62nd ORDINARY SESSION OF THE AFRICAN COMMISSION ON
HUMAN AND PEOPLES’ RIGHTS

INTER-SESSION ACTIVITY REPORT

(December 2017 – April 2018)

Presented by

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NOUAKCHOTT, MAURITANIA

25 April - 9 May 2018
INTRODUCTION

1. This report is presented in accordance with Rules 23(3) and 72 of the Rules of Procedure of the African Commission on Human and Peoples’ Rights (the Commission). It covers activities carried out during the inter-Session period between December 2017 and May 2018.

2. The report is divided into three parts, Part I covers the activities conducted in my capacity as Commissioner and Chairperson of the Working Group on Death Penalty and Extrajudicial, Summary and Arbitrary Killings in Africa, Part II deals with the situation of death penalty and extrajudicial, summary or arbitrary killings in Africa and Part III which concludes with a set of recommendations.

   Part I – Activities carried out as Commissioner and as Chairperson of the Working Group

   A. Participation in the 23rd Extraordinary Session of the Commission

   3. I participated in the 23rd Extraordinary Session of the Commission held from 13 – 22 February 2018 in Banjul, Republic of The Gambia. During the Session, the Commission considered and adopted decisions on forty-six (46) Communications and other documents.

   B. Meeting of the working group on communications

   4. Two members of the Working Group, Commissioner Kayitesi Zainabo Sylvie and Commissioner Remy Ngoy Lumbu, met on 23 April 2018 to consider issues relating to Communication 383/10 and proposed recommendations.

   C. Meeting of the Working Group on Specific Issues

   5. I chaired the meeting of the Working Group on specific issues on 24 April 2018 on the margins of the ordinary session. The meeting considered the roadmap for the preparation of the strategic plan 2019-2024 of the African Commission, which includes activities to be carried out to develop a Strategic Plan. It was attended by Mrs. Soyata Maiga, Chairperson of the Commission and member
of the Working Group, Mrs. Kayitesi Zainabo Sylvie, Chairperson of the Working Group on Specific Issues and Mrs. Maya Sahli Fadel, member of the Working Group.

**D. Activities of the Working Group**

**i. Participation in the Conference of the Network of African National Human Rights Institutions (NANHRI)**

6. The Working Group participated in the NANHRI Biennial Conference held in Kigali, Rwanda on 7th November 2017 and made a presentation on the work of the African Commission with regards to the abolition of the death penalty in Africa. This participation marked the beginning of fruitful collaboration with NHRIs through NANHRI to abolish the death penalty on the Continent.

**ii. Meeting of the Working Group in Kigali**

7. I presided over the meeting of the Working Group held in Kigali, Rwanda from 19-21 December 2017. The meeting considered, among other things, the methodology for the review of the “Study on the the question of the death Penalty”, discussed in detail the areas to be reviewed as well as new chapters to be included in view of the developments regarding the abolition of the death penalty in Africa, evaluated its 2014-2016 Plan of Action and finalized proposals for the 2017-2019 Plan of Action, discussed the Strategy on the Abolition of the Death Penalty in Africa and popularization of General Comment No. 3 on the Right to Life. I also discussed and finalized its Annual Work Plan for 2018 and collaborative activities with its partners.

**iii. Meeting of the Working Group in Abidjan**

8. **Meeting in Abidjan**

The Working Group held a meeting on 8th April 2018, in Abidjan, Cote d’Ivoire. The meeting discussed and adopted minutes of the Report of the Kigali Meeting held in
December 2017. It also discussed progress made on the review of the Study, challenges and the way forward in the fight for the abolition of the death penalty.

iv. Regional Conference

9. In collaboration with its partners, FIACAT and the World Coalition against the Death Penalty, the Working Group members, Commissioner Maya Sahli Fadel, Commissioner Remy Ngoy Lumbu, Prof. Philip Iya, Prof. Carlson Anyangwe, Alice Mogwe and Segnitondji Isidore Clement Capo Chi-chi, participated in the third Regional Conference on the abolition of the death penalty, held from 9-10 April 2018 in Abidjan, Cote d’Ivoire. The objective of the Conference was to encourage commitment from political leaders for the abolition of the death penalty in certain countries with a moratorium and support the establishment of three key international instruments, encourage dialogue, collective action and the emergence of initiatives by actors from civil society, parliamentarians and NHRLs in the region and identify the main issues facing the region as well as develop arguments in support of the abolition of the death penalty on the African continent. The Working Group members participated as panellists and resource persons in the various thematic and plenary sessions. A declaration was adopted at the end of the conference, with recommendations to combine efforts and strengthen advocacy actions for the abolition of the death penalty in Africa.

v. Meeting of the Working Group with partners: FIACAT, WCADP and ICDP

10. During the mission in Abidjan, the Working Group met with partners to discuss the status of their collaboration, the success registered, the challenges to be addressed and the way forward.

