



**IN THE COMMUNITY COURT OF JUSTICE OF THE**  
**ECONOMIC COMMUNITY OF WEST AFRICAN STATES**

**HOLDEN AT ABUJA, NIGERIA**

**SUIT NO. ECW/CCJ/APP/11/15**

**JUDGMENT NO: ECW/CCJ/JUD/24/18**

BETWEEN:

1. Engr. Raymond Oguche
2. Peter Idogbe
3. Isaac Enemona Ameh
4. Andrew Ogangwu
5. Michael Ali
6. Agada Emmanuel
7. Dr. Mathew Oguche

Plaintiffs

(For themselves and on behalf of  
the people of Ette Community  
and Olamaboro L.G.A of Kogi State

**AND**

Federal Republic of Nigeria

Defendant

i. **Before their Lordships.**

**Hon. Justice Friday Chijioke Nwoke**

**-- Presiding**

**Hon. Justice Yaya Boiro**

**-- Member**

**Hon. Justice Alioune Sall**

**--Member**

**Assisted by: Djibor Aboubacar Diakité**

**--- Registrar**

## REPRESENTATION OF THE PARTIES

### 1. PLAINTIFFS

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Port- Harcourt

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Nigeria.

### 2 DEFENDANT

M.L. Shiru (Mrs)

T. A. Gazali

I.I. Hassan

Ministry of Justice, Abuja – Nigeria.

## **SUMMARY OF FACTS**

The Plaintiffs are Nigerian Citizens and Community Citizens within the meaning of Article 1 (1) (a) of the Protocol suing for themselves and on behalf of the Members of Ette Community in Kogi State, Nigeria.

The Defendant is a Member State of the Economic Community of West Africa States (ECOWAS) and a signatory to its Treaty, Protocols, Directives and Regulations as well as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

The Plaintiffs' aver that Ette Community is a Community within the Federal Republic of Nigeria made up of Igala people who speak Igala language and by all existing boundary instruments including maps, gazettes gazetteers and ethnography, the Community has always been located in the North and now Kogi State. The location of the Community is represented in the colonial and post-colonial instruments and the existing maps showing the Northern Nigeria, the twelve (12) State structures, the nineteen (19) state structure (administrative and political) and the cultural map of Nigeria are all at the Defendant's office of the Surveyor General.

Ette Community shares a common boundary with Enugu state and as a result of the aggressive encroachment into its territory by the indigenes of Enugu state, the Kogi state Government initiated legal actions against Enugu

state in 2005. The Supreme Court in its judgment directed the Defendant's National Boundary Commission to settle the dispute between the two states amicably.

Based on the said judgment of the Supreme Court, the Boundary Commission, called several stakeholder's meeting involving their officials and officials of the two State governments without including the Ette Community. A technical Committee was constituted to trace the boundary in the Community and it was discovered that the Ette Community was in Kogi State. After the Kogi State government took full and lawful possession of the Community, some hoodlums came to the Community, harassed and beat up some of its officials, threatened them to pack their luggage out of the Community or face disastrous consequences.

The following day, the hoodlums in the company of Police Officers from Enugu state invaded the Community and attacked the members of the community including their King and killed his palace guard. They shot sporadically and destroyed properties. These aggressive attacks led to the displacement of the Community Members since 29<sup>th</sup> August, 2014 till date and the Nigerian Police have failed to take any action.

The members of the community brought this fact to the notice of the Inspector General of Police, the Commissioner of police, Kogi state, National Security Council, Chairman of the Police Service Commission, National

Human Rights Commission, through petitions and letters, but no response was received. A report against the Police authorities was forwarded to the then President of the Federal Republic of Nigeria on the nonchalant and unlawful disposition of the Police hierarchy to the plight of the Community, but all to no avail.

That by a letter dated 8<sup>th</sup> November 2014, from the office of the Attorney-General and Minister of Justice in response to their petition, it was admitted that enquires were made at the Defendant's Federal Ministry of Justice on the issue and was forwarded to the National Boundaries Commission which are yet to respond to same.

