

**ACHPR/Res. 422 (EXT.OS/ XXVI) 2019: Resolution on human rights and humanitarian law violations resulting from foreign airstrikes**

*The African Commission on Human and Peoples' Rights (the Commission), meeting at its 26<sup>th</sup> Extra-Ordinary Session, held in Banjul, Republic of The Gambia, from 16 to 30 July 2019:*

**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) and the provisions under Articles 60 and 61 of the Charter that allow the Commission to draw inspiration from and to take into consideration other international instruments and norms recognized by States Parties in interpreting the African Charter;

**Reaffirming** the right of human beings to respect for their life and integrity of their person and the prohibition of torture, cruel, inhuman and degrading treatment under the African Charter;

**Further affirming** that the human and peoples' rights protected under the African Charter should be protected at all time and thus no one may be arbitrarily deprived of these rights, including in the context of conflict or counterterrorism;

**Recalling** its General Comment No. 3 on the Right to Life, which provides that States have the responsibility to prevent arbitrary deprivations of life caused by its own agents or others, to investigate any killings that take place, and to hold the perpetrators accountable;

**Also recalling** its Principles and Guidelines on Human and Peoples' Rights while Countering Terrorism in Africa which provide that States Parties have an obligation under international human rights, humanitarian, and refugee law to not only protect people against acts of terrorism, but also to protect terrorist suspects, their families, and associates from attacks;

**Stressing** that the use of force should be a last resort and that the principles of international humanitarian law require a distinction between civilian and military targets, the application of the principles of necessity and proportionality of use of force, and the humane treatment of protected persons;

**Deeply concerned** by the increased use of foreign operated armed drones to address instability in parts of Africa, including deployment of armed and reconnaissance drones in Somalia and the Sahel region;

**Particularly concerned** that States Parties to the African Charter allow non-African states to use manned aircraft and armed drones in the name of countering terrorism; and

**Dismayed** by recent information to the effect that such drone air strikes by foreign military operations in Somalia have dramatically increased since 2017, resulting in instances of civilian casualties and heightening risks of further civilian casualties;

The Commission:

1. **Reminds** States Parties to the African Charter that they bear the primary responsibility for protecting all civilians, including through ensuring that their own forces and foreign military interventions abstain from targeting non-combatants;
2. **Reiterates** that as part of this responsibility, States Parties to the African Charter should put in place legislative mechanisms for regulating the use of force by foreign military, including armed drones, from their territories and for undertaking independent investigations for holding those responsible accountable in cases where such use causes harm to civilians;
3. **Strongly urges** the Government of Somalia in collaboration with the African Union including through the African Commission to conduct independent and transparent investigations into the alleged cases of civilian casualties in air strikes by the United States of America, and to put in place the necessary structures to enable victims to report such violations and to obtain reparations;
4. **Urges** the Governments of States Parties in the Sahel region to ensure that the expansion of the use of foreign armed forces, in particular armed drones in countering terrorism, is subject to rigorous regulation and control, and that all measures are put in place to prevent civilian casualties resulting from such use; and
5. **Calls on** all States Parties to ensure that foreign military interventions undertaken with the support of the Government refrain from violating international humanitarian law, targeting civilians or disregarding loss of life or injury of civilians, and that active precautions and all reasonable steps are taken, as required by international humanitarian law, to protect civilian lives.

**Done in Banjul, 30 July 2019**