

# THE HISTORICAL AND LEGAL BACKGROUND OF THE PROBLEM OF SHARING THE NILE WATERS STUDY CASE: THE GRAND ETHIOPIAN RENAISSANCE DAM PROBLEM\*

## *NİL SULARININ PAYLAŞILMASI SORUNUNUN TARİHSEL VE HUKUKİ ARKA PLANI DURUM ÇALIŞMASI: BÜYÜK ETİYOPYA RÖNESANS BARAJI SORUNU*

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**Abstract:** Disputes over waterways are among the most important causes of conflicts, especially in Africa. Thus, studying these disputes is an important introduction to studying security in Africa. However, far from focusing on the security, geopolitical or strategic approach to studying these crises, this study attempts to review the historical and legal aspects of one important dispute over waterways in Africa, the problem of Nile River. The study attempts to discuss the Nile water-sharing problem in a historical and legal frame by examining the international order of waterways and the agreements related to Nile water usage. The study also briefly explains the history of the clashes between Nile Basin countries explaining their different points of view. Finally, the study delivers the Grand Renaissance Dam of Ethiopia as a case study to present a concrete discussion of the Nile water-sharing problem and its impact on the stability of the African continent.

**Keywords:** Nile Basin, International River, Grand Renaissance Dam.

**Öz:** Su yolları üzerindeki anlaşmazlıklar, özellikle Afrika'da, çatışmaların en önemli nedenleri arasındadır. Bu nedenle, bu anlaşmazlıkları incelemek, Afrika'daki güvenliği incelemek için önemli bir giriş niteliğindedir. Ancak, bu krizleri incelemek için güvenlik, jeopolitik veya stratejik yaklaşıma odaklanmaktan uzak, bu çalışma Afrika'daki su yolları üzerindeki önemli bir anlaşmazlığın, Nil Nehri sorununun tarihsel ve yasal yönlerini incelemeyi amaçlamaktadır. Çalışma, su yollarının uluslararası düzenini ve Nil suyunun kullanımıyla ilgili anlaşmaları inceleyerek Nil su paylaşımı sorununu tarihsel ve yasal bir çerçevede tartışmayı amaçlamaktadır. Çalışma ayrıca, farklı bakış açılarını açıklayarak Nil Havzası ülkeleri arasındaki çatışmaların tarihini kısaca açıklamaktadır. Son olarak, çalışma, Nil su paylaşımı sorununun ve Afrika kıtasının istikrarı üzerindeki etkisinin somut bir tartışmasını sunmak için bir vaka çalışması olarak Etiyopya'nın Büyük Rönesans Barajını sunmaktadır.

**Anahtar Kelimeler:** Nil Havzası, Uluslararası Nehir, Büyük Rönesans Barajı

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## 1. INTRODUCTION

It has been frequently said that wars in the past had been fought to gain new land and in the 20th-century wars were fought over oil, soon wars will break out over water since accessing a clean water source is a vital matter for the states, especially with taking into consideration the rarity of water sources (Etihad, 2012). As a matter of fact, the conflicts over water across borders are not a modern phenomenon but they go back to ancient times (Turhan, 2021). Conflicts over the use of rivers' water, alongside border conflicts, are among the most important conflicts in Africa, as water is a fundamental component of developing economies in Africa, which are based on agriculture and electricity generation. From this standpoint, studying these water border conflicts has become an important approach to studying security in Africa. From this perspective, the problem of conflict over the use of Nile waters was chosen as an embodiment of the security problem in East Africa. Since the study case of the study, the Grand Ethiopian Renaissance Dam issue is still an outstanding unresolved matter, the study chose to focus on the legal and historical dimensions of the problem, as the security approach is a sensitive approach to addressing this issue. The historical and legal dimensions also provide the researcher with knowledge of each party's point of view and the legal grounds on which it relies. The study chose to examine the history of Nile River agreements, and the previous and outstanding negotiations between countries in order to understand the whole panorama of the conflict, without delving into the strategic or the geopolitical aspects of the conflict, mainly for two reasons: firstly, the belief that the peoples of this regions share the same destiny and cooperation and solidarity is the only way for the prosperity of this region, secondly, the quick dynamics of strategic changes in the region's alliances map. Before delving into the subject, it might be useful to touch upon two points of the subject, firstly a brief introduction to Nile River topography in order to understand the scope of the problem, secondly the main sides of international law on transboundary water resources.