The Plaintiffs claimed that the only response they received from the Police Headquarters to their numerous petitions was from the Deputy Commissioner of Police, who rather called Members of the Community together in the name of peace meeting and since then, nothing substantial has been done. The Defendant's Police force has no business under the law to deal with the issue of determination of boundaries and cannot unilaterally determine the location of Communities, and it cannot punish the Members of the Plaintiffs' Community for exercising their rights to belong to Kogi State.

The Members of Ette community are all Igala people of Nigeria and to keep them elsewhere is akin to disconnecting them from their history, culture,

lifeline and existence and the Defendant is under a statutory obligation to ensure that the Plaintiffs rights are recognized and preserved.

That Members of the Community are going through harrowing experiences in the hands of the hoodlums who still reign supreme till date in the Community and the Defendant's agents have done nothing to stop the situation.

**As a result of these occurrences, the Plaintiffs sought the following reliefs from the Court:**

**A. A DECLARATION** that the Plaintiffs' Community is entitled to the protection of the fundamental freedoms enshrined and guaranteed under The Universal Declaration of Human Rights, The African Charter on Human and Peoples Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights.

**B. A DECLARATION** that the Defendant is bound to observe and respect the rights enshrined and guaranteed under the Articles of the Universal Declaration of Human Rights, the African Charter on Human and Peoples' Rights, the International on Civil and Political Rights, and the International Covenant on Civil and Political Rights on all issues whether executive, legislative and judicial relating with, and/or pertaining to the Plaintiff's Community and its Members.

**C. A DECLARATION** that it is within the ambit of the Plaintiffs' Community's fundamental rights to existence, and the determination of their social and cultural development and future, in line with their freedom and identity and to a general satisfactory environment favourable to their development pursuant to Articles 20(i), 22(i) and 24 of the African Charter on Human and Peoples' Rights.

**D. A DECLARATION** that it is within the exercise of the fundamental rights of Members of Ette Community to determine their existence and future as to who they are and where they belong within the ramification of the political status of their homeland, pursuant to their rights to self-determination as guaranteed under Articles 20(i) of the African Charter on Human and Peoples' Rights and Article 1 of the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights.

**E. A DECLARATION** that the actions of the Defendant is inconsistent with and offends the provisions of Articles 3,5,6,7,9,13,21(2),27 and 28 of the Universal Declaration of Human Rights in terms of their right to life, liberty and security of their human persons, torture, cruel, inhuman or degrading treatment or punishment, equal protection of the law, against arbitrary arrest, detention and exile, freedom of movement and to residence in their ancestral home, right to equal access to the Defendant's Police enforcement

machinery, right to participate in their cultural life and to a social order in which these fundamental freedoms can be enhanced and preserved.

**F. A DECLARATION** that acts of the Defendant regarding the Members of Plaintiffs' Community, are inconsistent with and offends the provisions of Articles 1,5,12(i) and 15 in terms of their rights to existence and freedom of choice as to who they are and where they belong and Defendant perpetrating acts that impinge on the preservation and enjoyment of the rights guaranteed under the covenant, inhibits their enjoyment of the highest attainable standard of physical and mental health and the freedom to participate in their cultural life.

**G. A DECLARATION** that the acts of the Defendant regarding the Members of the Plaintiff Community are inconsistent with and offends the fundamental freedoms enshrined and guaranteed under Articles 1,2,3(a)(b) and (c) 3,5,7,9(i),12,25(c),26 and 27 of the International Covenant on Civil and Political Rights, in terms of their rights through the direct acts of the Defendants' Police authority, the inhumane and degrading treatment resulting therefrom, invasion of their rights to liberty and security, movement and freedom to reside in their homeland, denial of the Defendant's obligation to protect and preserve these rights, and their right as Igala speaking people in Community with their kiths and kin to enjoy their own culture, to profess their historical heritage and identity in accordance with the freedom notwithstanding the status of their territory



**H. A DECLARATION** that the Members of the Plaintiffs have the right to determine their existence as a people, and the status and future of their lives and territory, as free Citizens of the Federal Republic of Nigeria, from Olamaboro Local Government Area, Kogi State.

