

# ENIGERIA

## @Death sentence for murder

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23 JANUARY 1991

AI INDEX: AFR 44/03/91

DISTR: SC/CO/GR

### BAYO ADELUMOLA

Bayo Adelumola was sentenced to death following his conviction for murder by the High Court in Lagos, on 12 June 1984. The sentence was confirmed by the Lagos Court of Appeal on 19 May 1986 and further confirmed by the Supreme Court on 2 May 1988. He filed a petition for clemency with the Military Governor of Lagos State in January 1989, and is awaiting the outcome. Bayo Adelumola was aged 18 at the time of the crime for which he was convicted, and was a high school student.

Under Nigerian law, murder cases are tried by the High Court in each state of the federation. Capital sentences passed by these courts are subject to appeal, first to the Court of Appeal, then to the Supreme Court, both of which are federal courts. Death sentences must finally be confirmed by the relevant State Military Governor, who may take advice from their state Advisory Committee on the Prerogative of Mercy, an advisory body made up of leading members of the community.

Whereas those convicted of armed robbery and sentenced to death are normally executed by firing squad, those convicted of murder and sentenced to death by the High Court are executed by hanging. Although hangings continue to take place within prisons, they are not officially announced and it is therefore not known how many people have been hanged in recent years. The majority of executions carried out are believed to be of people convicted of armed robbery by Robbery and Firearm Tribunals and executed by firing squad.

In 1984, 355 death sentences were carried out and in 1985 a further 301 executions took place. After another military government came to power in August 1985, the number of executions declined, although a further 200 executions were carried out from 1986 to 1988. In 1989 Amnesty International learned of only 12 executions, but this appears to have been because executions were no longer being carried out in public; the true number was believed to be

considerably higher. In 1990, over 120 people are reported to have been executed in Nigeria, 69 of them after being convicted of involvement in a coup attempt in April 1990.

Recent developments in Africa have seen a reduction in the use of the death penalty. Mozambique, São Tomé and Príncipe, and newly independent Namibia abolished the death penalty in 1990, thereby joining Cape Verde, Africa's first abolitionist state. In Mozambique, government officials said they had found no evidence that the death penalty was a greater deterrent than other forms of punishment. In South Africa, a moratorium on executions was announced in February 1990.

Amnesty International does not condone acts of violence and recognizes the right of governments to bring to justice those responsible for such acts. However, Amnesty International is unconditionally opposed to the use of the death penalty, on the grounds that it is a cruel, inhuman and degrading punishment which violates the right to life and has been shown to have no special deterrent effect.

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# NIGERIA

## 22 executions in Akwa Ibom State and death sentences for armed robbery

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18 JANUARY 1991

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Amnesty International has learned of the recent execution of 22 people in Akwa Ibom State. Eight of the executions took place in public, despite a halt to public executions in 1989. Amnesty International is particularly concerned that public executions can have a brutalising effect on all present, especially children.

### Rivers State

**Victor Ogie**, married with four children, was convicted of an armed robbery and sentenced to death by the Robbery and Firearms Tribunal in Port Harcourt, Rivers State, on 27 November 1987. He is currently awaiting the outcome of a plea for clemency submitted to the Military Governor of Rivers State.

### Akwa Ibom State

On 1 December 1990 22 convicted armed robbers were executed simultaneously in eight districts of Akwa Ibom State. In the town of Ikot Ekpene, the executions were held in public. **Etim Ukpe**, aged 42, and **Lawrence Ukpong** were among those executed by the Akwa district authorities. The identities of the 20 other men are not known to Amnesty International.

Particularly in armed robbery cases where there is no right of appeal or other judicial review, death sentences should be commuted where there is any doubt at all about the safety of the conviction.

..... State

A youth aged 17 at the time of his arrest was among five men sentenced to death on 17 December 1990. The five, apparently aged between 17 and 21 years at the time of their arrest in 1983, were convicted of murder and armed robbery. A sixth accused reportedly died in prison while awaiting trial and a seventh was acquitted. Their names and place of conviction were not reported, but it appears that they were convicted in the High Court, in which case they should enjoy full rights of appeal to the Court of Appeal and the Supreme Court.

.....Awaiting further details in press.

Under the Robbery and Firearms (Special Provisions) Decree of 1970, a mandatory death penalty was introduced for armed robbery for the first time throughout the whole of Nigeria. During the period of civilian rule from 1979 to 1983, jurisdiction in armed robbery cases was restored to the High Court, which allows full rights of appeal to the Court of Appeal and Supreme Court, and a relatively small number of executions took place. In 1984 the right of appeal in armed robbery cases was again suppressed when the new military government which had taken power in 1983 re-established Robbery and Firearms Tribunals. Each Tribunal is presided over by a High Court judge who may be assisted by a senior officer in the armed forces and a senior police officer. Death sentences imposed by such tribunals may be by firing squad or by hanging and are subject to confirmation by the relevant State Military Governor, an officer of the armed forces, who may be advised in his decision by an Advisory Committee on the Prerogative of Mercy.

