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**AMNESTY
INTERNATIONAL**



His Excellency Nhial Deng Nhial
Minister of Foreign Affairs
Republic of South Sudan

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Dear Minister Nhial Deng Nhial,

As South Sudan prepares to engage in its second session of the General Assembly of the United Nations (UN), we would like to take this opportunity to raise with you the issue of South Sudan's continuing use of the death penalty.

There is a clear regional and global trend toward abolition of capital punishment, and this trend has been reconfirmed at the General Assembly, where the majority of the Member Countries of the UN have voted for a moratorium on the use of the death penalty, first in 2007 and again in 2008 and 2010. As of October 2012, 94 UN Member States have fully abolished the death penalty. A total of 137 are abolitionist in law or practice, constituting more than two-thirds of UN Member States.

The global trend is mirrored in Africa where 16 member states of the African Union have abolished capital punishment for all crimes. Three countries have done so since 2009 – Burundi, Togo and Gabon. Ten countries are State Parties to the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR-OP2), which aims at the abolition of the death penalty, and 21 are considered abolitionist in practice, as they have not carried out executions for at least ten years and have an established practice or policy not to do so. In 2008 the African Commission on Human and Peoples' Rights (African Commission) adopted its second resolution on the death penalty,¹ calling on States Parties to the African Charter on Human and Peoples' Rights to observe a moratorium on the execution of death sentences with a view to abolishing the death penalty and to ratify ICCPR-OP2. In April 2012, the Working Group on the Death Penalty of the African Commission reaffirmed the necessity of the abolition of capital punishment and suggested ways for its achievement.²

The death penalty in South Sudan

South Sudan's retention of the death penalty runs counter to the global move and commitment to end the use of capital punishment. We are greatly concerned by the recent executions, such as those on 28 August 2012, when two men were hanged in Juba prison. We urge South Sudan to impose a moratorium on the use of the death penalty with a view to reviewing the country's position and moving towards abolition.

¹ Resolution 136(XXXVIII).08, adopted at the 44th Ordinary session in Abuja, Nigeria, on 24 November 2008, online at http://old.achpr.org/english/resolutions/resolution136_en.htm, last visited on 13 September 2012,

² African Commission on Human and Peoples' Rights, "Study on the question of the death penalty in Africa", 10 April 2012, adopted by the African Commission at its 50th Ordinary Session (24 October - 07 November 2011), online at http://www.achpr.org/files/news/2012/04/d46/study_question_deathpenalty_africa_2012_eng.pdf, last visited on 1 November 2012.

We are also greatly concerned by South Sudan's use of the death penalty because the country does not adhere to UN safeguards guaranteeing the protection of the rights of those facing the death penalty. The minimum standards are set out in the annex to the Economic and Social Council resolution 1984/50 of 1984, which, among other things, provides that the death penalty should be imposed only for the most serious crimes, and that a death sentence should not be imposed for crimes committed by persons below 18 or carried out on pregnant or nursing women, or persons who have become insane.

These minimum standards require adherence to fair trial standards, including the presumption of innocence, the right to adequate legal assistance at all stages of the proceedings, and the right of convicted persons to appeal to a higher tribunal. Capital punishment may only be imposed "when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts."

We believe South Sudan is currently not able to fully guarantee the minimum safeguards outlined above and in other international standards on the use of the death penalty. We are especially concerned about violations of fair trial standards, particularly the right of accused persons to legal assistance. According to the Ministry of Justice, since 2006 the Department of Legal Aid and Human Rights has provided legal aid in only six cases. The vast majority of the approximately 200 individuals currently on death row have received no counsel, leaving many unable to adequately prepare their defence or to appeal convictions.

It is also important that South Sudan increase public information and transparency about its use of the death penalty. Practical steps towards this end include: releasing figures on the number of executions carried out and death sentences imposed; providing notification when executions are set to occur; and making publicly available all judicial decisions regarding death sentences and decisions by the President to confirm or commute death sentences. The accessibility of such information is of particular importance during the current constitutional review process, a period where the government should facilitate informed discussion about substantive constitutional provisions such as the right to life.

The undersigned organizations commend the Government of South Sudan for the statement made at the 21st Session of the Human Rights Council stating that South Sudan agrees with concerns raised by state and non-state actors with regards to abolishing the death penalty. We oppose the death penalty in all circumstances, and we are calling on South Sudan to take specific steps to move towards abolition. The government should do so by putting in place a moratorium on executions with a view to ratifying ICCPR-OP2 and abolishing the death penalty. As a member of the international community and the UN, South Sudan should also act in support of international moves to end the use of the death penalty.

When South Sudan joined the United Nations in 2011, it agreed to support the objectives of the organization, one of which is the abolition of the death penalty.

We look forward to South Sudan joining the growing number of countries who are considered abolitionist in law or in practice.

Yours sincerely,

Agency for Independent Media (AIM)
Amnesty International
Comboni Missionaries
Comboni Sisters
Foundation for Youth Initiative
Human Rights Watch
South Sudan Human Rights Society for Advocacy (SSHRSA)
South Sudan Law Society (SSLS)
South Sudan Women's Lawyer Association
Soweto Community Based Organization