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ITEM 7 (k): Report of the Working Group on the Death Penalty

The Chairperson,
African Commission on Human and Peoples' Rights
43rd Ordinary Session
Ezulwini,
Swaziland

Chairperson, Honourable Commissioners,

Amnesty International welcomes the steady progress towards abolition of the death penalty in countries in Africa. The continent of Africa is largely free of executions with only seven of the 53 African Union member states known to have carried out executions in 2007: Botswana, Egypt, Equatorial Guinea, Ethiopia, Libya, Somalia and Sudan. According to Amnesty International's information, of the 53 AU member states, 14 countries no longer have the death penalty: Angola, Cape Verde, Côte d'Ivoire, Djibouti, Guinea-Bissau, Liberia, Mauritius, Mozambique, Namibia, Sao Tome and Principe, Rwanda, Senegal, Seychelles and South Africa have abolished the death penalty completely. A further 21 member states-Algeria, Benin, Burkina Faso, Central African Republic, Congo (Republic), Eritrea, Gabon, Gambia, Ghana, Kenya, Madagascar, Malawi, Mali, Mauritania, Niger, Sahrawi Arab Democratic Republic, Swaziland, Tanzania, Togo, Tunisia and Zambia- are abolitionist in practice. 18 countries retain the death penalty but only a handful of them use it regularly. Cape Verde, Djibouti, Liberia, Mozambique, Namibia, Seychelles and South Africa have ratified Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty.

Amnesty International regrets that since the last session of the African Commission on Human and Peoples' Rights in November 2007, executions have taken place in Libya, Somalia and Sudan. In Libya, there have been reports of several executions including four Nigerians in November and four Ghanaians at the end of January. Earlier this year two Egyptians, one Sudanese and one Chadian national were reportedly executed. In Somalia a soldier was executed by firing squad in the capital in January 2008. In Sudan two Sudanese men were executed in January 2008. Five men were executed in February. In Nigeria Amnesty International documented in December 2007 seven executions carried out by hanging in 2006.

Death sentences were passed in Algeria, Botswana, Egypt, Ethiopia, Kenya, Nigeria, Uganda, Sudan and Tunisia, in some cases after an unfair trial. Special concern for Amnesty International

is the continuing sentence to death of child offenders in some of these countries. On 13 March the Khartoum-North Court of Appeals confirmed the death sentences on 10 people including a child offender who was 15 years old at the time of the crime.

However, there have been some positive developments with respect to the abolition of the death penalty during the same period: A revised text for the Burundian penal code, which is still pending promulgation, excluded the death penalty as punishment. In Mali, the draft bill on the abolition of the death penalty adopted by the government in October 2007 has been tabled for the next parliamentary session which will start in April. In Nigeria in January 2008 the governor of Ogun State, Mr Olugbenga Daniel commuted the death sentences of two death row prisoners. In Sierra Leone in January the Constitutional Review Commission submitted draft amendments to the President which included a recommendation that the death penalty be abolished in all cases of treason or other crimes of political nature that do not directly result in the death of another person(s) and be replaced by life imprisonment. In Tunisia a draft parliamentary bill on abolition of the death penalty was sent by opposition parliamentarians on 6 March to the Tunisian Parliament.

Furthermore, Amnesty International welcomes the support of African states regarding the UN General Assembly resolution on a moratorium on executions. The support by African states is consistent with the 1999 resolution adopted by the African Commission in Kigali, Rwanda and the current trend towards abolition in Africa. The 1999 resolution called on states parties to the African Charter on Human and Peoples' Rights to "limit the imposition of the death penalty only to the most serious of crimes; consider establishing a moratorium on executions of the death penalty; reflect on the possibility of abolishing the death penalty."

On 18 December, the United Nations General Assembly adopted resolution 62/149 endorsing the call for a worldwide moratorium on executions. The resolution was adopted by an overwhelming majority of 104 UN member states in favour, 54 countries voted against and 29 abstentions. From the Africa region, 17 countries supported the resolution, while 12 voted against and 20 abstained.

The resolution on a moratorium on the death penalty calls upon all States that still maintain the death penalty to: respect international standards that provide safeguards guaranteeing the protection of the rights of those facing the death penalty; provide the Secretary-General with information relating to the use of capital punishment and the observance of the safeguards guaranteeing the protection of the rights of those facing the death penalty; progressively restrict the use of the death penalty and reduce the number of offences for which it may be imposed; establish a moratorium on executions with a view to abolishing the death penalty.

Amnesty International believes that UN General Assembly resolution is a clear recognition of the international trend towards worldwide abolition of the death penalty. More than half the countries in the world have now abolished the death penalty in law or practice. In 1977, just 16 countries had abolished the death penalty for all crimes. Today, that figure stands at 92. 10 countries have abolished the death penalty for all but exceptional crimes such as wartime crimes. A further 33 countries can be considered to have "abolished in practice" having not carried out an execution for at least 10 years. 135 of the world's 193 countries are now death penalty free. This trend is further supported by the increased ratification of international and regional treaties providing for the abolition of the death penalty.

Given the above highlighted developments, and in light of the 1999 African Commission resolution, Amnesty International calls on the African Commission to adopt a resolution, which will among others:

1. Reaffirm its 1999 Resolution on the Death Penalty by urging AU member states which still use the death penalty to establish an immediate moratorium on executions as a first step towards abolishing the death penalty;
2. Review and update the 1999 resolution in line with the UN General Assembly resolution on a moratorium on the death penalty (resolution 62/149) adopted by the Plenary in December 2007;
3. Urge African Union member states to implement fully in their national laws the UN General Assembly resolution on a moratorium on the death penalty;
4. Urge African Union member states to provide to the Office of the UN Secretary-General information relating to the use of capital punishment and the observance of the safeguards guaranteeing the protection of the rights of those facing the death penalty , for the Secretary General's report to the General Assembly in October 2008 on states' implementation of the resolution including steady progress of the Africa region;
5. Urge African Union member states that are yet to do so to ratify the International Covenant on Civil and Political Rights and/or its Second Optional Protocol aiming at the abolition of the death penalty.

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