

**ACHPR/Res.300(EXT.OS/XVII)2015:RESOLUTION ON THE
OBLIGATIONS ON THE RIGHT TO WATER**

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 17th Extraordinary Session held from 19 to 28 February 2015 in Banjul, The Gambia:

Recalling its mandate to promote and protect human and peoples' rights under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling the Commission's Guidelines on Economic, Social and Cultural Rights adopted in Tunis in 2011 which explicitly require States to protect water resources from pollution, to prioritize the provision of water for personal and domestic use and to protect the right to water and other related rights, the realization of which directly depends on water resources management;

Recalling its Resolution ACHPR/Res.224 (LI) 2012 on a human rights-based approach to the governance of natural resources which requires States to strengthen natural resources governance, in particular water resources, using a human rights approach, and to implement the principle of sovereignty over natural resources with the participation and in the interest of the population as interpreted by the Commission in its jurisprudence⁶;

Recalling also the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) adopted in 2009 which calls for the protection of the right to water;

Recalling Article 15 of the Protocol to the African Charter on the Rights of Women in Africa (Maputo Protocol) which calls on States to take the necessary measures to guarantee access to clean drinking water for women;

Recalling the principles of international law on fresh water, namely the principle of cooperation with other bordering States, the principle of fair and reasonable use and the obligation to refrain from causing significant harm as stipulated in the relevant conventions;

Recalling Resolution 64/292 of the United Nations General Assembly and Resolution 15/9 of the United Nations Human Rights Council recognizing the right to water and sanitation;

Mindful of General Comment no. 15 (2002) of the United Nations Committee on Economic, Social and Cultural Rights on the right to water which requires States

Parties to prevent their own citizens and companies from violating the right to water of individuals and communities in other countries; and depending on the availability of resources, to facilitate realization of the right to water in other countries;

Welcoming the 2002 Senegal River Water Charter, the 2008 Niger Basin Water Charter and the 2012 Water Charter for the Lake Chad Basin, explicitly recognizing the right to clean drinking water;

Concerned that 2 out of 5 Africans do not have access to clean drinking water, that among water-borne diseases diarrhea alone accounts for more than 8.8% of mortality on the continent, and conscious of the link between water, food and energy;

Concerned about the negative effects of overuse and pollution of water resources and other development activities threatening the rights of present and future generations, the realization of which depends on access to water;

Further concerned by the absence of a regional legal framework for greater human rights-based cooperation in the management of trans-border waters, whereas Africa is the continent with the highest number of watersheds;

The Commission:

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:

- i. protect the quality of national and international water resources and the entire riverine ecosystem, from watersheds to oceans;
- ii. ensure the rational and equitable use of water resources through the distribution of water resources to meet, in priority, the vital human needs of the populations concerned, in particular access to drinking water in sufficient quantity for personal and domestic use, sanitation, agriculture and other means of subsistence;
- iii. recognize, protect and develop traditional and local water management systems for indigenous populations on their

ancestral lands as well as local communities, and protect water resources from abusive use and pollution;

- iv. establish mechanisms for the participation of individuals and communities in decision-making on the management of water resources;
- v. guarantee the justiciability of the right to water;
- vi. build the capacity of populations in human rights education, including the right to water and protection mechanisms; and
- vii. comply with the principle of non-discrimination within and among riparian populations, and take into account the needs of vulnerable persons, in particular women and children, persons with disabilities, elderly persons, rural populations living in geographically inaccessible areas, displaced persons, refugees and persons deprived of their liberty.

The Commission requests the Working Group on Economic, Social and Cultural Rights to prepare principles and guidelines on the right to water to assist States in the implementation of their obligations.

Done in Banjul, The Gambia on 28 February 2015