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Zambia: Missed opportunity to join worldwide trend towards abolition of the death penalty

Amnesty International has appealed to the Zambian government to take steps towards abolishing the death penalty despite the decision of the Zambia National Constitutional Conference (NCC) on 3 February to retain capital punishment in a draft Constitution to be presented to the public for consultation.

Zambia missed an opportunity to join the worldwide trend towards abolition of the death penalty as a result of the decision by the NCC.

Amnesty International deeply regrets the decision by the NCC to ignore the request by the majority of the petitioners to the Mng'omba Constitutional Review Commission to remove capital punishment from the draft Constitution.

Amnesty International believes that the death penalty is the ultimate cruel, inhuman and degrading punishment and constitutes a violation of the right to life. The right to life and the right not to be subjected to cruel, inhuman or degrading treatment or punishment are recognized in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights.

Recent decades have witnessed a global trend away from the use of the death penalty to such an extent that an execution has become a rare event in sub-Saharan Africa. In 2008, only 25 countries carried out executions, four of them in Africa. One hundred and thirty nine countries have now abolished the death penalty in law or have not carried out executions for years. Only 58 countries retain capital punishment. Most recently, Togo and Burundi abolished the death penalty in 2009. Of the 15 member states of the Southern African Development Community, only Botswana has carried out executions in recent years.

In November 2008 the African Commission on Human and Peoples' Rights adopted a resolution calling upon state parties to the African Charter on Human and People's Rights to observe a moratorium on executions with a view to total abolition of the death penalty. The resolution expresses concern at the failure of some African states to give effect to UN resolutions and the African Commission's own resolution (1999) calling for a moratorium on executions. The resolution also expresses concern at the application of the death penalty in conditions not respectful of the right to a fair trial and other human rights. By adopting the resolution the African Commission has aligned itself with the global trend towards abolishing the death penalty.

Zambia is one of the countries that have been showing signs of movement towards abolition of the death penalty. Only a year ago, Amnesty International welcomed the commutation of the death sentences of 53 prisoners to custodial sentences by President Rupiah Bwezani Banda on 16 January 2009.

In August, 2007, President Levy Mwanawasa commuted the death sentences of 97 prisoners who were on death row to life imprisonment. The last executions in Zambia were carried out in 1997, when 12 people were hanged.

When two resolutions, calling for a worldwide moratorium on executions with a view to abolishing the death penalty, were adopted at the United Nations General Assembly in December 2007 and 2008, Zambia did not vote against the resolutions but decided to abstain.

A third resolution on the use of the death penalty will be considered by the Third Committee of the United Nations General Assembly this autumn. While regretting the NCC decision to retain the death penalty within the draft Constitution, Amnesty International urges the government of Zambia to grasp the opportunity to show its commitment to a world free of executions by voting in favour of the resolution, pending the abolition of the death penalty within national legislation.

Background:

The NCC is a forum established in 2007 to examine and adopt proposals to amend the Constitution. On 3 February it decided to retain Article 31(2), which states that a person shall not be deprived of life intentionally except in the execution of a sentence of a court in respect of a criminal offence. The draft Constitution will be subjected to public consultation before it becomes law.

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International Secretariat, Amnesty International, 1 Easton St., London WC1X 0DW, UK
www.amnesty.org
