

ADVOCACY TOOLKIT

ABOLITION OF THE DEATH PENALTY
IN WEST AFRICA

AMNESTY
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GLOSSARY

ABOLITIONIST FOR ALL CRIMES	Countries whose laws do not provide for the death penalty for any crime.
ABOLITIONIST FOR ORDINARY CRIMES	Countries whose laws provide for the death penalty only for exceptional crimes, such as crimes under military law or during war.
ABOLITIONIST IN PRACTICE	Countries which retain the death penalty in law for ordinary crimes but have not executed anyone during the past 10 years and are believed to have a policy or established practice of not carrying out executions.
RETENTIONIST	Countries that retain the death penalty in law for ordinary crimes, such as murder, in times of peace and do not meet criteria for “abolitionist in practice”.
CLEMENCY	An act showing mercy or leniency, usually by the executive, by lessening or even completely eradicating a sentence; used as a general term covering both commutations and pardons.
COMMUTATION	The death sentence is replaced by a less severe punishment, such as a term of imprisonment, often by the judiciary on appeal, but sometimes also by the executive.
PARDON	The convicted person is completely exempted from further punishment; this can be granted for a variety of reasons, usually by the executive such as the head of state or government, or in some cases by clemency boards which have been given final authority.
EXONERATION	After sentencing and the conclusion of the appeals process, the convicted person is later freed from blame or acquitted of the original criminal charge, and therefore is regarded as innocent in the eyes of the law.
MOST SERIOUS CRIMES	The only category of crimes to which the use of the death penalty must be restricted to under international law. International bodies have interpreted this as being limited to crimes involving intentional killing.
MORATORIUM ON EXECUTIONS / ON THE USE OF THE DEATH PENALTY	A public commitment made by the highest authorities or courts, which officially suspends the carrying out of death sentences, or even imposition of the death penalty as such; this should not be confused with a period of time where executions have in fact not been carried out.

WHAT IS THIS TOOLKIT ABOUT?

This toolkit is for the use of activists who are working on the abolition of the death penalty in West Africa. It is intended to equip activists with some key advocacy tools to effectively influence the institutions and individuals who can make abolition a reality.

The toolkit is divided into four sections. The first section gives a global overview of the use of the death penalty with a particular focus on the situation in West Africa. The second section outlines the provisions in international and regional instruments that are relevant to the death penalty. The third section addresses common claims made to support the use of the death penalty, and sets out the most important and effective arguments to counter them. The fourth section focuses on some practical approaches to carrying out advocacy at national, regional and international levels. This provides key concepts, suggestions and tips for advocacy that activists can use to strengthen and broaden their work against the death penalty. The toolkit has an appendix which highlights key developments on the use of the death penalty in countries in West Africa that still retain the death penalty in law.


This toolkit is not intended to be an exhaustive guide. Activism on the abolition of the death penalty in Africa, including West Africa, has a long history, and new challenges and opportunities continue to arise. Amnesty International hopes that this toolkit will help and assist activists, whether they are relatively new to the issue or experienced advocates, and that it will contribute to the global effort to combat the use of the death penalty.

In 1977, when Amnesty International started campaigning for the worldwide abolition of the death penalty, only 16 countries had abolished the death penalty in law or practice. Today, more than two thirds of the countries in the world have abolished the death penalty in law or practice.

Amnesty International opposes the death penalty in all cases without exception regardless of the nature or circumstances of the crime, regardless of the guilt, innocence or other characteristics of the individual and regardless of the method used by the state to carry out the execution. The Universal Declaration of Human Rights (UDHR) of 1948 recognizes each person's right to life (Article 3) and states that "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment" (Article 5). In Amnesty International's view, the death penalty violates these rights.

For further information on Amnesty International's work against the death penalty please visit <https://www.amnesty.org/en/what-we-do/death-penalty/>



 ↑ Moses Akatugba, June 2016, Lagos, Nigeria. © Amnesty International

“That place [death row] is hell for a man.”

Moses Akatugba, former death row inmate, Nigeria, June 2016

1. THE DEATH PENALTY AROUND THE WORLD

“The taking of life is too absolute, too irreversible, for one human being to inflict on another, even when backed by legal process.”

Ban Ki-moon, Secretary-General, United Nations, Switzerland, 25 February 2013

1.1 THE GLOBAL PICTURE

As of July 2016, 103 countries are now fully abolitionist in law – that is more than half the countries in the world. A further 31 countries are abolitionist in practice – meaning they have not executed for at least 10 years and have an established practice or policy not to execute. Only 58 countries retain the death penalty in law for ordinary crimes such as murder. The numbers are as follows:

ABOLITIONIST FOR ALL CRIMES	103
ABOLITIONIST FOR ORDINARY CRIMES ONLY	6
ABOLITIONIST IN PRACTICE	31
TOTAL ABOLITIONIST IN LAW OR PRACTICE	140
RETENTIONIST	58

For decades now, a trend has become evident: the world is consigning the death penalty to history. In December 2014, the UN General Assembly (UNGA)

adopted its fifth resolution on a moratorium on the use of the death penalty when 117 countries – a record number – voted in favour of the resolution.¹

In 2015, Congo (Republic of), Madagascar, Fiji and Suriname abolished the death penalty for all crimes; Mongolia adopted a new Criminal Code abolishing the death penalty from 2016. Most recently, in June 2016, Nauru became the 103rd country to abolish the death penalty for all crimes.

¹ The UNGA is the main deliberative, policymaking and representative organ of the UN. Comprised of all 193 Member States of the UN, it provides a forum for multilateral discussion

about the issues covered by the Charter of the UN. For details on this, see section: The legal framework.

1.2 THE DEATH PENALTY IN WEST AFRICA: AN OVERVIEW


In 1977, when Amnesty International started campaigning for the abolition of the death penalty, no country in Sub-Saharan Africa had abolished the death penalty in law. Today, eighteen countries in the region have done so for all crimes.

West Africa in particular is a beacon of hope. Five countries in West Africa have abolished the death penalty for all crimes. Several others have taken important legislative steps towards abolition. In 2012, Benin acceded to the Second Optional Protocol to the International Covenant on Civil and Political Rights (also referred to as ICCPR-OP2). This is an international treaty that commits State Parties not to carry out executions and to take all necessary measures to abolish the death penalty.² Guinea-Bissau became State Party to the treaty in 2013.

2015 saw significant progress across the West Africa region. Benin and Niger did not sentence anyone to death or carry out executions. Burkina Faso and Guinea considered bills to abolish the death penalty. Nigeria, Ghana and Mali commuted the death sentence of 121, 14 and six people respectively; Gambia pardoned a number of prisoners under sentence of death. Mauritania and Sierra Leone did not carry out executions. In July 2016 Guinea's National Assembly voted in favour of a new criminal code abolishing the death penalty.³

There is real potential for more countries in West Africa to abolish the death penalty. The work of activists will be crucial in the drive towards abolition across the region.



 ↑ Aminata Ouologuem. West Africa, Mali. © Amnesty International

² For details on this, see section: The legal framework.

³ At the time of writing the new Criminal Code was yet to be promulgated.



THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS AND THE DEATH PENALTY

The African Commission on Human and Peoples' Rights (African Commission)⁴ adopted its first resolution on the death penalty in Kigali, Rwanda in 1999.⁵ The resolution urged States Parties to the African Charter that still maintained the death penalty: to comply with their obligations under the treaty; to ensure that persons facing the death penalty are afforded all the guarantees in the African Charter; to limit the imposition of the death penalty only to the most serious crimes; to consider establishing a moratorium on executions; and to reflect on the possibility of abolishing the death penalty.

