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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

Indigenous People of Biafra,  
a UK registered Community  
Interest Company, 160 London  
Road Barking IG11 8BB, London,  
United Kingdom,

Plaintiff,

Civil Action No.

v.

Secretary of State Tony Blinken  
in his official capacity, and  
Secretary of Defense Lloyd  
Austin, in his official capacity,

Honorable Judge\_\_\_\_\_

**COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

Defendants.

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**COMPLAINT FOR VIOLATION OF LEAHY AMENDMENTS**

Plaintiff, Indigenous People of Biafra, through its undersigned attorney, for itself and on behalf of its members John Does 1-10, brings this Complaint for actual and threatened violations of the Leahy Amendments, 22 U.S.C. 2378d, and 10 U.S.C. 2249e, and the Administrative Procedure Act, 5 U.S.C. 706 (A) and (C) seeking declaratory and injunctive relief against Defendants Secretary of State Tony Blinken and Secretary of Defense Lloyd Austin, in their official capacities and states as follows:

**SUBJECT MATTER JURISDICTION**

1. This Court possesses subject matter jurisdiction over Plaintiff's claims under 28 U.S.C. 1331 because they arise under federal law, among other things, 22 U.S.C.2378d and 10 U.S.C. 2249e ('Leahy Amendments'), and 5 U.S.C. 706 (A) and (C).

**PERSONAL JURISDICTION**

2. This Court has personal jurisdiction over Defendants because their offices are in this District and their actions in this District allegedly caused or threatened injury to Defendants.

**VENUE**

3. Venue is proper in this District under 28 U.S.C. 1391 (b) (1) and (2) because Defendants reside here and the acts or omissions that gave rise to Plaintiff's claims occurred in the District.

**PARTIES**

4. Plaintiff, Indigenous People of Biafra (IPOB), is a registered Community Interest Company that advocates through peaceful means an independent Biafran nation separate from Nigeria. The overwhelming majority of Biafrans—60-70 million strong—support IPOB's goal.
5. John Doe 1 is a member of Indigenous People of Biafra (IPOB) who resides in Imo State in southeast Nigeria on land historically occupied by Biafrans. John Doe 1 reasonably fears death, bodily injury, or destruction of his property by A-29 Super Tucano military aircraft if the planes are delivered by the United States to the Government of Nigeria and incorporated into the Nigerian Air Force to assist the ongoing genocide of Biafrans.

6. John Doe 2 is a member of Indigenous People of Biafra who is a native of Imo State in southeast Nigeria on land historically occupied by Biafrans. John Doe 2 reasonably fears death, bodily injury, or destruction of his property by A-29 Super Tucano military aircraft if the planes are delivered by the United States to the Government of Nigeria and incorporated into the Nigerian Air Force to assist the ongoing genocide of Biafrans.
7. John Doe 3 is a member of Indigenous People of Biafra who is a native of Ebonyi State in southeast Nigeria on land historically occupied by Biafrans. John Doe 3 reasonably fears death, bodily injury, or destruction of his property by A-29 Super Tucano military aircraft if the planes are delivered by the United States to the Government of Nigeria and incorporated into the Nigerian Air Force to assist the ongoing genocide of Biafrans.
8. John Doe 4 is a member of Indigenous People of Biafra who is a native of Imo State in southeast Nigeria on land historically occupied by Biafrans. John Doe 4 reasonably fears death, bodily injury, or destruction of his property by A-29 Super Tucano military aircraft if the planes are delivered by the United States to the Government. of Nigeria and incorporated into the Nigerian Air Force to assist the ongoing genocide of Biafrans.
9. John Doe 5 is a member of Indigenous People of Biafra who is a native of Imo Sate in southeast Nigeria on land historically occupied by Biafrans. John Doe 5 reasonably fears death, bodily injury, or destruction of his property by A-29 Super Tucano military aircraft if the planes are delivered by the United States to the Government. of Nigeria and incorporated into the Nigerian Air Force to assist the ongoing genocide of Biafrans.
10. John Doe 6 is a member of Indigenous People of Biafra who is a native of Imo State in southeast Nigeria on land historically occupied by Biafrans. John Doe 6 reasonably fears death, bodily injury, or destruction of his property by A-29 Super Tucano military aircraft

if the planes are delivered by the United States to the Government. of Nigeria and incorporated into the Nigerian Air Force to assist the ongoing genocide of Biafrans.

