

**Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE:  
AL NGA 3/2021

4 May 2021

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on extrajudicial, summary or arbitrary executions; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 44/5 and 43/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the arbitrary killings of a girl and of a young student reportedly perpetrated by the police, in Berger Iyana Oworo, Lagos State, and Nsukka town, Enugu, respectively.

According to the information received:

*Fatal shooting of a girl in Berger Iyana Oworo*

On 26 May 2020, at approximately 9 pm, officers from the Bariga Police Station, carrying out vehicular controls at Berger Iyana Oworo axis, stopped a bus carrying 3 passengers on board at Opelyeru Street near the Berger Iyana Oworo bus station. According to reports, a discussion ensued with the driver, reportedly over the payment of a bribe and, shortly after, one of the officers shot at the driver who suffered a non-fatal wound as a result. This triggered cries for help for the wounded bus driver and protests from passengers and bystanders against the police action. In response, one of the officers who was identified by witnesses as Assistant Superintendent [REDACTED], shot at the crowd to disperse the protest. As a result, [REDACTED], born on 1 April 2003 and therefore a child at the time, was fatally wounded and died in hospital shortly after. It is reported that a petition was submitted to the Attorney General of Lagos State to investigate the case. At present, no information is available on the results of such petition.

*Case of Mr. Augustine Ugwu*

On 23 April 2020, Mr. Augustine Ugwu, a 27 year-old, final year law student of the Nnamdi Azikiwe University, Awka, Anambra State, was reportedly arrested without charges on Odobido street of Nsukka town, Enugu, by a squad under the orders of local Anti-Cult Security (Police) operatives. According to witness accounts, Mr. Ugwu, together with a friend, was taking a drink in a bar of the area, when the security operatives stormed the shop and placed him under arrest. He asked his assailants to know the reasons of his arrest, but was told to keep quiet or he would be shot. He was beaten and, while being dragged away from the bar, reportedly shot in the leg by the leader of the squad, and driven by force to the police station in Nsukka, where he died in custody shortly after,

reportedly as a result of torture. Mr. Ugwu's father reportedly petitioned the Police's Inspector General asking that the case be investigated. At present, no information is available about the outcome of such petition.

While we do not wish to prejudge the accuracy of the information received, we wish to express our grave concern about the above-mentioned allegations which, if confirmed, would amount to violations of the right to life, as set forth in Article 3 of the Universal Declaration of Human Rights (UDHR); as well as in Article 6 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Nigeria in 1993, and, insofar as the case of the girl child is concerned, Article 6 of the Convention on the Rights of the Child, ratified in 1991. They could also be in violation of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment, as set forth in Article 5 of UDHR, Article 7 of the ICCPR, and Article 1 of the Convention against Torture and other cruel, inhuman or degrading treatment or punishment, ratified by Nigeria in 2001.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above mentioned allegations.
2. Please indicate whether any investigation has been conducted in connection with the above-mentioned allegations, particularly with a view to clarify all the circumstances of the death in both cases referred to above, that of [REDACTED], a child at the time of her death, and that of Mr. Ugwu. Please also clarify whether any investigation has been launched into the allegations of torture reportedly suffered by Mr. Augustine Ugwu.
3. Please provide detailed and updated information on the outcome of any such investigation, particularly in terms of accountability and victims' reparation, as appropriate. If no investigation has been conducted, please indicate why and explain how this is compatible with Nigeria's international human rights obligations.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Excellency, the assurances of our highest consideration.

Morris Tidball-Binz

Special Rapporteur on extrajudicial, summary or arbitrary executions

Nils Melzer

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

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to article 3 of the Universal Declaration of Human Rights which states that "Everyone has the right to life, liberty and security of person"; article 6 (1) of the International Covenant on Civil and Political Rights which provides that "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"; and article 6 of the Convention on the Rights of the child which states that "every child has the inherent right to life" and that States shall ensure "the survival and development of the child".

We wish to stress that the right to life is the supreme right from which no derogation is permitted. It is most precious for its own sake as a right that inheres in every human being, but it also constitutes a fundamental right, whose effective protection is the prerequisite for the enjoyment of all other human rights and whose content can be informed and infused by other human rights<sup>1</sup>.