In 2005 the African Commission established the Working Group on Death Penalty and Extra-Judicial, Summary or Arbitrary killings in Africa. The Working Group was mandated, among other things, to monitor the use of the death penalty in Africa, to develop plans for abolition and to carry out a study on the death penalty in the region. On 19 April 2012, the Working Group published its Study on the Question of the Death Penalty in Africa.⁶ The study analysed views in favour of and against its use and concluded that the abolitionist case is more compelling than the case for retaining the death penalty, and called on State Parties to the African Charter to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR-OP2), to establish a moratorium on executions and to commute all death sentences to terms of imprisonment.

In 2008 the African Commission adopted a second resolution in Abuja, Nigeria, calling on State Parties to the African Charter to observe a moratorium on the death penalty and to ratify ICCPR-OP2.⁷

Most recently, in 2015, the African Commission adopted the draft Protocol to the African Charter on Human and Peoples' Rights on the Abolition of the death Penalty in Africa, which requires State Parties to commit to protecting the right to life and abolishing the death penalty (Article 1). The draft Protocol was sent to the African Union for formal adoption. In 2015 the African Commission also adopted General Comment No.3 on the African Charter on Human and Peoples' Rights on the right to life (Article 4), which states that the African Charter does not include any provision recognizing the death penalty.

⁴ The African Commission is the body created by the African Charter on Human and Peoples' Rights (African Charter) and tasked with the protection and promotion of human and people's rights in Africa. It interprets and develops jurisprudence based upon the African Charter and reviews the progress of state parties in implementing their human rights obligations. It also considers individual complaints of violations of the Charter.

⁵ African Commission on Human and Peoples' Rights, Resolution Urging States to Envisage a Moratorium on Death Penalty, ACHPR/Res.42(XXVI)99, 15 November 1999.

⁶ African Commission on Human and Peoples' Rights, "Study on the question of the death penalty in Africa", 10 April 2012, adopted by the African Commission at its 50th Ordinary Session (24 October - 07 November 2011), http://www.achpr.org/files/news/2012/04/d46/study_question_deathpenalty_africa_2012_eng.pdf (accessed on 8 June 2016).

⁷ African Commission on Human and Peoples' Rights, Resolution calling on State Parties to observe the moratorium on the death penalty, ACHPR/Res.136 (XXXVIII) 08, 24th November 2008.

2. ESSENTIAL LAWS AND STANDARDS ON THE DEATH PENALTY


“No judiciary, anywhere in the world, is so robust that it can guarantee that innocent life will not be taken...”

Zeid Ra'ad Al Hussein, United Nations High Commissioner for Human Rights, USA, 2014

2.1 INTERNATIONAL AND REGIONAL INSTRUMENTS

This section highlights international and regional instruments relevant to the abolition of the death penalty. Some of these instruments are treaties, binding on all states which become parties to them. Others are legal standards which are not legally binding but provide practical guidance to states, international agencies and other organizations and which are seen as having moral and political weight.



Deny Franck. West Africa, Benin. © Amnesty International 

INTERNATIONAL STANDARDS

UNIVERSAL DECLARATION OF HUMAN RIGHTS

The Universal Declaration of Human Rights (UDHR), adopted by the UN General Assembly (UNGA) in December 1948, recognizes each person's right to life (Article 3) and categorically states that "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment" (Article 5). Amnesty International considers that the death penalty violates these rights.

SAFEGUARDS GUARANTEEING PROTECTION OF THE RIGHTS OF THOSE FACING THE DEATH PENALTY

The Safeguards guaranteeing protection of the rights of those facing the death penalty, adopted in 1984 by UN Economic and Social Council Resolution 1984/50, provide that no one under the age of 18 at the time of the crime shall be put to death; death sentences should not be carried out on pregnant women, "new mothers, or on persons who have become insane"; and anyone sentenced to death has the right to appeal and to petition for pardon or commutation of the sentence.

UN GENERAL ASSEMBLY RESOLUTIONS ON A MORATORIUM ON THE USE OF THE DEATH PENALTY

Every two years member states of the UN, at the General Assembly, vote on a resolution on a moratorium on the use of the death penalty, which calls on them to establish a moratorium on executions "with a view to abolishing the death penalty". In the last vote in December 2014, the resolution was adopted by 117 votes in favour, with 37 against and 34 abstentions. Six West African countries voted in favour⁸ of the resolution, none voted against it, and six abstained from the vote.⁹

INTERNATIONAL TREATIES

INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

The International Covenant on Civil and Political Rights (ICCPR) was adopted by the UNGA in 1966, and while it allows the use of the death penalty, it restricts its use only to the most serious crimes and sets abolition as the ultimate goal (Article 6).¹⁰ The ICCPR establishes that the death penalty shall not be imposed on pregnant women or for crimes committed before the age of 18 (Article 6). The Covenant also states that the use of the death penalty may violate the right to life if it breaches other rights under the ICCPR, including the right to fair trial (Article 14) and the prohibition on torture (Article 7).

SECOND OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

Adopted in 1989 by the UNGA, the Second Optional Protocol to the International Covenant on Civil and Political Rights (also referred to as ICCPR-OP2), requires a State Party not to carry out executions and to "take all necessary measures to abolish the death penalty within its jurisdiction" with no delay after ratification. ICCPR-OP2 states in its preamble that "abolition of the death penalty contributes to enhancement of human dignity and progressive development of human rights" and that "all measures of abolition of the death penalty should be considered as progress in the enjoyment of the right to life".¹¹ ICCPR-OP2 does not include a mechanism for states to withdraw, and so it is an important guarantee against reinstatement of the death penalty. Any State Party to the ICCPR can become a party to this ICCPR-OP2.

⁸ Benin, Burkina Faso, Burundi, Mali, Niger, Sierra Leone.

⁹ Gambia, Ghana, Guinea, Liberia, Mauritania, Nigeria.

¹⁰ In 2006, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions narrowed the interpretation of "most serious crimes" by defining them as "cases where it can be shown that there was an intention to kill, which resulted in the loss of life". See Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, UN Doc. A/HRC/4/20, 29 January 2007, paragraphs 39-53 and 65. Guidance for the classification of crimes as "most serious crimes" has also been provided by the Human Rights Committee in its General Comment 6 (7) on the right to life, adopted on 30 April 1982.

¹¹ The UNGA has appealed to all states that have not yet done so to become parties to the ICCPR and to "consider as a matter of priority acceding to the Optional Protocols to the International Covenant on Civil and Political Rights". See Resolution 58/165 of 22 December 2003. The Human Rights Committee has also called on states parties to the ICCPR to "consider...acceding to the Second Optional Protocol to the Covenant", including states that have not yet abolished the death penalty. See Concluding observations of the Human Rights Committee: Kenya, UN document CCPR/CO/83/KEN, 29 April 2005, para 13.

AFRICAN STANDARDS

AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS RESOLUTION 42

Adopted in 1999 by the African Commission, it calls on State Parties to “a) limit the imposition of the death penalty only to the most serious crimes; b) consider establishing a moratorium on executions;” and “reflect on the possibility of abolishing the death penalty”.

AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS RESOLUTION 136

Adopted in 2008 by the African Commission, it calls on state parties to observe a moratorium on executions “with a view to abolishing the death penalty in conformity with Resolutions ACHPR/Res 42 (XXVI) of the African Commission and 62/149 of the General Assembly of the United Nations”. It also calls on state parties to ratify Second Optional Protocol to the International Covenant on Civil and Political Rights.

