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## NILE: SUDANESE SCHOLAR BACKS ETHIOPIAN DAM

September 27th, 2013

In a rare defiance of Egyptian pressure, to which Sudanese scholars acquiesced to for decades, a renowned legal scholar wrote an op-ed endorsing Grand Ethiopian Renaissance dam and the Nile Basin Cooperative Framework Agreement(a.k.a. CFA or the Entebbe Agreement).

Dr. Salman Mohamed Ahmed Salman elaborated the benefits of the dam at length and also emphatically noted that:

*"Cooperation and negotiation with Ethiopia and the other states of the Nile Basin in good faith and sincerity on the rights of those states in the framework of Entebbe Agreement constitute the sole guarantee for maximum utilization of Basin water.*

*And the Sudan and Egypt cannot safeguard their rights with arrogance, exclusion, shouts and the legal opinions that rely on bullying rather than the law.*

*The Sudan is in need now, and more than any past time, after losing the petroleum of the South, for utilizing all its share of the Nile water by taking back the water loan it gave Egypt in 1959."*

Indeed, Dr. Salman's rational position on the dam had been reiterated by President Omar Al-bashir's government for almost a year now. Though the western had been unwilling to report it, as it would lay bare Egypt's war-mongering and unscientific position. [Please read: Westerners under-report Sudan's bravery, Egypt's belligerency]

Read the full text of the article below

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The author Dr. Salman M. A. Salman is a Fellow, International Water Resources Association (IWRA), and academic researcher and consultant on water law and policy. Until December 2009 he was Lead Counsel with the Legal Vice Presidency of the World Bank, and the Bank's adviser on water law, as well as on the environmental and social safeguard policies. Before joining the World Bank, Dr. Salman worked as a Legal Officer with the International Fund for Agricultural Development of the United Nations (IFAD), in Rome, Italy (1981–1983). Prior to that, he was a lecturer at the Faculty of Law of the University of Khartoum in Sudan (1978–1981), and a teaching

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assistant, (1972–1977). Dr. Salman obtained his LL.B. from the University of Khartoum, Sudan (1972); and holds an LL.M. (1974), and a J.S.D. (1977), both from Yale Law School, New Haven, Connecticut, USA.

**The Ethiopian Renaissance Dam: Opportunities & Challenges**

Sept. 20, 2013

The Renaissance Dam, which was previously known as the Millennium Dam, lies on the Blue Nile, known in Ethiopia as Abay River, about 40km east of the Sudanese borderline.

This Dam is expected to generate 6,000 megawatts of hydro-electric power (more than 2.5 times the electricity generated from the Egyptian High Dam) when it is finished four years after the start of construction. It will hold back 62 to 74 billion cubic meters which is approximately twice the water of Lake Tana and a little less than half the High Dam Lake the capacity of which is 162 billion cubic meters.

Ethiopia pointed out that the total cost of the project is 4.8 billion dollars and it would finance the project from its own resources and through bonds for the Ethiopian nationals.

The Dam will be built by the Italian Salini Company to be joined by Chinese companies.

At first, the Renaissance Dam was met with conflicting opinions in the Sudan when Ethiopia declared in April 2011 commencement of construction of the Dam. A number of Sudanese ministries and officials welcomed the Dam, while other ministries and officials announced objection to the project. But a few months after this confusion, the Sudan officially declared its support to construction of the Dam.

There are ample benefits to the Sudan from this Dam which can be listed as follows:

First: The Renaissance Dam will hold back a big portion of the great quantities of the silt, more than 50 million tons, carried by the Blue Nile to the Sudan each year. Those quantities of silt over the years, made the Er Rosaires and Sennar dams lose more than 50% of their water storage and electric-power generation capacities. Many of us

must remember the continued power failures a few years ago due to the silt accumulation of the turbines at Er Rosaires Dam as announced by the government in official statements.

Second: The Renaissance Dam will prolong the life-span of Er Rosaires Dam by holding back the trees, corpses and other materials swept by the Blue Nile during its powerful drive in July and August of each year.

Third: The Renaissance Dam will check the destructive flood that hit the Sudanese towns on the Blue Nile each few years. Instead, it will regulate the flow of the Nile in the Sudan throughout the year in lieu of the present seasonal flood during July, August and September. A suggestion that the Renaissance Dam will do away with irrigation by inundation is unfounded. While the Sudan has failed to use its share of the Nile water (an issue which we will discuss later on, there is no point in lamenting the loss of irrigation inundation. It's just like placing the optional before the obligatory duty.

Fourth: The flow of the Blue Nile throughout the year will help feed the ground water in the surrounding area all over the year instead of the three months of the flood, will regulate the hydroelectric power generation at Merowe Dam and will help multiply the irrigated crop rotations.

