

**SUBMISSION OF BRUCE FEIN  
INTERNATIONAL LAWYER AND SPOKESMAN FOR NNAMDI KANU**

CHARGING DIRECTOR-GENERAL OF NIGERIA'S DEPARTMENT OF STATE SERVICES (DSS), **YUSUF MAGAJI BICHI**, WITH CONSPIRACY, GENOCIDE, AND CRIMES AGAINST HUMANITY ABAINST BIAFRANS AND THEIR LEADER NNAMDI KANU BY KNOWING PARTICPATION IN PROTRACTED AND SYSTYEMATIC MURDER, EXTERMINATION, STARVATION, DENIAL OF NECESSARY MEDICAL CARE, ARBITRARY IMPRISONMENT, TORTURE, RAPE, PERSECUTION BASED ON POLITICAL, RELIGIOUS, AND ETHNIC GROUNDS, INDUSTRIAL-SCALE THEFT OF PROPERTY, AND PROTRACTED ARBITRARY DETENTION AND TORTURE OF BIAFRAN LEADER NNAMDI KANU

TO: KARIM KHAN  
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Dear Chief Prosecutor Khan and the Information and Evidence Unit of the Prosecutor:

### **JURISDICTION AND SUMMARY**

The Federal Government of Nigeria ratified the Rome Statute of the International Criminal Court (ICC) on September 27, 2001. The Federal Government of Nigeria has initiated no investigation of the crimes alleged herein under Article 17 of the Rome Statute.

The ICC possesses jurisdiction over genocide and crimes against humanity as defined by Articles 6 and 7 of the Rome Statute.

The accused, Yusuf Magaji Bichi, Director-General of Nigeria's Department of State services (DSS), modeled on Heinrich Himmler's SS in Nazi Germany, is engaged in an ongoing conspiracy involving co-conspirators Nigerian President Muhammadu Buhari, Kenyan President Uhuru Kenyatta, Nigerian Attorney General Abubakar Malami, and Federal High Court Justice Binta Nyako, to commit crimes of genocide and crimes against humanity against Biafran leader Nnamdi Kanu, as part of a widespread and systematic attack by the Fulani-controlled Federal Government of Nigeria, against the Biafran civilian population in the southeast. Director-General Bichi has acted with knowledge of the ongoing systematic Fulani attacks on Biafrans when he conspired with co-conspirators President Buhari, President Kenyatta, Attorney General Malami, and Justice Nyako in Nnamdi Kanu's arbitrary detention, torture, and persecution because of political views, ethnicity, or religion as amplified anon.

The magnitude of ongoing Fulani atrocities against Biafrans shocks the conscience. Chief Director-General Bichi is a central player in the government that has perpetrated such crimes against humanity. Are we to believe that no whisper reached the ears of this Fulani government

official who is highly concerned? He watches television. He listens to the radio. He reads newspapers and follows social media. This Tribunal should not be so gullible as to believe that the Chief Judge is so stupid that he does not know what is going on. One man may keep a secret, two men may, but thousands never.

Director-General Bichi conspired with co-conspirators President Buhari, Attorney General Malami, and Justice Nyako arbitrarily to detain and torture Nnamdi Kanu and frustrate his access to counsel of his choice since on or about June 2021. Director-General Bichi's criminal wrongdoing is ongoing. The wrongdoing is part of an ongoing genocide of Biafrans and crimes against humanity because of their ethnicity, Christianity, and legitimate political objective of self-determination guaranteed by Article 1 (1) of the International Covenant on Civil and Political Rights (ICCPR).

### **BACKGROUND**

According to Nigeria's Orwellian legal regime, Nnamdi Kanu is guilty of terrorism and treason through exercising his rights to free speech and association protected by the Nigerian Constitution and multiple international human rights covenants in seeking a Biafran independence referendum by peaceful, Gandhi-like means. The Federal Government of Nigeria, after more than ten months of Kanu's arbitrary detention, has yet to proffer a crumb of evidence implicating him in terrorism or violence. In October 2020, five human rights experts of the United Nations Human Rights Council asked President Buhari within 60 days to submit evidence of Mr. Kanu's terrorism. Mr. Buhari sneered at the overture, probably reflecting, "Being a tyrant means you never need to obey the law."