DECLARATION OF THE CONTINENTAL CONFERENCE ON THE ABOLITION OF THE DEATH PENALTY IN AFRICA (THE COTONOU DECLARATION)

Adopted in 2014 by the African Commission, it “calls on legislators in Africa to review their national laws and enact legislation abolishing the death penalty and to support the ratification of the Additional Protocol to the African Charter on Human and Peoples' Rights on the Abolition of the Death Penalty in Africa”. It also calls on them to ratify Second Optional Protocol to the International Covenant on Civil and Political Rights and vote in favour of future UNGA resolutions on a moratorium of the death penalty.

AFRICAN TREATIES

AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS

Adopted in 1981 by the African Union, it provides for the right to life and integrity of the person for every human being. It prohibits a state party from arbitrarily depriving someone of the right to life (Article 4) and undertaking “All forms of ... torture, cruel, inhuman or degrading punishment and treatment” (Article 5).¹²

PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS ON THE RIGHTS OF WOMEN IN AFRICA

Adopted by the African Union in 2003, it provides for the right to life, integrity and security for every woman. It also calls on state parties “not to carry out death sentences on pregnant or nursing women”.¹³

AFRICAN CHARTER ON THE RIGHTS AND WELFARE OF THE CHILD

Adopted by the African Union in 1990, it establishes that: “The death sentence shall not be pronounced for crimes committed by children”. Regarding the administration of juvenile justice, the Charter further mandates in Article 17 that: “Every child accused or found guilty of having broken the law should receive special treatment, and no child who is imprisoned should be tortured or otherwise mistreated. Article 2 specifies that the term “child” “means every human being below the age of 18 years”.¹⁴

¹² Organization of African Unity, African Charter on Human and Peoples' Rights, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), 27 June 1981.

¹³ Organization of African Unity, Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 11 July 2003.

¹⁴ Organization of African Unity, African Charter on the Rights and Welfare of the Child, OAU Doc. CAB/LEG/24.9/49 (1990), entered into force Nov. 29, 1999.



CASE STUDY THE DEATH PENALTY IN NIGERIA

The death penalty in Nigeria has been imposed for crimes that do not involve intentional killing, and therefore do not meet the threshold of “most serious crimes”, as prescribed in the ICCPR. It has been imposed on people who were below 18 years of age at the time of the crime, in violation of Nigeria’s obligations under international human rights law. It has also been imposed after proceedings that do not meet international fair trial standards. The cases below provide an example:

Moses Akatugba was 16 years old when he was arrested in 2005 for armed robbery, an offence he said he did not commit. He told Amnesty International that police officers beat him repeatedly with machetes and batons, tied him and hung him up from the ceiling for several hours, and then used pliers to pull out his toenails and fingernails. He was then forced to sign two pre-written “confessions”. After eight years of being remanded in prison, on 12 November 2013 he was sentenced to death by hanging. On 28 May 2015 Emmanuel Uduaghan, then Governor of Delta state, granted total pardon to Moses.

ThankGod Ebhos was accused of an armed robbery that took place in 1988; he was sentenced to death by firing squad by a Robbery and Firearms Tribunal in Kaduna in 1995 and was on death row in Benin Prison in Edo State before his release. On 24 June 2013 ThankGod Ebhos was taken to the gallows in Benin Prison with four other men. The men were hanged in his presence but he escaped execution because at the last moment the prison authorities realized that his death sentence required a firing squad. In January 2014 the Economic Community of West African States (ECOWAS) Court of Justice granted an injunction restraining the government from executing ThankGod Ebhos. On 10 June the Court delivered a final judgment ordering that his name be removed from the death row list. ThankGod Ebhos was released on 24 October after 19 years on death row. Following Nigeria’s Independence Day celebrations on 1 October, the Governor of Kaduna State announced that he was using his power of Prerogative of Mercy under section 212 of the Nigerian Constitution to sign a release order for ThankGod Ebhos.

Monday Ilade Prosper was arrested in 2003 and charged with armed robbery in Benin City for forcefully collecting his salary from his employer. He was later convicted and sentenced to death in 2006 by the Edo State High Court. In 2014 the Court of Appeal Benin City division allowed his appeal and overturned his conviction and sentence, stating that the evidence against Monday Ilade Prosper was ‘spurious’ and the prosecution’s case was too weak for a conviction for armed robbery. Monday Ilade Prosper spent a total of eight years on death row.



“The first person was hanged; his face was covered with a black sack. I could not think of anything else other than how I would die. Then there was the second, third and fourth execution until it got to my turn.”

ThankGod Ebhos, former death row inmate, Nigeria, October 2015

ThankGod Ebhos, Lagos, Nigeria, © Amnesty International



CASE STUDY THE DEATH PENALTY IN SIERRA LEONE

The death penalty in Sierra Leone has been imposed after proceedings that violate international standards for fair trial guaranteeing, for example, the right of defendants to legal assistance or representation through the various stages of detention and trial. It has also been imposed in violation of the UN Safeguards guaranteeing protection of the rights of those facing the death penalty which prohibit, for example, the imposition of death sentences on pregnant women. The case below provides an example:

MK was arrested for killing her step-daughter in 2003, and sentenced to death in 2005. MK did not receive legal advice or assistance from the time of her arrest until before her trial in 2005. MK, who is illiterate, thumb-printed a confession which was later used during her trial. Granted a state assigned defence lawyer at the beginning of the trial, she was able to discuss her case only three times and for no more than 15 minutes each. Upon conviction, she was not informed that she had only 21 days to appeal. Furthermore, her file was not sent to the President's office for further review as required by law. MK was pregnant and had a miscarriage whilst in prison. A new lawyer hired by AdvocAid filed an appeal before the Court of Appeal in 2008, but this was rejected as it was found to be too late. In November 2010, however, the Court of Appeal agreed to hear her case again. In March 2011 the Court of Appeal agreed with the AdvocAid counsels' representing MK that the various procedural irregularities during MK's trial rendered it invalid. MK's conviction was overturned and MK was released after six years on death row.



CASE STUDY THE DEATH PENALTY IN MAURITANIA

The death penalty in Mauritania has been imposed for crimes that do not involve intentional killing, and therefore do not meet the threshold of "most serious crimes", as prescribed in the ICCPR. The case below provides an example:

Mohamed Cheikh ould Mohamed Mkhaitir, a 29 year old blogger who was held in pre-trial detention for almost one year, was sentenced to death for apostasy at the Nouadhibou Court on 24 December 2014. He had an article online on the Aqlame newspaper's website, in December 2013, which was later taken down as it was deemed blasphemous towards the Prophet Mohamed. The article criticised those who use religion to marginalise certain groups in Mauritanian society. Though Mohamed Mkhaitir repented during his pre-trial hearing at the gendarmerie (military police) station and during his trial, explaining that his article was solely intended to denounce those who use religion to belittle others, he was shown no leniency. During his trial at the Nouadhibou Court the judge told Mohamed Mkhaitir that he was accused of apostasy for "speaking lightly" of the Prophet Mohamed. The death sentence was the first imposed in Mauritania for apostasy since independence in 1960. Mohamed Mkhaitir's lawyers have since appealed the decision to hand down the death sentence.

3. THE CASE FOR ABOLISHING THE DEATH PENALTY

“Everyone, including the most abominable of human beings, has a right to life, and capital punishment is therefore unconstitutional.”

