



NIGERIA:

THE TIME FOR JUSTICE IS

NOW

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INTERNATIONAL**



Since 2009, Northeast Nigeria has been the scene of egregious crimes committed by Boko Haram and the Nigerian defence and security forces. The armed group Boko Haram has killed thousands of civilians, attacked schools, abducted women as well as girls and boys, many of whom have been forcibly recruited as child soldiers or forcibly married and turned into sex slaves. Nigerian forces have committed extrajudicial executions and other unlawful killings, enforced disappearances, mass arbitrary arrests and detentions, and countless acts of sexual violence, torture and other ill-treatment. There have been thousands of deaths in military custody.

On 11 December 2020, after 10 years of preliminary examination, the ICC then Prosecutor Fatou Bensouda concluded that crimes against humanity and war crimes had been committed by Boko Haram and the Nigerian military and that the Nigerian authorities had failed to genuinely investigate and prosecute these crimes, therefore warranting a full investigation by the ICC. She provided that the “next step will be to request authorisation from the Judges of the ICC Pre-Trial Chamber to open investigations.”¹

Shockingly, three years later, this ‘next step’ has not been taken. Prosecutor Kharim Khan took office in June 2021, and despite his legal duty, he has yet to request authorization to start a formal investigation in Nigeria.

The legal duty is laid out in Article 15(3) of the Rome Statute: “If the Prosecutor concludes that there is a reasonable basis to proceed with an investigation, he or she shall submit to the Pre-Trial Chamber a request for authorization of an investigation [...]”. It is also recognized by the Office of the Prosecutor in its Policy Paper on Preliminary Examinations.²

1. “Statement of the Prosecutor, Fatou Bensouda, on the conclusion of the preliminary examination of the situation in Nigeria”, [icc-cpi.int/news/statement-prosecutor-fatou-bensouda-conclusion-preliminary-examination-situation-nigeria](https://www.icc-cpi.int/news/statement-prosecutor-fatou-bensouda-conclusion-preliminary-examination-situation-nigeria)

2. OTP 2013 Policy Paper on Preliminary Examinations, paragraph 2, [icc-cpi.int/sites/default/files/iccdocs/otp/OTP-Policy_Paper_Preliminary_Examinations_2013-ENG.pdf](https://www.icc-cpi.int/sites/default/files/iccdocs/otp/OTP-Policy_Paper_Preliminary_Examinations_2013-ENG.pdf)



Cover image:

A grave-digger heaps sand on graves in Maiduguri, Northeast Nigeria, February 2016

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Prosecutor Khan's position on Nigeria is extremely unclear. In April 2022, Prosecutor Khan conducted his first, and seemingly only, official visit to Nigeria. Following this visit, the Prosecutor stated that "the legal criteria to open an investigation were met", but he nevertheless indicated that his office will prioritize complementarity efforts by the Nigerian government over opening an ICC investigation.³ This statement also made reference to a future agreement and timeline that were allegedly agreed upon with Nigerian authorities, the content of which remains unknown to the present. In December 2022, the Office of the Prosecutor published its annual report, which contained no further explanation of its inactivity in Nigeria. Again, Prosecutor Khan reiterated that the preliminary examination was concluded since 2020, but then continued as if it was not, namely that "the principle of complementarity enshrined in the Rome Statute required such crimes [within the Statute] to be addressed through domestic proceedings, or failing that, by [his] office".⁴ This year, in 2023, Prosecutor Khan has been silent on the situation in Nigeria.

What is happening with the Nigeria situation at the ICC? Victims deserve answers. The Nigeria situation has remained 'in limbo' for three years: a concluded preliminary examination, but not yet a full investigation. Meanwhile, the ICC Office of the Prosecutor officially investigates in 13 other countries.