Mr. Kanu's seeking a Biafran sovereignty referendum is not special pleading. South Sudan voted independence from Sudan in a 2011 referendum. The United Kingdom recently

afforded Scotland a secession. It did so earlier for Northern Ireland. Canada has afforded Quebec a self-determination vote. The United States periodically permits Puerto Rico to vote between statehood, independence, or commonwealth status.

The legal and moral case for Biafran independence is overwhelming. A few pages of history are worth volumes of logic.

From 1884-1885, European powers assembled in Berlin to formalize ground rules for vivisectioning the African continent. One point elicited instantaneous unanimity. *No African would have any voice in the boundaries drawn by European colonial powers according to a cynical divide-and-conquer strategy pitting disparate indigenous communities against one another.* All the colonial powers marched to the morally and legally repugnant British ditty: “Whatever happens we have got, the Maxim gun and they have not.”

Approximately a century ago in 1913, Great Britain herded multiple separate and distinct ethnic communities under one, artificial Nigerian colonial roof, including Biafrans, Yoruba, Fulani, and Hausa. They shared none of the homogeneity customarily required to hold a nation together and avoid civil war or intramural oppression: culture, religion, politics, law, history, language, personality, or education. During its long colonial years before independence in 1960, Nigeria remained unified by a combination of British guns and inter-tribal conflicts intentionally exacerbated by the British colonial regime.

Under international law, British decolonization of Nigeria should have been informed by the right of self-determination belonging to each distinct colonial peoples, including Biafrans. See United Nations General Assembly Resolution 1514 (XV) on the granting of independence to colonial countries and peoples (“All Peoples have the right to self-determination....”). Article 1 (1) of the ICCPR similarly provides: “All peoples have the right of self-determination. By

virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.”

Britain knew first-hand the imperative of such a principal. It insisted on a self-determination vote of predominantly Protestant Northern Ireland in the Anglo-Irish Treaty of 1921 to prevent their oppression or civil war if the Northern Irish were involuntarily incorporated into predominantly Catholic Ireland. Contemporaneously, the British and Irish fought a bloody civil war ending in Irish independence fueled by unbridgeable religious and cultural differences comparable to the divisions between Nigeria’s ethnic communities. Oil and water cannot be made to mix.

But the United Kingdom ignored the self-determination principle in departing Nigeria. It handed over power in 1960 to its favorites. Neither at that time nor thereafter have Biafrans been given a choice between independence or remaining part of Nigeria, i.e., their right to self-determination has been denied.

Nigeria was born to explode like nitroglycerin. Soon after Nigeria’s birth came the predictable grisly, genocidal Biafran civil war (1967-1970) featuring atrocities and skeletons reminiscent of Nazi death camps. Millions of children died like flies from starvation alone. The war solved nothing, and Biafrans continued to suffer under the oppression of a Fulani yolk culminating in a current and ongoing genocide perpetrated by Nigeria’s Fulani security forces and malevolent Fulani herdsman.

According to Genocide Watch, Fulani Jihadists are now the world’s deadliest terrorist organization, massacring five Nigerian Christians daily. <https://www.genocidewatch.com/single-post/2020/04/13/nigeria-is-a-killing-field-of-defenseless-christians>.

Documentation of the ongoing genocide and crimes against humanity perpetrated by the Fulani-controlled Federal Government of Nigeria against Biafrans can be found at <https://intersociety-ng.org/massacre-in-eastern-nigeria-a-special-investigative-report/>. According to the Executive Summary:

### **1. Security Operatives, Jihadists Killed 1,400 Defenseless Citizens In 14 Months**

The Nigerian security forces, at present structured along Northern Muslim lines and deployed in Eastern Nigeria had in fourteen months or between late October 2020 and Dec 2021 killed not less than 1,150 defenseless citizens of Eastern Nigeria. All the victims are members of Judeo-Christian Faith and mostly ethnic Igbo citizens. Their killings represent monthly average of 85 deaths and daily average of three and could be monthly average of 155 and daily average of 5.5 deaths if the presumed dead 1000 missing citizens are added. The security forces also abducted and disappeared till date in the same past 14 months at least 1000 unarmed civilians; arrested alive and unarmed and taken into security custodies outside the knowledge of their families or lawyers, from where they have gone missing till date. Soldiers of the Nigerian Army are found to be responsible for at least 70% of their abduction and disappearances while DSS, NPF, Nigerian Navy and Nigerian Air Force are separately and jointly responsible for the remaining 30%. In the area of ‘perpetrator ratio’, soldiers of the Nigerian Army and various ‘special squads’ of the Nigeria Police Force are the lead-killers or perpetrators. The trio of Governors Hope Uzodimma of Imo State, Nyesom Wike of Rivers State and Dave Umahi of Ebonyi State are the most vicariously culpable Governors that aided and abetted the killings and property destruction including burning of civilian homes and sanctuaries. On the other hand, the widely believed Nigerian State protected Jihadists especially the Jihadist Fulani Herdsmen are responsible for hacking to death in 2021 alone of at least 270 Igbo Christians. Their death had majorly occurred

in Ebonyi, Enugu, Anambra, Imo, Abia and Igbo parts of Delta, Edo (Obiaruku and Igbo-Akiri), Benue and Kogi States. The killings by Jihadist Fulani Herdsmen have brought the total number of defenseless citizens traceably killed in Eastern Nigeria in the past 14 months to at least 1,400. This is when added to 1,150 defenseless civilian deaths perpetrated by security forces.

The Death Toll Could Be 2,400 If 1000 Missing/Presumed Dead Citizens Are Added

**It is therefore likely correct to say that in all, not less than 2,400 unarmed civilians lost their lives to Nigerian security forces and the Jihadists in Eastern Nigeria in the past 14 months-covering October 2020 to December 2021.** This is on account of the fact that the not less than 1000 missing persons are likely to have been killed in custodies and most unlikely to be returned alive to their families again. This is more so when strong evidence abounds showing no traces of location and securing the release of citizens abducted by soldiers of the Nigerian Army in Eastern Nigeria since January 2021. They also hardly handover or transfer those arrested or abducted to the Police. From our investigation, most, if not all those abducted by them since January 2021 have never been located by families or seen alive till date.

Same was the case during and after the Army's war grade attack on Obigbo in late October-early November 2020. It is shocking that while dozens died in different secret military custodies within and outside Eastern Nigeria, not less than 550 of the abductees were later independently located, out of the number, 418 were freed through courts and 95-100 others were discovered in late November 2021 to have been dumped in Kaduna Prisons and Lock Centers. Over 40 of the abductees were also found to have been killed in custody through torture and infliction of injuries as well as starvation and lack of medical treatment. Estimated number of 200 Obigbo abductees is still unaccounted for and their whereabouts are unknown till date. **Intersociety** has continued to receive enquiry messages from dozens of families of those searching for their loved

ones. The Nigerian Army is further acting roguishly by holding their abductees for over a year through intra and inter-agency detention transfers-whereby the abductees are secretly held without trial in several military and security agencies' detention facilities leading to scores of custodial deaths.

## **2. 4800 Arrested, 2000 Still Held, 700 Freed, Others Killed Or Disappeared**

Analytically, estimated *4800 unarmed citizens of Eastern Nigeria have been arrested or abducted by security forces in the past 14 months (since late October 2020), out of the number, 660 were traceably killed in security custodies, about 500 were killed in open shootings mainly carried out by soldiers of the Nigerian Army and personnel of other branches of the Armed Forces-with a clear case in point being dumping of over 100 dead victims of Army's open shooting of civilians at the Owerri Federal Medical Center. Not less than 1000 mainly abducted civilians have disappeared or presumed dead mainly in military custodies. No fewer than 2000 unarmed civilians are still detained without trial and only 700 of the arrested 4800 citizens have regained their freedom in the past 14 months. The freed 700 citizens had included 418 Obigbo abductees and some 300 other civilian citizens arrested by security forces in the East since January 2021. Most of them got freed after being forced to offer average of N1m per freed detainee. This was majorly the case in the hands of the Nigeria Police Force especially its "IRT", "STS", "CTU", "Anti Kidnapping", "SWAT/SARS" and "the Special Forces" comprising the operatives of the Army, Police, DSS, Navy, Air Force, NSCDC, etc.*

