

362: Resolution on the Right to Freedom of Information and Expression on the Internet in Africa - ACHPR/Res. 362(LIX) 2016

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 59th Ordinary Session, held Banjul, Islamic Republic of The Gambia, from 21 October to 04 November 2016;

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

Reaffirming the fundamental right to freedom of information and expression enshrined under Article 9 of the African Charter and other international human rights instruments;

Further reaffirming the Declaration of Principles on Freedom of Expression in Africa, specifically Principle I(2) which provides that "everyone shall have an equal opportunity to exercise the right to freedom of expression and to access to information without discrimination" and Principle II(2) which provides that "any restrictions on freedom of expression shall be provided by law, serve a legitimate interest and be necessary in a democratic society;"

Recalling Resolution ACHPR/Res.62 (XXXII) 02 on the adoption of the Declaration of Principles on Freedom of Expression in Africa, which elaborates on the scope of Article 9 of the African Charter; Resolution ACHPR/Res.54 (XXIX) 01 on the Situation of Freedom of Expression in Africa; Resolution ACHPR/Res.99 (XXXX) 06 on the Deteriorating Situation of Freedom of Expression and Access to Information in Africa; and Resolution ACHPR/Res 350 (EXT.OS/XX) 16 to Revise the Declaration of Principles on Freedom of Expression in Africa;

Further Recalling the United Nations Human Rights Council Resolution HRC/RES/20/8 of 2012, which recognizes "the global and open nature of the Internet as a driving force in accelerating progress towards development in its various forms" and affirms that "the same rights that people have offline must also be protected online, in particular freedom of expression, which is applicable regardless of frontiers and through any media of one's choice," and calls upon all States "to promote and facilitate access to the Internet and international cooperation aimed at the development of media and information and communications facilities in all countries;"

Cognizant of the Joint Declaration on Freedom of Expression and the Internet, adopted by the UN Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission's Special Rapporteur on Freedom of Expression and Access to Information in Africa on 01 June 2011, which *inter alia* stresses the transformative nature of the Internet in terms of giving voice to billions of people around the world, of significantly enhancing their ability to access information and of enhancing pluralism and reporting;

Mindful of the need to bridge the digital divide which has significantly disadvantaged the African continent;

Recognizing the importance of the Internet in advancing human and peoples' rights in Africa, particularly the right to freedom of information and expression;

Further recognizing that privacy online is important for the realization of the right to freedom of expression and to hold opinions without interference, and the right to freedom of peaceful assembly and association;

Condemning the use of hate speech on the Internet, such as any form of speech which degrades others, promotes hatred and encourages violence against a group on the basis of criteria including race, colour, religion, national origin, gender, disability or a number of other traits;

Taking note of the **African Declaration on Internet Rights and Freedoms**, which was developed by a coalition of African civil society organizations and adopted during the 9th Internet Governance Forum in Istanbul, Turkey, in September 2014, which elaborates on the principles which are necessary to uphold human and people's rights on the Internet, and to cultivate an Internet environment that can best meet Africa's social and economic development needs and goals;

Concerned by the emerging practice of State Parties of interrupting or limiting access to telecommunication services such as the Internet, social media and messaging services, increasingly during elections;

Convinced that it is of critical importance that clear and comprehensive principles are established to guide the promotion and protection of human rights in the online environment;

The Commission:

1. Calls on States Parties to respect and take legislative and other measures to guarantee, respect and protect citizen's right to freedom of information and expression through access to Internet services;
2. Urges African citizens to exercise their right to freedom of information and expression in the Internet responsibly;
3. Encourages the Special Rapporteur of Freedom of Expression and Access to Information in Africa to take note of developments in the Internet age during the revision of the Declaration of Principles on Freedom of Expression in Africa, which was adopted by the Commission by 2002;
4. Urges State Parties, civil society and other stakeholders to collaborate with the Special Rapporteur by contributing to the process of revising the Declaration to consider Internet rights.

Done in Banjul, Islamic Republic of The Gambia, on 04 November 2016