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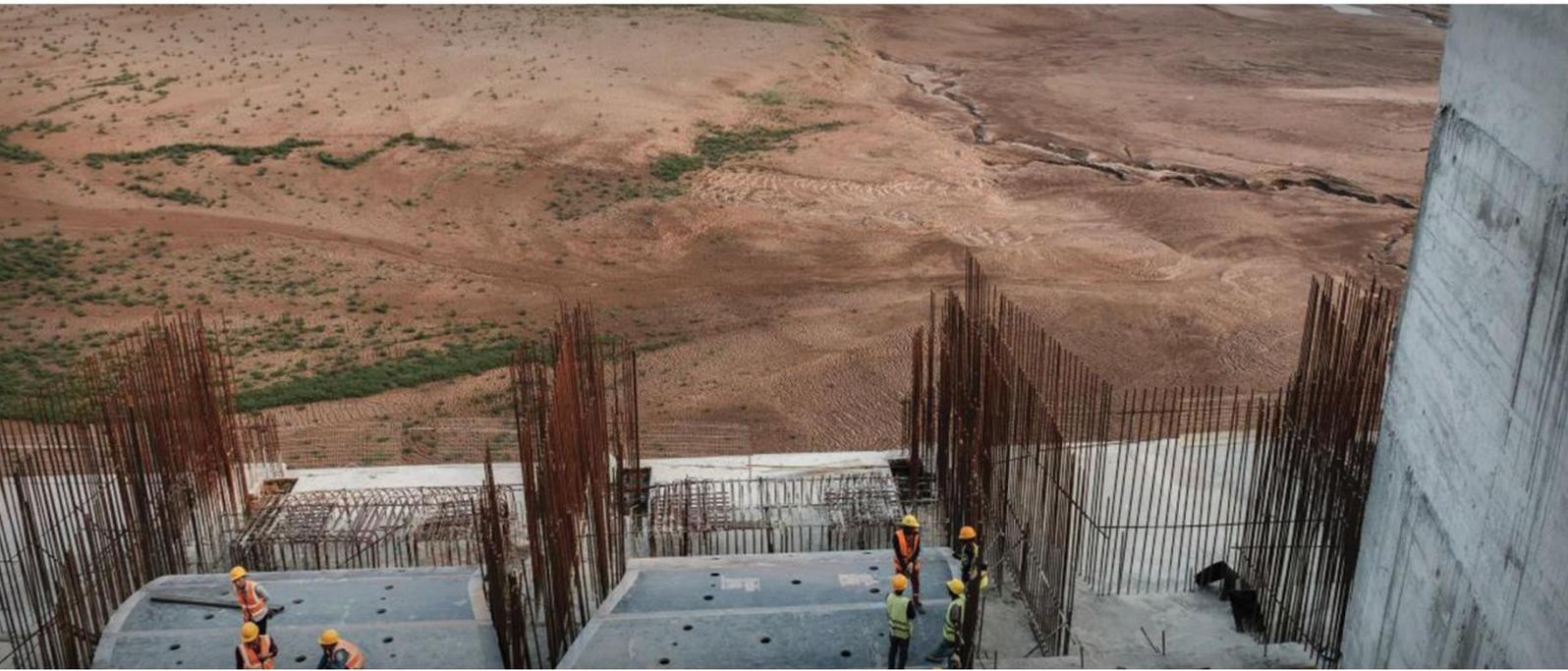
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## Security Council & Egypt-Ethiopia Dam Dispute: Limits of the Role

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The UN Security Council is one of the main organs on which the United Nations has relied since its foundation in 1945, as it is entrusted with the tasks of maintaining international peace and security. The Security Council consists of 15 members, including five permanent members (the United States, the People's Republic of China, the Russian Federation, Britain, and France) and ten non-permanent members, that are usually selected every two years according to the world's principal geographical regions. Due to the Security Council's central significance within the framework of the United Nations system, its composition, procedures, tasks and roles have been addressed in three chapters within the United Nations Charter (Chapters VI, VII, and VIII).