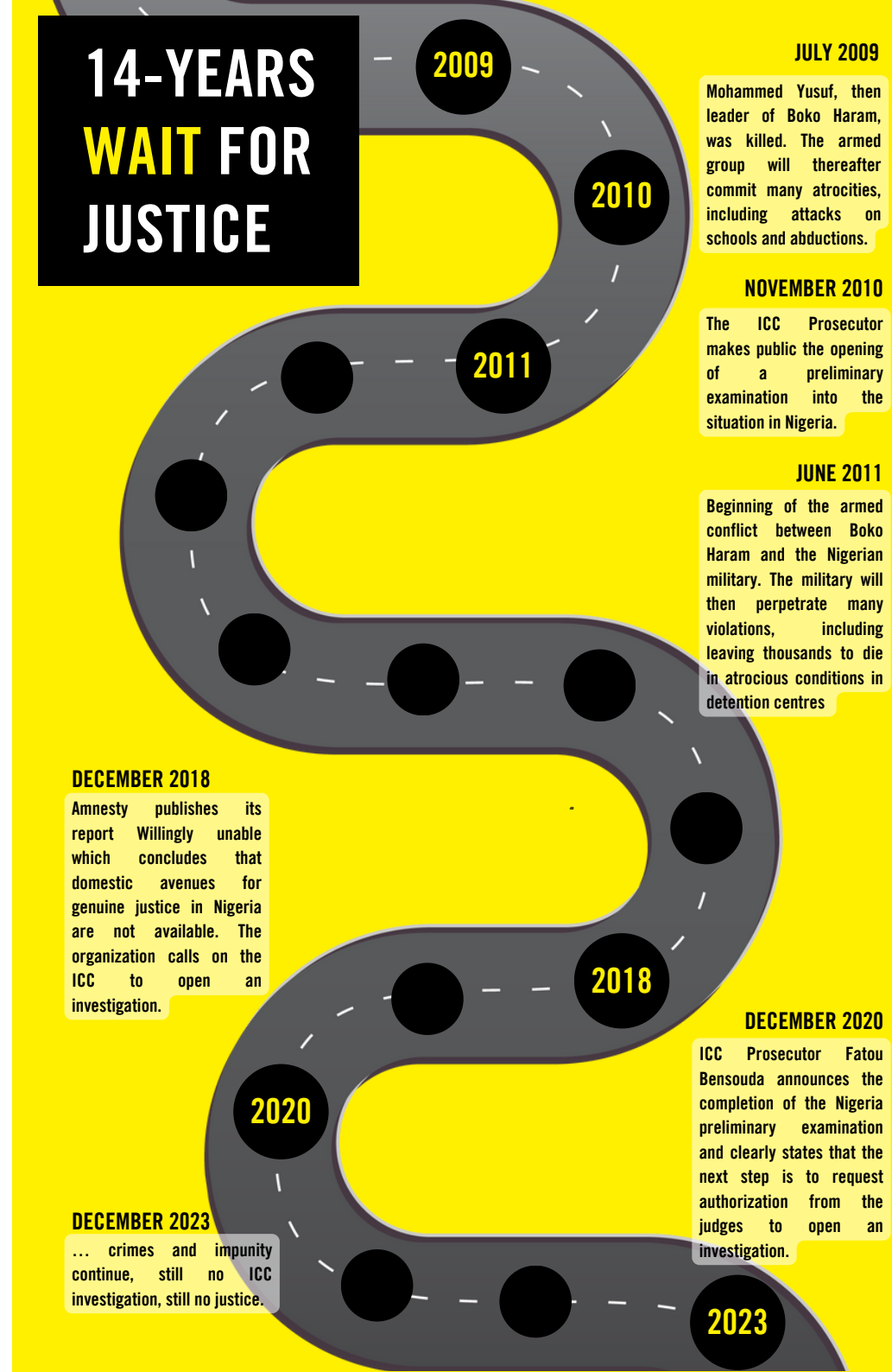
The OTP's continuing refusal to request authorization to investigate in Nigeria demonstrates double standards in the Prosecutor's approach to justice. Victims of crimes in Nigeria are as entitled to justice as victims of crimes under international law elsewhere. But, for reasons only the Prosecutor knows, victims and survivors in Northeast Nigeria find another avenue for justice closed. While the Nigeria conflict may not currently garner the same level of attention from the international community as other situations, or be high on the agenda of certain powerful States, Nigeria must not be forgotten by the ICC. Certainly the ICC has not been forgotten by victims in the Northeast.

Ultimately, victims pay the price for delays and uncertainty. Delays will have inevitably led to the loss of evidence. Over time evidence is often degraded, lost, concealed or destroyed. Year-on-year these delays reduce the chances of successful ICC investigations and prosecutions. But victims of the conflict in Northeast Nigeria continue to hope for their rights to justice, truth and reparations to be fulfilled – even after 14 years.

3. "ICC Prosecutor, Mr Karim A.A. Khan QC, concludes first official visit to Nigeria", [icc-cpi.int/news/icc-prosecutor-mr-karim-aa-khan-qc-concludes-first-official-visit-nigeria](https://www.icc-cpi.int/news/icc-prosecutor-mr-karim-aa-khan-qc-concludes-first-official-visit-nigeria)

4. Towards a more just world, Annual report of the Office of the Prosecutor 2022, pp 44/45, [icc-cpi.int/sites/default/files/2022-12/2022-12-05-annual-report-of-the-office-of-the-prosecutor.pdf](https://www.icc-cpi.int/sites/default/files/2022-12/2022-12-05-annual-report-of-the-office-of-the-prosecutor.pdf)

14-YEARS WAIT FOR JUSTICE



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It was on 11 December 2020 the prosecutor of the International Criminal Court (ICC) announced her office would request the opening of an investigation in Nigeria. Amnesty International hosted a panel discussion on this a few days later. We hailed the noble intention of the ICC as we sighted a ray of hope for the victims and survivors of the over 14 years violent conflict. To date nothing has happened.

The victims and survivors are yearning for recognition, accountability and justice while anger, frustrations and impunity continue taking their toll on the masses of Northeastern Nigeria.

The call for action is long overdue!



Hajja Hamsatu Allamin
Founder and Executive Director of Allamin Foundation for Peace and Development, creator of the Jire Dole Network of Victims and Survivors, a peacemaker and women and children's rights advocate in Maiduguri

AMNESTY INTERNATIONAL URGES THE PROSECUTOR OF THE INTERNATIONAL CRIMINAL COURT TO:

- 1- Immediately request authorization from the judges to open an investigation into the situation in Nigeria
- 2- Allocate sufficient funding to enable a full, effective and expeditious investigation
- 3- Communicate promptly and clearly, to victims and affected communities as well as publicly, about the legal basis and the reasons for delaying the opening of the investigation in Nigeria