### 1.Nile River Topography

The Nile River is the longest in the world with a length of 6,650 km. It originates from Lake Victoria in Uganda and then crosses the borders of 11 countries and flows into the cities of Damietta and Rashid within Egypt's Mediterranean north borders. The Nile River passes within the following countries; Uganda, Congo, Rwanda, Burundi, Tanzania, Kenya, Ethiopia, Eritrea, South Sudan, Sudan and Egypt. The Nile River has many sources, these sources are divided into two parts. Firstly, Tropical sources in Uganda, Tanzania, Rwanda, Burundi and Kenya. Tropical sources constitute 20 per cent of the Nile River water. The second and most important source is Abyssinian sources. Abyssinian springs constitute 80 per cent of the Nile water. Ethiopia and Uganda are the main upstream countries of the Nile River, and Egypt and Sudan are the downstream countries (El-Sallak, 2009) (AA, 2019).

The Nile River begins with the Kagera River, one of its main streams and one of the

largest tributaries flowing into Lake Victoria. Kagera originates from Lake Tanganyika in Burundi, south of Lake Victoria. The Kagera River flows into Lake Victoria after covering a distance of 690 km from south to north.\*\*\* The Nile is known as the Victoria Nile after it emerges from Lake Victoria and continues for a distance of 500 km, passing through Lake Edward until it reaches Lake Albert and then the Nile is known as the Albert Nile. When it reaches South Sudan it is called Bahr-el Jabel (Mountain River). The two branches of the Nile River are called Bahr el Ghazal (Gazelle River) and Bahr al-Arab (Arabian River) in Sudan, and the two Nile branches flow towards the north. The Blue Nile, originating from Lake Tana in Ethiopia, joins the White Nile in Khartoum and continues towards the north. As the White and Blue Nile continue towards the north, they merge with the 800 km long Atbara River starting from Ethiopia, 300 km north of Khartoum. The Atbara River dries up in winter. After that, the Nile River continues to flow through Egyptian territory to its mouth in the Mediterranean (Encyclopaedia, 2015).



Historical map of Nile Basin Geography done by the American mapmaker George Washington Bacon in 1916 (Library of Congress, 2009).

1 The Kagera river forms the border between Tanzania and Rwanda and the border between Tanzania and Uganda.

## **2. International Order Of Waterways**

With the increase in population, technological development, and human beings' needs, the water-sharing problem emerged and water disputes accordingly the need for formulating texts regarding water usage, reducing flood dangers, building dams, or regulating water distribution. Despite this, no international order on rivers existed until 1997.

### **2.1 Sources**

Sources of International Rivers Law are the same sources of general international law; the main sources are treaties, customary international law derived from the practice of states, and general principles of law recognized by civilised nations, and the secondary sources are international Legal Jurisprudence, judicial decisions, and International organisations decisions, especially the Statute of the International Court of Justice (Greenwood, 2008, 1).

#### ***a. International Treaties & Agreements***

There are approximately more than fifty treaties and agreements on international rivers. One of the earliest agreements on a river matter in modern times was for the Rhine River signed between the Netherlands and the German states in 1785, which aimed to regulate the joint use of river-related rights between countries (Schenk, 2021, p. 29). In addition, the Treaty of Paris of 1814 regulated freedom of navigation on the Rhine. Besides, organizing navigation in the Danube has been the subject of several international agreements. In Ottoman history, the Treaty of Belgrade 1616 between the Ottoman and Austrian empires granted Austrians the right to navigate the middle and lower Danube. Similarly, in 1774, the Treaty of Küçük Kaynarca allowed Russia to use the lower Danube (Britannica, n.d.). The Treaty of Paris of 1856 guaranteed the freedom of navigation principle in the Danube, recognizing the river as an international waterway, and formulated the Danube committee (Almanypedia, n.d.). The peace treaties of Vienna in 1815 and Versailles in 1919 also addressed navigation issues in rivers.