**3.** This **Special Investigative Report** also found that not less than 400 leaders/members of the African Instituted Churches, derogatorily called "White Garment Churches" including Sabbath sects and their likes have been abducted or killed in security custodies. Through religious profiling and persecution and fueled by false labeling and without concrete and



indictable pieces of evidence, the Nigerian security forces have designated them as ‘terrorist religious group’ and hatefully accused them of membership and sponsorship of “ESN/IPOB”. Many, if not most of their sacred sanctuaries and symbols of worship and dwelling houses have also been burnt down or destroyed by security forces. Traditional herbalists across Eastern Nigeria have also become endangered species in the hands of security forces. From the camps of about five designated categories of “Unknown Gunmen” operating in Igbo parts of Eastern Nigeria, not less than 100 civilian deaths have been recorded in the Region since July 2021 with Imo, Anambra, Enugu and Abia as the worst hit. From the angle of international law’s recognized “legitimate deaths” or deaths arising from battlefields’ combats between security forces and armed opposition groups (i.e. ESN/’Unknown Gunmen’), a total of 300 security operatives and 100 opposition armed men have lost their lives in the past 14 months.

It was our further investigative discovery that no fewer than 100 Igbo communities have been invaded by security forces in the past 14 months and caused not less than 1000 homes or dwelling houses to be raided and razed during which properties such as the land housing each of the buildings, the building structure, electronics and electrical appliances, chairs and house utensils, food items, economic trees, domestic animals, automobiles and other valuable items were destroyed or burnt to ashes or looted. From our conservative estimates, each house, its land and properties is worth not less than N35m, translating to N35billion for the estimated 1000 dwelling houses destroyed or burnt down. The remaining N5b arises from other outside-the-house properties destroyed or burnt down including market stores and their wares-totaling N40billion as total properties’ value lost in the hands of the Nigerian security forces particularly soldiers of the Nigerian Army and other branches of the Armed Forces.

#### **4. Igbo Nation Target Of The Killings**

The killings by Nigerian security forces had occurred mostly in Igbo-Christian parts of Eastern Nigeria including Imo, Rivers, Abia, Ebonyi, Anambra, Enugu and Akwa Ibom States as well as Delta and Cross River States which recorded the lowest number of deaths. Further breakdown indicates that the Nigerian security forces were specifically responsible for killing of at least 1000 defenseless citizens in the East in 2021 while Jihadist Fulani Herdsmen killed not less than 270 in the same 2021. The Nigerian Army had also between October and November 2020 killed not less 150 defenseless civilians in Obigbo (Oyigbo Local Government Area) and its environs in Rivers State and abducted over 700 civilians; and out of the number, 418 have been independently located and freed. While no fewer than 110 defenseless citizens were killed in Obigbo and its environs, the remaining 40 deaths occurred in different secret Army custodies where the Obigbo abductees were secretly detained amidst torture and starvation. Another 100 abducted defenseless citizens were recently (in late November 2021) traced and discovered to have been dumped at Kaduna Prisons and Lock Centers, out of the number, five died. Over 40 of the over 700 abductees were also found to have been killed in various secret Army custodies.

