

AMNESTY INTERNATIONAL – PUBLIC STATEMENT

28 July 2025 AFR 44/0143/2025

Nigeria: Despite a disappointing ICC ruling, northeast Nigeria’s victims and survivors are urging the Prosecutor to finally act

At a juncture marked by lack of progress from the Office of the Prosecutor, Amnesty International submitted a [complaint](#) to the Pre-Trial Judges of the International Criminal Court (ICC) on 2 December 2024. The complaint was submitted on behalf of thousands of victims from the Jire Dole Networks in north-east Nigeria where crimes under international law were committed by Boko Haram and the Nigerian army. The complaint argued that the ICC Prosecutor [closed its preliminary examination](#) in 2020 with a conclusion that there was a reasonable basis to proceed with an investigation into alleged crimes under international law in Nigeria and accordingly, the Prosecutor had an obligation to request the opening of an investigation into the situation in the country. Having failed to do so, the prosecutor was acting inconsistently with his obligations under Article 15(3) of the Rome Statute, which reads: “*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*”.

The litigation addressed a significant lacuna or unforeseen circumstance within the Rome Statute, where, having determined that a reasonable basis existed, the Prosecutor nonetheless does not take the step to seek authorization for the opening of an investigation from the judges.

The complaint was filed after years of engagement with the Prosecutor and calling on the Office to request the opening of an investigation in Nigeria. These calls and those of Nigerian victims had not been met by any investigative progress, pushing victims accompanied by Amnesty International to file a complaint before the Pre-Trial Chamber. It was submitted that victims had the right to file such a complaint to the Court at this stage given the impact of the Prosecutor’s inaction on the likelihood of effective investigations and prosecutions which might see justice delivered. In addition, the Pre-Trial Chamber had the power to examine the question on its own initiative to ensure that the Prosecutor acts within the statutory framework.

In response to the complaint, the Prosecutor [submitted](#) that the victims represented by Amnesty International lacked standing to make such a complaint, that judicial proceedings under Article 15 aimed at requesting the opening of an investigation could only be initiated by the Prosecutor, who had no obligation to initiate such proceedings.

In a regrettable [decision](#), on 16 June 2025, the majority of the ICC Pre-Trial Chamber found that it lacked “*the power, at present, to make a finding on the Prosecution’s obligation under article 15(3).*” The Pre-trial Chamber added that it was not clear, at the time of its decision, **when** the Prosecutor will indeed request authorization to open an investigation into the situation in Nigeria. The Chamber therefore recognized that it is not a matter of *whether* the Prosecutor would seek authorization, but rather – in its words - *when* they will do it: providing a measure of impetus for the Prosecutor to meet their Rome Statute obligation.

The majority decision of the Pre-Trial Chamber misses an important opportunity to end the prolonged denial of justice and underscores the ongoing challenges in achieving accountability for crimes against humanity and war crimes in Nigeria. As noted in the complaint, the Nigeria situation has been before the ICC for almost 15 years, and 4 and a half years have passed since the Prosecutor publicly stated that all the

conditions for opening a formal investigation had been met. The ongoing situation of uncertainty for Nigerian victims before the ICC is demonstrably unacceptable.

In contrast Judge Socorro Flores, in a crucial [dissenting opinion](#), agreed with the submissions made by Amnesty International on behalf of the victims and survivors. She emphasized that the situation before the Pre-Trial Chamber was one that affected the interests of victims such that they should be allowed to present their views to the Court. This was informed by the fact the Prosecutor concluded in 2020 that *“the statutory criteria for opening an investigation into the situation in Nigeria ha[d] been met.”* The more recent statements of the Prosecutor were contrary to this position which, according to Judge Socorro Flores, means that *“the interests of the victims of the crimes that would have been otherwise investigated are necessarily affected at this stage.”* Moreover, Judge Socorro Flores considered that the Pre-Trial Chamber had a responsibility to exercise judicial control in the present situation, due to the “fundamental importance of the non-materialization of a duty under the Statute”.