#### ***b. Customary International law***

International customs are one of the important sources of international law, mainly according to the Statute of the ICJ. Customary rule requires repetition and frequency. Accordingly, the customary rule has a concrete side, which means there must be widespread and consistent State practice. Its incorporeal aspect is the belief in legal obligation "*opinio juris*". The abstract side is the states' belief that the material actions they undertake or implement are legally binding on them (Kreedi, 2013, p. 9), (Greenwood, 2008, 1)

### ***c. International Legal Doctrine***

Although legal jurisprudence is considered a secondary source, it is not denied that it is one of the important sources. International legal jurisprudence represents the compendium of thought of international law scholars and experts who actively contribute to research and studies related to international waters. Article 38 of the Statute of the International Court of Justice recognized the importance of jurisprudence in developing international law rules (Arif, 2021).

### ***d. Judicial Decisions***

Although international judicial decisions are considered one of the important sources of law on river system history, international jurisprudence sees them as auxiliary, not primary. There are many examples in judicial applications, such as the Swiss Federal Court's decision in the 1878 dispute over the Yonbach Dam. Another example is the 1920 decision of the Permanent Court of International Justice regarding the Oder River. Decision of the Permanent Court of International Justice on the dispute between the Netherlands and Belgium over the waters of the Meisine River in 1937. Decision of the International Court of Justice on the dispute between Hungary and Czechoslovakia over the Danube River in 1997 (Kreedi, 2013, p. 10).

### ***e. International Organisations' Decisions***

International organisations' decisions are an important secondary source of international law. For example, United Nations decisions, are of particular importance because they are made by the highest international legislative body and are often accompanied by an element of coercion. For example, the United Nations resolution number 35/163 on non-maritime exploitation of international water resources, the United Nations Conference Senegal River Basin Countries in 1981, and the 1993 report of the United Nations International Law Commission on the use of the term trans boundary waters. (Arif, 2021). International conferences such as the Vienna Conference of 1815, the Elbe River's Dresden Pact of 1824, the Madrid Conference of 1911, Barcelona System of 1921 are considered secondary sources of international law (Al-Sarraj, 2020, p. 6).

## **2.2. Concepts and Principles**

Generally, international law divides rivers into two types, national rivers and international rivers. The national river does not pose any problem in terms of international law. The focus of international law is on international rivers because disputes emerge over international rivers.

### ***a. International Waterway Concept***

The first reference to the term international rivers was in the Paris Peace Treaty of 3

May 1814, which referred to the use of navigable rivers for international shipping. The International Court of Justice defined an international river as “a navigable waterway connecting several countries by sea” during an international dispute over the Oder River. Thus, the International Court of Justice stipulated three characteristics of a river for it to be international:

- Being available for navigation.
- Connection with the sea.
- Passing more than one country (this is what distinguishes an international river from others) (Tassadit, 2014, p. 11, 12)

### **2.3. Important Components of International Law on Waterways. 1966 a.** ***a. Helsinki Rules***

The International Law Society published a set of important rules known as the “Helsinki” rules at a conference held in Helsinki in 1966. The most important of these rules are:

- These rules generally apply to all countries participating in international basins, unless there are agreements between countries involving the violation of these rules (The Helsinki Rules on the Uses of the Waters of International Rivers, 1966).
- Each basin country has the right to receive, within its borders, a fair and equitable share of the beneficial uses of the waters of its international basin<sup>2</sup> (The Helsinki Rules on the Uses of the Waters of International Rivers, 1966).

### ***b. 1997 Convention on the Law of Non-Navigational Uses of International Watercourses***

It resulted from great efforts by international law committees over 27 years (1970 – 1997). On 21 May 1997, the United Nations General Assembly adopted a new international agreement on using international waterways for purposes other than river navigation. The document had to be ratified by 35 countries to enter into force, and on 19 May 2014, Vietnam became the 35th country to join the International Watercourses Agreement, thus it completed the number of ratifications required for the Convention to enter into force. The most important provisions of the agreement include the concept of an international watercourse, fair and equitable use of water resources, international responsibility for harm to others, and cooperation and negotiation in good faith (Keskin, 2019, p. 1011)<sup>\*\*\*</sup>. The fact that Burundi was one of the countries

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2. The fair and equitable share agreed upon in this article may be determined in the light of a number of objective considerations, for example: the number of population, the availability of other water resources and the rational use of river water (The Helsinki Rules on the Uses of the Waters of International Rivers, 1966).