**DSS DIRECTOR-GENERAL YUSUF MAGAJI BICHI'S PARTICIPATION IN ONGOING ARBITRARY INDEFINITE DETENTION AND TORTURE OF NNAMDI KANU AND DENIAL OF HIS RIGHT OF ACCESS TO COUNSEL OF HIS CHOICE AS PART OF ONGOING GENOCIDE AND CRIMES AGAINST HUMANITY AGAINST BIAFRANS THROUGH KILLING, RAPE, TORTURE, STARVATION, DEPRIVATION OF MEDICAL CARE, AND CREATION OF SUBSISTENCE CONDITIONS OF LIFE INTENDED TO DESTROY THE GROUP IN WHOLE OR IN PART BECAUSE OF THEIR ETHNICITY, RELIGION, OR POLITICAL OPINION**

On or about May 5, 2021, Nnamdi Kanu entered the Republic of Nigeria on his British passport at Jomo Kenyatta International Airport, Nairobi, Kenya, and occupied temporary quarters.

On June 19, 2021, Mr. Kanu drove himself to the airport to depart. Immediately upon stopping at the basement parking lot and alighting, several armed men abducted, handcuffed,

blindfolded, and bundled him into a vehicle and sped away. Mr. Kanu was taken to a nondescript private house somewhere in Nairobi and chained to the floor. He was systematically beaten and tortured to the point where he repeatedly fainted. His abductors used water to revive him.

Throughout the torture and beatings, they hurled taunts and derogatory comments at Nnamdi Kanu including calling him “terrorist Jew Biafran.” To prevent screaming that could alter third parties, Nnamdi Kanu’s abductors tied cloth over his mouth and nose which made breathing problematic. He remained chained to the floor for eight (8) days and denied ordinary toilet or bathing facilities. He survived on bread and water once a day.

Mr. Kanu’s abductors spoke English. They repeatedly referenced a “chief of police” and “Nigerian High Commissioner.” They did not care that Nnamdi Kanu was a British citizen and entered Kenya on a British passport. Their maltreatment and torture caused Nnamdi Kanu external and internal injuries and engendered fear that he would die chained to the floor.

On the eighth day, Nnamdi Kanu’s abductors drove him to the tarmac of the Jomo Kenyatta International Airport and delivered him to Nigerian security officials. They forced him into a private jet that departed around noon on June 27, 2021, and landed in Abuja, Nigeria, that evening. Upon arrival, Nnamdi Kanu was detained at the headquarters of Nigeria’s secret police known as State Security Services (SSS). The first night there, he was required to sleep in the floor with bright electric lights and extreme heat causing sleep interruptions and mental anguish.

On July 1, 2021, the British High Commissioner in Nigeria, acting in accord with Article 36 of the Vienna Convention on Consular Relations, to which Britain and Nigeria are parties, met with the Attorney General of Nigeria to obtain information about the abduction, extraordinary rendition, and detention of Nnamdi Kanu. In relevant part, Article 36 provides:

“With a view to facilitating the exercise of consular functions relating to nationals of the sending State:

(a) consular officers shall be free to communicate with nationals of the sending State and to have access to them. Nationals of the sending State shall have the same freedom with respect to communication with and access to consular officers of the sending State;

(b) if he so requests, the competent authorities of the receiving State shall, without delay, inform the consular post of the sending State if, within its consular district, a national of that State is arrested or committed to prison or to custody pending trial or is detained in any other manner. Any communication addressed to the consular post by the person arrested, in prison, custody or detention shall be forwarded by the said authorities without delay. The said authorities shall inform the person concerned without delay of his rights under this subparagraph;

(c) consular officers shall have the right to visit a national of the sending State who is in prison, custody or detention, to converse and correspond with him and to arrange for his legal representation. They shall also have the right to visit any national of the sending State who is in prison, custody or detention in their district in pursuance of a judgement....”

In violation of Article 36, the British High Commissioner has been denied access to Nnamdi Kanu despite repeated requests of Nigerian authorities by both persons. Nigerian authorities have concealed material facts about Nnamdi Kanu’s kidnapping, torture, and extraordinary rendition in hiding behind a concocted cover story by Attorney General Malami that he was captured with the assistance of INTERPOL.

