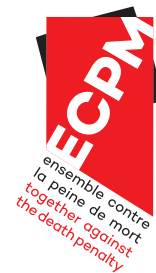
A close-up photograph of a dark, heavily textured wall, possibly made of metal or concrete, with numerous rivets or bolts. A small, rectangular opening in the wall is covered by a metal bar. A person's face is visible through the opening, looking out. The lighting is dramatic, with the face and the wall's texture highlighted against a dark background.

# AFRICA, ABOLITION OF THE DEATH PENALTY IN SIGHT





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## EVOLUTION OF THE DEATH PENALTY IN AFRICA



### Countries which are abolitionist for all crimes

States or territories where the death penalty has been completely abolished.

**1990: 1; 2020: 21**



### Abolitionist countries for ordinary crimes

States or territories where the death penalty is abolished unless there are exceptional circumstances.

**1990: 0; 2020: 1**



### Countries with a *de facto* moratorium on executions

States or territories where the death penalty is in force but where no executions have taken place for 10 years and which did not vote against the latest UN resolution in favour of a universal moratorium on executions and/or having ratified OP2\*.

**1990: 8; 2020: 23**



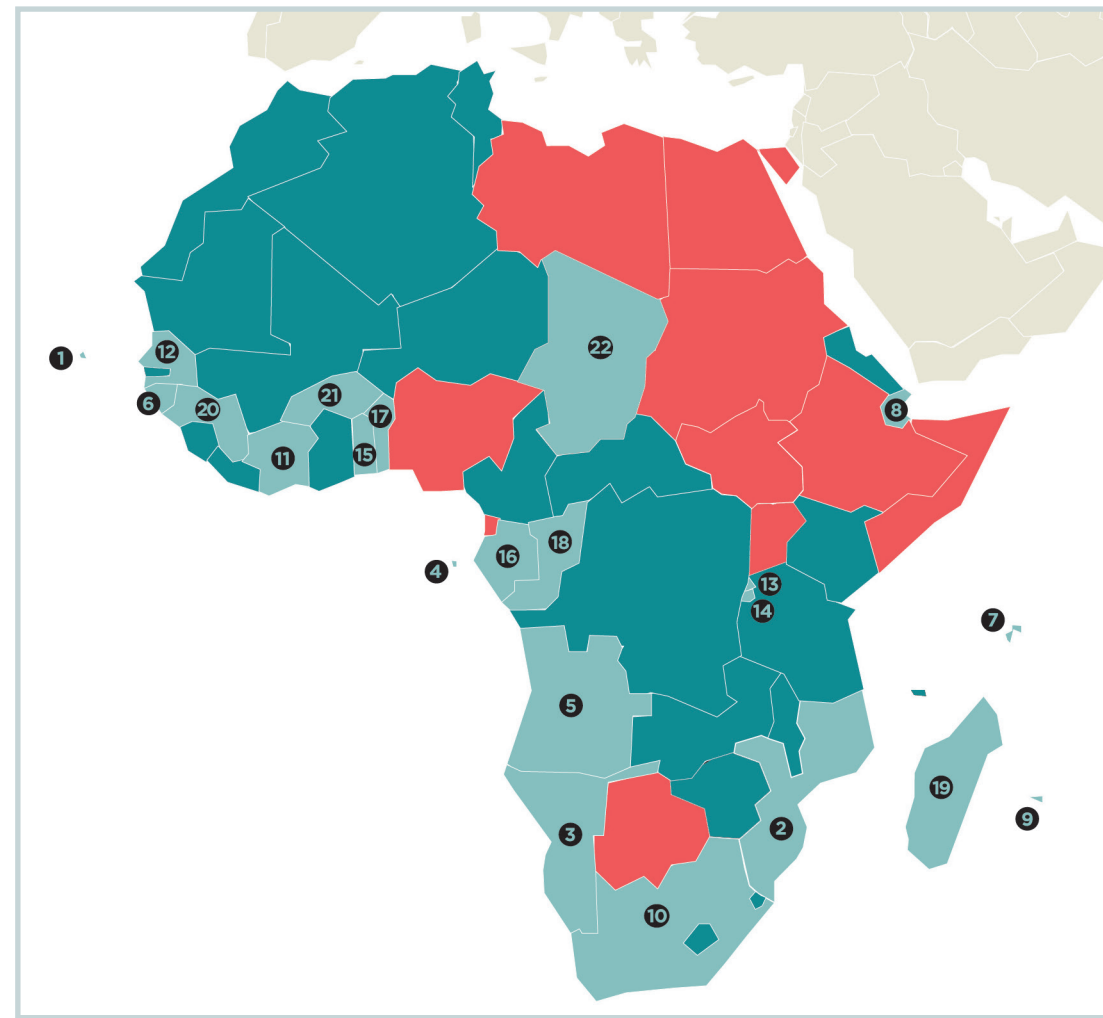
### Retentionist countries

States or territories which apply the death penalty.

**1990: 45; 2020: 10**

\* Second Optional Protocol to the International Covenant on Civil and Political Rights,  
aiming at the abolition of the death penalty.

South Sudan was not independent in 1990.



