

AMNESTY INTERNATIONAL

Public Statement

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The African Commission: Amnesty International's oral statement on the death penalty

Amnesty International opposes the death penalty in all cases. Some of those who argue that the death penalty should be retained put forward cultural and religious arguments. Amnesty International, however, considers that the death penalty violates the right to life and the prohibition of torture, cruel, inhuman or degrading punishment and treatment – universally recognized human rights that are also enshrined in the African Charter on Human and Peoples' Rights (African Charter).

The death penalty has never been shown to deter crime more effectively than other punishments. Use of the death penalty carries an ever present risk of executing the innocent and every execution has a brutalising effect upon the society that carries it out.

For these reasons and many more, the world is turning away from state judicial killing. In 1977, just 16 countries had abolished the death penalty. Today, that figure stands at 99. A further 30 countries can be considered “abolished in practice” having not carried out an execution for at least 10 years. 129 of the world's 190 countries are now death penalty free.

African states have also taken important steps towards the abolition of the death penalty. In 2005, of the 53 member states of the African Union, four are known to have carried out executions: Egypt, Libya, Somalia and Sudan. Regretfully, Botswana has joined this list in 2006 with the execution by hanging of Oteng Modisane Ping on 1 April.

Angola, Cape Verde, Cote d'Ivoire, Djibouti, Guinea-Bissau, Liberia, Mauritius, Mozambique, Namibia, Sao Tome and Principe, Seychelles, Senegal and South Africa have abolished the death penalty completely. Liberia abolished the death penalty for all crimes in 2005. In 2006, the Nigerian authorities commuted the sentences of 107 condemned men and the Attorney General of Ghana called for the abolition of capital punishment. Government officials in Kenya and Rwanda have indicated they want to remove the death penalty from their laws. The government of Togo recently informed Amnesty International of their wish to abolish capital punishment.

But in other countries the situation remains dire. Egypt continues to carry out executions after unfair judicial processes that fall far short of international standards, including the right to appeal to a higher court.

The execution of juvenile offenders – those under 18 years of age at the time of the trial – is strictly forbidden under international law. However, in the Democratic Republic of Congo (DRC) and Sudan the law allows for the execution of juvenile offenders and children are sentenced to death in those nations. The last known execution of a child offender was in the DRC in 2000.

In Somalia executions have been carried out hours after being imposed by Islamic (Shari'a) courts that deny the right of the defendant to legal representation or to appeal to a higher court.

In Ethiopia, prisoners of conscience face the death penalty on charges relating to their peaceful and legitimate activities.

In summary, according to Amnesty International's information, of the 53 African Union member states, 13 countries no longer have the death penalty. A further 17 are abolitionist in practice. 23 countries retain and use the death penalty.

At its 26th Ordinary Session in November 1999, in Kigali, Rwanda, the African Commission on Human and Peoples' Rights (African Commission) adopted a resolution requesting states parties to the African Charter to consider abolishing the death penalty. This resolution reflects the view of the international community, and the trend towards the abolition of the death penalty. Amnesty International welcomes and fully supports the Working Group on the Death Penalty in Africa as an important mechanism to contribute to the complete abolishment of the death penalty in Africa. The organization believes that the Working Group could build upon the work already carried out by the African Commission and encourage it to further develop recommendations to African states aimed at the abolition of the death penalty.

In doing so, the Working Group on the Death Penalty in Africa should consider publicly condemning the death penalty as a violation of fundamental human rights, including those guaranteed under the African Charter, and urging all states parties to the African Charter that still maintain the death penalty to:

- abolish the death penalty completely and, in the meantime, establish a moratorium on executions;
- ensure that persons accused of crimes which carry the death penalty are afforded all safeguards and due process guarantees set out in the African Charter and international standards and have the right to seek pardon or commutation of sentence;
- not impose the death penalty to people who were below 18 years of age at the time the crime was committed;
- exclude the death penalty for pregnant women and mothers with dependent infants and person suffering from any mental or intellectual disabilities;
- not impose the death penalty for any but the most serious crimes.

Amnesty International also encourages the Working Group to call on States parties to the African Charter that no longer apply the death penalty but maintain it in their legislation to abolish it and to urge all States that have not yet done 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.