**I. AN ORDER** compelling the Defendant, its agents, servants and privies from further violating the fundamental rights of the Plaintiffs and Members of Ette Community and accord due recognition to their existence as a people, in line with their status and future as free citizens of the Federal Republic of Nigeria, from Olamaboro Local Government Area, of Kogi State.

**J. AN ORDER** directing the United Nations' special Rapporteur for Nigeria and/or Her Excellency, Mrs. Fatou Bensouda, Chief Prosecutor of the International Criminal - Court to investigate the circumstances surrounding the invasion and sacking of Members of the Plaintiffs' Community and the attendant human rights abuses, killings and deprivations and the extent of the involvement of the Nigeria Police, with a view to identify the person(s) involved, their sponsors and the official support base for the abuses.

**K. AN ORDER** enjoining the Defendant to direct that the Members of the Plaintiffs' Community currently being remanded and prosecuted in the Courts in Enugu State as a result of the crisis have their causes heard in the Courts with the appropriate jurisdiction in Kogi State, and/or the Defendant's Federal High Court, or any other Federal Court with Jurisdiction to try the

offences of which they are charged within the National jurisdiction as a veritable remedy against their persecution and resultant injustice.

**L. AN ORDER** enjoining the Defendant to embark on immediate and elaborate initiatives of reconstructing of the Community to the extent of the devastation/destruction therein and initiate policies and develop infrastructure(s) for the restoration and/or resettlement of Members of the Community in their ancestral home and their physical and mental rehabilitation.

**M. AN ORDER** enjoining the Defendant to cause an investigation into the circumstance) surrounding the lack of response and lukewarm disposition of the Defendant's Police force to the pains and suffering of the Plaintiffs' Community since the 29th day of August, 2013 till date, the non-challant attitude to distress calls as contained in the series of petitions duly received and endorsed by the Defendant's office of the Inspector-General of Police on the matter, and the fate the said petitions on the matter, and unravel the circumstance of their refusal neglect and/or abandonment.

**N. AN ORDER** enjoining the Defendant to commission a joint security and intelligence force or outfit directly under the Defendant's National Security Council, and/or the office of the National Security Adviser, and/or such other joint security body that the Defendant deems fit and proper, to take over law enforcement and security in the Plaintiffs' community.

**OR IN THE ALTERNATIVE.**

**A. AN ORDER** enjoining the Defendant to direct that the Kogi State Command of the Nigeria Police Force and the Commissioner of Police Kogi State takeover law enforcement and security in the Plaintiffs' community.

**B. Five Billion Naira (N5,000,000,000,000)** only being punitive and exemplary damages against the Defendant for the wanton and unwarranted violation and infringement of the Plaintiffs' Community's fundamental rights, in breach of the Defendant's national and international obligations under the Universal Declaration of Human Rights, African Charter, International Covenant on Civil and Political Rights and its 1999 Constitution (as amended).

**C. PERPETUAL INJUNCTION** restoring the Defendant, its agents, servants and privies from further violation of the Plaintiffs' community's fundamental rights and freedom as enshrine and guaranteed under the Universal Declaration of Human Rights, African Charter, International Covenant on Civil and Political Rights, and chapters II and IV of the Defendant's Constitution (as amended).

**D. AND FOR ANY OTHER ORDER OR ORDERS** as the Honorable Court may deem fit to make in the circumstance.

The Defendant in response to the Plaintiffs' application filed its defence and State that upon being informed of the decision of the Supreme Court in a boundary dispute between some communities in Kogi and Enugu State, it

swiftly referred the matter to the National Boundary Commission for necessary action.

That in compliance with the judgment of the supreme Court, its National Boundary Commission called all the stake holders meeting involving all the officials of the two State government representing the Members of the Communities before constituting a technical Committee to commence the tracing of the boundary adjustment.

