

## 79<sup>TH</sup> ORDINARY SESSION OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

14th May – 3rd June 2024

### Concept Note of the panel organized by the Working Group on the Death Penalty

Date: May 16, 2024 Time: 12h00 – 13h30 GMT

Subject: The abolition of the death penalty in the face of security challenges

#### I. Panel Background and Rationale

1. Recent years have been marked by many advances towards the abolition of the death penalty at the regional level. The African continent presents a unique abolitionist dynamic in the world. To date, of the 55 African Union Member States, 24 have abolished the death penalty for all crimes<sup>1</sup>, 4 for ordinary crimes<sup>2</sup>, 15 observe a moratorium on executions<sup>3</sup>. Thus, more than three-quarters of African Union member states are abolitionist in law or practice.
2. The African Commission on Human and Peoples' Rights (ACHPR or the Commission) addressed the issue of the death penalty as early as 1999, adopting a resolution inviting States to consider a moratorium on capital punishment (ACHPR/Res.42(XXVI)99), at its 26th Ordinary Session in Kigali (Rwanda). To strengthen its work on the abolition of the death penalty, the Commission established a special mechanism, the Working Group on the Death Penalty in Africa, in 2005.
3. The Working Group concluded in 2011 a *“Study on the Question of the Death Penalty in Africa”*, which was adopted by the Commission at its 50th Ordinary Session in November 2011. The conclusions and strategy contained in this

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Angola, Benin, Burundi, Cape Verde, Central African Republic, Chad, Congo, Ivory Coast, Djibouti, Gabon, Guinea, Guinea-Bissau, Madagascar, Mauritius, Mozambique, Namibia, Rwanda, São Tomé and Príncipe, Senegal, Seychelles, Sierra Leone, South Africa, Togo, Zimbabwe.

<sup>2</sup> Burkina Faso, Ghana, Equatorial Guinea, Zambia.

<sup>3</sup> Algeria, Cameroon, Eritrea, Eswatini, Gambia, Kenya, Liberia, Malawi, Mali, Mauritania, Morocco, Niger, Sahrawi Arab Democratic Republic, Tanzania, Tunisia.



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study now constitute the Commission's official position on the issue of the death penalty. In concluding its study, the ACHPR recommended that *“the African Union and State Parties adopt a Protocol to the African Charter on Human and Peoples' Rights on the Abolition of the Death Penalty in Africa, [to fill] the gaps in the Charter [...] focusing on restorative rather than punitive justice”*.

4. One of the reasons usually invoked to justify the use of the death penalty is the need to strengthen security. This justification is based on the idea that the death penalty and subsequent executions allow to control a situation of insecurity or deter a violent crime. Public security and human security are two related but distinct concepts: public security focuses on protecting society from tangible threats, while human security focuses on the protection and well-being of individuals in a broader and holistic sense, taking into account their rights, needs and dignity.
5. Thus, the link between the death penalty and security is a complex issue that is the subject of intense debate in many countries around the world, whether abolitionist or conservative. Far from being trivial, this debate presents the risk of leading to a resurgence of the death penalty, as is the case in the Democratic Republic of Congo, where the Government decided to lift the moratorium on the execution of the death penalty on 9 February 2024<sup>4</sup>; although this country has observed a moratorium for 21 years.
6. However, the effectiveness of the death penalty in ensuring safety is more than questionable. Many studies suggest that there is no clear link between the existence of the death penalty and reduced rates of violent crime. Other factors, such as the likelihood of being arrested and socioeconomic conditions, seem to play a more important role in deterring crime. Even in cases where the death penalty is applied, it cannot eliminate the crime. The deep roots of crime, such as poverty, social inequalities, and limited access to education and economic opportunities, require more holistic approaches to be addressed effectively. In addition, the death penalty also carries the risk of executing innocent people due to miscarriages of justice.
7. In December 2020, the African Commission adopted the [Resolution on the Need to Silence the Guns in Africa based on Human and Peoples' Rights](#), which prioritizes the fundamentally humane approach and mechanisms for peaceful resolution that are necessary in the face of violent conflicts. The death penalty has no place in a humane approach to protection, ending violence and development.

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<sup>4</sup> As such, please refer [to the Commission's press release on lifting the moratorium on the death penalty in the Democratic Republic of Congo \(DRC\)](#) of 15 March 2024.



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## II. Purpose of the panel

8. The overall objective of this panel is to raise awareness among various stakeholders of the merits of abolishing the death penalty and its ineffectiveness in ensuring human security on the African continent.

## III. Panel methodology

9. The activity will take the form of presentations by resource persons recognized for their competence, followed by discussions with participants in the public session.
10. Presentations will focus on:
  - i. The link between the death penalty and security (whether public or human);
  - ii. The case study of the challenges of abolishing the death penalty in the context of security in the Democratic Republic of Congo, Angola and South Africa;
  - iii. The importance of ensuring the abolition of the death penalty in the face of the risks of resurgence: the need to adopt the draft Additional Protocol to the African Charter on Human Rights.

## IV. Expected Results

11. This panel will begin a reflection on the theme of the 22<sup>nd</sup> World Day against the Death Penalty, October 10, 2024, under the theme "The death penalty protects nobody". The expected results of this activity are as follows:
  - i. Raise awareness among various stakeholders of the merits of abolishing the death penalty in all security contexts;
  - ii. Improve understanding of the link between human security and human rights;
  - iii. Initiate a discussion with stakeholders on the theme of the World Day against the Death Penalty, with a view to a possible Commission resolution in this regard.

## V. Date and venue

12. The Panel will be held during the 79<sup>th</sup> ordinary public session of the Commission, on 16 May 2024, from 12:00 to 13:30 GMT, in Banjul (The Gambia), in hybrid format (virtual



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and in-person). It will last for 1 hour and 30 minutes.

## VI. Target audience

13. This panel is intended for participants in the 79<sup>th</sup> Ordinary Session of the African Commission on Human and Peoples' Rights, which are generally the 55 Member States of the African Union, National Human Rights Institutions, regional and international organizations and non-governmental organizations.
14. More specifically, the panel is aimed at state and non-state actors working on the death penalty.

## VII. Programme

15. The panel will be moderated by Commissioner Idrissa Sow, Chairperson of the Working Group on the Death Penalty.

10 min	Introductory remarks	<b>Commissioner Idrissa Sow</b> , Chairperson of the Working Group on the Death Penalty, Extrajudicial, Summary or Arbitrary Executions and Enforced Disappearances in Africa
10 min	The link between the death penalty and security in Southern Africa	<a href="#"><u>Dr. Ntandokayise Ndhlovu</u></a> , expert member of the Working Group on the Death Penalty
10 min	The importance of ensuring abolition in the face of risks of resurgence: the example of the Democratic Republic of Congo	<b>Mr. Michel Kalemba</b> , Member of the FIACAT International Office
10 min	The Angolan experience: abolition of capital punishment in the context of armed conflict	<b>H.E Miguel Bembe</b> , Ambassador of the Republic of Angola to the African Union <b>or Ana Celeste Januário</b> , Secretary of State for Human Rights of Angola (TBC)



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10 min	Challenges of abolishing the death penalty in Central Africa	<b>Mrs. Sylvie Kayitesi Zeinabu</b> Commissioner, International Commission Against Death Penalty
25 min	Participant questions/contributions /comments	<b>Commissioner Maria Teresa Manuela,</b> Vice-Chairperson of the Working Group on the Death Penalty
10 min	Panelist Responses and Comments	All panelists
5min	Closing Remarks	<b>Commissioner Idrissa Sow,</b> Chairperson of the Working Group on the Death Penalty