

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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BOTSWANA: JUSTICE CAN BE SERVED WITHOUT THE USE OF THE DEATH PENALTY

The sentencing of Kagiso Molefe to 20 years imprisonment for the murder of his ex-girlfriend by the Lobatse High Court demonstrates that justice can be served without the use of the death penalty in Botswana, Amnesty International said today.

In deciding the sentence of Kagiso Molefe who was convicted of murder on 15 February 2019, Judge Tebogo Tau recognized that there are extenuating circumstances in the case and sentenced him to 20 years imprisonment.

Amnesty International believes this judgement upholds the right to life of Kagiso Molefe and aligns with the global trend which indicates the world is moving away from the use of death penalty.

There is no credible evidence that the death penalty has a greater deterrent effect on crime than prison terms. The death penalty is the ultimate cruel, inhuman and degrading punishment which should not be used in any circumstances.

AMNESTY INTERNATIONAL CALLS ON BOTSWANA TO DO THE FOLLOWING:

1. Immediately establish an official moratorium on executions;
2. Commute all death sentences to prison terms;
3. Abolish the death penalty for all crimes;
4. Ratify, without reservations, the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

BACKGROUND

On 15 February 2019, 32-year-old Kagiso Molefe was convicted of murder in the Lobatse High Court, after he stabbed his ex-girlfriend to death in October 2010. The couple have an 8-year-old daughter.

Section 203 of the Botswana Penal Code (as amended to 2005) provides:

(1) Subject to the provisions of subsection (2), any person convicted of murder shall be sentenced to death.

(2) Where a court in convicting a person of murder is of the opinion that there are extenuating circumstances, the court may impose any sentence other than death.

3) In deciding whether or not there are any extenuating circumstances the court shall take into consideration the standards of behaviour of an ordinary person of the class of the community to which the convicted person belongs.¹

Amnesty International opposes the death penalty in all cases without exception regardless of the nature of the crime, the characteristics of the offender, or the method used by the state to execute the prisoner. The death penalty is a violation of the right to life.

In the world, 106 countries, 20 in sub-Saharan Africa, have abolished the death penalty for all crimes.

Amnesty International published its Global Death Penalty Report on 10 April 2019.

¹ Botswana Penal Code, amended 2005, Section 203 (1)(2)(3).

In 2018, Botswana imposed five death sentences and executed two people for murder, Joseph Tselayarona in February and Uyapo Poloko in May. These executions were the first in Botswana since 2016, no executions were carried out in 2017.

In June 2018 at the thirty-eighth session of the United Nations Human Rights Council Universal Periodic Review, Botswana rejected eight recommendations to ratify the Second Optional Protocol to the International Covenant on Civil and Political rights aiming at the abolition of the death penalty,² and a further 19 recommendations to establish an official moratorium on the death penalty.³ However, the country accepted the recommendations to take active steps to ensure that public consultations on the abolition of the death penalty are held and renew the work to hold national discussions on the death penalty.⁴

² A/HRC/38/8, recommendations 129.1 – 129.6 (Slovakia, Spain, South Africa, Liechtenstein, Argentina, Sweden) and 129.16-129.18 (France, Honduras, Mozambique, Liechtenstein).

³ A/HRC/38/8, recommendations 129.19-129.37 (Montenegro, Germany, Mexico, Portugal, Ireland, Iceland, Ghana, Holy See, Australia, Belgium, Chile, Estonia, Ecuador, Canada, Uruguay, Angola, Namibia, Italy, Spain).

⁴ A/HRC/WG.6/29/L.5, paragraph 127.28 (Rwanda); 127.29 (Ukraine)