

Legal Regulation of the Process of Demarcation of River Borders

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Abstract

Water Boundary constitutes an exception to the principle of full autonomy of the state over its resources, as this principle does not apply to water resources whose area extends to more than one country. It is then possible to give legitimacy to one of these countries by controlling it completely, in order to avoid the damage that may result, represented by monopolizing the benefit generated by it by diverting its waters or building dams on it in an unregulated manner, which Results in harm to the rest of the countries that share these water resources with it, and for this matter International law has reached some legal rules regulating the Boundary of international rivers, which arose through custom and confirmed in international agreements, as well as through judicial rulings in international disputes related to this matter, and thus the river Boundary between the state became exclusive and fixed, unlike what was prevalent in the past century. Based on the findings of international law to solve the problems of rivers shared between countries, this resulted in what is called Boundary demarcation, which represents the practical and technical application of the texts of treaties and agreements that define river Boundary.

Keywords: legal regulation, river Boundary, Boundary demarcation, international rivers.

Introduction

The concept of demarcating river borders emerges from the process of defining geographical boundaries between two countries or regions through the use of a river. The process of demarcating river borders is considered one of the important matters for countries that share rivers with other countries. Demarcating borders contributes to the security and stability of these countries and avoids disputes and border disputes. .

Demarcating the river borders requires working in a spirit of dialogue and understanding between the countries concerned. It requires the conclusion of negotiations and agreements between the parties concerned, which stipulate the standards and procedures related to determining the river borders. This includes determining the course of the river and the areas located on its banks, in addition to defining the lands subject to the sovereignty of each country. This matter may represent a major challenge for countries, as rivers may pass through different regions characterized by environmental, cultural, and economic diversity. Therefore, this process requires fixed foundations and approved standards in addition to extensive studies and analyzes of the region in question, when resorting to it. Demarcating river borders can lead to It has many benefits, including achieving security and stability, achieving justice in the distribution of natural resources and wealth in the region, and stimulating cooperation and economic development between neighboring countries. It can also lead to international disputes and political

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tensions, especially if the countries concerned do not reach a clear agreement on The course of the river and the borders of each country.

Research problem

There are several models for the river border demarcation process approved in international law that regulate this process, but what affects these models and the subsequent stability of borders between countries are the variables that occur on the river. Likewise, the authority responsible for the border demarcation process affects the border demarcation process through The scope of the authority granted to it to do so.

Research importance

The importance of this research lies in demonstrating the great importance of river borders, and the extent of interest of the countries that border the rivers in them. The river borders do not only represent a dividing line between two countries, but rather the river represents an important source of economic resources for the country, and therefore the neighboring countries that are interspersed with rivers are very interested in their share. of the river and is keen to benefit as much as possible from the river when demarcating the borders on it.

Research aims

This research aims to:

- 1- Determine the international standards adopted when demarcating river borders and distinguish between each standard.
- 2- Determine the criterion for demarcation of borders that is appropriate to the nature of the rivers in terms of whether they are suitable for navigation or not.
- 3- Identify the authority responsible for river border demarcation work and determine its powers.

Research Methodology

This research is based on the analytical and descriptive approach, as some of the topics of this research focus on analyzing the texts of treaties and the concepts associated with them that were established by international courts. In addition, other topics of this research focus on describing some real-life cases and examples that contribute to bringing the content of the research closer to mind. .

Structuring the research

We decided to divide the research into two sections, as follows:

- The first section: models for demarcating river boundaries.
- The second section: The competent authority to carry out river border demarcation work.

The first topic

River demarcation models

Not only at the level of providing food sources and mineral resources, but it may represent an essential tool for transportation and connections between countries, in addition to the fact that it may represent dividing borders between these countries. Therefore, the international community has sought to regulate all international actions that fall on these water resources, including border demarcation mechanism)1).

The process of demarcating river borders has undergone great developments with the development of the international community, especially with the emergence of the importance of rivers in economic terms. In the past, the ancient reserves considered the

rivers that separated them from other lands a reason to obstruct aggression from some other reserves against them.²

International practices indicate that the process of delimiting borders between neighboring countries, including river borders, takes place through various means, including treaties, arbitral or judicial decisions issued by international courts, and other legal documents and instruments. However, merely delimiting international borders is not enough to define these borders. The nature of stability and continuity, unless this designation process is translated from a purely theoretical conception into a tangible physical reality on the ground, and this can only be through what international law jurists call the demarcation process, which is carried out by experts in this regard who are mostly included in joint demarcation committees between Concerned parties, or carried out by specialized international companies that use the latest technologies. The concerned parties are satisfied with supervising the work of these companies, and this occurs after the relevant parties agree on the scope of powers enjoyed by the entity entrusted to carry out the demarcation process, as the scope of this authority's authority is determined by the principles and standards. They are agreed upon between the countries concerned, and these foundations are represented by models of the forms of river borders that have been established in international law.³

International legal jurisprudence has settled on four models for demarcating river borders based on essentially two standards: the river navigation standard and the river banks standard (4) In light of these standards, we will divide this topic into two requirements. In the first requirement, we will address: the navigation standard for demarcating river borders, and in the second requirement, we will address: the river banks standard for demarcating river borders.