11. With regards to the World International Commission against the Death Penalty, the discussion focused on their collaboration and signing of a Memorandum of Understanding to give effect to it.

E. Promotion Mission

12. By Note Verbal dated 11 July 2017, I requested to undertake a promotion mission to the Peoples’ Democratic Republic of Algeria and, by Note Verbal dated 20 July 2017,
the Peoples’ Democratic Republic of Algeria proposed that the promotion mission be conducted anytime between 10 January and the end of February 2018. The mission to Algeria, initially scheduled for January 2018, could not take place. The Commission is waiting for the Algerian State to propose new dates.

**F. Press Release**


**G. Letters of Appreciation**


15. In my capacity as Chairperson of the Working Group on Death Penalty and Extrajudicial, Summary and Arbitrary Killings in Africa, I sent a joint congratulatory letter with Commissioner Maya Sahli Fadel, Commissioner in charge of the human rights situation in the Islamic Republic of Mauritania and Commissioner Remy Ngoy Lumbu, Special Rapporteur on Human Rights Defenders and Focal Point on reprisals in Africa, to H.E. Mohammed Ould Abdel Aziz, President of the Islamic Republic of Mauritania, on 14 December 2017, congratulating him for lifting the death penalty pronounced against Mr. Mohammed Sheik Ould by the Nouadhhibou Court of Appeal. We strongly encourage the government to take all the necessary measures to implement the decision of the Nouadhhibou Court of Appeal.

**F. Panel on the death penalty in Africa**
16. On 27 April 2018, the Working Group organised a Panel on the Death Penalty, in collaboration with FIACAT and the World Coalition against the Death Penalty to sensitize participants about the abolition of the death penalty on the Continent. The various panellists revisited the situation of the death penalty in Africa, the efforts made at continental level for its abolition, notably the regional conference held in Côte d’Ivoire in early April 2018 and the reasons for the abolition of the death penalty in Africa. Stakeholders working with prisoners in death row also made interventions. The following key recommendations were made after fruitful interactions with participants notably; the appeal to States Parties to support the Draft Protocol to the African Charter on the Abolition of the Death Penalty and the sensitization of State Parties that still implement the death penalty or provide for it in their domestic laws.

Part II. The Situation of the Death Penalty, Extrajudicial, Summary or Arbitrary Killings in Africa

Death Penalty

17. The Working Group notes with satisfaction some of the positive developments in Africa regarding the abolition of the death penalty. As of April 2018, forty-two (42) State Parties to the African Charter have abolished the death penalty in law or in practice. Twenty (20) have abolished the practice by way of enacting national legislation,¹ of which twelve (12) have also ratified the Second Optional Protocol to the ICCPR on the abolition of the death penalty.² Twenty-two (22) State Parties have not carried out an execution for ten years.³

18. The Working Group also salutes some of the other positive developments that have been made across the continent along the path to abolition including: the

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¹ Angola, Benin, Burundi, Cape Verde, Congo (Republic of), Côte d’Ivoire, Djibouti, Gabon, Guinea, Guinea-Bissau, Madagascar, Mauritius, Mozambique, Namibia, Rwanda, Sao Tome and Principe, Senegal, Seychelles, South Africa, and Togo.

² In addition to these abolitionist state parties, Liberia has ratified OPII but not yet abolished the death penalty in national legislation. Angola, the Gambia and Sao Tome and Principe have signed but not ratified the Protocol.

declaration of a moratorium on the application of the death penalty by the Republic of the Gambia in February 2018.

19. We take this opportunity to express our gratitude to H.E. President of the Republic of the Gambia for the commitments made, and the steps taken so far, towards the abolition of the death Penalty in the Gambia. We look forward to the acceleration of these efforts culminating in the legal abolition of the death penalty in the Gambia.

20. The Working Group also welcomes the historic ruling of the Supreme Court of Kenya in declaring the mandatory death sentence for murder or armed robbery as unconstitutional. Such an important pronouncement from the apex court of the land sends a very strong signal to the effect that there is need for Kenya to consider the legal abolition of the death penalty.

21. The Working Group further takes note of the positive steps taken by Burkina Faso towards the abolition of the death penalty.5

22. Despite the above positive developments, the Working Group remains concern about the application of the death penalty in some countries. There are reports that South Sudan carried out four (4) executions in 2017, two of whom were juveniles at the time of commission of the crime for which they were sentenced to death and executed. In Somalia, twenty-four (24) executions were carried out in 20176 whilst in Egypt, fifteen (15) executions were carried out in December 2017 alone.7

23. In February 2018, South Sudan again sentenced to death James Gadet, former SPLM-IO Spokesperson and William Endley, a South African national and former advisor to Riek Machar.8 In the same month, Botswana also executed Joseph Poni Tselayarona. In March 2018, one (1) execution was reported to have been carried out in the Sudan, whilst eleven (11) were reported in Egypt in the same period.9

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4 https://deathpenaltyinfo.org/node/6958
7 http://www.capitalpunishmentuk.org/dec17.html
8 Same as 7 above
9 http://www.capitalpunishmentuk.org/world.html
24. The situation in Egypt is really worrying because, despite many calls from the African Commission and the international Community, executions have continued unabated.