11. John Doe 7 is a member of Indigenous People of Biafra who is a native of Imo State in southeast Nigeria on land historically occupied by Biafrans. John Doe 7 reasonably fears death, bodily injury, or destruction of his property by A-29 Super Tucano military aircraft if the planes are delivered by the United States to the Government. of Nigeria and incorporated into the Nigerian Air Force to assist the ongoing genocide of Biafrans.

12. John Doe 8 is a member of Indigenous People of Biafra who is a native of Imo State in southeast Nigeria on land historically occupied by Biafrans. John Doe 8 reasonably fears death, bodily injury, or destruction of his property by A-29 Super Tucano military aircraft if the planes are delivered by the United States to the Government. of Nigeria and incorporated into the Nigerian Air Force to assist the ongoing genocide of Biafrans.

13. John Doe 9 is a member of Indigenous People of Biafra who is a native of Imo State in southeast Nigeria on land historically occupied by Biafrans. John Doe 9 reasonably fears death, bodily injury, or destruction of his property by A-29 Super Tucano military aircraft if the planes are delivered by the United States to the Government. of Nigeria and incorporated into the Nigerian Air Force to assist the ongoing genocide of Biafrans.

14. John Doe 10 is a member of Indigenous People of Biafra who is a native of Ebonyi State in southeast Nigeria on land historically occupied by Biafrans. John Doe 10 reasonably fears death, bodily injury, or destruction of his property by A-29 Super Tucano military aircraft if the planes are delivered by the United States to the Government. of Nigeria and incorporated into the Nigerian Air Force to assist the ongoing genocide of Biafrans.

15. Defendant Tony Blinken is the United States Secretary of State entrusted with administering Leahy Amendment 1, 22 U.S.C. 2378d, which generally prohibits military assistance under the Foreign Assistance Act of 1961 or the Arms Export Control Act “to any unit of the security forces of a foreign country if the Secretary of State has credible evidence that such unit has committed gross violations of human rights.”
16. Defendant Lloyd Austin is the United States Secretary of Defense entrusted with administering Leahy Amendment 2, 10 U.S.C. 2249e, which generally prohibits the expenditure of monies “for any training, equipment, or other assistance for a unit of a foreign security force if the Secretary of Defense has credible information that the unit has committed a gross violation of human rights.”

#### **STATEMENT**

17. IPOB’s mission is a Biafran sovereignty independent of the radical Fulani dominated Government of Nigeria through peaceful means. IPOB advocates a Biafran referendum organized and conducted by the United Nations to achieve Biafran sovereignty. In 2011, that protocol was followed in enabling South Sudan to establish sovereignty independent of Sudan.
18. Biafrans predominantly occupy lands in southeast Nigeria.
19. Biafrans sport a unique ethnicity, democratic culture, history, and traditions in Nigeria distinct from Nigeria’s radical, Islamic Fulani or Yoruba.
20. Biafrans are a political, religious, and ethnic minority in Nigeria numbering approximately 70 million. They are overwhelmingly Christian. They are generally unrepresented in the corridors of power, including the security services, which are completely controlled by the radical, Islamic Fulani. Biafrans have been persecuted at the

hands of the Fulani since Nigeria's independence from Great Britain in 1960. The primary livelihood of the Fulani are the killing, torture, and plunder of Biafrans. More than a century ago, Great Britain compelled the amalgamation of Biafrans with the Fulani under a single colonial establishment in furtherance of their divide-and-conquer strategy to control indigenous populations.