The first requirement: Navigation standard for demarcating river boundaries

The navigation standard when demarcating river borders is based on whether the international river is navigable or not. From this standard emerge two models for demarcating river borders: (5)The model of non-navigable rivers, in which borders are demarcated by defining them by the center line, and the model of navigable rivers, in which borders are demarcated by defining them by the navigation channel. Below we will learn about these models in detail as follows:

First: Model of non-navigable rivers

This model is based on considering the center line as a border separating two countries on non-navigable rivers. There have been many definitions given for the center line, including the definition set by Jones, who defined it as: "The line that must be designated as if a person were in a boat following a line." equal everywhere from the nearest points to the opposite sides."⁶ (Boggs) defined it as: "the line in which each point is at an equal distance from the nearest point or group of points on the two opposite shores of the lake or river and the strait" (7).

The truth is that the two definitions agree in defining the middle line, and they are characterized by accuracy in defining what is meant by this line. Jones believes that using the expression midline is better than using the expression middle line, since the latter may include a part with a large breadth and that the midline can replace a line. The middle line, as for the middle line, is acceptable in informal use, and is not an exact line unless it is completely defined (8).

The demarcation of borders in non-navigable international rivers on the basis of the median line is considered one of the main rules known in international work, and has many applications. We can find many examples of modern treaties that take the median line as a border between two or more countries, such as the Treaty of Versailles in 1919. It stipulates the following: "With regard to the boundaries known as the water course, the

terms stream and canal used in the texts of the aforementioned treaty mean, in relation to non-navigable rivers, the middle line of the water course or its main branch” (9).

According to the law passed by the US Congress including the recognition of Louisiana as a new state in 1812, the border on the Sabine River was defined as: “a line that can be drawn along the middle of the river.” (10).

Likewise, like the treaty concluded between Poland and the Soviet Union in July 1948, the second paragraph of Article 2 of it stipulated: “In navigable rivers, the borders follow the main course, and in the case of non-navigable water courses, the middle of the course or the middle of its main branch follows.” ". The Paris Treaties of 1919 also chose the middle lines as boundaries on non-navigable rivers (11).

International jurisprudence has differed regarding this rule (the middle line). The majority of international law jurists believe that it is a general and established rule of international law. In confirmation of this, they believe that in the event of the silence of a treaty or agreement specifying the borders in the case of non-navigable rivers, it is assumed that the parties concerned It has chosen the middle line, as they consider it the general rule, while other jurists believe that this rule does not exist in international law, and their argument in this matter is that there is no fixed rule in international law that is usually applied in the event that there is no text in a treaty or border agreement, but rather International work has been done to apply this rule in many treaties.12).

A river may have more than one branch and a boundary in some of its parts, especially at the source. In such a case, the boundaries are determined according to multiple methods used for this purpose. Among these methods is choosing the branch that contains the largest amount of water when planning the boundaries. If they are for large rivers There are many branches. The center line must be chosen for the branch that contains the largest amount of water at the time of planning the boundaries.

There is another method for demarcating river boundaries in branched rivers, which is to choose the deepest branch of the river, and choosing the deepest branch can be applied in navigable rivers, where ships can travel in a specific navigational line that allows them to continue their travel, but in the case of non-navigable water courses Trace the middle of the stream or the middle of its main branch)13.

This system was also adopted by the Treaty of Versailles in 1919 in Article (30), which stipulated: “With regard to non-navigable rivers, the border runs with the center line of the water course or its main branch.”

Choosing the main branch is considered an easy and clear method, and therefore, in our view, it is the best of the previous methods or systems that are not devoid of criticism. In any case, the matter requires studying each case individually and applying the system that is consistent with the interest of the two parties or parties concerned. Likewise, the border treaties must stipulate Clearly determines the choice of the border system, and indicates whether the river is navigable or not, according to the disputes and problems that arise as a result of the lack of clarity, which calls for different interpretations.