In 1984, 355 death sentences were carried out and in 1985 a further 301 executions took place. After another military government came to power in August 1985, the number of executions declined, although a further 200 executions were carried out from 1986 to 1988. In 1989 Amnesty International learned of only 12 executions, but this appears to have been because executions were no longer being carried out in public; the true number was believed to be considerably higher. In the 1990, over 100 people are reported to have been executed in Nigeria, 69 of them after being convicted of involvement in a coup attempt in April 1990.

Recent developments in Africa have seen a reduction in the use of the death penalty. Mozambique, São Tomé and Príncipe, and newly independent Namibia have abolished the death penalty this year, thereby joining Cape Verde, Africa's first abolitionist state. In Mozambique, government officials said they had found no evidence that the death penalty was a greater deterrent than other forms of punishment. In South Africa, a moratorium on executions was announced in February 1990.

Amnesty International does not condone acts of violence and recognizes the right of governments to bring to justice those responsible for such acts. However, Amnesty International is unconditionally opposed to the use of the death penalty, on the grounds that it is a cruel, inhuman

and degrading punishment which violates the right to life and has been shown to have no special deterrent effect.

## EXAMPLES FOR POSSIBLE USE IN FUTURE DEATH PENALTY APPEALS

### 1. Case where AI had made previous appeals.

#### David Wali and nine others - Rivers State

Please note that AI appealed on behalf of David Wali in Death Penalty Appeal 14/88 (AFR 44/18/88) and its update (AFR 44/17/89).

While the identities of the other nine are not yet known, it is possible that they include the seven others convicted with David Wali: their names are Friday Eke, Emeka Ukaiwe, Thompson Oruwani, Daniel Osiagor, Gilbert Oriabor, Edmund Orji and Ene Jeremiah. They were also mentioned in the update to Death Penalty Appeal 14/88 (AFR 44/17/89).

### 2. Case where prisoner was 16 years of age when crime was committed.

Okezie Okara was sentenced to death for murder in the High Court in Umuahia, Imo State on 28 May 1985. He filed notice of appeal on 10 June 1985 and is awaiting a hearing at the Court of Appeal in Enugu, Anambra State. If his sentence is confirmed by the Court of Appeal, he may lodge an appeal with the Federal Supreme Court. If the Supreme Court also upholds his sentence, he may then petition the Head of State for mercy.

Attestations that Okezie Okara was 16 years of age at the time he allegedly committed the offence in February 1983 for which he was sentenced to death were reported not to have been admitted as evidence at his trial. It seems that there was some confusion over whether his notice of appeal had been received by the Court of Appeal. He is currently held at Port Harcourt Prison in Rivers State. His family are apparently unable to continue paying the lawyer who represented him at his trial, and he appears therefore not to have legal assistance for his appeal.

In cases of murder, defendants are first tried by the High Court. Capital sentences passed by these courts are subject to appeal first to the Court of Appeal, then to the Federal Supreme Court. Death sentences must finally be confirmed by the Head of State who may take advice from the Advisory Council on the Prerogative of Mercy, an advisory body made up of leading members of the community, which is usually chaired by the Minister of Internal Affairs.

Amnesty International is unconditionally opposed to the use of the death penalty, which it considers to be a violation of the right to life and to constitute a cruel, inhuman and degrading

punishment. Amnesty International is particularly concerned about its use in this case of someone who was reportedly a minor at the time of the crime. In 1984, the United Nations' Economic and Social Council (ECOSOC), in a resolution entitled "Safeguards guaranteeing protection of the rights of those facing the death penalty" (Resolution 1984/50) urged in its Safeguard 3 that: "Persons below 18 years of age at the time of the commission of the crime shall not be sentenced to death".

Amnesty International therefore considers that, in this case, every attempt should be made to establish the defendant's age at the time of the offence in order to ensure Nigeria's compliance with the provision of the ECOSOC Safeguard prohibiting the use of the death penalty against persons below 18 years of age. If it is proved that he was under 18 years of age at the time of the offence, Amnesty International urges that the death sentence be set aside. Amnesty International also considers that those charged with offences punishable by death should always benefit from the assistance of a defence lawyer, if necessary to be provided by the state.

The African Charter on the Rights and Welfare of the Child was approved by the last OAU summit of heads of state and government. Under Article 2, Definition of a Child "1. For the purposes of this Charter, a child means every human being below and age of 18 years", and under Article 5, Survival and Development "1 Every child has an inherent right to life..." "3. Death sentence shall not be pronounced for crimes committed by children".

### 3. Cases of public execution

#### PUBLIC EXECUTION

Amnesty International is particularly concerned that public executions can have a brutalising effect on all present, especially children.

