PERMANENT MISSION OF THE REPUBLIC OF SINGAPORE
UNITED NATIONS | GENEVA

PERMANENT REPRESENTATIVE

25 January 2017

Dr Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

Dr Nils Melzer
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Dear Dr Callamard and Dr Melzer,

I refer to your letter dated 17 November 2016 [Ref: UA SGP 6/2016] on the case of Mr Chijioke Stephen Obioha. I would like to take this opportunity to explain Singapore's position on capital punishment and the facts of Mr Obioha's case.

Singapore's position on capital punishment

Ensuring our people's fundamental human right to safety and security is of paramount importance to us. Our view is that the rights of the offenders must always be weighed against the rights of their victims and their families, and the broader rights of the community and society to be able to live in peace and security. The question is whether, in very limited circumstances, it is legitimate to have capital punishment so that the larger interest of society is served.

Singapore is small and densely populated, with large numbers of people crossing our borders. An open society situated in a region with major drug trafficking centres and burgeoning drug production and consumption, we

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are constantly at the forefront of the war against illicit drugs. We therefore use capital punishment to deter the most serious crimes, such as murder and drug trafficking.

The imposition of capital punishment in Singapore is neither summary nor arbitrary. Capital punishment is only applied strictly in the context of Singapore's unwavering commitment to the rule of law, resting on a strong and independent judiciary. The death penalty is only carried out after due judicial process and in accordance with the law.

Our system succeeds in protecting lives. Singapore is one of the safest countries in the world with one of the lowest homicide rates. Our residents, including women and children, can go anywhere they please, freely and without fear, at any time of the day or night. The death penalty has deterred major drug syndicates from establishing themselves in Singapore, and we have successfully kept the drug situation under control.

In Singapore, there are very high levels of public support for the death penalty to remain on our books. Nevertheless, we continually review our criminal justice system to ensure that it remains effective and fair. In 2012, we adjusted our capital punishment regime by making the mandatory death penalty discretionary in very specific situations. We removed the mandatory death penalty for categories of homicide where there is no intention to kill. For drug trafficking, importation and exportation cases, where specific, tightly defined conditions are met, the death penalty will no longer be mandatory but imposed at the discretion of the courts. These changes were the result of a regular criminal justice review, and rigorous, open debates in Parliament.

Death penalty, when applied in accordance with due process of law (as is the case in Singapore), is not inconsistent with an individual's right to life and does not violate the prohibition against torture and other cruel, inhuman or degrading treatment or punishment. The question of the death penalty in Singapore in general, and the case of Mr Obioha specifically, therefore does not fall within the mandate of either the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions or the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. We would, however, like to take this opportunity to inform you of the following facts concerning Mr Obioha's case.

Mr Chijioke Stephen Obioha's case

Mr Obioha was convicted of trafficking in 2,604.56g of cannabis and sentenced to death on 30 December 2008. Mr Obioha was accorded full due process under the law. His appeal against conviction and sentence was dismissed by the Court of Appeal on 16 August 2010. After the amendments to the death penalty regime under the Misuse of Drugs Act came into effect on 1 January 2013, Mr Obioha was given the opportunity to elect to be considered for re-sentencing. He appeared before an Assistant Registrar in the High Court on 25 February 2013, during which time he confirmed that he did not wish to be part of the re-sentencing process, and that he understood the consequences of his decision.

On 13 May 2015, Mr Obioha's counsel filed a criminal motion in court for a stay of execution and to adduce fresh evidence for a review of his conviction. At the hearing of the criminal motion before the Court of Appeal on 14 May 2015, Mr Obioha changed his mind and elected to be considered for re-sentencing under the new death penalty regime. His request to adduce fresh evidence was rejected, but the Court of Appeal granted a stay of execution to allow Mr Obioha time to file an application for re-sentencing.

However at the hearing on 25 August 2016, Mr Obioha withdrew his re-sentencing application. The Court of Appeal subsequently notified Mr Obioha on 12 October 2016 that the stay of execution would be lifted on 24 October 2016 unless he demonstrated by noon on 21 October 2016 to the Court of Appeal's satisfaction that there was good reason not to do so. As Mr Obioha did not put any application before the Court of Appeal by the stipulated date, the Court of Appeal lifted the stay of execution on 24 October 2016.

On 16 November 2016, Mr Obioha's counsel filed a criminal motion in court for a stay of execution and to commute his death sentence to life imprisonment. The criminal motion was heard and dismissed by the Court of Appeal on 17 November 2016. Mr Obioha had more than ample time and opportunity to bring forth a criminal motion ahead of the time scheduled for his execution but chose not to. The Court of Appeal found that the sole purpose of the criminal motion application, made just before Mr Obioha's execution, was

to delay and prevent the execution of a sentence properly imposed by law, and to do so at the eleventh hour amounted to an abuse of the process of the court. Mr Obioha's sentence was carried out on 18 November 2016.

Capital punishment in Singapore is imposed after due judicial process and in accordance with the law. Mr Obioha was accorded consular access, represented by legal counsel at the proceedings, and given the opportunity to petition the President of the Republic of Singapore for clemency. The petitions for clemency filed by him through his counsel and by the High Commission of Nigeria were turned down after careful consideration.

There is currently no international consensus for or against the death penalty, including the mandatory death penalty, when it is imposed according to the due process of law. Diversity of States and the right of States to exercise their sovereignty in pursuit of their people's welfare are recognized principles, including in the UN. The adoption of OP1 in the 71st United Nations General Assembly resolution "Moratorium on the use of the death penalty" clearly and explicitly reaffirms the sovereign right of all countries to develop their own legal system.[1] The issue of capital punishment is a question that every state has the sovereign right to decide for itself, taking into account its own circumstances. Singapore respects the sovereignty of other nations to determine its own criminal justice system and expects the same in return.

Yours sincerely

FOO KOK JWEE
AMBASSADOR AND PERMANENT REPRESENTATIVE

[1] OP1 reads "Reaffirms the sovereign right of all countries to develop their own legal systems, including determining appropriate legal penalties, in accordance with their international law obligations."