Since the water level does not remain constant, but is subject to continuous change, any change that occurs after defining the borders, whether in treaties, arbitration decisions, or reports of the border determination committees, leads to a change in the location of the center line when the border planning committee sets the border line on the ground. Especially in the case where the slopes on the two banks of the river are unequal, with one of them being low and the other high and made up of solid land, and to avoid any problems resulting from changing the center line when setting borders on the ground, it is best to stipulate clear and explicit expressions in the treaties that define the borders. To define the middle line that facilitates the setting of boundaries on nature)14

The jurist (Bushi) believes that it is advisable to determine the middle line on the basis of the average level, unless it is explicitly stated that another criterion must be taken (15).

Second: The model of navigable rivers

It became clear as a result of international dealings that the rule (the middle line) is not compatible with the condition of navigable rivers, because not taking into consideration the course of the river affects the rights of the state farther from the course and thus disrupts its river navigation. As a result, the rule that stipulates the division of the river was adopted for these rivers. According to the center line of the water course, not the river itself, that is, this model is based on the rule of the navigation channel line (taluk-Thalweg)(16).

It is worth noting that there is no agreement in jurisprudence on its definition of the navigation channel line (taluk), and therefore international law jurists have defined it with different definitions, as have been defined by some judicial decisions and some treaties related to borders, as borders separating two countries on navigable rivers, as they defined it (Oppenheim said it was midstream.¹⁷ Labradelle believes that there are three definitions that appeared successively for the taluk line, which are:¹⁸):

- Customary definition: It states that it is the variable route taken by ships descending the riverbed taken as a border.
- Scientific definition: It is the line that passes through the maximum depth of the river during the low water period.
- Technical definition: It is the safest and most suitable conduit axis for large-sized ships.

The jurist (Bushi) explains that the origin of the word (taluk)Thalweg(The language is derived from German and means the channel used for continuous navigation)¹⁹). As for the Arab jurists, Dr. Hamid Sultan defined it as: “The term navigation channel means that path that the largest ships take in their journey towards the mouth of the river, as it is that path that is controlled by the strongest currents in the river’s waters.”²⁰

In addition to the definitions of international law jurists, we find some judicial decisions that have clarified the meaning of the navigation channel (taluk), and these decisions were issued by the Supreme Court of the United States of America, which are considered important in international law. The Supreme Court recognized the rule of the navigation channel (taluk), and declared that in the event Navigable rivers, the boundary line follows the middle of the main channel of the stream (21).

The court also declared that, according to international law and the usage of European countries, the expressions (middle-stream and mid-channel), as used in navigable rivers, are synonymous, meaning one meaning and subject to change by usage.²²

The US Supreme Court also declared in the Louisiana and Mississippi case that the meaning of the navigable course (taluk) was generally used by writers of international law in defining water boundaries between countries in the sense of the middle or deepest course or the most navigable course.²³

Moreover, the (taluk) rule has been generally accepted among countries in determining river boundaries (in the case of navigational channels only) and has also become the principle that is applied to potential local disputes between the political divisions of a country, even though this rule has been used since the ninth century. Ten for the purpose of defining river boundaries, but disagreement still exists over knowing its precise meaning, but the prevailing meaning is the deep, navigable course, and to avoid disagreement, some treaties stipulated the concept of (taluk)²⁴Including the Treaty of Boundary Agreement between France and Baden in

1827, which defined it as: “the most suitable course for navigation at a time when the water is lower than the normal level and its course line is determined by the deepest course of navigation.”)²⁵

However, the rule of the navigation channel or the taluk line, like other demarcation rules before it, may be agreed upon otherwise, so that the two countries can agree that the entire river belongs to one of the two countries overlooking it, meaning that the borders of the other state begin from the shores of this river.²⁶

The second requirement: the river banks standard for demarcating river boundaries

There is no doubt that the idea of international borders, their definition and planning has gone through different stages and stages until it reached its current form.²⁷ The same applies to river borders, where the river navigation standard for demarcating borders was preceded by the river banks standard, which is based on considering the river banks the primary means by which borders are demarcated (28).

