



OPEN LETTER TO:

Mr. Abubakar Malami, SAN

Attorney General of the Federation And Minister for Justice

Office of the AGF, Federal Ministry of Justice

Federal Secretariat Complex, Shehu Shagari Way

Central Area, FCT, Abuja, Nigeria

Dear AGF,

**Nigerian Constitution Still Wails At 56: Exposing Unconstitutional And Long Detention Without Trial By DSS Of Nigerian Citizens Including Comrade Chidiebere Onwudiwe And Other Unarmed IPOB Activists**

(Onitsha Nigeria, 2<sup>nd</sup> of October 2016)-It is with deepest dismay that the leadership of **International Society for Civil Liberties and the Rule of Law: INTERSOCIETY** write your public office through this public or open letter to inform you and other Nigerians and international watchers that the 1999 Constitution and the Rule of Law under your watch as “the Law Officer of the Federation” are gravely threatened, undermined, disrespected and battered particularly by the authorities of the Department of the State Security (DSS).

It saddens us, too, that **the Nigerian Constitution**, presently known as **the 1999 Constitution**, is still wailing after 56 years of its existence. As a responsible advocate of human rights, rule of law and constitutionalism in Nigeria, we stand condemned divinely, earthly, humanly and conscientiously if we watch idly and see the 1999 Constitution and the Rule of Law ***being systematically ridiculed, battered and bastardized*** with reckless abandon by the authorities of the DSS and other lawless security agencies in Nigeria.

As you may know, Dear AGF, we are fully aware of the state of criminal justice in Nigeria and its midwifery by the Constitution of the Federal Republic of Nigeria 1999, as amended in 2011, otherwise called “the 1999 Constitution”. Our writing you and your public office as “the Attorney General of the Federation” is not to ask for a favour, but to clearly and unambiguously remind you of your constitutional and statutory powers and duties as Nigeria’s Attorney General and task you to exercise the powers and perform the duties which the 1999 Constitution mandatorily direct you to do.

For the avoidance of doubt, Dear AGF, Section 150 (1) of the 1999 Constitution clearly provides as follows: *there shall be an Attorney General of the Federation who shall be the Chief Law Officer of the Federation and a Minister of the Government of the Federation.*

Further Sir, Section 174(1) of the 1999 Constitution directs that: *the Attorney General of the Federation shall have power:*

- (a) To institute and undertake criminal proceedings against any person before any court of law in Nigeria, other than a court martial, in respect of any offence created by or under any Act of the National Assembly;*
- (b) To take over and continue any such criminal proceedings that may have been instituted by any other authority or person (i.e. DSS); and*
- (c) To discontinue at any stage before judgment is delivered any such criminal proceedings instituted by him or any other authority or person.*

Section 174 (2) further directs that: *the powers conferred upon the Attorney General of the Federation under subsection (1) of this section may be exercised by him in person or through officers of his department.*

Section 174 (3) also states: *In exercising his powers under this section, the Attorney General of the Federation shall have regard to the public interest, the interest of justice and the need to prevent abuse of legal process.*

Our writing your public office therefore, is formidably predicated on the foregoing. This letter, too, comes on the heels of the 56<sup>th</sup> Independence Anniversary of the Federal Republic of Nigeria, which is one of the most important periods in the history of the country. The referenced Anniversary should also be a stock-taking by Nigeria's present political leaders particularly as it concerns cessation or stoppage of regime atrocities against the citizens such as the one warranting this letter.

To make the matter worse, Dear AGF, the constitutionalism and the rule of law being battered and bastardized with reckless abandon by the DSS and other lawless security agencies today are the foundation upon which Nigeria as an independent country was laid on 1<sup>st</sup> October 1960. As it was boldly written in the Independence Constitution of 1960, so it is in the present 1999 Constitution where its Preamble sacredly holds that "the Federal Republic of Nigeria is founded for the purpose of promoting the good government and welfare of all persons on the Principles of Freedom, Equality and Justice; and for the purpose of consolidating the unity of all Nigerians".