Justice Arthur Chaskalson, President of the South Africa's Constitutional Court, South Africa, 1995

Countries that support the death penalty use a variety of arguments to support their case and undermine the case for abolition. This section examines some of the most commonly used assertions in favour of retaining the use of the death penalty, and provides the basis for activists to effectively respond to and rebut these arguments.

THE CLAIM: THE DEATH PENALTY PREVENTS RE-OFFENDING

The death penalty is often said by some countries to be the most “restraining” form of punishment, because once the condemned offender is executed, there is no possibility of re-offending.

The death penalty as a method of preventing people from re-offending is a blunt tool. By its very nature, the death penalty can only be carried out against a person who is already imprisoned and therefore removed from society. Since that person can no longer commit acts of violence against society, the death penalty is not needed as a method of protection.

There are those who argue that imprisonment alone has not prevented individuals who have been imprisoned from offending again once set free. The answer is to review the parole procedures in place with a view to preventing relapses into crime. The answer is certainly not to increase the number of executions.

It is also impossible to determine whether those executed would actually have repeated the crimes of which they were convicted. Execution entails taking the lives of people to prevent hypothetical future crimes, many of which would never have been committed anyway.

Furthermore, the death penalty is irreversible and does not leave any possibility of rehabilitation of the offender. Executing an offender additionally means that if a mistake is made by the justice system, there is no way back. No criminal justice is capable of deciding fairly, consistently and infallibly who should live or die. The risk of executing the innocent can never be eliminated.

THE CLAIM: THE DEATH PENALTY DETERS CRIME

Supporters of the death penalty say that this is necessary to deter serious crimes such as murder because people fear death more than anything else.

There is no credible evidence to show that the death penalty deters crime more than a term of

imprisonment. There are examples of countries maintaining the death penalty in their legislation and crime rates remaining at a high level: the United States is one. A survey of research findings on the relation between the death penalty and homicide rates, conducted for the UN in 1988 and updated in 2002, concluded that research has failed to provide proof that executions have a greater deterrent effect than life imprisonment.¹⁵ A more recent UN report, published in 2015, stated: “Whether the offense is murder, a drug related crime or terrorism, the scientific evidence for deterrence is unreliable, inconclusive and, in many instances, simply wrong”.¹⁶ Those who commit premeditated serious crimes may decide to proceed despite the risks in the belief that they will not be caught. The key to deterrence in such cases is to increase the likelihood of detection, arrest and conviction.

The deterrence argument also assumes that people who commit such serious crimes as the killing of another person do so after rationally calculating the consequences of their action. There is little evidence supporting this argument.

THE CLAIM: THE DEATH PENALTY DELIVERS JUSTICE THROUGH RETRIBUTION

Some people argue that justice can only be served by taking a life for a life and a murderer has no right to claim the right to life.

The right to life must not be taken away from anyone regardless of the crime a person has committed. Human rights are inalienable and accorded equally to every individual. Furthermore, the death penalty cannot compensate those families who have lost their relatives because of crime. Those who have lost loved ones as a result of a crime have a right to see the person responsible for that crime held to account. Missing relatives, however, will not come back because of the death penalty. The death penalty also extends their suffering to the family of the condemned person.

THE CLAIM: THE DEATH PENALTY IS USED FAIRLY FOR THE APPROPRIATE CRIMES

Some countries argue that they apply the death penalty fairly to punish offenders only based on the nature of the crime committed.

The death penalty is often discriminatory and used disproportionately against the poor and minorities. Often those executed are not only those who committed the worst crimes, but those who are too poor to hire skilled lawyers to defend themselves or those who face particularly harsh prosecutors or judges.

THE CLAIM: PUBLIC OPINION SUPPORTS THE DEATH PENALTY

Advocates of the death penalty consider that governments should respond when public opinion is in favour of retaining the death penalty.

Governments should rather show moral leadership and engage in an honest public debate on the death penalty, in which they do not try to claim to the public that the death penalty will make them safer. They should acknowledge to the public that there is no evidence that the death penalty is more of a deterrent than terms of imprisonment. They should address public concerns about crime through reforms that seek to prevent, detect and reduce it. Political leadership is key in moving away from the death penalty: in several countries political leadership has been very important in overcoming domestic opposition to abolition and moving away from the death penalty, even without the full support of the public.

THE CLAIM: THE DEATH PENALTY IS PERMITTED UNDER INTERNATIONAL LAW

The death penalty is not explicitly prohibited by the ICCPR or any other international treaty.

While international law allows the death penalty, it restricts its use only for the most serious crimes and sets abolition as the ultimate goal. The international consensus on the end goal of abolition is strong: the increasing number of countries supporting (or not opposing) resolutions on abolition at the UNGA provides evidence of this.¹⁷

THE CLAIM: ABOLITION OF THE DEATH PENALTY IS A WESTERN INITIATIVE

Another argument used in favour of the death penalty is that calls for its abolition are an attempt by the West to impose its values on other sections of the world.

¹⁵ Roger Hood, *The Death Penalty: A World-wide Perspective*, Oxford, Clarendon Press, third edition, 2002, p. 230

¹⁶ UN Office of the High Commissioner for Human Rights (OHCHR), *Moving Away from the Death Penalty: Arguments, Trends and Perspectives*, 2015, p. 86.

¹⁷ For details on this, see section: The legal framework.

Human rights are not Western in content but derive from many different traditions and are acknowledged by all the members of the UN as the standards by which they have agreed to abide. The numerous

nations who have abandoned the use of the death penalty come from differing regions and cultures. It therefore cannot be claimed that abolition of the death penalty is solely advocated by one section of world.



CASE STUDY GHANA

The death penalty is irreversible and removes the possibility of those convicted of offences being rehabilitated.

Cephas Komla Dzah was convicted and sentenced to death by hanging in 2000 by the Ho High Court, Volta Region, for the murder of a Nigerian national in Accra in 1995. Cephas Komla Dzah said he did not appeal the High Court's decision because he felt that his lawyer failed to properly defend his case and he could not at the time afford the services of another lawyer. According to Cephas Komla Dzah, his state attorney did not consult him during or after his trial, neither did he ask him any other questions concerning the incident which led to his arrest or for his side of the story. Cephas Komla Dzah spent 18 years on death row. During this time, while claiming innocence, he went through a rehabilitation process that took him to take several study courses and to learn making pens and plastic mesh bags. He also stopped drinking alcohol. Cephas Komla Dzah was granted pardon by President John Evans Atta Mills in 2015.



CASE STUDY NIGERIA

The death penalty is not infallible: the risk of executing the innocent can never be eliminated. Cases where death sentences have been overturned on appeal starkly illustrate the risk of executing innocent people.

Kingsley Akhabue, Ismail Fakoti and Fabian Matthew were arrested in March 2008 for conspiracy to commit armed robbery and robbery while armed with offensive weapons. They were convicted and sentenced to death in March 2011 by the Lagos High Court. Following an appeal against their conviction and sentence filed by Defence and Assistance Project in December 2015, the Court of Appeal, Lagos Division, found that the evidence against Kingsley Akhabue, Ismail Fakoti and Fabian Matthew did not link them with the commission of the offences. The court therefore declared the three appellants innocent.

4. OPPORTUNITIES FOR ADVOCACY ON ABOLITION

“The abolition of the death penalty is a fight for the progress of humanity.”

