

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. Amnesty International 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.

The death penalty legitimizes an irreversible act of violence by the state. The death penalty is discriminatory and is often used disproportionately against the poor, minorities and members of racial, ethnic and religious communities. The death penalty is often imposed after a grossly unfair trial. But even when trials respect international standards of fairness, the risk of executing the innocent can never be fully eliminated: the death penalty will inevitably claim innocent victims, as has been persistently demonstrated.

The trend towards abolition of the death penalty is clear. Over two-thirds of the countries in the world have now abolished the death penalty in law or practice. Vast swathes of the world are now execution-free. In 1977, just 16 countries had abolished the death penalty for all crimes. Today, that figure stands at 90. Eleven countries have abolished the death penalty for all but exceptional crimes such as wartime crimes. A further 32 countries can be considered to have "abolished in practice" having not carried out an execution for at least 10 years. 133 of the world's 190 countries are now death penalty free. Information up to 2 November 2007 This trend is further supported by the increased ratification of international and regional treaties providing for the abolition of the death penalty.

The continent of Africa is largely free of executions with only six of the region's 53 countries known to have carried out executions in 2006. According to Amnesty International's information, of the 53 African Union 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 Algeria, Benin, Burkina Faso, Central African Republic, Congo (Republic), Eritrea, Gabon, Gambia, Ghana, Kenya, Madagascar, Malawi, Mali, Mauritania, Niger, Saharawi Arab Democratic Republic (under Moroccan administration), Swaziland, Tanzania, Togo, Tunisia and Zambia. countries are abolitionist in practice. 18 countries retain the death penalty but only a handful of them use it regularly.

Amnesty International welcomes the steady progress towards abolition of the death penalty in countries in Africa. On 25 July 2007 Rwanda abolished the death penalty for all crimes. Gabon and Mali have initiated draft bills to abolish. A revised text for the Burundian penal code, which is pending promulgation, excluded the death penalty as punishment.

Benin, Burkina Faso, Guinea and Kenya have confirmed their opposition to the death penalty.

Furthermore, death sentences were commuted in at least six countries:

- o In **Congo** in August 2007, President Sassou Nguesso signed a decree commuting all death sentences passed before 15 August 2007. According to reports, 17 people on death row had their sentences commuted to life imprisonment with hard labour.
- o In **Ghana**, for the second time this year, death sentences were commuted to life imprisonment.
- o In **Libya** death sentences have been commuted after the families of the victims agreed to accept compensation (*diyyah*) payments. Others, including at least eight of a group of Egyptian nationals convicted of murder by Libyan courts, have also had their death sentences commuted, while others remain standing.
- o In **Nigeria**, on the occasion of Independence Day on 1 October 2007, the governors of four Nigerian states -- Ebonyi, Katsina, Taraba and Sokoto -- announced their decision to commute the death sentences of several death row prisoners to life imprisonment.
- o In **Somaliland**, according to the Community of Sant' Egidio, the President of Somaliland Bahir Rayale Kahin confirmed during a visit to the organisation in June 2007 that the death sentences imposed in relation to the murder of Italian national Annalena Tonelli, have been commuted to life imprisonment.

- o In **Zambia**, according to reports, President Levy Mwanawasa commuted the 97 death sentences to life imprisonment in August 2007. As a further positive step, the High Court of Malawi declared on 14 April 2007 the death sentences on all prisoners on death row unconstitutional.

However, in the last six months executions have been reported in three countries (Ethiopia, Libya and Somalia) and death sentences have been documented in six others (Algeria, Democratic Republic of Congo, Egypt, Gambia, Nigeria, Madagascar and Sudan).

Nevertheless, the above figures and examples demonstrate that there is a real momentum to end capital punishment in Africa.

Furthermore, in light of the momentum towards abolition and of the growing concerns about the application of the death penalty, various international and regional intergovernmental bodies have recommended establishing a worldwide moratorium on executions as a step towards abolition of capital punishment. A resolution calling for a global moratorium on executions will be voted at the United Nations General Assembly (UNGA) 62nd session this November. The adoption of such a resolution by the UN's principal organ would be an important milestone towards the abolition of the death penalty. This resolution is expected to be supported by countries from all regions of the world including Africa.

The African Commission in 1999 in Kigali, Rwanda, adopted a resolution calling on states parties to the African Charter 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."

In view of the above, we call on all African governments that still maintain the death penalty to follow the worldwide trend on abolition of the death penalty and to:

- o abolish the death penalty completely and, in the meantime, establish a moratorium on executions;
- o 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;
- o 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;
- o not impose the death penalty for any but the most serious crimes;
- o ratify the International Covenant on Civil and Political Rights and/or its Second Optional Protocol aiming at the abolition of the death penalty.

We urge the African Commission to reaffirm its 1999 Resolution on the Death Penalty and to seek ways to ensure the full implementation of the resolution by all member states of the African Union.