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Newsletter

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Protecting the Right to Life in Africa:

Progress, Challenges
and Perspectives



3

Evidence without access: documenting extrajudicial executions where the State does not cooperate

6

The Death Penalty in Egypt: A Legal Analysis in Light of the African Charter on Human and Peoples' Rights and International Standards

9

Africa's March Towards the Abolition of The Death Penalty: Contemporary Advances and Challenges In 2026

11

Protection of the Right to Life in Africa: Recent Developments Regarding the Death Penalty, Enforced Disappearances, and Extrajudicial Executions

14

Strengthening Accountability for Extrajudicial Executions and Enforced Disappearances in Africa

Foreword



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Extrajudicial, Summary or
Arbitrary Executions and
Enforced Disappearances
in Africa*

The right to life is the primary condition for exercising all other human rights. Its protection requires constant vigilance and resolute action against practices that expose people to death or remove them from the protection of the law. It is with this conviction that I present to you the first issue of the Newsletter of the Working Group on the Death Penalty, Extrajudicial, Summary or Arbitrary Executions and Enforced Disappearances in Africa.

This Newsletter serves a clear ambition: to raise awareness of the mandate and work of the Working Group, and to offer a space for information, analysis, and dialogue on protecting the right to life in Africa. It aims to make knowledge accessible, share experiences, and support initiatives likely to advance human protection.

The three components of our mandate call for specific responses, driven by the same demand for protection and justice: progressing toward the abolition of the death penalty, preventing extrajudicial, summary, or arbitrary executions, and fighting against enforced disappearances. Through promotion and protection activities, the Working Group contributes to preventing violations and strengthening institutional responses.

Behind these issues are individuals and families facing loss,

uncertainty, and, all too often, the absence of an effective remedy. Their demand for truth, justice, and reparation must remain at the heart of our action. It reminds us that legal commitments only take on full meaning when they translate into effective protection.

This first edition offers complementary perspectives on advances and setbacks regarding the death penalty, legislative reforms, applicable safeguards, and the documentation of unlawful killings and enforced disappearances. The contributions connect standards, jurisprudence, and national realities, while suggesting practical avenues for practitioners and human rights advocates.

This reflection must sustain durable cooperation among States, national human rights institutions, civil society, researchers, practitioners, victims' and family associations, as well as regional and international mechanisms. I warmly thank the authors and partners who contributed to this inaugural edition. I invite readers to circulate the Newsletter, enrich the discussions, and contribute to future issues.

I express the hope that this publication will support concrete actions to prevent violations, protect individuals at risk, and ensure that victims and their families obtain truth, justice, and reparation.



Evidence without access: documenting extrajudicial executions where the State does not cooperate

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1 A Documentation Problem

Available documentation indicates that government forces and allied militias have been responsible for a substantial proportion of civilian killings in Burkina Faso and Mali. Of at least 1,837 civilian deaths documented by Human Rights Watch in Burkina Faso between January 2023 and August 2025, more than 1,200 were attributed to the army and the Volunteers for the Defence of the Homeland.¹ A United Nations fact-finding team found reasonable grounds to believe that at least 500 people were killed at Moura in March 2022, most of them summarily executed by Malian troops and foreign military personnel;² at Solenzo in March 2025, soldiers and allied militias killed at least 130 Fulani civilians during Operation Tourbillon Vert 2.³

These allegations raise serious concerns regarding extrajudicial, summary or arbitrary executions by State agents and State-supported auxiliaries, engaging article 4 of the African Charter.⁴ The principal difficulty they present is evidentiary rather than legal: how to document and assess them where access to the territory is denied. The Sahel is the sharpest instance of a continental problem. This article argues that the Working Group can nonetheless establish such killings to a declared standard by combining the State's duty to investigate with codified open-source methods, and that doing so exposes non-cooperation to an evidentiary cost without confusing investigation with adjudication.

2 The Narrowing of Remedies

Three developments have significantly narrowed some of the routes through which such killings were previously documented and challenged. MINUSMA's human rights monitoring ended with its mandate in June 2023, at Mali's request.⁵ In June 2026 Burkina Faso, Mali and Niger notified their withdrawal from the Rome Statute, effective one year later; obligations accrued while they were parties survive, and the Mali situation remains under investigation.⁶

The third, withdrawal from ECOWAS with effect from 29 January 2025,⁷ is real but easily overstated. It ended individual access to the ECOWAS Court of Justice, which heard human rights applications against these States without requiring the exhaustion of domestic remedies.⁸ Whether the Court retains jurisdiction over earlier violations appears untested, and enforcement against a non-member is doubtful. Yet what disappeared was a forum, not an evidentiary capacity: the Court did not investigate on the ground, and the three States' obligations under the African Charter are untouched. At least three retain declarations under article 34(6) of the Court Protocol, so individuals and non-governmental organisations may still apply directly to the African Court, subject, unlike before the ECOWAS Court, to the exhaustion requirement in article 56(5) of the Charter; that requirement is dispensed with where domestic remedies are unavailable, ineffective or insufficient, or where violations are serious and massive.⁹ Communications to the Commission remain open regardless. With

¹ Human Rights Watch "None can run away": War crimes and crimes against humanity in Burkina Faso by all sides' (2 April 2026).

² OHCHR and MINUSMA 'Report on the events in Moura, 27–31 March 2022' (12 May 2023).

³ Human Rights Watch 'Burkina Faso: Army directs ethnic massacres' (12 May 2025).

⁴ ACHPR, General Comment No 3 on the African Charter: The Right to Life (Article 4) (2015) paras 9 and 38–39, on killings by non-State actors.

⁵ UNSC Res 2690 (30 June 2023) UN Doc S/RES/2690.

⁶ Rome Statute of the International Criminal Court (1998) 2187 UNTS 3, art 127(1)–(2); UN depositary notifications of 18 June 2026 (Niger) and 24 June 2026 (Burkina Faso and Mali).

⁷ Revised Treaty of ECOWAS (1993) art 91.

⁸ Supplementary Protocol A/SP.1/01/05 on the Community Court of Justice (2005) arts 3–4; eg Hadijatou Mani Koraou v Niger ECW/CCJ/JUD/06/08 (27 October 2008).

⁹ Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (1998) (Court Protocol) arts 5(3), 6(2) and 34(6); Amnesty International '20 years of the African Court: Protect the Court, protect the people' (2026) IOR 60/1132/2026, 5 and 13; Jawara v The Gambia (2000) AHRLR 107 (ACHPR 2000) paras 31–32; Free Legal Assistance Group v Zaire (2000) AHRLR 74 (ACHPR 1995) paras 35–37.

the authorities denying allegations rather than investigating them credibly;¹⁰ the African system is becoming the principal forum for these killings, although none of its bodies can reach the territory.

