

ACHPR/Res. 340 (LVIII) 2016: Resolution on the Human Rights Situation in the Sahrawi Arab Democratic Republic

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 58th Ordinary Session, held from 6 to 20 April 2016, in Banjul, Islamic Republic of the Gambia:

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

Considering the pledge to end all forms of colonialism in Africa reaffirmed in the preamble to the African Charter;

Noting Article 20 (1) of the African Charter enunciating that "*All peoples shall have the right to existence. They shall have the unquestionable and inalienable right to self-determination. They shall freely determine their political status and shall pursue their economic and social development according to the policy they have freely chosen.*"

Recalling its previous Resolutions on Western Sahara ACHPR/Res.45 (XXVII) 00 and ACHPR/Res. 282 adopted at its 27th Ordinary and 55th Ordinary Session, respectively;

Further Recalling its conclusions and recommendations made in its report on the fact-finding mission conducted in the Sahrawi Arab Democratic Republic (SADR) adopted by the Executive Council of the African Union (AU) through its Decision **EX.CL/Dec.775 (XXIII)** of May 2013, which encouraged the Commission to complete its report on the fact-finding mission to the Sahrawi Arab Democratic Republic by including the situation in the territory under the control of the Kingdom of Morocco;

Also Recalling, Decision (PSC/PR/COMM/1.(CDXCVI) of the Peace and Security Council of the AU, adopted during its 496th meeting held on 27 March 2015 & the decision of the Peace and Security Council at its 588th meeting held on 6 April 2016, which called on the Commission to undertake, as soon as possible, a mission to Western Sahara and to the refugee camps in Tindouf, to assess the human rights situation and make recommendations to the Peace and Security Council (PSC), building on the outcome of the Commission's visit to the region in September 2012;

Recalling Further, Executive Council Decision EX.CL/921(XXVII), appealing to the Government of the Kingdom of Morocco to facilitate the fact-finding mission by the Commission to Western Sahara on the

human rights situation, in line with the previous decisions of the Assembly in this regard;

Welcoming the report of the Chairperson of the AU Commission on Western Sahara, and expressing support to the efforts of the AU for the resolution of the Western Sahara conflict including through the appointment of the Special Representative of the AU Commission on Western Sahara former President Joaquim Chissano of Mozambique;

Reaffirming the relevant United Nations Resolutions recognizing the status of Non- Self-Governing Territories in Western Sahara, making them the subject of decolonization and calling for the holding of a free and fair referendum on the self- determination of Western Sahara;

Concerned Over the lack of progress in the effort for resolving the Western Sahara conflict and the dire state of the humanitarian and the human rights situations in Western Sahara and the illegal exploitation of the territory's natural resources;

Further Concerned Over the decision by Morocco to expel 84 international civil servants, including AU personnel, from the UN Mission for the Referendum in Western Sahara (MINURSO);

The Commission:

- i. Urges the follow up of the AU Assembly decision of June 2014 on the UN General Assembly 'to determine a date for the holding of the self- determination referendum for the people of Western Sahara' and to 'address the issues of the respect for human rights and the illegal exploitation of the Territory's natural resources';
- ii. Calls on the UN Security Council to renew the mandate of MINURSO whose current mandate expires on 30 April 2016, and in this regard emphasizes the need for protecting the role of MINURSO and strengthening its mandate with the addition of a human rights monitoring task;
- iii. Urges international organizations including the UN, the EU, the World Bank and the African Development Bank and other members of the international community not to support and recognize trade or investment agreements contrary to the rights of the people of Western Sahara over the natural resources of the territory;

- iv. Encourages the Peace and Security Council of the AU and the Chairperson of the AU Commission to pursue the process of monitoring, documenting and reporting of the human rights situation in Western Sahara; and

- v. Decides to undertake a visit to Western Sahara in accordance with the decision of the Peace and Security Council adopted during its 588th meeting held on 6 April 2016 in Addis Ababa, Ethiopia.

Done in Banjul, Islamic Republic of the Gambia, 20 April 2016