



7TH NILE BASIN DEVELOPMENT FORUM

Theme: Deepening Nile Cooperation: Accelerating the Achievement of SDGs in a Changing Climate
Host Country: Uganda
When: October 2023



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**International Law and Transboundary
Watercourse Management:
A Comparative Study of Tigris-
Euphrates and Nile River Basins**

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Introduction

- Transboundary watercourse: aquifer, lake & **river** basin shared by two or more states
 - cover 45.3 % of the earth's land surface
 - affect about 40% of the world's population
 - account for approximately 80% of global river flows
- Several studies show
 - there are no smooth practices
 - its management differs from basin to basin (time to time)
- Thus, comparative study of different river basins:
 - have **academic + practical** significance
 - to explore/learn/adopt better experiences
- Accordingly, the study consider the two most disputed River Basins (from the EA-ME)
 - Tigris-Euphrates** and **Nile** River Basins.
 - From international law perspective
 - within the scope of:
 - Normative +
 - institutional aspect
 - based on - qualitative research method



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Similar Features

General Perspective	Normative Perspective	Institutional Perspective
<p>Both basins have rich history</p>	<p>Single vs. divided river system</p> <ul style="list-style-type: none"> - In ET Basin - downstream follow divided [E & T], while upstream follow single [ET] - In Nile Basin, for budgeting/management, follow divided system [EN-SAP & NEL-SAP] - N.B: Divided approached are against <i>Integrated Water Resource Management (IWRM)</i> 	<p>Ad-hoc nature:</p> <ul style="list-style-type: none"> - 1st JTC of ET - all Nile initiatives
<p>Both rivers flow toward the Middle East</p>	<p>Non application of</p> <ul style="list-style-type: none"> - the 1997 UN Watercourse Contention - the customary international watercourse laws 	<p>Technical/responsibilities assigned</p>
<p>Both featured with three key riparian players:</p> <ul style="list-style-type: none"> - Turkey, Syria, and Iraq, (in ET River basin) - Ethiopia, Egypt, & Sudan (in Nile River basin) 	<p>Disagreement over Historical/ Natural right, as</p> <ul style="list-style-type: none"> - down riparians - claim for - upper riparians – stand against <p>Foreign elements/intervention</p> <ul style="list-style-type: none"> - France - in ET - British - in Nile 	<p>Lack of bearing results</p>

Dissimilar Features

Parameter	ET River Basin	Nile River Basin
General Perspective		
Length	4,700 km long	6,825 km long
Administration System	was under a single unified Ottoman Empire administration	No record as such (Ethiopia uncolonized)
Riparian Compositions	4 riparians (Turkey, Syria, Iraq & Iran)	11 riparians
Normative Perspective		
Legal doctrinal theory	Follow tolerable approach - all riparian states - Adhere to limited territorial sovereignty	Follow conflicting approach - Upstream - limited territorial sovereignty - Downstream - absolute territorial integrity & prior appropriation
Level water quantification	Comparatively mature	Immature (off the table)
Institutional Perspective		
Institutional Model	JTC resembles - River Basin Coordinating Committee or Council	NBI resembles - River Basin Authority
Duration	- 1 st JTC – <i>ad-hoc</i> - 2 nd JTC – permanent	- HydroMet, Undugu, TECCONILE & NBI are all <i>ad-hoc</i> - NBC (permanent) – intended yet not established
Structural set up	JTC - Simple structure	NBI - Well structured (Nile-COM, Nile-TAC and Nile-SEC)
Operational Status	JTC - not active	NBI - active

Lesson To Be Drawn

No	ET River Basin	Nile River Basin
1.	<p>Friendship dam</p> <ul style="list-style-type: none"> - planned to be build along Turkey and Syria border - intended to build trust 	<p>CFA</p> <ul style="list-style-type: none"> - all-inclusive nature - intended for a basin-wide legal regime (replacing colonial ones) - prioritizes equitable/fair share for all - intended to establish NBC
2.	<p>Lausanne Peace Treaty (Turkey vs. Victorious, 1923)</p> <ul style="list-style-type: none"> - dissociates border issues with transboundary - help not to exacerbate a basin-wide cooperation 	<p>NBI</p> <ul style="list-style-type: none"> - active/operational (not halted) - keeps basin-wide cooperation
3.	<p>Atatürk dam</p> <ul style="list-style-type: none"> - its experience on first filling & operation - might help to settle the current dispute on GERD 	

Equitable & Reasonable Application

Parameter	ET River Basin	Nile River Basin
Generally	Existence of understanding - to use the river by all	'All water is mine' mentality - by downstream
Normatively	<ul style="list-style-type: none"> - 1987 Turkey-Syrian treaty: Turkey commit to release 500 m³/sec water flow toward Syria - 1990 Syria-Iraq treaty: from the 500 m³/sec flow, the two agreed to share 42% & 58% respectively 	Colonial legal regimes, mainly 1902, 1929, 1959 <i>et al</i> , are narrated & designed <ul style="list-style-type: none"> - to guarantee: <ul style="list-style-type: none"> - whole bulk of Nile water - to down riparians (Egypt & Sudan) - not to be used by: <ul style="list-style-type: none"> - upper riparians - without downstream express consent
Institutionally	Efforts of: <ul style="list-style-type: none"> - 1st JTC – to determine & regulate yearly ET discharge - 2nd JTC – to come up with detailed master plan for 'equitable and reasonable' share 	All institutional initiatives: <ul style="list-style-type: none"> - designed not to entertain cases relating to Nile water re/quantification - water share requests are considered a 'red line' by downstream riparians, mainly Egypt
Conclusion	Thus, ET River basin – adhere to 'equitable and reasonable' principle	Thus, Nile River basin – do not adhere to 'equitable and reasonable' principle

Therefore, ET River basin management are in a better position of adhering to 'equitable & reasonable' use principle

Conclusion

- ET River basin management has better experience in:
 - trying to building trust among riparian states
 - dissociating border & river issues
 - first filling & operation of dam, like Atatürk Dam
 - adhering/applying 'equitable & reasonable' use principle
- Nile River basin management has better experience in:
 - crafting inclusive basin-wide legal regime – CFA
 - organized institutional & structural arrangement – NBI/NBC
- Therefore, both basin can/shall:
 - learn from their respective better experiences
 - adopt/interpret it in accordance with its respective basin scenarios



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THANK YOU!