Boni Yayi, Former President of the Republic of Benin, Benin, 2015

4.1 STRATEGIC ADVOCACY

Advocacy is a set of strategic actions directed at decision makers and relevant stakeholders in support of a specific policy issue, for instance abolition of the death penalty. The targets of any advocacy are those individuals who have the power to implement the change sought. Advocacy is about having good strategies and arguments to influence those targets. It involves such activities as meetings with government officials, publishing public statements and reports and engaging with international and regional human rights bodies. It is important to understand the political context, who is who, what motivates the targets and what they think about the death penalty.

The following key steps are intended to guide you when planning and implementing an advocacy strategy on death penalty abolition.

ANALYSE THE CONTEXT

The starting point for developing an advocacy strategy on abolition of the death penalty is to gather information on the use of death penalty in a given country. This should include a legal assessment, evaluating the relevant national legislation and how this relates to international law. It could include the following questions:

- How often is the death penalty used, and for which crimes?
- Is the death penalty actively applied or only retained in law?
- How does the judicial system work?

A strong advocacy strategy will need a political assessment as well, gathering the following types of information:

- How does the legislative system work? Who drafts and amends the laws - is there a parliamentary or legislative committee process?
- Which are the key government ministries and agencies and who are the key decision makers within those institutions?
- What is the public mood on the death penalty?

SET THE STRATEGY'S AIM AND OBJECTIVES

The ultimate aim of an advocacy strategy on death penalty abolition in a given country should be that the death penalty is no longer retained in domestic law. However, in some contexts it may be the case that abolition is a medium or long term goal, and smaller objectives must be set for the shorter term, such as:

- The state votes in favour of the UNGA resolution on a moratorium on the death penalty
- The government establishes an official moratorium on executions
- The state ratifies Second Optional Protocol to the International Covenant on Civil and Political Rights
- The government commutes all death sentences to terms of imprisonment.

It is also helpful to break objectives down into series of necessary steps that lead to the main goal. What does it take, for example, to vote in favour of the UNGA resolution on a moratorium on the death penalty? What is the timeframe for that?

PLANNING THE STRATEGY: TIMELINE AND KEY DATES

An advocacy strategy should include a timeline of your planned activities, taking into consideration the resources available. It should also include key dates, reference points that mark an opportunity or event in your project and monitor its progress.

IDENTIFY TARGETS

Who are the people who have the power to bring about the desired change? Depending on the context, when working for a moratorium on executions or abolition of the death penalty, targets could include, for instance, influential members of parliament, the minister of justice and the minister of home affairs, the prime minister and the president. Do you have direct access to these people? If not, who has the power to influence them? Other states and regional bodies, the media, academics, religious and community leaders, judges, key diplomats and other officials may all be able to exercise influence.

DEVELOP CLEAR ARGUMENTS

One or more concise and persuasive messages will be needed to capture and effectively convey the objectives of your strategy. A clear message should provide arguments supporting the desired action and outline the positive or negative consequences of that action. It should summarize the recommendations in a simplified language, be clear and concise, and tailored to specific audiences.

Addressing more than one target is likely to require a different message – and perhaps a different channel of communication – for each target. The message and means to influence the minister of justice in a given country might be different from those needed to seek

the support of a community leader.

ASSESS YOUR STRENGTHS AND WEAKNESSES

An assessment of the strengths and weaknesses of your organization or group leading any advocacy initiative is important, so that strategies can take account and be adapted to these. Example of strengths include specialist knowledge on death penalty issues and access to organizations and individuals supporting the set advocacy aim. Examples of weaknesses might include limited or negative relations with key advocacy targets within the government or the lack of funds or capacity, which could lead to over-reach or being unable to follow up on successes.

IDENTIFY YOUR ALLIES AND OPPONENTS

Identifying the organizations, groups and individuals that might support the achievement of your advocacy aim will help assessing how to effectively engage with them, how to build support and coordinate activities. Being aware of the advocacy work carried out by partner organizations and other allies can help avoiding duplication and possible conflicts. Similarly, identifying the organizations, groups and individuals that might oppose your advocacy aim will help assessing how to counter their arguments and persuade them to cease advocating against that. The most important allies and opponents are those organizations, groups and individuals that are influential with the key advocacy targets.

ASSESS RESOURCES

Assessing the human and financial resources available to implement an advocacy strategy is crucial to identify ways to overcome possible deficiencies, where possible, or to reconsider aspects of the strategy so that its objectives can be achieved. Is training required to carry out chosen activities? If so, how much will it cost? Is there need for additional funding?



 ↑ Amnesty International activists in Zimbabwe march on World Day Against the Death Penalty © Amnesty International

WAYS TO ABOLISH THE DEATH PENALTY

In its study published in April 2012, the Working Group on the Death Penalty of the African Commission identified three ways to abolish the death penalty:¹⁸

- > “by a clause in the national constitution guaranteeing the right to life in absolute terms (that is, with no qualification whatever);
- > by legislation proscribing the death penalty as a permissible sanction; or
- > by subscribing to regional and international human rights instruments requiring the abolition of the death penalty and then aligning municipal law to those instruments. Any of the last two methods is to be preferred because they make any hasty or a politically motivated re-introduction of the death penalty much more difficult. Abolition of the death penalty must be suspect because dictators can decree abolition over-night, and equally swiftly re-instate it”.

METHODS OF ADVOCACY

Methods of advocacy include but are not limited to:

In person: private or international meetings, confidential or public discussions, direct or indirect communications through intermediaries, press conferences, workshops and training, photo exhibitions, and side events;

Print: newspapers, magazines, journals, newsletters, leaflets, studies, letters, public statements and reports;

Electronic: social media, blogs, radio, television, documentaries and films.

¹⁸ African Commission on Human and Peoples’ Rights, “Study on the question of the death penalty in Africa”, 10 April 2012, p. 54.

4.2 ADVOCACY TOWARDS STATE OFFICIALS

Key advocacy targets may include the head of state or government, relevant government ministers and diplomats, as well as members of the legislature.

The following key tips are intended to guide you when engaging with your chosen targets to address death penalty issues.



KEY TIPS

FOR EFFECTIVE ENGAGEMENT WITH STATE OFFICIALS

- Know how the process of policy development works, for instance who is involved in its formulation, implementation and possible change. Identify the right target, and the best time to make an intervention;
- Develop a relationship of trust. Introduce yourself and share information, including studies, statistics, suggestions and recommendations;
- Coordinate closely and establish open lines of communications;
- Keep in mind that state officials face competing pressures from multiple stakeholders, therefore advocate strategically so that key concerns fits within a specific policy agenda;
- Make targeted, specific, realistic, achievable requests;
- Identify the most effective advocacy tools at disposal to communicate a concern or encourage and congratulate officials on steps taken on death penalty abolition (see text box on methods of advocacy).



KEY TIPS

FOR ADVOCACY MEETINGS WITH STATE OFFICIALS

- Plan the meeting (location, time, delegates, different scenarios), find out who your interlocutor will be, prepare agenda and materials (for example position papers, leaflets and reports) and distribute them in advance. Allocate enough time for discussion;
- Introduce yourself, exchange business cards. Initiate the meeting with a positive note. Make the official feel comfortable, say something positive about his or her work and allow an opportunity to speak early on;
- Address your objectives and the desired outcome of the meeting, state a case precisely, and make a request explicit. Ask questions and allow time for answers;
- Be prepared to anticipate the counter arguments that the official may raise, and to concede some points as required. Provide counter arguments and explain why is in the interest of the official (or his / her institution) to respond positively. Offer to provide more information if needed. Keep looking for solutions;
- Sum up at the end of the meeting, reiterate what agreed and follow up by sending action points and thank you letters. Deliver what you agreed and stay in touch, monitoring whether any promises by officials have been delivered on.