3. The states that voted against the convention are: Burundi, the People’s Republic of China and Turkey. Turkey

that voted against the decision and Egypt and Ethiopia abstained from voting is an expression of the problem of sharing the Nile waters (Çamyamaç, 2014, p. 5).

## II. HISTORICAL BACKGROUND OF THE PROBLEM OF NILE WATER SHARING

The long detailed look at the International Order of Waterways above aims to understand the legal basis every country relies on in the Nile River Water dispute. Hereby, the most important agreements signed regarding navigation and sharing Nile River water.

### 1. Most Important Agreements on Nile River

#### *Protocol of Rome*

This protocol was signed between England and Italy (on behalf of Egypt and Ethiopia) on April 15, 1891, defining the influence of each in the Nile Basin. The most important provisions of the protocol are the third paragraph, which stipulates that Italy should not establish any structure on the Atbara River that would disrupt the flow of Nile waters. This principle has long-regulated relations between the Nile Basin countries. In this context, Egypt argues that this principle should be adhered to, based on the principle of inheritance of agreements (Aljazeera, 2020).

#### *Addis Ababa Agreement*

It was signed between Britain and the Ethiopian Empire in Addis Ababa on 15 May 1902 to draw the borders between Ethiopia and Sudan. In the third article, Emperor Menelik II promised not to undertake work on the Blue Nile or Lake Tana that could affect the Nile waters without the approval of the British government. This legal article was the beginning of the prior notification rule in relations between Nile Basin countries (Moqatel, n.d.).

#### *Britain – Congo Treaty of 1906*

Signed between England and Congo in London on 9 May 1906. The third article provides for the Congolese government's commitment not to carry out any work on the Semliki River that would reduce the flow into Lake Albert, which feeds the Nile, except through an agreement with the British government of Sudan (Moqatel, n.d.).

#### *Agreement between France, Britain and Italy of 1906*

Signed between France, England and Italy on 13 December 1906. The fourth article stipulated the consultation of the three countries in case of any dispute that might affect British interests (Moqatel, n.d.).

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stated that the phrase "framework agreement" in the introduction of the contract conflicts with the content (Çamyamaç, 2014, p. 16).

### ***Agreement between Italy and England in 1925***

It is a collection of letters between the Italian and British governments. The most important point in these letters was Italy's recognition of the priority rights of Egypt and Sudan over the waters of the Blue and White Nile and its commitment not to build any structures that would significantly affect the waters reaching the main river (Aljazeera, 2020).

### ***1929 Agreement***

It is the most important agreement regarding the Nile Basin, an agreement signed by the British government - in its colonial capacity - on behalf of several Nile Basin countries, Uganda, Kenya and Tanzania. It includes basin countries' recognition of Egypt's share of the Nile water. In addition, this agreement gives Egypt the right to object to any creation of projects on the tributaries of the Nile that Egypt may see as a threat to its water security. It also ensures that all facilities are provided to the Egyptian government to conduct water surveys and research for the flow of the Nile River in Sudan. In addition, it allows Egypt, in agreement with local authorities, to establish works here to increase the Nile water flow for the benefit of Egypt. Egypt often evokes this agreement to defend its right to water (Al Jazeera, 2020).

### ***1934 Agreement***

This agreement was signed in London on 23 November 1934 between England on behalf of Tanzania and Belgium on behalf of Rwanda and Burundi. Its most important article obliges a country that wishes to use the waters of the Kagera River for irrigation to provide a six-month advance notification to other countries (Moqatel, n.d.).

### ***1959 Agreement***

It is the first agreement after independence since the Nile basin countries stated that they objected to the 1929 Agreement. For this reason, they called for starting negotiations to make a new agreement. Because of the strong relations between the Nile Basin countries at that time of decolonization and the extensive influence of Egyptian President Gamal Abdul Nasser, Egypt managed to get 55.5 billion cubic meters from the Nile. Sudan received a share of 18.5 billion cubic meters (Aljazeera, 2020).