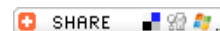


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First: Ethiopia has promised to sell the electricity generated by the Dam to the Sudan and Egypt at the cost value which is 25% of the cost of the electricity that is generated by Merowe and High dams. The Sudan has already begun making use of the electric power which Ethiopia generates from other rivers, especially from Tekezy Dam on Atbara River after concluding an agreement for the purchase of electricity with Ethiopia.

Does Ethiopia possess any rights in the Nile water?

Ethiopia is the source of about 86% of the Nile water, while the Sudan and Egypt have, according to the Nile Water Agreement 1959, taken control of all the Nile, leaving not a single drop to the other nine Nile Basin member states.

According to the international law and to the logic and justice, Ethiopia has got rights in the Nile water. The main theory on which the international law is based is the theory of the fair, reasonable and equal benefits by all states of the Nile Basin. This theory is the basis of the United Nations treaty on utilization of the international water-courses for non-navigation purposes. The Sudan voted in favor of this treaty at the UN General Assembly session on May 21, 1997. Although it commended that treaty, the Sudan has not yet signed or joined it.

The treaty needs to be ratified by 35 nations to come into force which is expected next year as 30 countries have so far ratified it while more than five nations are preparing to do so.

The Memorandum of Understanding (MOU) that has established the Nile Basin Initiative and that was signed by Sudan and Egypt in Dar

es-Salaam, Tanzania, on February 22, 1999 was also based on the premise of fair and reasonable benefits. This can be seen clearly on the main page of the electronic website of the Nile Basin Initiative. (No confusion should be made between the MOU and Entebbe Agreement which is opposed by the Sudan and Egypt and which was signed by six countries of the source in May 2010.

It is to be mentioned that the Nile Water Agreement of 1959 which was concluded by the Sudan and Egypt alone has itself recognized the rights of the Nile littoral states in the Nile water but included extremely arrogant and superior provision for those states to get their rights. Those countries, for instance, should submit to the Sudan and Egypt an application for permission to use any amount of the Nile water. And, according to that Agreement, the Sudan and Egypt are entitled to reject this application and, in case the application is accepted, Egypt and the Sudan would determine the amount of water the applicant country is permitted to use and the joint Sudanese-Egyptian technical Nile Water commission would monitor this matter to ensure that the determined amount of water is not exceeded.

Such an arrogant provision only produces grievance and was therefore ignored and persistently ridiculed by the remaining Nile Basin member states and they began to use the Nile water without even mentioning this like what Ethiopia, Tanzania and Uganda have done and are doing. This has not affected the Sudan which has failed to use more than 350 billion cubic meters of its share of the Nile water since signing the Agreement with Egypt in 1959. According to the 1959 Agreement, the Sudan share is 18.5 billion cubic meters a year but its usage has not exceeded 12 billion cubic meters a year throughout that period, as was confirmed by the former Minister of Irrigation and Water Resources.

We have repeatedly raised this grave issue and have called for addressing it as soon as possible because it would be difficult for the Sudan to get more than what it is using now, the 12 billion cubic meters, because Egypt now relies on the amount the Sudan has failed to use over the past 50 years.

A few hours after Ethiopia has declared the construction of the Renaissance Dam in April 2011, The Sudan and Egypt strongly protested on grounds that it would cause a grave damage and would cut down the quantities of the water the Nile would bring to them.

Ethiopia proposed formation of a committee of 10 members, two from each one of the three countries –Ethiopia, Sudan and Egypt- and four member from out of the Nile Basin states to examine whether any damage would result from construction of the Renaissance Dam and to propose solutions for minimizing the damage. Both the Sudan and Egypt warmly welcomed the proposal. This was the first time in the history of the River Nile in which studies and discussions occur in a civilized and cordial way.

The committee was formed, finalized its mission and submitted its report by the end of last May.

The Sudan and Egypt should have been most concerned with the duration Ethiopia needs to fill the lake of the Dam as the amount of the water that would reach the two countries would largely depend on the length of the period needed for filling the lake.

We have earlier indicated that this issue should be the core of negotiations with Ethiopia instead of the present confusion in which Cairo and Khartoum one day declare approval of the construction of the Dam and declare opposition to it the other day.

It should also be mentioned that the Blue Nile water which will be used for generation of electricity by the Renaissance Dam will return to the Nile and resume flowing to the Sudan and Egypt. Moreover, Ethiopia has repeatedly made it clear that the Renaissance Dam would not be used for irrigation purposes, pointing out that the region surrounding the Dam is rocky.

How can then the Renaissance Dam cause any damage to the Sudan and Egypt?

Preparations for building the Dam have continued and have not been discontinued during deliberations of the committee because its terms of reference did not provide for halting or cancellation of the establishment of the Dam. It should also be indicated that the construction of any dam requires diversion of the course of the river so that the construction is made on the original course of the river for which it will be returned after the work is finished. At this point appears the Sudanese-Egyptian remarkable confusion. The two countries agreed to construction of the Dam and took part in the international committee that remained in session for more than a year while the construction was going on.

