

59TH ORDINARY SESSION OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLE'S RIGHTS

AMNESTY INTERNATIONAL STATEMENT

Chairperson and Honourable Commissioners,

Amnesty International welcomes this opportunity to make a statement to the African Commission on Human and Peoples' Rights (African Commission) on 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.

Amnesty International welcomes the positive progress made on the death penalty since the last ordinary session of the African Commission in April. Only this week, the Kenyan authorities commuted all death sentences in the country to life imprisonment, taking 2,747 prisoners off death row. This marks the second time in 8 years that all death sentences in Kenya will be commuted to life imprisonment. It is now time for Kenya to take the next significant step by abolishing the death penalty for all crimes and join the growing number of countries in the world that have now consigned the ultimate cruel punishment to history.

On 14 September Togo acceded to the Second Optional Protocol to the International Covenant on Civil and Political Rights; aiming at the abolition of the death penalty. By becoming the 83rd State Party to the treaty, Togo confirmed again its absolute commitment to the abolition of the death penalty; having already abolished the punishment in 2009. Amnesty International urges the African Commission to call on States Parties to the African Charter on Human and People's Rights that are yet to do so to ratify the Second Optional Protocol without delay.

On 4 July Guinea's National Assembly voted in favour of a new criminal code which removed the death sentence from the list of applicable penalties. There was a delay to promulgation due to changes made by the government to the Code and it was not until 11 October that the Minister of Justice announced that the President had promulgated the new Criminal Code. Amnesty International urges Guinea to urgently publish the text of the law, to clarify its provisions and to allow the people of Guinea to fully understand and engage with the new law.

Finally, while this statement has largely welcomed progress in recent months, Amnesty International remains concerned at the continued delay in 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 without further delay.

Recommendations

Amnesty International calls on the African Commission to:

- Continue to support steps towards the abolition of the death penalty in Africa;
- Call on States Parties to the African Charter to vote in favour of the forthcoming UN General Assembly resolution on a moratorium on the use of the death penalty;
- Pending abolition, reinforce its call on all State Parties to the African Charter to establish a 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;
- 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.