This standard basically states the idea that if the entire river is located in the territory of one state, then it is considered part of its territory, but if the river flows in the territory of one country and then in the territory of another country, then the part that falls in the territory of each country is its property.²⁹ Most jurists agree that this standard has little application in international dealings and reflects the extent of backwardness in which the international community was living.³⁰ As a result of its shortcomings, some jurists such as Grosius and Vattel called for the necessity of following another solution, which is that the areas between countries that are separated by a river must be determined according to the imaginary line that passes through the middle of the river’s course, and therefore all countries that are located on the shores of the river have The river has the right of sovereignty over that part of the river passing near it, which is determined by the imaginary line passing through the middle of the river.³¹

Two models of border demarcation have emerged through this standard, and we will discuss these two models as follows:

First: Considering the river bank as a border line

Given that there are no binding general rules in international law to demarcate the borders of rivers, what matters is what countries agree upon among themselves. They may agree to take the middle line or the navigation course, or to take one of the banks of the river as a border, leaving the entire river subject to the sovereignty of one of the two countries.³² In other words, one of the ways to demarcate river borders is to consider the line that runs along one of the banks of the river as an international border (33).

Applying the model of taking one bank of the river as a border is not a major matter and does not have important results because it is applied in small rivers. However, in navigable rivers, applying this principle leads to widespread problems (34).

The boundaries of some rivers have been determined on this basis in many international treaties, and its application does not contradict the rules of international law, as long as the countries concerned have agreed among themselves to choose it, or have exercised this through perpetual and undisputed possession, as many treaties stipulate that Considering the river bank as a border, and that ownership of the entire river is subject to the sovereignty of one of the two coastal states. An example of this is the treaty concluded between France and Switzerland to define the border between them on the Doubs River. According to this treaty, An entire part of this river is subject to Swiss sovereignty, while in its lower part it is considered the property of France, as the border first follows the left shore and then the right shore of the river³⁵.

Some believe that considering the river bank as a border in rivers is an undesirable system in international law, but it has been put into practice in many border treaties, contrary to what is imagined (36)It can be said that the river borders according to this model are completely clear, unlike other border demarcation models, and even if this system deprives the other coastal state from exploiting and using the river, however, as long as the borders are determined on this basis by agreement of the countries concerned, it is an indisputable right. Therefore, as long as it does not contradict the rules of international law, the aforementioned criticism of this model can be mitigated or avoided by allowing the other coastal state to use and exploit the river under an agreement concluded for this purpose, or under an agreement or treaty to define the borders. This idea was taken into account by the border treaties concluded between the states. The Ottoman Qajar state in Iran when determining the borders on the Shatt al-Arab River, as well as the border treaty concluded between Iraq and Iran in 1937)37.

As for the borders in the Shatt al-Arab, the river formed by the confluence of the Tigris and Euphrates rivers, Article Two of the Second (Erzurum) Treaty concluded in 1847 between the Ottoman Empire and the Qajar state in Iran, clarified that the border in the Shatt al-Arab River runs along the left bank, leaving the entire river. Under Ottoman sovereignty, this system was confirmed in the aforementioned river in the Astana Protocol concluded in 1913 between the two countries mentioned in Article One of the aforementioned Protocol. Paragraph (C) of Article One of it clarified what was meant by the bank, as it stated: "The word bank also includes the lands that It is connected to the coast at the time of falling water.38. This treaty is considered one of the few treaties that clarified what is meant by the river bank.39.

Since the water level does not remain constant, a special method must be chosen to determine the borders on the bank according to this model, as some believe that it is better for the border line to be determined at a time when the decline in river water reaches its maximum, except in extreme drought conditions, and their argument is In this regard, the dry land at this level is considered a natural and integral part of the river bank, and can be controlled from the same bank. Their argument is supported by a judicial decision issued by the US Supreme Court on May 19, 1933 in the case of the dispute that arose between the states of Vermont and (New Hampshire) The decision issued by the Supreme Court of the United States of America included that the bank at which the water level drops is considered a border line. In addition, the court defined the low water level at the point where the water level reaches the limit as the line drawn at the point where the water level reaches the border. Water to a minimum, with no indication of extreme drought)40.

Considering the bank of the river as a border of the state takes the river out of its sovereignty so that it enters the sovereignty of another state. That is, the river, for example, is entirely subject to the sovereignty of a particular state, up to its right bank or its bank, which is located to the left of the river. In any case, the sovereignty of states over the entire river Reaching the bank makes the state fully responsible for it if the river is international and commercial ships pass through it. Any attack by these ships is counted on the state, and it must then undertake to track down the perpetrators and hold them accountable. It also has the responsibility of rescuing the refugees who cross through the river and helping them. Migration takes many forms to seek refuge in other countries, including across the river or sea overlooked by the country to which you seek refuge.41). According to international custom, the state must protect refugees or immigrants until a decision is made regarding their reception or return. Otherwise, it bears international responsibility for the harm that befalls them, such as drowning in the event of migration by crossing the river. The state in this case is similar to the coastal state. Which overlooks the sea and must assist refugee boats and save them from potential dangers if they enter its maritime borders.42