21. Boko Haram in Nigeria is associated with ISIS or Al Qaeda and is listed as a foreign terrorist organization by the United States Department of State.
22. Muhammadu Buhari is the President of Nigeria. He was elected in 2015 and re-elected in 2019. Mr. Buhari subscribes to radical Islam. He acquiesces in the application of Sharia law in twelve of Nigeria's thirty-six States. Before his presidency, Mr. Buhari acted as a spokesperson for Boko Haram, and he remains an adherent to its rebarbative murderous ambitions. From 1983-1985, Mr. Buhari ruled Nigeria as a military dictator earmarked by grisly human rights violations following a coup.
23. Mr. Buhari participated in the 1967-1970 Civil War in Nigeria as a military leader responsible for the slaughter of more than one million Biafrans.
24. At present, President Buhari is conducting a genocide of Biafrans that is under investigation by the International Criminal Court through use of his Fulani controlled security forces, including the Nigerian Air Force. On or around March 5-8, 2021, in Orlu, Imo State, the Nigerian police under the command of Deputy Commissioner of Police, Mr. Abba Kyari, in a rampage indiscriminately abducted innocent young men and women and transported them to unknown locations. Since then, they have been neither seen nor reunited with their families. Concurrently, the Deputy Commissioner presided over the burning of several houses and damaging of property owned by Biafrans because

perceived to be advocating Biafran freedom. Other Biafrans were killed. On April 15-18, 2021, the Deputy Commissioner indiscriminately arrested Biafrans at all major intersections (including teenagers), beat them, and drove them to unknown locations without accusation of crime. On May 21, 2021, the Nigerian Air Force bombarded the village of Amuzi, Obowa in Imo State using helicopter gunboats. Many Biafran villagers were killed and buildings and farmland were destroyed.

25. On June 18, 2021, Mr. Buhari used helicopter gunboats to bombard the Biafran people of Ihitte, Ukwu in Imo State killing 25 and destroying buildings, churches, and farms.
26. On February 18, 2021, Mr. Buhari used helicopter gunboats to bombard Orlu in Imo State. Many Biafran's were killed or wounded, including women and children.
27. On or about June 2, 2021, President Buhari in a tweet pledged to exterminate Biafrans in the manner of the 1967-1970 Civil War if they persisted in advocating for a sovereign Biafran nation.
28. Twitter deleted Mr. Buhari's threatening tweet for violating its user guidelines.
29. In retaliation, Mr. Buhari indefinitely suspended twitter operations in Nigeria.
30. In flagrant violation of international law, on or about June 2021, in furtherance of the ongoing genocide of Biafrans, President Buhari orchestrated the torture and kidnapping of IPOB leader Nnamdi Kanu from Kenya by using thuggish quasi-mercenaries. Nnamdi Kanu was charged with terrorism and companion offenses before a pliable Nigerian judiciary—a de facto arm of President Buhari.
31. The United States Commission on International Religious Freedom recommended in 2020 that the State Department designate Nigeria as a Country of Particular Concern for

engaging in and tolerating systematic, ongoing, and egregious violations of religious freedom, including persecution of the Christian Biafran community.

32. On or about August 3, 2017, President Donald Trump approved the \$600 million sale of 12 A-29 Super Tucano military aircraft to Nigeria professedly for use in fighting international terrorism, including Boko Haram. The Trump administration was notorious for its indifference to human rights violations by foreign governments, for example, resisting sanctions against Saudi Arabia's Crown Prince despite his assassination of Washington Post journalist Jamal Khashoggi.
33. President Buhari's intends to use the Super Tucano advanced weapons to kill and maim Biafrans and destroy their property in his ongoing genocide conducted by Fulani controlled security forces guilty of atrocious human rights violations as exemplified in paragraphs 23-26, *supra*.
34. On or about July 19, 2021, the Biden administration delivered six (6) of the twelve (12) A-29 Super Tucano military aircraft to Nigeria. They are slated to be formally commissioned into the Nigerian Air Force within a few weeks before becoming operational.
35. Based on their Christian religion, their Biafran heritage, IPOB membership, peaceful advocacy of an independent Biafran state, and the ongoing genocide of Biafrans by President Buhari, John Does 1-10 reasonably fear that the A-29 Super Tucano aircraft will be used imminently to kill or maim them physically or to destroy their property by Fulani controlled security forces guilty of egregious human rights violations, including extrajudicial killings, torture, and rape.
36. In 2008, Congress enacted Leahy Amendment Number 1, 22 U.S.C. 2378d. It generally prohibits military assistance to any unit of the security services of a foreign country if the