Deaths related to armed conflict

25. The Working Group is deeply concerned about the recent deadly attacks on the French Embassy and the Army Headquarters in the capital city of Burkina Faso killing dozens of innocent people and leaving many seriously injured.10 This attack has continued to demonstrate that despite the international and global efforts in fighting terrorism, the latter still remains as a problem to international security and a solution has to be found.

Private Killings, Insecurity and Terrorism

26. The Working Group also remained concerned about recent ethnic clashes11, and rebel attacks12 leading to fatalities and displacement of civilian populations in Eastern DRC.

Custodial Deaths

27. The Working Group is concerned about reports of custodial deaths in detention centres in the Sudan. In the last reporting period, I have highlighted three such cases. Reports have also been received of the death of Mr. Ahmed Mohammed Ahmed, a pharmacist at Giraida hospital, South Darfur, who died on 12 January, after spending two days in the custody of the NISS for his alleged involvement in the illegal sale of emergency drugs from Giraida hospital.13

28. The Working Group calls on the Government of the Sudan to conduct independent and timely investigations into these cases, with full accountability for any individuals found responsible14.

29. The Working Group is also concerned about the growing number of extra-judiciary killings in Nigeria, particularly in the Central-North and North Western regions, following intercommunity land disputes involving herdsmen. In this respect, 70

14 General Comment No.3 on the African Charter on Human and Peoples’ Rights: The Right to Life (Article 4), para 31 and 32
people were reported to have been killed and buried in mass graves, in a village near Makurdi, the Capital of Benue State.\footnote{https://www.premiumtimesng.com/news/top-news/255364-resolve-herdsmen-crisis-nigerian-working-group.html. Voir également la Déclaration de la Délégation du Nigeria à la 62\textsuperscript{ème} Session ordinaire tenue à Nouakchott.}

**Part III. Conclusion and Recommendations**

30. There have been recent positive developments in the Continent towards the abolition of the death penalty. The Working Group will continue to work with its partners and stakeholders to sustain the advocacy with a view to increase awareness and influence attitudes of different countries on the issue of the death penalty and extrajudicial, summary or arbitrary killings in Africa.

31. The Working Group is also aware that challenges still lie ahead having regard to situation regarding the protection of the right to life in Africa, particularly in countries that still apply the death penalty and in conflict zones where innocent lives are lost on a daily basis.

32. In light of the aforementioned analysis on the situation of the death penalty and extrajudicial, summary or arbitrary killings in Africa, the Working Group hereby wishes to make the following recommendations to the various stakeholders:

*State Parties:*

- Urges the Governments of Botswana, Egypt, the Sudan and South Sudan, to observe a moratorium on the abolition of the death penalty, suspend the execution of prisoners in death row and commute their sentences to life;

- Urges the Government of Egypt to halt mass trials and all acts of torture or other ill treatment, ensure that due process of law is followed in all cases, as well as guarantee the right of accused persons to seek clemency;

- Further urges the Government of the Federal Republic of Nigeria to conduct an independent investigation of these alleged killings and prosecute its perpetrators, as well as take concrete measures to find a lasting solution to the underlying causes of these killings/disputes in Nigeria.
- Calls on State Parties to the African Charter to take all reasonable precautionary steps to protect life and prevent excessive use of force by its agents, including but not limited to appropriate equipment and training as well as, wherever possible, careful planning of individual operations;

- Ensure the effective protection of persons faced or threatened with extrajudicial, summary or arbitrary killings in their respective States;

- Adopt effective measures to prevent, combat and put an end to extrajudicial, summary or arbitrary killings in their territories;

- Continue to collaborate at the national, regional and international level to combat the resurgence of terrorism in most African countries, particularly in West, Central and North Africa;

- Implement for State Parties that have not yet abolished the death penalty, Resolution ACHPR/Res.136 (XXXIV)08 urging States Parties to the African Charter to observe a moratorium on the death penalty, commute the death sentences of prisoners in death row to life imprisonment as well as commence the process of formal abolition of the death penalty;

- Strengthen at the national level, the legal framework protecting the right to life and dignity by supporting the adoption of the draft Protocol to the African Charter on Human and Peoples’ Rights on the Abolition of the Death Penalty in Africa at all levels of the AU internal processes;

Civil society organizations:

- Increase the level of advocacy and action at the national level for the formal abolition of the death penalty, collaborate and support similar advocacy efforts at the sub-regional and continental level;

Other partners:
- Provide support to the Working Group to enable the latter to effectively implement its mandate.