

ACHPR/Res.302 (LVI) 2015 : Resolution on terrorist acts in the Republic of Kenya

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 56th Ordinary Session in Banjul, The Gambia, from 21 April– 7 May 2015;

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

Recalling Article 3(f) of the Constitutive Act of the African Union which encourages promotion of peace, security, and stability on the continent;

Recalling further its Resolution: ACHPR/RES. 276 (LV) 2014, on terrorist acts in Africa, which condemned various attacks committed by the Al-Shabaab terrorist group in the Republic of Kenya;

Recalling the Decision of the Assembly of Heads of State and Government of the African Union, *Assembly/AU/Dec.536 (XXIII)*, at its 23rd Ordinary Session held in June 2014 in Malabo, Equatorial Guinea, expressing concern over the continued threat of terrorism in the Horn of Africa;

Deeply Concerned by the escalation of terror by the Al-Shabaab group since the year 2011 characterised by armed attacks on public places, places of worship, prisons, police stations and schools;

Further Concerned by the frequency and severity of terrorist attacks reported to have resulted in the deaths of hundreds of people in the recent attack on Garissa University College in North-eastern Kenya, which caused the death of 147 civilians;

Recognizing the role played by Kenya in the fight against terrorism in Africa, particularly as part of the African Union Mission in Somalia (AMISOM) and the establishment of a legal framework on prevention of terrorism;

Noting, however, the frequent use of retaliatory measures such as collective punishment, expulsion of refugees in the urban areas and members of the Somali community, freezing of funds, suspension of various civil society organizations and the threat of closure of refugee camps suspected of having links with terrorism;

Desirous of strengthening cooperation among Member States in the region in order to prevent and combat terrorist attacks which have multiple repercussions and constitute a serious violation of human rights, in particular, the rights to physical integrity, life, freedom and security, and impede socio-economic development;

Welcoming the expressed solidarity and support to the Republic of Kenya by various Member States and various regional, intergovernmental and international organizations, and the entire international community;

The Commission:

8. **Reiterates** its strong condemnation of acts of violence by the Al-Shabaab group in the Republic of Kenya and the use of youths and children in the terror attacks;
9. **Deplores** legislative and executive measures that were alleged to violate other basic human rights, including the right to a fair trial;
10. **Calls Upon** the Republic of Kenya to:
 - vi. Continue to guarantee the safety, security and protection of civilians in the affected communities, and to strengthen the protection of public and private property, in accordance with its regional and international human rights obligations;
 - vii. Ensure that the operations of AMISOM, and the Kenya Defence Forces in response to the Al-Shabaab group are conducted in accordance with relevant regional and international human rights obligations and international humanitarian law;
 - viii. Ratify the Protocol to the OAU Convention, which among other things, commits Member States to take all necessary measures to protect the fundamental human rights of their populations against all acts of terrorism and outlaw torture and other degrading and inhumane treatment against alleged perpetrators of terrorism;
 - ix. Take all necessary measures to protect refugees in conformity with regional and international commitments that Kenya has entered into;
 - x. Take all necessary measures to ensure prior and impartial investigation in the event of the freezing and suspension of assets of individuals and various Civil Society Organizations suspected of supporting terrorist groups;
 - xi. Investigate, prosecute, and bring to trial the perpetrators of human rights violations allegedly committed by the different groups and individuals including members of the terrorist groups.

11. **Calls upon** the African Centre for the Study and Research on Terrorism, the Intergovernmental Authority on Development, the African Union and its Members States as well as the international community in their sustained efforts to curb the acts of terrorism of the Al-Shabaab group, consolidate the actions and initiatives launched in the fight against terrorism in Kenya, and the continent in general.

Done in Banjul, the Gambia, 7 May 2015