That during the pendency of this matter, it wrote a letter to the National Boundary Commission in charge of issues relating to boundary dispute within the various States of the Federation and in response, the National Boundary Commission disclose its efforts of resolving the dispute between Enugu and Kogi States. That matters of this nature are to be resolved by the National Boundary Commission.

That during the crisis, security agencies were deployed for the purpose of quelling the unrest in the interest of peace, security and the peaceful co-existence of the various groups/individuals in both Kogi and Enugu States respectively.

The Defendant further averred that the responsibility of ensuring peaceful co-existence between the various ethnic groups in Kogi and Enugu States is a collective responsibility of both the government and the governed and

cannot be held responsible for any ethnic unrest which are actions that constitute a breach.

That it cannot be held responsible for crimes committed by unidentified and unknown persons particularly, since such perpetrators of ethnic unrest are entirely unknown and unconnected to the defendant or any of its agencies.

That the Plaintiffs did not disclose any actionable wrong done to them by the Defendant that would warrant the Court making the orders sought by the Plaintiffs.

That the Plaintiffs' claim for damages is not substantiated by the facts to support any assessment of damages in their favor.

The Defendant urged the Honorable Court to dismiss the Plaintiffs' claim as same is frivolous, speculative, vexatious, baseless, incompetent and an abuse of Court process.

### **Analysis by the Court:**

From the submission of the Parties in this case, two major issues calls for determination namely: however both can be subsumed in the first question,

- 1. Whether from the totality of facts adduced, this action as constituted and conceived can be entertained by this Court.**
- 2. Whether the Plaintiffs are entitled to the reliefs sought**

**1. WHETHER FROM THE TOTALITY OF FACTS ADDUCED, THIS ACTION AS CONSTITUTED AND CONCEIVED CAN BE ENTERTAINED BY THIS COURT, AND THE RELIEFS SOUGHT GRANTED?**

The Plaintiffs in their application alleged a violation by the Defendant of their rights guaranteed by Article 20 and 22 of the African Charter on Human and Peoples' Rights. The Plaintiffs aver that since the 29<sup>th</sup> of August 2014, their Community Ette Olamaboro LGA, Kogi State has been under an aggressive attack by some community members in Enugu state. That these attacks were carried out by some hoodlums in the company of the Police force, who invaded their community, destroyed, killed and left them internally displaced. That as a result of this encroachment, their rights to existence and self-determination has been infringed upon and the Defendant has neglected and or failed to protect these rights.

**Article 1 of the International Covenant on Civil and Political Rights** provides:

*All people have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.*

**Article 20 (1) of the African Charter on Human and Peoples' Rights** provides for the right to existence of **a people**, their self-determination as well as economic and social development.

**Article 22** makes provisions for **people's** right to economic social and cultural development with due regard to their freedom and identity and the equal enjoyment of the common heritage of mankind.

The above articles provide for the collective rights of people to existence, self-determination, social and economic development with regards to their freedom and identity.

The Plaintiffs brought this action for and on behalf of the people of Ette Community for the violation of their rights to existence and self-determination as a Community exercisable within the Defendant State, and the rights regarding their social, cultural and economic development as guaranteed under the African Charter.

Article 20 and 22 of the African Charter as stated above guarantees the right of a "people" to determine their right to existence and by virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development. These rights as enshrined under the above Articles are classified as a collective right not an individual right. See **In Kemi**

**Penheiro SAN V. Republic of Ghana, ECW/CCJ/JUD/11/12 (2012)**  
**UNREPORTED.**

In determining whether or not there has been a violation of the above Articles of the African Charter as alleged, it is pertinent to establish whether or not the said Ete Community can be classified as “people” within the meaning described in the African Charter.