**Specific Reasons For Writing Your Public Office:** Your public office may be aware that the Nigerian security forces particularly the Nigerian Army, the Nigeria Police Force and the DSS had since August 2015 launched a widespread violent crackdown on nonviolent and unarmed Pro Biafra activists particularly members and supporters of the Indigenous People of Biafra (IPOB) leading to the death of as much as 250 of them and wounding of over 300 others. Over 100 of them are still languishing in various security prisons and detention facilities across the Southeast and the South-south of Nigeria under "committal proceedings" or "Holden Charge". Dozens of others have also gone missing or disappeared. Scores have been killed in detention; while 4.8 out of every 5 Pro Biafra activists arrested by the DSS, the Army and the Police are gravely tortured.

The massacre of as much as 250 Pro Biafra activists particularly IPOB members took place in eight different locations in the Southeast and the South-south of Nigeria. Two most horrible of the massacre was carried out in Aba, Abia State on 9<sup>th</sup> of February 2016 when the security forces forced their way into a perimeter fenced public secondary school compound where IPOB activists were singing and praying and opened fire on them, killing at least 22 and injuring over 30 others. The second most horrible, which is also most bloody of all took place at Nkpor in Anambra State and Asaba in Delta State on 30<sup>th</sup> of May 2016 during which as much as 140 Pro Biafra activists and other members of the public who converged to mark their heroes day were massacred; with over 130 others terminally shot and injured. Pieces of evidence abound.

As if that was not enough, the security forces particularly the DSS have gone further to clamp down surviving IPOB activists in Nigeria leading to indiscriminate raiding of their homes and sleeping abodes particularly in the dead of the night or hours of the blue law. Those abducted in their sleep by DSS are detained incommunicado for months without trial. Because the DSS finds nothing incriminating on them on account of their group's nonviolence stance, the authorities of the DSS are strongly believed to routinely torture them to self-criminate themselves of being "terrorists"; a stigma DSS uses to hunt and abduct them.

Some of those abducted are shot and wounded at sight before they are taken away and detained incommunicado for months without trial. Recently, a list of wanted IPOB activists compiled by the DSS in Abuja was leaked to the media; containing 45 IPOB activists and their wives who reside locally and internationally. For instance, the nursing mother and wife of detained IPOB leader, Mrs Uchechi Kanu was among those in the DSS wanted list. The link below contains the referenced wanted list: <http://www.igberetvnews.com/67487>. <http://www.otimestv.com/2016/09/shocking-sss-releases-list-of-wanted.html>.

**IPOB Activists Being Held Without Trial: (1) Comrade Chidiebere Onwudiwe:** A Mechanical Engineer by training, he is the National Coordinator of IPOB in Nigeria. He was arrested in his sleep by DSS operatives in the late night of 22<sup>nd</sup> of June 2016, in Rumukurushi area of Port Harcourt, Rivers State in South-south Nigeria. Comrade Chidiebere Onwudiwe has been held incommunicado and denied access to his family and lawyers till date; a period of 100 days. On 30<sup>th</sup> of July 2016, the authorities of DSS issued a public statement, labeling him "a terrorist"; claiming that "he was arrested while planning to bomb Computer Village in Lagos"; a claim strongly resisted by human rights groups and the media. Mr. Chidiebere Onwudiwe is not only unarmed and nonviolent, but he is also well known to local and international human rights groups and media as well as members of the diplomatic community. Till date, the authorities of the DSS have neither granted him administrative bail nor charged to court. It is most likely he is undergoing intense torture to self-implicate himself and admit being "a terrorist" as he was so labeled. The link below contains the DSS statement declaring him "a terrorist": <http://www.sirkenayo.com/dss-uncovers-plans-by-ipob-members-others-to-bomb-computer-village-lagos-attack-worship-centres-parks/>

(2) **Comrade Justice O. Udeh:** An IPOB official in Aba, Abia State, Southeast Nigeria. He was abducted in his sleep by the DSS operatives in the late night of 13<sup>th</sup> of July 2016 in a place he had gone to pass a night near Port Harcourt in Rivers State. He has been held incommunicado and denied access to his family and lawyers since then; a period of 80 days. He is strongly believed to be

undergoing intense torture to force him admit falsely of being a “terrorist”. Till date, over 80days in DSS custody; he has neither been charged to court nor granted administrative bail.