### ***1991 Agreement between Egypt and Uganda***

This agreement between Egypt and Uganda is a series of letters confirming that Uganda respects agreements made before independence, such as the 1929 Treaty and the 1953 Treaty. Uganda also confirmed its commitment to consult with Egypt on water issues and to make joint decisions after consultation (Moqatel, n.d.).



### ***1999 Nile Basin Initiative***

It is an agreement covering Egypt, Sudan, Uganda, Ethiopia, the Democratic Republic of Congo, Burundi, Tanzania, Rwanda, Kenya and Eritrea. In February 1999, the Nile Basin Initiative was signed in Tanzania to strengthen regional cooperation among the ten Nile Basin countries\*\*\*\*. The agreement is a framework agreement for the establishment of an institution as a cooperation mechanism among Nile Basin countries (Nile Basin Initiative, 2017). One of the most important provisions of the agreement is the management, development and protection of the Nile River and its resources and ensuring dialogue between basin countries. The agreement also included some important definitions such as the Nile Basin, Nile River Initiative countries and water security. The most important general principles included in the agreement:

- Collaboration.
- Sustainable development.
- Reasonable usage of water resources.
- Reduction the damage to countries.
- Exchange of information and data.
- Peaceful solutions to disputes.
- Environmental Protection. (Nile Basin Initiative, 2017).

### ***2010 Entebbe Framework Agreement***

A controversial agreement that led to a major dispute among basin countries. Five Nile Basin countries: Ethiopia, Uganda, Rwanda, Tanzania and Kenya signed the framework agreement in Entebbe, Uganda, in May 2010. Egypt and Sudan rejected this agreement because it ended Egypt and Sudan's historic water shares. Egypt and Sudan stated that they rejected three articles of the agreement: water security, advance notification and historical quotas for Egypt and Sudan. Since the signing of the Nile Basin Initiative in 1999, Nile Basin countries have tried to reach an agreement on the use of Nile water, as there is no binding agreement on the use of Nile water. However, all efforts were unsuccessful because disagreements continued between the Nile basin countries, especially the upstream countries of the Nile River and the countries into which the Nile River flows (Moqatel, no date). After 10 years of negotiations (1999 – 2009), the Nile Basin countries managed to reach a set of general principles, but several unresolved disputes remained. In July 2009, the 17th Ministerial Council of the Nile Basin countries met in Alexandria, where the upstream countries sought to impose the establishment of a “commission” for the Nile Basin in place of previous agreements on the distribution of water. May 2010 was the starting point for the exacerbation

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4. At that time Sudan and South Sudan were united, so the Nile basin countries were 10 countries

of the crisis in the Nile Basin countries, as six upriver countries, Ethiopia, Uganda, Kenya, Tanzania, Rwanda and Burundi, decided to sign an agreement in Entebbe, Uganda. According to the signing of the agreement, the historical shares of Egypt and Sudan in the 1929 and 1959 agreements will end. Cairo and Khartoum were given one year to join the agreement. Reportedly, Cairo and Khartoum rejected the agreement and considered it a “violation of all international agreements” (Aljazeera, 2020).

## **2. Inter-Disputes between the Nile Basin Countries**

There are many disputes between the Nile Basin countries, most of which are political and border disputes and not about the Nile Basin, which hinders cooperation between the Nile Basin countries. For example, the Ethiopian-Somali border dispute over the Ogaden region, which led to wars in the years 1964, 1977, and 1982 between the two countries, the conflict between Somalia and Kenya over the “Enfidi” region, the dispute between Sudan and Kenya over the “Alemi” triangle. Additionally, the dispute between Tanzania and Kenya, the border dispute between Sudan and both Ethiopia and Eritrea and the border dispute between Kenya and Uganda. Furthermore, the border dispute between Sudan and Uganda, the dispute between the Democratic Republic of Congo and both Uganda and Rwanda, and the conflict between Rwanda and Burundi. Finally the long dispute between Egypt and Sudan over Halayeb and Shalatin (Amara, 2009). Based on the historical experience of Nile Basin Countries’ disputes, hereby the most important reasons for the Nile Basin Countries’ conflicts related to water-sharing problems:

- One of the most important reasons for water-sharing conflicts in the Nile Basin region is applying water issues to political relations, which in many cases can cause foreign intervention. These conflicts have become common, especially after the term “water war” was developed (Tassadit, 2014, p. 42). For example, in the speech of former Egyptian President “Anwar Sadat” days after the signing of the Camp David Accords in 1977, he said, “The only issue Egypt can go to war for is water”. Sadat’s statement at that time came in response to Ethiopia’s announcement of its intention to build a dam on the Blue Nile. Following peace talks with Israel, Sadat also proposed extending water from the Nile to Israel via the Ismailia Canal, which raised Arab and Ethiopian public opinion against Sadat (Al Watan Voice, 2010).

- Another important dimension of the Nile River water-sharing problem is that all agreements regarding the Nile were signed during the colonial period. This point caused objections from several countries, especially Ethiopia.

- The traditional conflict between upstream countries and estuary countries. For example, the aforementioned Entebbe Framework Agreement in Uganda in 2010 was signed in the absence of the estuary countries (Egypt and Sudan). That is why Egypt and Sudan objected. Also, the continuous increase in population in the Nile Basin countries and the desire of countries to use Nile water to generate hydroelectric energy lead to water-sharing problems such as in the Ethiopian-Egyptian dispute explained below.

- As noted from the brief about the International Order of Waterways above, the Insufficiency of the International Order of Waterways is an important factor in the conflict. Especially, when most agreements gave more weight to navigation. Also, the lack of a permanent organization for the Nile Basin, such as the Rhine and Danube Organizing Committee is one of the reasons for the problem.

### **III. CASE STUDY: GRAND RENAISSANCE DAM CRISIS**

In order to understand the Nile River water-sharing problem, the most current dispute between Egypt, Sudan and Ethiopia was chosen as a case study because the crisis already seems to be a serious threat to the region's security as it was expected to turn into a military conflict in some stages.

#### **1. Background of the Crisis**

Establishing the Ethiopian Renaissance Dam is an old idea. Studies on the Renaissance Dam, formerly known as the "Millennium Dam", were initiated by the "American Bureau of Land Reclamation" in 1964. However, the project was shelved due to the coup against Emperor Haile Selassie. Nevertheless, the new regime reopened the matter (Gumuz, 2020). In 1980, Ethiopia submitted an official complaint against Egypt to the Organization of African Unity accusing Egypt of interfering in the internal issues of Ethiopia by making troubles in the site of the dam construction. Thereupon, Sadat delivered a stern warning to Ethiopia if Ethiopia tried to violate Egypt's Nile water rights. The language of hostility and escalation between Egypt and Ethiopia continued throughout the 1980s and early 1990s. Egypt saw that the High Dam was not enough to protect itself from the dangers of famine, thus constantly pressured to increase its water share. On the other hand, Ethiopia believes it has the right to construct projects on the Nile for its prosperity. Therefore, Ethiopia has decided to take action to use these waters for the benefit and survival of its people. Ethiopia participated in negotiations in the 1990s and the Nile Basin Initiative in 1999, but always adopted a perspective opposite to Egypt and Sudan. Especially since Meles Zenawi came to power in Ethiopia in 1995, it was clear that he was determined to move forward with projects on the Nile River to protect his people from the threat of starvation. After Eritrea declared independence from Ethiopia in 1993, Zenawi repeatedly said that Egypt tried to use Eritrea as a proxy for its conflict with Ethiopia, he believed that Ethiopia's stability was an inconvenience for Egypt. Especially after the assassination attempt on President Hosni Mubarak in Addis Ababa in 1995, Egypt financed and supported anti-Ethiopia movements.