3 The Duty to Investigate, and Two Kinds of Finding

The substantive law is settled. General Comment No 3 requires States to investigate every potentially unlawful killing promptly, impartially, thoroughly and transparently; failure to do so, which neither national security nor counter-terrorism excuses, is itself a violation of article 4, and responsibility for deaths in custody is presumed.¹¹ The Commission has held States responsible for killings by unidentified actors that they neither investigated nor allowed to be investigated, and for a lack of due diligence in preventing or responding to violations by private actors.¹² Once a credible, substantiated case is made, the burden shifts: facts the State leaves uncontested are treated as established, although where the record was silent on both sides the Commission declined to find a violation.¹³

Two distinctions follow. The first is between State responsibility and individual criminal guilt. The Commission is not a criminal court and does not apply the criminal standard of proof: material that could not sustain a conviction may amply establish that a killing occurred, that State agents were present and that no investigation followed. The second lies between investigative findings and adjudication. The Working Group makes findings of fact to a declared standard, for which the ‘reasonable grounds to believe’ threshold of United Nations commissions of inquiry is the natural candidate.¹⁴ Such findings may identify the forces apparently involved, but they do not determine the State’s international responsibility, which is for the Commission deciding a communication after hearing both parties, or for the African Court. The Working Group may proceed on the information available and must record non-cooperation accurately; the formal inference from it is for the adjudicator. Because the Working Group

includes sitting Commissioners, the separation must also be personal: those who documented an incident should not decide a communication arising from it.¹⁵

4 The Method and its Precedents

The law therefore allows a non-cooperating State to be held responsible; what is missing is a method for substantiating allegations where no investigator can reach the site. That method is codified. The Minnesota Protocol requires investigations to be independent of suspected perpetrators and the institutions to which they belong, and digital material to be authenticated and preserved;¹⁶ the Berkeley Protocol on Digital Open Source Investigations supplies the operational detail, including principles on analyst bias and source protection.¹⁷

The method has proved itself. In 2018 Cameroon dismissed as fake a video of the execution of two women and two children at Zelevet in the Far North; analysts geolocated, dated and attributed it, and in 2020 a military tribunal convicted five soldiers.¹⁸ The forum was domestic, but the evidence was open source. The International Criminal Court issued an arrest warrant for Mahmoud Al-Werfalli largely on the strength of videos posted on social media.¹⁹ Closer still, the Commission’s own Joint Fact-Finding Mission on the Sudan conducted its first inquiry virtually and drew expressly on digital evidence.²⁰ That precedent should be built upon, not treated as exceptional.

5 A Worked Example

Suppose footage circulates apparently showing civilians killed during a Sahel military operation. Verification proceeds along three axes.²¹ The source: who published it, when, whether the account has a traceable history and whether the uploader was present. The item: whether an original file with intact metadata exists, has been edited or appeared earlier elsewhere. The content: location is matched against satellite imagery; the date is narrowed by shadow angle, vegetation and burn scars across satellite passes; uniforms, insignia, weapons and vehicles are compared with known inventories.

10 Human Rights Watch ‘None can run away’ (n 1): officials ‘denied or downplayed allegations’ and failed to conduct credible investigations.

11 General Comment No 3 (n 4) paras 7, 15, 20 and 37.

12 Commission Nationale des Droits de l’Homme et des Libertés v Chad (2000) AHRLR 66 (ACHPR 1995) para 22; Zimbabwe Human Rights NGO Forum v Zimbabwe (2006) AHRLR 128 (ACHPR 2006) para 143.

13 Free Legal Assistance Group (n 9) para 40; William A Courson v Equatorial Guinea (2000) AHRLR 93 (ACHPR 1997) paras 22–23.

14 OHCHR ‘Commissions of inquiry and fact-finding missions on international human rights and humanitarian law. Guidance and practice’ (2015) UN Doc HR/PUB/14/7, 62.

15 Resolution ACHPR/Res.608 (LXXXI) 2024, renewing the mandate and composition of the Working Group.

16 Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016) UN Doc HR/PUB/17/4 para 28; see also paras 61(d), 66 and 143–145 on digital evidence.

17 Berkeley Protocol on Digital Open Source Investigations (OHCHR and Human Rights Center, UC Berkeley School of Law 2022) UN Doc HR/PUB/20/2, chs II and VI.

18 BBC Africa Eye ‘Anatomy of a killing’ (24 September 2018); Human Rights Watch ‘Cameroon: Soldiers get 10 years for murder of civilians’ (23 September 2020).

19 Prosecutor v Al-Werfalli (Warrant of Arrest) ICC-01/11-01/17-2 (15 August 2017).

20 ACHPR ‘Report of the Virtual Joint Fact-Finding Mission on the Human Rights Situation in the Sudan’ (16 July 2025, published 21 October 2025), pursuant to Resolution ACHPR/Res.590 (LXXX) 2024.

21 Berkeley Protocol (n 17) ch VI.

A fourth axis is under-used: governments publicise their operations. At Solenzo the authorities presented Operation Tourbillon Vert 2, conducted in the Boucle du Mouhoun in February–April 2025, as a counter-terrorism success, and a government statement of 15 March 2025 recast the women, children and older people found there as ‘human shields’ taken to safety.²² The official account disputes what happened, not who was there. Where footage depicts that area and period, the State’s own record places its units there; it cannot fix a coordinate or an hour, but it corroborates the geolocation and dating, leaving the State disputing what its forces did, not whether they were there.

The Working Group may then ask the State for the record of its own investigation: the opening instrument, the investigating authority, the steps taken and the outcome. Its report should state its findings to the declared standard, disclose its method and limits, and note whether the record was produced. Failure to produce it is evidence, for the adjudicator to weigh, that the State has not met its duty to investigate, which under article 4 does not depend on who fired. If the matter becomes a communication, an unexplained refusal also bears on whether the State has rebutted a substantiated case. Non-cooperation thus carries an evidentiary cost, imposed by the body competent to impose it.

6 Limits that Must be Stated Openly

Open-source documentation records only what someone had a telephone, a signal and the safety to record. Rural, poorly connected and predominantly Fulani communities, the most exposed to counter-insurgency violence, are likely to be among the least documented, and network shutdowns widen the gap. Reliance on such material over-represents young, urban, connected men and misses violations that leave no visual record, sexual violence among them; platforms, moreover, often delete footage within hours.²³ The corrective is to pair the method with testimony from refugees and displaced people, as Human Rights Watch did in Burkina Faso and four neighbouring States,²⁴ and to disclose the limitation in every finding. In my experience of open-source work, the error to guard against is less often credulity about what a recording shows than overconfidence about what the absence of one proves.

A second objection is political: Mali dismissed the Moura report as biased and resting on a ‘fictitious narrative’, and Cameroon denounced the Zelevet footage before prosecuting on it.²⁵ The answer is

transparency of method. Findings that disclose their method, reasoning and, as far as safety allows, their sources can be tested by anyone, including the State that disputes them; that is the Working Group’s best protection against a charge of partiality.

7. Recommendations

The Working Group, whose mandate was renewed in 2024 and which already works with an academic partner on its continental study of extrajudicial executions,²⁶ is well placed to act, directly or through the Commission in plenary. The first step conditions the rest.