KEY TIPS

FOR LETTER WRITING TO STATE OFFICIALS

- Use a layout that is inviting to the eye;
- Introduce the issue briefly and concisely;
- State clear objectives at the beginning of the letter, then set out how to achieve them and what would be the benefits to the official of doing so;
- Make the reading appealing: address possible fears and reservations, and summarize points. Use positive tone of voice. Use concise and clear language. Do not assume knowledge or background;
- Ask to act, make recommendations and suggest next steps.



KEY TIPS

FOR TELEPHONE COMMUNICATION WITH STATE OFFICIALS

- Make contact with relevant secretary/assistant. Agree time and agenda of call;
- Prepare a desired outline of the call, points and goals to discuss and the intended flow of conversation;
- Anticipate objections and how to overcome them. Have supporting studies, briefing papers, data and other relevant information at hands;
- Introduce yourself. If possible, start with recommendations from somebody the official knows. Make a clear and appealing case; engage the official by asking questions;
- Note decisions and information for improving communications. Summarize what agreed and next steps;
- Follow up with thank you letters and confirmation of outcomes.

4.3 MORE OPPORTUNITIES FOR ADVOCACY AT NATIONAL LEVEL

ENGAGING WITH THE MEDIA

Media engagement has strong potential for influencing state officials. Media releases, background briefings, opinion pieces and featured articles can all help to put government ministers or officials under pressure regarding its position on the death penalty. There is a risk of some media organizations oversimplifying issues. Having good relationships with journalists at key outlets can help overcome this challenge. Running workshops and training journalists to report sensitively on death penalty issues can also help alleviate some of the negative stereotypes that can be disseminated through the media.

OUTREACH

Outreach involves reaching out to groups, organizations and individuals who work together on common concerns about human rights. Faith based groups, anti-death penalty organizations, ex death-row prisoners and family members of people who experienced the death penalty may all be able and willing to help influence state officials. Identifying them and persuading them to cooperate may facilitate access to information, and provide a platform to spread

the death penalty abolition message to a wider audience. Effective cooperation requires joint identification of agendas and expectations, and clear definition of roles and responsibilities. It also requires recognizing and respecting different expertise, abilities and resources, including different working styles and cultural backgrounds.

ENGAGING EXPERTS ON DEATH PENALTY ISSUES



Academics, prosecutors, lawyers, prison service officials and other experts on death penalty issues, including sympathetic religious and community leaders and former government representatives, may all have the ability to influence state officials. Examples of engagement could include organizing a photo exhibition in the high court to highlight the experience of people on death row, and inviting forensic specialists to attend, to create opportunities for them to speak to key advocacy targets.

4.4 KEY RECOMMENDATIONS

The overall recommendation is that states should abolish the death penalty. Pending full abolition of the death penalty, they should:

- Establish an official moratorium on executions with a view to abolishing the death penalty, as called for by UNGA resolutions and vote in favour of future resolutions;
- Commute without delay all death sentences to terms of imprisonment;
- Remove from national law any death penalty provisions which are in breach of international human rights law, such as its mandatory imposition or its imposition for crimes which do not meet the threshold of “most serious crimes” and which are committed by persons below eighteen years of age, and its application on pregnant women, as stipulated in Article 6 of the ICCPR;
- Take all the necessary steps to ensure the prompt ratification, without reservations, of the ICCPR, and its OP2, aiming at the abolition of the death penalty;
- Ensure that trials for crimes carrying the death penalty comply with internationally recognized standards for fair trial; where that has not been the case ensure that the individual concerned is given re-trial in proceedings which comply with these standards, and without recourse to the death penalty;
- Ensure full compliance with internationally recognized standards on the use of the death penalty, including the prohibition on the use of the death penalty against juveniles and juvenile offenders (meaning persons who were under the age of 18 at the time of the crime), people with mental or intellectual disabilities, the elderly, pregnant or nursing women;
- Publicise on an annual basis comprehensive statistics on the death penalty and facts around the administration of justice in death penalty cases;
- Provide technical support and share their experience with other governments on how to move towards abolition of the death penalty.



  Fatoumara Nah Keira. West Africa, Mali. © Amnesty International

4.5 ENGAGING WITH REGIONAL AND INTERNATIONAL MECHANISMS

Regional and international mechanisms often offer opportunities for advocacy when opportunities to influence domestic legislation or politics at national level are limited.

REGIONAL MECHANISMS

AFRICAN COMMISSION

You can engage with the African Commission in a range of ways, including the following:

The individual communications procedure: submit a communication to highlight a violation by a state party of one or more rights enshrined in the African Charter in relation to a death penalty case. Communications must meet the seven conditions outlined in Article 56 of the African Charter, must be submitted in writing and addressed to the Secretariat or the Chairman of the Commission. Make precise allegations of facts by attaching relevant documents and avoid allegations in general terms. Call on a delegation of the African Commission to undertake a fact-finding mission to the country of concern to further establish first-hand the situation of the defendant(s) or of those affected by the death penalty. Call on the African Commission to urge all state parties to the African Charter that are yet to abolish the death penalty to: respect the African Commission resolution 42 and 136 on a moratorium on executions and abolition of the death penalty; to commute all death sentences to terms of imprisonment; to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. In case of inadmissibility of a communication, provide further information for a review of the decision. In case of admissibility of a communication, make oral presentations before the African Commission, providing arguments and facts supporting your communication. Put pressure on the state party to implement the African Commission's recommendations.¹⁹

Review of a state party's process: send reports to the Secretary of the Commission on the human rights situation in a state party under review by the African Commission, highlighting the violations on the use of the death penalty in that country.²⁰

Working Group on the Death Penalty: communicate with the Working Group Chairperson and provide information on the use of the death penalty in a state party to the African Charter, to facilitate effective monitoring on the application of the death penalty in Africa, with a view to promoting abolition.

African Commission observer status: apply to the Secretary of the African Commission for observer status. NGOs with observer status can participate in and speak during the ordinary sessions of the African Commission, prepare reports on the human rights situation in a given country, including on the use of the death penalty, and submit proposals which may be put to vote at the request of any of its members.²¹

The Forum on the Participation of NGOs in the Ordinary Sessions of the African Commission (the NGO Forum): participate in the NGO Forum and establish collective positions on the death penalty with other NGOs. Identify possible strategies on death penalty issues and draft resolutions for consideration to the African Commission Session during its sittings.²² Applications must be made through the African Centre for Democracy and Human Rights Studies.²³

¹⁹ NGOs can withdraw their communication at any stage.

²⁰ Every two years state parties to the African Charter are required to submit to the African Commission a report on the measures taken to respect and implement the rights guaranteed in the Charter.

²¹ NGOs cannot vote in these discussions. Those without observer status can attend the ordinary sessions but are not allowed to speak.

²² Organized twice a year in the days preceding the Ordinary Session of the African Commission, the NGO Forum is a platform for sharing updates on human rights in Africa.

