

ACHPR / Res. 416 (LXIV) 2019: Resolution on the Abolition of the Death Penalty in Africa

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 64th Ordinary Session held from 24 April to 14 May 2019, in Sharm el Sheikh, Arab Republic of Egypt;

Recalling its mandate to promote and protect human and peoples' rights under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling Article 4 of the African Charter which recognizes and guarantees the right of every individual to life;

Considering resolutions ACHPR/Res.42(XXVI)99 and ACHPR/Res.136 (XXXIV)08 of the Commission urging among other things, States parties to the African Charter to consider a moratorium on the death penalty and to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty;

Bearing in mind resolution ACHPR/Res. 375 (LX) 2017 on the right to life urging State parties to the African Charter that have established a moratorium on executions to undertake further practical steps towards the abolition of the death penalty;

Recalling General Comment No. 3 on the African Charter on Human and Peoples' Rights on the right to life (Article 4) and General comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life;

Recalling the resolutions of the General Assembly of the United Nations, adopted in 2007, 2008, 2010, 2012, 2014, 2016 and 2018, calling on all States that still retain the death penalty to, *inter alia*, observe a moratorium on executions with a view to abolishing the death penalty;

Welcoming the holding by the Commission of two regional conferences on the question of the death penalty in Africa, in September 2009 and April 2010 for Central, East and Southern African countries and for West and North African countries respectively, which recommended the drafting of a Protocol on the abolition of the death penalty in Africa and the first Continental Conference on the death penalty in 2014 in Benin; which created space for an open debate on the issue of the death penalty in Africa as well as on the necessity for Member States of the African Union (AU) to support the adoption of a regional protocol on the abolition of the death penalty;

Welcoming the holding of the African Regional Congress against the Death Penalty in Abidjan in April 2018, which reiterates its support to the

abolition of death penalty in Africa and the adoption of the Draft Protocol on the abolition of the death penalty;

Welcoming also the continental and worldwide trend towards the abolition of the death penalty and that 21 States Parties to the African Charter have abolished the death penalty in law;

Noting that only 14 out of 53 States Parties to the African Charter have ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights on the abolition of the death penalty;

Noting also that 27 African countries voted in favour of the resolution 73/175 (2018) of the United Nations General Assembly calling for a moratorium on executions.

Regretting that 9 African States still retain the mandatory death penalty for certain offences and at least 22 African States passed death sentences in 2018, and 5 of those States carried out executions;

Considering that the death penalty has no proven deterrent effect, its application is irreversible and constitutes a serious infringement to the right to life and the right to dignity;

Observing that the death penalty is increasingly imposed after unfair trials and used in an arbitrary and discriminatory manner, particularly against members of vulnerable groups;

Reaffirming the commitment of the Commission to promote the right to life and human dignity as fundamental rights and to encourage States Parties to abolish the death penalty;

The Commission:

- 1. Urges** State Parties to the African Charter that still retain the death penalty to fully implement the right to life and the right to human dignity;
- 2. Urges** States Parties that still retain the death penalty to observe a moratorium on the death penalty with a view to abolishing it in conformity with resolutions *ACHPR/Res.42(XXVI)99* and *ACHPR/Res.136 (XXXIV)08* of the Commission and the seven resolutions of the General Assembly of the United Nations;
- 3. Urges also** States Parties to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights on the abolition of the death penalty;

- 4. Urges further** those States Parties that still retain the mandatory death penalty to abolish it as it breaches the right to life and the right to human dignity;
- 5. Urges** those States Parties that have established a moratorium on executions to undertake further practical steps towards the full abolition of the death penalty in law;
- 6. Calls on** States Parties to the African Charter to include in their periodic reports information on the steps they are taking to move towards the abolition of the death penalty in their countries; and
- 7. Calls on** States Parties to support the adoption by the African Union of the draft Protocol to the African Charter on the abolition of the death penalty, adopted by the Commission in 2015.

Done in Sharm El Sheikh, Arab Republic of Egypt, on 14 May 2019