First, adopt an evidentiary guideline that incorporates the Minnesota and Berkeley Protocols, declares the standard of proof and the reliability thresholds applied to open-source material, and states that the Working Group’s findings are investigative and without prejudice to any communication; and recommend that the Commission clarify the evidentiary consequence of non-cooperation in the communications procedure.

Second, request, as standing practice, each State’s record of its investigation into every incident examined, and note whether it was produced.

Third, establish a roster of independent digital, forensic and geospatial experts, and accept submissions from non-governmental organisations subject to independent verification.

Fourth, create a secure repository for digital evidence of unlawful killings, to preserve material before platforms delete it, beginning as a pilot limited to the Sahel. Resources: a data custodian and a verification analyst within the Secretariat; storage and forensic tools supplied in kind by academic partners under a memorandum of understanding that leaves custody with the Commission; and ring-fenced donor funding that confers no control over priorities or access. Safeguards: cryptographic hashing at intake and a documented chain of custody; encryption, role-based access and audit logs; informed consent specifying use and onward sharing, pseudonymisation of witnesses, respect for the dignity of victims depicted, and a risk assessment before any disclosure; a retention and access policy approved by the Commission and consistent with the African Union Convention on Cyber

22 Human Rights Watch ‘Army directs ethnic massacres’ (n 3); Human Rights Watch ‘Burkina Faso: Government-allied militias linked to massacre’ (14 March 2025).

23 Y McDermott, D Koenig and D Murray ‘Open source information’s blind spot’ (2021) 19 *Journal of International Criminal Justice* 85; Human Rights Watch ‘“Video unavailable”’ (10 September 2020).

24 Human Rights Watch ‘None can run away’ (n 1), interviews in Burkina Faso, Benin, Côte d’Ivoire, Ghana and Mali.

25 Government communiqué read by the spokesman, Colonel Abdoulaye Maïga, on State television (13 May 2023): ‘rapport biaisé, reposant sur un récit fictif’ (author’s translation); on Cameroon, see n 18.

26 ACHPR/Res.608 (n 15); ACHPR/Res.519 (LXXI) 2022 and ACHPR/Res.622 (LXXXII) 2025 (continental study).

Security and Personal Data Protection;²⁷ psychosocial support for staff; and functional separation, so that only material disclosed to both parties is relied on in any communication.

Fifth, corroborate open-source findings with testimony through standing outreach to displaced communities in neighbouring States, and use the full mandate: urgent appeals, promotional missions to bordering States and, through the Commission, referral of cases to the African Court.²⁸

8 What a Finding Achieves

What does a finding achieve against a government that has left ECOWAS, is leaving the International Criminal Court and has secured the departure of United Nations monitors? Its value is partly immediate, partly deferred. A record established now, to a stated standard and by a disclosed method, can support a communication to the Commission and found later proceedings before domestic courts after a transition, before third States exercising universal jurisdiction and, for conduct predating withdrawal, before the International Criminal Court. Meanwhile it informs the Universal Periodic Review, the treaty bodies, sanctions designations and asylum decisions. Documentation is not a substitute for accountability; it is its precondition. The obligation to investigate does

not lapse because a State refuses to honour it, nor does the Commission's competence lapse because a government denies it entry. Adopting this method tells States that closing the country to investigators no longer closes the question.



²⁷ African Union Convention on Cyber Security and Personal Data Protection (Malabo 2014, in force 8 June 2023).

²⁸ Court Protocol (n 9) art 5(1)(a); Rules of Procedure of the African Commission (2020) rule 130.

The Death Penalty in Egypt

A Legal Analysis in Light of the African Charter on Human and Peoples' Rights and International Standards



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Introduction

The death penalty remains one of the criminal justice issues most closely connected to the right to life and to the guarantees of a fair trial. Egypt retains capital punishment while, as a State party to the African Charter on Human and Peoples' Rights and the International Covenant on Civil and Political Rights (ICCPR), it is required to ensure that deprivation of life pursuant to a judicial sentence is not arbitrary. Egypt ratified the African Charter on 3 April 1984.¹

This paper examines three connected questions: the range of offences punishable by death under Egyptian law; the African and international limits applicable to retentionist States; and the adequacy of procedural safeguards governing sentence and execution. Its central question is whether the current scope of the death penalty in Egypt is consistent with the "most serious crimes" standard and with the rights to life and a fair trial.

¹ African Charter on Human and Peoples' Rights, arts 4, 5 and 7; ACHPR Ratification Table, Egypt.

I. The African and International Framework Governing the Death Penalty

Article 4 of the African Charter protects life and prohibits arbitrary deprivation of it. Articles 5 and 7 reinforce that protection through the guarantees of dignity, freedom from torture and cruel, inhuman or degrading punishment, and a fair hearing. In General Comment No 3, the African Commission stated that the Charter does not expressly recognise a right of States to impose the death penalty and supported progress towards abolition or, at minimum, a moratorium. For States that retain the penalty, its use must be confined to the “most serious crimes”, understood as offences involving intentional killing. The Commission further requires the highest fair-trial standards, rejects mandatory death sentences, affirms access to clemency, pardon or commutation, and states that military courts should not impose the death penalty.²

Resolution ACHPR/Res 416 (LXIV) 2019 reiterated the call for a moratorium with a view to abolition. In May 2026, the African Commission’s concluding observations on Egypt again recommended a moratorium, movement towards abolition in law, consideration of commutation for persons under sentence of death, and continued restriction of the penalty to the most serious crimes. At the international level, article 6 of the ICCPR permits the death penalty in retentionist States only for the “most serious crimes”, pursuant to a final judgment of a competent court and subject to the right to seek pardon or commutation. Human Rights Committee General Comment No 36 interprets that threshold restrictively as crimes of extreme gravity involving intentional killing; drug, economic and political offences, attempted crimes and other offences not involving intentional killing fall outside it.³⁴

II. The Scope of the Death Penalty under Egyptian Legislation

Article 93 of the Egyptian Constitution gives the force of law to ratified and published human rights treaties, while articles 95 and 96 protect legality and fair-trial guarantees. Yet capital punishment appears across a broad range of statutes, including Penal Code No 58 of 1937, the Narcotics Control Law No 182 of 1960, Military Judiciary Law No 25 of 1966, Arms

and Ammunition Law No 394 of 1954, and Counter-Terrorism Law No 94 of 2015. The Penal Code provides that execution is carried out by hanging.⁵⁶

The principal concern is not the availability of the death penalty for intentional killing, but its extension to conduct that does not require an intentional death. Counter-Terrorism Law No 94 of 2015 illustrates this problem: article 12 permits death or life imprisonment for specified conduct involving the creation, organisation, management or leadership of a terrorist group without requiring a death; article 13 prescribes death for specified forms of terrorist financing; and article 14 permits it where the terrorist offence that is the object of solicitation or communication is committed or attempted. These provisions extend capital punishment beyond the intentional-killing threshold.⁷

