



ORAL STATEMENT BY AMNESTY INTERNATIONAL

Index: AFR 01/1494/2015

28 April 2015

**56th Ordinary Session of the African Commission on Human and Peoples' Rights,
Banjul, The Gambia**

**Agenda Item 7: Activity Report of the Chairperson 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. The death penalty is a violation of the right to life and the ultimate cruel, inhuman and degrading punishment.

Mass death sentences

Amnesty International is very concerned about the continued use of the death penalty in Africa; the emerging pattern of imposing mass death sentences against scores of people after mass trials highlights the concerns. Courts in Egypt have handed down mass death sentences after mass trials that were grossly unfair. The Minya criminal court imposed mass death sentences on 37 people in April 2014 and 183 people in June 2014. The death sentences followed referrals made by the court to the Grand Mufti, Egypt's highest religious official.¹ Egyptian criminal courts must refer a case to the Grand Mufti for review, before handing down a death sentence; however, the opinion of the Grand Mufti is only advisory and not binding on the courts. In December 2014, the Giza criminal court

¹ Following the mass trials in March and April, the Minya criminal court recommended death sentences for 528 people and 683 people respectively. However, after the opinion of the Grand Mufti was received the court only imposed death sentences on 37 and 183 people respectively.

recommended death sentences against 188 people for involvement in the killing of 11 police officers in Giza in August 2013; and it referred the case to the Grand Mufti. On 2 February 2015 the final verdict sentencing 183 people to death was issued by the court after the opinion of the Grand Mufti was received.

In Nigeria, military courts imposed mass death sentences. In September 2014, 12 soldiers were sentenced to death for mutiny and attempted murder after firing shots at their commanding officer in the north-eastern city of Maiduguri. The convicted soldiers belonged to the Nigerian Army's Seventh Division, which is at the forefront of the fight against the armed group Boko Haram. In December 2014, a military court in Abuja imposed death sentences on 54 soldiers who were convicted of conspiracy to mutiny and mutiny for refusing to join operations to retake three towns in Borno State that had been captured by Boko Haram. According to testimony given by the soldiers during the trial, they had complained to their superiors about not having the weaponry needed to complete their mission against Boko Haram. The lawyer for the soldiers said that the military court refused to consider the soldier's defence that they were improperly equipped. Halfway through the trial, journalists were prevented from covering the proceedings.

Amnesty International is concerned that the trial may not have complied with internationally recognized standards for fair trial. Also in the same month, the military court in Abuja sentenced four more soldiers, accused of mutiny, to death. A total of 70 soldier, all belonging to the Nigerian Army's Seventh Division, were sentenced to death in 2014. Amnesty International understands that the Nigerian authorities plan to trial more soldiers for offences carrying the death penalty.

Amnesty International urges the African Commission to call on the Egyptian and Nigerian authorities to, by whatever judicial or other means available, quash these mass death sentences and order retrials that rigorously adhere to international standards for fair trials, without recourse to the death penalty. The organisation warns that the imposition of mass death sentences following unfair trials sets a bad precedent in Africa and as the effect of slowing down the progress towards abolition of the death penalty in the continent.

Recent death sentences in Gambia

In Gambia, a military court handed down death sentences to three soldiers and sentences of life imprisonment to three others following a trial on Monday 30 March 2015. The soldiers were accused of participating in the December 2014 attempted coup d'état in Gambia. The trial was held in secret; media and independent observers were barred from observing the proceedings and Amnesty International is concerned that international fair trial standards may not have been adhered to. Reports from the country indicate that the soldiers may have been convicted of treason, conspiracy, mutiny and assisting the enemy. Amnesty International urges the African Commission to call on Gambia to order a re-trial

of the soldiers in compliance with international fair trial standards, without recourse to the death penalty.

Death Penalty in Africa in 2014

On 1 April 2015, Amnesty International published its global report on the use of the death penalty.² Amnesty International would like to highlight some developments on the death penalty in Africa in 2014.

At least 61 judicial executions were known to have been carried out in four African countries in 2014: Equatorial Guinea (9), Egypt (15+), Somalia (14+) and Sudan (23+).³ Amnesty International recorded at least 1,446 death sentences in 23 African countries: Algeria (16+), Botswana (1), Congo (Republic of) (3+), Democratic Republic of the Congo (14+), Egypt (509+) Gambia (1+), Ghana (9), Kenya (26+), Lesotho (1+), Libya (1+), Mali (6+), Mauritania (3), Morocco/Western Sahara (9), Nigeria (659), Sierra Leone (3), Somalia (52+; Somali Federal Government 31+, Puntland 11+, Somaliland 10+), South Sudan (+), Sudan (14+), Tanzania (91), Tunisia (2+), Uganda (1), Zambia (13+) and Zimbabwe (10).

The figure of at least 1446 death sentences is a significant increase of 139% compared to 2013 when 605 death sentences were recorded in 24 African countries. The increase was largely due to sharp spikes in death sentences recorded in Egypt and Nigeria. Death sentences recorded in Egypt rose by 400, from at least 109 in 2013 to at least 509 in 2014. In Nigeria, the number of death sentences recorded jumped sharply from at least 141 in 2013 to 659 in 2014.

In 2014 progress towards the abolition of the death penalty in Africa was slow, with some setbacks recorded. However Africa remains a beacon of hope for the abolition of the death penalty.

In December 2014 the parliament in **Cameroon** voted in favour of a bill which provides for the death penalty for acts of terrorism.

At the end of 2014, the **Central African Republic** (CAR) was yet to abolish the death penalty and ratify the Second Optional Protocol to the International Covenant on Civil Political Rights (ICCPR), despite accepting recommendations to do so during the UN Human Rights Council Universal Periodic Review (UPR) in 2013.

