



Ensuring the realization of the right to water in Africa

Stockholm, 29th August, 2017

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1. Background to ACHPR



- The African Charter on Human and Peoples' Rights adopted on 27 June 1981, enshrining principles, standards, fundamental rights and values to be implemented for the individual and collective wellbeing of people across the African continent.
- The Charter became binding on all States Parties (1986) - a significant step in the area of the promotion and protection of human and peoples' rights in Africa.
- ACHPR mandated to ensure the promotion and protection of human rights and in interpreting the rights in the Charter.

2a. ACHPR support to Member States to Meet their Obligations



- ❑ ACHPR gives guidance to states about the content of their obligations under the Charter, and its provisions have inspired domestic legislation.
- ❑ Through thematic resolutions, guidelines and Protocols to the African Charter ACHPR clarifies the scope of rights providing a yardstick for the development of domestic law e.g. through adoption of model laws
- ❑ The principle that indigenous peoples are rights-holders under the Charter established.
- ❑ Sessions of the Commission provide an important space for the articulation of issues that are neglected or silenced domestically – e.g. NGOs and NHRIs get informed, strengthened and better equipped to perform their functions.

2b. ACHPR support to Member States to Meet their Obligations to Human Rights



- Missions undertaken to state parties **sensitize and support continuing efforts at the national level to improve human rights and inspire legal or institutional reform.**
- Commissioners acting as **Special Rapporteurs** also **engage with states in order to address allegations** falling within the domain of the Special Rapporteurs.
- Findings of the Commission assists in **garnering international awareness and solidarity.**
- The **Charter's complaints mechanism** provides an important **avenue for recourse to complainants** who could not find redress at the national level.
- **National courts** are increasingly **influenced by and use the Charter and the Commission's findings** to assist them in **interpreting national law**
 - e.g. the Constitutional Court of Benin, which in numerous case made reference to the African Charter.

3a. Res.224 on HRBA to natural resources management (2012)



The Commission calls upon States to:

- 1. **Natural resources stewardship with, and for the interest of, the population** and must fulfill its mission in conformity with international human rights law and standards;
- 2. **Participation of communities**, in decision making/prioritisation and scale of and benefits from natural resources governance;
- 3. **Fight against corruption**
- 4. **Independent monitoring and accountability mechanisms**
- 5. **Ensure independent social and human rights impact assessments**

3b. Res. 300 on the right to water (2015)