The same concern arises in certain drug, military and security offences that do not themselves require the death of a person. El Hak Foundation raised this breadth before the Human Rights Committee in 2023, and the Committee’s concluding observations on Egypt stressed that the death penalty should be non-mandatory and limited to offences involving intentional killing, with pardon or commutation available in all cases and safeguards against reliance on evidence obtained through torture or coercion. Where offences are defined through broad or open-ended concepts, strict compliance with legality and proportionality is especially important because execution is irreversible.⁸

III. Procedural Safeguards in Egypt and the Limits of Their Adequacy

Egyptian law provides specific safeguards for capital cases. Article 381(2) of Criminal Procedure Code No 150 of 1950 requires unanimity of the Criminal Court before a death sentence is imposed and requires the court to seek the opinion of the Grand Mufti; that opinion is advisory and does not bind the court. Article 46 of Law No 57 of 1959 requires the Public Prosecution to submit a death sentence delivered in the defendant’s presence to the Court of Cassation. Once the judgment is final, article 470 of the Criminal Procedure Code requires the case papers to be referred through the Minister of Justice to the President of the Republic for possible pardon or commutation. Article 472 permits relatives to visit the

² ACHPR General Comment No 3 on the right to life (article 4) (2015) paras 22–26.

³ CHPR Resolution on the Abolition of the Death Penalty in Africa, ACHPR/Res 416 (LXIV) 2019; ACHPR Concluding Observations on Egypt’s 18th and 19th Combined Periodic Reports, 2019–2024 (21 May 2026) 10.

⁴ ICCPR art 6(2), (4) and (5); Human Rights Committee General Comment No 36, CCPR/C/GC/36 (2018) paras 35, 37 and 41.

⁵ Egyptian Penal Code No 58 of 1937, arts 78(A), 83(A), 230 and 234; Narcotics Control Law No 182 of 1960, arts 33–34; Military Judiciary Law No 25 of 1966, arts 130, 132–133; Arms and Ammunition Law No 394 of 1954, art 26 bis, as added by Law No 163 of 2022; Counter-Terrorism Law No 94 of 2015, arts 12–14.

⁶ Egyptian Penal Code No 58 of 1937, art 13.

⁷ Counter-Terrorism Law No 94 of 2015, arts 12–14.

⁸ Human Rights Committee Concluding observations on Egypt, CCPR/C/EGY/CO/5 (2023) paras 21–22; El Hak Foundation for Freedom of Expression and Human Rights, Submission to the UN Human Rights Committee, 137th Session (29 January 2023) 5–6.

sentenced person on the day fixed for execution, but does not itself prescribe a period of advance notice to the family.⁹¹⁰

In its March 2026 follow-up report to the Human Rights Committee, the Egyptian State described the death penalty as exceptional and non-mandatory, stated that courts may select alternative penalties, and reported that judicial review and family-notification procedures precede execution. These statements are presented here as the State's position and description of practice, distinct from safeguards verifiable directly in legislation.¹¹

These safeguards remain important, but they cannot cure an overbroad substantive scope. Unanimity, review or completion of formal procedures does not make a death sentence compatible with the Charter where the offence itself falls outside the intentional-killing threshold. Compliance also requires effective legal assistance, adequate time and facilities for the defence, exclusion of evidence obtained through torture or coercion, individualised sentencing, and an effective route to clemency or commutation.

A Legislative and Judicial Development under the New Criminal Procedure Law

Criminal Procedure Law No 174 of 2025 was originally due to enter into force on 1 October 2026. Law No 160 of 2026, issued on 30 September 2026, postponed general commencement until 1 October 2027. Criminal Procedure Code No 150 of 1950 therefore remains the general procedural framework during the transitional period.¹²

Article 22 of Law No 174 of 2025 nevertheless introduces a significant rule for specified homicide offences under articles 230, 233, 234(1)-(2), 235 and 236(1) of the Penal Code: the victim's heirs or their specially authorised representative may formally record reconciliation before a final judgment, and reconciliation leads to mitigation under article 17 of the Penal Code rather than termination of proceedings. The Court of Cassation has held that, insofar as article 22 creates a more favourable substantive rule, it applies from the law's enactment and publication when reconciliation is established, pursuant to article 5(2) of the Penal Code.¹³

This development is significant when viewed against the "most serious crimes" standard. Egyptian law now provides a route to a sentence less severe than death for a category centred on offences against life, including forms of intentional killing that lie within the narrow category for which international

law permits retentionist States to impose capital punishment. Yet other statutes continue to prescribe death for offences that do not require intentional killing, including certain terrorism, drug, military and security offences. The result is a notable tension in penal policy and a practical basis for reviewing the substantive reach of capital punishment in light of article 4 of the African Charter and General Comment No 3.

IV. Recommendations

- Establish an official moratorium on executions pending a comprehensive legislative review, in line with the African Commission's recommendations.
 - Amend the Penal Code and the laws on counter-terrorism, narcotic drugs, military justice, and arms and ammunition so that, for as long as capital punishment is retained, it is confined to offences of extreme gravity involving intentional killing.
 - Preserve the non-mandatory nature of the penalty and strengthen individualised sentencing and fair-trial safeguards, including effective legal assistance, adequate defence facilities, and exclusion of evidence obtained through torture or coercion.
 - Ensure effective and transparent avenues for clemency, pardon and commutation; build on article 22 to expand alternatives to death; review existing death sentences; and stay executions until all appeals and applications have been determined, with reasonable advance notice to the sentenced person, family and lawyer.
 - Publish periodic data on death sentences, executions, commutations and pardons; continue reviewing the "most serious crimes" standard under the National Human Rights Strategy; consider accession to the Second Optional Protocol to the ICCPR; and support adoption of the African protocol on abolition of the death penalty.
- Reform should therefore address not only the procedures surrounding death sentences but also the scope of the penalty itself. Article 22 demonstrates that Egyptian law can accommodate sentences less severe than death even for serious offences against life. A coherent review should remove capital punishment from offences outside the intentional-killing threshold while strengthening fair-trial guarantees and advancing progressively from a moratorium towards fuller protection of the right to life and dignity.

9 Criminal Procedure Code No 150 of 1950, art 381(2), as amended by Law No 1 of 2024.

10 Law No 57 of 1959 on Cases and Procedures of Appeal before the Court of Cassation, art 46; Criminal Procedure Code No 150 of 1950, arts 470 and 472.

11 Human Rights Committee, Information received from Egypt on follow-up to the concluding observations on its fifth periodic report, CCPR/C/EGY/FCO/5 (2026) paras 11-13 and 20.

12 Law No 160 of 2026, Official Gazette No 39 bis (B), 30 September 2026, art 1, amending art 6 of Law No 174 of 2025 and postponing commencement to 1 October 2027.

13 Law No 174 of 2025 issuing the Criminal Procedure Law, art 22; Egyptian Penal Code No 58 of 1937, arts 5(2), 17, 230, 233, 234(1)-(2), 235 and 236(1); Court of Cassation, Appeal No 11339 of Judicial Year 94, 4 February 2026.