According to Judge Socorro Flores, the Prosecutor’s conclusion that the preliminary examination of the situation in Nigeria had ended, also carries another important implication. Once a conclusion of the preliminary examination was reached on 11 December 2020, Article 15(3) automatically triggered an obligation on the Prosecutor to formally request authorization from the Pre-Trial Chamber to proceed with a full investigation. There can be no doubt of the existence of such obligation, as the language of the Rome Statute is *“clear and unambiguous”* and confirmed by a contextual interpretation. Under these circumstances, Judge Socorro Flores found that she would have ordered the Prosecution to file the request for authorization to open an investigation within a specified timeframe.

Amnesty International concurs with and welcomes Judge Socorro Flores’ dissenting opinion which is in line with the organization’s continuing assertion that the Prosecutor’s failure to initiate a formal investigation into the situation in northeast Nigeria constitutes a breach of the obligations outlined in Article 15(3). Judge Socorro Flores’ opinion underscores the necessity for strict adherence to the Statute’s provisions, highlighting the critical role of the Prosecutor in ensuring justice and accountability for victims and survivors in northeast Nigeria.

The Prosecutor’s continued inaction has left the situation in northeast Nigeria in a prolonged state of legal limbo, denying victims and survivors their fundamental rights to truth, justice, and reparations. Therefore, in a context marked by protracted delays and inaction, the interpretation of Article 15(3) by Judge Socorro Flores affirms and aligns with the rights of victims and survivors of crimes under international law.

Amnesty International hopes that Judge Socorro Flores’ dissenting opinion and the majority’s stated positive understanding (that the OTP will - at some point - seek authorization to open an investigation) will serve as a swift catalyst for the Office of the Prosecutor (OTP) to fulfill its legal obligations under Article 15(3). Amnesty International will continue to work in support and solidarity with the victims and survivors in northeast Nigeria and in urging the Prosecutor to immediately request authorization to open an investigation and bring an end to this enduring impasse.

Background:

Since 2009, north-east Nigeria has been the scene of egregious crimes committed by Boko Haram and the Nigerian army. 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 [killed](#) or forcibly disappeared civilians, conducted mass arbitrary arrests

and detentions, and countless acts of [sexual violence](#) and torture, leading to thousands of deaths in [military custody](#). This armed conflict is still ongoing today, and crimes continue to be perpetrated by both parties against civilians year after year.

The first ICC Prosecutor - Luis Moreno Ocampo - opened a preliminary examination into the situation in Nigeria in November 2010. Ten years later, in December 2020, then-ICC Prosecutor Fatou Bensouda [announced](#) that the preliminary examination was concluded; and that the Office of the Prosecutor had concluded that crimes against humanity and war crimes had been committed by Boko Haram and the Nigerian military. Discussing complementarity, the Prosecutor stated that despite 'ample time' given, the Prosecutor's assessment was that the Nigerian authorities had failed to conduct any proceedings which related, even indirectly, to the forms of conduct or categories of persons that would likely form the focus of an investigation. Since the [2020 public conclusion](#) of the Nigeria preliminary examination, [there has been no concrete progress](#).

Amnesty International has worked in close collaboration with, and in support of, Jire Dole Networks for over a decade, including to document crimes under international law committed within the armed conflict in northeast Nigeria and to advocate and campaign for [justice at the national and international levels](#). Amnesty International has also shared its documentation of relevance to the Nigeria situation with the Office of the Prosecutor to support its preliminary examination.

The [2024 complaint](#) was filed on behalf of the following networks, which are part of Jire Dole Networks: the Knifar Movement, composed of over 5,720 displaced women who were separated from their husbands since their husbands were arrested; the Returning Knifar Husbands network, composed of over 2,840 men who returned from the Safe Corridor and Giwa Barracks Military Joint Investigation detention centers; the Jire Dole Mothers, composed of over 5,800 relatives of arrested and disappeared young men; the Njotkuno Movement, composed of over 6,650 women, men and children formerly detained by the Nigerian military; and the IndaRai network, composed of over 2,365 survivors of abductions and sexual violence and mothers of the 'invisible children' who were conceived and born while their mothers were in Boko Haram captivity or in detention facilities. Members of these seven networks alone total 23,382 individuals as of January 2024.

The [complaint](#) and the legal submissions therein have been drafted with the legal support of UpRights.

Read the [majority decision](#) here.

Read the [dissenting opinion](#) here.