(3) **Comrade Sunday Chuks Obasi:** An IPOB official in Nnewi, Anambra State, Southeast Nigeria and coordinator of the Nnewi-Ichi IPOB Unit; he was abducted in his sleep by DSS in the late night of 16<sup>th</sup> of August 2016 in his Amuwo-Nnewi residence, after he was trailed from Port Harcourt in Rivers State. He was shot at his two legs before being abducted by the DSS operatives. He has been held incommunicado and denied access to his family and lawyers till date, a period of 46 days; he has remained in the DSS custody without trial/charge or administrative bail. His gunshot wounds and general health conditions have also remained sketchy till date.

(4) **Comrade Ikechukwu Ugwuoha:** He is the Abia State Coordinator of IPOB and was arrested barely over two weeks after he, alongside 19 other IPOB members including six married women were released from the Aba Prisons on 11<sup>th</sup> of August 2016 after remanded for over five months for their involvement in the 9<sup>th</sup> of February 2016 prayer rallies in the Premises of the National High School, Aba, during which soldiers stormed the venue and opened fire, killing 22 of them. Comrade Ugwuoha, alongside four others was trailed from Gwagwalada area of Abuja by DSS where they had gone to see the detained leader of IPOB, Mr. Nnamdi Kanu at Kuje Prison.

Their commercial bus was trailed to Ugba Junction near Aba in Abia State and ambushed at about 7.30am on 26<sup>th</sup> of August 2016 by the operatives of the DSS, supported by soldiers and police. Comrade Ugwuoha, alongside four others, was moved to the temporary headquarters of the 144 Battalion of the Nigerian Army and tortured for hours before they were taken to the Umuahia Directorate of the DSS; from where they were moved to the Abuja Headquarters of the DSS and detained incommunicado till date. He has been held for 36 days without trial or administrative bail.

(5) **Comrade Ugochukwu Asochukwu:** He was arrested alongside Comrade Ikechukwu Ugwuoha and three others by the DSS on 26<sup>th</sup> of August 2016 and held incommunicado without trial or administrative bail; a period of 36 days.

(6) **Comrade Sunday J. Okafor:** He was arrested alongside Comrade Ikechukwu Ugwuoha and three others by the DSS on 26<sup>th</sup> of August 2016 and held incommunicado without trial or administrative bail; a period of 36 days.

(7) **Comrade Ekene Onuoha:** He was arrested alongside Comrade Ikechukwu Ugwuoha and three others by the DSS on 26<sup>th</sup> of August 2016 and held incommunicado without trial or administrative bail; a period of 36 days.

(8) **Comrade Joseph Okorie:** He was arrested alongside Comrade Ikechukwu Ugwuoha and three others by the DSS on 26<sup>th</sup> of August 2016 and held incommunicado without trial or administrative bail; a period of 36 days.

Other names contained in the DSS list of wanted IPOB activists are: Sunday Onyekachi, Ogechukwu Obiorah, Ann Okafor, Amaechi Sunday Kanu (Sheffield, UK), Dickson Ekene, Ndidi Ojukwu, Emma Powerful, Emma Nmezu, Uchechi Kanu (London, UK: Nnamdi Kanu’s wife and nursing mother), Sidney Okoli (Mollorca, Spain), Andy Obeche, Ifriam Ezeiwu, Chukwuemeka Mfon, Ikenna Sunday

Egono, Chijioke Ekwueme, Godwin Osinachi, Udoka Amarachi (Dortmund, Germany), Uche Martin Doludo, Nduka Enuma, Ambrose Ero and Clifford Mbamere.

Others are: Andy Obina Okafor, Stephen Oko (Uk), Onyeka Joseph, Eric, Dike Benson, Uche Emmanuel Uche, Udoka Okechukwu David, Martins (Austria), Michael Chidi Okafor, Daniel Ifeanyi (USA), Roland Abumere, Kenneth Uche Opara, Emenike Anyanwu, Obinwanne Markson Chukwujekwu, Chukwu I Ojiugo, Ezinwanne Mba, Jeff Amechi, etc. The link to the DSS list of wanted IPOB members is contained here: <http://www.otimestv.com/2016/09/shocking-sss-releases-list-of-wanted.html#more>.

As we write, the authorities of the DSS have refused to communicate the families and lawyers of the detained citizens as it concerns offences under which they are being held without trial or put them on notice of any court process undertaken. As a matter of fact, none of the detained citizens has been arraigned or put on trial till date. No records of court remands have been traced to any court in Nigeria.

