

Resolution on Violence against Women during Armed Conflicts in Africa - ACHPR/Res. 492 (LXIX)2021

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 69th Ordinary Session, held virtually from 15 November to 05 December 2021;

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa;

Recalling Articles 2 and 18 (3) of the African Charter on Human and Peoples' Rights (African Charter) protecting the rights of women including against discrimination, and Articles 2, 3, 4, 8 and 11 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol); prohibiting all forms of discrimination and violence against women; protecting women's right to dignity, life, integrity and security; access to justice and equal protection of the law as well as protection in armed conflicts;

Recalling its Resolutions; ACHPR/Res.66(XXXV)04;ACHPR/Res.103(XXXX)06; ACHPR/Res.111(XXXXII)07; ACHPR/Res.173 (XLV111) 10; ACHPR/Res.283 (LV) 2014; ACHPR/Res.284 (LV) 2014 ; ACHPR/Res.288 (EXT.OS/XVI) 2014 ; and ACHPR/Res. 365 (EXT.OS/XX1) 2017; on the human rights situation of women in Africa and their right to be protected against violence including sexual violence during war and peace times;

Recalling also the United Nations Security Council Resolutions 1325 (2000), 1820 (2008), 1888 (2009), 1889 (2009), 1960 (2010), 2106 (2013), 2122 (2013), 2242 (2015), 2467 (2019) and 2493 (2019) on Women, Peace and Security which collectively aim to address inter alia, sexual violence in cases of conflict and post conflict situations;

Recalling further the ACHPR Guidelines on Combatting Sexual Violence and its Consequences in Africa, adopted at its 60th Ordinary Session held in Niamey, Niger from 8 to 22 May, 2017;

Mindful of the aims and objectives of the Constitutive Act of the African Union and the authority conferred on the AU Peace and Security Council (PSC);

Concerned that violence against women and girls including rape and other forms of sexual violence continue to remain persistent and widespread in conflicts in Africa, and the perpetrators enjoy impunity which contributes to the repetition of these crimes;

Concerned also that sexual violence has over the years been systematically used as a weapon of war in conflicts with perpetrators targeting mainly

women and girls irrespective of age with impunity, despite the existence of legal frameworks prohibiting the same;

Concerned further that the victims of these sexual violence suffer very serious and long-lasting physical and psychological consequences, such as unwanted pregnancies, gynecological complications, sexually transmitted infections including HIV, mental disorders, low self-esteem, fear, depression and social stigma; difficulty in having access to the necessary medical and psycho-social services and in most cases are denied of their right to truth, justice and reparations;

Considering that the use of rape as a weapon of war has been categorised as a crime against humanity in the founding statutes of the Special Court for Sierra Leone , the International Criminal Tribunal for the former Yugoslavia and the International Criminal Court respectively; whilst the International Criminal Tribunal for Rwanda has qualified rape in conflict situations as an act of genocide and the International Criminal Tribunal for the former Yugoslavia classified rape as one of the most serious crimes of war in breach of the Geneva Conventions ;

Recognising the need to prioritise the fight on violence against women in conflict situations and impunity; by putting in place legislative and other measures aimed at preventing the violations and protecting the rights of women and girls, bringing the perpetrators to justice timeously, and protecting and supporting the victims in compliance with States' obligations under regional and international human rights instruments;

Considering the decision of the Executive Council (EX.CL/Dec.1108 (XXXVIII)) at its 34th Ordinary Session held in February this year; directing the Permanent Representatives Committee (PRC) of the AU to set the process in motion for the negotiations of an AU Convention on Ending Violence against Women and Girls for adoption by AU Policy Organs;

Welcoming the decision of H.E. President Felix Antoine Tshisekedi, Chairperson of the African Union for making the promotion of zero tolerance for gender-based violence as one of his priorities for 2021;

The Commission:

1. Condemns strongly all acts of violence and sexual violence committed against women and girls in conflicts in Africa; such as rape, gang rape, sexual slavery, sexual mutilation especially in recent and ongoing armed conflicts in the Tigray region of Ethiopia and the Eastern part of the Democratic Republic of Congo;

2. Calls on all parties involved in active and/or ongoing conflicts to immediately put an end to the use of violence against women and girls including sexual violence as a weapon of war and to ensure that perpetrators are prosecuted;

3. Urges State Parties to the African Charter to:

- ratify and domesticate the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa and the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol; as well as ensure its effective implementation and monitoring at the national level;
- adopt legislative, administrative and other measures to prevent and eradicate all forms of violence against women and children in conflict situations;
- criminalise all forms of violence against women including sexual violence, and put in place effective measures and mechanisms to ensure that the perpetrators of such crimes are held accountable and victims are compensated timeously, adequately and fairly;
- ensure that victims of sexual violence have access to all the necessary assistance including information, medical and psycho-social services and support;
- put in place effective, sufficient and accessible reparations and rehabilitation programmes for victims of sexual violence as well as include women in the development, adoption and implementation of the programmes;
- ensure that the security outfits, members of the judiciary, lawyers and para-legals receive regular and adequate training on international human rights and humanitarian law, women and the children's rights to build their capacity in dealing with cases of sexual violence;

4. Calls upon the African Union Commission to collaborate with the ACHPR and all the relevant AU Organs in the development of the AU Convention on Ending Violence Against Women and Girls in line with the Executive Council Decision;

5. Calls upon the African Union and the international community to take immediate action to protect the life, dignity and security of innocent and vulnerable women in situations of conflict in Africa.

Done virtually, on 5 December 2021