Second: Considering the two banks of the river as borders for countries

In some cases of demarcating river borders, each bank of the river is considered a border for the state on which it is located, and the river is considered shared between the two states and subject to their joint sovereignty (43). This system was used in the Middle Ages, and the river was considered a neutral area, and this area had a sacred character in the eyes of the peoples neighboring the bank. This explains to us the meetings and meetings that took place between kings, and the negotiations that were held to conclude treaties on one of the islands of the river or in the middle of a bridge. Which was considered the greatest guarantee of freedom of discussions in those meetings.⁴⁴

Some believe that in the twelfth century the Rhine River was subject to this model regarding the borders between France and Germany, meaning that the river's waters were considered shared by the two aforementioned countries, whether in terms of use or exploitation.⁴⁵

We believe that considering the river's waters to be neutral was due to the lack of need to use and exploit the river as is happening at the present time, as well as to the difficulty of defining boundaries in the river, and when the need began to call for benefiting from the river, the idea of considering the river's waters as neutral ended, and the river's waters became shared. Between the two neighboring countries.

As for the jurisdiction of neighboring countries over the river, which is subject to joint sovereignty, some believe that when a river flows between two cities or two regions, it is assumed that the river is considered shared between them, and that jurisdiction over the river is considered the right of every city or region, even in the middle of its course.⁴⁶

It should be noted that this model is rarely applied in international work, because it raises many problems between countries whose shared sovereignty the river is subject to in terms of the use of the river, whether by individuals or bodies. Jurist Bushey mentions, as a recent example of the problems raised by this system, a German citizen in 1939 who requested the registration of his rights to the waters of one of the waterways located on the border between the Netherlands and Germany in application of the Watercourses Regulations. The district authority refused to respond to his request on the grounds that this The waterway falls under the joint sovereignty of the two countries, in accordance with the aforementioned treaty. Finally, the dispute was referred to the German Supreme Court, which ruled to reject the citizen's request on the same basis mentioned.⁴⁷

The second topic

The competent authority to carry out river border demarcation work

Previously, countries' interest in international rivers was focused on navigating them. However, recent scientific developments in utilizing the waters of international rivers and establishing various facilities and projects on them have created new forms of exploitation of river waters that are no less important than the issue of navigation. Countries in whose territory the international river flows often resort to To agree on how to benefit from its waters for agricultural and industrial purposes, and to clarify the rights and duties of each of them, and many agreements have been concluded in this regard.⁴⁸

The changes that occur in the rivers shared between neighboring countries may affect the river borders drawn between these countries, as the state does not have full sovereignty over the shared rivers. Rather, it can be said that its sovereignty is represented by its right to benefit from the part of the river that passes through its lands. In this regard, some jurists see International law requires the necessity of restricting the state's powers with regard to the exploitation of international rivers, while others believe that it can be said in general that the legal perception of the international river is the same as the legal awareness of the territory in general, and the state's rights over the international river do not differ in essence from its rights over the territory, and are In the state's jurisdiction

over the part of the river subject to its jurisdiction and a unilateral law that includes the right to exploit it and dispose of its waters and to resist any interference in this regard except in cases in which it is necessary to be guided by just and equitable solutions imposed by the rules of solidarity and interdependence according to the development and growth of international relations.⁴⁹

The essence of the statement is that the extent of the state's authority over shared rivers does not concern us in this section of the study. What concerns us are the results that this authority imposes on the party carrying out the demarcation work, the scope of its authority, and the legal value of its work. Through this study, we will address determining the authority responsible for the work of demarcating the river borders in the first requirement. In the second requirement, we address the scope of the powers of the authority responsible for river border demarcation.

The first requirement: Determine the authority responsible for the work of demarcating river borders

The process of demarcating borders is an artistic function, as some have expressed it as an art, not a science.⁵⁰ Therefore, it is implemented at the present time by specialized joint technical committees called demarcation committees, after they were mistakenly called demarcation committees due to confusion between the terms demarcation and demarcation.⁵¹

The Security Council confirmed the technical nature of the work of the demarcation committees on the occasion of its Resolution No. (773) regarding the work of the United Nations Committee for Border Planning between Iraq and Kuwait, where it stated: "The Committee, through the border planning process, is not currently redistributing lands to Iraq and Kuwait. Rather, merely completing the technical work necessary to carry out for the first time an accurate definition of the coordinates of the borders contained in the minutes agreed upon between the State of Kuwait and the Republic of Iraq regarding the restoration of relations of friendship and recognition and related matters, which was signed by both parties on October 4, 1963.⁵²) This was confirmed by the committee itself in its final report submitted to the Security Council on May 21, 1993, when it said: "Its work is technical, not political, and the nature of its mission is demarcation."⁵³

Joint demarcation committees are established in different ways. They may be established by stipulating them in treaties that define borders. These treaties often include provisions related to the formation of a committee entrusted with the demarcation process and the extent of the powers it enjoys. For example:

- Treaty of Erzurum concluded in 1847 between the Ottoman and Persian empires)⁵⁴
- The border treaty in 1902 between Ethiopia and Britain, which was the protecting state of Sudan (55).
- Boundary Treaty of 1904 between Siam (Thailand) and France as the protector of Cambodia)⁵⁶.