²³ This is an independent non-governmental pan African organization established in Gambia in 1989. More information can be found here: www.acdhrs.org

INTERNATIONAL MECHANISMS

HUMAN RIGHTS COMMITTEE

Together with other civil society organizations provide a submission to the Human Rights Committee, the so called “shadow report”, to influence the review by the Committee of state parties’ compliance with their obligations under the ICCPR and under its Optional Protocols and to reflect an agreed view on death penalty issues. Participate in consultations and briefings with the Committee’s members. Attend a Committee’ session, disseminate its observations and recommendations. Monitor and encourage implementation by state parties of the Committees’ recommendations.²⁴

COMMITTEE AGAINST TORTURE

Submit information to the Committee against Torture (CAT) at different stages of the reporting process and attend sessions where the Committee examines the report for which information has been submitted. Participate in consultations and briefings with the Committee’s members. Disseminate the Committee’s observations and recommendations. Monitor and encourage implementation by state parties of the Committees’ recommendations.²⁵

UNIVERSAL PERIODIC REVIEW

Check the calendar of reviews of the Human Rights Council to find out when your country of concern is up for review under the UN Universal Periodic Review (UPR).²⁶ Provide a submission to the Human Rights Council on the use of the death penalty in that country.²⁷ Participate in a plenary session of the Human Rights Council: make written statements and oral interventions, and organize parallel events on the death penalty. Lobby reviewing states to raise death penalty issues, make recommendations and follow up

on their commitments on the death penalty. Lobby for strong resolutions on death penalty issues.

SPECIAL RAPPORTEURS

Submit communications to the Special Rapporteur on extrajudicial, summary or arbitrary executions and to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. Raise concerns on the death penalty, and facilitate access to human rights holders, lawyers, journalists and other stakeholders. Make a case for the Special Rapporteurs to visit the country you are working on, and accompany them when possible. Disseminate their findings and recommendations. Ask governments to implement these recommendations.²⁸

UN GENERAL ASSEMBLY

NGOs generally cannot speak in the General Assembly, but can engage via their country capitals and directly with the UN missions in New York. Lobby states to make statements on death penalty abolition, and on the wording of a resolution for a moratorium on the use of the death penalty as a step towards abolition.²⁹ Hold side events to raise awareness of death penalty issues.

UN SECURITY COUNCIL

Identify where you or your allies may have influence with one or more members of the Security Council and ask them to include death penalty issues during discussions and in resolutions.³⁰

²⁴ The Human Rights Committee is a body of independent experts that monitors implementation of the ICCPR and ICCPR-OP2 by its state parties.

²⁵ CAT is the body of independent experts that monitors implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by its state parties.

²⁶ The UPR is a state-driven process under the auspices of the Human Rights Council that involves a review of the human rights’ records of all UN Member States. 42 States are reviewed each year during three Working Group sessions dedicated to 14 States each. These three sessions are usually held in January/February, May/June and October/November.

²⁷ Submissions (five pages maximum when submitted by individual stakeholders and 10 pages maximum when submitted by a coalition of stakeholders) should be made through the on-line UPR Submissions Registration System: <https://uprdoc.ohchr.org/Account/Login.aspx?ReturnUrl=%2f>

²⁸ Special Rapporteurs are independent human rights experts responsible for undertaking thematic studies, reporting to the Human Rights Council, raising cases with relevant governments and making recommendations to address human rights violations.

²⁹ UNGA resolutions are generally first considered under the body’s relevant committees. The Third Committee deals with human rights issues and it generally considers all draft resolutions on this topic in mid-November, approximately. Once the proposed resolutions are adopted by the Third Committee, they are sent for full consideration by the plenary session of the UNGA and it is only after this that the proposals can be adopted as UNGA resolutions.

³⁰ Comprised of 15 members, it is responsible for the maintenance of international peace and security. Under the UN Charter, all member states must comply with its decisions.

4.6 KEY DATES

The following key dates mark recurrent opportunities for advocacy on death penalty issues:

World Day against the Death Penalty: Since 2003, every year on 10 October, the World Coalition Against the Death Penalty has called upon abolitionist NGOs, networks, activists and institutions to mobilize and raise awareness on the use of the death penalty around the world.³¹ In 2016, the 14th “World Day Against the Death Penalty” will raise awareness around the use of the death penalty for armed and other violent attacks. Organize an event or action to raise awareness on the death penalty. Join other initiatives organized worldwide.

Cities for Life- Cities against the Death Penalty: The “World Day Against the Death Penalty” action is followed on 30 November each year by the “Cities for Life” initiative, when municipalities around the world light up symbolic buildings to commemorate the first abolition of the death penalty by the Grand Duchy of Tuscany in 1786. Engage your city officials so that major monuments and squares are used to hold educational and artistic events aimed at raising awareness on the death penalty.

Human Rights Day: This day marks the adoption of the UDHR by the UNGA on 10 December 1948. The UDHR sets out a broad range of fundamental human rights and freedoms to which all people are entitled, without distinction. Organize an event or action to raise awareness on the death penalty. Join other initiatives organized worldwide.

UNGA vote on the death penalty: Every two years member states of the UN at the General Assembly vote on a resolution to establish a moratorium on executions with a view to abolishing the death penalty globally. Information on what you can do can be found under the heading International Mechanisms.

Universal Periodic Review (UPR): Every UN member state has its human rights record scrutinised every four and half years under the UPR process. Information on what you can do can be found under the heading International Mechanisms.

³¹ The World Coalition is an alliance of more than 150 NGOs, bar associations, local authorities and unions

that work to strengthen the international dimension of the fight against the death penalty.

APPENDIX

THE DEATH PENALTY IN WEST AFRICA



West Africa
Map ©
Courtesy of the
University of
Texas Libraries

BENIN

Status: Abolitionist in practice.

Method of execution: Shooting.

Party to ICCPR-OP2: Yes, acceded in

Year of last execution: 1987.

Recent developments:

2012: Benin acceded ICCPR-OP2.

2012: President Boni Yayi signed an order which asked the National Assembly to review

provisions in the Criminal Code, including those on the death penalty.

2012: The National Assembly repealed the death penalty provisions in the Criminal Procedure Code.

2014: Benin voted in favour of UNGA resolution 69/186.

BURKINA FASO

Status: Abolitionist in practice.

Method of execution: Shooting.

Party to ICCPR-OP2: No.

Year of last execution: 1988.

Recent developments:

2012: A draft bill aiming at ratifying the ICCPR-OP2 was prepared and government representatives made statements in favour.

2013: During the country's UPR in April, the Burkina Faso delegation accepted a recommendation to bring its penal code in conformity with the prohibition in international law of the application of the death penalty for juvenile offenders, but stated that public opinion supported retaining the death penalty as a measure to deal with crime.

2014: The Council of Ministers discussed a bill on the abolition of the death penalty that it agreed to transmit to the Transitional Parliament.

2014: Burkina Faso voted in favour of UNGA resolution 69/186.

2015: The Conference of Presidents of the National Transitional Council approved a bill on the abolition of the death penalty in June and sent it for discussion and adoption at the Transitional Parliament.

2015: The Transitional Parliament was dissolved in September following a *coup d'état* by Burkina Faso's Presidential Guards and re-established in October. It did not examine the bill before elections at the end of the year.

GAMBIA

Status: Retentionist.

Method of execution: Shooting.

Party to ICCPR-OP2: No.

Year of last execution: 2012.

Recent developments:

2012: President Yahya Jammeh announced a "conditional" moratorium on executions, to be "automatically lifted" if crimes rate increased. Executions were resumed when nine people were executed after a *hiatus* of almost 30 years.

2014: Gambia abstained from voting on UNGA resolution 69/186.

2015: Gambia rejected UPR recommendation to maintain a moratorium and abolish the death penalty. The government announced plans to amend the constitution to enable parliament to extend the scope of

the death penalty to crimes that it considered sufficiently serious.

2015: President Jammeh pardoned an unspecified number of people sentenced to death between 1994 and 2013. Three soldiers were sentenced to death after a secret trial.

GHANA

Status: Abolitionist in practice.

Method of execution: Shooting.