**55 members  
of the African Union**

**22** ABOLITIONIST STATES

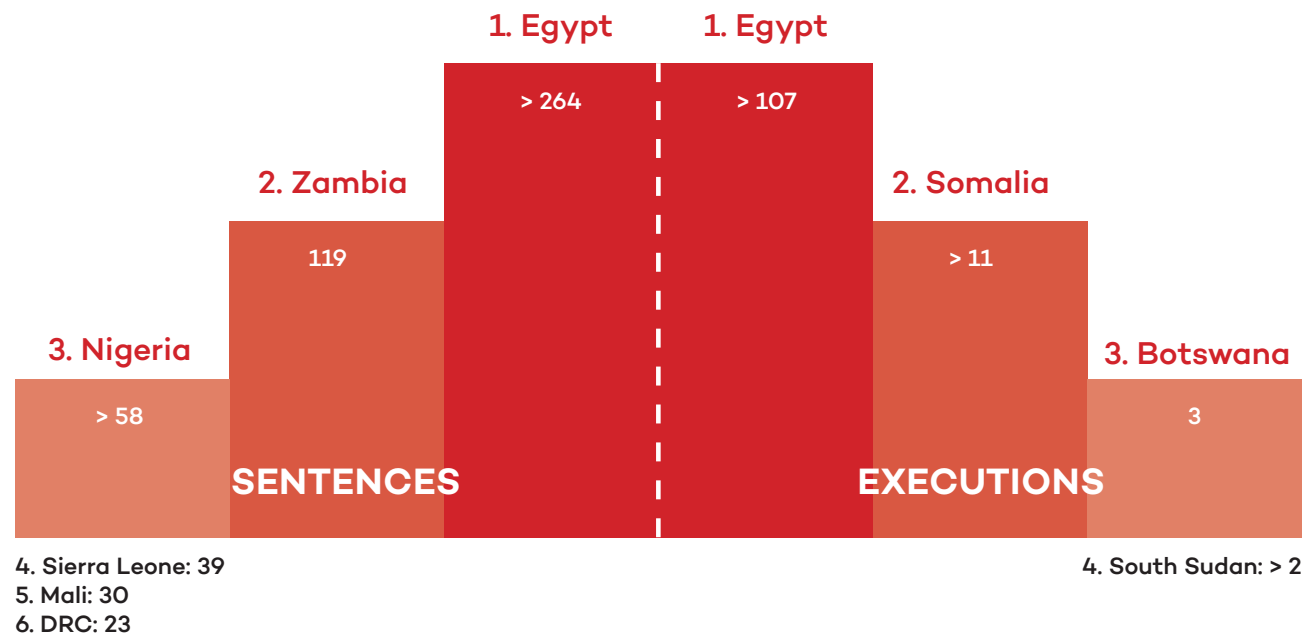
**23** STATES WITH A MORATORIUM

**10** RETENTIONIST STATES

- 1 Cabo-Verde - 1981
- 2 Mozambique - 1990
- 3 Namibia - 1990
- 4 S. Tome & Princ. - 1990
- 5 Angola - 1992
- 6 Guinée-Bissau - 1993
- 7 Seychelles - 1996
- 8 Djibouti - 1995
- 9 Maurice - 1995
- 10 Afrique du Sud - 1997
- 11 Côte d'Ivoire - 2000
- 12 Sénégal - 2004
- 13 Rwanda - 2007
- 14 Burundi - 2009
- 15 Togo - 2009
- 16 Gabon - 2010
- 17 Bénin - 2012
- 18 Congo - 2015
- 19 Madagascar - 2015
- 20 Guinée - 2017
- 21 Burkina Faso - 2018\*
- 22 Tchad - 2020

\* Abolitionist for ordinary crimes only

## COUNTRIES WHICH APPLIED THE DEATH PENALTY THE MOST IN AFRICA IN 2020



Sources: ECPM and Amnesty International

## AFRICA: EN ROUTE TO ABOLITION

Most of the 22 States which have abolished the death penalty in law did so after a moratorium on executions which lasted for more than ten years (**Senegal, Congo, etc.**). 10 of them modified their Constitutions (**Mozambique, Côte d'Ivoire, etc.**), while 11 others reformed their Criminal Code (**Senegal, Togo, etc.**). In **Benin**, abolition followed ratification of OP2. <sup>1</sup>/<sub>4</sub> of African countries have ratified this Protocol.

Conversely, not all countries with a moratorium have committed to an active abolitionist process. Most of the 23 States with a moratorium in place have had it for more than 20 years and some, such as **Niger**, even for more than 40 years. **Liberia** is located in a region which is mostly abolitionist but it maintains capital punishment, despite its support for OP2.

Of the 33 countries which have not abolished the death penalty in law, <sup>1</sup>/<sub>4</sub> still apply mandatory death penalty. 4 States, including **Nigeria**, still sentence people to death for homosexuality and apostasy. Approximately two-thirds of non-abolitionist States retain capital punishment for acts of terrorism.