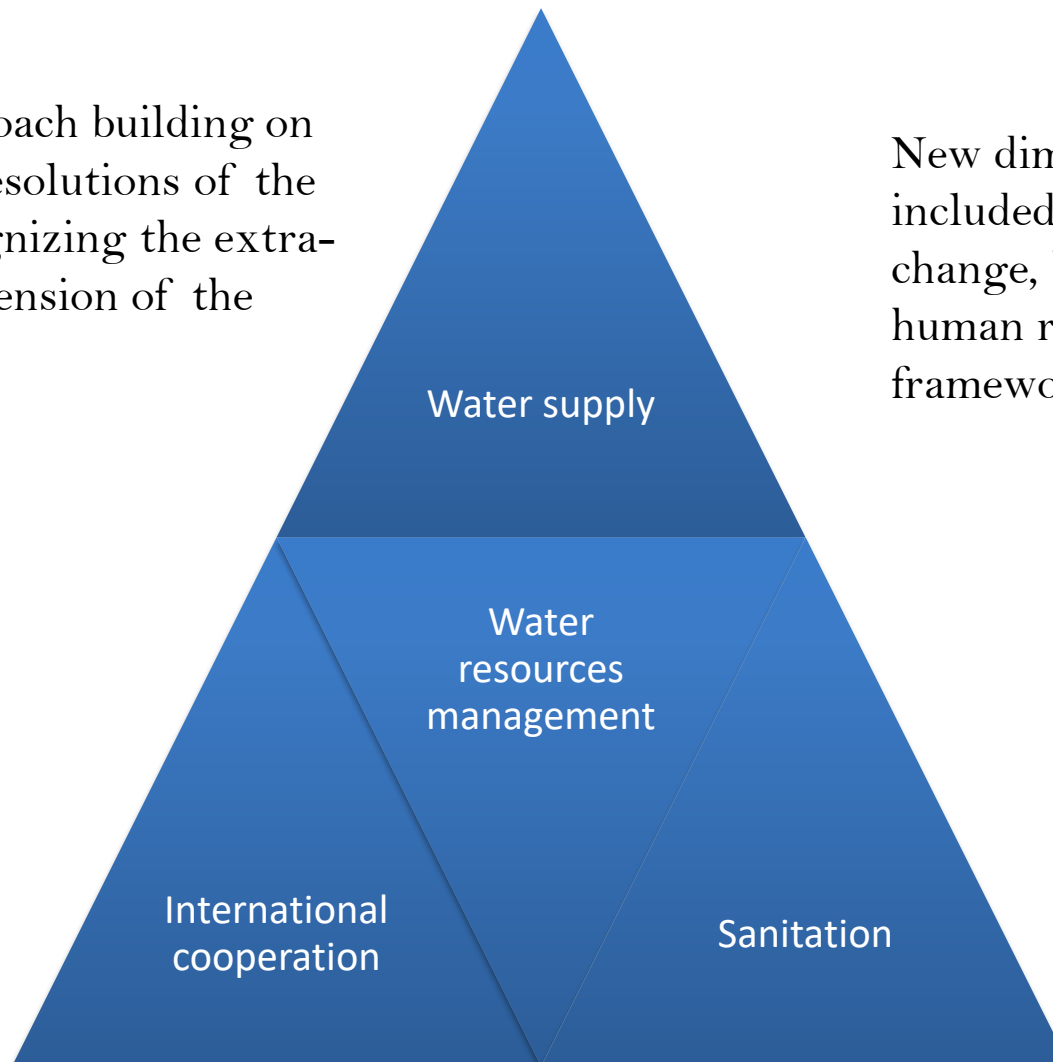


- ❑ Urges African Union Member States to meet their obligations in providing clean drinking water for all their populations and to conscientiously cooperate in the management and protection of water resources, and to:
 - protect the **quality of national and international water resources and the entire riverine ecosystem,**
 - ensure the **rational and equitable use of water resources**
 - **recognize, protect and develop traditional and local water management systems; and** from abusive use and pollution;
 - establish mechanisms for the **participation of individuals and communities in decision-making on the management of water resources;**
 - guarantee the **justiciability of the right to water;**
- ❑ **build the capacity of populations** in human rights education, including the right to water and protection mechanisms; and
- ❑ **comply with the principle of non-discrimination** within and among riparian populations, and take into account the needs of vulnerable persons.

3c. Draft Guidelines on the right to water (2016)



A unified approach building on the previous resolutions of the ACHPR, recognizing the extra-territorial dimension of the right to water



New dimensions included, e.g. climate change, business and human rights framework

4. Next steps for the Draft Guidelines and relevance for SDG6 in Africa



1. **Consultation** process on the draft guidelines soon to be launched
2. **Collaboration with AMCOW** for the ACHPR guidelines and the AMCOW regional Monitoring and Reporting indicators for SDG6 to follow the same lines
3. **Launch of the Guidelines**- opportunities for new litigation for the protection of the right to water at the level of the ACHPR

5. Opportunities for advancing HRWS in SDG 6 monitoring



Through:

Special mechanisms of ACHPR: (Working Groups, Special Rapporteurships, Committees, and Advisory Committee) – who are dedicated to protecting and promoting specific rights or the rights of specific vulnerable groups. The **Working Group on Economic, Social and Cultural Rights** is one of the special mechanisms overseen by ACHPR.

State Periodic reports – how can these be useful for the water sector monitoring of HRWS? The Chairperson encourages the State to prepare their periodic reports to the Commission in accordance with the Tunis Reporting Guidelines and to consider the Nairobi Principles when implementing policies that affect economic, social and cultural rights.

State reporting under the African Charter and the **constructive dialogue between the State and the Commission** after submission of State reports is a good opportunity to engage states.