



Public Interest Memo To:

**Prof Yemi Osinbajo, SAN
Acting President of Nigeria & Commander-in-Chief of the Armed Forces
Presidential/Aso Rock Villa, Three-Arms-Zone
Abuja, Federal Capital Territory, Nigeria
Sir,**

Public Interest Memo Seeking For Criminal Actions Against Gen Buratai And Other Perpetrators Of Heinous Crimes/Gross Rights Abuses In Nigeria And Allied Matters (2)

(Intersociety, Nigeria, 1st July 2017)-It is recalled that the leadership of our Organization (Int'l Society for Civil Liberties & the Rule of Law: www.intersociety-ng.org) had two days ago (29-6-2017) written and successfully submitted a 17-page detailed memo to Prof Yemi Osinbajo, SAN, in his official capacity as the Acting President of Nigeria & Commander-in-Chief of the Armed Forces.

The memo seeks to draw his Government's attention formally or officially to raging gross abuses of human rights in Nigeria and associated heinous crimes especially since 29th May 2015 when the sixth central civilian Government which he now heads in acting capacity came on board. For easy public reading, comprehension and analysis, the memo was segmented with its first part published same date. The link to it is here: <http://www.intersociety-ng.org/.../263-gross-abuses-of-human-...>

Thankfully, the special memo which was copied electronically to over 30 national and international institutions, bodies and respected personalities for their immediate attention and necessary diplomatic and int'l oversight actions have already generated prompt responses and acknowledgments particularly from international bodies and members of the diplomatic community copied. Among those that have responded or acknowledged are Office of the Prosecutor for Int'l Criminal Court in Hague, the Netherlands; the US Consulate in Abuja and the Right Hon Boris Johnson, MP and UK Secretary of State for Foreign & Commonwealth Affairs.

Below is a reply received from the ICC, dated 30th June 2017 at 11.17am:

“Dear Sir/Madam, Thank you for your message. Please note that the International Criminal Court has a very limited jurisdiction. The Court may only address the crimes of genocide, crimes against humanity, and war crimes as defined by Articles 6 to 8 of the Rome Statute that have occurred after 2002, and can only exercise jurisdiction in the countries that have ratified it. For more information on the Court’s jurisdiction and the full text of the Rome Statute, please refer to page 2 of the attached document and our website as well as our address, www.icc-cpi.int.

We encourage you to carefully review this information. If, after your careful review, you still believe the ICC is the correct place for your case and would like to submit a claim to the Court, then please follow the directions for how to do so on page 1 of the attached document. If you decide to submit information, kindly use only this email address: otp.informationdesk@icc-cpi.int.

Kind regards, OTP

Information Desk International Criminal Court”

The second part of the special memo is continued as follows:

- *Nigeria’s regional and international obligations to its citizens in non-war situation or peacetime:*

Nigeria as a State Party to UN and AU is strictly bound by numerous regional and international human rights treaties or conventions including the African Charter on Human & Peoples’ Rights (ACHPR) of 1981, ratified and domesticated in 1983; the UN Covenants on Civil & Political Rights (ICCPR); and Economic, Social & Cultural Rights of 1976 (ICESCR), ratified in 1993. Nigeria is also a State Party to UN’s anti Genocide and Torture Conventions of 1948 and 1985 respectively as well as the UN’s Women and Child’s Rights Conventions of 1984 and 1990 respectively, to name but a few.

Sir, Nigeria as a leading member of the UN and international community is also bound by the Basic Standards of International Law & Humanitarian Principles. Under this are the ten basic rules or standards for policing public and peaceful assemblies in any member-State; which expressly recognize the rights of the citizens of all Member-States of the UN including Nigeria, to peaceful assemblies and expressions other than armed conflict and strictly outline ways through which these assemblies shall be managed or policed by policing agencies excluding the army.

Under the ten basic standards of international law made mandatory for policing agencies of Member-States of the UN for management of civil assemblies and free speeches as well as arrest, detention and prosecution of citizens accused of commission of municipal crimes of relevant municipal code definitions; the following rules must be observed and strictly applied:

(1) everyone is entitled to equal protection of the law without discrimination on any grounds, especially against violence or threat.; (2) treat all victims of crime with compassion and respect, and in particular protect their safety and privacy; (3) do not use force except when strictly necessary and to the minimum extent required under the circumstances; (4) avoid using force when policing unlawful but nonviolent assemblies; (4) when dispersing violent assemblies, use force only to the minimum extent necessary (i.e. in line with proportionate use of force and avoidance of application of excessive force on unarmed but violent or aggressive assemblies).