### INTERGOVERNMENTAL ORGANISATIONS IN AFRICA<sup>1</sup>

Of the 29 African members of **OIF**<sup>2</sup>, 90% are *de jure* abolitionist or have a moratorium in place.

Of the 19 African members of the **Commonwealth**, 84% are abolitionist in law or have a moratorium in place.

Of the 6 African members of the **Community of Portuguese Language Countries**, 83% are abolitionist in law.

Of the 10 African members of the **Arab League**, 60% are abolitionist in law or have a moratorium in place.

<sup>1</sup> Some countries belong to several of these organisations simultaneously

<sup>2</sup> Organisation internationale de la Francophonie

## REGIONAL DISPARITIES

Approximately half of all States in **Central Africa** (56%), **Southern Africa** (40%) and **West Africa** (47%) are abolitionist for all crimes, against 38% of the States in **East Africa**. 40% of countries in **West Africa** are on a de facto moratorium, compared to 63% of States in **North Africa**.

## LATEST DEVELOPMENTS

- o In **Cameroon**, a presidential decree was issued on 15 April 2020, commuting death sentences to life imprisonment (with exceptions).
- o In **Chad**, on 28 April 2020, MPs unanimously voted abolition of the death penalty for all terrorism-related crimes. Death penalty is now abolished for all crimes.
- o In **DRC**, a presidential decree was issued on 30 June 2020, commuting death sentences to life imprisonment (with exceptions). On 31 December 2020, the President Tshisekedi granted presidential pardon to those convicted for the assassination of the former President Laurent-Désiré Kabila.
- o In **Tanzania**, the late President Magufuli commuted 256 death sentences on the occasion of Independence Day on 9 December 2020.

### Last minute!

On 28 April 2021, **Malawi** Constitutional court abolished the death penalty.

