



# RECLAIMING THE SHARED VISION OF THE NILE BASIN STARTING WITH THE GREAT ETHIOPIAN RENAISSANCE DAM (GERD)<sup>1</sup>

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In 2011, Ethiopia led by Meles Zenawi<sup>2</sup> began constructing the “Grand Ethiopian Renaissance Dam” (GERD)<sup>3</sup> on the Blue Nile after stalemate was reached on an article 14b of the Comprehensive Framework Agreement<sup>4</sup> (CFA) based on an agreed Shared Vision.<sup>5</sup> The GERD is 80% complete and filling began last year. Sudan and Egypt as downstream countries have expressed strong concerns. To date negotiations, under the African Union<sup>6</sup>, among the three countries on filling and operating the dam have stalled. The war drums are beginning to be beaten. Why is this the case? And what are the alternatives?

## THE NILE RIVER AND ITS PEOPLES

The Nile River<sup>7</sup> spans eleven countries in central, eastern and north Africa. It has two main tributaries, the White and Blue Nile. The Blue Nile or Abay provides about 85% of the total Nile flow and has been a vital resource since antiquity. It originates in the Ethiopian highlands and its management has been a source of centuries of tension between Ethiopia and its downstream neighbours, Sudan and Egypt. These tensions began growing in 2010 when negotiation led to agreement on the Comprehensive Framework Agreement (CFA) by all riparians except Sudan and Egypt who suspended their participation in Nile Basin Initiative<sup>8</sup> (NBI). Ethiopia unilaterally started constructing the dam for hydropower to meet its own surging demand for electricity and to share with neighbouring riparian states. The contention has deep roots. It arises from treaties signed between Britain (as the colonial power in Sudan) and Egypt (1929)<sup>9</sup>, and between Sudan and Egypt (1959)<sup>10</sup>. The treaties provide for the full utilization of the Nile’s flow by the two downstream countries (only!) and constrains other riparian states from any developments along the whole basin without approval by Egypt. They were concluded without Ethiopia (or the other upstream countries) being consulted and despite Ethiopia’s protests.

## CLOUDS OF WAR

In 1979, the President of Egypt, Anwar Sadat<sup>11</sup>, was quoted as saying “the only matter that could take Egypt to war again is water”, a position reiterated in 1985 by the Foreign Minister of Egypt, Bhoutros Ghali. These statements express the extent to which Egypt relies on the Nile for freshwater. On the other hand, with population growth and demand for water services for energy, agriculture, and industry, the other nine riparian states want to benefit from the Nile as well within the framework of the CFA. Ethiopia, as the source of about 85% of the total Nile flow, has always stated its non-acceptance of the status quo. The ingredients for conflict have therefore been lurking in the shadow of otherwise friendly relations among the riparian states.





## THE NILE BASIN SHARED VISION AND ITS EVOLUTION

In February 1999, the Nile Basin Initiative (NBI) was established. Through intensive consultations a *Shared Vision* was agreed by all riparian states “to achieve sustainable socioeconomic development through the equitable utilization of, and benefit from, the common Nile basin water resources.”

Achieving this milestone was the result of efforts, beginning in 1983, by the various riparian states organized as the Undugu group<sup>12</sup> to find ways to increase regional cooperation. In 1993, the riparian water ministers formed the Technical Cooperation Commission for the Promotion and Development of the Nile (TECCONILE)<sup>13</sup>. It organized a series of annual Nile 2002 Conferences<sup>14</sup>, which served as ‘dialogue forum’ among the riparian countries, international experts and other stakeholders.

To implement the Shared Vision, two tracks for cooperation were established: 1) a Technical track, and 2) a Legal/Institutional track coordinated by the NBI Secretariat. Within the Technical track, two groups of projects were proposed. The first was to implement the common vision basin-wide, and the second to develop concrete projects along the two major tributaries to provide tangible evidence of the benefits of cooperation. These were classified as Shared Vision projects and Subsidiary Action Plans. The latter were managed by technical offices in Addis Ababa for the Blue Nile and Kigali for the White Nile. The overall Shared Vision projects are managed from NBI Headquarters in Entebbe. The technical tracks focused on the implementation of shared regional projects such as environmental protection, regional power trade, confidence building and socio-economic development. NBI aims to transcend ‘water sharing’ by focusing on *regional benefit sharing, cooperation and integration*.