Dear AGF, by the combined provisions of Sections 150 and 174 of the Constitution of the Federal Republic of Nigeria 1999, as amended in 2011, you are not only “the Chief Law Officer of the Federation”, but also “the Chief Prosecuting Officer of the Federation”. That is to say that it is your duty, mandatorily and constitutionally, to ensure that “all officers of the law” in Nigeria are compelled at all times in accordance with the provisions of the 1999 Constitution to conform to, observe, apply and obey the provisions of the 1999 Constitution in the course of processing citizens taken into custody on suspicion of committing criminal offences. This is more so when the Constitution in its Section 174 (3) firmly directs you to “prevent abuse of legal process” and give due regard to public interest and interest of justice in the course of carrying out your duties and exercising your constitutional powers.

As you are aware Sir, **Section 3 of Nigeria’s Criminal Code Act of 2004** clearly provides for **three categories of offense** in Nigeria. They are: **felony, misdemeanour and simple offences**. The Criminal Code Act further defines felony **as any offence which is declared by law to be a felony, or is punishable, without proof of previous conviction, with death or with imprisonment for three years or more**.

On the other hands, Misdemeanour offences attract judicial punishment of maximum of three years imprisonment or less; and Simple offences such as strict and statutory liability offences attract a maximum of six months imprisonment or less. In other words, crimes in Nigeria are categorized according to their sentencing categories.

As you are further aware Sir, **for a crime or an offense (i.e. felony and misdemeanour)** to be alleged to have been committed by a citizen in any part of the world including Nigeria, there must be alleged **guilty act (actus reus)** and alleged **guilty mind (mens rea)**. Also for an offense to be truly called **offense** or a crime truly called **crime**; there must be presence of **seven elements of crime: harm, legality, actus reus, mens rea, causation, concurrence and punishment**. For **an act or omission** to be called **a crime or an offense**, there must be concurrence and concordance of **actus reus and mens rea**. In other words, where there is **criminal intention (mens rea)** without **criminal act (actus reus)**, an offense has not been committed; except in **strict and statutory liability offenses**

such as traffic offenses; where only **guilty act (actus rea)** is judicially required to secure conviction or sanction.

By Section 36 (8) of the 1999 Constitution: **no person shall be held to be guilty of an offence on account of any act or omission that did not, at the time it took place, constitute such an offence, and no penalty shall be imposed for any criminal offence heavier than the penalty in force at the time the offence was committed.**

By Section 36 (12) of the same Constitution: **subject as otherwise provided by this Constitution, a person shall not be convicted of a criminal offence unless that offence is defined and penalty therefore is prescribed in a written law, such as an Act of the National Assembly or a Law of a State.**

**Section 42 of the 1999 Constitution (right to freedom from discrimination)** expressly and inexcusably forbids your public office and subordinate processors (i.e. Police and DSS) of accused, arrested and detained citizens in Nigeria (i.e. detained IPOB activists) from processing or detaining their captives on grounds of their ethnic group, place of origin, religion, sex, class or political opinion.

Very importantly Sir, the Constitution of the Federal Republic of Nigeria 1999, as amended in 2011 is **supreme and above all other laws, authorities and persons.** It is also **the general overseer** of all other laws in the country. The inferiority of **all other laws in Nigeria** to the 1999 Constitution is expressly contained in Section 315 of the 1999 Constitution, which clearly directs as follows: **subject to the provisions of this Constitution, an existing law (i.e. an Act of the National Assembly, a Law of a State, a Decree, or an Edith) shall have effect with such modifications as may be necessary to bring it into conformity with the provisions of this Constitution.**

The **supremacy** of the 1999 Constitution over all other laws, authorities and persons is expressly contained in its Section 1 (1), which provides as follows: **this Constitution is supreme and its provisions shall have binding force on all authorities and persons throughout the Federal Republic of Nigeria.** The Constitution further directs in its Section 1 (3) that **if any other law is inconsistent with the provisions of the Constitution, this Constitution shall prevail, and that other law shall to extent of the inconsistency be void.**

Honourable AGF Sir, it plainly follows that (1) where an Act of National Assembly rises in conflict with provisions of the 1999 Constitution, the 1999 Constitution expressly prevails and the said Act fails woefully; (2) where an existing military decree rises in conflict with an Act of the National Assembly and the 1999 Constitution, the former fails woefully on two fronts; and where a Law of a State or an Edith rises in conflict with an Act of the National Assembly and the 1999 Constitution, the former fails woefully on two fronts as well.