## CONSISTENCY OF THE 2020 VOTE ON THE UN RESOLUTION FOR A UNIVERSAL MORATORIUM ON EXECUTIONS

The resolution in favour of a universal moratorium on application of the death penalty is put to the vote at the UN General Assembly every two years. It reaffirms that the death penalty is contrary to human dignity and calls on all States maintaining it to establish a moratorium on executions. It is not binding but it provides the abolitionist struggle with significant support. The results of the vote do not necessarily reflect the situation in those countries: states with a *de facto* moratorium on executions in place do not necessarily vote in favour of the resolution; some abolitionist States continue to abstain.

### COUNTRIES WHICH HAVE NOT CARRIED OUT ANY EXECUTION FOR AT LEAST 10 YEARS BUT WHICH DID NOT VOTE IN FAVOUR OF THE 2020 RESOLUTION:

Cameroon, Comoros, Democratic Republic of the Congo, Eswatini, Ethiopia, Ghana, Kenya, Lesotho, Liberia, Mauritania, Morocco, Niger, Uganda, Tanzania, Zambia, Zimbabwe.

## VOTES COMPARED TO COUNTRIES' STATUS

### 28 VOTES IN FAVOUR

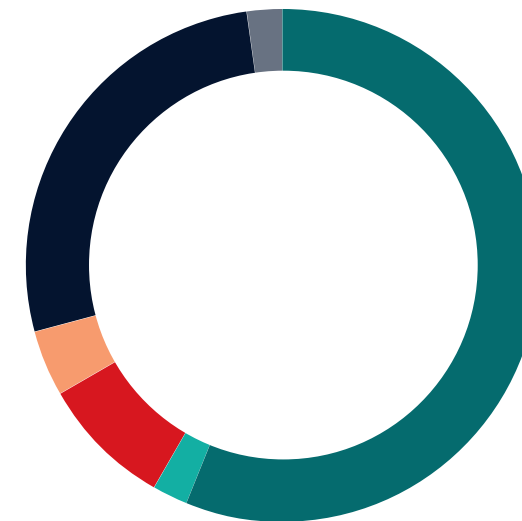
- 27 consistent because in line with the country situation, 56%
- 1 from a retentionist country, 2%

### 6 VOTES AGAINST

- 4 consistent because in line with the country situation, 8%
- 0 inconsistent from an abolitionist country
- 2 inconsistent, from countries which have not carried out any execution for at least 10 years, 4%

### 14 ABSTENTIONS

- 13 inconsistent from countries which have not carried out any execution for at least 10 years, 27%
- 0 inconsistent from an abolitionist country
- 1 from a retentionist country, 2%





## HOW TO MOVE TOWARDS ABOLITION IN YOUR COUNTRY?

### INTERNATIONALLY:

- **Vote in favour of the UN resolution** for a universal moratorium on executions;
- **Ratify the Second Optional Protocol** to the International Covenant on Civil and Political Rights;
- Participate in the **international human rights mechanisms** monitoring the commitments of the State, particularly through the production of alternative reports and oral statements during sessions.

### NATIONALLY:

- **Mobilise the authorities**
  - o Reduce the number of crimes punishable by death in the Criminal Code;
  - o Make a moratorium on executions official;
  - o Commute all death sentences;
  - o Reform the Criminal Procedure Code to guarantee respect for the rights of individuals who risk the death penalty.

#### - **Raise public awareness**

- o Create networks of abolitionist actors (parliamentarians, journalists, lawyers, academics, etc.) to carry abolition to all levels through joint and consistent strategies;
- o Raise public awareness of the abolitionist issue through information and learning, particularly through meetings in schools to discuss the death penalty.

#### - **Document the death penalty**

- o Visit prisoners on death row and publish investigations into their conditions of detention;
- o Document use of the death penalty in the country (number of death sentences and/or executions, socio-economic status of prisoners sentenced to death, etc.), as well as its non-dissuasive effect on crime.