The Security Council addressed the issue of the Grand Ethiopian Renaissance Dam (GERD), that is disputed between Ethiopia, the upstream country, and Sudan and Egypt, the downstream countries, in two sessions: the first was held on 29 June 2020, with the announcement of GERD's first filling, and the second on 8 July 2021, with the announcement of the dam's second filling .

Amid the discussions that took place during the two sessions, and the results and positions concluded, whether by the SC member states, or by the states parties to the crisis, or via relevant regional organizations – the African Union and the Arab League – an important question arises about the limits of the role that the Security Council may play in the GERD crisis, and to what extent such role can contribute to containing the crisis and preventing its aggravation, or vice versa.

In order to answer this question, we have to distinguish between two main groups of basic determinants that control and influence such role:

### First: Legal determinants

Legal determinants are linked to official texts, especially the Charter of the United Nations, specifically the chapters related to the Security Council, namely, Chapters VI and VII. Article 34 states that: "The Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is

likely to endanger the maintenance of international peace and security." However, if this investigation falls under Chapter VI of the UN Charter, it shall be governed by several considerations, including:

- 1- Peaceful settlement of disputes, as stipulated in Article 33 of the Charter, which defines the tools for the peaceful political and legal settlement of international disputes, as it states in the first paragraph: "The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice." It also stipulates in the second paragraph that: "The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means."
- 2- The recommendations issued by the Security Council under this chapter are non-binding, being not decisions, and therefore adoption of them and commitment to implementation or non-implementation is subject to the wills of the parties to the crisis, which is literally stipulated in Article 36 of the Charter, which states in the first paragraph that: "The Security Council may, at any stage of a dispute of the nature referred to in Article 33 or of a situation of like nature, recommend appropriate procedures or methods of adjustment." This is confirmed by Article 38, which states that: "Without prejudice to the provisions of Articles 33 to 37, the Security Council may, if all the parties to any dispute so request, make recommendations to the parties with a view to a pacific settlement of the dispute."

But if the Security Council proceeds to deal with the crisis under Chapter VII of the UN Charter, it shall then be governed by other considerations, completely different from those stated in Chapter VI, including:

- 1- Under this chapter, the Security Council makes decisions that are binding on all direct and indirect parties to the crisis, which is stipulated in Article 39 of the UN Charter, which states: "The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security."

- 2- The Security Council shall gradually manage the crisis, via three basic levels: the first level being interim measures, that is stipulated in Article 40 of the Charter: "In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures." The second level includes punitive, economic and political measures, as included in Article 41 of the UN Charter, which states that: "The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations." The third level includes military procedures, including air, sea and land operations, as it is addressed in Article 42 of the UN Charter, which states: "Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations."
- 3- The UN Security Council recognizes the right to legitimate self-defense by the states parties to international crises of concern, as stipulated in Article 51 of the UN Charter, which stated that: "Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security."

- 4- The mechanism of voting on decisions within the Security Council is addressed in Article 27 of the UN Charter, which states that: Paragraph 1: Each member of the Security Council shall have one vote. Paragraph 2: Decisions of the Security Council on procedural matters shall be made by an affirmative vote of nine members. Paragraph 3: Decisions of the Security Council on all other matters shall be made by an affirmative vote of nine members including the concurring votes of the permanent members; provided that, in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting.

The third paragraph refers to what is known as the right to veto, enjoyed by the SC permanent members, the use of which prevents the Security Council from being effective in facing crises that threaten international peace and security, given the fact that the use of the right to veto is primarily linked with political considerations.