Party to ICCPR-OP2: No.

Year of last execution: 1993.

Recent developments:

2010: The Constitution Review Commission (CRC) was inaugurated by President Mills to undertake a consultative review of the 1992 Constitution.

2011: The CRC submitted to the president a White Paper on the Report of the Constitution Review with recommendations on review of the constitution.

2012: The Constitution Review Implementation Committee (CRIC) was set up to implement the recommendations accepted by the Government. The Government accepted the CRC's recommendation to abolish the death penalty, replacing it with life imprisonment.

2013: In the outcome of its review under the UPR, the government rejected recommendations to abolish the death penalty, adopt a formal moratorium on executions in the *interim*, or ratify ICCPR-OP2. However, it agreed to put to a referendum all recommendations of the CRC approved by the government that require changes to the constitution, including abolition of the death penalty. The government explained that the death penalty could only be abolished through a referendum.

2014: The CRIC submitted a draft bill for the amendment of entrenched provisions in the constitution to the Attorney-General and Minister of Justice, including replacing the death penalty with life imprisonment and limiting the prerogative of mercy. The bill was expected to be submitted for discussion to the cabinet, parliament and the council of state. The Ghanaian public was also required to ratify the bill via a referendum later in the year. By the end of the year the government's plans to put to a referendum recommendations of the CRC that require changes to the constitution, including the removal of the death penalty, were not implemented.

2014: Ghana abstained from voting on UNGA resolution 69/186.

2014: The UN Human Rights Committee concluded that Ghana had violated its obligations under the ICCPR through the mandatory imposition of the death penalty with respect to a person convicted of murder (Johnson v. Ghana - 2177/2012).

2015: Proposal made by the CRIC to abolish the death penalty were not implemented as a result of delays in the constitutional review process.

LIBERIA

Status: Abolitionist in practice.

Method of execution: Hanging.

Party to ICCPR-OP2: Yes, acceded in 2005.

Year of last execution: 2000.

Recent developments:

2008: A new law was enacted prescribing the death penalty for a number of crimes; this violated Liberia's obligations under ICCPR-OP2.

2011: At the 16th session of the Human Rights Council, Liberia's delegation acknowledged its obligations under ICCPR-OP2 and stated that it was holding consultations to repeal the 2008 law on terrorism, armed robbery and hijacking resulting into death.

2013: The acting Chairman of the Independent National Commission on Human Rights, Boakai Dukuly, emphasized the need for abolition of the death penalty.

2014: Liberia abstained from voting on UNGA resolution 69/186.

2015: Liberia did not accept recommendations to abolish the death penalty following its review under the UPR in May.

MALI

Status: Abolitionist in practice.

Method of execution: Shooting.

Party to ICCPR-OP2: No.

Year of last execution: 1981.

Recent developments:

2011: The government reintroduced a draft bill for the abolition of the death penalty which it had adopted in 2007. The National Assembly postponed its adoption.

2013: During its review under the UPR, Mali stated that draft legislation for abolition had been before the National Assembly since 2008 but continued to be postponed due to the social tensions the issue provoked and the transitional state of the country. The

delegation rejected recommendations to ratify ICCPR-OP2.

2014: Mali voted in favour of UNGA resolution 69/186.

MAURITANIA

Status: Abolitionist in practice.

Method of execution: Shooting.

Party to ICCPR-OP2: No.

Year of last execution: 1987.

Recent developments:

2010: During its review under the UPR, Mauritania rejected recommendations to abolish the death penalty, but agreed to examine recommendations to ratify ICCPR-OP2 and to repeal from the Penal Code provisions allowing the death penalty for same-sex relations.

2013: The Human Rights Committee expressed concerns about the use of the death penalty for juvenile offenders and for homosexuality and recommended ratification of ICCPR-OP2. In its reply Mauritania stated that the issue of ratification of ICCPR-OP2 was being studied.

2014: Mauritania abstained from voting on UNGA resolution 69/186.

2015: During its review under the UPR in November, the country's delegation rejected recommendations to establish a moratorium on the application of the death penalty, abolish the death penalty and ratify ICCPR-OP2.

NIGER

Status: Abolitionist in practice.

Method of execution: Shooting.

Party to ICCPR-OP2: No.

Year of last execution: 1976.

Recent developments:

2010: The National Consultative Council rejected a proposed presidential order to abolish the death penalty.

2011: During its review under the UPR, country authorities stated that Niger was working to develop a strategy for approval of ICCPR-OP2.

2014: Niger voted in favour of the UNGA resolution 69/186.

NIGERIA

Status: Retentionist.

Method of execution: Hanging.

Party to ICCPR-OP2: No.

Year of last execution: 2013

Recent developments:

2013: Bills making kidnapping a capital crime became law in Bayelsa State, Edo State and Delta State.

2014: 659 people were sentenced to death. At least 1,484 people were under sentence of death at the end of the year.

2014: Nigeria abstained from voting on UNGA resolution 69/186.

2014: As part of the outcome of the UPR in 2013, government representatives in March rejected recommendations on the abolition of the death penalty.

2015: There were calls from some sections of the country to make corruption punishable by death.

2015: Cross River State enacted a law that made kidnapping punishable by death.

2016: Senate resolved to enact a bill approving the death penalty for kidnapping at federal level.

2016: The Delta State House of Assembly replaced the death penalty with life imprisonment for the crime of kidnapping; this followed a request by the Governor of the state.

SIERRA LEONE

Status: Abolitionist in practice.

Method of execution: Hanging and shooting.

Party to ICCPR-OP2: No.

Year of last execution: 1998.

Recent developments:

2013: Launch of the constitutional review process and creation of the Constitutional Review Committee (CRC) to review the 1991 Constitution of Sierra Leone. The Government committed to address the issue of the death penalty in the review process.

2014: President Koroma commuted five death sentences to life imprisonment.

2014: Attorney-General and Minister of Justice, Franklyn Bai Kargbo, told the UN CAT that Sierra Leone would abolish the death penalty in a matter of weeks.

2014: Sierra Leone voted in favour UNGA resolution 69/186.

2015: A proposed amendment to the Criminal Procedure Act, which included a provision to abolish the death penalty, was initiated through efforts by civil society organizations. No progress was made on abolition of the death penalty despite the government commitment made before the UN CAT in 2014.

2016: In its Abridged Draft Report the CRC called for the question of abolition of the death penalty to go through further public consultation.

2016: During its UPR review, Sierra Leone accepted several recommendations to abolish the death penalty and ratify ICCPR-OP2. However, a proposed amendment to the Criminal Procedure Act is yet to be considered for adoption by the National Assembly.

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ADVOCACY TOOLKIT

ABOLITION OF THE DEATH PENALTY IN WEST AFRICA

When Amnesty International began campaigning for the abolition of the death penalty in 1977, no country in Sub-Saharan Africa had abolished the death penalty. Today, eighteen countries in the region have done so for all crimes. West Africa in particular is a beacon of hope. Five countries in West Africa are now fully abolitionist in law, as of July 2016, while several others have taken important steps towards abolition.

This toolkit is designed to assist activists working on the abolition of the death penalty in West Africa. Drawing on many years of Amnesty International's work to promote all human rights and to oppose violations of those rights, it is intended to provide arguments, suggestions and practical tips for advocacy that activists can use to strengthen and broaden their work against the death penalty.

Amnesty International opposes the death penalty in all cases without exception, regardless of the nature or circumstances of the crime, regardless of the guilt, innocence or other characteristics of the individual, and regardless of the method used by the state to carry out the execution.

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