

## Falana Writes Letter To Attorney-General, Malami, Over Unlawful Detention Of El-Zakzaky, Wife

Written by freezak

Friday, 03 January 2020 15:06 - Last Updated Friday, 03 January 2020 15:14

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Dear Honourable Justice Minister,

Request for compliance with court orders in favour of Sheikh Ibraheem El-Zakzaky and Hajia Zeinat El-Zakzaky

We are solicitors to Sheikh Ibraheem El-Zakzaky and Hajia Zeinat El-Zakzaky (hereinafter referred to as &quot;our clients&quot;) on whose behalf we write this letter.

In view of the recent decision of the Federal Government to comply with all court orders, we have the instructions of our clients to request you to ensure compliance with the valid and subsisting orders of the Federal High Court and Kaduna State High Court concerning them which are set out hereunder:

1. On December 2, 2016, the Federal High Court presided over by the Honourable Justice G. O. Kolawole (now of the Court of Appeal) declared illegal and unconstitutional the arrest and detention of Sheikh Ibraheem El-Zakzaky and his wife, Hajia Zeinat El-Zakzaky by armed soldiers.

2. Consequently, the court awarded them N50m damages for their illegal detention, ordered the state security service to release them from custody forthwith and provide them with a house since the Nigerian Army had burnt down and demolished their house in Zaria, Kaduna State.

3. Without any legal basis whatsoever the Federal Government refused to comply with the aforesaid court orders. Curiously, the contemptuous acts of the Federal Government were publicly defended by your good self and some other high ranking officials of the President Muhammadu Buhari administration. The reasons adduced for non-compliance with the said court orders include the following:

i. On January 3, 2017, the Federal Government filed an appeal against the judgment of the Federal High Court for the release of our clients. No motion was filed for stay of execution of any of the orders of the court. However, the motion of the Federal Government for extension of time to file the appellant's brief out of time was not taken on the grounds that a contemnor could seek any relief from an appellate court. ( [https:// punchng . com / illegal - detention - no - respite](https://punchng.com/illegal-detention-no-respite)

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ii. On January 19, 2017, the Federal Government claimed that Mrs Zeinat El-Zakzaky was not in detention but decided to keep her husband's company. ( [https :// www . nairaland . com / 35 82099](https://www.nairaland.com/3582099)

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iii. On January 20, 2017, sources close to the Presidency were alleged to have said that our clients could not be released on grounds of national security. ( [https :// www . pulse . ng / ne](https://www.pulse.ng/ne)

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iv. On June 16, 2017, the Honourable Minister of Information, Alhaji Lai Mohammed, explained that the reason why our clients had not been released was that the house being built for them by the Federal Government had not been completed. ( <https://naija.com/why-el-zakzaky>

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4. In a desperate bid to stop the Shiites from further embarrassing the Federal Government by demanding compliance with the court orders for the release of their leader, government caused the Kaduna State Government to charge our clients with incitement of members of the Shia movement to commit culpable homicide, blocking of roads and leading an unregistered organisation to wit: Islamic Movement in Nigeria.

5. As you are no doubt aware, the over 300 Shiites alleged to have been procured by our clients to commit the said criminal offences have been discharged by the Magistrate Court and High Court of Kaduna State for want of evidence.

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6. However, by an order made on August 5, 2019, the Kaduna State High Court granted our clients leave to travel to India for urgent medical treatment subject to the supervision of the respondent i.e the Kaduna State Government. But instead of allowing the hospital to treat our clients under the supervision of the Kaduna State Government, the Federal Government took over the medical treatment, imposed doctors on our clients and denied them access to their personal physician who had accompanied them from Nigeria. Thus, our clients were deliberately denied access to medical treatment in defiance of the order of the Kaduna State High Court.

7. Since our clients were brought back from India they were kept incommunicado until they were transferred to the Kaduna Correctional Centre last month. In spite of several assurances, authorities of the correctional centre have denied our clients access to any form of medical treatment.

8. Notwithstanding the pending criminal case in the Kaduna State High Court, your office and the Presidency have not ceased to justify the refusal of the Federal Government to comply with the orders of the Federal High Court and the Kaduna State High Court. The statements made by your good self and other officials are set out below:

i. On July 23, 2019, the Special Adviser to the President on Media and Publicity, Mr Femi Adesina, said that the President Muhammadu Buhari-led government refused to obey Justice Gabriel Kolawole's order on the release of the leader of the Islamic Movement in Nigeria, Sheikh Ibraheem El-Zakzaky, because it had appealed the ruling. Mr Adesina made the statement during an interview on Channels Television's Sunrise Daily ( <https://punchng.com> )

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Why court order on El-Zakzaky's release was not obeyed –Presidency)

ii. On July 26, 2019, during your screening for reappointment as the Attorney-General of the Federation, you told the Senate that the disobedience of court orders by the Buhari administration in respect of El-Zakzaky and others was based on national security. ( [https://www](https://www.pulse.ng/news/local/malami-explains-why-buharis-government-disobeys-court-orders-hg3gm4n5)

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iii. When the street protests by the Shiites to demand the release of their leader did not stop, the

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Federal Government announced the proscription of the Islamic Movement in Nigeria on July 27, 2019. The proscription was sequel to an ex parte order secured from the Federal High Court by the office of the Attorney-General of the Federation. ( <https://www.pulse.ng/news/local/fg-to-proscribe-shiite-muslims-as-court-declares-them-terrorist-group/wfm0739> )

iv. In justifying the decision of the Federal Government to detain Messrs Sowore and Bakare in defiance of the orders of the Federal High Court, the State Security Service issued a statement on November 14, 2019 wherein it claimed that the duo as well as El-Zakzaky and Dasuki were enjoying themselves in custody as “they are allowed access to people and use of other facilities like telephones, gymnasium, TV, newspapers and medical facilities”. (DSS explains why Dasuki, Elzakzaky chose to remain in custody - <https://www.pulse.ng/news/local/dss-explains-why-dasuki-el>)

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However, following the release of Mr Omoyele Sowore and Col. Sambo Dasuki (retd) from illegal custody last week, you were reported to have said that our clients could only be released by the Kaduna State Government. With respect, your position has failed to take cognisance of the fact that your office, the Presidency and the State Security Service had up till last month, repeatedly given contradictory reasons to justify the disobedience of the aforesaid court orders for the release of our clients.

In view of the foregoing, we urge you to use your good office to review your position and ensure the immediate and unconditional compliance with the valid and subsisting orders of the Federal High Court and the Kaduna State High Court concerning our clients. This request is in line with the new policy of the Buhari administration to operate under the rule of law.

While wishing you a challenging legal year, please accept, as usual, the assurance of our highest professional regards.

Your Sincerely,

Femi Falana, SAN, FCI Arb.

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