For the avoidance of doubt Sir, Section 4 (5) of the 1999 Constitution expressly holds as follows: **if any Law enacted by the House of Assembly of a State is inconsistent with any law validly made by the National Assembly, the law made by the National Assembly shall prevail and that other Law shall to the extent of the inconsistency be void.** In the area of **decided cases**, it is not different. For instance, in the Supreme Court of Nigeria's landmark verdict in: **Abacha and Others v Fawehinmi (2001) AHRLR 172 (NgSC 2000)**; it was declared that "the *African Charter on Human & Peoples*

**Rights (ACHPR)** is superior to any ordinary legislation in Nigeria, but subject to the 1999 Constitution”.

From the above extensive constitutional and statutory citations Sir, it is elementarily clear that Nigeria’s body of laws contain clear procedures and processes within modern democratic practices for processing citizens accused of committing crimes of whatever category; yet those charged with the application of these laws have chosen to observe them in breach with reckless abandon and under your watch; to the extent that the hallowed supremacy of the Constitution has been grossly undermined and torn to shreds by the authorities of the DSS with your public office watching and doing nothing. As it is expressly observed from the above citations, the Nigeria’s body of criminal laws totally forbid **trumped charges or accusations or trial-by-ordeal**; yet the authorities of the DSS are applying them with reckless abandon particularly in the instant case.

By Nigeria’s body of criminal laws and the 1999 Constitution, citizens accused, arrested and detained on suspicion of committing misdemeanours shall not be detained for more than 48hrs without trial and those accused, arrested and detained on suspicion of committing offences (i.e. treason, treasonable felony, terrorism, asportation (“kidnapping”), armed robbery, etc) involving grievous punishments (i.e. death penalty, life imprisonment or 14yrs imprisonment and above) shall not be detained without trial or court bail for more than 60days.

If they are accused, arrested and detained without trial for 90days, the Constitution directs for their discharge on assumption that “they have no case to answer or that the State has no indictable evidence to try then”. The long period of detention in the latter instance is designed to give criminal investigators enough time considering the gravity of the offences alleged to have been committed; provided such detention is sanctioned by a law court with exhaustible period of time.

For the avoidance of doubt Sir, Section 35 (4) (a) (b) of the 1999 Constitution (**right to personal liberty**); clearly states as follows: *any person who is arrested or detained in accordance with sub section 1 (c) of this section shall be brought before a court within a reasonable time, and if he is not tried within a period of:*

*(a) two months from the date of his arrest or detention in the case of a person who is in custody or is not entitled to bail;*

*(b) three months from the date of his arrest or detention in the case of a person who has been released on bail, he shall (without prejudice to any other further proceedings that may be brought against him) be released either unconditionally or upon such conditions as are reasonably necessary to ensure that he appears for trial at a later date”.*

The literal meaning of the above is that no citizen shall be held or detained by any policing or securitization agency in Nigeria continuously for 60days without charge or trial or bail; and if such citizen is granted bail, but not tried within 90days, he or she shall be discharged of the accusation.

Further Sir, Sections 293, 294, 295 and 296 of the **Administration of the Criminal Justice Act, 2015**, are our further guide in the instant case. Your attention is drawn to its **Detention Limits of Arrested Citizens** in **Part 30**. Section 293 (1) provides as follows: *A suspect arrested for an offence which a Magistrate Court has no jurisdiction to*

*try shall within a reasonable time of arrest be brought before a Magistrate Court for remand.*

*Section 293 (2): An application for remand under this section shall be made ex parte and shall:*

- (a) Be made in the prescribed "Report and Request for Remand Form", as contained in Form 8, in the First Schedule to this Act; and*
- (b) Be verified on oath and contain reasons for the remand request.*

*Section 294 (1): Where the Court, after examining the reason and for the request for remand in accordance with the provisions of Section 293 of this Act, is satisfied that there is probable cause to remand the suspect pending the receipt of a copy of legal advice from the Attorney General of the Federation and arraignment of the suspect before the appropriate Court, as the case may be, may remand the suspect in custody.*