Paragraph 1 of article 6 of the Covenant provides that no one shall be arbitrarily deprived of life and that this right shall be protected by law<sup>2</sup>. Accordingly, States parties have a duty to refrain from engaging in conduct resulting in arbitrary deprivation of life; and must also exercise due diligence to protect the lives of individuals against deprivations caused by persons or entities whose conduct is not attributable to the State<sup>3</sup>.

In particular, States parties are expected to take all necessary measures to prevent arbitrary deprivation of life by their law enforcement officials. This includes putting in place appropriate legislation controlling the use of lethal force by law enforcement officials, procedures to ensure that law enforcement actions are adequately planned to minimise risks to human life, mandatory reporting, review and investigation of lethal incidents, and supplying forces responsible for crowd control with effective, less-lethal means and adequate protective equipment in order to obviate their need to resort to lethal force<sup>4</sup>.

In particular, all operations of law enforcement officials should comply with relevant international standards, including the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and law enforcement officials should undergo appropriate training designed to inculcate these standards so as to ensure, in all circumstances, the fullest respect for the right to life<sup>5</sup>.

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<sup>1</sup> Human Rights Committee, General comment No. 36, Article 6: right to life (CCPR/C/GC/36): <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsrdB0H115979OVGGb%2bWPAXhNI9eOrX3cJImWwe%2fGBLmVrGmT01On6KBQgqmxPNiJrLLdefuuQjjN19BgOr%2fS93rKPWbCbgoJ4dRgDoh%2fXgwn>

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

States parties also have a heightened duty of care to take any necessary measures to protect the lives of individuals deprived of their liberty by the State, since by arresting, detaining, imprisoning or otherwise depriving individuals of their liberty, States parties assume the responsibility to care for their lives and bodily integrity<sup>6</sup>.

An important element of the protection afforded to the right to life by the Covenant is the obligation on the States parties, where they know or should have known of potentially unlawful deprivations of life, to investigate and, where appropriate, prosecute the perpetrators of such incidents, including incidents involving allegations of excessive use of force with lethal consequences<sup>7</sup>.

Investigations and prosecutions of potentially unlawful deprivations of life should be undertaken in accordance with relevant international standards, including the Minnesota Protocol on the Investigation of Potentially Unlawful Death, and must be aimed at ensuring that those responsible are brought to justice, at promoting accountability and preventing impunity. Investigations should explore, inter alia, the legal responsibility of superior officials with regard to violations of the right to life committed by their subordinates<sup>8</sup>. They must always be independent, impartial, prompt, thorough, effective, credible and transparent. In the event that a violation is found, full reparation must be provided, including adequate measures of compensation, rehabilitation and satisfaction. States parties are also under an obligation to take steps to prevent the occurrence of similar violations in the future<sup>9</sup>.

We emphasize that loss of life occurring in custody, in unnatural circumstances, creates a presumption of arbitrary deprivation of life by State authorities, which can only be rebutted on the basis of a proper investigation that establishes the State's compliance with its obligations under article 6. States parties also have a particular duty to investigate allegations of violations of article 6 whenever State authorities have used or appear to have used firearms or other potentially lethal force outside the immediate context of an armed conflict, for example, when live fire has been used against demonstrators, or when civilians have been found dead in circumstances fitting a pattern of alleged violations of the right to life by State authorities<sup>10</sup>.

We also wish to recall that international law provides for the absolute and non-derogable prohibition of torture and other ill-treatment. Under article 12 of the Convention against Torture, States are obliged to undertake an effective investigation whenever there are indications of torture or other ill-treatment, even without an express or formal complaint. States have an obligation to investigate in full compliance with the Istanbul Protocol as a procedural obligation, to ensure that measures taken are sufficient to determine whether torture or other ill-treatment has taken place and identify the perpetrator. Articles 12 and 13 of the Convention against Torture expressly require prompt or immediate investigations upon receipt of complaints of torture. Promptness relates not only to the time within which the investigation must be commenced, but also to the expediency with which it is conducted. The authorities must take whatever reasonable steps they can to secure the evidence concerning the incident,

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<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

including inter alia forensic evidence. Any deficiency in the investigation that undermines its ability to establish the cause of injury or the person responsible falls foul of this standard.