⁸⁷ Salman M.A Salman, “Entry into Force of the UN Watercourses Convention – Where are the Nile Basin Countries?” *International Water Law Project Blog*, 2014, <https://www.internationalwaterlaw.org/blog/2014/06/02/dr-salman-m-a-salman-entry-into-force-of-the-un-watercourses-convention-where-are-the-nile-basin-countries/>.

⁸⁸ The upstream riparian states are concerned that such notification obligations would be construed by Egypt and Sudan as recognition of the 1902 and 1929 treaties that give Egypt and Sudan veto power over upstream activities. Indeed, this is the main reason that the CFA does not include provisions on notification, only on exchange of data and information. See Salman, “Entry into Force of the UN Watercourses Convention.”

⁸⁹ The downstream riparian states believe that the UN Watercourses Convention tilts towards equitable and reasonable utilization at the expense of the obligation not to cause significant harm. As lower riparian’s with claimed historical rights over the Nile waters, their cardinal principle is the obligation not to cause significant harm. See Salman, “Entry into Force of the UN Watercourses Convention.”

conflicting doctrinal standing point of Nile River Basin's upper riparian and down riparian States.

Therefore, as thoroughly scrutinized in the above, the upstream and downstream riparian states are consciously or unconsciously trapped and "locked in th[o]se irreconcilable [legal] doctrines"⁹⁰ of a transboundary watercourse.

VI. THE WAY OUT – TOWARD SOLUTION

In the Nile River Basin, as vividly provided in the above section, it is quite evident that the non-ending tit-for-tat controversy over the foregoing international water resource originates from the non-compromising theoretical legal standing point of upper and down riparians. This vicious circle, in which the basin got stuck-in, is quite worrisome and needs an immediate theoretical-practical way-out solution. Thus, the Nile River Basin needs legal doctrinal adjustments, as these legal theories are highly assumed to be not only a starting point but also a landing spot for every ideal and practical consideration. Moreover, such legal theoretical adjustments have enormous potential impact in shaping practical scenarios, be it in the – re/negotiation and/or implementation of the CFA and/or DoPs, and – in the already stalled GERD's filling and operation.

In order to come out of these traumas, all Nile riparians should shift their doctrinal standing point toward the tolerable and acceptable theoretical doctrine of the international transboundary watercourse. Upstream and downstream riparian states need to compromise colonial and post-immediate colonial-era treaties coupled with its colonial narration and political egos. Accordingly, they shall engage themselves in the way of using the Nile water resource in an equitable and reasonable manner. As such, once the 'limited territorial

⁹⁰ Bulto, "Between ambivalence and necessity," 215.

sovereignty/integrity' legal doctrinal understanding is set, the aforesaid legal theory can/will springboard the Nile River Basin cooperation toward a revolutionary and developing legal doctrine, known as a 'community of interest.'

The core idea behind the 'community of interest' is that it considers the entire particular transboundary watercourse basin not only "as one hydrological unit that should be managed as an integrated whole"⁹¹ but also "regards the entire basin as one economic and geographical unit, and ignore national [political] boundaries."⁹² This theoretical perspective strives to attain the foregoing revolutionary discourse – by "implying the equality of all basin states in the use of the whole [water]course and – [by standing firm] ...against unlimited unilateral utilization of shared watercourses."⁹³ According to this legal theory, the 'limited territorial sovereignty/integrity' legal doctrine – may not adequately protect natural watercourse resources⁹⁴ and – "may not ensure the most beneficial development of the basin; [thus, to ensure the aforesaid basin-wide benefits, an] integrated development programme becomes necessary."⁹⁵ Consequently, this legal theory dictates that every riparian state "...has a right of action against any other basin state within its basin, [so] that no state may affect the resource without the cooperation and permission of its neighbors."⁹⁶ Despite the multifaceted significance of the 'community of interest' doctrine,

⁹¹ Lazerwitz, "The Flow of International Water Law," 252.

⁹² Olcay, *Hydropolitics Among the Riparians*, 35.

⁹³ Olcay, *Hydropolitics Among the Riparians*.

⁹⁴ Lazerwitz, "The Flow of International Water Law," 250.

⁹⁵ Olcay, *Hydropolitics Among the Riparians*, 36.

⁹⁶ Lazerwitz, "The Flow of International Water Law," 250; Ved P. Nanda, "Emerging Trends in the Use of International Law and Institutions for the Management of International Water Resources," *Denver Journal of International Law & Policy* 6, no. 3 (1976), 248-249.

unfortunately, the “relations among States have not yet evolved to a similar level,”⁹⁷ as “the international community is far from being fully developed.”⁹⁸ Saving the aforementioned concerns, the community of interest concept is highly “supported by naturalists, engineers, economists [and] ...the [International Law Commission].”⁹⁹ Moreover, this theory “manifests a shift from a traditional extreme concept of sovereignty toward a more liberal and pragmatic approach.”¹⁰⁰

Having the above facts at hand, all upstream and downstream riparian states of the Nile River Basin should adhere to the ‘community of interest’ doctrine. This move is so revolutionary – not only to integrate regional cooperation in a transforming way – but also to bring the wider basin community together in a better, more beneficial, pragmatic way. Moreover, the Nile River Basin’s legal regime and institutional structure shall also be designed and set into action in line with the aforesaid legal doctrinal way-out.

Optimistically, the Author strongly believes that if all/most of the Nile upstream and downstream riparian states honestly re-evaluate their legal theoretical stand and shift/adjust their respective slant according to the abovementioned guidelines, the so-called Nile River Basin controversy will soon become history.

⁹⁷ Lazerwitz, “The Flow of International Water Law,” 250.

⁹⁸ Olcay, *Hydropolitics Among the Riparians*, 36.

⁹⁹ Lazerwitz, “The Flow of International Water Law,” 250; Joseph W. Dellapenna, “Surface Water in the Iberian Peninsula: An Opportunity for Cooperation or a Source of Conflict?” *Tennessee Law Review* 59, no. 4 (1992), 816-17.

¹⁰⁰ Olcay, *Hydropolitics Among the Riparians*, 36.

Hakem Deęerlendirmesi: ift kr hakem.

Finansal Destek: Yazar bu alıřma iin finansal destek alıp almadıęını belirtmemiřtir.

ıkar atıřması: Yazar ıkar atıřması olup olmadıęını belirtmemiřtir.

Etik Kurul Onayı: Yazar, etik kurul onayının gerekip gerekmedięini belirtmiřtir.

Peer Review: Double peer-reviewed.

Financial Support: The author did not indicate whether he received financial support for this study.

Conflict of Interest: The author did not specify whether there was a conflict of interest.

Ethics Committee Approval: The author stated whether ethics committee approval is required.

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