

ACHPR/Res. 375 (LX) 2017: Resolution on the Right to Life in Africa

The African Commission on Human and Peoples' Rights, meeting at its 60th Ordinary Session held in Niamey, Republic of Niger, from 8 to 22 May 2017;

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

Considering the adoption by the African Commission of *General Comment No.3* to the African Charter, which clarifies the nature of the right to life as recognised in Article 4 of the Charter and the extent of the obligation it imposes upon State parties, and recalling that the General Comment does not put in place new standards or highlight best practices but rather sets out the Commission's perspective on dimensions of this universally recognised right;

Considering also the various instruments recently adopted by the Commission with a direct bearing on the protection of the right to life, including the *Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa*, the *Principles and Guidelines on Human and Peoples' Rights while Countering Terrorism in Africa*, and the *Guidelines for the Policing of Assemblies by Law Enforcement Officials*;

Welcoming the fact that the great majority of African States have abolished the death penalty or have adopted a moratorium on the practice of executions, in line with the Commission's Resolutions 42 (XXVI) and 136 (XLIV);

Nonetheless concerned that in some States legislation that provides the death penalty for crimes remains in effect, and that in some jurisdictions persons are sentenced to death after trials that do not comply with fair trial norms;

Particularly concerned by the prevalence of arbitrary deprivations of life occurring in the context of law enforcement operations, often through the use of excessive force by state agents;

Recalling that failure to investigate in a transparent and diligent manner suspicious deaths and killings by State agents and to identify and hold accountable those responsible, constitutes in itself a violation by the State of the right to life;

Emphasizing that the State's duty to investigate is also triggered by suspicion or allegation of an enforced disappearance, and that where it is found that a person has been forcibly disappeared and his/her fate remains unknown, in addition to the violation of other rights, a violation of the right to life has occurred;

Reaffirming the State's heightened level of responsibility to protect the rights of those it places in its custody, and particularly the presumption of State responsibility for deaths occurring in custody;

The Commission:

1. Urges all States Parties to ensure that their domestic laws on the use of force by law enforcement officials are in line with regional and international standards and in particular the principles of precaution, necessity and proportionality;
2. Urges all States Parties to ensure that law enforcement officials are provided with appropriate personal protective equipment and weapons less likely to cause an injury than firearms, and that they receive adequate training to avoid the use of force;
3. Urges all States Parties to establish mechanisms to ensure that a prompt, impartial, and effective investigation is conducted into any potentially unlawful death or enforced disappearance in its jurisdiction;
4. Urges those States Parties that have established a moratorium on executions to undertake further practical steps towards the abolition of the death penalty, in accordance with their regional and international legal obligations, by reinforcing their moratorium and by encouraging judicial authorities to refrain from imposing the death penalty;
5. Urges those States Parties that have not already abolished the death penalty to immediately establish a moratorium on executions and to adopt measures aimed at the full abolition of the death penalty;
6. Calls on States Parties to inform the Commission on such efforts during their regular reporting on observance of the African Charter.

Done in Niamey, Republic of Niger, on 22 May 2017