Africa's March Towards the Abolition of The Death Penalty: Contemporary Advances and Challenges In 2026

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Introduction

Africa has been experiencing a significant evolution towards the abolition of the death penalty for several decades. While it remained largely enshrined in African legislation in the early 1990s¹, a majority of States have now abolished it or no longer carry out death sentences. This development reflects the gradual transformation of penal policies and a strengthened understanding of the right to life and human dignity.

This dynamic is based in particular on Article 4 of the African Charter on Human and Peoples' Rights (Banjul Charter), which guarantees the right to life, as well as in Article 5 on the dignity and integrity of the human person². In its jurisprudence, the African Commission on Human and Peoples' Rights (ACHPR) has gradually developed an approach in favour of limiting the death penalty and abolishing it.

Nevertheless, progress is accompanied by significant challenges that demonstrate that the march towards the abolition of the death penalty in Africa is neither linear nor irreversible.

Africa's Progress Towards the Abolition of The Death Penalty

According to the ACHPR as of 2026, 26 of the 54 State Parties to the Banjul Charter have abolished the death penalty for all crimes, 3 have abolished

it for ordinary crimes, and 17 observe a moratorium on executions³. This dynamic is reinforced by international commitments, although these have not yet been fully ratified by all States. The Second Optional Protocol to the International Covenant on Civil and Political Rights (OP2-ICCPR) requires States Parties not to carry out any executions and to take the necessary measures to abolish the death penalty⁴. Zambia's ratification of this legal instrument in December 2024 is a recent example of international consolidation of abolition, as well as Sierra Leone's steps towards ratification in 2026.

In December 2024, 33 African States voted in favour of the United Nations (UN) General Assembly Resolution on the moratorium on the use of the death penalty⁵. This progress reflects a significant evolution of African positions within the UN as compared to two years earlier when 29 States voted in favour.

At the continental level, the elaboration of a Protocol to the African Charter on the abolition of the death penalty is a major prospect. The draft Protocol, adopted by the ACHPR in 2015, remains pending before African Union (AU) policy organs, although with no clear indication of near-term adoption there has been significant progress made as it is considered by AU specialized technical committees⁶. In parallel, the Pan-African Parliament adopted a Resolution⁷ on the abolition of the death penalty in Africa, on 5 July 2024. This Resolution calls for the total abolition of the death

¹ Amnesty International West Africa: Time to Abolish the Death Penalty (2003) 1. <https://www.amnesty.org/en/documents/afr05/003/2003/en/>

² African Charter on Human and Peoples' Rights (adopted on 27 June 1981 and entered into force on 21 October 1986), arts 4 and 5.

³ African Commission on Human and Peoples' Rights Working Group on the Death Penalty, Extrajudicial, Summary or Arbitrary Executions and Enforced Disappearances in Africa 'Intersessional Activity Report' (May–October 2025) 2 <https://achpr.au.int/sites/default/files/files/2025-10/fre-intersession-activity-report-working-group-death-penalty.pdf>

⁴ Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, (adopted on 15 December 1989, entered into force on 11 June 1991), article 1.

⁵ African Commission on Human and Peoples' Rights 'Resolution on the biannual vote of the United Nations General Assembly calling for a moratorium on the use of the death penalty' ACHPR/Res 614 (LXXXI) 2024 <https://achpr.au.int/en/adopted-resolutions/614-biannual-vote-calling-moratorium-use-death-penalty>.

⁶ African Commission on Human and Peoples' Rights, Working Group on the Death Penalty (n.3) 4.

⁷ Pan-African Parliament 'Resolution on the abolition of the death penalty in Africa' PAP.6/PLN/RES/05/JUN.24.

penalty in Africa and constitutes institutional support for the commitment of the Pan-African Parliament to work closely with the ACHPR.

Moreover, national reforms are in line with this trend. Sierra Leone abolished the death penalty in 2021⁸, demonstrating that a state marked by a history of conflict can renounce this sanction. Zambia abolished in 2022⁹ and Ghana abolished the death penalty for ordinary crimes in 2023, although it remains applicable for certain offences, including high treason¹⁰. Finally, Zimbabwe adopted the *Death Penalty Abolition Act*, which came into force in December 2024¹¹.

Case law has further contributed to the progressive restriction of the death penalty, including through challenges to both its mandatory imposition and methods of execution. In *Ally Rajabu et al. v. United Republic of Tanzania*, the African Court on Human and Peoples' Rights held that the mandatory imposition of the death penalty was incompatible with the right to life and the requirement that punishment be individualized.¹² The ACHPR has likewise addressed the compatibility of particular methods of execution with the Banjul Charter¹³. In *Interights and Ditshwanelo v. Botswana* (Communication No. 319/06), the ACHPR decided execution by hanging as in contradiction with Article 5 of the Banjul Charter. The African Court's subsequent jurisprudence, including *Ally Rajabu*,¹⁴ has further strengthened the requirement that any use of the death penalty comply with the safeguards flowing from the right to life and the prohibition of cruel, inhuman or degrading punishment.

Contemporary Challenges and Risks of Setbacks

Despite the progress, Africa's march towards abolition remains fragile. The current challenges lie

in the dynamics of security regression, legislative resistance and judicial dysfunctions that are slowing down the momentum carried by the AU¹⁵. Among these obstacles, the security challenge is undoubtedly the most pressing. Indeed, in several States confronted with terrorism, armed conflicts, organized armed groups or organized crime, the death penalty is presented as a necessary instrument for the protection of society.

The DRC is a most worrying example in this regard. After observing a moratorium on executions since 2003, it decided to partially lift this moratorium in a context of armed conflict and insecurity¹⁶. The move was criticized by the ACHPR¹⁷ and sparked a wave of unanimous condemnation from both local and international human rights organizations. To date, although several death sentences have been handed down for crimes covered by the Circular Note¹⁸ lifting the moratorium, none have been carried out.

In Burkina Faso, despite the 2018 abolition of the death penalty for ordinary crimes, the Government adopted a bill on 4 December 2025 to reinstate it for terrorism, high treason and espionage, citing the ongoing security crisis.¹⁹ To date, this bill has not yet gone through the transitional legislative circuit to finally become law. The imminent reinstatement of the death penalty in Burkina Faso has been condemned by human rights advocates, who view it as a major setback for human dignity and a departure from the international abolitionist movement.²⁰

Ghana and Zimbabwe illustrate the challenges of incomplete abolition: while Ghana retains the death penalty for certain offences, Zimbabwe's legal framework still allows for its reinstatement during a state of emergency and retains exceptional military provisions.²¹ Despite the 2024 commutation of court

8 Abolition of the Death Penalty Act 2021 (Sierra Leone).

9 World Coalition Against the Death Penalty 'Zambia Abolishes the Death Penalty for All Crimes Irreversibly' (December 2024) <https://worldcoalition.org/fr/la-zambie-abolit-la-peine-de-mort-pour-tous-les-crimes-de-maniere-ir-reversible/>.

