

Resolution on Violence and Human Rights Violation against Persons on the Basis of their Imputed or Real Sexual Orientation and Gender Identity in Africa

The African Commission on Human and Peoples' Rights, meeting at the 54th Ordinary Session held in Banjul, The Gambia from 22 October – 5 November 2013:

Recalling that Article 4[o] of the Constitutive Act of the African Union recognizes respect for the sanctity of human life, condemnation and rejection of impunity as a guiding principle of the African Union;

Recalling also that Articles 3 and 28 of the African Charter on Human and Peoples' Rights recognize the equality of every individual under the law and the right of every individual to equal protection of the law, and the duty of every individual to respect and consider his fellow human beings without discrimination, and to maintain relations aimed at promoting, safeguarding and reinforcing mutual respect and tolerance respectively;

Recalling further that the Universal Declaration of Human Rights and the African Charter on Human and Peoples' Rights affirm the inherent dignity of all human beings that everyone is entitled to the enjoyment of rights and freedoms without distinction of any kind such as race, colour, sex, language, religion, political or any other opinion, national or social origin, property, birth, or other status;

Noting that Article 29[7] of the African Charter requires every individual to preserve and strengthen positive African cultural values in his relations with other members of society in the spirit of tolerance, dialogue and consultation.

Noting also that Article 45 of the African Charter, which mandates the African Commission on Human and Peoples' Rights, protects human and peoples' rights in Africa;

Noting further that Article 60 of the African Charter requires the African Commission on Human and Peoples' Rights to draw inspiration from the content of other international treaties and laws, and further noting that articles 2(1) and 26 of the International Covenant on Civil and Political Rights (ICCPR), to which all African states are party, as well article 2 of the International Covenant of Economic, Social and Cultural Rights (ICESCR) establish the principle of non discrimination on grounds of sexual orientation, as elaborated respectively by the United Nations Human Rights Committee and the United Nations Committee on Economic, Social and Cultural Rights; and that U.N. treaty bodies and Special Procedures,

including the U.N. Working Group on Arbitrary Detention, the U.N. Special Rapporteur on torture and other inhuman, degrading and cruel punishments and treatments, the UN Committee on Social, Economic and Cultural Rights, and the Committee on the Elimination of Discrimination against Women, have consistently held that the International Bill of Rights includes protection against discrimination based on sexual orientation and gender identity;

Expressing grave concern at acts of violence and discrimination committed against individuals because of their imputed or real sexual orientation and gender identity, which include arbitrary arrests, detentions, extra-judicial killings and executions, forced disappearances, extortion and blackmail, violent attacks such as rape and other sexual assault, physical assaults, torture and murder;

Particularly alarmed at the increasing incidence violence especially the rape of women *perceived to be lesbians as acknowledged by the report of the Special Rapporteur of the African Commission on Human and Peoples' Rights on Human Rights Defenders*

Further alarmed at the incidents of violence and human rights violations and abuses by State and non-state actors targeting human rights defenders and civil society organisations working on issues of sexual orientation and gender identity in Africa;

Deeply disturbed by the unwillingness of law enforcement agencies to diligently investigate and prosecute perpetrators of violence and other human rights violations targeting persons on the basis of their imputed or real sexual orientation and gender identity

Hereby:

1. Condemns the continuing and increasing incidence of violence and other human rights violations, including murder, rape, assault, persecution and imprisonment of persons on the basis of their imputed or real sexual orientation and gender identity in Africa;
2. Condemns exclusion of individuals and communities from the enjoyment of rights and the full realization of their potential because of their real or imputed sexual orientation and gender identity;
3. Specifically condemns the situation of systematic attacks by state and non-state actors against persons on the basis of their imputed or real sexual orientation and gender identity;
4. Strongly urges States to end impunity for acts of violation and abuse, whether committed by state or non-state actors, by enacting appropriate laws prohibiting and punishing all forms of violence including those targeting persons on the basis of their imputed or real sexual orientation and gender identities, ensure proper investigation and diligent prosecution of the perpetrators, and establishing judicial procedures favorable to the victims.