² Amnesty International, Death Sentences and Executions 2014, 1 April 2015, available at <https://www.amnesty.org/en/documents/act50/0001/2015/en/>

³ Where “+” appears after a figure next to the name of a country – for instance, Egypt (15+), – it means that this is the minimum figure calculated by Amnesty International. Where “+” appears after a country name without a figure – for instance, death sentences in South Sudan (+) – it means that there were executions or death sentences (more than one) in that country but insufficient information to provide a credible minimum figure. When calculating global and regional totals, “+” has been counted as 2.

Following the UN UPR in 2013, **Chad** accepted, in March 2014, the recommendation to abolish the death penalty. In September 2014, Minister of Communication and government spokesperson Hassan Sylla Bakari announced that a penal code aimed at abolishing the death penalty had been adopted by the government. According to the Minister, the death penalty will be replaced with life imprisonment with no possibility of conditional release. At the end of 2014 parliament was yet to adopt the penal code.

In 2014 **Congo** did not ratify the Second Optional Protocol to the ICCPR and abolish the death penalty, despite accepting recommendations to do so during the UN UPR in 2013. During the UN UPR in 2014, **Comoros** accepted recommendations to: speed up the process of adopting the new Penal Code that foresees the abolition of the death penalty; ratify the Second Optional Protocol to the ICCPR; and proceed with formal abolition of the death penalty.

The plans of the government in **Ghana** to put to a referendum recommendations of the Constitutional Review Commission that require changes to the Constitution, including the removal of the death penalty, were not implemented in 2014.

Following the acceptance by **Madagascar** of the recommendation to abolish the death penalty during the UN UPR in November 2014, on 10 December the National Assembly adopted a bill replacing the punishment with life imprisonment with hard labour. The bill requires signing into law by the President of Madagascar.

During 2014 **Malawi** informed the UN Human Rights Committee that it has no plans to abolish the death penalty. The Committee expressed concern that death sentences are still imposed and that the punishment is not reserved for the most serious crimes.⁴ It also expressed concern that the right to seek a pardon is not effectively ensured. The Committee recommended that Malawi should consider abolishing the death penalty and acceding to the Second Optional Protocol of the ICCPR; review its Penal Code and ensure that the death penalty, if imposed at all, is applicable only to the most serious crimes; provide adequate funds for a prompt process for resentencing prisoners who have received a mandatory death penalty; and ensure the right to seek pardon or commutation of the death sentence.

In December 2014, Mohamed Cheikhould Mohamed Mkhaitir, was sentenced to death in **Mauritania** for writing an article deemed blasphemous against Islam. This was believed to be the first death sentence for apostasy since Mauritania's independence in 1960.

In March 2014, the UN Human Rights Committee expressed regret at the slow progress towards abolition in **Sierra Leone** and requested that the country expedite efforts to

⁴ UN Human Rights Committee, Concluding observations on the initial periodic report of Malawi, 111th session 7–25 July 2014, UN doc CCPR/C/MWI/CO/1/Add.1, 19 August 2014, para11.

abolish the death penalty and ratify the Second Optional Protocol to the ICCPR.⁵ In May 2014, Sierra Leone's Attorney-General and Minister of Justice, Franklyn Bai Kargbo, told the UN Committee against Torture that Sierra Leone would abolish the death penalty in a matter of weeks. He stated: "The President has at the same time directed my office, as a matter of urgency, to draft legislation removing the death penalty from our laws and making it a thing of the past in Sierra Leone. We anticipate completing the task in the space of a few weeks." At the end of 2014 Sierra Leone was yet to abolish the death penalty. Amnesty International urges the African Commission to call on Sierra Leone to expedite action in fulfilling the commitment it made to abolish the death penalty.

In December 2014, 117 countries - more than ever before - voted in favour of the 5th UN General Assembly resolution on a moratorium on the use of the death penalty.⁶ Amnesty International acknowledges the support for the adoption of the resolution by some African countries. Seventeen African countries co-sponsored the resolution while 27 African countries voted in favour of it.⁷

Amnesty International welcomes the work of the African Commission's Working Group on Death Penalty and Extra-Judicial, Summary or Arbitrary Killings in Africa, particularly the drafting of the Additional Protocol to the African Charter on Human and Peoples' Rights on the Abolition of the Death Penalty. The organisation will continue to support the African Commission in its work on the abolition of the death penalty in Africa.

Recommendations

Amnesty International calls on the African Commission to:

1. Continue to support steps towards the abolition of the death penalty in Africa;
2. Pending abolition, reinforce its call on all state parties to the African Charter on Human and People's Rights to establish a moratorium on executions with a view to abolishing the death penalty;
3. 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;

⁵ UN Human Rights Committee, Concluding observations on the initial report of Sierra Leone, 110th session 10-28 March 2014, UN doc CCPR/C/SLE/CO/1, 17 April 2014, para18.

⁶ UN General Assembly resolution 69/186, adopted on 18 December 2014.

⁷ **African countries that co-sponsored the resolution:** Algeria, Angola, Benin, Burundi, Cabo Verde, Congo (Republic of), Côte d'Ivoire, Gabon, Guinea-Bissau, Madagascar, Mozambique, Rwanda, Sao Tome and Principe, Seychelles, Sierra Leone, Somalia, Togo. **African countries that voted in favour of the resolution:** Algeria, Angola, Benin, Burkina Faso, Burundi, Cabo Verde, Central African Republic, Chad, Congo (Republic of), Côte d'Ivoire, Equatorial Guinea, Eritrea, Gabon, Guinea-Bissau, Madagascar, Mali, Mozambique, Niger, Rwanda, Sao Tome and Principe, Seychelles, Sierra Leone, Somalia, South Africa, South Sudan, Togo, Tunisia.

4. 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.