*Section 294(2): In considering whether "probable cause" has been established for the remand of a suspect pursuant to subsection (1) of this section, the Court may take into consideration the following:*

- (a) The nature and seriousness of the alleged offence;*
- (b) Reasonable grounds to suspect that the suspect has been involved in the commission of the alleged offence;*
- (c) Reasonable grounds for believing that the suspect may abscond or commit further offence where he is not committed to custody; and*
- (d) Any other circumstance of the case that justifies the request for remand.*

*Section 295: The Court may, in considering an application for remand brought under Section 293 of this Act, grant bail to the suspect brought before it, taking into consideration the provisions of Sections 158 to 188 of this Act relating to bail.*

*Section 296(1): Where an order of the remand of a suspect is made pursuant to Section 293 of this Act, the order shall be for a period not exceeding fourteen days in the first instance, and the case shall be returnable within the same period.*

*Section 296 (2): Where, on application in writing, good cause is shown why there should be an extension of the remand period, the Court may make an order for further remand of the suspect for a period not exceeding fourteen days and make proceedings returnable within the same period.*

*Section 296 (3): Where the suspect is still in custody on remand at the expiration of the period provided for under subsection (1) or (2) of this section, the Court may, on application of the suspect, grant bail in accordance with the provisions of Sections 158 to 188 of this Act relating to bail.*

*Section 296 (4): At the expiration of remand order made pursuant to subsection (1) or (2) of this section, and where the suspect is still remanded with his trial having not commenced, or charge having not been filed at the relevant court having jurisdiction, the court shall issue a hearing notice:*

- (a) The Inspector General of Police (IGP) and the Attorney General of the Federation (AGF); or*
- (b) The Commissioner of Police of a State (CP) or of that of FCT or the AGF as case may be; or*

- (c) *Any relevant authority in whose custody the suspect is or at whose instance the suspect is remanded, and adjourn the matter within a period not exceeding fourteen days of the expiration of the period of the remand order made under subsection (1) or (2) of this section, to enquire as to the position of the case and for the IGP or the CP and the AGF to show cause why the suspect remanded should not be unconditionally released.*

Section 296 (5): *Where the IGP or the CP and the AGF show good cause pursuant to subsection (4) of this Section and make a request to that effect, the Court:*

- (a) *May extend the remand of the suspect for a final period not exceeding fourteen days for the suspect to be arraigned for trial before an appropriate court; and*  
(b) *Shall make the case returnable within the said period of fourteen days from the date the hearing notice was issued pursuant to subsection (4) of this section.*

Section 296 (6): *Where good cause is not shown for the continued remand of the suspect pursuant to subsection (4) of this section, or where the suspect is still on remand custody after the expiration of the extended period under subsection (5), the Court shall, with or without an application to that effect, forthwith discharge the suspect and the suspect shall be immediately released from custody.*

Section 296 (7): *No further application for remand shall be entertained by any court after the proceeding in subsection (6) of this section.*

Sir, the literal meaning of the above is that no citizen arrested of any grievous crime, whether true or false, shall be detained in any detention custody in Nigeria without a valid court remand grounded in legitimate legal process and fair hearing (i.e. putting the detained citizen's lawyers and family on notice). The maximum period allowed for such detention for the purpose of continuation and conclusion of investigation is a total of 56days segmented into "four-two weeks" and that if at the expiration of the said maximum of 56days, the citizen is not put on trial before a High Court of a State, a High Court of the FCT or a Federal High Court, he or she shall be discharged by the Court that issued the remand order and **no further application for remand shall be entertained by any court in Nigeria.**

It is therefore shocking as to where the authorities of the DSS derive powers and authority to arrest and detain citizens for over 60days without trial or administrative bail. The source of powers under which the DSS detains citizens incommunicado without access to their lawyers and families is also unknown to the 1999 Constitution. The Constitution in its Section 36 (5) (6) guarantees the arrested and detained citizens their inalienable rights to fair hearing including access to their lawyers and families and presumption of innocence until found guilty by a court of competent jurisdiction.