Others are (5) lethal force should not be used when arresting nationals suspected of committing municipal or local crimes except when strictly unavoidable in order to protect your life or lives of others; peaceful or provoked violent assemblies do not amount to commission of municipal crimes other than insurrection, mutiny or armed struggle; (6) arrest no person unless there are legal grounds to do so and ensure that the arrest is carried out in accordance with lawful arrest procedures; (7) ensure that all detainees have access, promptly after arrest to their families and legal representatives and to any necessary medical assistance; (8) all detainees must be treated humanely and avoid infliction, instigation or toleration of any act of torture in any circumstance and refuse to obey order to do so; (9) do not carry out, order or cover up extrajudicial executions or disappearances of the arrested or the detained and refuse to obey any order to do so; (10) report all breaches of these basic standards to your senior officers and to the office of the public prosecutor and do everything within your powers to ensure steps are taken to investigate these breaches.

In policing or managing such civil assemblies and free speeches, particularly if they become uncontrollable and capable of breaching public peace and safety, policing agencies and their officers must apply the following modern crowd control methods or kits and equipment: tear gas, rubber bullets, pepper spray, electric tasers, batons, whips, water cannons, long range acoustic devices, aerial surveillance, police dogs, etc; and they must be bodily aided or protected by body protective devices such as anti crowd helmets, face visors, body armor (i.e. vests, neck protectors, knee pads, etc), gas masks and anti crowd shields. Sir, it is crystal clear from the above that these fundamental rules were observed in grave breach in the instant case.

** Regional and international obligations of Nigeria to its citizens under armed conflict or war situation:*

Under circumstances of war or situations of widespread or clustered internal conflict, Sir, the military and humanitarian handling or management of same are strictly regulated regionally and internationally. On humanitarian and use of force aspects, Nigeria is a party to UN Statute on Refugee of 1951 and allied treatments of IDPs. Nigeria is also a State Party to the Statute of the International Criminal Court of 1998. Nigerian armed forces and police are also strictly bound by the UN's Code of Conduct for Law Enforcement Officials of 1979 and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials of 1990.

In the area of intra and inter-State armed conflicts, Nigeria is bound by the Geneva Conventions or Laws of War of 1949 and their Four Protocols including the doctrine of rules of engagement and its principles of use of force, self defence, and others already highlighted above. Nigeria is also a State Party to anti Genocide and anti Torture Conventions of 1948 and 1985 respectively. Sir, as you may professorially be aware or unaware, the Rules of Engagement traditionally and universally associated with internal and inter -State violent or armed conflicts or wars are the integral part of the Geneva Conventions of 1949 or Laws of War and their Four Protocols of 1977.

They originally came from the three war related doctrines of Jus Ad Bellum (justification and ground for going to war); Jus In Bellum (ethical rules of conduct during war, such as ethical standards expected of soldiers or combatants in wartime or rules of engagement); and Jus Post Bellum (regulations on how wars are ended and facilitation of transition from war to peace). Another name for the Rules of Engagement is the Standard Rules for the People of the War. The People of the War here literally means parties in the conflict who occupy the conflict areas such as fighting parties, non-combatants or civilians or IDPs and Refugees as well as other third parties directly or indirectly participating or affected by the conflict.

Further, Sir, key features of the internationally standardized Rules of Engagement strictly applicable in war or conflict situations are (1) legitimate use of force, (2) proportionality of use of force, (3) legitimate self defense, (4) treatment of prisoners of war or conflict, (5) avoidance of attacks on non-military necessity or civilian targets or properties, (6) avoidance of attacks on civilians or non-combatants, (7) treatment of the wounded, (8) avoidance of attacks on culture symbols or places of worship, (9) avoidance of attacks on humanitarian agencies and personnel/human rights activists; (10) treatment of other peoples of the war (i.e. spies and journalists).

- *Nigeria's obligations to UN and its citizens under UN System:*

Sir, the UN's new concept of sovereignty as a responsibility or citizens' sovereignty and maintenance of international peace and security as the core foundation of the Purposes of the 193-member Organization; is inviolably binding on Nigeria as a key Member-State. Nigeria is also bound by the Customary International Law under UN System particularly those that are inviolable by virtue of their doctrine of "substantial uniformity by substantial number of States" or "Opinio Juris".

Example of UN and Int'l Law's hallowed doctrine of Opinio Juris or substantial uniformity by substantial number of States is a general belief binding on all Member-States of UN that a non-treaty is legally binding on States. Also, Nigeria as a leading and one of the most populous UN Member-States is inexcusably bound by the principle of "Jus Cogens" (i.e. absolute rules of general international law binding on UN Member-States for which no derogation is permitted). These include use of crude, deadly or asymmetric force against vulnerable and unarmed populations; perpetration of genocide, war crimes, and crimes against humanity; massacre of unarmed and defenseless citizens in non war situations, slavery, torture, etc.