The **Black’s Law dictionary 2<sup>nd</sup> Edition** defines the word “people” as follows: “when we speak of the rights of the people, or of the government of the people by law, or of the people as a non-political aggregate, we mean all the inhabitants of the state or nation, without distinction as to sex, age, or otherwise. But when reference is made to the people as the repository of sovereignty, or as the source of governmental power, or to popular government, we are in fact speaking of that selected and limited class of Citizens to whom the constitution accords the elective franchise and the right of participation in the offices of government.”

Furthermore the **Chambers Dictionary 13<sup>th</sup> Edition** gave a more explicit definition of a “People” thus “**people**” is defined as a set of persons; a nation; a Community; a body of persons held together by a common origin, speech, culture, political union; or by a common leadership, headship etc...”



In a recent decision of the African Court on Human Rights in **African Commission on Human and Peoples Rights V. Kenya App. no. 006/2012, Judgment of 26 May 2017**, the Court in considering the question whether the notion “People” used by the Charter covers not only the population as the constituent element of the State but also the ethnic groups or Communities identified as forming part of the said population within a constituted State and whether the enjoyment of the right unquestionably recognized for constituent peoples of the population of a given State can be extended to include sub-state ethnic groups and Communities that are part of that population. This was answered in the affirmative provided that such group or Community do not call into question the sovereignty and territorial integrity of the State without the latter’s consent. This Court adopts this view in the resolution of this case.

In addition, in the **Report of the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities**, the United Nations Special Rapporteur on Minorities, specified the criteria to identify indigenous populations as follows:

*“Indigenous people can be appropriately considered as “Indigenous communities, peoples and nations which having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of societies now prevailing*

*in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop, and transmit to future generations, their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems.”*

In light of the above, the Ette community by virtue of being a Community under the State of Nigeria are clothed with the rights of a people to challenge the alleged violation under the African Charter on Human and Peoples' Rights as well as other International Treaties.

Having established that the Ette Community on whose behalf this action is brought are recognized as a “**people**” under the African Charter, the next question to be considered is whether there has been a violation of Articles 20 and 22 as alleged.

Self-determination may best be understood as the legal right of people to decide their own destiny in the international order. This principle allows a people to choose their own political status and determine their own form of economic, cultural and social development. Under the African Charter on Human and Peoples Rights and the International Covenant on Civil and Political Rights, self-determination is protected as a right of “all peoples.” It refers to the rights of people indigenous to an area to determine their destiny.

The crux of this application borders on an interstate boundary dispute between the Ette Community and a community in Enugu State wherein some armed thugs allegedly invaded the Ette community, attacked, harassed, intimidated and left the Plaintiffs' and members of their community internally displaced.

It is pertinent that in considering an alleged violation, the Court must establish whether the application relates to rights protected by the African Charter or other human rights instruments to which the Defendant is a party. In this vein, the burden of substantiating the claim in line with the above international provisions lies on the Plaintiffs as they stand to fail if no such evidence is adduced.

In **FALANA & ANOR V. REP OF BENIN & 2 ORS (2012) UNREPORTED**, this Court held that "as always, the onus of proof is on a party who asserts a fact and who will fail if that fact fails to attain that standard of proof that will persuade the Court to believe the statement of the claim". See also **THE REGISTERED TRUSTEES OF THE SOCIO-ECONOMIC RIGHTS & ACCOUNTABILITY PROJECT (SERAP) V. THE FEDERAL REPUBLIC OF NIGERIA AND ANOR (2016) Unreported**

The Plaintiffs in establishing their case annexed series of correspondences between the community and various offices of the Defendant with respect to

complaints on the alleged invasion and destruction of life and properties by some unidentified thugs. They further annexed newspaper publications and communiques of the joint meetings of the officials of Enugu/Kogi interstate boundary. This documents the Defendant failed to counter.

The Defendant did not lead any evidence to controvert or disprove the allegation, neither did it produce any document to show that during the alleged crisis, measures were put in place to quell the unrest. It is not enough to state these facts without more. Every material fact must be substantiated with credible evidence.