The conflict between the two countries has increased since Ethiopia managed to form an anti-Egypt alliance in 2010, known as the Entebbe Agreement. This agreement rejected the 1959 Agreement. Accordingly, from October 2009 to August 2010, the Ethiopian government conducted a field survey at the location where the dam would be built, and the dam design was completed in November 2010. After the January

2011 revolution, particularly in February 2011, Ethiopia announced its intention to build a dam on the Blue Nile taking advantage of the turmoil and power vacuum in Egypt. Following the announcement of the Project, on 31 March 2011, a contract worth \$4.8 billion was given to the Italian company Salini, and on 2 April 2011, former Ethiopian Prime Minister Meles Zenawi laid the dam foundation ceremony. Thus, on April 30, Egypt's new regime tried to solve the problem by sending a large diplomatic delegation. However, due to Egypt's internal turmoil, it was preoccupied with Egyptian internal events (Şarakki, 2018). Construction of the dam has already started in 2011 in the Binishangol region, approximately 40 km from the Sudanese border. The Ethiopian government has allocated an area of 1800 kilometres to build the dam. The Grand Ethiopian Renaissance Dam is the largest hydroelectric dam in Africa with a height of 170 meters and an estimated storage capacity of 74 billion cubic meters approximately equal to the shares of Egypt and Sudan. As for the costs of the project, the project cost approximately 4.7 billion dollars. The electrical energy expected to be produced is 6000 megawatts (Areq.net, no date).

## **2. 2015 “Declaration of Principles” on the Renaissance Dam**

After a tense period and relations between the two sides reached the point of threat of war, negotiations started and the “Declaration of Common Principles” was signed in Khartoum, Sudan, on March 23, 2015. It is an agreement on a declaration of principles regarding the Renaissance Dam project between Egypt, Ethiopia and Sudan at a tripartite summit attended by the heads of the three countries, Abdel Fattah El-Sisi, President of the Arab Republic of Egypt, Ethiopian Prime Minister Hailemariam Desalegn, and Omar Hassan Al-Bashir, President of the Republic of Sudan with the participation of a representative from the World Bank. The agreement consists of a document signed by three countries, containing 10 principles regarding the Renaissance Dam to which the three countries adhere. The most important principles included in the document are:

- The principle of cooperation for sustainable development and regional integration.
- The principle of non-maleficence, the principle of fair and appropriate use.
- The principle of cooperation in the filling and management of the dam.
- The principle of trust building of the dam, the principle of peaceful resolution of disputes (Alahram, 2015).
- The principles are already a repetition of the principles of international law in rivers. The Egyptian opposition accused President Abdel Fattah El-Sisi of signing an agreement that squandered Egypt's historical rights over the Nile River (Abdullatif, 2021).

### 3. Continuation of the Crisis

The 2011-2015 period showed Ethiopia's determination to continue completing its major project. On the opposite, Egypt changed the tone of the discourse completely because from 2010 to 2015, Egypt did not recognize Ethiopia's right to build dams and continued to adhere to old agreements. However, due to the internal troubles, Egypt accepted the fait accompli. Therefore, the 2015 "Declaration of Principles" led Egypt to recognize Ethiopia's right to build the dam for the first time. Since 2015, disputes between Egypt, Sudan and Ethiopia have focused on technical issues such as the dam's filling dates and the length of the filling period. In 2020, Ethiopia announced the end of the first filling of the Renaissance Dam reservoir, which faced major objections from the Egyptian government. According to the spokesperson of the Egyptian Ministry of Irrigation, the initial filling affected the flow of Blue Nile water to Egypt and Sudan, thus Egypt was forced to fill the gap of water from the reservoirs of the Aswan High Dam Lake (Al-Ashaal, 2020). In July 2021, Ethiopia announced the end of the second filling, prompting Egypt to take the case to the Security Council. After the third filling ended in July 2022, Egypt protested at the UN Security Council against Ethiopia's plans to fill the Renaissance Dam, which it saw as a unilateral decision contrary to "the obligations imposed on Ethiopia by international law" (France24, 2022). However, there was no serious reaction or effective solution from the Security Council.

