

ACHPR/Res.286 (EXT.OS/XVI) 2014: Resolution on Freedom of Expression in the Kingdom of Swaziland

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 16th Extraordinary Session held from 20 to 29 July 2014, in Kigali, Republic of Rwanda;

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

Recalling further Article 9 of the African Charter, which provides that every individual shall have the right to receive information and to express and disseminate his or her opinions within the law, as well as other international human rights instruments, including the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR);

Bearing in mind the *Declaration of Principles on Freedom of Expression in Africa* (the Declaration) which supplements Article 9 of the African Charter, in particular, *Principles I (1) and II (2)* of the Declaration which provides that freedom of expression and information is a fundamental and inalienable human right, whose restriction should be provided by law and serve a legitimate interest in a democratic society;

Recalling the Letter of Appeal of 24 March 2014 by the Special Rapporteur on Freedom of Expression and Access to Information in Africa regarding the alleged arrest of Mr. Thulani Rudolf Maseko and Mr. Bheki Makhubu;

Underlining *Principle XI (1)* of the Declaration, which provides that "... intimidation of, and threats to media practitioners and others exercising their right to freedom of expression...undermines independent journalism, freedom of expression and the free flow of information to the public," and *Principle XI (2)* which puts an obligation on State Parties "to take effective measures to prevent such attacks and, when they do occur, to investigate them, to punish perpetrators and to ensure that victims have access to effective remedies;"

Recalling Resolutions on the Situation of Freedom of Expression in Africa, including: **Resolution ACHPR/Res.54(XXIX)01**, adopted during the 29th Ordinary Session, held in Tripoli, the Great Socialist Peoples' Libyan Arab Jamahiriya, from 23 April to 07 May 2001; **Resolution ACHPR/Res.99(XXXX)06**, adopted during the 40th Ordinary Session, held in Banjul, The Gambia, from 15 to 29 November 2006; and **Resolution ACHPR/Res.166(XLVII)10**, adopted during the 27th Ordinary Session, held in Banjul, The Gambia, from 12 to 26 May 2010;

Further recalling Resolution ACHPR/Res.216(LI)2012: Resolution on the Human Rights Situation in the Kingdom of Swaziland, adopted during the 51st Ordinary Session, held in Banjul, The Gambia, from 18 April to 2 May 2012, which called on the Government of the Kingdom of Swaziland to respect the rights to freedom of expression, freedom of association, and freedom of assembly, and urged the Government to take all necessary measures to ensure the conduct of free, fair and credible elections in 2013;

Underscoring the fundamental importance of freedom of expression and information as an individual human right, as a cornerstone of democracy and as a means of ensuring respect for all human rights and freedoms;

Deeply concerned about continuous allegations of the violation of the right to freedom of expression in general and in particular the conviction and sentencing of Mr. Thulani Rudolf Maseko, a prominent human rights lawyer, and Mr. Bheki Makhubu, a journalist in the Kingdom of Swaziland, in relation to articles published in *The Nation* Magazine in February and March 2014;

The Commission:

- i. Calls on the Government of the Kingdom of Swaziland to respect, protect and fulfill the rights to freedom of expression, freedom of association, and freedom of assembly as provided for in the African Charter, the UDHR, the ICCPR and other international and regional human rights instruments;
- ii. Calls on the Government of the Kingdom of Swaziland to take the necessary measures to stop all acts of harassment and intimidation carried out against human rights defenders and media practitioners working in the Kingdom of Swaziland and to respect and guarantee their right to freedom of opinion and expression.

Adopted at the 16th Extraordinary Session of the African Commission on Human and Peoples' Rights held from 20 to 29 July 2014 in Kigali,

Republic of Rwanda