## WHY ABOLISH THE DEATH PENALTY?

### 1 THE DEATH PENALTY VIOLATES THE RIGHT TO LIFE SET DOWN IN ARTICLE 3 OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

In countries like Morocco the right to life is a constitutional right. Yet, its courts continue to sentence people to death by ruling on the basis of penal laws which run contrary to their Constitution.

### 2 THE DEATH PENALTY IS CRUEL, INHUMAN AND DEGRADING

A punishment which removes all hope is, in reality, a torture. Prisoners sentenced to death live in constant fear of being killed. This perpetual terror very often lasts twenty or thirty years. In many countries, they are often held in isolation throughout that time, live in conditions of extreme deprivation and are tortured. In particular, prisoners sentenced to death can be deprived of access to medical care which can lead to their death.

In Cameroon, Pierre Saah, born, in 1940, has been on death row since 1982. He lodged a final appeal in 1984 which remained unanswered despite numerous reminders. In 2014, he filed an appeal with the General Prosecutor requesting that his case be given special attention. This letter also remained unanswered. Pierre Saah has been awaiting his execution for 38 years.

### 3 THE DEATH PENALTY KILLS INNOCENT PEOPLE

In Uganda two cousins, Fred Masembe and Edward Mpagi, were sentenced to death in 1982 for the murder of a man.

Fred Masembe died on death row awaiting execution but the victim actually reappeared, alive and well. Edward Mpagi was released in 2000 after a presidential pardon; this occurred after the victim had reappeared. Since his release, Edward Mpagi has become a fervent abolitionist activist in Uganda.

#### 4 THE DEATH PENALTY IS NOT DISSUASIVE AND DOES NOT MAKE SOCIETY SAFER

In South Africa, Nelson Mandela and Desmond Tutu underlined the ineffectiveness of the death penalty with regard to dealing with the challenges of violence. In February 1995, the Constitutional Court of South Africa, a country with a fairly high crime rate, rejected the dissuasive argument of the death penalty in its ruling that the death penalty constituted cruel, inhuman and degrading treatment.

#### 5 THE DEATH PENALTY IS A TOOL OF POLITICAL REPRESSION

Most countries which use capital punishment cannot resist the temptation to make it a tool of political and/or religious repression. People do not demonstrate against or fight a government policy when just airing your opinion is enough to be sent to the scaffold.

Mohamed Cheikh Ould M'Kheitir was arrested in 2013 and sentenced to death for apostasy in 2014. He was accused of publishing a blog post on slavery and discrimination against, notably, the cast of forge-

workers to which he belongs. After being held five years in detention, including two in secrecy, he was finally released in July 2019.

#### 6 THE DEATH PENALTY TARGETS THE POOR, THE ILLITERATE AND THOSE UNABLE TO DEFEND THEMSELVES

Those accused of a crime punishable by death that come from very poor backgrounds with little education must tackle two problems: the financial ability to defend themselves and the intellectual ability to understand the issues of their trial – as well as how the justice system works – and to respond to it with appropriate behaviour and an appropriate defence.

In the framework of ECPM and CPJ fact finding mission on Congolese death row, those interviewed indicated that they had not been able to provide the amounts requested. Many of them said that they had been convicted and sentenced while others arrested in the same case had been released after paying sums of money. Désiré, sentenced by a civil court in 2018, said: “They asked for money to let us off the hook. The three who paid money were acquitted.”

#### 7 THE DEATH PENALTY IS DISCRIMINATORY

Charles, sentenced to death for murder in 2013 in DRC, indicated that his ethnic origin was emphasised by the military judges to justify his conviction: “The judges started to introduce a tribal element into the trial, saying that we, the Hutus, were murderers. I kept silent. The fact that I am Hutu had an impact on my case. People who were accused of the crimes with us were released.”

#### 8 THE DEATH PENALTY IS APPLIED TO JUVENILES

In Cameroon, despite legal provisions to protect juveniles, the military courts regularly hand down death sentences for those aged under 18 at the time of the events within the framework of combating terrorism, using legal subterfuges whereby the age of the accused is determined through a supposed age certificate.

#### JOIN THE ABOLITIONIST MOVEMENT

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