For more than ten months, Nnamdi Kanu has been detained by Defendant Bichi in solitary confinement in extremely confined quarters and denied necessary medical care and legal counsel without a trial. The harsh conditions under which Nnamdi Kanu is subsisting satisfies

the definition of torture under the Convention Against Torture, Article 1, paragraph 1. Among other things, Defendant Bichi had withheld necessary and urgent medical care from Nnamdi Kanu. Defendant Bichi has drawn Nnamdi Kanu's blood at least 21 times with no indicated medical reasons. Defendant Bichi has starved Nnamdi Kanu. Defendant Bichi has blocked visits from Nnamdi Kanu's family. Defendant Bichi has also repeatedly prevented Nnamdi Kanu from meeting with his counsel of choice in violation of court orders or otherwise. Defendant Bichi has prohibited Nnamdi Counsel from reading and writing materials necessary to prepare an adequate defense. Defendant Bichi has systematically violated confidential attorney-client communications between Nnamdi Kanu and his lawyers.

The theory of Nnamdi Kanu's indeterminate detention without trial is that Indigenous People of Biafra (IPOB) is a terrorist organization, and that IPOB leader Nnamdi Kanu has incited Biafrans to commit terrorist acts with broadcasts on Radio Biafra from London, UK. No evidence has been forthcoming in ten months to support the theory.

In September 2017, IPOB was proscribed as a terrorist organization by a Nigerian court in an ex parte proceeding without notice or an opportunity to respond to the fact-free terrorism edict of co-conspirator Muhammadu Buhari. IPOB's proscription has been denounced by five human rights experts of the United Nations Human Rights Council in a letter to co-conspirator Buhari on October 1, 2020: Fionnuala Ni Aolain, Special Rapporteur on promotion and protection of human rights and fundamental freedoms while countering terrorism; Agnes Callamard, Special Rapporteur on extrajudicial, summary or arbitrary executions; Irene Khan, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Clement Nyaletsossi Voule, Special Rapporteur on the rights to freedom of

peaceable assembly and of association; and, Fernand de Varennes, Special Rapporteur on minority issues.

Among other things, the five human rights experts respectfully urged co-conspirator Buhari “to reconsider the proscription of IPOB as a terrorist group and address the legal concerns on regulation of assembly, freedom of expression, and due process outlined in this communication.” The experts reminded co-conspirator Buhari that, “[p]ursuing minority rights protection or the recognition of the existence of a minority...or even calls for self-determination do not on their own amount to terrorist activities.” Indeed, United Nations General Assembly Resolution 49/151 reaffirmed “the importance of the universal realization of the right of peoples to self-determination...,” a right fortified by Article 1 (1) of the ICCPR.

The experts asked that within 60 days co-conspirator Buhari “provide detailed information about the rationale and justification for the decision [made by you alone] to designate IPOB as a terrorist group and its activities as unlawful, and how this is compliant with international obligations of Nigeria, particularly in relation to the rights of freedom of religion or belief, expression, freedom of peaceful assembly and association, non-discrimination and the rights of minorities.” Nearly 20 months have elapsed since that request and co-conspirator Buhari has *yet to reference any law or facts justifying IPOB’s proscription as a terrorist group*. No other country in the world has proscribed IPOB despite the sleepless lobbying of Nigeria.

Knowing that proof of Nnamdi Kanu’s guilt is impossible, President Buhari directly or through agents commanded DSS Director-General Bichi to detain and torture Nnamdi Kanu without a trial indefinitely and to block access to counsel of his choice.

## CONCLUSION

The foregoing establishes the following:

1. There is a reasonable basis to conclude that DSS Director-General Yusuf Magaji Bichi is guilty of genocide and crimes against humanity as defined in Articles 6 and 7 of the Rome Statute by arbitrarily detaining and torturing Nnamdi Kanu indefinitely without a trial and denying him access to counsel of his choice as part of an ongoing scheme to destroy or persecute Biafrans in Nigeria because of their ethnicity, religion, or political opinion.

2. The Chief Prosecutor has a reasonable basis to proceed with an investigation of DSS Director-General Bichi for genocide and crimes against humanity and should submit to the Pre-Trial Chamber a request for such authorization under Article 15, paragraph 3 of the Rome Statute.

Respectfully submitted,

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