Even if the authorities of the DSS claim that Comrade Chidibere Onwudiwe and his colleagues are being held incommunicado under the infamous Section 27 (1) of the ***Terrorism Prevention Act of 2011 as amended in 2013***, which unconstitutionally provides as follows: the Court may, pursuant to an ex parte application, grant an order for the detention of a suspect under this Act for a period not exceeding 90 days subject to renewal for a similar period until the conclusion of the investigation and prosecution of the matter that led to the arrest and detention is dispensed with; it is dead on arrival.

This is on account of clear provisions of Section 1 (3) of the 1999 Constitution, which directs that: **if any other law is inconsistent with the provisions of the Constitution, this Constitution shall prevail, and that other law shall to extent of the inconsistency be void.** The infamous provision under reference is also grossly inconsistent with Section 35 (4) (a) (b) of the Constitution as well as Section 293, 294, 295 and 296 of the Administration of the Criminal Justice Act, 2015.

**Our Demands:**

- 1. In view of the fact that Comrades Chidiebere Onwudiwe and Justice O. Udeh are no longer triable having being arrested on 22<sup>nd</sup> June and 13<sup>th</sup> July 2016 and detained incommunicado for 100days and 80days respectively; your public office is called upon to direct the authorities of the DSS to release them unconditionally and discharge them as well. Your office should also ensure that they are not tried in any court in Nigeria and specifically file Nolle Prosequi (we shall no longer prosecute) application where reverse is the case.***
- 2. Direct the authorities of the DSS to free other IPOB members held in their custody including Comrades Sunday Chuks Obasi, Ikechukwu Igwuoha, Ugochukwu Asochukwu, Sunday J. Okafor, Ekene Onuoha and Joseph Okorie and ensure cessation of the DSS clamp down on IPOB activists across the country particularly in the Southeast and the South-south of Nigeria.***
- 3. File Nolle Prosequi (we shall no longer prosecute) applications in any court in Nigeria where Pro Biafra associated cases are pending and get over 100 Pro Biafra activists languishing in various prisons and other detention facilities freed unconditionally.***
- 4. Advice the authorities of DSS, Army and Police against criminalizing and stigmatizing constitutional rights to peaceful assemblies and associated constitutional liberties in Nigeria and channel their energies towards curbing the ceaseless menaces of armed opposition groups like Boko Haram and Fulani terror groups and other violent entities in Nigeria.***
- 5. Direct all the security and law enforcement agencies in Nigeria to adhere strictly to the provisions of the 1999 Constitution and the Principles of the Rule of Law in processing their arrested and detained citizens and ensure that their detainees are not tortured or killed in custody or detained for periods not allowed by the Constitution.***
- 6. Direct same to stop all forms of indiscriminate arrest and detention of Nigerians without trial and ensure they refrain from shooting citizens who are unarmed and nonviolent at the point of their arrest or in the course of exercise of their constitutionally guaranteed liberties such as rights to personal liberty, movement, expression, association, assembly, etc.***
- 7. Direct same to ensure at all times that their detainees are allowed access to their families and lawyers as well as ensuring that they are detained under good sanitary conditions and giving them access to proper medication.***
- 8. Identify all inconsistent and incoherent laws insulting and rubbing shoulders with scared provisions of the 1999 Constitution such as infamous Section 27 (1) of the Terrorism Prevention Act of 2011, as amended in 2013 and forward them to the National Assembly by way of Executive sponsored Bills to get them amended or modified in accordance with Section 315 (1) of the 1999 Constitution.***

**Note Sir:** This open letter is communicated to you through your personal email as well as your office email.

**Thank You.**

**Yours in the Service to Humanity:**

**(a)Emeka Umeagbalasi, B.Sc., Criminology & Security Studies; M.Sc. (c), Peace & Conflict Studies**

**Board Chairman, International Society for Civil Liberties & the Rule of Law-*INTERSOCIETY***

**Mobile Line: +2348174090052**

**Email: [info@intersociety-ng.org](mailto:info@intersociety-ng.org)**

**Website: [www.intersociety-ng.org](http://www.intersociety-ng.org)**

**(b)Obianuju Igboeli, Esq., LLB, BL; LLM (c)**

**Head, Civil Liberties & Rule of Law Program**

**Mobile Line: +2348034186332**

**(c)Chinwe Umeche, Esq., LLB, BL**

**Mobile Line: +2347013238673**

**Head, Democracy & Good Governance Program**

