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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by The Next Century Foundation, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.


[19 August 2020]

* Issued as received, in the language(s) of submission only.

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The need for a comprehensive water-sharing agreement in the Nile River Basin, in view of the Grand Ethiopian Renaissance Dam dispute

The Next Century Foundation recognises that resolution 44/7 on human rights and climate change, as adopted by the United Nations Human Rights Council (UNHRC) at its 44th Regular Session on 16 July 2020, called on states to “continue and enhance international cooperation and assistance” to countries “particularly vulnerable to the adverse effects of climate change”, through measures including “financing [and] the transfer of technology and capacity building, for mitigation and adaptation measures”.

In view of the United Nations Sustainable Development Goals, as endorsed by the General Assembly in 2015, wherein states were urged to facilitate responsible consumption and production of natural resources, we welcome Resolution 44/7. We hope that the UNHRC further considers the growing convergences between climate change and human rights.

The Next Century Foundation believes that the United Nations Sustainable Development Goals are particularly relevant to the ongoing Grand Ethiopian Renaissance Dam dispute within the Nile Basin. Given the Nile River’s status as an international drainage basin, we believe the current tensions between Egypt, Ethiopia and the Sudan - all party to the Renaissance Dam dispute - are symptomatic of endemic developmental and geopolitical issues facing riparian states along the Nile Basin. Accordingly, we urge the UNHRC’s 45th Regular Session to consider the transnational ramifications of the Renaissance Dam dispute, and utilize the ongoing negotiations between Egypt, Ethiopia and the Sudan to facilitate a broader water-sharing agreement between riparian states within the Nile Basin.

On July 21st 2020, the Ethiopian Prime Minister Abiy Ahmed announced the completion of the Renaissance Dam’s first stage of filling. The Next Century Foundation notes that a period of unusually heavy rain enabled this accomplishment to occur, but is concerned that Ethiopia chose to fill the dam unilaterally, especially as that may violate the 2015 Agreement on the Declaration of Principles on the Grand Ethiopian Renaissance Dam, and “spirit of cooperation” to which all three countries agreed.

Article 5 of the Declaration of Principles suggests that the Renaissance Dam’s filling process, and its wider operation, should be conducted according to the “recommendations of the international technical experts committee”, and in coordination with affected downstream states, regardless of the current state of affiliated inter-state negotiations.

In commencing the Renaissance Dam filling process, Ethiopia has contravened the obligation of means implicit in Article 5 of the Declaration of Principles, as well as the obligation embedded in both Article 5 and Article 1, which enshrines “mutual understanding, common interests, good intentions, benefits for all and the principles of international law” as intrinsic to the process of co-operation. This is worrying, given the Renaissance Dam’s potential developmental impact on Egypt and the Sudan’s immediate access to water in the Nile River.

The Next Century Foundation firmly believes that the future five stages of the Renaissance Dam’s filling should not take place before negotiations seeking to dictate the terms of the process are resolved, so no citizens of Egypt or the Sudan can be injuriously affected by the process.

We recognise the transformational effects that the Renaissance Dam may have both on Ethiopia and East Africa, especially regarding the provision of power to tens of millions of people. However, the concerns expressed by Egypt and the Sudan are of equal significance.

Egypt is already beneath the UN’s threshold for water poverty and struggles to meet its needs with the 45 billion cubic metres (bcm) that it receives from the Blue Nile River annually. The Renaissance Dam’s filling process risks compounding this problem, as if Ethiopia completes it over five, seven, or ten years, then Egypt will lose 36, 22, or 14% of its water supply, respectively during that interim.

As a means of ameliorating this problem, the Next Century Foundation takes note of recent discussions between the Governments of Egypt and South Sudan, regarding the viability of the construction of the Jonglei Canal in the Sudd wetlands.

One of the largest wetland areas in the world, more than 50% of the Sudd's water is reported to evaporate out of its wetland basin, resulting in less water availability to the downstream states of Egypt and South Sudan. A proposed canal could divert approximately 4.8 cubic gigameters that would otherwise evaporate over the wetland.

