



169: Resolution on

Repealing Criminal Defamation Laws in Africa

The African Commission on Human and Peoples' Rights, meeting at its 48th Ordinary Session, held in Banjul, The Gambia, from 10 – 24 November 2010:

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

Noting that freedom of expression is a fundamental human right enshrined in regional and international instruments, including Article 9 of the African Charter, Article 19 of both the Universal Declaration of Human Rights (UDHR), and the International Covenant on Civil and Political Rights (ICCPR), Article 13 of the American Convention on Human Rights (the American Convention); and Article 10 of the European Convention on Human Rights (the European Convention);

Recalling the Resolution on Freedom of Expression adopted at its 29th Ordinary Session held from 23 April to 7 May 2001 in Tripoli, Libya, to initiate a mechanism to review and monitor adherence to standards of freedom of expression, investigate violations and make appropriate recommendations;

Aware of ACHPR/Res.62 (XXXII) 02, on the Declaration of Principles on Freedom of Expression in Africa of 2002 (the Declaration) which elaborates on the scope of Article 9 of the African Charter, in particular Principle II (1) of the Declaration which provides that "no one shall be subject to arbitrary interference with his or her freedom of expression;"

Noting Principle XII (1) of the Declaration which protects reputation by providing that "states should ensure that their laws relating to defamation conform to certain standards, including no one shall be found liable for true statements, opinions or statements regarding public figures which it was reasonable to make in the circumstances;"

Recalling the Resolution on the Mandate and Appointment of a Special Rapporteur on Freedom of Expression in Africa adopted at its 36th Ordinary Session held from 23 November to 7 December 2004 in Dakar, Senegal;

Noting the Declaration of Table Mountain, adopted by World Association of Newspapers and News Publishers and the World Editors Forum in 2007, which

inter alia “calls on States Parties to repeal insult and criminal defamation laws, so as to promote the highest standards of press freedom in Africa;”

Noting further, the Addis Ababa Declaration on Safety and Protection of Journalists, adopted by the Regional Workshop on Safety and Protection of African Journalists on 3 September 2010;

Underlining that criminal defamation laws constitute a serious interference with freedom of expression and impedes on the role of the media as a watchdog, preventing journalists and media practitioners to practice their profession without fear and in good faith;

Expressing concern at the deteriorating press freedom in some parts of Africa, and in particular: restrictive legislations that censor the public’s right to access information; direct attacks on journalists; their arrest and detention; physical assault and killings, due to statements or materials published against government officials;

Commending States Parties to the African Charter (States Parties) that do not have, or have completely repealed insult and criminal defamation laws;

- **Calls** on States Parties to repeal criminal defamation laws or insult laws which impede freedom of speech, and to adhere to the provisions of freedom of expression, articulated in the African Charter, the Declaration, and other regional and international instruments;
- **Also calls** on States Parties to refrain from imposing general restrictions that are in violation of the right to freedom of expression;
- **Urges** journalists and media practitioners to respect the principles of ethical journalism and standards in gathering, reporting, and interpreting accurate information, so as to avoid restriction to freedom of expression, and to guide against risk of prosecution.
- **Further Urges** States Parties to implement the recommendations and appeals of the Special Rapporteur.

Done in Banjul, The Gambia, 24 November 2010.