Parallel to the Technical track, The NBI also undertook the Legal/Institutional track which involved extensive sensitization, high-level policy dialogue<sup>15</sup> between riparian states, and intensive negotiations from 2000 to 2010. These resulted in the Comprehensive Framework Agreement (CFA) which, for the most part, was agreed to by all riparians except Sudan and Egypt who objected to one article. The NBI achieved a great deal, but these achievements are being ditched. Why?

## THE COMPREHENSIVE FRAMEWORK AGREEMENT (CFA) AND THE ROADBLOCK

The CFA codifies a vision of *equitable and reasonable utilization of the Nile waters without causing significant harm among the riparian countries*. This legal instrument conforms to, and derives from, the UN Convention on the Non-Navigable Uses of International Watercourses<sup>16</sup>. The same concept is also part of the African Water Vision 2025<sup>17</sup> which was endorsed by the African Union Extraordinary Summit in Sirte in 2004<sup>18</sup>.

The CFA text<sup>19</sup> consists of 45 articles. All but one, Article 14, was agreed to by all riparian nations. Article 14 is on water security and has two parts. Part (a) was agreed to, but part (b) was not. Part (b) reads as follows: “*not to significantly affect the water security of any other Nile Basin States*”. Egypt proposed to replace this by the following: “*not to adversely affect the water security and current uses and rights of any other Nile Basin State*”.

To date, six riparian states (Burundi, Ethiopia, Kenya, Rwanda, Tanzania and Uganda) have signed the CFA treaty and 4 (Ethiopia, Rwanda, Tanzania, Uganda) have ratified it. To go into force it requires six riparians to ratify or accede to it and deposit instruments with the African Union. Enforcement begins on 60th day of the 6th deposition.



In essence the deal breaker or roadblock is Egypt's proposal to include the words "current uses and rights" into the agreement. "Current rights" refers to the 1959 bilateral treaty with Sudan in which the Nile Waters are totally allocated between the two of them except for evaporation losses. This contravenes the concept of *equitable utilization in international law* enshrined in the UN Convention on the Non-navigational uses of watercourses. It is logically unacceptable to the other riparian states.

This stalemate led to the suspension of participation by Sudan and Egypt in NBI<sup>20</sup>. Ethiopia unilaterally started construction of GERD in 2011. Renewed efforts for cooperation on the Abay or Blue Nile led in 2015 to a *Declaration of Principles*<sup>21</sup> which had moved the parties closer together until the current dispute over the filling of the nearly completed dam.

## WAY FORWARD

*Sankofa* is a Ghanaian expression which means going back to reclaim good things of the past. As I write this, war is threatening with troop movements<sup>22</sup>, heated rhetoric, and sabre rattling. However, I believe hostilities will lead to a "lose-lose" outcome for all three riparian countries in particular and the rest of Africa in general. Instead of a model of water as an instrument of regional integration through which the comparative advantages (Sudan - Agriculture, Ethiopia - Energy and Egypt-Industry) of the riparian nations are harnessed to generate shared benefits for all the peoples of the basin with cross border investments and trade, there is now a serious danger that a protracted cycle of war will ensue.

The "win-win" outcomes concept envisaged in the Shared Vision needs to be reclaimed and the last article of the CFA (14b) must be negotiated until consensus is reached and the Nile Basin Commission established to manage all infrastructure and resources in a beneficial way for all the basin people.

I conclude with the following: It is critical to adopt the concept<sup>23</sup> that *the security of each member state is essential for the security of all member states, since the peoples of the Basin are bound to swim or sink together.*

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