

ACHPR/Res. 474 (EXT.OS/ XXXI) 2021: Resolution on the Prohibition of Excessive Use of Force by Law Enforcement Officers in African States

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 31st Extraordinary Session held virtually, from 19 to 25 February 2021:

Recalling its mandate to promote and ensure the protection of human and peoples' rights under Article 45 of the African Charter on Human and Peoples' Rights (the African Charter);

Recognizing the central role of Law Enforcement Officers in the maintenance and enforcement of law and order, the promotion of citizen's safety and the respect for human rights;

Recalling Resolution **ACHPR/Res.259(LIV)2013** on Police and Human Rights in Africa, the Guidelines for the Policing of Assemblies by Law Enforcement Officials in Africa and the Guidelines and Measures for the Prohibition and Prevention of Torture and Cruel, Inhuman or Degrading Treatment or Punishment in Africa (Robben Island Guidelines);

Recalling its Press Statements of 28 February 2020 on the Corona Virus Crisis; 24 March 2020 on Human Rights Based Effective Response to the novel COVID-19 Virus in Africa; 17 April 2020 on Reports of Excessive use of Force by the Police during the COVID-19 Pandemic; 12 and 22 October 2020 respectively, on Human Rights Violations by Law Enforcement Institution in Nigeria, 23 November 2020 on the Socio-political Situation in the Republic of Uganda;;

Concerned that the COVID 19 Pandemic and subsequent State of Emergencies has also led to the non-compliance by Law Enforcement Officers with basic human rights standards in the execution of their duties, including reported incidents of use of excessive and disproportionate force, extrajudicial killings and summary executions, arbitrary and illegal arrest, torture and mistreatment;

Further Concerned by the reports of excessive use of force by Law Enforcement Officers against peaceful demonstrators in some African States including the use of live ammunition, tear gas and water cannons by law enforcement authorities in suppressing and dispersing demonstrators, which has claimed the lives of many people;

Noting the importance of human rights training for Law Enforcement Officers as well as efficient mechanisms to follow up on human rights compliance by the Police; and the need to ensure that Law Enforcement Officers are given clear and strict guidelines for operations, particularly in emergency situations;

Further noting the importance of an Independent Police Oversight Mechanism where civilians can freely access and lodge complaints against Law Enforcement Officers in cases of alleged misconduct;

Recognising the need to provide those whose rights have been violated by Law Enforcement Officers, access to remedial measures, including legal assistance, reparations and compensation;

Reminding State Parties that there are regional and international human rights principles that guide the use of force and firearms, with emphasis on the principles of legality, necessity, proportionality and accountability;

Further reminding State Parties that the right to life, protection against torture, cruel and degrading treatment are absolute and irrevocable rights, even in a State of Emergency;

The Commission calls on State Parties to the African Charter to:

1. **Ensure** that the use of force by Law Enforcement and Public Security Forces is consistent with the principles of legality, necessity, proportionality and accountability and do not endanger human life;
2. **Provide** for the absolute prohibition against torture and other cruel, inhuman or degrading treatment or punishment, and declare that: all "options such as "necessity", "national emergency", "public order"... shall not be invoked as a justification of torture or cruel, inhuman or degrading treatment or punishment;
3. **Ensure** that the measures adopted by State Parties meet the minimum standards for the protection of human rights and are accompanied by policy measures adapted in order to mitigate negative effects, particularly in the most vulnerable sector of society;
4. **Ensure** that Law Enforcement Officers are given strict guidelines for operations in emergency situations and that, allegations of violations are investigated and the perpetrators brought to justice;
5. **Ensures** that Law Enforcement Officers are provided with appropriate equipment for their own protection and non-lethal materials for use and that reasonable force may only be used to arrest an imminent threat;

6. **Provide** those whose rights have been violated by Law Enforcement Officers, access to remedial measures, including legal assistance, reparations and compensation; and

7. **Guarantee** the fundamental rights of its citizens, including the rights to life and physical integrity, liberty, access to justice and a fair trial, as well as freedoms of expression, association and assembly as outlined in the provisions of articles 4, 6, 7, 9, 10 and 11 of the African Charter and other relevant regional and international human rights instruments.

Done virtually, on 25 February 2021