

Nile Dam Tripartite Agreement: who loses and who benefits?

Why we should not celebrate too soon

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“ሳምሳካችን የበረከተካችን ይህን ኃብቱን (ከባዴን) ከሕዝቦቻቸው ሕይወትና ደህንነት በማዋክስ ከንደጠቀሙበት ከገረቤት ወደጂ ከገሮች ጋር በከጋስነት በጋራ ከመካፈል ዘግጂ ብትሆንም፤ ይህን የውሃ ንብረትን በቁጥር ከየጠመረ ከማሄደው ሕዝብና በማደግ ካይ ካከው ከኮኖሚ ጥቅም ከንደውኑ ማድረግ የኪትዮጅዩ ተቀደሚና የተቀደሰ ግደታዎ ነው።”

ቀደሚዮ ኃይለ ሥላሴ፤ ጥቅምት 1957 ዓ.ም

“Watercourse States shall in their respective territories utilize an international watercourse in an equitable and reasonable manner. In particular, an international watercourse shall be used and developed by watercourse States with a view to attaining optimal and sustainable utilization thereof and benefits there from, taking into account the interests of the watercourse States concerned, consistent with adequate protection of the watercourse.”

Convention on the Law of the Non-navigational Uses of International Watercourses, UN General Assembly resolution 49/52 of December 1994

I read the full text of Principles Al-Ahram, Egypt’s leading newspaper posted on the Nile Dam Agreement. The Agreement is a celebration for Egypt but of questionable efficacy for Ethiopia. This historic document was arrived at after a series of consultations at the highest levels of government and State on the Egyptian side; and signed on March 23, 2015 by Prime Minister Hailemariam Dessalegn of Ethiopia, former Field Marshall turned President Abdel Fattah Al-Sisi of Egypt and President Omar Hassan Ahmed al-Bashir of Sudan.

The Abbay River is dear to me and to millions of Ethiopians. In light of this, I had written a series of papers under the title **ዐባይ ከንደ ሞክ** in favor of Ethiopia’s fundamental rights to harness its water resources for the benefit of its own people; and urging Egypt to stop its belligerent, hostile, militaristic and bellicose approach in dealing with Ethiopia and other Sub-Saharan Africa riparian states. I had urged Egypt to rejoin the Nile Basin Initiative (NBI) that it abandoned for five years. Refusal resulted in the unintended consequence of cementing relations among Black African riparian states. Sudan moved out Egypt’s spell and Egypt stood alone.

After listening to the Egyptian position and strategy of scuttling any form of “hydropower hegemony in Africa” --- a clear reference to the Grand Ethiopian Renaissance Dam (GERD) --- in Doha, Qatar, I came to the conclusion that Egypt would do everything in its power to preserve its colonial based agreement of “historic and natural rights.” The

question in my mind was what tactic it would deploy to achieve this? Finance opposition groups as it has done in the past? Use military force as the former President of Egypt Morsi had indicated? Accept the dramatic geopolitical and economic forces that are transforming Sub-Saharan Africa and creating new alliances in place of old ones? Opt for diplomatic solutions by restoring normal relations with Sub-Saharan African countries, including its primary traditional adversary, Ethiopia?

We now know the answer. For the first time in decades Egypt faces enormous challenges within and without. Renewed interest in Sub-Saharan Africa and more willingness to use diplomacy in protecting its national security interests reflects dramatic changes in the Arab world, the fragility of the country and the unease in the body politic within Egypt, and economic transformation in Sub-Saharan Africa. Equally, the government led by Prime Minister Hailemariam Dessalegn faces enormous political and economic challenges. Part of this challenge is perceived military threat from Egypt, internal political tensions and shortage of foreign exchange. In one of my articles on the subject, I had said the following concerning Morsi's military solution. **"Experts agree that his short-lived Presidency was well known for its frightening extremism calling for military intervention in Ethiopia and Syria. It seems to me that, in the long-run, Ethiopia and Egypt would benefit more from cooperation than confrontation. However, given the current turmoil in Egypt and continued repression in Ethiopia, no one really knows how the contentious issue of the Nile would end. One question to ponder is the extent to which the Egyptian military establishment's position is radically different from that of President Morsi and the Muslim Brotherhood?"**

It is reasonable to entertain the notion that the former Field Marshall decided to opt for diplomacy by giving a little, recognition of the GERD.