## Second: Political determinants

Political determinants are mainly related to the patterns of alliances and political, economic, security and military relations between the Security Council member states, whether permanent or non-permanent, with the parties to the crisis, taking into account the network of bilateral or collective strategic interests that link them, as well as the extent to which each is subject to pressures and bargains imposed by some parties that are directly or indirectly related to the crisis, where a set of governing considerations emerge here, including:

1. The talk about success of the post-2013 coup Egyptian regime in building a huge network of interest and strategic relations with the Security Council permanent members, to the extent that it could bet on it in such a file, was, in fact, a largely inaccurate talk to a large extent, because these countries are also engaged in a wide network of strategic interests with Ethiopia, and even consider it a regional power that may be capable of maintaining peace and security in the East African region and the Horn of Africa, which are extremely important regions for these countries. In addition, some of these countries are partners that have contributed to the construction of the GERD and related projects.

August 4, 2021

2. The Ethiopian position has been characterized by consistency, clarity and stability on positions, and even on the basic vocabulary used in the political discourse of political officials, and even technicians, amid the conflicting positions of both the Egyptian and the Sudanese that witnessed a lot of contradictions in many cases: between accepting the construction of the dam at times, and then rejecting it again; and between complaining and warning of filling the dam, whether during the first filling or the second filling, and failure to complain or warn of them; and between talk about the benefits that can be achieved from the construction of the GERD, and talk about the damage that the two countries may be exposed to as a result of completing the dam.
3. The failure of the Egyptian and Sudanese negotiators to manage the negotiating process, from the perspective of dealing with the crisis as a political crisis that could lead to an existential conflict between the peoples of the three countries, compared with success of the Ethiopian negotiator in exporting the crisis as a mere technical crisis, linked to development issues and differences in administration and operation of the dam, as evidenced by the fact that the representative of Ethiopia to the UN Security Council second session on 8 July 2021 was the Minister of Irrigation, not the Minister of Foreign Affairs, as in the case of Egypt and Sudan.
4. Ethiopia's efficiency in managing various public relations networks, and benefiting from the supporting lobbies within the United States in influencing the American decision-maker, whether the Ethiopian lobby, or the lobbies of African countries, or groups representing people of African descent in the American society, in addition to organizing many events, including seminars, conferences, crowds, demonstrations, in support of the Ethiopian vision, at a time when such card was completely missing from both the Egyptian and the Sudanese sides.
5. Ethiopia's effectiveness in achieving popular mobilization behind the GERD issue, and addressing it as a symbol of national dignity and the greatest national projects, and a means of national cohesion, which enhanced the capabilities of the Ethiopian negotiator, at a time when the Egyptian and Sudanese streets were absent from influence or movement, due to the policies of internal distraction, ignoring, and underestimating practiced by the two political systems in both countries.

August 4, 2021

6. The central influence of the main power cards that the Ethiopian party relied on in the two UN Security Council sessions, most prominently: First, the continued invocation of the Declaration of Principles (DoP) agreement signed between the states parties to the crisis on 23 March 2015, that Ethiopia considers an instrument of the legitimacy of its practices. Second, the role of the African Union, with constant focus on its being the first authorized entity to manage the crisis, taking advantage of the fact that the headquarters of the African Union is located in Addis Ababa, where Ethiopia has great influence capabilities on its member states that can be mobilized behind its vision of the issue. In this regard, Addis Ababa has already succeeded in pushing the UN Security Council, during its first and second sessions on the dam, to confirm the centrality of the African Union in managing the crisis, and referring the whole matter to it at the end of each session.

Accordingly, it can be said that the UN Security Council will not have any effective role in defending the historical and natural rights of the downstream countries, Egypt and Sudan, in this crisis; given that if it takes any procedures under Chapter VI, they will be non-binding recommendations, and that it will not be able to issue any decisions under Chapter VI, because Ethiopia guarantees the veto of at least three of the permanent members, if not securing all of the five SC permanent member states on its side from the very beginning.

This leads to asserting that the situation reached to date has not been solely based on Ethiopia's power cards, or its argument in defending its positions, but rather it is a natural and logical result of mismanagement of the crisis by Egypt and Sudan. On the other hand, although the downstream countries, Egypt and Sudan, already possess a lot of power cards that would force Ethiopia to reconsider its current orientations, however, the political systems in both countries lack the required political will to activate those cards.