



Paris, May 24, 2017

## Nigeria: Call for an Official Moratorium on Death Penalty

The UIA expresses concern after reports of the statement by the Attorney General of Lagos State during a press briefing on April 18 indicating that the state government would soon start signing execution.

Several ONG have expressed serious concerns as to whether many of the inmates on death row have received a fair trial. The practice of coerced 'confessions' rather than investigations, and statements signed under torture has been demonstrated in several death penalty cases in Nigeria.

International law widely emphasizes that the norms for a fair trial must be respected whenever the imposition of the death penalty is imminent.

Article 6 of the International Covenant on Civil and Political Rights<sup>1</sup> ("International Covenant), emphasizes that this penalty can only be rendered by a competent court.

In this connection, the Human Rights Committee has stated in its General Comment no. 6 that "*the procedural guarantees therein prescribed must be observed, including the right to a fair hearing by an independent tribunal, the presumption of innocence, the minimum guarantees for the defence, and the right to review by a higher tribunal (...)*".<sup>2</sup>

<sup>1</sup> Article 6 :

"1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.

3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.

4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.

5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.

6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant".

<sup>2</sup> Para.7

The guarantees mentioned are therefore those prescribed in Article 14 of the International Covenant and the Human Rights Committee concluded several times that Article 6 of the International Covenant had been violated in the case of proceedings having led to a death sentence under conditions that were not in compliance with the stipulations contained in Article 14.

Resolution 1989/64 of May 24, 1989 of the UN Economic and Social Council, entitled, “Implementation of the Safeguards guaranteeing protection of the rights of those facing the death penalty” recommends that Member States grant special protection to those facing the possibility of receiving a death sentence. It must go beyond the protection granted to those not facing the death penalty.

We also insist on the admission among a larger number of states that death penalty must be abolished as it does always come along with torture or other acts contrary to Article 7 of the Covenant on civil and political rights. Furthermore, death penalty is devoid of any deterrent or exemplary character and is always disproportionate to the crime.

In this regard, we recall the judgment of a Lagos High Court in the case of James Ajulu vs. AG Lagos state, ID/76M/2008 where the Court held that execution by hanging or firing squad is inhumane and degrading and therefore a violation of the fundamental right not to be subjected to torture.

Therefore, we call on the competent authorities in Nigeria to respect the Moratorium on the Use of the Death Penalty, adopted by the United Nations General Assembly on December 19, 2016. The resolution<sup>3</sup> was adopted by a large majority, with news States voting in favor of it, supporting the global trend towards the abolition of the death penalty.

State and federal authorities in Nigeria must respond positively to the call made by the General Assembly upon States to establish a moratorium on executions. They must halt these executions immediately and establish an official moratorium on executions with a view to abolishing the death penalty as well as 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.

#### **More about the UIA**

*The Union Internationale des Avocats (International Association of Lawyers - UIA) was founded in 1927. It is the oldest worldwide legal association and brings together around two million lawyers through its individual members and collective members (bars, federations, and associations) from more than 110 countries.*

*The main aims of the UIA are to promote the fundamental principles of the legal profession; to contribute to the establishment of an international legal order based on the principle of justice between nations, through law and in the cause of peace; and, to defend lawyers and their clients. .*

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<sup>3</sup> Resolution A/RES/71/187