Demarcation committees may be established through an agreement concluded between the parties concerned in a period subsequent to the border demarcation agreement, for example:

- From the protocol attached to the border treaty concluded in 1937 between Iraq and Iran)⁵⁷.
- Border demarcation agreement concluded in 2005 between Jordan and Syria)⁵⁸

Demarcation committees may be established by decision of the international court charged with adjudicating the border demarcation dispute, based on the request of the two concerned parties confirmed in the agreement to refer the dispute to the court. For example:

- The Special Agreement signed between Colombia and Venezuela in 1916 regarding the referral of their border dispute to international arbitration⁵⁹).
- The Special Agreement signed between Mali and Burkina Faso in 1983 relating to the referral of their border dispute to the International Court of Justice (60).

These committees may be established by decision of the United Nations Security Council, for example:

- The United Nations Committee for the Demarcation of the Borders between Iraq and Kuwait, which pursuant to Resolution No. (687) issued in 1991 by the same Council (61).
- The United Nations committee formed by the Security Council following the Israeli withdrawal from southern Lebanon in 2000, which demarcated the international border line between Syria and Lebanon, called the Blue Line.⁶²).

In addition to the above, the entity carrying out the demarcation process may be one of the international companies specialized in this matter, as the two concerned parties entrust it with carrying out the process of demarcating the borders after determining them or appointing them by agreement or court, with the aim of benefiting from the modern technologies used by this authority, in addition to being an authority. It is neutral and its work is characterized by accuracy and clarity, which spares the concerned parties from border disputes in the future that may result from the demarcation process. An example of this is the border treaty concluded in Jeddah in 2000 between Saudi Arabia and Yemen (63).

It should be noted that the problems related to border demarcation are not mostly related to the authority specialized in the demarcation process, but rather to the lack of a final and clear agreement between the two countries that designated this authority to carry out the demarcation process. Therefore, demarcation processes may be exposed to many obstacles, requiring resort to negotiations. Between countries in order to avoid the failure of the border demarcation process or the emergence of international disputes. Negotiations are considered one of the effective means of resolving disputes through peaceful means that occur between conflicting countries or between countries due to border demarcation processes or as a result of any other dispute. They are among the effective mechanisms that maintain the stability of relations between

conflicting international parties, and prevent any friction that leads to ignition. fire of wars (64).

Demarcation committees consist of a number of members without specifying a specific number. This number may increase or decrease according to the agreement of the relevant parties, provided that the number of members is equal between the two parties. A number of technical employees (surveyors, experts in military and geographical affairs) may be added to the appointed members. (Health personnel, politicians, etc.)⁶⁵.

It is also useful and appropriate for the members of the demarcation committees to include members who are nationals of neutral countries whose powers are clearly defined. There are many examples of this, including the text of Article (5) of the Treaty of Lausanne concluded in 1923. The aforementioned article stipulated the formation of a demarcation committee of one delegate from (Turkey and another from Greece, and the two choose a third member, who must be a national of a third country, to be Chairman of the Committee)⁶⁶.

After completing the formation of the demarcation committees, they begin their tasks in demarcating the border line in accordance with what is specified in the document establishing it. These committees usually adhere to a set of principles when implementing this process, the most important of which are the following:⁶⁷:

- 1- Respect the unity of the text.
- 2- Respect the integrity of agricultural land and other local exploitation conditions.
- 3- Respecting the status of nomadic tribes. This principle is difficult to adhere to due to the constant movement of these tribes.

After the demarcation committees complete the implementation of the tasks assigned to them, they submit a report on their work to the concerned parties in the form of minutes or a protocol in a number of copies signed by all members of the committee after agreeing on the language in which these documents will be written. International work in this regard has settled on using The official language of the two countries concerned if it is common, and the use of the official language of a third country in addition to the official language of the two countries concerned if their languages are different, provided that the language of the third country has the final say in the event of a difference in interpretation. It is also useful to attach to the minutes or protocol a special topographical map. Its data shall be consistent and consistent with the data recorded in these minutes or the protocol, and all these documents shall be considered an integral part of the legal document establishing the border line.⁶⁸.