In view of existing negotiations concerning the Renaissance dam, we believe that this project - in conception since hydrogeological studies of the Sudd in the early 1900s - would be beneficial to the agricultural and wider developmental standing of both states. We urge Ethiopia and the Sudan to further investigate the viability of the Jonglei Canal, but advise both countries to keep in mind its potential ecological and environmental ramifications:

- (1) The displacement of riparian populations along the Sudd wetlands.
- (2) Disruptions to the seasonal movement of livestock and wildlife.
- (3) The reduction of rainfall in the Sudd region, spurred by the diversion of water.

The Next Century Foundation also believes equal attention should be paid to the Sudan's developmental concerns. Specifically, their fear of a lack of coordination and data exchange, perhaps vindicated by Ethiopia's recent unilateral filling, must be remembered.

The Sudan's hydroelectric dams are comparatively smaller and are in danger of collapsing should Ethiopian authorities respond to a sudden flood in the future by releasing large quantities of water without transnational consultation.

The Next Century Foundation commends the Sudan, Egypt, and Ethiopia for pursuing a peaceful path of resolution regarding the filling and operations of the Renaissance Dam through tripartite negotiations organized by Cyril Ramaphosa, Chairperson of the African Union.

However, it is the Next Century Foundation's belief that the three states should pursue a broader agreement about the Blue Nile's waters, as suggested by Ethiopia at the end of July 2020.

At present, three historic water-sharing agreements have been signed: The Anglo-Ethiopian Treaty of 1902; The "Exchange of Notes between Her Majesty's Government in the United Kingdom and the Egyptian Government on the Use of Waters of the Nile for Irrigation of 1929"; and The "1959 Agreement for the Full Utilization of the Nile Waters, Egypt and the Sudan".

It is the Next Century Foundation's view that these key agreements do not provide a sufficient legal framework for resolving future disputes, nor do they adequately recognize the interests of the other riparian states along the course of the Blue Nile.

Crucially, Ethiopia, and a number of other Nile riparian states, were excluded from the water-sharing provisions outlined within the 1929 and 1959 treaties. The many decades over which Egypt and the Sudan have exercised a legal monopoly over the Blue Nile should not be a model for the 21st century.

The Next Century Foundation recalls other historic international water-sharing agreements, such as the Indus Waters Treaty 1960 between the Government of India, the Government of Pakistan, and the International Bank for Reconstruction and Development.

We take particular note of the long-standing dispute resolution mechanisms outlined in the 1960 Indus Waters treaty:

- (1) A Permanent Indus Commission (PIC) created to serve as "the regular channel of communication on all matters related to" the distribution of the Indus Valley waters,
- (2) A Neutral Expert created to settle any issues of dispute and disagreement that cannot be resolved by the PIC,
- (3) The establishment of an arbitration mechanism and / or referral to the Permanent Court of Arbitration, in cases where the PIC and a neutral expert fail to provide a substantive solution to any arising disputes.

Given the comprehensive nature of these mechanisms, the Next Century Foundation urges that similar procedures be created in relation to water-sharing disputes concerning the Nile River.

We therefore propose that all riparian states within the Nile Basin negotiate a long-term water-distribution agreement along the lines of the 1960 Indus Waters Treaty. This should be done in accordance with Article 5 of the 1996 United Nations Convention on the Protection and Use of Transboundary Watercourses and International Lakes (U.N. Water Convention), which upholds the principle of equitable and reasonable utilisation in the determination of water-sharing agreements.

Such a multilateral water-sharing agreement between Nile Basin states must, in the Next Century Foundation's view, take existing developmental concerns and historic monopolies of the Nile River into account.

It is worth noting, that Egypt, Ethiopia and the Sudan have failed to ratify the U.N Water Convention and have yet to fully incorporate its provisions into existing national laws concerning the use of water.

The Next Century Foundation implores the three aforementioned states, and all others within the Nile Basin, to formally ratify the U.N. Water Convention thereby taking the first step in negotiations for a comprehensive water-sharing agreement.

We believe over the course of this century and the next, water may prove to be an issue that brings some nations of the world to war. However there is an opportunity for international diplomacy to promote lasting agreements that adequately protect and enshrine an individual's rights to water.