10 Amnesty International Death Sentences and Executions 2024 (2025) <https://www.amnesty.org/fr/documents/act50/8976/2025/fr/>.

11 Death penalty abolition Act 2024 (Zimbabwe).

12 *Ally Rajabu and Others v United Republic of Tanzania* App No. 007/2015 (African Court on Human and Peoples' Rights, 28 November 2021).

13 African Commission on Human and Peoples' Rights 'General Comment No 3 on the African Charter on Human and Peoples' Rights: The Right to Life (Article 4)' (2015).

14 *Ally Rajabu and Others v United Republic of Tanzania* App No. 007/2015 (African Court on Human and Peoples' Rights, 28 November 2021).

15 Although the African Charter on Human and Peoples' Rights does not contain any explicit prohibition of capital punishment, the African Union is using its specialised institutions to push for universal abolition in Africa.

16 O Lungwe Fataki The Death Penalty in DR Congo, Between Criminal Justice and Human Rights: The Illusion of an Instrument for the Fight Against Impunity in the Face of Human Rights Requirements (L'Harmattan 2026) 70.

17 African Commission on Human and Peoples' Rights 'Press Release on the Lifting of the Moratorium on the Death Penalty in the Democratic Republic of the Congo' <https://achpr.au.int/index.php/en/news/press-releases/2024-03-15/lifting-moratorium-death-penalty>

18 Ministry of Justice of the Democratic Republic of the Congo "Note circulaire n° 002/MME/CAB/ME/MIN/J&GS/2024 du 13 mars 2024 relative à la levée du moratoire sur l'exécution de la peine de mort en République démocratique du Congo" (2024) <https://www.peinedemort.org/document/download?id=12106>.

19 'Minutes of the Council of Ministers' (4 December 2025) <https://www.presidencedufaso.bf/conseil-des-minis-tres-du-jeudi-4-decembre-2025/>

20 Interview with Aminata Niakate, President of ECPM, 'Burkina Faso: ECPM calls on the authorities to abandon the draft law reinstating the death penalty' (December 2025) <https://www.ecpm.org/en/2025/12/09/burkina-faso-ecpm-calls-on-the-authorities-to-abandon-the-draft-law-re-establishing-the-death-penalty/>

21 Death penalty Act, 2024 (Zimbabwe)

martial sentences to life imprisonment, UN and ACHPR experts noted in 2025–2026 that Zimbabwe’s military law has not been fully purged of capital punishment, highlighting that abolition must be both complete and legally protected against reintroduction.²²

Uganda and other States that retain the death penalty but have not executed for a long time represent another category. These situations of de facto moratorium could constitute a step towards legal abolition. The priority should be to transform these moratoriums into formal abolition and then to consolidate them through the ratification of OP2–ICCPR.

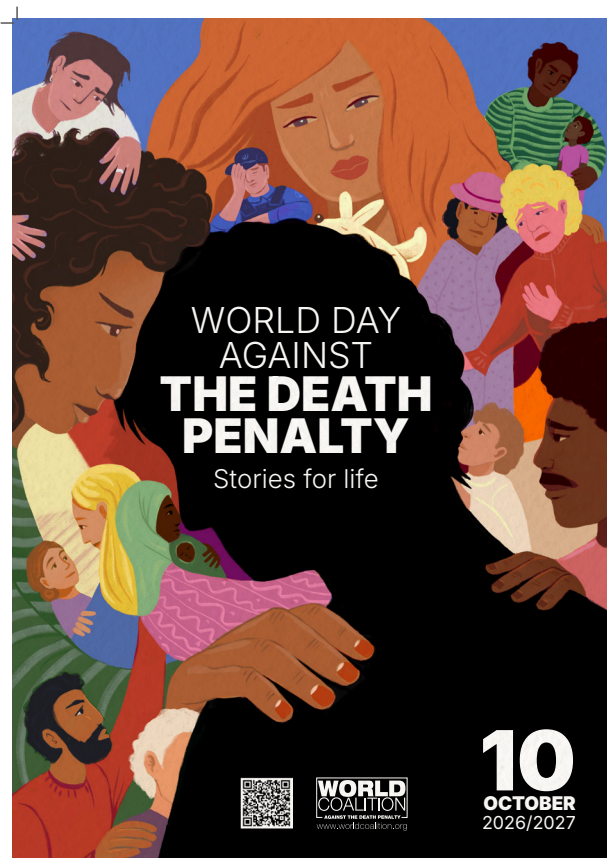
Conclusion

Africa is undeniably moving towards the continent-wide abolition of the death penalty and the next stage is twofold: to extend abolition and to prevent setbacks. To achieve this, it is recommended that States:

Consolidate abolition: Remove remaining exceptions, commute outstanding death sentences, ratify OP2–ICCPR, and convert moratoria into de jure abolition.

Address security challenges through effective justice systems: Strengthen investigations, judicial independence, fair trials, sentencing, and prisons rather than using security crises to justify the use of the death penalty.

Advance the African abolitionist framework: Accelerate adoption of the African Protocol on the Abolition of the Death Penalty to establish a common, legally binding continental commitment.



²² United Nations Office at Geneva 'Experts of the Human Rights Committee Congratulate Zimbabwe on Passing Law' (2025) <https://www.ungeneva.org/en/news-media/meeting-summary/2025/03/experts-human-rights-committee-congratulate-zimbabwe-passing-law>



Protection of the Right to Life in Africa: Recent Developments Regarding the Death Penalty, Enforced Disappearances, and Extrajudicial Executions

Contribution to the newsletter of the Working Group on the Death Penalty, Extrajudicial, Summary or Arbitrary Executions and Enforced Disappearances in Africa – October 2026

I. The Death Penalty and the Prohibition of Torture: African Case Law in Support of Abolition

1. The abolitionist movement is making progress in Africa, alongside the consolidation of regional standards relating to the right to life, human dignity and the prohibition of torture. African case law notably highlights the growing incompatibility between certain aspects of the death penalty and the prohibition of cruel, inhuman or degrading treatment.

A. Lessons from African Case Law

2. The case law of the African Court on Human and Peoples' Rights (the "African Court") has gradually highlighted the various forms of suffering to which people sentenced to death are exposed. In *Nzigiyimana Zabron v. Tanzania*, the Court held that the conditions of detention to which the applicant, who had been sentenced to death, was subjected—including deprivation of food, solitary confinement, poor hygiene, inadequate medical care, and the absence of work activities or physical exercise—constituted cruel, inhuman or degrading treatment¹.
3. Continuing and strengthening its case law on the incompatibility of the death penalty with human dignity, the African Court recognises that the suffering associated with the death penalty stems from the psychological ordeal inherent in death row. In a 2023 judgment, it held that the perpetual uncertainty surrounding the possible execution of the death sentence undermines the very essence of the condemned person's humanity².
4. The method of execution is another source of suffering considered in African case law. Hanging is regarded as inherently degrading and as an affront to human dignity. In its judgment of 5 June 2026, *Chacha Jeremiah Murimi and Others v. United Republic of Tanzania*, the African Court further recalled that hanging constitutes torture, as well as cruel, inhuman or degrading treatment, because of the physical and mental suffering it entails³.