Secretary of State possesses credible evidence that such unit has committed gross violations of human rights. The prohibition may be waived if the Secretary determines that the government of the foreign country is taking effective measures to prosecute the human rights culprits.

37. Among other things, the purpose of Leahy Amendment Number 1 is to shield citizens of foreign sovereigns from harm caused by United States weapons in the hands of security forces guilty of gross human rights violations.

38. In 2014, Congress enacted Leahy Amendment Number 2, 10 U.S.C. 2249e. It generally prohibits the use of Defense Department funds to assist through training, equipment, or otherwise units of foreign security forces if the Secretary of Defense possesses credible information of their complicity in gross human rights violations. The Secretary may waive the prohibition for “extraordinary circumstances” or by determining that the foreign government has taken necessary corrective steps or to assist humanitarian operations or in national security emergencies.

39. Among other things, the purpose of Leahy Amendment Number 2 is to shield citizens of foreign sovereigns from harm caused by United States weapons in the hands of security forces guilty of gross human rights violations.

40. All conditions precedent to this action have occurred or have been performed.

#### **COUNT 1-Leahy Amendment Number 1**

41. Plaintiff repeats and re-alleges paragraphs 1-40 above as if fully set forth herein.

42. Every unit of Nigeria’s security forces are guilty of gross violations of human rights against Biafrans, including the Nigerian Air Force, which is known to Defendant Secretary of State Tony Blinken.

43. Defendant Blinken has not determined that the Government of Nigeria is taking effective measures to bring the responsible members of the security forces units to justice.
44. The delivery of six (6) Super Tucano military aircraft to the Government of Nigeria under the Foreign Assistance Act of 1961 of the Arms Export Control Act violated Leahy Amendment Number 1, 22 U.S.C. 2378d.
45. Defendant Blinken is planning imminently to deliver six (6) additional Super Tucano military aircraft to the Government of Nigeria for use by security forces guilty of gross violations of human rights against Biafrans in violation of Leahy Amendment Number 1, 22 U.S.C. 2378d.
46. IPOB members John Does 1-10 reasonably fear that the Super Tucano military aircraft will be used by the Nigerian Air Force to kill or injure them or to destroy their property because of their IPOB membership and Biafran heritage.

**COUNT 2- Section 10 of the Administrative Procedure Act**

47. Plaintiff repeats and re-alleges paragraphs 1-46 as if fully set forth herein.
48. Every unit of Nigeria's security forces is guilty of gross violations of human rights against Biafrans, including the Nigerian Air Force, which is known to Defendant Secretary of State Tony Blinken.
49. Defendant Blinken has not determined that the Government of Nigeria is taking effective measures to bring the responsible members of the security forces units to justice.
50. The delivery of six (6) Super Tucano military aircraft to the Government of Nigeria under the Foreign Assistance Act of 1961 of the Arms Export Control Act was exceeded statutory authority in violation of Leahy Amendment Number 1, 22 U.S.C. 2378d, and the Administrative Procedure Act, 5 U.S.C. 706 (2) (A) and (C).

51. Defendant Blinken is planning imminently to deliver six (6) additional Super Tucano military aircraft to the Government of Nigeria for use by security forces guilty of gross violations of human rights against Biafrans in violation of Leahy Amendment Number 1, 22 U.S.C. 2378d and the Administrative Procedure Act, 5 U.S.C. 706 (2) (A) and (C).
52. Plaintiff members John Doe 1-10 reasonably fear that the Super Tucano military aircraft will be used by Nigerian Air Force imminently to kill or injure them or to destroy their property because of their IPOB membership, religion, and Biafran heritage.

