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**African Commission on Human and Peoples' Rights 53rd Ordinary Session
9 – 23 April 2013: Banjul, The Gambia**

**Item 8: Activity Reports of Members of the Commission & Special Mechanisms –
Presentation of the Activity Report of the Chairperson of the Working Group on the
Death Penalty and Extra-Judicial, Summary or Arbitrary killings in Africa**

**Statement of Foundation for Human Rights Initiative
(FHRI), the International Federation of Action by Christians
for the Abolition of Torture (FIACAT), the International
Federation for Human Rights (FIDH), and Penal Reform
International (PRI)**

The death penalty in Africa

April 2013

**Honorable Chair,
Distinguished Delegates,**

Foundation for Human Rights Initiative, the International Federation of Action by Christians for the Abolition of Torture, the International Federation for Human Rights, and Penal Reform International, all members of the World Coalition against the Death Penalty are pleased to participate in the 53rd Ordinary Session of the African Commission on Human and Peoples' Rights, and would like to thank you for the opportunity to address the plenary.

Madame Chair,

We note that the trend towards abolition remains strong in the African region. In 2012, only five African countries carried out executions¹, and 22 imposed death sentences².

¹ Botswana, Gambia, Somalia, Sudan, and South Sudan.

² Algeria, Botswana, Chad, Democratic Republic of Congo, Egypt, Equatorial Guinea, Gambia, Ghana, Guinea, Kenya, Liberia, Mali, Mauritania, Nigeria, Somalia, South Sudan, Swaziland, Tanzania, Tunisia, Zambia and Zimbabwe.

In December 2012, 23 African states³ voted in favour of a fourth UN General Assembly resolution⁴ which called for a moratorium on the death penalty. By its terms, the General Assembly called on States to progressively restrict the death penalty's use and not impose capital punishment for offences committed by persons below 18 years of age and on pregnant women. States were also called on to reduce the number of offences for which the death penalty might be imposed, and to consider acceding to or ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

We would specifically like to welcome the votes in favour of the moratorium resolution from the Central African Republic, Chad, Seychelles, Sierra Leone, South Sudan and Tunisia, who had previously abstained or not voted in the 2010 moratorium resolution. For the first time, Somalia also co-sponsored the resolution. Regrettably, Namibia went from a vote in favour in 2010, to abstention in 2012.

We also note that Benin, Djibouti and Rwanda co-sponsored a resolution, adopted by the UN Human Rights Council in March 2013, which aims to convene a high-level panel discussion on the question of the death penalty with the aim of exchanging views on advances, best practices and challenges relating to the abolition of the death penalty and to the introduction of a moratorium on executions, as well as on national debates or processes on whether to abolish the death penalty.

We would also like to recall and commend the high-level discussion on the abolition of death penalty in Africa, organised on the occasion of the 20th African Union Summit. We encourage further dialogues of this nature in that they constitute opportunities for political representatives, legal experts and other relevant stakeholders to reflect on the best ways to achieve universal abolition of death penalty in Africa.

Madam Chair,

On the occasion of the 53rd Ordinary Session of the African Commission, we would like recall the African Charter on the Rights and Welfare of the Child, and reaffirm the purposes and principles of the Charter, in particular its Articles 3, 4 and 19.

We are deeply concerned at the negative impact of the imposition and carrying out of the death penalty on the human rights of children of parents sentenced to death or executed.

The suffering associated with a death sentence or execution does not remain restricted to the individual convict. Both mental and physical health and wellbeing are affected by the incarceration of a parent, however, the sentence and implementation of a death penalty means that a child will also have to endure the ever present and mounting anguish of threat of death of their parent.

In many countries that retain the death penalty, the children of parents sentenced to death are unable to exercise their right to maintain personal relations and direct contact with their

³ Algeria, Angola, Benin, Burkina Faso, Burundi, Cape Verde, Central African Republic, Chad, Republic of Congo, Ivory Coast, Gabon, Guinea-Bissau, Madagascar, Mali, Mozambique, Rwanda, Seychelles, Sierra Leone, Somalia, South Africa, South Sudan, Togo, and Tunisia.

⁴ UN GA resolution 67/176, adopted 21 December 2012.

parent on a regular basis. This is often due to the location of death row which limits or restricts family visits, either due to distance or cost, or because of a strict security regime.

Very often, the child will not know in advance about the date of the execution and will not have a chance to say good-bye to their parent. If an execution takes place in public, the child will be humiliated alongside the prisoner under sentence of death.

Moreover, in some retentionist states the child does not receive information about the remains of an executed parent, and the body may not be returned for burial, or the location of the burial ground will not be disclosed, which can make the grieving process especially acute.

Finally, following a death sentence or an execution, the children then has to live with the stigma, discrimination and shame from having a parent executed, as well as dealing with the heightened media attention which can lead to feelings of exposure, humiliation and isolation.

Madam Chair,

Last month the UN Human Rights Council adopted a resolution which acknowledged the negative impact of a parent's death sentence and his or her execution on his or her children, and urged States to provide those children with the protection and assistance they may require. It called upon States to provide those children with access to their parents and to all relevant information about the situation of their parents, and has decided to convene a panel discussion on this topic.

In recognition of the African Commission's commitments to the rights and welfare of the child, we would urge the Commission, in close cooperation with the African Committee of Experts on the Rights and Welfare of the Child, and States to also acknowledge the impact of a parent's death sentence and his or her execution on his or her children, and to support the work of the UN Human Rights Council to find ways and means to ensure that children of parents sentenced to death or executed have the full enjoyment of their rights.

Madame Chair,

Foundation for Human Rights Initiative, the International Federation of Action by Christians for the Abolition of Torture, the International Federation for Human Rights, and Penal Reform International urge all African Union states, while continuing to move towards full abolition of the death penalty, to implement UN resolution 67/176 by imposing a moratorium on the death penalty; to take steps in law and practice to respect international standards that provide safeguards guaranteeing protection of the rights of those facing the death penalty; to make available relevant information with regard to their use of the death penalty, including at a minimum, the number of persons sentenced to death, the number of persons on death row and the number of executions carried out; to commute death sentences already passed into fixed-term sentences, depending on the gravity of the circumstances of the offence; to refrain from resuming executions once they have a moratorium in place; and to contribute to the UN Human Rights Council discussions on the question of the death penalty and the negative impact of a parent's death sentence and his or her execution on his or her children.

We also recall that the Fifth World Congress against the Death Penalty will be taking place in Madrid on the 12-15 June. We express gratitude to the Commission's Working Group on the Death Penalty for its participation to this Congress, and call upon Member States of the

African Union to actively support the World Congress, and where possible, to participate in order to exchange views on best practices and challenges related to national and international processes towards the abolition of the death penalty.

We hope that this will give helpful impulses to the delegates, and we would like to wish all of you a successful discussion.

Thank you for your attention, Madam Chair.

Banjul, 13 April 2013