As we have mentioned earlier, the Committee, terms of reference which were accepted by both the Sudan and Egypt and according to which they took part in the task of the committee since more than a year do not provide for halting or cancelling the establishment of the Dam. Therefore, one should wondered about the row that was raised by the Sudanese ambassador to Cairo and was, and is still being raised by Egypt over the diversion of the river course and the call to war for this reason.

The demand for waiting for the report of the international committee is unjustified because, as we have said, the terms of reference of the committee do not include a provision for halting the construction of the Dam. Those terms of reference which the Sudan and Egypt have accepted and took part in deliberations of the committee.

Those terms of reference only provide for verification of any adverse effects and damage that the Dam may cause to the Sudan and Egypt and for minimizing such impacts, if any.

The argument that the diversion of the Blue Nile course was a

The argument that the construction of the Renaissance Dam is a violation of the international law is also contradictory to the facts. Both the Sudan and Egypt are active members of the international committee which possesses complete information about the Renaissance Dam for more than a year. This situation, as a matter of fact and according to the international law, is more adequate than a notification.

It is to be asked at this point whether the Sudan and Egypt notified any Nile Basin state of the dams they have built on the Nile. The answer to this question is that none of those Nile Basin states was notified or supplied with any information on the Sudanese and Egyptian dams. Why then should Ethiopia notify the Sudan and Egypt of the Renaissance Dam while both countries have refused and still refuse to notify any Nile Basin state of their plan to construct on the Nile?

Some Egyptian writers and politicians raise the likelihood that the Renaissance Dam would collapse and frighten the Sudanese that if this Dam collapses, it would drown all the Sudan and destroy it from the Ethiopian border down to the northern border up to old Halfa.

Those Egyptian writers and politicians stop short of mentioning that Halfa was drowned along with 27 villages by the Egyptian High Dam which also destroyed 200,000 feddans (acres) of fertile lands, a million date palm and other trees and invaluable historical antiquities. It is true that if the Renaissance Dam collapsed, it would be disastrous to the Sudan, but if the High Dam collapsed it would also be disastrous to Egypt and if Merowe Dam collapsed it would destroy all of northern Sudan up to Halfa. And if Er Rosaires Dam collapsed, all towns and villages along the Blue Nile up to Khartoum would be destroyed.

The collapse of dams and the resulting disasters is not a likelihood not restricted to the Renaissance Dam alone. The technology applied for dams construction by international companies (like Salini) is now more advanced 10 times from the technology the Soviet Union applied for building the High Dam half a century ago the Italians for construction of Er Rosaires Dam in the 1960s and even more advanced than the technology the Chinese applied for building Merowe Dam a few years ago. Why then should the Renaissance Dam of the contemporary technology collapse while the High, Er Rosaires and Merowe dams should withstand this likelihood? Ethiopia, rather than any other country, would not spend 5 billion dollars of its taxpayer for construction of a dam and neglect its safety. Moreover, there is no company in the world that builds dams and pays no concern to the safety of those dams.

The companies are more concerned with their fame than the countries where they build dams as their existence and competitiveness heavily depend on the quality of their performance. The record of each country and each company, even each individual is nowadays open for everyone to see on the electronic network.

Another argument that the Renaissance Dam lies in an earthquake zone does not stand discussion too because we have never heard of an earthquake in Ethiopia. If it is really an earthquake area, the 50-year-old Er Rosaires Dam, which lies in the same geographic zone, would have been destroyed. Moreover, there would not have been any logic in spending hundreds of millions of dollars for heightening this Er Rosaires Dam at the time of building the Renaissance Dam.

Cooperation and negotiation with Ethiopia and the other states of the Nile Basin in good faith and sincerity on the rights of those states in the framework of Entebbe Agreement constitute the sole guarantee for maximum utilization of Basin water. And the Sudan and Egypt cannot safeguard their rights with arrogance, exclusion, shouts and the legal opinions that rely on bullying rather than the law. The

Sudan is in need now, and more than any past time, after losing the petroleum of the South, for utilizing all its share of the Nile water by taking back the water loan it gave Egypt in 1959.

Egypt is also in need of additional water to stop wheat imports in excess of 60% of its demand. (Egypt is now the world's biggest wheat importer despite the huge Nile water quantities it uses, consisting of its full share and one-third of the Sudan share.)

But any additional amount of water can only be attained through full cooperation, good faith and sincerity with the other Nile Basin states and abandoning the policy of arrogance, exclusion and threats the two countries have been for more than 50 years, a policy which has only generated grievance and insistence by those states to snatch their rights at any cost.

\*\*\*\*\*

--Daniel Berhane

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