**In FERNANDEZ ORTEGA ET.AL V. MEXICO. INTER.AM CT.HR (SER C) No.215 (Aug 2010)**, the Court noted that the State had the burden to provide conclusive information to disprove the alleged facts and having provided no evidence in contradiction of the Plaintiff's claim has failed to discharge that burden and so found the State responsible.

In the instance case, the Plaintiffs have failed to establish the nexus between the alleged invasion and attacks amounting to a communal conflict and the violation of their right to existence and self-determination.

The concept of self-determination as earlier noted denotes the right of a people to choose their own political status and determine their own form of economic, cultural and social development. On the other hand, a communal

conflict is a violent conflict between non-state groups that are organized along a shared communal identity.

The dispute in the present case is predicated upon an unresolved interstate land dispute between two ethnic groups under the Defendant's State wherein the Supreme Court of Nigeria in its decision ordered that the matter be revisited by the National Boundary Commission of the Defendant with a view to finding an amicable settlement to the boundary dispute. This the Plaintiffs admitted in their originating application.

The Plaintiffs in their written address contend that neither Kogi nor Enugu state can on its own determine the location of the territory as being within their jurisdiction, and the Defendant's National Boundary Commission cannot, by any shade of imagination make it as part of their function to determine for the Community where they should be.

The Defendant argued that matters of this nature are to be resolved by its National Boundary Commission, the only commission charged with sorting out the issue of this nature.

**PART II of the National Boundary Commission Act, Cap. 238, L.F.N., 1990**, provides that:

The Commission shall-

- (b) intervene, determine and deal with any boundary dispute that may arise among States, Local Government areas or communities in the Federation with a view to settling the disputes;*
  
- (c) define, and delimitate boundaries between States, Local Government Areas or communities in the Federation and between Nigeria and her neighbours in accordance with delimitation instrument or document established for that purpose;*

In light of the above provision, the responsibility to settle, demarcate and determine the true ownership of the boundary in dispute lies on the National Boundary Commission of the Defendant. It is a matter essentially within the domestic jurisdiction of the Defendant to determine which people, part or place belong to any of its components parts. The Court will be a busy-body to delve into such matters bearing in mind Article 2 (7) of the UN Charter, which recognizes matters of this nature as being within the “reserved domain” which international law has no competence to deal with. This Court’s jurisdiction inter alia covers violation of human rights within **ECOWAS** Member State and not to determine the boundaries of component entries, communities and ethnic groups residing within the territorial boundaries of Member States. There is a clear distinction between an interstate communal conflict and self-determination of a people. Communal conflicts as a result of land demarcation is often triggered by aggrieved group of indigenes who

identify themselves as the rightful owners of the land. This is the fulcrum of this case.

The Plaintiffs in this case have misconceived the true meaning of self-determination as well as the purport of the provisions on self-determination. Insofar as the right to self-determination and existence falls within the competence of this court, the Plaintiffs have not disclosed how this right was violated. A Plaintiff cannot hide under the human right mandate of this Court to litigate matters that are entirely within the domain of domestic Courts and Institutions.

Having examined the Plaintiffs application, the Court is of the view that the substance of the Plaintiffs' allegation borders on the internal affairs of the State of Nigeria and does not disclose a violation under Article 20 and 22 of the African Charter. Furthermore the Supreme Court of the Defendant being the final abiter in that state has ordered the parties involved to resort to the National Boundary Commission to settle their dispute.

In **CDD V. MAMADOU TANDJA & ANOR, (2011) CCJELR**, the Court declared that it had no jurisdiction to examine the constitutionality or legality of acts which come under the domestic norm and laws of authorities of Member States (vis-à-vis) violation of the provisions of the African Charter on Human and Peoples rights as raised by the Plaintiffs.

In view of the foregoing, the court holds that the alleged violation of Articles 20 and 22 of the African Charter, is unfounded.

Be that as it may, there is need to ascertain what further steps the Defendant took upon receipt of the series of complaint as alleged?

It is trite that states have a duty to promptly investigate reports being made to them with the view of bringing the violators to book which will in turn serve as a deterrent to other hoodlums. Particularly as the complaints relate to human rights of citizens.