Egypt's Diplomatic Coup

The "good news" is that Egypt has rejoined the Nile Basin Initiative (NBI). Second, Egypt has been forced to acknowledge Ethiopia's right to build the GERD. In principle, The Nile Basin Cooperative Framework Agreement that the Ethiopian Parliament ratified in 2013 replaces the 1929 Colonial Agreement that gave Egypt and Sudan the lion's share of Nile waters. So, in this sense history is on Ethiopia's side. In theory, Egypt is in no position to impose all sorts of conditions on Ethiopia if it accepts the Framework; and unless the Ethiopian government falters for its own reasons. A cursory review of negotiations and studies by Egyptian experts since 2011 shows that Egypt was determined not to give an inch with regard to water flows; and, as an insurance policy, decided to have a say in the administration and monitoring of the GERD itself. Article 5 of the Agreement gives Egypt a window of opportunity to have a say in Ethiopia's project. **"The principle of the Dam's storage reservoir first filling, and dam operation policies,"**

binds signatories “To apply the recommendations of the international technical experts committee and the results of the final report of the Tripartite National Technical Committee during different stages of the dam project.” It further confirms “The three countries should cooperate to use the final findings in the studies recommended by the Tripartite National Committee and international technical experts to reach:

a) An Agreement on the guidelines for different scenarios of the first filling of the GERD reservoir in parallel with the construction of the dam.

b) An agreement on the guidelines and annual operation policies of the Renaissance Dam, which the owners can adjust from time to time.

c) To inform downstream countries, Egypt and Sudan, on any urgent circumstances that would call for a change in the operations of the Dam, in order to ensure coordination with downstream countries’ water reservoirs.

--Accordingly, the three countries are to establish a proper mechanism through their ministries of water and irrigation.

--The timeframe for such points mentioned above is 15 months from the start of preparing two studies about the dam by the international technical committee.

My reading is that Egypt and Sudan will be in a position to exercise substantial right in the “filling of the reservoir” and the “operational policies” of the Dam. Is this not a surrender of Ethiopia’s sovereignty and national security to Egypt? What is the difference between the Colonial period protocol of giving veto power to Egypt and this Agreement? Is this not ceding Ethiopia’s sovereignty over a national project housed on Ethiopian territory and river over which Ethiopia should be the only power that dictates the construction and operation of its own dam as long as it is done in a responsible manner? Doesn’t Egyptian absolute oversight and interference in Ethiopia’s internal development administration reaffirm Egyptian claim of “historic and natural rights” over the Abbay River? What happens in the event that water flow to Egypt decreases during different stages of the “first filling of the GERD?” Does the Agreement not offer a free hand to Egypt to demand that Ethiopia stops building the dam? I am not an expert on the technicalities of the Dam. Nevertheless, this Agreement compromises Ethiopia’s national sovereignty, national security and long term interests. Its sets the worst precedent possible for the country.

There are additional points. How do we reconcile equitable rights with an Agreement that is patently unfair and unjust? It will be inconceivable for Ethiopia or any other Sub-Saharan African riparian state to exercise oversight in the administration of the Aswan Dam or the

construction of future dams by Egypt or Sudan. As far as I can tell from the document Prime Minister Hailemariam signed on behalf of Ethiopia there is no quid pro quo.

Principle 5 diminishes the value contained in 9. “The principle of the sovereignty, unity and territorial integrity of the State” offers a consolation prize. It states “The three countries cooperate on the basis of equal sovereignty, unity and territorial integrity of the state, mutual benefit and good will, in order to reach the better use and protection of River Nile.” An Agreement that is patently unequal among the three countries cannot, at the same time, engender “equal sovereignty.” In my estimation, it is clear that if this Agreement is ratified by Ethiopia’s single party dominated Parliament, Ethiopia will be at a huge disadvantage for decades to come.

President Sisi made a brilliant move when he addressed the Ethiopian Parliament commending the Ethiopian government for its understanding, flexibility and seeking good will in support of Egypt’s water needs. He acknowledged Ethiopia’s right to build the GERD. From this, let us accept his recognition as “victory” for the Ethiopian government and its supporters” during an election year with a foregone conclusion that the ruling party would win. This “victory” does not diminish the fact that **Egypt has attained a diplomatic coup** that will affect Ethiopia’s sovereignty, national security and economic interests for decades to come. What Egypt has failed to achieve by military means or through surrogates, the Egyptian President played the diplomatic and public relations game superbly and preserved his country’s security and economic interests. Principle 5 discussed above is illustrative of this coup.

