

## Nigeria's SSS Must Release Ifeanyi Ubah Or Charge Him Before A Court Of Competence Jurisdiction

**(Intersociety, Onitsha Nigeria: 7<sup>th</sup> June 2017)**-The leadership of Int'l Society for Civil Liberties & the Rule of Law (Intersociety) is deeply concerned over the continuing detention by the authorities of the State Security Services (SSS) of Mr. Ifeanyi Ubah of the Capital Oil & Gas Limited. We demand for his immediate administrative bail or release by the SSS.

Alternatively, Mr. Ifeanyi Ubah should be charged and diligently prosecuted before a court of competent jurisdiction. This must be done as a matter of uttermost immediacy if SSS truly finds him indicted on account of a credible criminal investigation into any allied offence or offences, which must be known to Nigeria's body of criminal laws and the Constitution and fall within the investigative and prosecutorial competence of the SSS.

It should be recalled that Mr. Ifeanyi Ubah, who is the Managing Director of the Capital Oil & Gas was arrested and detained by the authorities of the SSS since 5<sup>th</sup> May 2017; a period of 32days. His arrest, according to the authorities of SSS, "was sequel to his engagement in acts of economic sabotage which include stealing, diversion and illegal sale of petroleum products stored in his tank farm (in Lagos) by the NNPC. So, far, it has been established that the products stolen amount to over Eleven Billion Naira (N11bn)"

The authorities of the SSS further accused Mr. Ifeanyi Ubah of "engaging in other activities inimical to national security and public order. That "in furtherance of his gimmicks to undermine the government and people of Nigeria, he has incited members of the Petroleum Tanker Drivers (PTD), a critical player in the downstream sub-sector of the Petroleum Industry, to refuse/stop the lifting of products"; and that "part of his plans to curry their sentiments and cause them to embark on strike and also stage protests in his favour with the ulterior motive of arm-twisting the NNPC to abandon the cause of recovering the stolen products". The SSS statement as quoted above was contained in This Day Newspaper of 7<sup>th</sup> May 2017 and the link is here:<http://thenewsnigeria.com.ng/2017/05/why-we-arrested-ifeanyi-ubah-dss/>

The act of embarking on indiscriminate arrest of Nigerians particularly by the SSS on mere criminal allegations with clear intents of detaining them for months or more without trial and under physical and psychological torture; is totally militarist, dictatorial and unknown to Nigeria's 1999 Constitution and its democratic process. It is also a legitimized jungle justice and *prosecutorial vindictiveness* which reared its ugly head since 29<sup>th</sup> of May 2015 when the central government of Retired Major General Muhammadu Buhari came on board as the sixth central civilian government in Nigeria.

*Arrest and detention before criminal investigation* is the height of policing investigative quackery and a serious threat to rule of law, constitutionalism and modern criminal investigation and prosecution. Totality of these amounts to *persecution and political terrorism* in a democratic dispensation. It is also a judicial anarchy or judicial militancy and tyranny for a judge or magistrate to grant a one sided detention order to policing authorities for purpose of detaining citizens much longer than constitutionally allowed in alleged offences of economic and non capital nature. Such judicially disastrous detention order also amounts to blanket issuance to detaining authorities of license to torture and other degrading treatments or punishments.

Even in the offence of *terrorism financing*, grounds of indictable evidence do not strictly require suspected or accused citizens to be arrested and kept in perpetual detention before commencement of their criminal investigations by criminal investigative agencies. This is because all economic related offences strictly require 80% *exogenous* (*external*) evidence hunt and 20% *endogenous* (*internal*) evidence hunt.

That is to say that 80% of investigation into offences relating to economic (corruption) crimes is externally based or locatable; electronic (including tracking, biometric, recording, monitoring and electronic money wiring and transacting devices); pen, paper and file; and third party or collaborative and corroborative findings. The remaining 20% is internally based (i.e. bodily or facial and mental criminal interrogation and questioning). That is to say that before a suspect is aware that he or she is under investigation through criminal investigative summons, 80% of evidence based on exogenous criminal findings must have been made or established by those investigating him or her. These constitute fundamental parts of international best practices in criminal investigation and policing intelligence.

Contrarily, the reverse is gravely the case in Nigeria particularly since the present central government came on board on 29<sup>th</sup> May 2015. There is also a link between the above named oddest side of Nigeria's criminal investigation and prosecution management and the infamous judicial practice of *holden or holding charge* recklessly used by quark and corrupt criminal investigators and prosecutors particularly the Police and SSS; through magistrate courts to dump the accused citizens in prisons as "awaiting trial inmates"; thereby punishing citizens unnecessarily and wickedly and swelling the population of prisoners and prison inmates and congesting the already overcrowded prisons and detention facilities in Nigeria.

The combined negative effects of the above are also responsible for *returned criminality and repeat offenders and offences* in Nigeria; whereby 65% or more of cases prosecuted in the country by criminal investigators and prosecutors are lost at the courts of first, appellate and apex instances; all due to quackery and corruption trailing their investigations and investigation reports leading to their failed prosecution.

We hereby call on the Attorney General of the Federation to rise to his constitutional duties or resign. The AGF as the chief law and criminal prosecution officer of the Federation must put an end to these lawless practices under complaint by directing the SSS and the Nigeria Police Force to stop undermining and terrorizing Nigerians, Nigeria's 1999 Constitution, the rule of law and the country's democratic process. The Chief Justice of the Federation is also called upon to issue a sort of *practice direction or code* to all judges and magistrates to refrain from legitimizing such illegal and abdominal practices by way of aiding the detention of Nigerians for months or years without trial. It is the duty of the judges and magistrates to ask and find out the gravity or nature of offences alleged to have been committed by the arrested citizens and how long they have been held by police or SSS before granting orders for their further pre-trial detention.

Such written and signed orders when rarely granted must expressly include an order prohibiting any form of torturing of citizens under police or SSS captivity. Alleged offences bordering on economic (corruption) crimes and other non capital offences must be exempted from such long detention orders. Also magistrates and magistrate courts must be restricted from remanding suspects brought before them on criminal offences that are outside the jurisdictional competence of the magistrate courts in Nigeria; such as murder, abduction, armed robbery, rape, treason and treasonable felony, etc. Prosecutors or criminal investigators involved must be given matching orders not to set their feet again in the magistrate courts except in connection with offences that are triable and disposable at magistrate courts.

**Signed:**

**For: International Society for Civil Liberties & the Rule of Law (Intersociety)**

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