Five men were publicly executed in Ondo State in February 1988 by a 10-man firing squad which reportedly took 20 minutes to carry out the executions. Saka Ayeni, Michael Adebowale, Adebayo Olusegun, Sunday Daramola and Kokumo Kosemi had been sentenced to death by the Ondo State Robbery and Firearms Tribunal in December 1987 (see NIGERIA: FIVE DEATH SENTENCES FOR ARMED ROBBERY, AFR 44/02/88) on charges of armed robbery. The executions were carried out by members of the armed forces, probably on 6 February 1988 although the exact date was not reported. It is not clear whether the victims took 20 minutes to die because, as occurred in the past at at least one execution in another state, the firing squad was ordered to inflict wounds which could not cause immediate death, or whether the executions took 20 minutes for other reasons.

Although the exact circumstances of this execution are not known, it seems that the time taken to carry it out may have resulted in extreme cruelty being inflicted on the condemned men. OR Amnesty International is particularly concerned that public executions can have a brutalising effect on all present, especially children.

### 4. Statements by Nigerian Govt. officials

Whilst elsewhere in Africa recent developments have seen a reduction in the use of the death penalty, these trends are not reflected in Nigeria. Newly independent Namibia and São Tomé and Príncipe have abolished the death penalty this year, thereby joining Cape Verde, Africa's other abolitionist state. The same is also being proposed in Mozambique, and in South Africa a moratorium on executions was announced in February 1990. On 2 February 1990, while addressing a group of Lagos residents, the Governor of Lagos State openly advocated the lynching of armed robbers. In his statement he is reported to have said, "Jungle crime deserves jungle justice". Ogun State Military Governor, Navy Captain M.A. Lawal, has recently advocated the use of the death penalty for people involved in electoral rigging in the forthcoming elections in Nigeria.

Amnesty International has also learned of reports that the Federal Government are considering the use of the death penalty for people involved in buying stolen goods as well as the armed robbers themselves.

#### 4. The use of the death penalty in Nigeria

#### 5. Comments made by judge on deaths in detention:

on the capital charge of armed robbery in Oyo State died before their case came to court, according to reports in late March 1990. They had been held at Agodi Prison, Ibadan. The judge due to try their case in a Robbery and Firearms Tribunal is reported to have expressed concern at the high rate of deaths in Nigerian prisons: "It seems half the accused die before or during trial". The seven were Henry Chukwu, Agu Okori, Emmanuel Okangba, Bright Ehis, Akinniyi Ogunfowokan, Addo Frederick and Kajola Olunrebi, the first six of whom were aged between 21 and 31 years. It is not known when they died. It appears that their deaths may have been as a result of poor prison conditions. Pressure on the government to improve the diet, hygiene and medical care of prisoners increased in 1989, and President Ibrahim Babangida announced an amnesty for a wide category of criminal prisoners in January 1990 which was seen as a response to calls to decongest grossly overcrowded prisons. During a tour of Kirikiri Medium Security Prison in Lagos in March 1990, the Minister of the Interior, Commodore Lamba Dung Gwom, reportedly warned the prison authorities that the poor conditions in some of the cells could justify Amnesty International's criticisms of prison conditions in Nigeria. The controller of prisons in Lagos State reportedly said on this occasion that 273 prisoners had died in the state in 1989 because of a shortage of drugs and vehicles to transport prisoners to hospital and because of overcrowded conditions. The state's prisons, with a total capacity of 2,700 prisoners, currently hold about 5,600, the majority of them remanded to await trial. The Minister announced that improvements would be made to health care in prisons, that further new prisons would be built and that the granting of parole and the use of suspended sentence from May 1990 would further reduce the prison population.

FOR STANDARD TEXT - RFT

In 1984 the United Nations urged that defendants charged with a capital offence should be granted all possible safeguards to ensure a fair trial and allowed an opportunity to contest their convictions and sentences before a higher court. These safeguards continue to be disregarded in both political trials before the Special Military Tribunal and criminal trials before the Robbery and Firearm Tribunals.

#### FOR NEXT ACTION -

Recent developments in Africa have seen a reduction in the use of the death penalty. Mozambique, São Tomé and Príncipe, and newly independent Namibia have abolished the death penalty this year, thereby joining Cape Verde, Africa's first abolitionist state. In Mozambique, government officials said they had found no evidence that the death penalty was a greater deterrent than other forms of punishment. In South Africa, a moratorium on executions was announced in February 1990.

7 August 1990

For possible use in a future death penalty appeal. This was to be used in but Mike suggested that perhaps we had best make further enquiries. In particular as the case is such an old one we might only bring it to the Governor's attention and thereby increase the chances of their being executed. Sarah has written to the prisoners asking whether they want AI to make an appeal in the light of this.

#### Benue State

On 21 February 1975, Adamu Kadiri Ikanni and Saidu Okolo were sentenced to convicted for a murder committed in 1969 to death by the High Court in Ikoja, formerly in Kwara State but since its creation in 1977, in Benue State. The defendants lodged an appeal with the Federal Court of Appeal in Kaduna, and subsequently with the Supreme Court on 30 June 1976 but their conviction and death sentences were upheld in both instances. They filed petitions for clemency first to the Kwara State governor on 8 February 1976, and then to the Benue State Military Governor, under whose jurisdiction the case then fell. They are presently awaiting the outcome of these appeals.