5. These developments in case law are consistent with the approach of the African Commission on Human and Peoples' Rights (the "African Commission"), which interprets Article 5 of the African Charter broadly in order to ensure protection against different forms of physical and mental suffering. In its 2022 Resolution 544 on the death penalty and the prohibition of torture, it recalls the safeguards enshrined in Articles 4 and 5 of the Charter and calls on States that retain capital punishment to implement them fully.⁴

B. From Case Law to the Imperative of Abolishing the Death Penalty

6. These developments in case law must be considered beyond individual cases alone. They reveal a structural problem: at different stages of its implementation, the death penalty may generate suffering that is incompatible with human dignity and the absolute prohibition of torture and cruel, inhuman or degrading treatment. Conditions of detention on death row, prolonged waiting and uncertainty surrounding execution, as well as certain methods of execution, may all constitute sources of suffering for people sentenced to death. This reality calls for moving beyond the question of the conditions of execution alone and examining the very compatibility of the death penalty with the requirements of protecting human dignity.
7. This development in case law forms part of a broader abolitionist movement across Africa. The African Commission took an important step in 2015 by adopting a draft Protocol to the African Charter on the abolition of the death penalty. The revival of this process within the African Union in 2026 provides an opportunity to translate advances in case law into a shared regional commitment and to strengthen the abolitionist momentum across the continent.
8. FIACAT and the ACATs therefore encourage the African Commission and the Member States of the African Union to continue this process and work towards the adoption of the Protocol on the abolition of the death penalty. They also call on States that retain capital

¹ [Nzigiyimana Zabron v. United Republic of Tanzania](#), Application No. 051/2016, paras. 161–168, African Court on Human and Peoples' Rights (4 June 2024).

² [Makungu Misalaba v. United Republic of Tanzania](#), Application No. 033/2016, para. 167, African Court on Human and Peoples' Rights (7 November 2023).

³ [Chacha Jeremiah Murimi and Others v. United Republic of Tanzania](#), para. 82, African Court on Human and Peoples' Rights (5 June 2026).

⁴ [Resolution on the Death Penalty and the Prohibition of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#), ACHPR/Res.544 (LXXIII), African Commission on Human and Peoples' Rights (12 December 2022).

punishment to establish a moratorium on executions and, pending abolition, to ensure detention conditions that respect the dignity of people sentenced to death.

II. Enforced Disappearances: The Targeting of Burundian Refugees and the Persistence of the Phenomenon in Burundi

9. In Burundi, the current electoral context is accompanied by a resurgence of human rights violations, particularly enforced disappearances⁵. During the six months preceding the legislative elections of 5 June 2025, our organisations documented at least 26 cases of enforced disappearance.⁶
10. As Burundi enters a new electoral period ahead of the presidential election scheduled for 3 May 2027, the persistence of these practices calls for increased vigilance. Continued documentation of enforced disappearances and monitoring of the situation of people targeted by repression are all the more necessary because the repressive mechanisms and risk factors observed during the previous electoral period remain in place, while the absence of effective investigations and protective measures contributes to the persistence of the phenomenon.
11. Moreover, this trend now extends beyond Burundi's borders. Burundian refugees, including human rights defenders and humanitarian workers, have been victims of enforced disappearance in refugee camps in Tanzania, in a context marked by acts of intimidation, surveillance and harassment targeting people engaged in human rights work⁷. In addition, the risks associated with the forced return of Burundian refugees are a serious cause for concern, given the risk of further violations to which people returned to Burundi could be exposed in the current electoral context⁸.
12. In response to these manifestations of transnational repression, an African regional mechanism is essential to prevent and combat such practices, in collaboration

with civil society and United Nations special procedures, in accordance with the Addis Ababa Roadmap, while ensuring the protection of refugees and that any return is free, voluntary and informed.

III. Extrajudicial Executions in Eastern DRC: The Urgent Need to Combat Impunity

13. The situation in eastern DRC illustrates another major threat to the right to life: extrajudicial executions committed in the context of the resurgence of armed conflict. Since January 2025 and the takeover of several territories in the provinces of North Kivu and South Kivu by the AFC/M23, with the support of Rwanda, numerous summary executions have been reported. An investigation conducted by our organisations, based on interviews carried out between November 2025 and April 2026 with victims, direct witnesses and secondary sources, highlights executions committed mainly by members of the AFC/M23 against people perceived as opposed to the movement or suspected of supporting the Armed Forces of the Democratic Republic of the Congo (FARDC) and their allies, particularly the Wazalendo militia. Human rights defenders and civil society members documenting violations have also been targeted.
14. These violations take place in a context marked by persistent insecurity, humanitarian and health crises, the exercise of parallel governance in territories controlled by the AFC/M23, and the destruction or alteration of evidence, which undermine efforts to establish accountability. Restrictions on access to affected areas and the risk of reprisals against victims, their relatives, witnesses and human rights defenders further exacerbate these difficulties.
15. Accordingly, strengthening regional documentation mechanisms in the DRC, alongside existing international mechanisms, would help establish the facts, preserve evidence and combat impunity.

⁵ OHCHR, ['Burundi: UN Experts Alarmed by Increase in Serious Human Rights Violations during the Electoral Period'](#), 1 September 2025 (accessed 2 September 2026).

⁶ ACAT Burundi and FIACAT, ['Monitoring Report on Human Rights Violations during the Electoral Period from May to July 2025'](#), 7 October 2025; OMCT, ['Burundi: Civil Society Concerned about Numerous Cases of Enforced Disappearances in 2025'](#), 20 August 2025.

⁷ [Communication Addressed by Three UN Special Procedures to the Tanzanian Authorities](#), Ref. AL TZA 1/2026 (8 April 2026).

⁸ FIACAT, [Joint Statement on the Imminent Closure of Nduta Camp and the Forced Repatriation of Burundian Refugees from Tanzania](#), 23 April 2026; ACAT Switzerland, [Returns from Switzerland to Burundi Must Stop!](#) 28 April 2026; see also UN News, [Forced Return of Burundian Refugees from Tanzania Raises UNHCR Concerns](#), 25 February 2026.

Strengthening Accountability for Extrajudicial Executions and Enforced Disappearances in Africa



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Introduction

The right to life is foundational to the African human rights system. Article 4 of the African Charter on Human and Peoples' Rights protects every person's right to life and prohibits arbitrary deprivation of life. This obligation requires States not only to refrain from unlawful killings but also to take reasonable measures to prevent violations, investigate potentially unlawful deaths, identify and prosecute those responsible, and provide effective remedies to victims and their families. The African Commission on Human and Peoples' Rights (ACHPR) has reinforced these obligations through its jurisprudence and General Comment No. 3 on the Right to Life.