### 4. Claims and Legal Justifications of Both Parties

#### *a. Ethiopia Claims and Justifications*

With a population of approximately 120 million, Ethiopia has to meet increasing electricity and food demands every year. Hydraulic energy is the ideal solution because it is clean, cheap, continuous energy, and with great contributions to agriculture. The Renaissance Dam is not the first dam built by Ethiopia, there are many dams built by Ethiopia for the same reasons, especially on the Blue Nile. From another perspective, the dam will make a great contribution to the industrial development in Ethiopia. Ethiopia's former Minister of Water, Irrigation and Energy, Salagi Baklı, emphasized the importance of the Renaissance Dam as a development project that will help Ethiopia transition from agriculture to industrial production (Lossow, Mihi, & Roll, 2020). Ethiopia, also believes that, given its high population density, the principle of fair and reasonable water use guarantees it the right to build a dam to benefit from the waters of the Nile River. In addition, Ethiopia sees the Nile River agreements of 1902, 1929 and 1959 as old agreements made in the absence of the Ethiopian side during the colonial period and against the rights of the Ethiopian people.

### ***b. Egyptian Claims and Justifications***

Previously, Egypt had claimed historical or acquired rights regarding the principle of international law, namely the water rights granted to it by the agreements of 1902, 1929 and 1959. In this context, Egypt demands adherence to the principle of international law specifying the legacy of the agreements, which aims to ensure the stability of international law. However, after Ethiopia's continuation of building the dam, it exposed Egypt to a *fait accompli*, thus Egypt abandoned its commitment to the old agreements. Egypt believes the international law principle of fair and equitable usage strengthens its perspective. Because Egypt is a desert country with no water source other than the Nile River, unlike Ethiopia, which has 70% of its water resources from rains. Indeed, Egypt is the most harmed party in the crisis as Egypt's water share started to decrease in July 2017. As a result, approximately 5 million decares of agricultural land will be in danger of desertification. On the other hand, there will be a decrease of 4,500 giga-watts in electricity and electricity generation from the Aswan High Dam (Sharakki, 2018).

### **CONCLUSION**

As seen above, the Nile water-sharing dispute between Egypt, Sudan and Ethiopia has continued in the form of unproductive negotiations for 10 years. Since the matter is of great importance for all sides, it seems that the parties will not give up easily on their views during the process of negotiations. Although the talks took place several times in Washington with the mediation of the USA, they did not yield any significant results. Additionally, the talks were terminated when Ethiopia announced its withdrawal from the negotiation. In the end, after taking a detailed look at the relations between the Nile Basin countries, the problem can be summarized in several points:

-Ethiopians believe that Egypt has long built its foreign policy towards the Nile Basin countries and Africa by imposing its hegemony over the Nile. Ethiopians and Africans think that Egypt deals with its African neighbours with arrogance (Abu Zeyd, 2014, p. 21).

Egypt should consider the sensitivities of its African neighbours towards Egypt and try to rebuild trust with Ethiopia. It will only be possible by completely reconsidering Egypt's relationship with its African brothers. This requires Egypt to adhere to the principle of good neighbourliness and respect Ethiopia's internal affairs. Additionally, Egypt should stop viewing Ethiopia's efforts to build the Grand Ethiopian Renaissance Dam as a declaration of war. Indeed, Egypt should assume in good faith that Ethiopia, like all other countries, is a country that aims for sustainable development. Egypt must also stop clinging to old treaties of the colonial era that all African countries have completely rejected.

-On the other hand, Ethiopia must understand the importance of the Nile River for

Egypt. The Nile River is the lifeblood of Egypt. For this reason, Ethiopia should show more flexibility and readiness to consult Egypt on development projects to be established on the Nile River, because these projects concern the lives of 115 million Egyptian.

The problem of the insufficiency of the International Legal Order of Waterways is striking. The absence of a binding framework between the states causes international conflicts. In the same perspective, the International Order of Waterways focused more on navigation subjects influenced by the European rivers' status. But the case in the Nile is different since the Nile in most of its parts isn't available for navigation and it has more usage for irrigation..etc. Therefore, an agreement by the Nile Basin countries to establish an organization to manage the affairs of the Nile River, as European countries have done in the case of the Rhine and Danube, will help these countries to solve their problems effectively. In this context, to manage the Nile River affairs, a constitution suitable for the conditions of the Nile basin should be created, quoting the Helsinki Rules and the United Nations Convention on the Law of Non-Navigational Uses of International Watercourses.

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