

ACHPR/Res. 410 (LXIII) 2018: Resolution on the Human Rights Situation in the Federal Republic of Somalia

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 63rd Ordinary Session held from 24 October to 13 November 2018 in Banjul, 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);

Recalling its resolutions ACHPR/Res.109 (XXXI) 07, ACHPR/Res.129 (EXT.OS/IV) 08, and ACHPR/Res.137 (XXXIV) 08 on the human rights situation in Somalia;

Further recalling its resolutions ACHPR/Res.221 (LI) 2012 and ACHPR/Res.264 (EXT.OS/XV) 2014 on the attacks against journalists and media practitioners in Somalia;

Mindful of the obligations of the Federal Republic of Somalia as a Member State of the African Union (AU), State Party to the African Charter, and other international human rights instruments;

Considering that the objectives of the AU include the promotion of peace, security and stability, as well as promotion and protection of human and peoples' rights under the African Charter, promotion of democratic principles and institutions, popular participation and good governance;

Bearing in mind Article 23 of the African Charter which provides for the right of all peoples to national and international peace and security;

Reaffirming the provisions of Articles 2, 3, 4, 5, 6, 7, 9, 11, 13, 16, 17 and 18 of the African Charter which guarantee the right to be protected against discrimination, the right to equal protection of the law, the right to life, the right not to be subjected to torture and ill-treatment, the right to freedom and protection against arbitrary arrest, the right to a fair trial, the right to receive information and to freedom of expression, the right of assembly, the right to participate freely in the conduct of public affairs in one's country, the right to the best attainable state of physical and mental health, the right to education, and protection of vulnerable groups;

Further reaffirming the standards and principles stipulated in the Principles and Guidelines on Human and Peoples' Rights while Countering Terrorism in Africa, General Comment No. 3 on the African Charter on Human and Peoples' Rights on the Right to Life, Declaration of Principles on Freedom of Expression in Africa, Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, Guidelines on the Conditions

of Arrest, Police Custody and Pre-Trial Detention in Africa, Guidelines on Combating Sexual Violence and its Consequences in Africa, and the Report of the African Commission on Human and Peoples' Rights on Freedom of Association and Assembly in Africa;

Deeply concerned about the human rights situation in the Federal Republic of Somalia, particularly the continued violence and attacks including on schools, hospitals and hotels, which have resulted in the deaths and injuries of civilians;

Further concerned that the majority of the attacks are perpetrated by non-state actors such as Al-Shabab, including the suicide attacks of 14 October 2018 in Baidoa which killed 16 people, and the attacks of 9 November 2018 in Mogadishu which killed at least 20 people;

Alarmed that violence is also committed by security forces, including the deaths in September 2018 of six civilians in a clash between security forces in Puntland and a nine-year old girl killed in a crossfire between Somali National Army soldiers in Mogadishu;

Also disturbed that there have been civilian casualties as a result of the operations of foreign forces;

Noting that women and children are disproportionately affected by the acts of violence, particularly the forced recruitment of children by Al-Shabab, as well as acts of sexual violence that remain largely unpunished;

Gravely concerned about the killings, beatings, harassment, arbitrary arrests and illegal detention of journalists and other media professionals, as well as lack of due process or fair trial guarantees, and closure of media outlets;

Disturbed by the continued imposition of the death penalty by civilian and military courts, as well as some cases of executions;

The Commission

1. Strongly condemns the serious human rights violations committed by state and non-state actors in the Federal Republic of Somalia, in particular the indiscriminate killings and injuries of civilians, lack of protection of children and women, restrictions on access to information and freedom of expression, attacks and killings of journalists and media professionals, as well as the imposition of death penalty sentences and executions thereof;
2. Calls upon the Government of the Federal Republic of Somalia to:
 - take all necessary measures to ensure the safety and protection of the civilian population;

- take all necessary measures to put an end to the killings, beatings, harassment, arbitrary arrests and illegal detention of journalists and other media professionals;
 - Conduct impartial and independent investigations into the various human rights violations and hold perpetrators, including security forces accountable, in accordance with the law;
 - Observe a moratorium on the death penalty;
3. Calls upon the international community as well as missions which operate in Somalia to support the Government of the Federal Republic of Somalia in fulfilling its obligations;
 4. Urges all foreign forces and missions which operate in the Federal Republic of Somalia to carry out their operations in a manner that ensures respect for the lives and dignity of the people of Somalia, and to generally observe basic human rights principles and standards;
 5. Urges all state and non-state parties to engage in genuine dialogue to bring about lasting peace and security in the Federal Republic of Somalia;
 6. Urges all parties to prioritise dialogue and refrain from acts of violence.

Done in Banjul, Republic of The Gambia on 13 November 2018