**COUNT 3-Leahy Amendment Number 2**

53. Plaintiff repeats and re-alleges paragraphs 1-52 as if fully set forth herein.
54. Every unit of Nigeria's security forces is guilty of gross violations of human rights against Biafrans, including the Nigerian Air Force, which is known to Defendant Secretary of Defense Lloyd Austin.
55. Defendant Austin has not determined that the exception or waiver provisions of 10 U.S.C. 2249e apply to the delivery of Super Tucano military aircraft to the Nigerian Air Force.
56. The prior delivery of six (6) Super Tucano military aircraft to the Government of Nigeria for use by security forces guilty of gross violations of human rights contravened Leahy Amendment Number 2, 10 U.S.C. 2249e.
57. Defendant Austin is planning imminently to deliver six (6) additional Super Tucano military aircraft to the Government of Nigeria for use by security forces guilty of gross violations of human rights against Biafrans in violation of Leahy Amendment Number 2, 10 U.S.C. 2249e.

58. Plaintiff members John Does 1-10 reasonably fear that the Super Tucano military aircraft following their impending delivery to the Government of Nigeria will be used by Nigerian Air Force to kill or injure them or to destroy their property because of their IPOB membership, religion, and Biafran heritage.

**COUNT IV-Section 10 of the Administrative Procedure Act**

59. Plaintiff repeats and re-alleges paragraphs 1-58 as if fully set forth herein.

60. Every unit of Nigeria's security forces is guilty of gross violations of human rights against Biafrans, including the Nigerian Air Force, which is known to Defendant Secretary of Defense Lloyd Austin.

61. Defendant Austin has not determined that the exception or waiver provisions of 10 U.S.C. 2249e apply to the delivery of Super Tucano military aircraft to the Nigerian Air Force.

62. The delivery of six (6) Super Tucano military aircraft to the Government of Nigeria for use by security forces guilty of gross violations of human right against Biafrans contravened Leahy Amendment Number 2, 10 U.S.C. 2249e and the Administrative Procedure Act, 5 U.S.C. 706 (A) and (C).

63. Defendant Austin is planning imminently to deliver six (6) additional Super Tucano military aircraft to the Government of Nigeria for use by security forces guilty of gross violations of human rights against Biafrans in contravention of Leahy Amendment Number 2, 10 U.S.C. 2249e and the Administrative Procedure Act, 5 U.S.C. 706 (A) and (C).

64. Plaintiff members John Does 1-10 reasonably fear that the delivery to the Government of Nigeria of Super Tucano military aircraft will be used by the Nigerian Air Force

imminently to kill or injure them or to destroy their property because of their IPOB membership and Biafran heritage.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff demands judgment against Defendants on all counts jointly and severally as follows:

- a) For a declaratory judgment that Defendants' past and impending delivery of Super Tucano military aircraft to the Nigerian Air Force violate or would violate Leahy Amendments Numbers 1 and 2, 22 U.S.C. 2378d and 10 U.S.C. 2249e, and the Administrative Procedure Act, 5 U.S.C. 706 (A) and (C);
- b) For an injunction against Defendants prohibiting any further delivery of Super Tucano military aircraft to the Nigerian Air Force in violation of Leahy Amendments Numbers 1 and 2, 22 U.S.C. 2378d and 10 U.S.C. 2249e, and the Administrative Procedure Act, 5 U.S.C. 706 (A) and (C);
- c) For an injunction directing Defendants to seek the return of the six (6) Super Tucano aircraft already delivered to the Nigerian Air Force in violation of the Leahy Amendments Numbers 1 and 2, 22 U.S.C. 2378d and 10 U.S.C. 249e, and the Administrative Procedure Act, 5 U.S.C. 706 (A) and (C).
- d) For costs incurred by Plaintiffs in this action; and,
- e) For such other relief as the Court deems just and proper.

Respectfully submitted this 31st day of July 2021

/s/Bruce Fein

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