Ethiopia does not do well with regard to other binding principles either. The first principle agreed is that there will be a binding “cooperation in understanding the water needs of upstream and downstream countries across all their lands.” At face value this is fair as long as each country has the right to use its waters for its own development even if it means that there will be some decrease in water flows to Egypt. Is this a trick? For example, will Ethiopia be in a position to build dams for irrigation purposes in accordance with this principle? We do not know. This concern is expressed more fully in Principle 3, “**Principle of not causing significant damage.**” It says that “The three countries will take all necessary procedures to avoid causing significant damage while using the Blue Nile (Abbay...In case significant damage is caused to one of these countries, the country causing the damage is to take all the necessary procedures to alleviate this damage and discuss compensation whenever convenient.” Just think of this. Both Egypt and Sudan have established enormous irrigated-agriculture employing millions of people and producing food. Egypt not only produces some of its food supplies; it produces the finest cotton on the planet, a gift from Ethiopia. It has built state of the art textile factories that produce garments and other products for the domestic and global market. Ethiopia is no position to dictate to these countries that irrigated farming is water intensive and that, this

tradition is no longer sustainable. The greater concern I express is that Ethiopia's right to use the GERD for some irrigation is not allowed. Further, this precedent might offer Egypt a legal agreement in preventing Ethiopia to build irrigation dams.

What do I conclude?

Two policy issues in the Agreement distress me most. First, the total abandonment of Ethiopia's sovereignty with regard to the construction, fill of the water reservoir and operation of the GERD whose construction I supported from its inception with substantial critique on ownership and social value added. Second, the fact that Ethiopia is disallowed to use any portion of the waters from the GERD and other future dams for irrigation. The Ethiopian government signed an Agreement that says in effect the following. It is acceptable for Ethiopia to produce hydro power for export but illegal for Ethiopia to use its waters for irrigation. It is acceptable for Ethiopia to build the GERD as long as Egypt exercises overwhelming oversight. I ask myself "How does the Ethiopian government justify binding itself and future governments and generations from managing its own epic hydroelectric power project without interference by Egypt and experts that Egypt approves; and from using waters within Ethiopia's own boundaries for irrigation that would meet the food requirements of 100 million Ethiopians and growing? This is patently unfair, unjust and unacceptable.

President Sisi signed the Agreement after thorough review of the Principles and substantial consultation with Egyptian experts. His decision was backed by enormous amounts of rigorous research and recommendations. Upon closer reading, I find interesting similarities between elements of the Agreement and Egyptian expert recommendations. I wonder if the same rigor occurred in support of the Ethiopian side. I do not know.

I recall a group called the Group of the Nile Basin (GNB) "composed of Professors from Engineering, Irrigation and Hydraulics" who took matters to the next level. Their ultimate objective was to "support the effort of the Egyptian Government and decision-makers" through scientific research, scenarios and policy options. Their studies showed that Ethiopia's four large dam projects including the Renaissance Dam posed threats to Egypt's security. They accused the Ethiopian government of failure "to conduct "sufficient structural and hydrologic studies and environmental assessments." These experts agreed that the Egyptian government should try to adhere to Agreements of 1929 and 1959 in any negotiation. They concluded, "Reduction in the water share of Egypt will result in abandoning huge areas of agricultural lands and scattering millions of families. It would result in increasing the pollution of the water streams and creating problems in the supply of water for drinking and industry." They offered the following recommendations to the Egyptian government thereby undermining Ethiopia's national interests in advance of the Agreement.

- “Request stopping the construction of the Dam until completion of negotiations
- Insist that the maximum size of the Ethiopian Dam must not exceed 14 billion cubic meter compared to the 74 billion cubic meter” designed and under construction by Ethiopia
- Insist that Ethiopia commit officially not to use the water behind the Great Ethiopian Renaissance Dam (GERD) for irrigated agriculture
- Insist that Ethiopia commit to give advance notice of future projects it has in mind
- Insist that the design and modification of the GERD be reviewed by Egyptian and international experts
- Insist that Ethiopia’s Dam must be used solely for electric power generation and never for irrigation
- Negotiate so that the price of electricity sold to Egypt and Sudan would be at cost thereby nullifying the value added from the project and negating the market itself
- Insist that filling the waters of the Dam’s reservoir should be staggered over 6 years to reduce disruption to Egypt’s supply and
- Insist that the operation of the hydro plant should be coordinated with Egypt,” thereby undermining Ethiopia’s sovereignty and diminishing its power.

We therefore knew well in advance that these recommendation offered by Egyptian experts were incongruent with a rising and assertive Sub-Saharan Africa of which Ethiopia is a part. These lop-sided solutions undermine the entire intent of the GERD and Ethiopia’s sovereign right to harness its waters without undue influence and pressure from Egypt or other third parties. Egyptian experts had told the Ethiopian government repeatedly that nothing of substance that will affect the flow of water from the Blue Nile to Egypt would be allowed through negotiation either.

President Sisi went to Ethiopia and lived up to the standard of successive Egyptian governments that their primary responsibility is to defend this sacred water—the source of life—by any means necessary. The Ethiopian people have the right to know specifics of the deal.

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