The Defendant argued that it cannot be held responsible for crimes committed by unidentified and unknown persons particularly, since the perpetrators of the ethnic unrest are entirely unconnected and unknown to it or any of its agencies. That during the crisis, it deployed all security agencies for the purpose of controlling any form of unrest.

The Defendant failed to prove that it conducted an effective investigation into the alleged acts by armed hoodlums and displacement of the members of the Ette community. They did not present evidence to disprove the allegation but kept silent with regards to the series of violations encapsulated in the Plaintiffs application amounting to a violation of their rights which, but for other reasons adduced herein could have succeeded.



In **Velasquez Rodriguez V. Honduras, Series C, No. 4, para. 170 (1988)**, the Inter-American Court noted that “An illegal act which violates human rights and is initially not directly imputed to a State (for example, because it is the act of a private person or because the person responsible has not been identified) can lead to international responsibility of the State, not because of the act itself, but because of the lack of due diligence to prevent the violation or to respond to it as required by the Convention.”

In **Maritza Urrutia v. Guatemala, judgment of 27<sup>th</sup> November 2003, para 41**, during the public hearing, the State asserted that there was no direct evidence to show that agents of the State were responsible for the violations committed against the victim. In this respect, the Court considers it appropriate to indicate that, in order to establish that there has been a violation of the rights embodied in the Convention, it is not necessary to determine, as it is under domestic criminal law, the guilt of the authors or their intention, nor is it necessary to identify individually the agents who are attributed with the violations.

However, the Application is devoid of any known link between self-determination and violation of rights in view of the foregoing. Where the crux of the main claim is boundary dispute, merely claiming self-determination cannot bring the matter within the human rights mandate of the Court.

Furthermore, it is imperative to ascertain the plank upon which the Plaintiffs' application is based. That is to say, on whose mandate is this action brought? It is trite that when approaching the Court in a representative capacity, resort must be had to a mandate or authorization.

Having established that the Plaintiffs are a people within the meaning of the above article cited, the issue of mandate cannot be dispensed with.

In **Aumeeruddy-Cziffra and Others v. Mauritius (Communication No. R.9/35) 9 April 1981**, the United Nations Human Rights Committee pointed out that to bring an Application before it, an individual must be 'actually affected' by the act complained of and that 'no individual can in the abstract, by way of actio popularis, challenge a law or practice claimed to be contrary to the Covenant'.

In **Mikmaq V Canada Communication No. 78/1980**, views adopted on 29<sup>th</sup> July 1984, where a communication was brought by a representative of the Mikmaq tribal society who claimed that Mikmaq peoples' right of self-determination had been violated by Canada. The Committee held that the complaint was inadmissible on the basis of lack of locus standi of the tribe's representative in light of failure of the Grand council, in its legal entity, to authorize the author. See also **Nosa Ehanire & 3 ors V. Federal Republic of Nigeria JUDGMENT N°: ECW/CCJ/JUD/03/17** unreported.

In view of the foregoing, the Court holds that the Plaintiffs', having failed to present any legal documents as evidence of authorization on behalf of the Ette Community Olamaboro L.G.A of Kogi State lack the requisite standing to bring this action for and on behalf of Ette Community. Consequently, the matter is dismissed in its entirety as being inadmissible.

### **DECISION:**

The Court adjudicating in a Public sitting after hearing the Parties in the last resort after deliberating according to law

**DECLARES** the case inadmissible for not being within the human rights mandate of the Court as it hinges on boundary dispute.

### **AS TO COSTS**

Orders each Party to bear its own costs

Dated at Abuja this **4th of July 2018**.

### **THE FOLLOWING JUDGES HAVE SIGNED THE JUDGMENT:**

Hon. Justice Friday Chijioke Nwoke - Presiding

Hon. Justice Yaya Boiro - Member

Hon. Justice Alioune Sall - Member

**Assisted by Djibor Aboubacar Diakit  ----- Registrar**