- *Reasons for Writing:*

It shocks and saddens us; Sir that till date no single person in connection with these atrocious crimes above mentioned has been punished or arrested and prosecuted by the present Federal Government of Nigeria which you now head in acting capacity. The living victims or survivors and families and relatives of the slain have also been totally abandoned with several of them passing through post traumatic stresses and disorders. It is totally saddening that the present central Government now under your acting leadership has turned blind eyes; in addition to conspiracy of silence maintained by Nigeria's leading human rights groups and activists particularly those concentrated in Lagos and environs.

There have been several researched and thoroughly investigated reports by leading international and local human rights groups especially by Amnesty Int'l, Human Rights Watch and Int'l Society for Civil Liberties & the Rule of Law and in spite of their several calls on the present central Government to fish out and bring the culprits to book and punish them accordingly and adequately compensate the living victims or survivors and dead victims through their families or relatives, nothing of such has happened till date. As a matter of fact, Sir, the perpetrators are still on the prowl with impunity.

For the avoidance of doubt Sir, there are special reports by Amnesty International and Human Rights Watch on Shiite Muslims' massacre in Zaria as well as in-house investigations carried out by the authorities of the Shiite Muslims. Till date, the leader of Shiite Muslims in Nigeria, Sheik Ibrahim Zaky El-Zaky and his wife-Malama Zeenatu are still being detained incommunicado or without trial or bail since 14th December 2015; a period of 18 months. While the Shiite leader got shot and battered with eighteen live bullets removed from his body, his wife had four live bullets removed from her body as well (source: IMN leadership 2016).

The following are links to AI and HRW reports: <https://www.amnesty.org/.../nigeria-military-cover-up-of-mass...>, <https://www.hrw.org/.../.../nigeria-army-attack-shia-unjustified>, (<https://www.amnesty.org/.../nigeria-crackdown-and-shrinking-.../>), <https://www.amnesty.org/.../amnesty-international-annual-rep.../>.

The link to IMN's in-house investigation is here: <https://ournaijablog.wordpress.com/.../zaria-massacre-full-li...> <http://www.premiumtimesng.com/.../197360-zaria-massacre-niger...>

There are also comprehensive reports of Amnesty Int'l on mass killing and maiming by Nigerian Army, Nigeria Police Force and ors of defenceless pro Biafra activists in Southeast and parts of South-south Nigeria as well as the alleged death in Army custody of 240 civilians including 29 children aged between new born and five years in Northeast State of Borno. The links are: https://www.amnesty.org.ng/.../Nigeria_bullets_were_raining_e..., <https://www.amnesty.org/.../amnesty-international-annual-rep.../>

On our part, Sir, we had also investigated and issued reports in all the killings and maiming above mentioned. Chief among them is our 12th March 2017 Special Report: Welcome to Bleeding Republic of Nigeria: A Land Flowing with Blood and Tears. The link to the special report is here: <http://www.intersociety-ng.org/.../downloads/category/17-spec...>, <http://www.intersociety-ng.org/.../235-welcome-to-bleeding-re...>

The link to our statement on Rann IDP bombing and killing of 236 civilians is here: <http://www.thetrentonline.com/rann-airstrike-breach-geneve/>

Yours in Service to Humanity,

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4. Speaker of House of Reps
5. Catholic Secretariat of Nigeria
6. ECWA Church Worldwide
7. Christian Association of Nigeria
8. Ohanaeze Ndigbo
9. Islamic Movement in Nigeria
10. Indigenous People of Biafra (IPOB Worldwide)
11. Ekwenche Group, Chicago, USA
12. Alaigbo Development Foundation
13. EU Mission to Nigeria

14. Executive Director of Human Rights Watch
15. Secretary General of Amnesty International
16. Chief Prosecutor for International Criminal Court, Netherlands
17. UK Foreign Secretary
18. US Secretary of State
19. UN Human Rights Council
20. UN Special Rapporteur on Torture
21. UN Special Rapporteur on Extra Judicial, Summary and Arbitrary Executions
22. The Council of Europe
23. Head of Division, Governance, Election & Human Rights of AU
24. Chairperson of AU
25. European Union, Brussels Belgium
26. AU Spokesperson
27. The African Union Commission on Human Rights
28. Senator Patrick Leahy, United States Democratic Party Senator for Vermont
29. World Organization Against Torture
31. Society for the Threatened People, Germany
32. Amnesty International, Australia
33. The Ambassadors and High Commissioners of France, Germany, Switzerland, Netherlands, Canada, Australia, Brazil, Sweden, Denmark, Belgium, Portugal, Spain and Japan, etc.