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63rd Ordinary Session of the African Commission on Human and Peoples' Rights, Banjul, The Gambia

Agenda Item 9(ix): Activity Report of the Working Group on Death Penalty and Extrajudicial, Summary or Arbitrary Killings in Africa

Chairperson and Honourable Commissioners,

Amnesty International welcomes this opportunity to address the African Commission on Human and Peoples' Rights (African Commission) on the state of the death penalty in Africa.

Amnesty International opposes the death penalty in all cases without exception, regardless of the nature or circumstances of the crime; guilt, innocence or other characteristics of the individual; or the method used by the state to carry out the execution. The death penalty is a violation of the right to life and the ultimate cruel, inhuman and degrading punishment.

We welcome the progress some state parties have made on the death penalty in the last few months.

Benin, which has already abolished the death penalty, commuted the death sentences of its remaining death row prisoners in February.

The Gambia has taken major strides towards abolition of the death penalty by announcing a moratorium on execution in February. Last month, The Gambia ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

In **Burkina Faso**, a new Penal Code came into force in June. It removes the death penalty from the list of possible punishments. However, the country's Code of Military Justice still provides for the death penalty for military crimes. As such Burkina Faso has only abolished the death penalty for ordinary crimes only. Therefore, Amnesty International urges Burkina Faso to become fully abolitionist by prohibiting the death penalty in law for all crimes.

However, Amnesty International is deeply concerned about the continued use of the death penalty in some countries Africa. Botswana and Sudan – two countries that did not carry out executions in 2017 – have resumed executions this year. In May, South Sudan executed three people and according to credible information received by Amnesty International two of them were below the age of 18 at the time of the crime. The execution of people who were children at the time of the crime is strictly prohibited under international and African regional human rights law. Amnesty International urges the African Commission to call on South Sudan to refrain from executing people who were below the age of 18 at the time of the crime and prohibit in law the use the death penalty against such people.



It is alarming that Egypt continues to impose death sentences following trials that are unfair and do not meet international fair trial standards. Many of the death sentences imposed are connected to incidents of political violence where Courts relied heavily on confessions that security forces extracted under torture and other ill-treatment from the defendants when they held them incommunicado under conditions that amount to enforced disappearance. Courts also relied entirely on deeply flawed police investigations. In addition, death sentences are imposed *en masse* on civilians by military courts. For example, earlier this month, 17 people accused of carrying out three deadly church bombings in 2017 as well as attacks against security forces were sentenced to death by a military court. There is no justification for the attacks which targeted worshippers in Coptic Christian churches across Egypt in 2017. Perpetrators of these horrific attacks should be held accountable for their crimes. However, imposing a mass death sentence after an unfair military trial is not justice and will not deter further sectarian attacks. Military trials of civilians in Egypt are inherently unfair as all officials in military courts, including judges and prosecutors, are serving members of the military. These officials report to the Minister of Defence and do not have the necessary training on rule of law or fair trial standards.

Amnesty International remains very concerned at the lack of progress on the adoption, by the African Union, of the draft Protocol to the African Charter on Human and Peoples' Rights on the Abolition of the Death Penalty in Africa. Amnesty International reiterates its call on the African Commission to work effectively with all relevant organs of the African Union in ensuring that the draft Protocol is successfully adopted and publish its plans in that regard.

Recommendations

Amnesty International calls on the African Commission to:

- Continue to support steps towards the abolition of the death penalty in Africa;
- Pending abolition, reinforce its call on all state parties to the African Charter on Human and People's Rights to establish an official moratorium on executions with a view to abolishing the death penalty;
- Call on states parties to the African Charter to, without delay, commute to terms of imprisonment all death sentences;
- Urge states parties to the African Charter that are yet to do so to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty;
- Remind state parties to the African Charter that still maintain the death penalty:
 - that trials for crimes carrying the death penalty must comply with the most rigorous internationally recognized standards for fair trial;
 - that any death penalty provisions that are in breach of international human rights law, such as its mandatory imposition or for crimes which do not meet the



threshold of “most serious crimes”, must be removed from domestic laws;

- to make available relevant information with regards to their use of the death penalty, including the number of persons sentenced to death, the number of persons on death row and the number of executions carried out;
- that prisoners under sentence of death, their families and legal representatives are provided, in advance, with adequate information about a pending execution, including date, time and location;
- to return the body of persons executed, and any personal effects, to the family for burial, without payment by the family, or inform them where the body is buried and allow them reasonable access to that location.