As for the total costs of the work of the demarcation committees, they shall be borne equally by the two parties concerned, while each party shall bear the special costs of the members and delegates appointed by it.⁶⁹.

Finally, in order for the demarcation process to bear full fruit, the concerned parties must undertake to respect, preserve and maintain the border marks in the event they are subjected to acts of damage or vandalism, whether by nature or man, and to prosecute the individuals responsible for that.⁷⁰). Therefore, the internal penal laws of countries often include provisions stipulating the punishment of anyone who destroys or vandalizes border signs or any other sign intended to cross the border, and an example of this is the text of Article (481) of the Iraqi Penal Code (⁷¹). In the event that one of the border marks disappears or is moved from its place, it should be returned to its previous position on the basis of the original documents according to which it was constructed by a joint committee between the two parties. An example of this is what is stipulated in Article (5) of the Land Border Re-mapping Protocol signed in 1975 between Iraq and Iran)⁷².

The second requirement: The scope of the powers of the authority responsible for river border demarcation

After the authority responsible for the demarcation process is established and is formed as we mentioned in the previous requirement, it begins its tasks assigned to it, which is demarcating the border line described in the document of its establishment, within the limits and scope of the powers and powers it enjoys and granted to it by the concerned parties under a document or instrument. Established, the actions of the authority responsible for demarcation have legal value vis-à-vis the parties concerned, and it may have the authority to issue final and binding decisions, and its actions may require approval and approval by both parties to the relationship.⁷³.

It has become known that the primary task of the demarcation body is to establish the border line specified in the legal document establishing it in the form of a physical, tangible border line on the ground. However, this body often encounters difficulties that prevent it from completing the demarcation process as described on paper. It was crossing the border line. The theoretical basis is private property, or leads to the fragmentation of agricultural lands or discrimination between the residents of one region, or that the

definitional foundations on which the border line was drawn do not exist or exist in a different place due to ignorance of geographical information among those in charge of the process of designating the areas in which the borders are required to be demarcated, Or the river on which the borders are to be demarcated may be at a higher level than expected or so low that the agreed-upon demarcation models cannot be applied. Because of these difficulties, the demarcation authority may not be able to perform its tasks as required, except after introducing the necessary amendments or deviations to it. The theoretical border line, commensurate with geographical, demographic and economic requirements.

Some jurists say that the demarcation process is in fact nothing more than a process through which the border line that has been designated is made consistent or compatible with the existing data on the ground. This process requires that the authority responsible for demarcation have powers that enable it to introduce the necessary amendments to the designated line when it is demarcated. (74) This was confirmed by the Permanent Court of International Justice in its advisory opinion issued in 1923 regarding the dispute over the definition of the Polish-Czechoslovak border, known as the (Jaworzyna) case. (75).

The demarcation authority sometimes enjoys discretionary adjustment powers if a document or document establishing it stipulates this matter, so that the two concerned parties explicitly agree to delegate to this authority the authority to make some amendments to the border line specified in the legal instrument establishing it. An example of this is the peace treaty concluded between France and Italy in 1947. The border demarcation committee between the two aforementioned countries was empowered to deviate the border line by approximately half a kilometer from its original position, in order to reach a border line that is consistent as much as possible with existing natural conditions. (76).

In the same regard, the agreement concluded between the United Kingdom and Belgium in 1927 established a committee to demarcate the border between Katanga and Northern Rhodesia. It gave that committee the authority to make some minor amendments, when necessary, to the water distribution line to avoid difficulties that arise from the literal interpretation of the aforementioned agreement. (77).

However, things may take place in a manner other than what was mentioned above. The document or deed establishing the authority responsible for demarcation is often devoid of a text indicating that it enjoys discretionary powers of appropriation. An example of this is the Jeddah Treaty concluded between Saudi Arabia and Yemen in 2000, as this treaty stipulated strict restrictions on the international executing company and the team. What is common to both sides, with the distances and directions between each point and the next point, and the rest of the descriptions contained in the boundary reports attached to the Taif Treaty, and these provisions are binding on both parties) (78) This means that the demarcation authority must draw the border line literally as described in the document establishing it, without having the authority to make any amendments to it. In this case, the question remains: Can the competent authority, if faced with the difficulties and problems we mentioned previously, make the necessary amendments to the border line being demarcated despite the absence of an explicit text granting it such authority?