Nevertheless, extrajudicial executions and enforced disappearances continue to raise serious accountability concerns across Africa. The central challenge is therefore not

principally the absence of legal standards but the persistent gap between legal obligations and their implementation through national institutions.

The case of *International PEN, Constitutional Rights Project, Civil Liberties Organisation and Interights (on behalf of Ken Saro-Wiwa Jr.) v Nigeria* provides an important illustration. It demonstrates both the importance of regional human rights oversight and the consequences of inadequate domestic accountability when the right to life is threatened.

Case Study: Ken Saro-Wiwa and the Failure of Timely Accountability

Ken Saro-Wiwa was an Ogoni writer and activist and president of the Movement for the Survival of the Ogoni People. He and other Ogoni leaders were detained and tried before a military tribunal. Human rights organisations brought complaints before the African Commission concerning their detention, trial and treatment. The Commission's proceedings therefore took place while the detainees faced the possibility of execution.

The African Commission sought to address the situation through provisional measures and other interventions. However, the Nigerian authorities proceeded with the executions. Ken Saro-Wiwa and the other condemned Ogoni leaders were executed on 10 November 1995.

When the Commission subsequently considered the communications on their merits, it found violations of Article 4 of the African Charter concerning the right to life, together with violations

of several other Charter provisions. The Commission also found that Nigeria had violated its obligations by disregarding the Commission's provisional measures (ACHPR, 1998).

The case illustrates a fundamental accountability failure. Legal standards existed, complaints had been brought before a regional human rights institution, and the Commission had attempted to intervene. Nevertheless, the domestic process did not provide an effective safeguard against an irreversible violation of the right to life. Regional findings made after the executions could establish responsibility and clarify legal standards, but they could not restore the lives lost.

The case also demonstrates why timeliness and institutional independence are essential elements of accountability. Where institutions responsible for investigating or adjudicating alleged violations are insufficiently independent, accountability may become ineffective precisely when it is most needed. The existence of legal rules is therefore insufficient unless those rules are supported by institutions capable of acting promptly, independently and impartially.

Why Accountability Fails

The Ken Saro-Wiwa case identifies several weaknesses that remain relevant to accountability for unlawful killings and enforced disappearances.

First, accountability can be too slow. In cases involving an imminent threat to life, delayed investigations, judicial proceedings or regional responses may come after an irreversible violation has

occurred.

Second, institutional independence matters. Investigations conducted by institutions that are institutionally dependent on, or closely connected to, alleged perpetrators risk compromising the credibility of their findings and public confidence in the justice system.

Third, regional findings require national implementation. Decisions of the African Commission can clarify State obligations and establish responsibility, but their practical value depends substantially on national authorities taking corrective measures.

Fourth, victims and families must remain central to accountability. In cases of enforced disappearance, families require information concerning the fate and whereabouts of missing persons. In cases of unlawful death, they require credible investigations, information, participation and effective remedies.

The Minnesota Protocol on the Investigation of Potentially Unlawful Death provides an important practical standard in this regard. It emphasises that investigations should be prompt, effective and thorough, independent and impartial, and transparent. Such investigations should establish the circumstances and cause of death, identify those responsible, and examine possible failures within institutional and command structures.

Lessons for the Working Group

The Ken Saro-Wiwa case provides several practical lessons for the African Commission's Working Group on the Death Penalty, Extrajudicial, Summary or Arbitrary Executions and Enforced Disappearances.

First, **early intervention should be strengthened** where credible information indicates an imminent threat to life. Regional mechanisms should encourage States to take preventive measures before violations become irreversible.

Second, the Working Group should promote **minimum national accountability** standards based on Article 4 of the African Charter, General Comment No. 3 and the Minnesota Protocol. National investigations should be prompt, independent, impartial, effective and transparent, supported by appropriate forensic and prosecutorial capacity.

Third, greater attention should be given to **implementation of regional decisions and recommendations**. States should provide concrete information on investigations, prosecutions, institutional reforms, reparations and other measures taken in response to findings of human rights violations.

Fourth, **national human rights institutions, civil society organisations, journalists, lawyers and victims' representatives** should be supported in documenting violations and monitoring State responses. Their work can provide early warning, preserve evidence and strengthen public oversight.

Finally, accountability should be understood as

a **continuum comprising prevention, immediate protection, investigation, prosecution, adjudication, remedy and institutional reform**. A system that responds only after a death or disappearance has occurred cannot fully protect the right to life.

Key Recommendations

African States should prioritise implementation of existing obligations. Governments should establish independent mechanisms for investigating potentially unlawful deaths and enforced disappearances, strengthen forensic and prosecutorial capacity, protect witnesses and victims, and ensure meaningful remedies.

The ACHPR and its Working Group should continue providing technical guidance, monitoring implementation of its findings, promoting the exchange of good practices and supporting national human rights institutions. Particular attention should be given to situations where State action or inaction creates an imminent and irreversible threat to life.

The central lesson is straightforward: **legal recognition of the right to life must be matched by institutions capable of protecting that right in practice.**

Conclusion

Africa possesses a substantial legal framework protecting the right to life. Article 4 of the African Charter, the jurisprudence of the African Commission, General Comment No. 3 and international investigative standards provide States with clear obligations. The continuing challenge is implementation.

The Ken Saro-Wiwa case demonstrates the consequences of an accountability system that was unable to prevent an irreversible violation despite the existence of legal protections and regional oversight. It also demonstrates the value of regional human rights mechanisms in establishing authoritative standards and State responsibility.

For the Working Group, the priority should therefore be to help close the implementation gap by encouraging early intervention, strengthening independent investigations, improving national implementation of regional findings, protecting victims and witnesses, and promoting institutional reforms capable of preventing recurrence. Effective accountability is ultimately measured not only by whether responsibility is established after a violation, but by whether institutions are capable of preventing the next unlawful death or disappearance.

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About the Working Group

The Working Group on Death Penalty, Extrajudicial, Summary or Arbitrary Killings and Enforced Disappearances in Africa is a special mechanism of the African Commission on Human and Peoples' Rights (the Commission) mandated to contribute to the protection of the right to life and human dignity on the continent.

Established in 2005 with an initial mandate dedicated to the death penalty, its scope of action was expanded in 2012 to include extrajudicial, summary, or arbitrary executions, and further extended in 2018 to encompass enforced disappearances.

The Working Group monitors the situation surrounding these issues in Africa, collects and analyzes relevant information, conducts studies, advises the Commission on situations

requiring urgent attention, and encourages reforms toward the abolition of the death penalty. It also works toward the prevention of arbitrary deprivation of life, the right to the truth, access to justice, and the fight against impunity.

Composed of Commissioners and independent experts, it collaborates with Member States, National Human Rights Institutions (NHRIs), civil society organizations, victims' and family associations, as well as competent regional and international mechanisms.

To learn more about the work of the Working Group: <https://achpr.au.int/en/mechanisms/working-group-death-penalty-extra-judicial-summary-or-arbitrary-killings-and-enforced>

