

THE COTONOU FRAMEWORK DOCUMENT TOWARDS THE ABOLITION OF THE DEATH PENALTY IN AFRICA

Adopted by the Second Regional Conference for North and West Africa on the Question of the Death Penalty in Africa.

1. The Second Regional Conference for North and West Africa on the Question of the Death Penalty in Africa was held in Cotonou, Benin from 12 to 15 April 2010.
2. The Conference was organized by the African Commission on Human and Peoples' Rights (the ACHPR) as part of the work of the African Commission's Working Group on the Death Penalty in Africa (WGDP). The Working Group is a special mechanism established during its 37th Ordinary Session held in Banjul, The Gambia, in May 2005, to, *inter alia*, developing a document on the Question of the Death Penalty in Africa, and propose strategies aimed at the abolition of the death penalty in Africa.
3. Sixty-three (63) participants representing thirteen (13) Member States of the African Union (States Parties to the African Charter on Human and Peoples' Rights) took part in the Conference. They included Algeria, Benin, Burkina Faso, Cote d'Ivoire, Egypt, Gambia, Libya, Mauritania, Niger, Nigeria, Saharawi Republic, Senegal and Tunisia. The Conference was also attended by AU Organs and UN Agencies, National Human Rights Institutions, Academic and National Institutions, International and National NGOs.
4. The Conference was chaired by Honourable Commissioner Zainabo Sylvie Kayitesi, the Chairperson of the WGDP. The Conference was officially opened by His Excellency Mr. Victor Topanou, Minister of Justice, Legal Affairs and Human Rights of the Republic of Benin.
5. Three speeches were delivered during the opening ceremony by His Excellency Mr. Victor Prudent Topanou, the Minister of Justice, Legal Affairs and Human Rights, Honourable Commissioner Reine Alapini-Gansou, Chairperson of the ACHPR and Honourable Commissioner Zainabo Sylvie Kayitesi, Chairperson of the WGDP.
6. His Excellency Mr. Victor Prudent Topanou, the Minister of Justice, Legal Affairs and Human Rights of the Republic of Benin commended the ACHPR and its Working Group for initiating dialogue on the continent on this very important, controversial and emotive human rights issue. The three speakers underscored the importance of dialogue and consultations aimed at collecting diverse views on the question of the death penalty in Africa, which would enhance collective understanding on the issue. They explored the possibility, and need of abolishing the death penalty and to observe a moratorium on executions in Africa, to conform to the international trend and, the need to enhance the protection of the right to life and human dignity, which are

enshrined in international and regional human rights instruments, which African States have ratified.

7. The Vice-Chairperson of the ACHPR, Honourable Commissioner Mumba Malila, the Chairperson of the WGDP, Honourable Commissioner Zainabo Sylvie Kayitesi, Expert Member of the WGDP, Ms. Alice Mogwe and Senior Legal Officer of the African Commission, Dr. Robert Eno served as Resource Persons to the Conference and lead discussions on the following themes:

- (i) Understanding the death penalty: origins and evolution.
- (ii) The situation of the death penalty in Africa: General overview and special focus on North and West Africa.
- (iii) The death penalty: arguments for and against.
- (iv) Legal Framework: International, Regional and National Human Rights Law; and
- (v) The problem of moratorium on executions.

8. Having considered and deliberated on the presentations with much interest the Conference proceeded to:

- i. Affirm its commitment to the principles enshrined in the Universal Declaration of Human Rights, the African Charter on Human and Peoples' Rights, as well as in other relevant international and regional human rights instruments, relating to human rights in general and the right to life in particular.
- ii. Reaffirm the importance of dialogue as an appropriate means of reaching consensus on the question of the death penalty in Africa and welcomes the decision of the African Commission to initiate dialogue with the African people on the question of the death penalty in Africa and the recognition of the rich diversity of views on the question of the death penalty.
- iii. Welcome the on-going debate within African States on the question of the death penalty, which in some countries has resulted in the abolition of the death penalty and the adoption of moratorium in other countries.
- iv. Emphasize the importance of political will in abolishing the death penalty.
- v. Emphasize the importance of sensitization and education at all level as a means of creating awareness and disseminating information on the death penalty.

- vi. Note that culture, religion, tradition and public opinion are important values that need to be taken into account when dealing with the question of the death penalty in Africa.

9. The Conference further made the following recommendations:

a. Strategies to abolish the death penalty

- i. The African Commission to adopt sensitization and human rights education programmes, including the adoption of a media strategy to create public awareness on the need to abolish the death penalty.
- ii. The African Commission to be pro-active in its approach towards the abolition of the death penalty.
- iii. The African Commission to work closely with United Nations bodies, in particular; the Office of the High Commissioner for Human Rights, as well as with National Human Rights Institutions and Civil Society Organizations in their respective capacities to mobilize towards the abolition of the death penalty.
- iv. The African Commission to develop Strategies to enhance public awareness to include *inter alia* advocating and pressure on decision makers, support for the establishment of regional and national human rights coalition, campaigns and petitions for the abolition of the death penalty.

b. Necessity of a Protocol on the Death Penalty in Africa

- i. Participants recommended the drafting of a Protocol to the African Charter on Human and Peoples' Rights on the abolition of the Death Penalty in Africa, to fill the gaps and expand on the provisions enshrined in the Second Optional Protocol on the International Convention on Civil and Political Rights and place stronger emphasis on restorative rather than retributive justice.
- ii. There should be a road map to the adoption of a Protocol.¹

¹ It is worth noting that, representatives of certain countries such as Libya, Egypt, Tunisia and Algeria did not see the necessity for a Protocol at the moment.

c. General Recommendations

- i. Participants agreed that the African Commission should consider networking with other stakeholders with a view to disseminating and exchanging information on the abolition and moratorium on the death penalty.
- ii. Participants recommended the need to engage the public in sensitizing the different religious groups as well as the different faiths and traditions on the abolition and moratorium on the death penalty.
- iii. Participants recommended that consideration should be given to the specific circumstances of each country, such as states which observe or have adopted a moratorium and those which have not yet done so.
- iv. States Parties to the African Charter to demonstrate stronger political will towards the abolition of the death penalty.
- v. The African Commission should urge AU Member States which have not done so, to sign and ratify human rights instrument that prohibit the death penalty, in particular the Second Optional Protocol to the International Covenant on Civil and Political Rights on the abolition of the death penalty, and urges them to harmonize their national legislations accordingly.

The Conference hereby adopts this document, hereinafter to be known as the Cotonou Framework Document on the Abolition of the Death Penalty in Africa.

Done in Cotonou, Benin, 15 April, 2010