



NIGERIA:

THE TIME FOR JUSTICE IS

NOW

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**AMNESTY
INTERNATIONAL**



15 YEARS OF THE ICC PROSECUTOR DRAGGING THEIR FEET

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, five years later, no investigation has been opened, this ‘next step’ has not been taken. Prosecutor Karim 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 [...]”.

The ICC Prosecutor’s continuing refusal to request authorization to investigate in Nigeria flouts clear obligations in the Rome Statute and demonstrates double standards in the approach to justice. Victims of crimes in Nigeria are as entitled to justice as victims of crimes under international law elsewhere. But, as the Office of the Prosecutor persists with a futile complementarity approach, victims and survivors in Northeast Nigeria find the ICC closed in their pursuit for justice.

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)



Cover image:

Women and children in Bama Hospital camp, 5 December 2015. Hundreds of displaced people died in this camp.
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IN 2025, ICC JUDGES FAILED VICTIMS TOO

In December 2024, Amnesty International submitted a complaint to the ICC judges on behalf of thousands of victims from the Jire Dole Networks in north-east Nigeria with regards to the Prosecutor's continued failure to uphold his legal obligation, since the closure of the preliminary examination in 2020, to request authorisation to open an investigation into the situation in Nigeria.²

In a regrettable decision, in June 2025, Pre-Trial Chamber (PTC) I by majority found that it lacked "the power, at present, to make a finding on the Prosecution's obligation under article 15(3)", without providing reasoning for this conclusion. The Chamber added that it was not clear when the Prosecution will request authorization to open an investigation in Nigeria. Judges therefore recognized that it is not a matter of whether the Prosecutor would seek authorization, but rather – in their words – *when* they will do it.³

"The majority considers that although it is not clear when the Prosecution will request authorisation to open an investigation in Nigeria, with the Prosecution working on complementarity matters with Nigeria, the Chamber does not have the power, at present, to make a finding on the Prosecution's obligation under article 15(3) of the Statute, as requested by Amnesty International."

While the majority decision missed an important opportunity to end the prolonged denial of justice for crimes against humanity and war crimes in Nigeria, it should provide a significant measure of impetus for the Prosecutor to meet his Rome Statute obligation.

Crucially, Judge Socorro Flores Liera, in a dissenting opinion, considered that the Chamber had a responsibility to intervene and agreed with the submissions made in the victims' complaint.

"The non-materialisation of a duty under the Statute is of such a fundamental importance, that the Chamber, as the organ with the power to exercise judicial control on issues related to proprio motu investigations under article 15 of the Statute, has the duty to intervene, particularly, when the issue is brought to its attention by the victims."

According to Judge Socorro Flores Liera, there can be no doubt of the existence of the obligation of the Prosecutor to formally request authorisation to proceed with a full investigation, as the language of the Rome Statute is "clear and unambiguous", and therefore the Chamber should have ordered the Prosecutor to act within a specified timeframe.⁴

In a context marked by protracted delays and inactions, the interpretation of Article 15(3) by Judge Socorro Flores Liera affirms and aligns with the rights of victims and survivors of crimes under international law. But concrete action, above all **the opening of an ICC investigation is needed to end the prolonged state of legal limbo in which victims and survivors continue to be denied their rights to truth, justice and reparations.**

2. Amnesty International, Victims' request for clarification and an order to compel the Prosecutor to act on their legal obligations under Article 15(3), 2 December 2024 <https://www.amnesty.org/en/documents/AFR44/8802/2024/en/>

3. Pre-Trial Chamber I, Decision on a request to compel the Prosecution to seek authorisation to open an investigation in relation to Nigeria, ICC-ROC46(3)-01/24-5, 16 June 2025 <https://www.icc-cpi.int/court-record/icc-roc463-01/24-5>

4. Dissenting opinion of Judge Socorro Flores Liera, ICC-ROC46(3)-01/24-5-OPI, 16 June 2025, <https://www.icc-cpi.int/court-record/icc-roc463-01/24-5-qpj>

15-YEARS WAIT FOR JUSTICE

JULY 2009

Mohammed Yusuf, then leader of Boko Haram, was killed. The armed group will thereafter commit many atrocities, including attacks on schools and abductions.

2009

NOVEMBER 2010

The ICC Prosecutor makes public the opening of a preliminary examination into the situation in Nigeria.

2010

JUNE 2011

Beginning of the armed conflict between Boko Haram and the Nigerian military. The military will go on to perpetrate many violations, including leaving thousands to die in atrocious conditions in detention centres.

2011

DECEMBER 2020

The ICC Prosecutor announces the completion of the Nigeria preliminary examination and clearly states that the next step is to request authorization from the judges to open an investigation.

2018

DECEMBER 2018

Amnesty publishes its report Willingly Unable which concludes that domestic avenues for genuine justice in Nigeria are not available. The organization calls on the ICC to open an investigation.

2020

JUNE 2025

The ICC Pre-Trial Chamber - by majority - rejects victims' request for the judges to intervene in their situation, on the basis that it doesn't have the 'power' to make a finding on the Prosecutor's obligation under article 15(3) of the Rome Statute. . One judge dissents and explains that the Prosecutor violates the Rome Statute through his prolonged failure to act.

2024

2025 LITIGATION ON THE NIGERIA SITUATION BEFORE THE ICC



Victims' request for clarification and an order to compel the Prosecutor to act on their legal obligations under Article 15(3)

"The failure of the Prosecutor to seize the Pre-Trial Chamber in accordance with article 15(3) should not be permitted as a way of bypassing the Rome Statute provisions and preventing the Pre-Trial Chamber from exercising its oversight role."



Decision by Pre-Trial Chamber I

"The majority considers that although it is not clear when the Prosecution will request authorisation to open an investigation in Nigeria, [...] the Chamber does not have the power, at present, to make a finding on the Prosecution's obligation under article 15(3) of the Statute, as requested by Amnesty International."



Dissenting Opinion by Judge Socorro Flores Liera

"The language of the Statute is clear and unambiguous and the Prosecutor is under a legal duty to request authorization to proceed with an investigation. [...] More than a reasonable period of time has passed and the duty to request authorisation has not materialized."

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 resources to enable a full, effective and expeditious investigation.
- 3- Communicate regularly and clearly, to victims and affected communities as well as publicly, about the situation in Nigeria.