

THE KIGALI FRAMEWORK DOCUMENT ON THE ABOLITION OF THE DEATH PENALTY IN AFRICA

Adopted by the First Sub-Regional Conference for Central, Eastern and Southern Africa on the Question of the Death Penalty in Africa.

1. The First Conference on 'The Question of the Death Penalty in Africa', organized by the African Commission on Human and Peoples' Rights (the African Commission or ACHPR,) for Central, Eastern and Southern Africa, was held in Kigali, Rwanda from 23 to 25 September 2009. The Conference was chaired by Commissioner Zainabo Sylvie Kayitesi, the Chairperson of the African Commission's Working Group on the Death Penalty in Africa. In attendance in the Conference were other members of the Working Group namely: Commissioner Tom Nyanduga, Ms. Alice Mogwe, Professor Philip Iya and Professor Anyangwe.
2. Fifty (50) participants representing ten (10) Member States of the African Union States Parties to the African Charter on Human and Peoples' Rights namely; Burundi, Ethiopia, Kenya, Lesotho, Malawi, Mozambique, Rwanda, Uganda, Tanzania, and Zimbabwe, AU Organs, National Human Rights Commissions, Academic institutions, international and National NGOs, took part in the Conference.
3. The Conference was organized by the African Commission on Human and Peoples' Rights as part of the mandate of the Working Group on the Death Penalty in Africa, a special mechanism established during its 37th Ordinary Session held in Banjul, The Gambia, to, *inter alia*, elaborate a document on the question of the death penalty and propose ways and means of tackling the question of the death penalty in Africa.
4. The Conference was opened by Honourable Jean Marie Vienney MBARUSHIMANA, Principal State Attorney, on behalf of Honourable Tharsisse Karugarama, the Minister of Justice and Attorney General of the Republic of Rwanda. Commissioner Bahame Tom Mukirya Nyanduga, Acting Chairperson of the African Commission and Commissioner Zainabo Sylvie KAYITESI, Chairperson of the Working Group on the Death Penalty in Africa, also made statements during the opening ceremony.
5. The three statements commended the African Commission and its Working Group for initiating dialogue on the continent on this very important, controversial and emotive human rights issue. They underscored the importance of the dialogue and consultations aimed at collecting diverse views on the question of the death penalty in Africa, which would enhance the collective understanding of the issue. They explored the possibility, and urgent need of abolishing the death penalty in

Africa, to conform with 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 accepted.

6. The statements further traced the history of measures taken towards the abolition of the death penalty in Africa, in particular the Resolution ACHPR/Res.42(XXVI)9:on the Moratorium on the Death Penalty adopted by the African Commission during its 26th Ordinary Session which took place between 1 and 15 November 1999, in Kigali, Rwanda and Resolution ACHPR/Res.136(XXXIII).08 on the Moratorium on the Death Penalty adopted by the African Commission during its 44th Ordinary Session which took place between 10 and 24 November 2008 in Abuja, Nigeria the statements further stated that 18 African States have so far abolished the death penalty, and that 30 African State are parties to the Rome Statute regime, which does not recognize the death penalty.
7. Commissioner Bahame Tom Mukirya Nyanduga, the Acting Chairperson of the African Commission, commended in a special way the Republic of Rwanda for its courageous step to abolish the death penalty, notwithstanding the loss of lives, pain and suffering caused by the genocide of 1994. He urged African States, which still retain the death penalty, to emulate Rwanda and other African States, which have already abolished the death penalty.
8. Three Members of the Working Group namely, Ms. Alice Mogwe, Prof. Philip Francis Iya and Prof. Carlson Anyangwe, served as Resource Persons to the Conference and lead discussions on the following themes;
 - (i) the history of the death penalty, its origin and evolution.
 - (ii) a general overview of the death penalty situation in Africa.
 - (iii) the death penalty: argument for and against.
 - (iv) legal framework: International, regional and national human rights law; and
 - (v) a moratorium on executions.
9. Having considered and deliberated on the presentations made by the Resource Persons, the conference proceeded to:
 - i. Commend Burundi, for being the latest country to abolish the death penalty.
 - ii. Affirm its attachment 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, which specifically prohibit the death penalty.

- iii. Welcome the growing interest within African States on the abolition of the death penalty, through the adoption of a moratorium, sensitization against the death penalty and the resolution of constitutional litigation culminating in the abolition or the suspension of death penalty in Africa.
- iv. Reaffirm the importance of dialogue as an appropriate means of reaching a consensus on the abolition of the death penalty in Africa.
- v. Welcome the decision of the African Commission to initiate dialogue with the African people on the question of the death penalty in Africa.
- vi. Emphasize the importance of political will in ensuring the abolition of the death penalty.

10. The Conference further made the following recommendations:

a. Strategies on abolishing the death penalty

- i. The African Commission through its mandate should continue its campaign to abolish the death penalty by adopting Resolutions, its Promotion Missions, its Special Mechanisms, examination of State Reports and Communication Procedures.
- ii. The African Commission should undertake in African countries awareness raising activities with a view to abolishing the death penalty. In this connection, there should be a bottom-up approach rather than a top-down approach. The African Commission should propose alternative solutions to the death penalty and insist on the adoption of a formal moratorium for the execution of the death penalty.
 - iii. Strategies should involve politicians, Civil Society Organisations (CSOs), National Human Rights Institutions (NHRIs), Religious Leaders, Non Governmental

Organisations (NGOs), Trade Unions, Student Unions, Professional Associations, Regional Economic Communities, Academic Institutions, media and other stakeholders, as part of the public debate on the issue of the abolition of the death penalty.

- iv. The Constitutions of African countries should guarantee in absolute terms the right to life through the abolition of the death penalty.
- v. The African Commission should urge AU States Parties, which have not done so, to sign and ratify human rights instruments that prohibit the death penalty especially 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 legislation accordingly.

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

- i. In conformity with the provisions of article 66 of the African Charter, the 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 gaps in the African Charter on the inviolability and sanctity of human life.
- ii. The participants recommended that the African Commission should adopt a Resolution on the Abolition of the Death Penalty in Africa.

c. General recommendations

- i. Participants recommended the African Commission to continue with research on the issue of the death penalty.
- ii. Participants recommended that the African Union and its cooperating partners should fund the Working Group on the Death Penalty to continue to research on the question of the death penalty in Africa.
- iii. Participants agreed that the African Commission should consider networking, with other stakeholders with a view to disseminating and exchanging information on the abolition of the death penalty.

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

Done in Kigali, Rwanda

25 September 2009