To answer this question, reference must be made to the rules of international action. The authority responsible for the border demarcation process has the authority to make the necessary amendments to the border line that has been designated to avoid natural geographical, economic, political, etc. difficulties. (79) However, on the condition that these amendments are simple and minor and ratified by the governments of the countries concerned) (80) In addition to what international law has established, international jurisprudence emphasizes the importance of the demarcation authority having discretionary powers to amend the border line even in the event that this is not stipulated, and that this power is sometimes based on the rule that the specific restricts the public,

which stems from this The situation in which the authority responsible for demarcation possesses accurate and direct knowledge of the characteristics of the border areas subject to demarcation, which was not known to those in charge of the process of demarcating the borders on paper.⁸¹ Therefore, it can be said that the demarcation authority has the authority to make necessary and minor amendments to facilitate the performance of its work, even if the document of its establishment does not stipulate this, with reference to the knowledge of the countries concerned with demarcating the borders of any measures taken by this authority.

What has been established in international work and jurisprudence regarding the demarcation authority having the authority to make simple and minor adjustments in the border line even if it is not explicitly authorized to do so, can be supported by the ruling of the International Court of Justice issued in 1962 regarding the Preah Vihear temple case between Thailand and Cambodia. After Thailand argued that the joint committee for demarcating the border between the two parties had exceeded its powers when it demarcated the border line in the temple area, contrary to the line that was described in the border treaty concluded in 1904 between Siam (Thailand) and France, which was managing Cambodia's foreign relations, it In addressing the dispute over this issue, the court emphasized that no matter how much the boundary line drawn by the Joint Commission deviates from the water distribution line, it is certain that the governments concerned can allow this deviation.⁸² From this it becomes clear that the International Court of Justice recognizes, in principle, the possibility of the authority responsible for the demarcation process enjoying discretionary powers that enable it to introduce the necessary amendments to the border line, to avoid the difficulties resulting from this process, even in the event that the relevant parties do not agree on this matter, even if the effect is In such a case, the legal work of the authority responsible for the demarcation process depends, according to the opinion of the court, on the approval of the concerned parties.

Conclusion

The process of delimiting borders between neighboring countries, including river borders, is carried out by various means, including treaties. Arbitral or judicial decisions issued by international courts and other legal documents and instruments. However, simply specifying international borders is not enough to give these borders stability and continuity. Unless this designation process is translated from a pure theoretical perception into a tangible physical reality on the ground; This can only be done through what international law jurists call the demarcation process. Through this research, we reached a set of conclusions that we present as follows:

- 1- International legal jurisprudence has settled on four models for demarcating river borders based on essentially two standards: the river navigation standard and the river banks standard.
- 2- The navigation standard when demarcating river borders is based on whether the international river is navigable or not. From this standard emerge two models for demarcating river borders: the model of non-navigable rivers, in which borders are demarcated by defining them by the center line, and the model of navigable rivers, in which borders are demarcated. In it by identifying it with the navigation channel
- 3- The criterion for river banks when demarcating river borders is based on the idea that if the entire river is located in the territory of one state, then it is

considered part of its territory. However, if the river runs in the territory of one country and then in the territory of another country, then the part that falls in the territory of each country Her property.

4- The process of demarcating borders is an artistic function, as some have expressed it as an art, not a science. Therefore, it is implemented at the present time by specialized joint technical committees called demarcation committees, after they were mistakenly called demarcation committees due to confusion between the terms demarcation and demarcation.

5- After the authority responsible for the demarcation process is formed, it begins its assigned tasks, which are demarcating the border line described in the document of its establishment, within the limits and scope of the powers and authorities it enjoys and granted to it by the concerned parties under the document or document of its establishment.

In light of the above conclusions, and in order to reduce disputes that may arise due to the incorrect demarcation of river boundaries, we suggest the following:

1- The necessity of international action based on a joint global treaty that undertakes to define basic controls through which a single standard is determined for the process of demarcating river borders, taking into account the nature of the river on which borders are to be demarcated and setting these controls.

2- Naming established international committees recognized by all countries to carry out the work of demarcating river borders, and granting these committees special powers that enable them to exercise their knowledge in a smooth manner, with the necessity of activating a supervisory body over their work, and granting the countries whose borders are being demarcated the right to resort to the International Court of Justice in If these committees carry out actions that indicate their bias or lack of experience, or their failure to adhere to the bond establishing the borders agreed upon by the countries between which the borders are to be demarcated.

3- Relying on modern technology in the border demarcation process, including harnessing location services (GPS) and the use of satellites for the purpose of geographical survey of the river on which the borders are to be demarcated, as well as reliance on modern cadastral equipment and precise imaging devices.

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