

# AMNESTY INTERNATIONAL JOINT PUBLIC STATEMENT

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## **Nigeria: Authorities in Nigeria must not carry out any further executions of death row prisoners**

Amnesty International and nine Nigerian civil society organisations call on authorities in Nigeria to immediately halt all plans to execute further death row inmates in the country, and to return to a moratorium on executions, with a view of abolishing the death penalty. The organisations are deeply concerned that Thankgod Ebhos, who was nearly executed on 24 June 2013 when four other men were hanged at Benin City Prison in Edo state, is still at risk after unconfirmed reports that the authorities in Edo state are planning to request a court to change the method of his execution from firing squad to hanging. The Edo state government gave a directive to Benin prison to transfer him to Kaduna state, where he was originally sentenced to death.

The organisations condemn the execution of Chima Ejiofor, Daniel Nsofor, Osarenmwinda Aiguokhan and Richard Igagu on 24 June 2013 without regard for due process and without giving prior notice to their families or lawyers. In addition, and also contrary to international standards on the use of the death penalty, the bodies of the four inmates executed have not been returned to the families for burial, or the location of their graves made known.

Thankgod Ebhos only escaped execution because the prison authorities realised that his death sentence required a firing squad, after dragging him to the gallows.

According to information received by the organisations, prison officers fired tear gas into the cells of the death row inmates on 24 June because those to be executed were allegedly refusing to leave their cells. The small cells for death row inmates contained approximately six people. Deploying tear gas in enclosed areas can constitute a human rights violation. High levels of exposure to chemical irritants in buildings can be lethal or cause serious injuries. It is especially dangerous for those who have pre-existing or compromised health conditions.

There were also reports that the inmates executed were beaten by the prison officers before they were executed, and that no medical care was given. The prison authorities in Benin City have neither confirmed nor denied these allegations.

Thankgod Ebhos's son, Ebhodaghe Solomon, told Amnesty International that he only learned that his father was going to be killed when a local newspaper carried the news of the executions. "They didn't call us. They didn't even ask him if there was anyone they could contact. They almost were going to kill him in secret" Solomon said.

The organisations are concerned that the authorities in Benin Prison may still execute Thankgod Ebhos and any of the 42 other death row inmates currently detained in the prison.

In executing Chima Ejiofor, Daniel Nsofor, Osarenmwinda Aiguokhan and Richard Igagu, and almost executing Thankgod Ebhos, the Nigerian authorities disregarded the minimum international standards guaranteeing the protection of the rights of those facing the death penalty. These standards require, among other things, the right of convicted persons to appeal to a higher tribunal.

The four executions were carried out only hours after a High Court in Benin City had dismissed a lawsuit against three of the execution warrants, although lawyers had immediately filed an appeal

against this first instance judgement. A separate appeal, on behalf of the 840 inmates on death row in Nigeria in 2010, had been filed with the Court of Appeal in Lagos already in April 2012. Other appeals have also been filed, including one at the Court of Appeal Kaduna against the original judgment in Thankgod Ebhos' case.

Under Nigerian and international law, executions may not be carried out while any appeals are still pending.

Thankgod Ebhos was tried and sentenced to death by a Robbery and Firearms tribunal in Kaduna in May 1995 - seven years after his arrest in April 1988. Serious concerns have been raised about the fairness of special tribunals set up in Nigeria during military rule. These tribunals at the time denied defendants, such as Thankgod, the right to a legal appeal.

Of the over 1,000 people who were under sentence of death in Nigeria at the end of 2012, most have waited between five and 10 years to be tried, and some even more.

Thankgod Ebhos has been on death row for 17 years, convicted of armed robbery. He had been accused of a car-jacking. According to the judgment the victim was very badly injured in the incident, but survived.

The undersigned organizations oppose the death penalty in all circumstances. The organisations are concerned that under international minimum standards for the use of the death penalty, Nigeria uses the death penalty in a way that is incompatible with its human rights obligations.

In recent weeks, many government officials have pointed to the fact that the death penalty in Nigeria is mandatory in cases of murder, armed robbery and certain cases of treason. However, mandatory death sentences are inconsistent with human rights because they do not allow any possibility of taking into account the defendant's personal circumstances or the circumstances of the particular offence. In September 2012, the High Court of Lagos State declared that the mandatory imposition of the death penalty by hanging or firing squad was unconstitutional. Under Article 34(1) of the Nigerian Constitution of 1999 all state authorities have to ensure that every individual is treated with respect for the dignity of his person, and that no person is subjected to inhuman or degrading treatment. The highest courts in Kenya, Malawi and Uganda have ruled the mandatory death penalty to be in violation of their national constitutions.

Edo State Governor Adams Oshiomhole and others have claimed that the death penalty has a deterrent effect on murder rates. But there is no convincing evidence that the death penalty has a particularly deterrent effect compared to other forms of punishment. The Attorney-Generals of Delta State and Edo State have recently noted that the existence of the death penalty in Nigeria has not in any way stopped or prevented people from committing criminal offences.

The 2004 National Study Group on Death Penalty and the 2007 Presidential Commission on the Administration of Justice stressed that the Nigerian criminal justice system cannot guarantee a fair trial and called for a moratorium on the death penalty.

The undersigning organisations acknowledge the responsibility of states to protect the public, to ensure the proper administration of justice, and uphold the rule of law. Wherever sufficient admissible evidence is uncovered, those suspected of responsibility must be brought to justice in proceedings which meet international standards of fairness, and without recourse to the death penalty.

Stopping executions and doing away with the death penalty does not mean that criminals go unpunished. It is essential that human rights standards, including those related to fair trials, are respected in all stages of the criminal justice process. All punishments must be compatible with human rights.

As of 14 August 2013, 97 countries have abolished the death penalty for all crimes, and a total of 140 are abolitionist in law or practice. By resuming executions, Nigeria joined the small minority of only about 10% of countries in the world that still execute every year.

The global trend is mirrored in Africa where 37 of the 54 member states of the African Union are abolitionist in law or practice. Since 2000, Burundi, Cote d'Ivoire, Gabon, Senegal, Rwanda and Togo have abolished the death penalty for all crimes. In 2012, the government of Ghana accepted the recommendation of a Constitution Review Commission to abolish the death penalty in the new Constitution, and Benin became one of presently 77 states worldwide to have ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

The undersigned organizations are calling on Nigeria to take specific steps to move towards abolition. Both the federal and state governments should start by putting in place immediately an official moratorium on executions.

Amnesty International

Avocats Sans Frontières (ASF-France)

Centre for Environment, Human Rights and Development (CEHRD)

Human Rights Law Service (HURILAWS)

Human Rights Social Development and Environmental Foundation (HURSDEF)

Legal Defence and Assistance Project (LEDAP)

Nigerian Bar Association

Social Action/Social Development Integrated Centre

Social Justice Advocacy Initiative (SJAI)

Socio-Economic Rights & Accountability Project (SERAP)