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# Tiran & Sanafir the Legal Status and the Egyptian Rights

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## Tiran & Sanafir: the Legal Status & the Egyptian Rights

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The study is divided into major topics: as follows: Firstly: Tiran, Sanafir and the Israeli ambitions. Secondly: Refuting the three myths: 1840 convention, 1906 agreement, and the Egyptian- British agreement in 1951. In addition, the study discusses Egypt's ownership of both islands, and the legal traffic regulations in Tiran Strait; and the status of both islands in 1979 Peace Treaty. Thirdly: Egypt's permanent ownership of both islands: this part discusses modern Egyptian state and its borders since 1840; Turkish and British endeavors to diminish Egyptian sovereignty over its region, and the absence of any adjustments to the northeastern Egyptian borders since 1950.

Fourthly: the constitutional status of and ceding ownership of Tiran and Sanfir.

The study concluded that the 2014 Constitution classified international treaties into three types:

1: treaties that do not affect the rights of sovereignty or contravene the provisions of the Constitution or include a waiver of any territories the state. Such treaties are signed and ratified after the endorsement of the House of Representatives.

2: treaties on the rights of sovereignty, peace and alliance that do not include a waiver of those rights, but are related to them. Those treaties are signed and ratified after obtaining the Egyptians' consent through a referendum.

3: Prohibited treaties, namely those that contravene the provisions of the Constitution or include a waiver of any of the state territory whether it is land, sea or air.

### **Rights of Sovereignty & Ownership Rights**

It is obvious that the Constitution differentiates between the rights of sovereignty (which also may not be waived) and the ownership rights, which necessarily include the rights of sovereignty. Thus, the rights of Egypt in the Nile River water flow continuously and automatically without the intervention, dominance or control, is one of the sovereign rights deriving from the legal status and historical heritage. Consequently, any amendment to this legal status that does not include a waiver of the historical rights requires a public referendum. Yet, under no circumstances it is acceptable to sign a treaty containing a waiver of any of those historical rights or legal privileges.

Moreover, one of Egypt's rights of sovereignty is the right to administer any region in other countries for a limited time. Such right cannot be waived, but instead treaties could be reached to regulate such issue. Ceding any region or territory under Egyptian administration can only take place under the terms included in the administration agreement or document. Accordingly, claiming that there is a document that gives Egypt the right to administrate Tiran and Sanafir islands on behalf of another



state requires the disclosure of such document to identify the terms and duration of this administration and under what circumstances should it be terminated.

Finally any agreement that contravene the provisions of the Constitution, like renouncing natural resources or obtaining secret loans without going through the legal channels of the states, or opening secret accounts to buy undeclared properties, or opening undeclared portfolio investments on behalf of government officials is considered a void agreement.

On the other hand, any agreement that involves ceding any of the Egyptian state territories is prohibited. This applies to the agreement that lead to ceding Tiran and Sanafir, especially that there is no proof that refutes Egyptian ownership of the islands. Thus, ceding the two islands is considered a violation of the constitution and renouncing a part of the state territories which would entail the loss of its sovereign rights over the territorial waters of Tiran Strait. The real problem is that the other states are concluding agreements with the current executive authority administrating the country while turning a blind eye on the latter's inconsideration of the provisions of the Constitution.

### **Considerations:**

The study called for the need to take into account several key considerations:

Firstly: any accord or agreement that contravene the Constitution will remain void even if the other party adhere to it, because the principal of legality in international affairs requires from the countries to run international relations on the basis of good intentions and make sure that the other country abide by the state's basic law.

Secondly: the weak nature of the international law and the absence of efficient tools to force its implementation, in addition to the fact that the available tools are controlled by the countries dominating the international scene, all leads to turning blind eyes on passing void agreements concluded by the authorities of some countries whilst they are in a vulnerable position or under financial pressure, without any real monitoring from their people.

Thirdly: this agreement is considered a felony violating the Constitution and a high treason that might put the president on trial before the tribunal that has been established upon Article 159 of the Constitution.

Finally, the last chapter of Tiran and Sanafir fate will be determined by the ability of the Egyptian people to impose their will on the ruling authority, and by the extent of respect the neighboring countries will show towards their will.

